

The
Journal of the
Assembly
OF THE
TWENTY-SIXTH SPECIAL SESSION
OF THE
LEGISLATURE OF THE
STATE OF NEVADA

2010



BEGUN ON MONDAY, THE TWENTY-THIRD DAY OF FEBRUARY
AND ENDED ON SUNDAY, THE TWENTY-EIGHTH DAY OF
FEBRUARY

ARRANGEMENT AND CONTENTS OF VOLUME

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ASSEMBLY LEGISLATIVE CALENDAR

<i>Calendar Day</i>	<i>Date</i>	<i>Page Number</i>
1.....	February 23, 2010.....	1
2.....	February 24, 2010.....	2
3.....	February 25, 2010.....	3
4.....	February 26, 2010.....	4
5.....	February 27, 2010.....	5
6.....	February 28, 2010.....	6

LISTING OF ASSEMBLY BILLS AND ACTIONS THEREON

(Where a roll call vote was taken on final passage, such action is denoted by an asterisk following the page number.)

No.

Summary, Introducer and Page Reference

- 1.... Requires certain employers to electronically transfer to the State certain income withheld from employees pursuant to support orders. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 241, 242, 275, 316, 318*, 334, 401.
- 2.... Authorizes deviation from the required hours of operation for county offices under certain circumstances. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 241, 242, 245, 469, 470, 473, 478*, 519, 555.
- 3.... Revises provisions relating to state financial administration. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 334, 335, 346*, 402, 412, 468.
- 4.... Temporarily provides flexibility for school districts from the requirements of class-size reduction. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 403, 404, 406, 410, 411, 424*, 425, 466, 468.
- 5.... Provides a temporary waiver from the minimum textbook expenditure requirements for all school districts, charter schools and university schools for profoundly gifted pupils. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 404, 410, 411, 425*, 466, 468.
- 6.... Reduces state expenditures, increases certain fees and makes various other changes relating to the funding of state and local government. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee of the Whole. 540, 541, 543*, 555.

LISTING OF ASSEMBLY RESOLUTIONS AND ACTIONS THEREON

(Where a roll call vote was taken on final passage, such action
is denoted by an asterisk following the page number.)

ASSEMBLY CONCURRENT RESOLUTIONS

No.

Summary, Introducer and Page Reference

- 1.....Adopts the Joint Rules of the Senate and Assembly for the 26th Special Session of the Legislature. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 16, 22, 24, 318.
- 2.....Urges certain actions by school districts and the Nevada System of Higher Education to respond to the current budget shortfall. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 402, 404, 410, 411, 425, 466, 468.

ASSEMBLY RESOLUTIONS

No.

Summary, Introducer and Page Reference

- 1.....Adopts the Rules of the Assembly for the 26th Special Session of the Nevada Legislature. Committee of the Whole. 5, 318.
- 2.....Provides that no allowances will be paid for the 26th Special Session of the Nevada Legislature for periodicals, stamps, stationery or communications. Committee of the Whole. 16, 318.
- 3.....Provides for the appointment of attachés. Committee of the Whole. 16, 318.

LISTING OF SENATE BILLS AND ACTION THEREON

(Where a roll call vote was taken on final passage, such action is denoted by an asterisk following the page number.)

<i>No.</i>	<i>Summary, Introducer and Page Reference</i>
1....	Makes an appropriation to the Legislative Fund for the costs of the 26th Special Session. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Senators Horsford and Raggio. 24*, 401.
2....	Eliminates the prohibition on the use of pupil achievement data for the evaluation of teachers and certain other educational personnel. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 313, 314, 316, 317, 318*, 468.
3....	Revises provisions relating to governmental administration. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 411, 412, 425, 426, 427, 444*, 468.
4....	Revises provisions governing the list of preferred prescription drugs to be used for the Medicaid program. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 466, 468, 469, 470, 472, 473, 477, 478*, 519.
5....	Provides revenue to create jobs for road construction. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole. 544, 550, 551*, 555.

LISTING OF SENATE RESOLUTIONS AND ACTION THEREON

(Where a roll call vote was taken on final passage, such action
is denoted by an asterisk following the page number.)

SENATE CONCURRENT RESOLUTIONS

No.

Summary, Introducer and Page Reference

- 1 Urges local government employers and local government employee organizations to mutually address the impacts of the budget shortfall. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senators Horsford, Raggio, Townsend, Lee, Care, Amodei, Breeden, Carlton, Cegavske, Coffin, Copening, Mathews, McGinness, Nolan, Olsen, Parks, Rhoads, Schneider, Washington, Wiener, Woodhouse. 411, 519, 521, 551, 555.

ELECTED OFFICERS OF THE NEVADA STATE ASSEMBLY
Twenty-Sixth Special Session, 2010

<i>Title</i>	<i>Name</i>	<i>Mailing Address</i>
Speaker	Barbara E. Buckley	5442 Holbrook Drive, Las Vegas 89103-2439
Speaker pro Tempore	Bernie Anderson	747 Glen Meadow Drive, Sparks 89434-1536
Chief Clerk	Susan Furlong Reil.....	401 South Carson Street, Carson City 89701-4747

PERSONNEL OF THE NEVADA STATE ASSEMBLY

Twenty-Sixth Special Session, 2010

<i>District</i>	<i>Name and Party</i>	<i>Mailing Address</i>
Carson City (part), Washoe (part), No. 40.....	Parnell, Bonnie (D).....	804 Saratoga Way, Carson City 89703-3656
Clark, No. 1	Kirkpatrick, Marilyn K. (D)	4747 Showdown Drive, North Las Vegas 89031-2133
Clark, No. 2	Hambrick, John (R).....	1930 Village Center Circle, Suite 3-419 Las Vegas 89134-6245
Clark, No. 3	Pierce, Peggy (D).....	5304 Gipsy Avenue, Las Vegas 89107-3847
Clark, No. 4	McArthur, Richard (R)	4640 Panoramic Court Las Vegas 89129-1617,
Clark, No. 5	Dondero Loop, Marilyn (D)	3724 Emerald Bay Circle, Las Vegas 89147-6816
Clark, No. 6	Munford, Harvey J. (D)	809 Sunny Place, Las Vegas 89106-3637
Clark, No. 7	Arberry, Morse Jr. (D).....	1330 Virginia City Avenue, Las Vegas 89106-2052
Clark, No. 8	Buckley, Barbara E. (D)	5442 Holbrook Drive, Las Vegas 89103-2439
Clark, No. 9	Segerblom, Tick (D)	704 South 9th Street, Las Vegas 89101-7015
Clark, No. 10	Hogan, Joseph M. (D).....	2208 Plaza De La Candela, Las Vegas 89102-4043
Clark, No. 11	Kihuen, Ruben J. (D).....	P.O. Box 427, Las Vegas, 89125-0427
Clark, No. 12	Ohrenschall, James (D).....	P. O. Box 97741, Las Vegas, 89193-7741
Clark, No. 13	Christensen, Chad (R).....	9101 West Sahara Avenue, Suite 105, Las Vegas 89117-5799
Clark, No. 14	Koivisto, Ellen M. (D).....	1147 Timber Ridge Court, Las Vegas 89110-2545
Clark, No. 15	McClain, Kathy (D).....	2457 Swan Lane, Las Vegas 89121-5242
Clark, No. 16	Oceguera, John (D).....	7655 Chaumont Street, Las Vegas 89123-1491
Clark, No. 17	Atkinson, Kelvin (D)	5631 Indian Springs Street, North Las Vegas 89031-5078
Clark, No. 18	Manendo, Mark (D)	4629 Butterfly Circle, Las Vegas 89122-6149
Clark, No. 19	Claborn, Jerry (D)	6617 Network Circle, Las Vegas 89156-7015
Clark, No. 20	Hardy, Joseph P., M.D. (R)	P.O. Box 60306, Boulder City 89006-0306
Clark, No. 21	Spiegel, Ellen B. (D).....	1953 Kachina Mountain Drive, Henderson 89012-2219

PERSONNEL OF THE NEVADA STATE ASSEMBLY

<i>District</i>	<i>Name and Party</i>	<i>Mailing Address</i>
Clark, No. 22	Stewart, Lynn D. (R)	2720 Cool Lilac Avenue, Henderson 89052-3836
Clark, No. 23	Woodbury, Melissa (R)	9500 West Flamingo Road, Suite 203, Las Vegas 89147-5721
Clark, No. 28	Denis, Moises (D)	3204 Osage Avenue, Las Vegas 89101-1838
Clark, No. 29	Mastroluca, April (D)	265 Copper Glow Court, Henderson 89074-8744
Clark, No. 34	Horne, William C. (D) ...	2251 North Rampart Boulevard., No. 357, Las Vegas 89128-7640
Clark, No. 37	Conklin, Marcus (D)	1600 Palmae Way, Las Vegas 89128-3244
Clark, No. 41	Aizley, Paul (D)	237 East Eldorado Lane, Las Vegas 89123-1159
Clark, No. 42	Mortenson, John H. (Harry) (D)	3930 El Camino Road, Las Vegas 89103-2221
Douglas, Carson City (part), Washoe (part), No. 39	Settelmeyer, James (R)	2388 U.S. Highway 395, Minden 89423-8923
Elko, Humboldt (part), No. 33 ..	Carpenter, John C. (R)	P. O. Box 190, Elko 89803-0190
Esmeralda, Lincoln, Mineral, Nye, Churchill (part) No. 36	Goedhart, Edwin A. (R)	P. O. Box 70, Amargosa Valley 89020-0070
Eureka, Pershing, White Pine, Churchill (part), Humboldt (part), Lander (part), Lyon (part) Washoe (part) No. 35	Goicoechea, Pete (R)	P. O. Box 97, Eureka 89316-0097
Humboldt (part), Lander (part), Washoe (part), No. 32	Gustavson, Don (R)	P. O. Box 51601, Sparks 89435-1601
Storey, Lyon (part), Carson City (part) Churchill (part), No. 38 ...	Grady, Tom (R)	43 Fairway Drive, Yerington 89447-2170
Washoe, No. 24	Bobzien, David P. (D)	1605 Wesley Drive, Reno 89503-2332
Washoe, No. 25	Gansert, Heidi S. (R)	316 California Avenue, No. 302, Reno 89509-1650
Washoe, No. 26	Cobb, Ty (R)	P. O. Box 34375, Reno 89533-4375
Washoe, No. 27	Leslie, Sheila (D)	825 Humboldt Street, Reno 89509-2009
Washoe, No. 30	Smith, Debbie (D)	3270 Wilma Drive, Sparks 89431-1173
Washoe, No. 31	Anderson, Bernie (D)	747 Glen Meadow Drive, Sparks 89434-1536

ATTACHÉS OF THE ASSEMBLY
Twenty-Sixth Special Session, 2010

Name	Title	City
Lucinda Benjamin	Assistant Chief Clerk/History Clerk	Schurz
Matthew Baker	Journal Clerk	Carson City
Bonnie Borda Hoffecker	Media Clerk.....	Carson City
Christie Peters.....	Recording Clerk	Carson City
Terry Sullivan.....	Sergeant at Arms	Washoe Valley
Robin L. Bates.....	Deputy Sergeant at Arms	Gardnerville
Mary A. Matheus.....	Assistant Sergeant at Arms	Carson City
Sharon P. Murphy.....	Assistant Sergeant at Arms	Carson City
Steven J. Sweeney	Assistant Sergeant at Arms	Carson City
Debra Williams.....	Assistant Sergeant at Arms	Carson City
Toshiko McIntosh.....	Minority Floor Leader's Executive Assistant.....	Dayton

EXPLANATION OF AMENDMENT LANGUAGE

Twenty-Sixth Special Session, 2010

EXPANATION: Matter in (1) bold italics is new language in the original bill; (2) bold italic underlining is new language proposed in the amendments; (3) strikethroughs are deleted language from the original bill; (4) double strikethroughs are language proposed to be deleted in a particular amendment; (5) double underlining is deleted language in the original bill that is proposed to be retained in a particular amendment; and (6) bold is newly added transitory language.

Journal

OF THE

ASSEMBLY OF THE STATE OF NEVADA

TWENTY-SIXTH SPECIAL SESSION

THE FIRST DAY

CARSON CITY (Tuesday), February 23, 2010

Pursuant to the provisions of the Constitution and Statutes, the Assembly was called to order by Speaker of the Assembly Barbara E. Buckley at 9:08 a.m.

Madam Speaker requested that the Chief Clerk of the Assembly call the roll.

Roll called.

All present.

Prayer by the Chaplain, Terry Sullivan.

Let us pray. Dear Lord, we thank You once again for bringing us all here safely and ask that You send us all home the same way at the conclusion of this Special Session of the Legislature. This august body faces an enormous task in solving the problems facing the citizens of this great state. We pray for Your guidance, wisdom, and blessing in these important matters. Please also bless our departed colleague Kyle McAfee and all of his family and friends.

AMEN.

Pledge of allegiance to the Flag.

MOTIONS, RESOLUTIONS AND NOTICES

Madam Speaker appointed Assemblymen Ocegüera, Atkinson, and Gansert as a committee to inform the Governor that the Assembly was organized and ready for business.

Madam Speaker appointed Assemblymen Horne, Conklin, and Stewart as a committee to inform the Senate that the Assembly was organized and ready for business.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 9:11 a.m.

ASSEMBLY IN SESSION

At 9:21 a.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Ocegüera reported that his committee had informed the Governor that the Assembly was organized and ready for business.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 9:22 a.m.

ASSEMBLY IN SESSION

At 9:34 a.m.

Madam Speaker presiding.

Quorum present.

A committee from the Senate composed of Senators Weiner, Carlton, and Olsen appeared before the bar of the Assembly and announced that the Senate was organized and ready for business.

Assemblyman Conklin reported that his committee had informed the Senate that the Assembly was organized and ready for business.

COMMUNICATIONS
MESSAGES FROM THE GOVERNOR

OFFICE OF THE GOVERNOR
JIM GIBBONS
GOVERNOR

February 16, 2010

The Honorable Barbara Buckley, *SPEAKER OF THE ASSEMBLY*, NEVADA STATE ASSEMBLY,
401 SOUTH CARSON STREET, CARSON CITY, NEVADA 89701

TO THE HONORABLE MEMBERS OF THE NEVADA STATE ASSEMBLY:

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 amounts 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

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that the reading of the Proclamation by the Governor convening the Legislature into a Special Session be dispensed with and that the Proclamation be entered into the Journal.

Motion carried.

COMMUNICATIONS

STATE OF NEVADA
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 capture 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 31A.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 of Nevada

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee of the Whole:

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

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

I. APPLICABILITY

Rule No. 1. Generally.

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

II. OFFICERS AND EMPLOYEES

Rule No. 2. Speaker of the Assembly.

1. All officers of the Assembly are subordinate to the Speaker in all that relates to the prompt, efficient and correct discharge of their official duties under the Speaker's supervision.

2. Possessing the powers and performing the duties described in this rule, the Speaker shall:

(a) Take the chair at the hour to which the Assembly will be meeting, call the members to order and, upon the appearance of a quorum, proceed to business.

(b) Preserve order and decorum and have general direction of the Chamber of the Assembly and the approaches thereto. In the event of any disturbance or disorderly conduct therein, order the same to be cleared.

(c) Decide all questions of order, subject to a member's right to appeal to the Assembly. On appeal from such decisions, the Speaker has the right, in the Speaker's place, to assign the reason for the decision.

(d) Have the right to name any member to perform the duties of the chair, but such substitution must not extend beyond one legislative day.

(e) Have the power to accredit the persons who act as representatives of the news media and assign them seats.

(f) Sign all bills and resolutions passed by the Legislature as provided by law.

(g) Sign all subpoenas issued by the Assembly.

(h) Receive all messages and communications from other departments of the government and announce them to the Assembly.

(i) Represent the Assembly, declare its will and in all things obey its commands.

(j) Vote on final passage of a bill or resolution, but the Speaker shall not be required to vote in ordinary legislative proceedings except where the Speaker's vote would be decisive. In all yea and nay votes, the Speaker's name must be called last.

3. If a vacancy occurs in the Office of Speaker, through death, resignation or disability of the Speaker, the Speaker pro Tempore shall temporarily and for the period of vacancy or disability conduct the necessary business of the Assembly.

4. If a permanent vacancy occurs in the Office of Speaker, the Assembly shall select a new Speaker.

Rule No. 3. Chief Clerk.

1. The Chief Clerk is elected by the Assembly and is responsible to the Speaker.

2. The Chief Clerk shall recruit, select, train and supervise all attaches employed to assist with the work of the Assembly.

3. The Chief Clerk shall administer the daily business of the Assembly.

4. The Chief Clerk shall adopt such administrative policies as she deems necessary to carry out the business of the Assembly.

Rule No. 4. Reserved.

Rule No. 5. Reserved.

Rule No. 6. Reserved.

The next rule is 10.

III. MEETINGS

Rule No. 10. Reserved.

Rule No. 11. Open Meetings.

All meetings of the Assembly and its committees must be open to the public.

Rule No. 12. Reserved.

The next rule is 20.

IV. DECORUM AND DEBATE

Rule No. 20. Points of Order.

If any member, in speaking or otherwise, transgresses the rules of the Assembly, the Speaker shall, or any member may, call to order, in which case the member so called to order shall immediately sit down, unless permitted to explain; and if called to order by a member, such member shall immediately state the point of order. If the point of order be sustained by the presiding officer, the member shall not be allowed to proceed; but if it be not sustained, then he shall be permitted to go on. Every such decision from the presiding officer shall be subject to an appeal to the House; but no discussion of the question of order shall be allowed unless an appeal be taken from the decision of the presiding officer.

Rule No. 21. Portable electronic communication devices.

1. A person who is within the Assembly Chambers shall not engage in a telephone conversation via the use of a portable telephone.

2. Before entering the Assembly Chambers, any person who possesses a portable electronic communication device, such as a pager or telephone, that emits an audible alert, such as a ringing or beeping sound, to signal an incoming message or call shall turn the audible alert off. A device that contains a nonaudible alert, such as a silent vibration, may be operated in a nonaudible manner within the Assembly Chambers.

Rule No. 22. Reserved.

Rule No. 23. 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 Assembly, 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 Assembly, 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 Assembly, 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 member of the Assembly 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 member has a conflict of interest pursuant to subsection 1:

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

The next rule is 30.

V. QUORUM, VOTING, ELECTIONS

Rule No. 30. Manner of Voting.

1. The presiding officer shall declare all votes, but the yeas and nays must be taken when called for by three members present, and the names of those calling for the yeas and nays must be entered in the Journal by the Chief Clerk.

2. The presiding officer shall call for yeas and nays by a division or by a roll call, either electronic or oral.

3. When taking the yeas and nays on any question, the electronic roll call system may be used, and when so used shall have the force and effect of any roll call under these rules.

4. When taking the yeas and nays by oral roll call, the Chief Clerk shall take the names of members alphabetically, except that the Speaker's name must be called last.

5. The electronic roll call system may be used to determine the presence of a quorum.

6. The yeas and nays must not be taken with the electronic roll call system until all members present are at their desks. The presiding officer may vote at the rostrum.

7. Only a member who is physically present within the Assembly Chambers may cast a vote in the Assembly.

8. A member shall not vote for another member on any roll call, either electronic or oral. Any member who votes for another member may be punished in any manner deemed appropriate by the Assembly.

Rule No. 31. Reserved.

Rule No. 32. Announcement of the Vote.

1. A member may change his vote at any time before the announcement of the vote if the voting is by voice, or at any time before the votes are electronically recorded if the voting is conducted electronically.

2. The announcement of the result of any vote shall not be postponed.

Rule No. 33. Voting by Division.

Upon a division and count of the Assembly on any question, no person without the bar shall be counted.

The next rule is 40.

VI. LEGISLATIVE BODIES

Rule No. 40. Committee of the Whole.

1. All bills and resolutions may be referred only to the Committee of the Whole or to such committees as may be appointed by the Speaker pursuant to Rule 41.

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

3. A member of the Committee of the Whole may speak not more than twice during the consideration of any one question, on the same day, and at the same stage of proceedings, without leave. Members who have once spoken shall not again be entitled to the floor (except for explanation) to the exclusion of others who have not spoken.

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

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

(a) Must first be approved by the Committee of the Whole.

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

6. The minutes of the meetings of the Committee of the Whole must be entered in the Assembly's final journal.

Rule No. 40.5. Committees.

In addition to the Committee of the Whole, the Speaker may appoint such other committees of the Assembly as she determines is necessary.

Rule No. 41. Appointment of Committees.

All committees must be appointed by the Speaker, unless otherwise directed by the Assembly. The Speaker shall determine the appropriate number of members for each committee and shall designate the chair and vice chair of each committee.

Rule No. 42. Committee Action.

1. A committee shall have meetings in accordance with the direction of the Assembly leadership. A quorum of the committee is a majority of its appointed members and may transact business except as limited by this rule.

2. Except as limited by this rule, a simple majority of those present may move, second and pass a motion by voice vote.

3. Definite action on a bill or resolution will require a majority of the entire committee.

4. A motion to reconsider action on a bill or resolution is not in order.

5. Committee introduction of legislative measures requires concurrence of a majority of the members of the entire committee and requires a commitment from each such concurring member to support final passage. A decision by a committee to request the drafting of an amendment for a bill requires concurrence of a majority of the members of the entire committee and requires a commitment from each such concurring member to support the amendment when it is considered on the floor of the Assembly.

6. The chair must be present when the committee votes to take any final action regarding bills or resolutions, but the chair is not required to vote.

7. No member of the committee may vote by proxy under any circumstances.

8. A committee shall not take a vote on the question of whether to exercise its statutory authority to issue a legislative subpoena unless the chair has informed the Speaker of the intention of the committee to consider such a question.

Rule No. 43. Subcommittees.

Subcommittees made up of committee members may be appointed by the chair to consider and report back on specific subjects or bills.

Rule No. 44. Reserved.

Rule No. 45. Request for Drafting of Bill, Resolution or Amendment.

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 Assembly, unless it is submitted by the Committee of the Whole, such other committees as the Speaker may appoint or a conference committee. The Speaker 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 the Speaker may appoint.

Rule No. 46. Committee Action.

Every committee vote on a matter pertaining to a bill or resolution must be recorded. The vote may be taken by roll call at the discretion of the chair.

Rule No. 47. Committee Records.

The chair of each committee shall keep, or cause to be kept, a complete record of the committee proceedings in which there must be entered:

- 1. The time and place of each meeting;*
- 2. The attendance and absence of members;*
- 3. The names of all persons appearing before the committee, with the names of persons, firms, corporations or associations in whose behalf such appearance is made; and*
- 4. The subjects or measures considered and action taken.*

Rule No. 48. Disposition of Committee Records.

All minutes, records and documents in the possession of committees and their chairmen must be filed in the offices of the Legislative Counsel Bureau upon their completion.

Rule No. 49. Committee Hearings.

1. The presence of a quorum of the committee is desirable but not required to conduct a public hearing. At the discretion of the chair, members of the committee may attend, participate in and, if applicable, vote during the hearing via simultaneous telephone or video conference.

2. Public hearings are opened by the chair, who announces the subject under consideration and provides for those wishing to address the committee to be heard. These persons shall rise in an order determined by the chair, address the chair and furnish their names, addresses and firms or other organizations represented. Committee members may address the chair for permission to question the witness.

Rule No. 50. Reserved.

Rule No. 51. Reserved.

Rule No. 52. Reserved.

The next rule is 60.

VII. RULES GOVERNING MOTIONS

A. PROCEDURE

Rule No. 60. Entertaining.

No motion may be debated until it is distinctly announced by the presiding officer. The presiding officer upon his own motion, or at the request of any member, may direct that the

motion be reduced to writing and be read by the Chief Clerk before the motion is debated. A motion may be withdrawn by the maker at any time before amendment or before the motion is put to vote.

Rule No. 61. Reserved.

Rule No. 62. Reserved.

B. PARTICULAR MOTIONS

Rule No. 63. Reserved.

Rule No. 64. Reserved.

Rule No. 65. Indefinite Postponement.

When a question is postponed indefinitely, the same question must not be considered again during the 26th Special Session of the Legislature and the question is not subject to a motion for reconsideration.

Rule No. 66. To Strike Enacting Clause.

A motion to strike out the enacting clause of a bill or resolution does not take precedence over any other subsidiary motion. If the motion is carried, it shall be considered equivalent to the rejection of such bill or resolution.

Rule No. 67. Division of Question.

Any member may call for a division of the question, which shall be divided, if it comprehends propositions in substance so distinct that, one being taken away, a substantive proposition shall remain for the decision of the Assembly. A motion to strike out being lost shall preclude neither amendment nor a motion to strike out and insert. A motion to strike out and insert shall be deemed indivisible.

Rule No. 68. To Reconsider.

No motion to reconsider a vote is in order.

The next rule is 80.

VIII. DEBATE

Rule No. 80. Speaking on Question.

No member shall speak more than twice during the consideration of any one question, on the same day, and at the same stage of proceedings, without leave. Members who have once spoken shall not again be entitled to the floor (except for explanation) to the exclusion of others who have not spoken.

Rule No. 81. Previous Question.

The previous question shall be put only when demanded by three members. The previous question shall not be moved by the member last speaking on the question.

Rule No. 82. Privilege of Closing Debate.

The author of a bill, a resolution or a main question shall have the privilege of closing the debate, unless the previous question has been sustained.

The next rule is 91.

IX. CONDUCT OF BUSINESS

A. RULES AND PROCEDURE

Rule No. 91. Rescission, Change or Suspension of Rule.

No rule or order of the Assembly for the 26th Special Session of the Legislature may be rescinded or changed without a majority vote of the members elected; but a rule or order may be suspended temporarily by a majority vote of the members present.

Rule No. 92. Notices of Bills, Topics and Public Hearings.

1. Except as otherwise provided in subsection 3, all committees shall provide adequate notice of public hearings on bills, resolutions or other topics which are to come before the committees. The notice must include the date, time, place and agenda to be covered. The notice must be posted conspicuously in the legislative building, appear in the daily history and be made available to the news media. The daily history must include the most current version of the notice that is available at the time the daily history is created and an informational statement informing the public where more current information, if any, regarding such notices may be found.

2. The noticing requirements of this rule may be suspended for emergency situations but only after approval by a majority vote of a committee.

3. Subsection 1 does not apply to:

- (a) Meetings of the Committee of the Whole held on the floor of the Assembly;
- (b) Other committee meetings held on the floor of the Assembly during a recess; or
- (c) Conference committee meetings.

Rule No. 93. Reserved.

Rule No. 94. Privilege of the Floor and Lobbying.

No person, except Senators, former Assemblymen and state officers, may be admitted at the bar of the Assembly, except by special invitation on the part of some member; but a majority may authorize the Speaker to have the Assembly cleared of all such persons. No person may do any lobbying upon the floor of the Assembly at any time, and it is the duty of the Sergeant at Arms to remove any person violating any of the provisions of this rule.

Rule No. 95. Material Placed on Legislators' Desks.

All papers, letters, notes, pamphlets and other written material placed upon an Assemblyman's desk shall contain the signature of the Legislator requesting the placement of such material on the desk or shall contain a designation of the origin of such material. This rule does not apply to books containing the legislative bills and resolutions, the legislative daily histories, the legislative daily journals or Legislative Counsel Bureau material.

Rule No. 96. Peddling, Begging and Soliciting.

1. Peddling, begging and soliciting are strictly forbidden in the Assembly Chamber, and in the lobby, gallery and halls adjacent thereto.

2. No part of the Assembly Chamber may be used for or occupied by signs or other devices for any kind of advertising.

3. No part of the hallways adjacent to the Assembly Chambers may be used for or occupied by signs or other devices for any kind of advertising for commercial or personal gain. Notices for nonprofit, nonpartisan, civic or special legislative events may be posted in a designated area of the hallways adjacent to the Assembly Chambers with the approval of the Chief Clerk.

Rule No. 97. Petitions and Memorials.

Petitions, memorials and other papers addressed to the Assembly shall be presented by the Speaker, or by a member in the Speaker's place. A brief statement of the contents thereof shall be made by the introducer. They shall not be debated on the day of their being presented, but shall be on the table, or be referred, as the Assembly shall determine.

Rule No. 98. Request of Purpose.

A member may request the purpose of a bill or joint resolution upon its introduction.

Rule No. 99. Remarks.

It shall be in order for members to make remarks and, subject to the approval of the majority of members present, request that such remarks be entered in the Journal.

Rule No. 100. Precedence of Parliamentary Authority.

The precedence of parliamentary authority in the Assembly is:

- 1. The Constitution of the State of Nevada and judicial decisions thereon.*
- 2. The Rules of the Assembly 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.*
- 3. Custom, usage and precedence.*
- 4. The Statutes of the State of Nevada.*
- 5. Mason's Manual of Legislative Procedure.*

Rule No. 101. Reserved.**Rule No. 102. Privileged Questions.**

Privileged questions have precedence of all others in the following order:

- 1. A call of the House.*
- 2. Motions to adjourn.*
- 3. Recess.*
- 4. Questions relating to the rights and privileges of the Assembly or any of its members.*

Rule No. 103. Reserved.**B. BILLS****Rule No. 104. Reserved.**

The next rule is 106.

Rule No. 106. Skeleton Bills.

The introduction of skeleton bills is not authorized.

Rule No. 107. Reserved.**Rule No. 108. Reserved.****Rule No. 109. Reading of Bills.**

The presiding officer shall announce at each reading of a bill whether it be the first, second or third reading. The first reading of a bill shall be for information. If there is objection, the question shall be, "Shall the bill be rejected?" If the question to reject fails to receive a majority vote by the members present, or if there is no objection, the bill shall take the proper course. No bill shall be referred to a committee until after the first reading, nor amended until after the second reading.

Rule No. 110. Second Reading and Amendment of Bills.

1. All bills must be read the second time after which they are reported by committee. Upon second reading, Assembly bills reported without amendments shall be placed on the General File and Senate bills reported without amendments shall be placed on the General File. Committee amendments reported with bills shall be considered upon their second reading or third reading, as appropriate, and such amendments may be adopted by a majority vote of the members present. Any amendment which is numbered, copied and made available to all members must be moved and voted upon by number. Assembly bills so amended must be

reprinted, engrossed and placed on the General File. Senate bills so amended must be reprinted, then engrossed or reengrossed, as applicable, and placed on the General File.

2. Only amendments proposed by the Committee of the Whole, such committee as the Speaker may appoint or a conference committee may be considered on the floor of the Assembly. Such a motion to amend may be adopted on the floor of the Assembly by a majority vote of the members present. Any bill so amended upon the General File must be reprinted and then engrossed or reengrossed, as applicable.

3. The reprinting of amended bills may be dispensed with by a majority vote of the members present.

Rule No. 111. Consent Calendar.

1. A committee may by unanimous vote of the members present report a bill with the recommendation that it be placed on the consent calendar. The question of recommending a bill for the consent calendar may be voted upon in committee only after the bill has been recommended for passage and only if no amendment is recommended.

2. The Chief Clerk shall maintain a list of bills recommended for the consent calendar. The list must be printed in the daily history and must include the summary of each bill and the date the bill is scheduled for consideration on final passage.

3. At any time before the presiding officer calls for a vote on the passage of the consent calendar, a member may give written notice to the Chief Clerk or state orally from the floor of the Assembly in session that he requests the removal of a particular bill from the consent calendar. If a member so requests, the Chief Clerk shall remove the bill from the consent calendar and transfer it to the second reading file. A bill removed from the consent calendar may not be restored to that calendar.

4. During floor consideration of the consent calendar, members may ask questions and offer explanations relating to the respective bills.

5. When the consent calendar is brought to a vote, the bills remaining on the consent calendar must be read by number and title and the vote must be taken on their final passage as a group.

Rule No. 112. Reserved.

Rule No. 113. General File.

All bills reported to the Assembly, by either the Committee of the Whole, conference committee or other committee appointed by the Speaker, after receiving their second readings, must be placed upon a General File, to be kept by the Chief Clerk. The Chief Clerk shall post a daily statement of the bills on General File. The Chief Clerk shall likewise post notices of special orders as made.

Rule No. 114. Reserved.

Rule No. 115. Reserved.

Rule No. 116. Vetoes Bills.

1. Bills that have passed both Houses of the Legislature and are transmitted to the Assembly accompanied by a message or statement of the Governor's disapproval or veto of the same must:

(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 is called, the said message or statement must be read together with the bill or bills so disapproved or vetoed. The message and bill must be read by the Chief Clerk without interruption, consecutively, one following the other, and not upon separate occasions. No such bill or message may 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 may be put by the Speaker is, "Shall the bill pass, notwithstanding the objections of the Governor?" It shall not be in order, at any time, to vote upon such a vetoed bill unless the same shall first have been read. No motion may be entertained after the Speaker has stated the question, save a motion to adjourn or a motion for the previous question, but the merits of the bill itself may be debated. The message or statement containing the objections of the Governor to the bill must be entered in the Journal of the Assembly. The consideration of a vetoed bill, and the objections of the Governor thereto, shall be a privileged question, and shall take precedence over all others.

Rule No. 117. Reserved.

C. RESOLUTIONS

Rule No. 118. Treated as Bills—Joint Resolutions.

The procedure of enacting joint resolutions must be identical to that of enacting bills, except that:

1. Joint resolutions, upon enrollment, must be delivered to the Secretary of State; and
2. Joint resolutions proposing amendments to the Constitution must be entered in the Journal in their entirety.

Rule No. 119. Return from the Secretary of State.

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

D. ORDER OF BUSINESS

Rule No. 120. Order of Business.

The Order of Business must be as follows:

1. Call to Order.
2. Reading and Approval of Journal.
3. Presentation of Petitions.
4. Reports of Committees.
5. Reports of Select Committees.
6. Communications.
7. Messages from the Senate.
8. Motions, Resolutions and Notices.
9. Introduction, First Reading and Reference.
10. Consent Calendar.
11. Second Reading and Amendment.
12. General File and Third Reading.
13. Unfinished Business of Preceding Day.
14. Special Orders of the Day.
15. Remarks from the Floor, limited to 10 minutes.

Rule No. 121. Reserved.

Rule No. 122. Reserved.

Rule No. 123. Reserved.

Rule No. 124. Reserved.

Rule No. 125. Reserved.

Rule No. 126. Reserved.

Rule No. 127. Reserved.

Rule No. 128. Reserved.

The next rule is 140.

X. MISCELLANEOUS

Rule No. 140. Reserved.

Rule No. 141. Use of the Assembly Chamber.

The Assembly Chamber shall not be used for any public or private business other than legislative, except by permission of the Assembly.

Assemblyman Ocegüera moved the adoption of the resolution.

Remarks by Assemblyman Ocegüera.

Resolution adopted.

By the Committee of the Whole:

Assembly 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.

Assemblyman Ocegüera moved the adoption of the resolution.

Remarks by Assemblyman Ocegüera.

Resolution adopted.

By the Committee of the Whole:

Assembly Resolution No. 3—Providing for the appointment of attachés.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That the following persons are elected as attaches of the Assembly for the 26th Special Session of the Legislature of the State of Nevada: Kathryn Alden, Matthew Baker, Robin Bates, Cindy Benjamin, Bonnie Borda Hoffecker, Jeanne Douglass, Mary Matheus, Toshiko McIntosh, Sharon Murphy, Christie Peters, Terry Sullivan, Steve Sweeney and Debra Williams.

Assemblyman Ocegüera moved the adoption of the resolution.

Remarks by Assemblyman Ocegüera.

Resolution adopted.

By the Committee of the Whole:

Assembly Concurrent Resolution No. 1—Adopting the Joint 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.*

Assemblyman Ocegüera moved the adoption of the resolution.

Remarks by Assemblyman Ocegüera.

Resolution adopted.

Assemblyman Ocegüera moved that all rules be suspended and that Assembly Concurrent Resolution No. 1 be immediately transmitted to the Senate.

Motion carried.

Assemblyman Ocegüera moved that the reading of the histories on all bills and resolutions be dispensed with for the balance of the 26th Special Session.

Motion carried.

Assemblyman Ocegüera moved that the Assembly suspend all rules and dispense with the reprinting of all bills and resolutions for the balance of the 26th Special Session.

Motion carried.

Assemblyman Ocegüera moved that Rule No. 92 of the Rules of the Assembly for the 26th Special Session, which pertains to notices of bills, topics, and public hearing, be suspended for the balance of the 26th Special Session.

Motion carried.

Assemblyman Ocegüera moved that persons as set forth on the Nevada Legislature's Press Accreditation List of February 23, 2010, be accepted as accredited press representatives, that they be assigned space at the press table in the Assembly Chamber, that they be allowed use of appropriate broadcasting facilities, and the list be included in this day's Journal:

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; KKO 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; KRNVT-TV: 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, Karen Todd, Lawrence Vosper; KTVN-TV: Bill Brown, Jeffrey Foss, Darrell McComb, Jay Nobles, Brandon Rittiman; KUNR PUBLIC RADIO: Pam Dupree; KVBC-TV: Steve Crupi, Ian Lash, Miles Smith; LAHONTAN VALLEY NEWS: Christiane Lattin; LAS VEGAS REVIEW JOURNAL: Jason Bean, Jane Ann Morrison, Laura Myers, Benjamin Spillman, 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, Brian Duggan, 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.

REMARKS FROM THE FLOOR

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.

MADAM SPEAKER:

As we open the 26th Special Session of the Nevada Legislature, we are faced with a daunting challenge. The Economic Forum has projected an additional shortfall of revenue such that we now have an \$871 million deficit. We have received proposals and recommendations from the Governor, which we will review. It is our challenge to balance this budget responsibly, but to do so in a way that is not going to cause permanent damage to K-12 education, higher education, services for those most vulnerable, and the core functions of our state government. It is not going to be easy, but I am confident that by working together, we will come up with the best possible solutions. That is what we did last session. We had a similar challenge then—how to balance the budget in 120 days. We took apart the budget, we prioritized, and we made cuts of almost \$1 billion. We enacted revenue. We passed a tax break to our smallest businesses that nearly 72 percent took advantage of. Knowing we met that challenge before, I am confident we will be able to meet that challenge again.

What I think is most paramount for this body, is to do all we can to avoid the proposed cuts to education. Education is our future. Our kids will never recover if we cut their educational opportunities. You can't get back a fourth grade. You can't get back a year in college. And it only makes economic sense. How are we going to prepare for economic recovery if we decimate education funding? How will we prepare our graduates for the job of the future if they cannot get into a college course?

I think that by working together, we can do better than the proposed cuts to education. That is our task. That is our job. And I think we can do it, working together. It is not a day for long speeches. We are here to balance the budget in the most responsible way possible, to do the people's business in the shortest amount of time possible. Special sessions should not last more than a very short amount of time. So let's get to work.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 23, 2010

To the Honorable the Assembly:

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

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 1.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 1.

Read first time.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that for the balance of the special session, all rules be suspended, reading so far had considered first reading, rules further suspended, all bills and resolutions considered engrossed, declared emergency measures under the Constitution and placed on the appropriate reading file for final passage or adoption.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 1.

Bill read third time.

Remarks by Assemblyman Ocegüera.

Roll call on Senate Bill No. 1:

YEAS—42.

NAYS—None.

Senate Bill No. 1 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering the Governor's recommended budget cuts.

Motion carried.

IN COMMITTEE OF THE WHOLE

At 10:11 a.m.

Chair Buckley presiding.

Quorum present.

Governor's recommended budget cuts considered.

ANDREW CLINGER, DIRECTOR, DEPARTMENT OF ADMINISTRATION:

For the record, I am Andrew Clinger, Director of the Department of Administration. I brought three handouts today. One is titled, "State of Nevada Estimated General Fund Shortfall." That is a summary that I will start to go over first. I have also brought with me today another handout that is a 63-page handout titled, at the top, "10 Percent Reductions—Recommended and Governor Considering." In addition to that list, the third list I brought was a list titled, "Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions."

I will start my presentation this morning on the sheet that is titled, "State of Nevada Estimated General Fund Shortfall." That's the sheet that has the line numbers down the side; it's one page. Starting on the "State of Nevada Estimated General Fund Shortfall" sheet, I just wanted to brief everyone on the shortfall that we are facing. If you start on line 7, "General Fund Revenue," and look in column G, you can see, based on revenues projected not only by the Economic Forum but revenues projected by your legislative staff and my office, estimates that General Fund revenues will be short \$587.4 million for the current biennium. Line 8 is an estimated shortfall in our General Fund reversions. We usually anticipate 2 percent reversions from state appropriations. With the budget reductions, we are reducing our estimate for General Fund reversions. You can see that is the \$17.6 million shortfall.

Regarding the Distributive School Account (DSA)—we have an obligation within the Distributive School Account to make up for the school districts' portion of the sales tax that they collect. There are other revenue adjustment items in there, too, but most of this shortfall of \$206.7 million represents the Local School Support Tax portion the state is required to make up. So you can see a \$206.7 million shortfall in the DSA.

Line 10, which is the Medicaid shortfall, is based on case loads that have increased over the legislatively approved budget. We are projecting a \$60.8 million shortfall on the expenditure side in the Medicaid program as a result of those increased caseloads.

Line 11 has to do with the line of credit. I will remind this body that the Legislature approved a line of credit of \$30 million in the current Fiscal Year 2010 and \$130 million in the Fiscal Year 2011. What we are proposing to do here is to not utilize the line of credit in FY 2010. That is why you see the negative \$30 million and you utilize \$145 million of that line of credit in FY 2011. The reason we are utilizing \$145 million and not the full \$160 million is due to the balance in the local government investment pool. We are restricted on that line of credit to only be able to utilize 25 percent of what is in that local government investment pool and based on our current estimates we feel comfortable that we can draw down \$145 million on that line of credit.

Line 13 gives you the total shortfall when you add in the shift we are making in the line of credit of \$887.6 million. Line 18 is the 10 percent reductions that we have received from state agencies. You will also see in lines 19-24 that there are some other 10 percent reductions outside of the list. Line 18 is a summary of the 63-page document titled, "10 Percent Reductions—Recommended and Governor Considering." You can see the 10 percent reductions that are in that list total \$273.9 million. At this time I am going to shift from the 1 page document over to the "10 Percent Reductions Recommended—Governor Considering" list and just highlight a few of the major items in that list. Mike Willden will then highlight some of the major items in Health and Human Services on another list that he is going to use.

Starting on page 1 from "10 Percent Reductions Recommended and Governor Considering," the Department of Military is represented on that first page. We are recommending the elimination of the Project Challenge program in state FY 2009. That is \$163,000 in savings over the biennium. On page 2 of the document, under the Budgeted Planning Division, we are

eliminating six auditor positions, which will require four layoffs. Turning to page 5 of the document, in the Department of Agriculture there are a couple of position eliminations that I would highlight as priority 3 and 5. There is the elimination of an account tech position and an elimination of an agriculturalist position in Winnemucca. Page 6 is the Attorney General's Office. The first line on that page is the reduction in the nuclear waste expenditures for the current biennium. You can see the \$1.48 million in savings. This is due to actions that the President has taken and that Congress will hopefully take on this matter. On page 7, I would highlight what is under agency 743, which is the Consumer Affairs Division. We are eliminating two administrative assistant positions, which will result in one layoff. Under Labor Commissioner, which is agency 752, we are eliminating an Administrative Assistant II position in the Labor Commissioner's Office. This is a vacant position.

On page 8, under Economic Development, with regard to item priority number 4, the recommendation here is to decrease the state grant funding for the Train Employees Now Program, which is \$171,981 over the biennium. On page 9, under Conservation and Natural Resources, I would highlight the second priority on that page, which is priority 11. The Tahoe Regional Planning Agency proposes to implement 6 unpaid furlough days for their staff, saving \$100,000 over the biennium.

Turning to State Parks, which is on page 11, and looking at priorities 24, 31, 33, and 34 on that page, these are seasonal positions, conservation staff positions, and park ranger positions. The positions are from various state parks throughout the state such as Valley of Fire, Spring Mountain, Echo Canyon, Lahontan State Parks, and Fort Churchill State Park. These positions are all going to be held vacant through the current biennium. Water Resources, which is on page 13 and is priority 23, is the last on the list. Again, if you follow up on page 14, priorities 23, 32, 36, 43, 45 are on that page. You will see there are engineer positions in Las Vegas, Carson City, and Elko which are being eliminated in this recommendation. Page 16, under State Lands, has item 27, which is the elimination of an administrative assistant position. This is a vacant position at State Lands.

Next, turn to page 19 under the Department of Corrections. Here is where we get into some of the more major items. I will talk about items 2, 3, and 4 together. These are various recommendations that involve using the Inmate Welfare Fund for paying the salaries of officers for visitation posts, rent for the gymnasiums, and charging rent to the stores and coffee shops in the Department. Those are various uses of the Inmate Welfare Fund and you can see the amounts represented there, under biennium savings. The priority 5 recommendation is to charge inmates a one-time energy surcharge for the purchase of electronic devices that are being used in the prison system. That saves \$140,000 of the General Fund. Item 7 is a recommendation to reduce the uniform allowance that correctional officers currently receive. The recommended reduction is 25 percent in FY 2010 and 50 percent in FY 2011. Priority 10 on the list would eliminate the shift differential pay or eliminate one shift which would reduce the shift differential pay. It is a changing in the start time of the shift to eliminate the shift differential for that shift. Item 12 is the cancellation of the Choices contract for substance abuse services, job search assistance, and financial planning. This would terminate that contract, saving the state \$782,000 over the biennium.

Items 13, 14, and 15 are all similar. Items 13 and 14 recommend elimination of the 5 percent rural differential pay that correctional officers at Ely State Prison receive, as well as correctional officers at the Lovelock Correctional Center. Item 15 is the remote area differential pay. The correctional officers receive \$7.50 a day. This would be eliminated and implemented at Southern Desert Correctional Center, Three Lakes Valley Conservation Camp, Southern Nevada Correctional Center, and High Desert State Prison. The last one I would highlight under the Department of Corrections is priority 26. That is the closure of Nevada State Prison in Carson City. You can see on the sheet that it eliminates 152 positions, requiring 136 layoffs. That layoff number will change. The Director of Corrections is trying to place correctional officers at other facilities so the 136 layoffs is a high estimate. We think we can get that number to something, hopefully, much smaller. You can see this saves \$12.8 million over the biennium.

CHAIR BUCKLEY:

Did you calculate what the pay cut would be to an officer when you consider the deletion of all of the current pay structure they receive?

ANDREW CLINGER:

We did. I did not bring that sheet with me but if my memory serves, correctly, it was different for different institutions. Depending on the institutions, I think it went up to as high as 15 percent, which would be the salary reduction if you counted the existing furlough plus the additional 2 hours of furlough, the rural pay, and the uniforms. When you factor all of those items in for some correctional officers it was up to 15 percent.

CHAIR BUCKLEY:

Have you analyzed what that would do to moral, and retention? That would really hit some of these smaller rural communities. How do you explain lowering the pay of some state employees more than others. How is that a fair thing to do to a correctional officer?

ANDREW CLINGER:

I would need to have the Director of Corrections really answer that. It is not something that we have been able to analyze. It would really be a question that Director Howard Skolnik must answer.

Under the Department of Cultural Affairs I would highlight a few items in that department on page 22 and 23. You can see the State Railroad Museum director is being frozen. A Historical Society museum director is being frozen. There are curator positions that are being held vacant over the biennium.

The first two items on page 32 are within the State Department of Education. The first item is \$1.7 million of savings. We anticipate no impact from this item. This is remaining funding from the support team leaders for schools that failed to make adequate yearly progress (AYP). There were fewer schools which failed to make AYP then were projected, so this is a savings in the budget that we will revert. The second item on that list, priority 1, is a reversion of excess funds in the incentives for licensed educational personnel. This is not a cut but a reversion of excess funds. The major item on that page is priority 4, which is \$131,195,000. This is the projected reduction to the DSA basic support for the biennium. We have talked at length about the impact that it will have. We also had on the other summary sheet a recommended reduction in salaries of 1.75 percent. That is line 45 on the estimated General Fund shortfall sheet.

Yesterday the Governor announced that we have reduced the \$131 million number. This used to be \$136 million. On page 32 we were able to reduce that with some federal funds by \$35.7 million, which is the equivalent of line 45 on that other page. So, that number has been reduced from previous reduction estimates.

CHAIR BUCKLEY:

To clarify, what is the cut proposed for K-12 now? Is it now at 10 percent, where before it was closer to 13 percent? Is that the difference?

ANDREW CLINGER:

Before, when you took the 10 percent proposals and added in line 45 on the sheet, which is the \$35.7 million, in FY 2010 the cut was 10 percent of state appropriations. In FY 2011 the cut was 12.7 percent of state appropriations. The discussion we had yesterday involved other funding sources. When you look at the K-12 budgets, as a whole, and you add in the local school support tax and the 75 cent property tax, the Governmental Services tax, and other local revenues than the reductions to K-12 over the biennium, after making the changes that we made yesterday, considering all funding sources, is 2.4 percent.

CHAIR BUCKLEY:

What is the reduction, just looking at what the state provides?

ANDREW CLINGER:

The reduction, looking at just what the state provides, is 10 percent.

ASSEMBLYMAN CONKLIN:

Following your line of questioning, Madam Chair, I have two questions, if I may. First of all, Mr. Clinger, just for clarification, when you talk about 10 percent or 2.4 percent, the fact of the matter is that the reduction is still in excess of \$130 million, correct? The amount has not changed?

ANDREW CLINGER:

That is correct.

ASSEMBLYMAN CONKLIN:

Secondly, on page 32, on the impact column for priority 4, I am confused on the dollar for dollar. That is not a match, dollar for dollar, somewhere. You are just simply stating that if the cut is \$131,195,802 there is no money attached to that. Or is there?

ANDREW CLINGER:

What the impact statement on that is referring to is the ARRA maintenance of effort. What is required under the ARRA act is that the state maintain the same percentage of funding for K-12 and higher education that it had in the previous year. So, in FY 2010, the percentage of all state General Fund that we spent on K-12 and higher education had to be the same or higher than the percentage that we had in FY 2009.

Now, with some of the items that we have on all of the sheets, we think we still do meet that maintenance of effort requirement. The funding that we are talking about, which would be at jeopardy if we didn't maintain that maintenance of effort, is the fiscal stabilization funds that we received under the ARRA Act. \$139 million of that went into K-12 in FY 2009. \$92.8 million of it is going into Nevada System of Higher Education in both FY 2010 and FY 2011. In addition to that, there is \$72 million that goes into the Department of Corrections. If we did not meet the maintenance of effort those are the funds that would be at jeopardy.

ASSEMBLYMAN CONKLIN:

Of the \$131 million that is proposed here, is it your belief or are you certain that this will still meet the maintenance of effort? So that the other \$300 million in ARRA funds will not be at risk if this is in fact the cut?

ANDREW CLINGER:

Yes, I am sure that we will make the maintenance of effort requirements under the ARRA and these funds will not be at risk.

ASSEMBLYWOMAN SMITH:

I just wanted to go back and clarify on the cuts. The first sheet we received, showing the 10 percent reductions, had the \$175 million amount. After that came out we had the additional 1.75 percent added for another \$35 million. My understanding, today, is that the addition of the 1.75 percent has come off. But then, also, the total amount you are showing is lowered from \$175 million to \$139 million.

ANDREW CLINGER:

What you need to do is take the total amount for K-12 on page 32, which is the \$139.9 million and you need to add to that the amount that is on line 45 of the one page summary sheet. That is the \$35.7 million. With those two items that gets you to the \$175 million worth of cuts.

ASSEMBLYWOMAN SMITH:

So you are leaving that on—I understand that now. The cut, then, really does stay the same. It looks different if you compare the old document and the new document, but if you add on the 1.75 percent the cut is still at \$175 million. I wonder where you factor in the loss of Local School Support Tax (LSST) in all of this. If you are looking at local revenues in your big picture how does what the state has to pay for the shortfall of LSST of \$243 million factor in to all of that?

ANDREW CLINGER:

That is actually on the one-page sheet. That is line 9 of that sheet. You can see there that we are anticipating and calculated in an overall shortfall, which is \$206.7 million in the DSA. That includes and is primarily the local schools support tax shortfall. There are other numbers that factor into that like enrollment and some of the other smaller revenues but it primarily is the local school support tax piece.

ASSEMBLYWOMAN SMITH:

I understand where it is reflected on this sheet but when you look at the 2.4 percent, are you factoring in that amount of money that we have to pay for the local school support tax shortfall?

ANDREW CLINGER:

I am not. The reason that I did not is because we have to make that up anyway so we are going to make that number whole and that is the assumption that I made when I put that sheet together. The legislatively approved amount, which is what you see on that other sheet that calculates the 2.4 percent, has dropped. Because we have a requirement to make that up, it would bring that number back up to the legislatively approved amount anyway.

ASSEMBLYWOMAN GANSERT:

Thank you, Andrew, for all of your work. These sheets have been fluid over the last two weeks and I appreciate all of the updates. It is a bit confusing as the numbers have been moved around. My question was about the other sources of revenues we talked a little bit about in IFC yesterday. Have you taken into account how they have been affected by the economic downturn? When you say 2.4 percent of your base number, which is \$7.3 billion, has that been adjusted so that we do not expect any further decreases in that figure?

ANDREW CLINGER:

We have. The numbers on those sheets are the legislatively approved amounts. But, again, I have included the shortfall. We will have to make up any shortfall that they have in those local revenues. I mean, not all of them. We do not guarantee, for example, the government services tax—we do not guarantee that. The property tax that you see on the sheet I handed out last night—we only guarantee one third of that. We have not reforecast, yet, the property tax component simply because we do not have enough data to do that. We anticipate that we will have to reforecast the property tax component probably in March or April once we have better data. We have been looking at the collections that have come in. For FY 2010 I feel pretty comfortable that we will be okay. It is FY 2011 that I am worried about a little bit. In the legislatively approved budget there is a projected reduction in property tax moving into FY 2011. We did project a reduction. It is just whether that reduction is going to come in line with the actual collections. The short answer is that we have factored into the calculation everything that we know, as of today, and everything that we know up to this point we have to guarantee. So, while the numbers on that sheet reflect legislatively approved, which have changed, we are making up the shortfalls and that is the item on line 9, on the summary sheet.

CHAIR BUCKLEY:

We will be hearing from the superintendents this afternoon. As I understand it, in their previous testimony to IFC, they indicated in the Clark County School District a 10 percent cut would cause 2,300 layoffs. That remains the fact, regardless of whether you get federal stimulus money for new books, for example. That is what state support pays for and was already calculated. I think at the time that the superintendents testified there was not an additional, almost 3 percent, proposed cut to K-12. Do you remember that Andrew? Did they testify before that was added to the sheet?

ANDREW CLINGER:

I am not sure. As Assemblywoman Gansert has said these sheets have changed ever day since we have put it together, so it is hard to keep track.

CHAIR BUCKLEY:

We will hear from them directly. I just do not want people in the public to think education is saved, if they read some press accounts, because the proposed cut is still 10 percent—the same that it was last week when we heard what 10 percent means.

ANDREW CLINGER:

I will turn to page 33 of the “10 Percent Reductions Recommended and Governor Considering” sheet. Page 33 regards the Department of Employment, Training and Rehabilitation. Agency 901 is the Rehabilitation Division. What the department is proposing here is to actually add funding to their Rehabilitation Division. The funding of \$431,000 is reflected as a negative on this sheet because the cuts are reflected as a positive but this is actually adding money to the Rehabilitation Division. The \$431,000 is a result of—and you will see this on the next page—the elimination of the Nevada Equal Rights Commission program in order to meet their budget reductions. With part of that savings they are plugging it back into the Rehabilitation Division. If you look on page 34 that is where you will see their recommendation to eliminate the Nevada Equal Rights Commission and the 20 positions associated with that Commission. That would save \$1 million in the biennium. Now, with the 20 positions, we do not have any layoffs listed on there because we believe we can place those individuals in other areas within the Department of Employment, Training and Rehabilitation.

I will note, and it is in the impact statement towards the bottom, that if the Nevada Equal Rights Commission is eliminated the state would need to determine whether to designate other agencies to absorb complaints of employment discrimination based on sexual orientation and complaints of discrimination in places of public accommodation or amend legislation to eliminate these services. Those are services that the Federal Equal Rights Commission do not provide.

ASSEMBLYMAN HORNE:

I would like some more clarification on the elimination of the Equal Rights Commission. You mentioned that it would have to be explored by some other departments, basically taking up the slack on these various complaints. I am assuming that the complaints are not going to stop just because we eliminate the department. Has there been any discussion on what likely departments those would be and how long would it take for them to be able to take up the slack? We have the expertise in those departments to do so. I would hate to have legitimate claims out there foundering because we do not have the mechanism in place to handle them.

ANDREW CLINGER:

A bulk of what the Nevada Equal Rights Commission does would be taken up by the Federal Equal Rights Agency but there are two items that they do not perform and it is those that I spoke of. I have not been involved in those discussions with Director Mosley so I am not sure where we are at on those other items. That is really a question I will have to ask him and get back to you on.

ASSEMBLYMAN HORNE:

I would like that information please.

ASSEMBLYMAN DENIS:

You are saying the bulk of these cases would then go to the Federal Equal Rights Commission? Have you had any discussion with them whether they even have the ability to handle these issues at the federal level? My concern would be that we have these concerns but people are going to file something with them but they do not have the ability to deal with them or that we have not given them a heads up.

ANDREW CLINGER:

It is my understanding that if the State of Nevada does not provide these services than the Federal Government must provide these services. It is one of those things that if we do not do it they have an obligation that they must do it.

ASSEMBLYMAN DENIS:

Has anyone in your office had any discussions with the Federal Equal Rights Commission on this, at all?

ANDREW CLINGER:

I know that Mr. Mosely has been having discussions with the Federal Equal Rights Commission. Again, I am not sure what the outcome of those have been, but I can find out.

ASSEMBLYMAN DENIS:

I have the same concern that was previously asked about which other departments are going to handle those other areas. If we are cutting back there, are they going to have the ability to even handle those situations?

ANDREW CLINGER:

Right. And, again, I will have to get back to you on that.

CHAIR BUCKLEY:

I would note that this one of the proposed cuts that we have highlighted as questionable because, firstly, I think that we have a feeling that we can do a better job than the feds can in helping our businesses, and secondly, it creates a hole. We would have discrimination prohibited by law and then nowhere to complain to. This is one that has been marked, at least preliminarily by leadership in this house, for restoring because there are too many unanswered questions.

ANDREW CLINGER:

Page 37, under the Gaming Control Board, is an item that I would highlight here. You can see in the position elimination columns that this would eliminate almost 32 positions in the Gaming Control Board, resulting in 27 layoffs. There would be an impact on their ability to regulate and audit, based on these reductions. There would be reduced enforcement and slowing down of processing of approvals on table games and surveillance systems. It would slow down their audit cycle at the Gaming Control Board. You can see a long list of impacts on pages 37 and 38 related to these eliminations.

ASSEMBLYMAN CONKLIN:

Mr. Clinger, is there some amount that you are aware of where we expect to actually collect less than what we are due based on the elimination of these positions? Certainly, if the times to audit are going to be longer . . . I am sure our auditors are fairly adept at finding money for the state and I just want to make sure that we have analyzed to the best of our ability that the yield on this cut is not higher than we anticipate because of a lost in revenue that does not show up on this spreadsheet.

ANDREW CLINGER:

I have not analyzed the dollar impact. I do know that Chairman Neilander testified to IFC that there could potentially be an impact to revenue on this item, but I do not have an estimate of what that impact would be.

ASSEMBLYMAN GRADY:

Along the same lines, has Mr. Neilander given any figures to you about what this would do to our small, rural casinos? Because the couple I have talked to have said this would probably put them out of business—just the changes in these fees that they would have to absorb. Has there been any discussion there?

ANDREW CLINGER:

This is not a proposal to raise fees in the Governor's recommendation—this is a proposal to cut positions. I am not sure that we are talking about the same thing on the impact to the rural casinos. I guess the impact on the rural casinos would be the timing of when audits were performed and the timing of the agents' ability to respond to complaints for investigation and that sort of thing.

CHAIR BUCKLEY:

Many of these proposals we rejected last session based on Mr. Neilander's testimony that the Gaming Control Board would not be able to function effectively and they would lose qualified staff and be unable to do their job effectively. The idea of some fees is that it would allow Mr. Neilander and the Gaming Control Board to keep doing their job. That is a proposal that is floating around and is not before us yet. I think the idea would be to tier it. Small guys in the rural communities probably cannot afford much but if that was to happen it would obviously be subject to this body's approval and a workshop and parity. There would be a several month workshop process to make sure it was fair to all of the folks who are regulated. The question before us, I think, is going to be: Do we want our dominate industry to have a dysfunctional regulatory body? Maybe we cannot restore all 32 positions but should we restore some? I think, just as we did last session in Ways and Means, it is the same issue before us right now.

ASSEMBLYMAN GRADY:

I agree. The Nevada Gaming Control Board is looked up to throughout the world and is one of our major industries. It really makes me nervous what this will do to the gaming industry across the state.

ASSEMBLYWOMAN GANSERT:

Just to confirm, because we have all of these different spreadsheets, but the amount was about \$4.236 million in cuts—on page 38. That is the total cut to the Gaming Control Board. Is that correct?

ANDREW CLINGER:

That is correct.

ASSEMBLYWOMAN GANSERT:

I know there has been some talk about covering or using some fees to cover an amount for the Gaming Control Board. I guess we are going to have to review that because I think it is an extremely important agency, obviously. Gaming is the main money producer or revenue producer in the state.

CHAIR BUCKLEY:

There are two separate sets of numbers. One is the amount that this would have to be cut and the second is an examination of all of our regulatory agencies and how much of them are funded by General Fund versus fee supporting. In times of fiscal crisis, do you want businesses to pay their own way as opposed to taking money from K-12 and higher education to cover regulatory functions? Last session, with the Division of Insurance and most industries in the Department of Business and Industry, we moved towards fee funded. So, at the Department of Business and Industry there is no General Fund anymore. Each regulatory agency pays its own way. A policy issue before us is: do we want to continue that trend? What that would mean is that there would be General Fund available for those services that cannot support themselves such as education and health and human services for those most vulnerable. So those are the two separate issues.

ASSEMBLYWOMAN GANSERT:

I think it is important that we look at how we are subsidizing different agencies with General Fund monies but I think we need to keep in mind the individual businesses, like Mr. Grady pointed out, that may not be able to afford the increase because they may go out of business. While it is important that businesses pay for what is required we have to keep in mind that, first of all, we required whatever regulation we put into effect. We have to make sure that the regulation is fair and that the cost of putting that regulation into effect is not so unduly large that, in fact, the business could go out of business because they are having to pay for this regulation. Oversight is required. We really need to look at balancing that. Thank you.

CHAIR BUCKLEY:

I think that is absolutely right.

ANDREW CLINGER:

Beginning on page 39 of the “10 Percent Reductions” list is the Department of Health and Human Services. I am going to turn this over to Director Willden. He actually has a handout of his own to go through that probably provides more detail than the handout that I have.

MIKE WILLDEN, DIRECTOR, DEPARTMENT OF HEALTH AND HUMAN SERVICES:

Thank you, Speaker Buckley. For the record, I am Mike Willden. I serve as the Director of the Department of Health and Human Services. You should have a 13- page handout that I think is probably a little easier to go through. The title on it is, “Nevada Department of Health and Human Services Proposed Budgets Cuts.” The reason we are using this document is that the document Andrew has been working from packages several cuts into one outline item and I think this is a little easier to call out the issues.

At the top of the page—there is a little code table at the top—and it might be helpful to understand that. You will see there is a group of cuts down the left hand column that have “R’s” by them. Those are the original recommended reductions when we were doing the 10 percent cut. The next line item down has a “V” by them and what they are is Executive Budget Office vacancy savings cuts. The next line item is coded with a “T” and represents travel and training cuts. The next is coded with an “O” and they are Executive Budget Office other cuts; in other words, cuts that were added after the original 10 percent list was evaluated. The last one we code as an “S,” which is sweeps. These are the types of funds that we are going in and sweeping reserves out of those funds.

All of these numbers, totaling \$108 million, are reconciled to Director Clinger’s five documents that he is using and talking about. Madam Speaker, I will just proceed if that is ok, to run down through and highlight some of the Health and Human Services cuts.

In the Director’s Office and in the Grants Management Unit, there are two things that I would highlight. Your second, third, fourth and fifth bullets basically deal with repackaging Title XX dollars, our social services block grant and sweeping a trust fund, the Gleeson-Otten trust fund, and taking some money from the Children’s Trust Fund, repackaging those dollars and sending them out to our family resource centers—pulling General Fund money out of the family resource centers and reverting that to the General Fund. The family resource centers are held harmless in that transaction. It is just that they get a different color of money—instead of from the General Fund—they get Title XX and other kinds of dollars.

The next item in the Director’s Office I would highlight is that we are proposing to eliminate the Problem Gambling Program activities in FY11, saving about \$1.8 million. That program is funded from a \$2 slot tax and we would basically suspend activities—treatment, prevention, and research—for the next fiscal year, saving \$1.8 million.

In Aging and Disability Services, there are a couple things I would highlight. The second bullet down is a natural opportunity—I would use that term—where in our Disability Independent Living Program our projection is less than what was budgeted. We were budgeted at 280 clients and we are projected to be at about 223. That allows us to save about \$700,000. At the top of Page 2, I also would highlight a reduction in the Office of Disability Services because it’s lower than budgeted caseload in the personal assistant service. It is budgeted at 223 and running at a caseload of 166. This gives us an opportunity to save about \$440,000.

The next one is the COPE Program or the Community Services Option Program for the Elderly. This has been fairly confusing. It has been in and out on different versions. It is in and is being counted as about \$1.2 million worth of savings. Again, we view this as a natural opportunity. You can see the caseload information that I have there. We were budgeted for 187 slots in the current year and 193 next year. We are proposing to cut 62 slots, leaving us 125 and 131. We think that leaves us some growth, with some room to grow. There is currently just a waiting list of two recipients waiting for services in that program. So again, we view this as a natural opportunity.

The next one deals with personal care attendants. You will see this several times throughout the document. This is the \$1.50 per hour reduction in the pay in the personal care services program. Again, this has been discussed and debated several times over the last two years of budget reductions. This is the one related to senior and disability services. You will see it again in Medicaid.

CHAIR BUCKLEY:

Mr. Willden. The board is lighting up. Assemblywoman Leslie.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Chairman. I didn't want to let you get too far. Maybe we could take them by sections so it might be a little easier. I was back on the Grants Management Unit, Mike, and I have had a lot of questions since this came out, on the problem gambling reduction. Actually, it's not a reduction, we are eliminating it completely. The question is: What is the impact on the people who are in treatment right now? Do they just, as of April 1 or July 1, stop getting treatment? What recourse will they have?

MIKE WILLDEN:

I am hopeful there will be some money left over out of the FY10 expenditure pattern. We would use that money to keep people in treatment for as long as that lasts. Obviously, once we start booking the FY11 money to a reversion, there will not be money to go beyond whatever cash balance we have out of FY10. Some people in treatment will have to likely not be covered in that service.

ASSEMBLYWOMAN LESLIE:

So, at some point, they will just not get treatment any more?

MIKE WILLDEN:

That is correct. Not until we restart in the next biennium.

ASSEMBLYWOMAN LESLIE:

And this money is used to hire private providers, isn't that right?

MIKE WILLDEN:

That is correct.

ASSEMBLYWOMAN LESLIE:

Ok, thank you.

CHAIR BUCKLEY:

Thank you, Ms. Leslie. Assemblyman Anderson.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. My question goes back even further, although in the same general topic area. In eliminating the problem gambling question, will those dollars that are generated currently from that tax then go into a specific category within the general fund, and how much do we anticipate to be gained there, if at all?

MIKE WILLDEN:

Mr. Anderson, as that program works, there is a \$2 slot tax. It is collected by Gaming and transferred to the Director's Office to run this program. All the revenue that would be collected in FY11 would be reserved for reversion. In other words, the funds would not be spent and would be reverted to the General Fund. The estimate is \$1.8 million.

ASSEMBLYMAN ANDERSON:

And how will we monitor that?

MIKE WILLDEN:

How will we monitor that?

ASSEMBLYMAN ANDERSON:

How do you currently monitor it?

MIKE WILLDEN:

Well, Gaming collects the slot fees on a periodic basis and they transfer the money to us. We will set up a reserve, collect the money, and then transfer it to Director Clinger.

CHAIR BUCKLEY:

Assemblyman Carpenter.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. What happens to the program like we have in Elko where they take care of someone that is disabled, so that the other members of the family can work while the person that is disabled has a place to go? What happens to that program? We hear all kinds of questions. Is it in or out, or just what?

MIKE WILLDEN:

Mr. Carpenter, I am not sure what program you are talking about. Are you talking about the Mental Health and Developmental Services cuts? We haven't gotten there yet. Is that what you are talking about? Or the personal care attendants?

ASSEMBLYMAN CARPENTER:

I think it is personal care, but it may be one or the other. I really do not know, except I know that there is great concern that that was going to be eliminated.

MIKE WILLDEN:

There are two issues in the personal care attendant program. It is not being eliminated. The issues there are that we are budgeting, or recommending, that there be a \$1.50 per hour reduction in the rate. The rate now is about \$17 per hour, and we would be reducing that to \$15.50 per hour, for Medicaid recipients. For cases that are managed out of what we call the St. Mary's Program or the disability services, the rate would be reduced from about \$18.50 per hour down to \$17 per hour. So, that is one issue impacting personal care services. Some money is being taken out of what we call the caseload growth, but the program is not being eliminated. We believe we have adequate money to serve the caseload at the lower rates.

ASSEMBLYMAN CARPENTER:

Thank you. Maybe when we get further into this, we will come to the program that I am most interested in. I will try to find out what that is. Thank you.

CHAIR BUCKLEY:

Assemblywoman Gansert.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. There was a time with one of the last rounds of cuts where St. Mary's said they may not be able to provide the services if we cut them. Have we rechecked with them to find out if they can continue to provide the services here in northern Nevada?

MIKE WILLDEN:

Yes, Miss Gansert, we have. I have a letter from the St. Mary's Program outlining how they would go about internally making it work. What I get out of the letter—and I don't want to speak for them in a definite manner—is that they can make it work with the rate reduction, as long as we don't go below \$17 per hour. They are going to change some things administratively and move some dollars out of Administration to the program. They are going to reduce or eliminate some of their travel reimbursements to their care attendants. They are going to take some of their supervisory Personal Care Attendants (PCAs) and put them on the line. What I get out of their analysis and letter is that they think they can make it work on the short term.

ASSEMBLYWOMAN GANSERT:

Thank you. I think it is a very important program and I appreciate that they are working on their numbers to be able to continue to provide the service.

MIKE WILLDEN:

And I would recognize them publicly for sharpening their pencil.

CHAIR BUCKLEY:

You may proceed. There are no further questions.

MIKE WILLDEN:

Madam Chair, I think I was about ready to go into the civil monetary penalties in Aging Services, on Page 2. This is a suggestion that we use the money in our Civil Monetary Penalties account. There is about \$2.3 million in that account. Those monies can be used to fund ombudsman's services in our Nursing Home Program in Aging Services. We would recommend pulling out General Fund money and putting in civil monetary penalties for both FY10 and FY11, which would be \$421,000.

The next aspect of Aging Services that I would highlight is a reduction to the Senior Property Tax Assistance Program. We would be reducing the average benefit from \$358 to \$262 and it would save approximately \$1.2 million. Obviously, this will require approval by the Interim Finance Committee; there is a statutory requirement to have approval there. If there are no more questions on Aging Services, I will move to Health Care Financing and Policy.

Health Care Financing and Policy has many reductions. The first one is a change that we have already implemented—changing the evaluation procedure for people who get personal care services. We are implementing a requirement to have a physical evaluation by a therapist. That is versus now where we use almost an attestation process, or have social workers looking at an individual. There will be a stricter requirement of someone needing to meet the level of care criteria and the need for these personal care services, at a savings of \$4 million.

CHAIR BUCKLEY:

Mr. Willden, we have a question. Assemblywoman Spiegel.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Speaker. Mike, I have a question. In the interim committee on Senior Citizens, Veterans and Adults with Special Needs, we heard some testimony related to people getting into the Children's Health Insurance Program (CHIP) and the wait list of 106 people. Because of the staff vacancies, there were not enough personnel to process the applications that were coming in. That was relating to the wait list and the backlog. I guess I am questioning how eliminating the vacant position is going to help with the backlog and what you see as a way of addressing that need.

MIKE WILLDEN:

Ms. Spiegel, the CHIP program does, as you can see from the second bulleted item down, currently have a wait list of 106. Further down the list, we are eliminating some of the social workers related to the CHIP program. I have met with Carol Sala, the Administrator of the Aging Services Division, and her staff. They believe, even with the eliminations of those positions, that they can—now that we are coming out of the stall pattern and we know what the cuts are, and whether we need to save more money or not—with the staff they have, the ones they are not eliminating, that they can now start working the wait list and get those clients into service.

ASSEMBLYWOMAN SPIEGEL:

Ok, thank you.

MIKE WILLDEN:

And you can see in the CHIP Program that there are savings of almost \$2 million associated with this. This is in the Medicaid Program. That is where these services are paid for; we have left some growth room in this caseload. With the current services we are serving about 1,123 recipients and we have left growth in this budget to go to 1,241, so there is some growth room. We can take the wait list and even take some additional recipients, but still save \$2 million.

The next one is a rate reduction to anesthesiologists, which is \$2.5 million. The issue here is that the Medicaid payment has been analyzed and we are paying about 43 percent higher than the Medicare payment. So we are making a recommendation that the anesthesiologists' Medicaid rate be reduced to match the Medicare rate.

CHAIR BUCKLEY:

Assemblywoman Gansert.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. I have received calls from anesthesiologists and one of them is highly specialized. It sounds like he does cardiac pediatric anesthesiology. Do we break out any of those rates? Is there sub-specialty or coding for different types of procedures or anesthesia? Because the concern was that there are only six people in the state who do that and the bulk of who they handle, evidently, are Medicaid patients. They are not sure whether they can continue to provide that service. How do we break out those codes? Is there any way to differentiate?

MIKE WILLDEN:

Miss Gansert, I don't have a short answer for that, but I will get you the answer. This has a unit factor in it, the billing code, and I think different procedures have different unit factors, and that is what I got out of it, as how it bills out. We are getting a lot of concerns from anesthesiologists in this area and I know staff is still working on making sure that we can better explain and understand how that coding will work, so I will get you some information.

ASSEMBLYWOMAN GANSERT:

I appreciate that. I know awhile ago that we had some trouble with pediatric surgeons and just lack of access to those types of specialties because of the rates, so thank you.

MIKE WILLDEN:

And we have heard from this group that we may have access issues.

ASSEMBLYWOMAN GANSERT:

Thank you.

CHAIR BUCKLEY:

Assemblyman Christensen.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Madam Chair. Mr. Willden, in relation to the billing—because I, too, have had conversations with different groups here in the north and the south—could you add to, as to my colleague was referring to, the financial equation? I am curious if your office has been able to put together any info on what would happen to the practices that currently provide the service, or if you all have a pulse on, are we going to lose a percentage of those who currently take care of this sector of the population?

MIKE WILLDEN:

I don't have that with me, but I can provide that.

ASSEMBLYMAN CHRISTENSEN:

If you would, that would be great. Thank you.

CHAIR BUCKLEY:

You may proceed.

MIKE WILLDEN:

Next on the list, Madam Chair, is the Preferred Drug List (PDL). You have seen this many times from us as a recommendation to eliminate the statutory prohibition from us using a preferred drug list in Medicaid for six classes of drugs. We believe again that we should allow the Pharmacy and Therapeutics Committee established in statute to implement a preferred drug list for Medicaid recipients and it would save about \$766,000. This will require a bill draft.

CHAIR BUCKLEY:

Assemblywoman Leslie.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Chair. Mike, are diabetic drugs included in this? I have been getting a lot of email about that.

MIKE WILLDEN:

Yes. The answer is that diabetic drugs will be put on a PDL, but all drugs in the class will be on the preferred list, so no drug would be denied to a diabetic.

ASSEMBLYWOMAN LESLIE:

Thank you. Can you just give us a two sentence explanation of what the PDL means, just to remind everybody, what that process means, please?

MIKE WILLDEN:

A PDL is a preferred drug list. Basically, we have in statute a Pharmacy and Therapeutics Committee that is made up of doctors and pharmacists who evaluate classes of drugs and—without looking at the cost and finances of those drugs—determine whether or not one drug or another is more effective. Based on that, they put them into a preferred drug list. The idea is that it drives market share towards a preferred drug. What it does for the Medicaid program is that it allows us to get supplemental rebates from the drug manufacturers. If you don't have a PDL in place, you can't drive the market share and get the supplemental rebates, and so that is the purpose.

CHAIR BUCKLEY:

Assemblywoman Gansert.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. I think we talked about this in IFC, but people who are already on certain medications would be grandfathered in, I believe. I just wanted to confirm that. The second point is that if we change the PDL, we need to make sure that there is an Request for Proposal (RFP) process so that all the companies are able to rebid on the contracts, even for the non-generic drugs.

MIKE WILLDEN:

The answer to the grandfathering question is yes, if you are on a current drug, you would be grandfathered in. I am not sure on the RFP process. I know you have asked that before and that is still being evaluated by staff.

CHAIR BUCKLEY:

Assemblyman Hardy.

ASSEMBLYMAN HARDY:

Thank you, Madam Chair. Along that same line, Mr. Willden, the appeal process—so that if somebody recognizing that we make a generic decision for generic drugs, as it were, and all people are different—some people are going to respond to different medicines, even though we have made a policy decision—there is probably an appeal process, is there not, if somebody has failed on different medicines, that they are allowed to try a different atypical, for instance, anti-psychotic?

MIKE WILLDEN:

Yes, there is, using your term, an appeal process. I guess we would call it a prior authorization process, that if someone does not work well on a specific drug, that they can provide medical evidence—a doctor can do that—and can have the Medicaid program look at that prior authorization and authorize the alternative drug.

ASSEMBLYMAN HARDY:

And that, as I understand it, is not a lengthy process and we have been fairly amenable to do those in the past, as I understand?

MIKE WILLDEN:

That is my understanding also, Dr. Hardy.

ASSEMBLYMAN HARDY:

Thank you.

CHAIR BUCKLEY:

You can proceed, Mike.

MIKE WILLDEN:

At the top of Page 3, there are a number of changes being made. The first two deal with disposable medical supplies. I hate to even mention them for the press that we have gotten. These are incontinence supplies and disposable gloves—limiting the use of these products, saving about \$1.6 million between the two. The next one is to relook at our non-emergency transportation contract and cap administrative costs, saving \$644,000. The next one on the list is to reduce our reimbursement rates in behavioral health training and psychosocial rehabilitation. We have a two or three tier rate system. We would be collapsing that rate system, saving \$4.9 million. Skip down again to personal care services. I think I mentioned that before, in the Aging and Disability Services budget. That would also apply here in the Medicaid budget, saving almost \$3 million.

The next bullet down, we would be reducing hospital reimbursements by 5 percent, saving \$5.3 million to the General Fund. We would be reducing residential treatment center rates by 5 percent, saving \$924,000. We would recommend increasing premiums in the Nevada Check Up Program. Depending on your household income, the premium would go up. On household incomes for the very low, the premium would go from \$25 per quarter to \$75; from \$50 to \$140 per quarter per family for the middle-low income; and from \$75 per quarter to \$180 per quarter for the high-low income. This would save us almost \$1.1 million. Then there are three or four optional services remaining on the list to be cut. Many of the original list of optional services have been added back, or have been taken off the “cut list,” and put onto the Governor’s “not considering list.” The ones still on the list are adult vision, adult audiology, hearing aids and adult therapy. Those four are still recommended on the reduction “cut list.”

CHAIR BUCKLEY:

We have some questions. Assemblywoman Leslie.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Chair. On this particular item, the optional services, are these the only optional services we have in Medicaid? That just occurred to me. Is there anything else optional in Medicaid that we have beyond the absolute federal requirement?

MIKE WILLDEN:

Well, the big one that people never like to have to study very lengthily is pharmacy. Pharmacy is an optional service. There are many optional services, but many times they are really not optional. This is in the sense that if we eliminated pharmacy, which is a \$90 million plus a year program, our hospitalization would increase within weeks.

ASSEMBLYWOMAN LESLIE:

Right. And people would not get the drugs they need.

MIKE WILLDEN:

So, there is a list of optional services on our website, but many of them we don't view as very optional.

ASSEMBLYWOMAN LESLIE:

Ok, my question on this item, Mike—and I know you won't take this personally at all—is how did you decide that dentures were more important than glasses or hearing aids?

MIKE WILLDEN:

By mostly listening to our medical staff that if you can't get proper nutrition, you are going to have problems and probably end up hospitalized or having to see other health care providers at more expense. So, it was basically a prioritization of you needing to be able to have nutrition before you needed to be able to see and hear.

ASSEMBLYWOMAN LESLIE:

You can't eat and you can't see or hear. So what will happen to these adults, and these are people who are poor or disabled, right, or they wouldn't be on Medicaid, so how will they get their glasses and their hearing aids, will it just depend on charity?

MIKE WILLDEN:

That's correct.

ASSEMBLYWOMAN LESLIE:

Ok, thank you.

CHAIR BUCKLEY:

Assemblyman Stewart.

ASSEMBLYMAN STEWART:

Thank you, Madam Chair. Mr. Willden, on the 5 percent reduction for reimbursement to the hospitals, I understand that last year they operated at a deficit of 3.9 percent. Have you talked with them on how this would affect them?

MIKE WILLDEN:

Yes, I have had conversations with Bill Welch, who is the Executive Director of the Hospital Association. I don't have the information in front of me, but I am confident that he has probably provided accurate information. I don't think there is a hospital in the state making money. If they are, they are not making much. They did take a 5 percent reduction in the previous rounds of cuts. I know they are very concerned about this rate reduction. I would note on their behalf that this is the General Fund cuts we are talking about here; the \$5.3 million is the General Fund piece of the savings. There is also a loss of double that amount in federal money under the current matching percentages. Five million dollars of general fund matches another \$10 million of federal. The hospitals are also concerned that in many programs their rates get benchmarked to what we pay in Medicaid. So, if we reduce our rates, many programs benchmark to our rate and there may be loss of other revenue.

CHAIR BUCKLEY:

Thank you, Mr. Willden.

MIKE WILLDEN:

The last item that I would highlight is on Page 4 in Medicaid, which is a \$10 rate reduction for skilled nursing facilities. We have about 38 licensed nursing homes in Medicaid. This would be a \$10 reduction and would require legislative action to amend the NRS.

If there aren't any more questions on Medicaid, I will move to the Health Division and highlight a few. I will try to speed up a little. The first one is that we would be sweeping about \$9 million out of the Radioactive and Hazardous Waste fund, also known as the Beatty Dump Fund. We swept money out of this fund in the previous rounds of cuts of about \$4 million. We propose sweeping another \$9 million. We are leaving enough money behind to meet two to three years of operating costs, in our estimation.

The next one I would highlight would be sweeping the Marijuana Health Registry. We have analyzed the Marijuana Registry and can sweep about \$267,000 out of that fund.

The rest of the Health Division cuts are mostly operational changes, staffing and travel, those types of things.

In the Welfare Division, I would just highlight a couple of things. First, during various versions, we had eliminated up to 137 eligibility-related positions. All of those are off the "cut list," so the Welfare Division will have a green light to hire all the eligibility workers to keep up with the growing caseload and processing time requirements. There are several areas in Welfare where we are using a surplus state share of collections, which is child support money that the state retains. We are plugging that in and allowing for funds to be reverted to the General Fund. The last one I would highlight on Page 6 is that we have plugged in some additional funds for the supplemental nutrition assistance program, which used to be known as the food stamps program. We are getting some additional administrative dollars from the feds of about \$1.5

million. We have plugged that into the reduction, and that will help us with General Fund reversions there.

On Page 7, I will go over the Mental Health and Developmental Services cuts. Again, there are quite a few changes in this area. The first one I would highlight is the fourth bullet down. We are recommending \$8.2 million worth of pharmacy savings be taken out of the three different pharmacy budget accounts—north, south, and rural.

The next bullet I would highlight is the Desert Regional Center and Sierra Regional Center on the Disability Services side. We see an opportunity to remove \$9.5 million out of Desert Regional for supported living arrangements or residential housing, whatever term you want to use, and \$3.7 million out of Sierra Regional Center. In both of these evaluations, there has been money in and out. Obviously, there was a significant more being cut than these numbers. Based on this evaluation, we will be able to serve at Desert Regional Center the 78 people on the waiting list, and we will be able to grow by another 60-80 more slots. In total growth we think we can grow another 120-160 slots at Desert Regional and still give up this \$9.6 million. In Sierra Regional, we have a wait list of 33. We are leaving enough money in the system so that we can grow about 64 more placements. So, again, we should be able to pull everybody off the wait list and add another 31 into that. I know that has been confusing over the last couple of weeks on the amount of money that would be reduced or not, but we are reserving money for caseload growth, as I indicated.

The next one that I would highlight in Mental Health is on Page 8 of 13. We are continuing to recommend a reduction in the inpatient capacity at the Rawson-Neal Hospital by 22 beds. This is basically closing the unit in the old Stein Hospital in Las Vegas and basically only running the beds that are in the formal Rawson-Neal Hospital.

The next bullet down again has had significant changes. This is Southern Nevada Mental Health Residential money. We had originally recommended cutting \$4 million. We have reevaluated that and we will be cutting \$1.25 million. This will allow us to grow our residential placements by 85 slots over the biennium, so we still will have some growth there.

The remaining Mental Health cuts again are largely operational: travel, staffing, and vacancies. I am happy to go over anyone of those.

CHAIR BUCKLEY:

We do have a question. Assemblywoman Leslie.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Chair. Mike, back on Page 8, the second item, I had a question regarding Rural Clinics. But before I even ask the question, I want to thank you for restoring so much of the money. I appreciate that and I know you worked hard to do that and it was the right thing to do. But on this one, I guess I hadn't realized, or maybe I don't understand exactly what we are doing. Are we taking a psychiatrist out of Rural Clinics? The narrative says we are going to be providing fewer psychiatric visits for clients, which obviously contributes to relapse. We are not going to add new caseload. Are we starting a waiting list at Rural Clinics? What's happening with this item?

MIKE WILLDEN:

Assemblywoman Leslie, in Rural Clinics this is not like a given position. These are pieces of our Full Time Equivalent's (FTE's), of our contract psychiatrists who provide services. And yes, we do have wait lists. If you look at the detail on this \$290,000, and I have added a sentence as a result of this discussion a couple of weeks ago, we have already earned \$265,000 of that \$290,000 by having vacancies now, not being able to fill psychiatric contracts—you know they are not the easiest to fill sometimes—but we have already earned \$265,000 of that. We have only got to earn roughly another \$35,000 and then we will go back to filling all of our contract slots. We are 80 percent of the way there on earning this money. As soon as we earn the balance of the \$290,000, we will start again filling all the contracts that we are allowed to fill.

ASSEMBLYWOMAN LESLIE:

Well, my concern is just how much we cut Rural Clinics last time. We left a bare skeleton out there. If you don't have the positions full, they are not seeing people and they can't earn the money. Thanks for pointing that out. I see what you are saying. Thank you.

CHAIR BUCKLEY:

Assemblyman Horne.

ASSEMBLYMAN HORNE:

Thank you, Madam Chair. Mr. Willden, on that third bullet point in the reduction of the 22 beds at Rawson-Neal Hospital and further decreasing the inpatient length of stay and increasing efficiency in psychiatric observation, I am concerned with: (1) the reduction of beds, and (2), the continued reduction in the length of stay. These patients will ultimately end up in the emergency rooms and we will have the problems we had before, and in the very hospitals that may be requested to take them in, and at an additional reduction of 5 percent, as we discussed earlier. Also, I don't understand the increasing of efficiency of psychiatric observation. I was under the assumption that our doctors there were doing their job to the best of their abilities, with the tools they had. I don't know what programs that we are going to do, to increase their efficiency. Has that been discussed?

MIKE WILLDEN:

Assemblyman Horne, first I want to indicate that I am not a clinician, but I will try to answer the questions the best I can. The hospital is kind of a complex thing, but I try to simplify it this way. The first place people go when they are in the Legal 2000 civil commitment process, or are a danger to themselves or others, are to an emergency room for medical clearance. That has been a problem for several years. I haven't looked at this morning's statistics, but yesterday's statistics showed we had 46 people waiting in emergency rooms to come over to the Rawson-Neal Mental Health campus for services. That sounds like a big number, but I can tell you the wait time in ER's is now measured more in hours than in days.

Then the problem we have had over the years, when we get into Rawson-Neal, is that the first place you go is into psychiatric observation. You are basically on a 72-hour hold. This is so we can figure out what the issue is, whether it is medication issues or other types of issues. They work on the individual's issues during that psychiatric observation hold period. The bottleneck has always been there. We have been trying to have more psychiatric observation beds so we can take people out of the ER's quicker, and make a decision on whether they even need to go to the inpatient side of our hospital. The statistics I have seen show that 50-55 percent of people are not hospitalized once they are stabilized in the psychiatric observation unit. They can go home on medications or whatever. I think that is important to note, and that is why the mental health residential add-back was important. When we were cutting all of our residential slots, we were in between a rock and a hard spot. Now, we have some additional community residential funds. I think that will help us moving people through observation quicker, and those people can go back into the community.

On the inpatient side in the hospital this morning, we were running at 177 beds. Again, this would take us down to 190, so we still have some head room based on where we are going there and what we are seeing in our inpatient counts on a daily basis.

ASSEMBLYMAN HORNE:

I certainly don't want us to get back to days in the ER, from hours.

MIKE WILLDEN:

And we don't either, and this has me nervous, and I know all of our staff nervous, but we know we have to try to find some places to cut.

ASSEMBLYMAN HORNE:

Thank you, Mr. Willden. Thank you, Madam Chair.

MIKE WILLDEN:

If there are no more questions on Adult Mental Health, I will move on to Page 9, which is Child and Family Services, and I will highlight four or five items there. The first one, again, is a natural savings opportunity in our room and board for behavioral health residential facilities. Again, we are running below the budgeted caseloads. You can see the math there, saving almost \$900,000. The same thing is at the top of Page 10, which are the caseloads for foster care payments and residential care placements. We were running below the budgeted caseload, so we get an opportunity to save money there.

Included in this one also is where the Legislature appropriated \$1.6 million in each year of the biennium to help us work on sibling rates, to make higher rates to foster homes who care for sibling groups, which is three or more siblings. We will not be able to implement that sibling rate increase in rural Nevada because of this reduction. We also have a lower than budgeted caseload in Youth Parole, which is the next bullet down, allowing us to save about \$900,000. Through our cost allocation work over the last year in the Wraparound in Nevada for Children and Families Program, or the WIN Program, we will be able to revert \$720,000 to General Fund and replace that by drawing in Medicaid funds.

The last item that I would highlight is at the bottom of Page 10. We are on our way to closing the Summit View Correctional Center and closing 48 beds there, while opening 20 beds in Elko, 20 beds in Caliente and reserving enough money to purchase 3 beds for any of our youth that require more intensive services than can be provided in Elko or Caliente.

On Page 11, I just would highlight....

CHAIR BUCKLEY:

Mike, hold on one second. Assemblywoman Leslie.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Chair. Mike, on the Summit View issue, you said you are on your way to closing Summit View. I take it that you are moving kids. How far along have you already moved in this area?

MIKE WILLDEN:

When we started this process in January, we had about 48 kids there. The last report I had into last week, we were down to 26 kids at Summit View.

ASSEMBLYWOMAN LESLIE:

Where are they going?

MIKE WILLDEN:

Many of them have been paroled through the parole process. I believe 11 were transferred to Elko. The last count I had was that we were at 26.

ASSEMBLYWOMAN LESLIE:

And Elko had enough staff to accommodate the 11, but if we are going to completely close it, we have to add more staff?

MIKE WILLDEN:

We have to add ten additional staff in Elko and ten additional staff in Caliente to maintain those facilities at max capacity, which is 160 in Elko and 140 at Caliente.

ASSEMBLYWOMAN LESLIE:

So would the remaining 26 kids stay at Summit View until we make our decision here in the special session, or are they moving out?

MIKE WILLDEN:

I don't know of any plans to transfer any more at this point in time. I don't believe there are any parole decisions being made in the next week.

ASSEMBLYWOMAN LESLIE:

And then I haven't seen it yet—and I think it is because it is off the list, or maybe it is here listed and we just haven't gotten to it yet—which is the 10 percent cut in the Community Corrections block grant, which helps the counties maintain kids in their communities and not place them at the state institutions. Has that been restored by the Governor?

MIKE WILLDEN:

That is correct; that is no longer being cut.

ASSEMBLYWOMAN LESLIE:

Ok, thank you.

CHAIR BUCKLEY:

We have more questions. Assemblyman Carpenter.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Chairman. Is there going to have to be any changes in Elko, with the way the students are handled there? I know in the evenings they only have, I think, one supervisor or person with them for every 16. Is that going to have to be increased? I know there is a lot of concern in Elko about the staffing up there and how we are going to be able to handle that facility safely.

MIKE WILLDEN:

Mr. Carpenter, there is a lot of concern. There is a lot of concern on everyone's part, not just the staff, but management, also. For those of you who don't know, both Elko and Caliente are what we call staff secure facilities. There aren't razor wire fences, gates, prisons, or those kinds of things. These are staff secure facilities. The federal guidelines for these types of facilities are that we staff 1-10 during daytime, and usually 1-16 at night. Some of these youth will require richer staffing ratios in there and that is part of our request—to add 10 more staff to Elko and 10 to Caliente.

Our goal would be, obviously through classification, we will need to have richer staffing ratios on some what we call cottages or units out there versus others, and it is important for us to get all of our vacancies filled out there and the 10 positions authorized, so we can have a full staffing complement.

ASSEMBLYMAN CARPENTER:

Thank you. I understand that they are going to open up one more of the cottages that were closed down. Aren't they going to have to have more than 10 staff?

MIKE WILLDEN:

Mr. Carpenter, I think they have 11 or maybe 12-13 vacancies out there—so again, our request is to fill all vacancies and 10 new staff. There are 20 staff, from what they are operating on today. They will be adding 20 more positions between freeing up vacancies and adding new slots.

ASSEMBLYMAN CARPENTER:

Who can I contact to find out what is really happening there? I tried to talk to the administrator out there, and he wouldn't even talk to me. He said that I had to go somewhere else, so I said I would be seeing Mr. Willden and that I would ask him.

MIKE WILLDEN:

I apologize for that, Mr. Carpenter. I saw the email exchange that you had called there and that you would be contacting me. I am happy to talk to you off line with any questions you need.

ASSEMBLYMAN CARPENTER:

Thank you.

CHAIR BUCKLEY:

Assemblyman Denis.

ASSEMBLYMAN DENIS:

Thank you, Madam Speaker. You had mentioned at Summit View that one of the things that helped in the current reduction was the paroling of some of the individuals. Have you changed the policies on the paroling, or is that a natural thing? It wasn't necessarily allowing you to increase that more rapidly?

MIKE WILLDEN:

Mr. Denis, I believe that was just the natural parole date that went on. We are paroling all the time. We are getting admits all the time and paroling all the time. It is my understanding those were paroles that went up. Now as we move along, there may be some pulling forward of paroles. In other words, if they were ready to go in thirty days, we may parole them in two weeks.

ASSEMBLYMAN DENIS:

Ok, but that hasn't occurred yet?

MIKE WILLDEN:

I don't know for 100 percent certainty, but I don't believe so. I think they were natural occurring parole dates.

ASSEMBLYMAN DENIS:

Ok, thank you.

CHAIR BUCKLEY:

Assemblyman Munford.

ASSEMBLYMAN MUNFORD:

Thank you, Madam Chair. What about the youth correctional center in Las Vegas? Isn't there one in Boulder City or Henderson? Does that fall under one of your programs? It is the one supervised by Esther Rodriguez Brown yours?

MIKE WILLDEN:

That's not ours. We only run one correctional facility in Las Vegas. The state only runs one correctional facility and that is the Summit View Youth Corrections Center. Clark County has the Clark County Detention facility, and then they also have Spring Mountain Youth Camp. I am not sure what facility you are referencing.

ASSEMBLYMAN MUNFORD:

This is strictly dealing with youth, once they went through the training.

MIKE WILLDEN:

It may be a group foster home or something like that. I don't know.

ASSEMBLYMAN MUNFORD:

It is supervised by a person named Esther Rodriguez Brown. She mentioned it to me and said it was being closed. As a matter of fact, she was actually interviewed by the media on a television program and spoke with concern over the closing of that facility. I thought it was a youth correctional center and that is what she told me. I thought that fell under one of your programs.

MIKE WILLDEN:

Mr. Munford, unless she is one of our employees that is being laid off, such as an employee of Summit View, I am not sure. I will find out.

ASSEMBLYMAN MUNFORD:

I will check further into it, also. Thank you.

CHAIR BUCKLEY:

You may proceed, Mr. Willden.

MIKE WILLDEN:

The last two I would highlight in Child and Family Services, on Page 11 of 13, are the reductions we are making to the Washoe County Integration Budget, which is \$2 million, and the Clark County Child Welfare Integration budget, which is \$6.1 million. As you know, the counties are basically responsible for funding what we call the “front-end” of services, which is the Child Protective Services system, and the state, county and federal government fund the “back-end,” which is child welfare, adoptions, and reunification portion of the system. This is a 10 percent reduction in the General Fund that would go to both Washoe and Clark County.

CHAIR BUCKLEY:

Mike, because the budget is mainly caseworkers who see children, as well as foster care payments and adoption subsidies, if we didn't touch foster care payments or adoption subsidies, it would mean in Clark County, for example, the layoff of about two-thirds of all of the workers providing child protective services. Is that correct?

MIKE WILLDEN:

I don't know that for a fact, but I have heard that statistic, Madam Chair.

CHAIR BUCKLEY:

And just for the benefit of the members, when the Interim Finance Committee was holding hearings on many of these proposals, we prepared a list called the “ugly list.” It is the worst of the worst of the Human Services cuts. We gave that to the Governor's Office. So when you hear that some items have been withdrawn from consideration, it is because they were included in our “ugly list” and the Governor agreed to restore them. That is how the services for the mentally ill, the dentures, and some of those items that you heard discussed were reinstated, as well as this one, along with a number of other ones we already heard, like personal care assistants and the other optional services in Medicaid. The hospital reimbursements and this one remain on our “ugly list,” because we just cannot see how you could cut two-thirds of the child welfare workers in the state and expect anyone to protect our children in foster care. So, just for the benefit of the members, we are compiling that list. If anybody would like to see it, we are certainly willing to share it.

Assemblyman Anderson.

ASSEMBLYMAN ANDERSON:

Mr. Willden, thank you for what you do. First of all, I want to make it very, very clear that I think you have done a remarkable job. In watching you, mainly from afar, thank goodness I am not on IFC and have to sit there and listen to all this day in and day out, although this is not pleasant.

In particular, I am concerned about this in Washoe County, my county, but throughout the system; partially because of the things that Madam Speaker has indicated. The children in need of service need it now. Is this merely going to mean—and I say merely with a great deal of sarcasm—that they are going to be standing in line longer? Or does this mean that in reality we are going to lose more children's lives?

MIKE WILLDEN:

Mr. Anderson, that is difficult to answer. Let me answer it this way. It will depend, whether it is standing in line or something more drastic than that. I don't want to believe it will be children losing their lives. In Washoe County, they are a lot further along in child welfare integration than Clark County is. I think Mr. Shiller, if he came to the table, could talk in more detail of some of the things they have done. I don't believe the cut in Washoe County will be potentially as harmful as the cut in Clark County. Let me give you a couple of examples why.

Washoe County has a better funding stream established. They have a property tax in place that helps them. They have been very diligent about getting out in front of capturing federal dollars to help their system. Their Title IV-E recovery—they have been advanced in that effort. They led the way, blazed the way, on Medicaid targeted case management. So, they have done a good job of getting additional dollars into the system. We are further behind in those processes in Clark County. Also, because of the funding streams that they have, Washoe County has been able to get some things in place that I think position them a lot better.

Clark County and their whole integration effort has taken a lot longer to come along. They are just now getting their targeted case management billings going. That is one of the things that we will continue to work with them on, to try to offset some of these cuts, but it will depend on what Director Morton does down there. If there is a cut, whether he cuts staff, foster care rates, support services or what, and I do not have a letter or anything else from him that tells me where they will make the cuts for sure.

ASSEMBLYMAN ANDERSON:

In effect, we would be moving this decision, the funding question, more to the county —at least in the two largely populated counties where we have these kinds of programs that are in place and doing a fabulous job. We are going to be increasing their potential responsibility and put them more dependent upon county funding rather than on state funding. Is that what, in reality, we are doing?

MIKE WILLDEN:

The responsibilities would remain unchanged on the services they are required to provide, but they would be short \$2 million of state General Fund in Washoe County to help fund those services, and \$6 million short in Clark County. And, again, some of that could potentially be offset by increasing federal reimbursements. I don't think you will see much of that in Washoe County because I think they are pretty much maximized, but I think there is some potential in Clark County to get additional federal reimbursements. So they will have less state money to do the mission they are required to do.

CHAIR BUCKLEY:

Mr. Anderson, I spoke with Clark County before coming up here and while I certainly think that we should perhaps require them to timely proceed with trying to secure these federal funds; they don't really have many options. They can either cut their staff or cut the payments that go to foster parents and adoptive parents. If they cut the payments to the foster parents or the adoptive parents, we may disrupt those families. If the families use those funds to provide for the children's needs and no longer are able to do so, we may see more disruption and harmful results to children. So, they don't think it is much of a choice, to cut two-thirds of their staff or cut the payments to foster care. That is the reason it is on the "ugly list."

Mr. Willden, you can proceed.

MIKE WILLDEN:

Thank you, Madam Chair. The last two items I will reference on Page 12 are an analysis of the Tobacco Fund sweep that Director Clinger proposed on lines 28 and 29 of his long sheet. This shows you how that \$41 million is calculated. There are three policy decisions we are implementing to allow those funds to be swept.

The first decision is that we are holding the Senior Rx and Disability Rx Pharmacy enrollment programs flat. We are not going to do any growth of caseload. We are eliminating the Tobacco Cessation funding, recommending its elimination in FY11 and FY12. We are reducing all the other programs that are funded by the tobacco dollars, such as independent living for seniors, children's health programs and disability services. We are reducing those by 10 percent. Those three policy decisions allow us to sweep \$41 million from the tobacco account.

On Page 13, which is not in Director Clinger's analysis, but I think we have testified on this several times, we have a Temporary Aid to Needy Families (TANF) block grant shortfall of approximately \$6.8 million right now. We are taking three policy actions to, if you will, "right the ship" with that federal block grant. If we don't take some policy actions in that area, we would need General Fund dollars to replace the \$6.8 million of the TANF block grant shortfall. As a policy decision, we are reducing autism support that is paid for under the TANF block grant in our Mental Health and Developmental Services Division. We are reducing the TANF transfer to the Title XX block grant, which supports services in Child and Family Services. We are reducing the TANF emergency assistance payments to both Washoe and Clark County.

CHAIR BUCKLEY:

Assemblywoman Leslie.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Chair. Mike, just on those last two items—to translate what you said and to make sure I have the translation correct—by keeping Senior Rx and Disability Rx flat with no growth, that means that someone has to go off the program in order for somebody else to come on. We are going to establish waiting lists in those two areas?

MIKE WILLDEN:

Assemblywoman Leslie, there are already waiting lists in the Senior Rx Program. There are about 150 people on the wait list. In the Disability Rx Program, there are about 90 people on the wait list. So that would mean that someone would have to exit the program before we could pull somebody off the wait list.

ASSEMBLYWOMAN LESLIE:

So you anticipate those waiting lists getting longer?

MIKE WILLDEN:

Yes.

ASSEMBLYWOMAN LESLIE:

On the autism services, I think I understand how you are moving money around and why you are doing that—with the TANF to the Title XX, et cetera—but the bottom line is that families are going to get less money to pay for autism services for the kids that qualify. Is that right?

MIKE WILLDEN:

That is correct. In the paragraph I have tried to summarize there, you will see that, depending upon what age group the children fall in, there would be a reduction in the dollars. We would generally give these dollars to the family and they would purchase or broker their own services. So you will see that we would be reducing things for the very young children by \$342, reducing it from \$1,550 to \$1,213. For the next group, we would be reducing the average payments from \$1,037 to \$809. You can see the groups there and the reductions.

ASSEMBLYWOMAN LESLIE:

And so the parents would either have to make up that amount themselves or the kids would not get whatever particular services they did not have money for?

MIKE WILLDEN:

That is correct.

ASSEMBLYWOMAN LESLIE:

I have one final question, Mike. I know we went over this in IFC, but for the benefit of the entire body, a lot of these programs also have a qualifying federal match. I believe that is a significant amount of money. Do you happen to have that number for our revised cut sheet? How much federal money are we going to lose out of our budget if we enact these cuts, just close?

MIKE WILLDEN:

Chair Buckley and Assemblywoman Leslie; looking at what is in the Nevada Executive Budgeting System (NEBS), the source document, we would lose about \$125 million of federal dollars as a result of these changes. That primarily comes in the Medicaid program, where one state dollar gets you two federal dollars under the current enhanced Federal Medical Assistance Percentages (FMAP).

ASSEMBLYWOMAN LESLIE:

So the bottom line is we will cut all this money out of our budget, but we will also lose \$125 million in federal money, which means less services for our folks?

MIKE WILLDEN:

Yes, ma'am.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Chair.

CHAIR BUCKLEY:

Assemblyman Conklin.

ASSEMBLYMAN CONKLIN:

Thank you, Madam Chair. Director Willden, I think this question is going to sound familiar. I just want to restate what my colleague just mentioned, about the federal match. You submitted that the federal match is \$125 million. You submitted cuts of \$108 million. Roughly \$62.5 million of that, ballpark, has a double two-for-one federal match. That is how you got the \$125 million in federal match. Am I correct so far?

MIKE WILLDEN:

Close.

ASSEMBLYMAN CONKLIN:

Just based on what you said. So I take that \$62.5 million and I add it to the \$125 million—that is the federal match, which is the \$187.5 million that is coming out of, roughly, Medicaid and TANF. What can we get tied up in, and it is certainly very important, is how this affects the human side of the equation. These are service deliverables for people and we lose track, sometimes, of what that money means to the state and the state's gross domestic product and the economic activity that takes place in our state. I mentioned at the IFC meeting that what is unique about the federal money spent is that it is money that comes into our state that would not have otherwise come in. It has a rather unique multiplier. In fact, in one study that I read, I believe from 2006, in Nevada alone the multiplier was roughly 2.49 or 2.5, and so cutting out \$187 million of our state Medicaid program is roughly equivalent to cutting out half a billion dollars of economic activity.

Economic activity creates private sector jobs because all this money goes into the private sector. That creates tax dollars and everything else. Is there anything in that statement that you can think of that is even remotely incorrect?

MIKE WILLDEN:

No. We have had these discussions before. The multiplier effect is different, depending on the program, but I think you are in the ballpark. The only thing I would probably correct, if you want to see the total amount of money that won't be spent in Health and Human Services, is to just go to Page 13 and you see the \$155 million. That is all of the General Fund lost—the tobacco sweep and the TANF readjustment. Add to that \$125 million of lost federal funds, and that gives you the ballpark of lost Health and Human Services dollars to the economy.

ASSEMBLYMAN CONKLIN:

So, Health and Human Services lost dollars to the economy, before we multiply it. We would have to roughly add in the federal match of \$125 million. So, that is \$275 million. Multiplied by 2.5, that is roughly \$650 million of lost economic activity. And, by extrapolation, that is additional revenue that is going to be lost for the state over time, as far as I am concerned. I think sometimes that is just important to remember.

CHAIR BUCKLEY:

Mr. Willden, before we let you go, would you comment on the fees that you were proposing and that were withdrawn yesterday, such as the vital statistics fee? What is the fee now? What would the fee be? What was the rationale for considering raising that fee?

MIKE WILLDEN:

Chair Buckley, when we were requested to do the 10 percent reductions, when our target was \$134 million worth of General Fund reductions, we proposed two items. There were two fees to be considered. The first fee was in the Office of Vital Statistics, which is where Nevada citizens get birth and death records. We proposed that if we made the Nevada fee structure similar to the Clark County fee structure, which to simplify it would be roughly the difference between a \$13

vital record versus a \$20 vital record, that that would bring additional revenue of \$368,000 into the system.

The other area that we proposed changing our fee structure in was what we call consumer health fees. There are a number of these fees, probably too many to mention, but they deal with the fees related to sanitation, to temporary mass gatherings, bottled water plants, food establishments, and on down the list. Our calculation was that if we went in and tried to make them, if you will, cost based, the cost of our surveyors going out and doing the work, that we would be able to replace about \$550,000 in General Fund with consumer health fees. With each of the fees—there are too many to describe—we have a chart that I know we provided to your staff, that describes each of the fee adjustments.

CHAIR BUCKLEY:

Ok, thank you. Any other questions of Mr. Willden before we let him up? Assemblywoman Gansert.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. As far as the fees for the food establishments and so forth, I have not seen that table. Would the increase to get the \$550,000 be like a 10 percent increase or a 100 percent increase? How large an increase is it to the existing fees?

MIKE WILLDEN:

Assemblywoman Gansert, as I indicated, they are really all over the board. Some of them are increases of a few percent and some of them are 100 percent increases. Some of those fees are only a few dollars, and you are doubling them to something bigger than a few dollars, but the range is all over the board.

ASSEMBLYWOMAN GANSERT:

So I guess we need to get that, maybe, so we can get a perspective on if it is a \$5 fee going to a \$10 fee, versus a \$100 fee going to \$105.

CHAIR BUCKLEY:

Mr. Willden, if you would, when you are finished, give a copy of that chart to our Sergeant at Arms? I will ask that a copy be placed on every members' desk for their review.

ASSEMBLYWOMAN GANSERT:

And if I can take a moment to think Mr. Willden, too, for all of his work because this has also been a document that keeps changing and changing. I know you talked about the colors of money in IFC and moving block grant money and different types of federal funds around to minimize the impact, even though the impact obviously is significant. So thank you very, very much for all of your work.

MIKE WILLDEN:

Thank you.

CHAIR BUCKLEY:

Assemblyman Carpenter.

ASSEMBLYMAN CARPENTER:

What's happening in child support? I know the counties have been handling a lot of that and now I understand the state is going to take it over. What is happening there?

MIKE WILLDEN:

Assemblyman Carpenter, I am not aware of the state taking over any of the child support. When we say take over, the trend has been that over the last couple of years, several counties have opted to get out of the Child Support Enforcement Program, in whole or in part. For example, Carson City elected to get out. Washoe County got out of the public assistance cases. With the current statute, even though child support enforcement is a required activity of the District Attorney, they don't have to participate in what we call the Title IV-D of the Social Security Act, Child Support Enforcement Program. They can turn that back to the state and then

the state runs it, per Title IV-D of the Social Security Act. We are not, if you will, going out to try to take over child support enforcement operations. We are looking at and moving toward a regionalization of some of the programs. It is not cost effective in many of our rural counties, and maybe even in our urban counties, to run the Child Support Enforcement Program. It costs more to run it than the collections and incentives that we receive support. So they are looking at it. If the local district attorneys say we cannot afford to run it—the state takes it over.

ASSEMBLYMAN CARPENTER:

I will have to try to find out what it is all about, because there is a large article in the paper about where the state was going to come in and take over a lot of the programs from Elko County. Elko County has had a very good program and I hate to see that go down the drain, so I will try to find out.

MIKE WILLDEN:

Over the years that I have been involved in this, over most of the years when we do the cost effective analysis, Elko County is the only county in the state that is cost effective.

ASSEMBLYMAN CARPENTER:

We ought to let them remain cost effective.

CHAIR BUCKLEY:

Assemblyman Carpenter, I think we do want to do that. There was even some discussion about whether we should make it really clear in our statutes, similar to what my colleague from District 1 did last session, which was put a moratorium on counties giving back services to the state, because at this point we can't really afford to pick up any new programs right now—things are much too chaotic in this economy. When I spoke about that, I think with Clark County, and maybe with NACO, they said, "Well, we wouldn't mind that, as long as it is reciprocal. So, don't give us any new programs right now." I think it makes sense to consider some sort of moratorium or cease fire, because neither the state nor the counties can afford to take on something new right now, at least that is my thought.

Assemblyman Denis.

ASSEMBLYMAN DENIS:

Thank you, Madam Chair. We had a discussion in IFC a week or so ago, and we have been receiving a lot of emails that say if we somehow could eliminate services to the non-citizen in this respect, to the health, that we could save some money. Do we have that issue going on? I mean, can a non-citizen receive services?

MIKE WILLDEN:

Thank you, Mr. Denis. I want to be very clear about this, because this is the most inquired about item that my office has had in the last several months. I am going to try to answer in general terms, because each program is a little bit different. To receive public assistance in this state, and generally in this nation, if you are not a citizen of the United States, or a lawfully admitted individual, you are barred from receiving public assistance for five years.

If you are not a citizen, you don't get it, period. If you are lawfully admitted, you are barred for five years; that is a lawfully admitted citizen. Now, children who are born to non-citizens, children who are U.S. citizens, these children are entitled to receive public assistance benefits. The income, the assets, and the resources of their non-citizen parents are counted towards the child's eligibility, but the children are not barred from getting assistance. Now there is one general exception in here, in the Medicaid program. We are required by federal law to provide emergency medical assistance to non-citizens. If someone walks into a hospital with an emergency situation, such as a broken arm, a broken leg, or a traffic accident, we are required to use Medicaid dollars to provide those emergency services to non-citizens. That costs us about \$22 million a year in Medicaid funding. Seven million dollars of that is state General Fund and \$14 million is federal funds.

The only other comment I would make is that with our public health programs, we don't really look at citizenship. If somebody walks in with tuberculosis, we don't say that we are not

going to treat tuberculosis because you are not a citizen. We want to catch that disease early and eliminate the disease so it doesn't spread in our community. So that is the general answer.

ASSEMBLYMAN DENIS:

On the issue of the emergency services, that is true of any individual that comes in to the hospital. If somebody is here as a tourist from Europe or something, and they have an emergency situation, do we not treat them under that same situation?

MIKE WILLDEN:

Yes, there is a federal law called the Emergency Medical Treatment and Active Labor Act (EMTALA). Hospitals have to provide emergent care to anybody that walks into their emergency room.

ASSEMBLYMAN DENIS:

So, is that included in that figure that you talked about, the \$ 22 million?

MIKE WILLDEN:

No, the \$22 million is only those emergent services that are provided to non-citizens.

ASSEMBLYMAN DENIS:

Ok, thank you very much. Thank you, Madam Chair.

CHAIR BUCKLEY:

Thank you, Mr. Denis. Mr. Willden, thank you very much. We know you have given this presentation several times to IFC, but we really wanted the entire membership to have the benefit of it so that they could follow up with you during the break, if there are any further questions. So thank you for your testimony. We are going to take a break.

Assemblyman Ocegquera moved that the Committee of the Whole recess until 3 p.m.

Motion carried.

Committee of the Whole in recess at 12:12 p.m.

COMMITTEE OF THE WHOLE IN SESSION

At 3:17 p.m.

Chair Buckley presiding.

Quorum present.

Governor's recommended budget cuts considered.

CHAIR BUCKLEY:

I was going to ask the superintendents to come down, but I understand that some students from UNLV took a bus all night to come here and their bus leaves at 4 pm. They have brought us a petition and I wanted to know if one or two of the representatives wanted to come down and say a few words. It seems only appropriate after a 15-16 hour bus ride to be able to say a few words. So if you want, I will take your testimony under public testimony. We thank you for a long journey and look forward from hearing from you.

KYLE GEORGE, VICE PRESIDENT, UNLV GRADUATE AND PROFESSIONAL STUDENTS ASSOCIATION:

Madam Chair and members of the Assembly, for the record, my name is Kyle George. I am a PhD student in Chemistry at UNLV. I currently serve as vice president of the Graduate and Professional Students Association. I am here today to speak on behalf of education and address the need to fund education at the appropriate levels.

Since education makes up such a large percent of the state's budget cutting, here is the logical place to start. I will propose that this argument is specious for several reasons. The original discussion of the appropriate amount to cut education has been taking place in an artificial

bubble where increasing budgets have been neglected. By balancing a budget through an approach that includes increasing revenues, a path that allows us to preserve education begins to emerge. The other fallacy is that education is often discussed within this body as an expense rather than an investment. We know that for every dollar that is put into education, there is a return on investment of four to one. Furthermore, cutting education's budget only shifts the burden to other state agencies, such as the Department of Employment, Training and Rehabilitation and unfortunately, the Department of Corrections.

I would also like to point out, as did Assemblyman Conklin earlier today, that there is often a multiplier effect that goes on with these cuts and, therefore, with higher education. This multiplication effect sometimes takes place with match funding requirements that accompany research grants. The Nevada System of Higher Education has already endured a series of cuts over the past few years. Our education system repeatedly comes in at the bottom of the list ranking education. We cannot fix this problem by further crippling our budgets. I would ask that this body take the bold stand of ending the tradition of cutting education first.

I sit here today as one of the voices of the students of southern Nevada who travelled here overnight to plead to you to save our schools. On behalf of the students who were unable to be here today, I would like to submit into the record several thousand signatures of students who have signed an education pledge which states that they will support candidates who support education in turn. I would ask that you consider their input as you work towards balancing this budget. Thank you for your service, your hard work, and your time.

NATHANIAL WAUGH, STUDENT BODY PRESIDENT, COLLEGE OF SOUTHERN NEVADA:

Madam Chair, members of the Assembly, for the record my name is Nathaniel Waugh, Student Body President for the College of Southern Nevada.

I won't reiterate a lot of what Mr. George said; it was very self-explanatory. One thing I would like to reiterate, though, is that for us this is not just about our futures, nor our kids' futures—it is the collective future of the state of Nevada. It is a future that is, unfortunately, as the days wane on, more and more at risk. I know that is something that isn't lost on any members of this august body. It is important to keep in mind that it is not a partisan issue, it's not an election issue—it's a human issue.

At CSN, for instance, we recently had to turn away 5,000 students who could not seek classes. These are students who may have lost their jobs, and students who are facing a higher and higher cost for supporting a family. To close the doors of education is to close the doors on peoples' futures. I think it is something I know this body will keep in mind. I know your colleagues in the Senate hopefully will do the same. By us coming up here, we wanted to show that the student interest in the situation isn't a passing fad; it is not something that is here then is going to be gone. We are here for the long run and we are here to stay. We have people in the galleries today; hopefully, we will have them tomorrow and the day after that and the day after that. That way we can watch the work that you guys are doing, not only for our future but the state's future.

I thank all of you as you go on with these deliberations. I know a very small sample of these petitions have been provided to each and every one of you, as Mr. George said, "out of a multitude of thousands of students". Even though there is a small amount of us here today, we are speaking for 110,000 and those 110,000 are asking you to secure our futures and secure the future of the state of Nevada. Thank you.

CHAIR BUCKLEY:

We thank you very much for your testimony. We have seen such a tremendous amount of activism from our students all over the state and it's really made us proud. Keep it up. We are in this together and we support you and are proud of every hearing that you've packed. We are going to do our best that we can by you. Thanks again for travelling so long to be part of this.

Next I would like to invite up our superintendents from Washoe and Clark counties. I think we also have a school board member. Whoever the designated hitters are for our education community for K-12, welcome and we look forward to your message.

CHARLOTTE HILLS, PAST-PRESIDENT, NEVADA ASSOCIATION OF SCHOOL BOARDS:

Good afternoon, I am Charlotte Hills. I am past-president of the Nevada Association of School Boards and currently a board member in Douglas County.

The amount to be cut from K-12 education, I understand, is proposed to be \$175 million. I want to be clear about who these cuts will impact. In Nevada, 107 school board members serving communities in 17 counties represent 436,000 students and 22,900 teachers in 613 schools. Among those 436,000 boys and girls, about 48,000 receive services because they are students with disabilities. Another 91,800 are English language learners who receive special services in order to help them learn to speak and write English. Perhaps, most importantly, an ever increasing number of boys and girls are living in poverty, between a third and a half of our students. Almost 175,000 children receive free or reduced lunches and participate in various programs throughout the school day to make sure they have nourishment at least once daily.

Each of the 436,000 boys and girls enrolled in Nevada schools deserve classroom instruction from teachers who are highly effective and who are able to assist them with their learning and achievement, and help them succeed in getting those skills they need. As school board members in each of the 17 districts consider the budget cuts that will be made, we will follow formal processes to get input from our communities, our educational staff, our businesses, and from families. But no matter how much input we get, cuts of this magnitude will have the impact of increasing class sizes and reducing services that we know lead to more successful student achievement.

My plea to you is this—give us flexibility. We are close to the work and we know what leads to success. Give us flexibility from minimum textbook expenditures, for adjusting class size expectations for grades 1-3 and in other areas. Give us flexibility for reopening contracts with the possibility of spreading the sacrifice far and wide so it doesn't hurt people so much. With this flexibility as school board members, we can ensure that the cuts have the least impact possible on the 436,000 children who attend our state schools.

In the big picture, the real way to improve our situation is to make certain that these children can become educated and contributing citizens who will build a strong economy for Nevada. We believe that a more educated citizenry will lead us out of the economic mess we are in. With this flexibility, we pledge to you our accountability. Thank you.

WALT RUFFLES, SUPERINTENDENT, CLARK COUNTY SCHOOL DISTRICT:

For the record, I am Walt Ruffles, Superintendent of the Clark County School District.

Madam Chair and members of the Assembly, we testified on February 4 at the Interim Finance Committee and at that time, we made the hypothetical example of a cut—in the case of the Clark County School District—of \$150 million. Since that time we have learned it is probably a fairly valid number and would be in addition to the reduction that we anticipate in local revenues, which would be another \$50 or \$60 million. We are now talking about adjusting to a reduction of approximately \$200 million in the Clark County School District.

I think the kinds of issues that we deal with would be representative of all school districts, regardless of size. I don't think it makes any difference because, proportionately, we all face the same kinds of issues. We talked about if it were all in the case of class size increases, that we would have to eliminate 2,300 teachers and increase our class sizes dramatically. If we went the other extreme and shortened the school year or the work year—in some cases, we would be talking about reducing it by 17 days. We have talked with our local trade unions about what might be in between. How could we work together to work this out?

We do have interest-based bargaining in Clark County School District and so we are able to go to the table with the teachers and talk about what the impact of this would be. I have to say that those discussions have been ongoing—they have been relatively positive—but I don't think we are going to be able to reach concurrence on how we would eliminate \$200 million out of our budget.

The protocol that we would follow would be, of course, to continue our discussions with the union. I think they have a great deal of empathy for what we are up against and they recognize, regardless of the outcome, that it is not going to be a win-win for anybody. It's going to be lose-lose, because assuming that we reach settlement, there would have to be some major sacrifices. If we don't reach settlement, then we go through the process of arbitration. Should the district

be successful in arbitration, it is still a major loss because we would have to either shorten the school year, which means a reduction in wages for everybody, or should the district be unsuccessful, we would then be faced with massive layoffs—not in the hundreds but in the thousands.

Something in between, which would be a shortened work year and some increases in some class sizes, even that, at best case, we figure would cost probably well over 1,000 positions that we would have to eliminate. It is against that background that we come to you and ask that you recognize that we're not starting this from the high watermark; we have already been through, in our case, \$250 million in cuts.

The first \$130 million—we have to be honest and say those were programs that have not been implemented yet. We didn't see the impact on the organization that we saw with the next \$120 million in which we cut programs. We cut positions. In fact, we cut almost 1,000 positions by eliminating the block grant and some of the other programs that were offered to students. We really do not have a lot of what is often referred to as “fluff” to cut out of the program. I think we would see a major impact.

To put it into perspective, yesterday there was an article in the *Wall Street Journal* that talked about Nevada and the plight that you all are facing and how difficult it is going to be. I think that the point that I picked up on is that our starting point is already in a very difficult position and it is going from bad to worse. So, with that, I will ask my colleague from the Washoe County School District, Dr. Morrison, to address his issues. We would like to respond to questions, because that might be more meaningful than trying to go through some of the nuts and bolts of what the cuts would do. Thank you.

DR. HEATH MORRISON, SUPERINTENDENT, WASHOE COUNTY SCHOOL DISTRICT:

Good afternoon, Chairwoman and members of the Assembly. For the record I am Heath Morrison, Superintendent of the Washoe County School District. It is an honor to be here today. It is an interesting time for the state, an interesting time for us, and an interesting time for you.

We are asked all the time about the challenges that we have to face leading school districts. We honor and appreciate the challenges that you are facing as you make the tough decisions that you have to make. We did testify to the Interim Finance Committee several weeks ago about what cuts in the range of 10, 15, and 22 percent would mean for our districts. As I have said in many public forums since that testimony, it probably has been the most difficult day since I had the honor of being selected to lead Washoe County School Districts, starting the job in August.

A ten percent cut for Washoe County School District, and no matter what numbers you use—whether or not it is a ten percent cut or whether there is any discussion about whether it is a 2.4 over-all cut—we just look at the cut. For us, it is going to be about \$25 million through this biennium and on top of, as my colleague said, other drops in local revenue that we are anticipating, as well as an anticipated shortfall, and loss of students. In our school district we are looking at about \$40 million.

Realizing that over the last three years we have already cut \$44 million from our budget, we have thought a lot about what that type of cut would mean. We will be very aggressive about trying to go out to the public and talk about cuts of that magnitude. We will get lots of input because in a public education system, that is the right thing to do—it is the responsible thing to do. We will work with our employee associations to get their input and direction. We have to do this together. That is the only way to this job.

Forty million dollars is a significant amount of dollars to have to cut from a budget. We are the 57th largest school district in the country and the second largest in the state. So, how would we go about making those kinds of decisions? There are certain things we would automatically do. We would look responsibly at fund balances, but we have been drawing down those fund balances over the last three years. As I look at the important job that you have to do during this special session, I have to look at the even greater challenge that is facing you and us as we approach the next biennium.

The last numbers I saw were about \$2.4 billion, so we will be responsible in terms of not only what we look at with our fund balances, but what we have to do, what has not always happened in our country is that we have to look long term and not just make decisions that are good for the

short term. Again, that is a responsible thing to do and that is what our parents and our taxpayers expect of us in Washoe County.

We will look at our central services and administration, because again, that is the responsible thing to do. And we will look at all types of programs. The reality is, though, is that it is going to get to a certain point—because just as in Washoe County, it is the same as Clark County—it is the same in smaller counties—about 90 percent of our budget is people. And our people are our most important, valuable asset in trying to raise the bar and close achievement gaps in public education. So, as we start to look at how we will try to address a cut up to ten percent magnitude, again for us, with all the things that we will have to bring together, about \$40 million, it starts to get into a scenario of: Do you do the important work that we have to do for the 64,000 students that we have the pleasure of serving with fewer people? Do you compensate those hard working people less or do you try to do some sort of combination? And those are the choices ultimately that we are going to have to look at. There are no good choices, but they will be the best choices that we have available to us if that is what we are asked to do.

Ultimately, I came to Washoe County School District because I had a Board of Education that truly believed in reform and change. We can't keep on doing the same things the way we have always done them in public education. We need to change. We need to do them better and we are dedicated in our school district to getting better results. So, we are not going to have the budget be a barrier for those reforms, but we will do a better job with the reforms if we can sustain the budget we currently have and look at how we build a better Nevada.

What we know about education is that it can be the promise of a better tomorrow. I came from a school district where I was an area superintendent, where the quality of schools was an economic engine that drove a great economy. It drew businesses like Lockheed Martin, Sprint, and Marriott to our school district. As those businesses came in, homes were built and construction boomed. Truly, education was the economic engine of that area. That can be Nevada, as well. But right now, our schools are not drawing businesses to our state. And if these are dark times in Nevada, and many people say they are, then what is the light at the end of the tunnel? It has to be, it can be, and it must be improving the quality of education, not only in Washoe County, but in the entire state.

We are dedicated to do that. We know that you are, too. We look forward to working with you and as my colleague said, we look forward to your questions.

CHAIR BUCKLEY:

Thank you very much for your testimony. Are there questions? Assemblywoman Gansert.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. You talked about flexibility, so specifically you are looking for class-size reduction for all grades, or some of the grades. Are you looking at textbooks? Are you looking for the unions to open up their contracts for some flexibility as far as days worked and educational days, etc?

WALT RUFFLES:

Madam Speaker, through you to Assemblywoman Gansert, we are looking for—well, first of all, we would prefer that we be able to negotiate something that is in the best interests of the boys and girls through the process that is in place—the collective bargaining process. I had talked to the Interim Finance Committee about the possibility of some waivers in the collective bargaining process based on the financial emergency that exists, and that would be limited to certain conditions, and not something that would be a permanent change, because we feel that even if we go to arbitration, and we are successful, we still have some very tough decisions to make, and so the gamble of going to arbitration and losing is not at all appealing to us, or the union.

So, what we are asking for is flexibility in making decisions, which is the first thing that my colleague spoke to. The second thing would be: what if the collective bargaining process doesn't work? What recourse do we have if we lose arbitration, other than to lay people off? Really, we only have the unilateral authority to do one thing and that is lay people off. As I said, we have had good cooperative discussions with our teacher's union. I can't say that about the administrators; in fact, they are still trying to get a salary increase. I don't see at the end of the

day that we are going to have the success that we would like to have through cooperative discussions because it is simply too profound of a cut for people to step up to the table and say, “we are already the lowest paid public employees and we are willing to take less.”

ASSEMBLYWOMAN GANSERT:

If I can continue, you know, some of the people have been interested in administration’s pay and cuts or increases. So, are those separate contracts? Do the administrators typically take the same cut as the teachers? It sounds like maybe “no” in your case. Ho does that work?

WALTER RUFFLES:

Madam Chair, through you to the Assemblywoman, they are all bargained and they are bargained independently. Each bargaining unit is separate. There is a teacher’s bargaining unit; there is an administrator’s bargaining unit, there is one for support staff and school police. I think it is somewhat similar in Washoe, but I will let him address that.

HEATH MORRISON:

Madam Chair, through you to the Assemblywoman, getting back to the first part of your question—we are asking for the flexibility. It is very important as we look at how we start bridging some of the gaps that we are going to be asked to close. Right now, if we look at increase in class size, by statute, we can only increase class size grades 4-12. Inasmuch as we very much value early childhood education, there is a lot of research that states for every dollar spent on early childhood education, we recoup \$17 in the future for prisons that we don’t need to build, hospitals that we don’t need, and psychologists and social workers. We love the commitment in this state to early childhood education. But if we have to increase class size, then we would like to ask for the flexibility to increase class size grades 1-12.

In Washoe County, for every student that we would add, grades 1-12, we would save \$6 million, so that would be part of how we might have to look at closing that gap. I think sometimes we throw terms around—like we will increase class size—and we don’t really bear down in terms of what that means. What that means is that we are laying people off, because if we are going to increase class size by one, and save \$6 million, then potentially in Washoe County, that could be 110 teachers for us, or 70 teachers and “x” numbers of support staff. There are no good decisions. There are decisions that we are going to bring to bear to try to close these gaps. We certainly are asking for flexibility with the minimum expenditures for things like textbooks. Again, in public education, we certainly value having every child in the classroom having a quality textbook. But as I look at how to do this responsibly and to do it well, I would much rather have an algebra teacher at one of my high schools have a good textbook—maybe not brand new—but a good textbook, and have class sizes of 30-32, than have a brand new textbook and have class sizes in the range of 40. So, that flexibility is desperately needed so that if there are cuts—and we would ask that those cuts be the bare minimum possible because we all are huge advocates of education—that they come with the maximum amount of flexibility possible.

ASSEMBLYWOMAN GANSERT:

Thank you. So, there are a number of unions. I think maybe the other day you said there were five different unions. Is that correct from memory? I guess it is important to focus on getting the dollars to the classroom, which would be the teachers. Do you individually have to renegotiate all the contracts? Is that how that works?

HEATH MORRISON:

Madam Chair, through you to Assemblywoman Gansert. Yes, we have five bargaining units. Right now, only one of those bargaining units is actually open in terms of contracts. The others have contracts that if we were to ask for any kind of wage concessions, we would have to go to them and ask to reopen the contracts.

ASSEMBLYWOMAN GANSERT:

Okay, thank you. I remember in 2008, we talked about maybe not giving a cost of living increase and there was an issue with whether you could open contracts or not, so I think it may be important for us to consider always making sure there is a clause in all the contracts when

there is a fiscal emergency like we are experiencing now, so that you do have that flexibility, especially outside of the teachers, again, because that's the money that goes straight to the classroom. Thank you.

CHAIR BUCKLEY:

Assemblywoman Spiegel.

ASSEMBLYWOMAN SPIEGEL:

Thank you Madam Speaker. I actually have two questions. I spend a lot of time visiting classrooms in my Assembly district and I was actually shocked to learn that there aren't enough desks in all of the classrooms for the students. I was told this at Greenspun Middle School, which just totally shocked me. I heard things also from parents and the question that I have is: given the proposed budget cuts, if there is flexibility to increase the number of students in classrooms, would there also be an effort to make sure there are desks for each student in the classroom?

WALT RUFFLES:

Madam Chairman, through you to the Assemblywoman, I assume you are speaking about Clark School District, when you are talking about Greenspun.

ASSEMBLYWOMAN SPIEGEL:

Yes.

WALT RUFFLES:

I guess I am stunned to hear that they don't have desks and I promise you when I get back, I will take care of the desk problem, completely independent of anything that is done or said today. I do think it is a segue to a fairly critical issue that the Legislature has to be aware of. Way back when, somebody made a decision at Clark County School District to treat class-size reduction in grades 1-3 as a permanent commitment on the part of the state. As such, classrooms were built in dozens and dozens of classrooms to accommodate only 16 students for 1st grade level students. So, while we might be able to get 2 or 3 more desks in a classroom like that, we are certainly not going to get 20 or 25 or 30 desks, and so the class-size reduction discussion really triggers a very serious facility issue in Clark County School District because we have so many facilities built for the state's earlier commitment to a class-size reduction in grades 1-3.

ASSEMBLYWOMAN SPIEGEL:

Thank you. Madam Chair, may I ask my second question? Okay, thank you.

My second question is: I was wondering if someone could tell me what the current ratio of administrators to teachers is. How would you envision that changing, given the budget cuts?

WALT RUFFLES:

Madam Chair, through you to the Assemblywoman, I don't have the specific numbers, but let me give you some global numbers and people who like to do math can do that. We have 310,000 students. We have, approximately, 900 school-based administrators. The remaining 400 administrators consist of support staff and central staff. Support staff are people who run the payroll in the Personnel Department and fix the computers. So, whatever those ratios come out to. But, again, keep in mind that most of our administrators are at the school level. It consists of a principal, assistant principal, and, in some cases, deans and department heads.

In Central Administration, what would be unique in Clark County School District is that we have a school construction program and many of those people working on that are in the Administrative Unit, as well as people who run the television station. We run the Public Broadcasting unit. So, I am not sure how the numbers compare elsewhere, but it would have to be an "apples-to-apples" to be accurate. Thank you.

ASSEMBLYWOMAN SPIEGEL:

Thank you.

CHAIR BUCKLEY:

Assemblywoman Smith.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Chair. I have a few questions, if I may just proceed with those. I wanted to talk a little bit about class size. I think that that is an issue that is probably the most important to the parents and the students, and certainly the teachers out there, since the teacher in the classroom is the most valuable asset we have to student achievement.

I would like to hear from the two superintendents about what your class sizes look like and how big some of your bigger school classes are, for example, middle school classes. I think we really need to make sure that we clearly understand when we are talking about adding students to the classroom because of budget cuts, that we are talking big numbers. As parents, we understand what that means when we walk into a classroom. I had a first-grader with 35 kids in that class and remember how difficult that was, so if you could build a little bit of a picture for us about where you already are, outside of our lower grades where we have the lower class sizes.

HEATH MORRISON:

Madam Chair, through you to the Assemblywoman, I am very concerned about class size. I think that when you look at what we expect a teacher to do today, we are expecting them to differentiate. We are expecting them to raise the level of rigor. We are expecting them to meet the needs of multiple students, some impacted by English as a second language, and some impacted by an Individualized Education Program (IEP), and so teachers have an incredibly difficult job and arguably, the most important job that there is out there.

At the secondary level, I am very concerned about class size. As I came into the superintendency in Washoe County School District, I saw what we put out on our website, which is a ratio of about 28-1, but I have yet to go into any of our comprehensive high schools and see class sizes anywhere near close to that. Most of our academic class sizes are around 30-32 and so that is why we are very concerned in terms of—if part of what we have to do to close the budget gap is to increase class size. If the only flexibility we have is to increase grades 4-12— then we are going to be increasing class sizes at high schools to academic classes that would be close to 40.

As my colleague said—and I have been to several of our schools—the ability to fit 40 students, even if we find them desks—and we are pledged in Washoe County to find them desks—I am not even sure we can feasibly do it, let alone the quality of instruction that would be impacted by a teacher trying to meet the needs of that many students in the time period of the class lesson.

The middle schools are slightly better, maybe averaging about 29-30, but our upper grades and elementary are also the highest class sizes, and so again, I come back to what I said before, I am a huge advocate of early childhood instruction. I think the best gift we can give our children to put them on the path to graduation is to really buy into the notion that graduation begins in kindergarten. If we were able to give all students the access to full-day kindergarten, a rich, comprehensive, early childhood experience, then I believe that we would have much better graduation rates in our state. But right now, as we deal with these difficult decisions we have to do, if we need to increase class size, if we have to do it in all grades, 4-12. I believe it will have a very damaging impact on our ability to improve graduation rates.

WALT RUFFLES:

Madam Chair, through you to the Assemblywoman, I think I can best give you an anecdotal example of this. Statistically, of course, our grades 1 through 3 are based on class-size reduction, which runs from 16 to 19 students from grades 1 through 3. And, by the way, our best test scores are in our grades 1 through 4—it is no coincidence. I believe that the fact that our best scores are in a lower grade is because we have lower class sizes. In our grades 4 through 5, we staff at 28:1; in middle school 30-:1; in high school we staff at 32:1. That means that if an AP class has 12 students in it, somebody else's class has to have 35 or 40.

I talked to a math teacher the other day. We have a very strong initiative right now to improve math performance of our students because we have done so poorly, not just in Nevada but across the country, and we decided to confront that. This math teacher was crying because she has from 35-40 students in each one of her classes, five classes a day. She faces a caseload of 175-200 students every single day. Now she can't begin to do justice to that kind of a workload. So, in high school, as Dr. Morrison says, it is especially profound right now because

we are increasing the expectations. The high school proficiency test scores have to be higher now. No Child Left Behind has raised the bar higher. We are cutting the workforce to where teachers have more students to serve. So it is a compounding problem and I think that Dr. Morrison is correct—how can we expect to improve our graduation and reduce our drop-out when we are adding so much workload to the teachers where they can't do as good a job as they were doing as recent as three or four years ago?

When I was a fiscal officer for the Clark County School District eight years ago, I increased class size and I have never forgiven myself for that, because you never get it back. That is why we will really do everything we can to avoid increasing class sizes, because it seems like it is with us forever and it has such a long-term, compounding, profound effect on student performance. Thank you.

ASSEMBLYWOMAN SMITH:

May I continue, Madam Chair? I wanted to talk a little bit about reform because we hear a lot about that issue today, and especially with the current administration, and a lot of money that is out there in the form of grants, like Race to the Top and other areas. One of the things I would like to talk about is that in some areas of reform, it takes money to accomplish those things, and we need to remind ourselves that we have cut a lot of that money, too, over the last couple of years. We passed a bill in this Legislature for pay for performance; we lost all the funding. We passed a bill for empowerment funding; we lost all the funding. Those are the types of things in my mind that we talk about when we talk about reform. They don't come easily. They are changes to the way we do things, but they take some resources behind them. I wonder if you could talk about that a little bit for me, because I think that it sounds like the superintendents are quite engaged on the Race to the Top idea and on the whole reform issue. Tell me a little bit about that and what this lack of resources means to you when you are trying to see some change in the state?

CHARLOTTE HILLS:

I would like to start by mentioning that in our school district in Douglas, one of the major concerns we have is the number of students who aren't graduating. We have an alternative school that we have started and has seen great success, but the numbers are limited. It takes more money to run that kind of a school. We look at the number of sophomores we have, we compare that to the number of kids who are graduating two years later, and we know we are losing so many. We know they don't have to be lost, if we had the resources to reach them. We are doing what we can to gather resources and build that program, but in times like this, it is going to be very, very difficult. I think this is probably an appropriate reminder that we also wiped out the entire remediation and innovation trust fund where we had funding provided uniquely to schools that would provide remediation. So, there is another place, not to mention professional development, where we eliminated 40 percent. Sorry to interrupt, Dr. Ruffles.

ASSEMBLYWOMAN SMITH:

Did you want to comment on my question on reform, Dr. Morrison?

HEATH MORRISON:

Madam Chair, through you to the Assemblywoman, Race to the Top is \$4.1 billion. It is not \$4.1 billion to supplant local educational funding or state educational funding; it is \$4.1 billion dedicated to reform and change. The things that are in Race to the Top are very prescriptive. It is a commitment to accountability systems. It is a commitment to build the professional capacity of our teachers and our principals. It is a commitment to use data better in the classroom and in school reform and in school district reform. It is a commitment to reach out and to partner with our families and our communities better than we ever have in the past. Again, it is \$4.1 billion not to do the things that we are supposed to be doing, anyway. It is \$4.1 billion to do things differently.

I think it is important sometimes when you hear from educators—there is a perception we always come with our hands outstretched, asking for money—and I understand that perception. What I will say is this: I always get told to run your school like a business. I look at businesses and the business folks that I know innovate out of need and that is certainly what we need to do a

better job in public education. Sometimes we don't see the need, and we are the last ones to recognize it. But I look at our graduation rates across our district and across the state, and I think the need to change is very clear. I also know that we can't keep on doing the same thing, because the status quo is not sustainable any more. We keep doing the same things we have always done, with less resources, and we are getting even worse results, and no one in this room wants that.

I think in terms of your question, the issue is that any business model inputs equal outputs and it is interesting that some of the same people that will say to run your school like a business want us to have inputs at a certain ratio and out of 50 states, most surveys across this country put Nevada at no better than 47th or 48th. Quality Counts just came out with a ratio of 49th out of 50 states, and so what is the output in terms of what we want to do with our children?

This is about a promise to children and the reality is that we have students coming to us, more impacted by poverty, more impacted by English as a second language, and more impacted by mobility. Now let me use a medical analogy with you. If I go to a hospital with a fractured pinkie and my friend Walt here has a fractured arm, nobody believes that the ultimate goal is to make both of us well. It is going to cost as much to get me well with a fractured pinkie as it is to get Walt better with a fractured arm. Everybody understands the differentiated need. When you have students impacted by poverty, mobility, language and special needs, these are students that can learn and they can learn at high levels, but what is our promise to children in Nevada? That we are going to put a small level of expectation or great expectation on all of these students, and if we put out the expectation, then how do we differentiate the resources that they need so everybody gets a quality education? We have high but fair expectations on all students and those additional resources, if we get them, either through federal grants like Race to the Top or through the support of our local governments or through the support of our state, have to come with greater accountability.

I have never shied away a minute as a public educator for accountability. I believe in accountability and I believe if we get additional resources, wherever they come from, they should come not as a blank check but with greater accountability. For everybody who says that educators just want to throw money at everything, I would like to have people throw some money at us and then let's see what kind of results we can get for our kids. I believe we can get some great results, because I believe in kids.

ASSEMBLYWOMAN SMITH:

Madam Chair, if I may just take this opportunity—I should have done so in the beginning—to welcome Dr. Morrison. This is his first appearance before this entire Legislature and we welcome him here and appreciate his remarks. Thank you.

CHAIR BUCKLEY:

And don't worry. Committees of the Whole don't happen very often. Assemblyman Stewart.

ASSEMBLYMAN STEWART:

Thank you, Madam Chair. I would just like to say that I have been in 13 schools in the past 12 months and actually observed teachers teaching students. I was in a classroom the other day with 45 students in a Spanish class and 60 students in a PE class, so teachers are doing more with less and, for the most part, are doing a good job. We have unique challenges in education that we need to deal with—transient populations, poverty, and things of that nature. Teachers nowadays are expected to not only teach, but to serve nutrition, to be psychologists and social workers and everything else. It is a completely different ballgame than it was a few years ago, and it is very difficult.

One of the great concerns I get from my constituents is that they perceive that the administration, as my colleague from Henderson mentioned, is top-heavy. I don't know if that is true or not. I think that one of the things that you ladies and gentlemen need to do is to get out information on how the administrative numbers compare with other districts of comparable size, so that the people can see and judge for themselves whether or not we are top-heavy. If we are, then I think we need to make some reductions there. I thank you all for being here and perhaps you could comment on the administrative numbers and if you could get some figures out for us in comparison, I think that would be very helpful.

Thank you for being here.

WALT RUFFLES:

Three to four years ago, the Legislature actually commissioned an audit. One of the provisions of the audit was to determine how we compare to look-alike districts. Clark County was selected again for the audit. The results came back that we compared very favorably to other districts and they were districts like Houston, Philadelphia and San Diego. I forget all the look-alikes. Generally speaking, we came out pretty well. That is not to say that maybe we are all too high; I don't know, but you can be rest assured that in this round of cuts that there will be cuts in our administrative ranks to a greater extent than in the teaching ranks. I can assure you publicly that will happen. Now, I think you will probably get feedback then that that has impacted the ability to evaluate teachers. You take a typical principal now: they may evaluate 50-100 teachers and that requires a certain amount of time in the classroom. So, it is not as though we have administrators who are not doing anything. They have a substantial burden placed on them. I think some things just won't get done when we cut our administrative staff, but that is coming. Thank you.

HEATH MORRISON:

Madam Chair, through you to the Assemblyman, like my colleague, when I first became a superintendent in Washoe County, I went around to the public and asked some questions. What are we doing really well? What do we need to do a better job? What should be our priorities during some tough budget times, and how do we raise the bar and close the achievement gap? Probably one of the most common suggestions in terms of facing tough economic times is, "cut administrators, because you have too many of them," or "cut the Central Office, it is too bloated," or "there is all sorts of waste; you have to deal with that." It is the same sort of suggestions, in what I call urbanist, that were out there in my previous district. So what I did was, I asked my staff to look at our district. We are one of the largest school districts in the country, the second largest in Nevada, and as my colleague said, our administrative ratios compare very favorably. Our Central Office spending is one of the best, but with that being said, the responsible thing is that we look at having to make reductions and that we look there first, because we have to try to do everything we can to keep these cuts away from the classroom.

One thing that I have talked about with my Board of Trustees is that we too often in our positions, myself and Walt, go out to our public and say we are going to keep these cuts away from the classroom. I think we need to change that conversation, because again, for the last several years we have been making a lot of significant cuts and we know that we are going to be asked to make cuts this year. We are with you, and we want you to understand that; that we want to be part of this solution. We know we are going to be asked to be part of the solution and we know we must be part of the solution. We can't keep going out to our public and saying that we can keep the cuts away from the classroom, not with the magnitude of the cuts that are being discussed, because if we can do that, then people are going to wonder why we didn't do it in the first place.

The reality is that the cuts that you are going to ask us to make and the cuts that we are going to have to ultimately accept, are going to hurt. We understand that. Now, I am not prepared to say that they are going to impact results. I would like to be able to say that we are going to do the best we can with what we have and I believe I can and must get better results. Again, I come back to business analogy—inputs equal outputs. At some point, we are going to have cut everything we possibly could, maximize everything we can expect of our workforce, and then we are going to have to be at a crossroads about where we go next.

One final comment about administrators: Anytime you use words like "plan," "implement," "accountability," that automatically requires a certain amount of administrators. If we are fortunate to be eligible to get Race to the Top money and are successful in doing that, there are going to be administrative expectations for looking over that grant to make sure we are in compliance. That is going to mean either additional administrators or the administrators we already have doing double-duty. So, I think part of what we have to do, and I appreciate your comment on that, is that we have to do a better job getting proactively out in front of that message because, again, it doesn't matter what area of the country you are in, those are the things that people are going to say, that you have ways or areas to cut.

ASSEMBLYMAN STEWART:

Madam Chair, one more comment? I talked about great teachers, but I think we have great administrators in most cases, also. I think a good administrator can make a huge difference in a school and we need to realize that as well. Thank you.

CHAIR BUCKLEY:

Dr. Hardy.

ASSEMBLYMAN HARDY:

Thank you, Madam Chair. On that same follow-up with Race to the Top, if we look at the overall portion that we could become eligible for, whether that be \$175 million or less, would that be enough to fill some of that shortfall that we have in education, that ten percent shortfall we talk about? That is one question. The teacher development days—you are probably going to say something about that. And are we counting as administrators the roving “teachers of teachers” who go out into the school district and teach the teacher, or observe the teacher and give the teacher feedback. Are those counted in Administration or are they in a different silo?

I gave you all the questions at once so I wouldn’t have to pick up the microphone again. Thank you.

HEATH MORRISON:

Madam Chair, through you to the Assemblyman. Let me try to give you the answers back in the order reverse from what you asked. I know in Washoe County that we don’t consider our consulting teachers as administrators. These are people who are tasked that when we have teachers who are brand new to the profession and need a great deal of professional support, that they are there to provide that support. They are teachers; they are not administrators. The sad reality in public education is that many, many teachers leave after five years and it is not because they are not dedicated—and surprisingly, it is not because of the compensation issue—it is because they feel a lack of support, and so these consulting teachers are critically important to make sure we are attracting outstanding talent to the workforce and keeping that talent, because it is expensive. Every time we lose a good, aspiring veteran teacher, who leaves for reasons that aren’t about the compensation issue, then we have lost a commodity that we have invested in. So we want to keep these talented teachers; we don’t want to lose them. Those teachers you were speaking to are not counted in the administrative ratios.

The issue with Race to the Top I think it is certainly worth noting because there has been a lot of discussions about some of the proposed cuts to public education in Nevada, and is it a ten percent cut or is it a 2.4 percentage cut. When you look at federal funding, very little federal funding comes with, “you can use it however you want.” Federal funding comes with, “you must use it this way or you lose it.” There is a word called “supplant” and if you use federal funds that are designated for one purpose, and you use it to fill deficits, either through your local or state revenues, then you risk losing those monies. There is probably not much in Race to the Top, even if we get the ultimate amount of money that we could possibly be able to get Nevada, that we would be able to use to close these shortfalls. So a lot of people think that if you get Race to the Top, you can just plug in the holes; we can’t do that. As Assemblywoman Smith mentioned, Race to the Top is for reform. It is for revenue and resources above that which you get locally through the state and other federal funds. I believe that was your question. If I missed one, I apologize.

CHAIR BUCKLEY:

Assemblyman Munford.

ASSEMBLYMAN HARDY:

If I could remind him of the third question, the teacher development days and how that fits into your 17 or some other number of total days?

HEATH MORRISON:

Madam Chair, through you to Assemblyman Hardy. I do apologize; I did miss one of those questions. We have students attend school in Washoe County for 180 days; teachers are paid 185 days—so there are some professional development days. Certainly, there has been a lot of

conversations about should a shortened school year be part of how we bridge the budget gap here in the Silver State. I think certainly what we need to understand is that if we were to not have those professional development days, the only way that is going to be a substantive amount of savings is if we don't pay our people. So in other words, the loss of professional development days would be furlough days.

In Washoe County, for every furlough day that we would do, for all of our employees, not just teachers but support staff, administrators—all of our employees—it would be a \$1.5 million savings. So the professional development days only save money if in fact they are used as furlough days.

I think I want to go back again to that business model. As I look at the most successful businesses and what makes them successful, I ask: Why is Southwest Airlines right now, at a time when the airline industry is struggling across the country, being successful? It is because they invest in their people. The best businesses don't throw out professional development as the first way to deal with a bad budget; it is one of the last things, because the best CEO's would tell you that the best way to generate traditional revenue, the best way to build your business, is to build the capacity of your people. So certainly, we know there are no sacred cows and we have to look at all options, but losing those professional development days and the ability to work and train with our teachers and our leaders would be hurtful.

WALT RUFFLES:

Madam Chair, through you to Dr. Hardy. I have a couple of add-on comments. I had talked about a shortened work year, not a shortened school year, and what I had testified to earlier was that we have four days that are non-student days over and above the 180 days. If we could, on a temporary basis, be able to recapture those days with a shortened work year, it would be the equivalent of a two percent salary reduction to the people who lose those days. So, it is important to remember, though, that it has to be bargained. We don't have the authority to do that unilaterally.

Regarding the mentor teachers, we eliminated all mentor teachers during the last round of cuts. We have no mentor teachers left.

CHAIR BUCKLEY:

Assemblyman Munford.

ASSEMBLYMAN MUNFORD:

Thank you, Madam Chair. I just wanted to ask you, going back to the class size issue, when I was teaching—say a teacher would have 40 plus students in their class, and they give teachers an opportunity to sell their prep periods. Does that factor in, in any way, in their economic budget? When you sell your prep periods, how much effect does that have?

WALT RUFFLES:

Madam Chair, through you to Assemblyman Munford. Sure, it has an economic effect; it costs us whatever the teacher's prorated wage would be for that prep period. So, when the teacher sells back their prep period, and we do it often for math and hard-to-fill positions, there is a cost of typically around \$5,000 to \$6,000 for the teacher to take on that additional class. What that means is that instead of a teacher having five instructional periods a day, the teacher would teach six. So yes, it has an economic impact; however, it is without the cost of benefits.

In other words, the medical cost doesn't go up and the PERS doesn't go up if you sell a prep back. There is that savings, as opposed to hiring another person to do that position. We typically do that for positions where we can't find a teacher.

ASSEMBLYMAN MUNFORD:

How many full-time substitutes are there presently in Clark County, or anywhere?

WALT RUFFLES:

Madam Chair to Mr. Munford, on the average we have 1,400 to 1,500 substitutes every day. We carry a bank of approximately 4,000 to 5,000 substitutes. So on a busy day, prior to a holiday or something, where there is allegedly more sickness, we could send out as many as 3,000 substitutes.

CHAIR BUCKLEY:
Assemblyman Cobb.

ASSEMBLYMAN COBB:

Thank you, Madam Chair. Dr. Morrison, you had mentioned reforms and what possible proposals we could be following up on down there. I would agree with you on a few things. I think that we do tend to rank at the bottom of some of these different studies that are made about our education system and seem to consistently do so over the past few years. I do think that we are currently doing the same thing over and over again, instead of doing something different to see how we can affect that.

One thing I would correct you on though: we are not doing it with less money. Money has increased in the K-12 education system, including over the last biennium, so it is not that we haven't been increasing the amount of money going to K-12, it is that we are simply not doing anything different. There are some proposals out there, including voucher systems, whereby 25 percent of the DSA would still go to the school district, 75 percent would go to the student; the student would then have the opportunity, especially those who are less fortunate and who couldn't otherwise afford to, go to a private school, which would create competition in the system, lessen the need for Capital Expenditures (CAPEX), lessen the need for a number of teachers, et cetera. Are you in favor of some type of reform proposal like that? Aside from allowing more flexibility and things like that, in a vague concept to the school districts, I haven't heard much in terms of institutional reforms.

HEATH MORRISON:

Madam Chair, through you to the Assemblyman. I came out to the this state and to Washoe County because I believed it was a district that wanted to challenge the status quo; that wanted to do it differently; that wanted to embrace accountability as a way to improve educational services. So, right now, we are aggressively going after a very aggressive reform agenda in our school district. We have 11 committees made up of principals, teachers, support staff, business leaders, community leaders, parents, and students, looking at our strategic plan. We want to use a performance management theory of action that we think is very different than any other school district in the country. We want to set hard targets; we want dashboards and scorecards that are very accessible to parents, to let them know what we are doing, how we are doing it, and how we are using money. We want to invest in professional development. We want to use theories of empowerment. There is a tremendous amount of reform that we are committed to doing, and that we are going to do, to get better results. I am committed and convinced of that.

I think what I would say to you sir, respectfully, in terms of—and remember, I am the new guy here so if I have got this wrong I will apologize ahead of time—but as I have looked at the increase that occurred in the last legislative session and I believe that public education K-12 went from 34 percent to 39 percent, it wasn't that we got more dollars at the local level, it was that through constitutional law and policy that the funds have to be made up if there is a shortening of local funds. So, for example, the local school support tax, if that comes in less than expected, it has to be made up 100 percent by the state. Property taxes—if those come in less than expected, one-third of it has to be made up from the state. We have to eat two-thirds of that, so even though the percentage of state budget that went to K-12 increased, no additional dollars came to K-12.

As a matter of fact, I believe, as Assemblywoman Smith mentioned, there has been subsequently a loss of several different funds that were really making a difference, including extended after-school programming for students that were really bridging the gap. I think in terms of your question about competition, I am one of those people who love competition; I think competition makes us better. I am not afraid of it, but I think two things: One, we've already got it because we have a healthy charter system in our state. I say that I have 102 schools in my school district. I have 94 public schools and 8 public charter schools. I am very proud of our charter schools. I expect them to put pressure on my public schools to "up their game," and I expect my public schools to put pressure on the charter schools. I want that competition to make everybody better and have students win.

But I also believe in a level playing field. I think that is critically important for competition. My question about vouchers is always that I don't believe it creates a level playing field. Here is

what I know about vouchers: I am a public school principal and my friend here is a private headmaster. We both are competing with each other to get a student to come to our school and they are going to bring those voucher dollars to each of our schools, no matter whoever gets that student. There is a lot of discrepancy in terms of what is the actual per pupil for every student, but let's just, say among friends, that it's \$7,500, okay?

Walt is trying to get that student to go to his private school; I am trying to get him to my public school. Here is what I know about vouchers and the way they work across the country. If we find out that, after we have been recruiting that student to get his \$7,500, that that student doesn't actually speak English as a primary language, that that student has an IEP, that that student is highly mobile, and that it is going to cost us \$20,000 to educate that child, my friend, Walt, can say, "I don't want him." Under current law across the country, he doesn't have to take him. I have to take him and you know what, I should take him, because that is what public education means. That child is part of the public. We should take that child and we owe it to that child to educate him at the highest level, even if we only get \$7,500 to do it.

Here is the other thing I know. If Walt takes that student and that student is disruptive or doesn't work hard, or the parents are not easy to cooperate with, after a week Walt can say, "thank you very much, but our school is not for you anymore," and off that student goes. And you know where that student goes? They go right to my public school. So I don't mind the competition, as long as the competition is on an even playing field. Then I am for it.

ASSEMBLYMAN COBB:

May I follow up, Madam Chair? Thank you.

And we can discuss this offline, but I believe if you look at all the expenditures, either state, local, or federal that come in, per-pupil spending went up our last biennium, but we can talk about that later.

One thing you mentioned was very interesting. You mentioned Southwest Airlines and I know you are trying to use some of the ideas from the private sector and you are suggesting that you are going to have committees work on this. I am very much looking forward to that. One thing I would recommend is that you sit down with Howard Putnam, who happens to be a constituent of mine and someone who is very much interested in some institutional reforms in this state. I think you would learn something, just sitting down with him—if you really feel that the Southwest Airlines model works so well—and the way he handled it. Coming from the private sector myself, we love to invest in our employees, but we also had to let go almost half our workforce, or else we wouldn't be here. So, we can't go back to our constituents and say, "Hey, by the way, we just raised what it costs for you to purchase from us." We had to do the exact opposite. So in almost the way you were describing the comparison of public sector to private sector in the education system, keep in mind that in the private sector, we are really hurting right now. If the solution is not to have institutional reforms but instead to raise taxes, raise fees, take money out of the private sector, I think we are going to have a worse situation down the line. I think it will behoove us all to come up with solutions that are actual institutional reforms, as opposed to more and more spending down the line. Thank you.

HEATH MORRISON:

Madam Chair, through you to the Assemblyman. I would welcome the opportunity to sit down and talk education with you. I am a big believer in that I don't have all the answers. I am a life-long learner and so I would appreciate the opportunity to talk educational reform with anybody. I have sat down and already had a conversation with Mr. Putnam. He is an outstanding leader; he has pledged to help us in Washoe County and we are going to take him up on that offer. He is very excited about the reforms that we have talked about and I guarantee we are going to use his expertise as we engage in our reform agenda. Thank you for the suggestion.

CHAIR BUCKLEY:

Assemblyman Ohrenschall.

ASSEMBLYMAN OHRENSCHALL:

Thank you very much, Madam Chair. My question is to Superintendent Ruffles. I have a public school in my district that takes care of severely handicapped children. It would probably

be way too expensive for any private school, or for any parents to afford a private school, to take care of these children. I am just wondering, how do you think these budget cuts might affect John F. Miller? I know that is an extraordinary school that we have down in Clark County. We are doing a lot of great things for these kids.

WALT RUFFLES:

Madam Chair, through you to the Assemblyman. Well, thanks for the compliment. It is a wonderful school and I would invite every legislator to visit it because those are children who have profound special needs. I want to be careful, but if you would allow me to have an “off the cuff” estimate, it probably would average \$20,000 per student, or more, for those students, for their educational process.

One of the federal rules that is not backed up with federal money is that we have to serve those students and provide them an education based on what is called the individual educational assessment. So I don’t see a major impact happening in that school. What will happen is that we will continue to fund that at the high level, and we will have to cut elsewhere to make up for the reductions that are likely to occur. Thank you.

CHAIR BUCKLEY:

Are there any more questions? I don’t see any. We thank you very much for your presentation and your leadership. You make us proud and we promise that the discussion is not yet over on the level of cuts and our options.

Chair Buckley moved that the Committee of the Whole recess until the call of the Chair.

Motion carried.

Committee of the Whole in recess at 4:27 p.m.

COMMITTEE OF THE WHOLE IN SESSION

At 4:45 p.m.

Chair Buckley presiding.

Quorum present.

Governor’s recommended budget cuts considered.

LYNN WARNE, NEVADA STATE EDUCATION ASSOCIATION, PRESIDENT:

I am really here to introduce two of my colleagues. We have the President of the Washoe County Education Association and the President from the Clark County Education Association and I will allow them to introduce themselves.

KEN BUHRMANN, WASHOE EDUCATION ASSOCIATION (WEA), PRESIDENT:

I am the President of the Washoe Education Association of 3000 members. I am also a 43-year veteran teacher of senior college bound high school English. I am a native Nevadan, and I am product of the Nevada school system from Elko, Nevada and I am very proud of that. I am here today to encourage this body to do everything they can to prevent the Governor’s proposed education cuts. It is my Association’s hope that body will find 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 our 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. These conversations that are shared with the school district are beneficial for all parties and you have WEA’s word that we will continue to work hard with the school district in making sure that 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 and the Washoe County School District to do

everything we can to provide the best education possible for our students, even in this poor economic climate that we are struggling through today. Thank you.

RUBEN MURILLO, CLARK COUNTY EDUCATION ASSOCIATION, PRESIDENT:

I am the President of the Clark County Education Association and also an elementary special education teacher with the Clark County School District. I am a product of public and Catholic schools and I have worked in the private sector. I know what it is like to be a private sector employee, and I have worked at Macy's for 23 years while supplementing my education salary. A teacher's working conditions are a student's learning a condition—that is my mantra—it is all about the student. Teachers teach for many, many reasons, basically for the love of teaching, working with children, seeing them grow, and having an impact in their future. We did not get in to education to become rich, nor did we get into education to become poor or be put in the poor house. We are asking for this body to minimize the cuts to education; increasing class sizes, laying off of teachers and any type of cuts to the education budget will impact our students. We are always asked "What are you as teachers willing to suffer or share in the pain?" Well let me tell you that our members have been telling us that we have already been sharing in the pain. We have to pay money out of our pockets for materials that we have to supplement in the classroom; an average of about \$1,200 a year per teacher is spent. We have large classroom sizes and while it may be a 32 to 1 ratio in some schools and high schools, we have 60 students in math classes. We have kindergartens that have 35 plus students and that is only half-day, and the teacher has to deal with another set of lesson plans for 35 additional students in the afternoon.

According to the Chamber of Commerce, our salary is below average compared to other groups. We are working to pay for classes to get a raise. We have to work to pay for our classes to get an increase in salary, Bachelors, Masters, and recertification for our jobs. Grading papers and writing lesson plans, everyday especially in some of our schools our teachers are required to write 6 to 10 page lesson plans per week, which takes hours a day outside of the classroom and away from our families. When a pay cut that is imposed on teachers, what you are really doing is taxing a small group of people.

I am here to tell you that NRS 288 works, especially in Clark County. We have a 30-year history of collective bargaining. The Clark County Education Association and the Clark County School District (CCSD) have had a lot of success in bargaining, especially in the last 7 to 8 years. We were the ones who went to CCSD and said, "Let's take a look at empowerment schools and how can we make this work in Clark County." Based on that, we have negotiated language that allows for a pay for performance or alternative compensation portion of our empowerment schools. We have also worked out language that takes a look at the reconstitution of schools, when necessary. We are also involved with the school district when it comes to working on identifying what models the school improvement grants that the Obama Administration has determined will be spent and we are at the table with them. We have gone from a negative bargaining process to an interest- based bargaining process, which has been very successful.

We worked on reducing staffing last year to prevent massive layoffs of teachers. We allow a waiver process to our contract at the schools to be voted upon by teachers and the administration if they need to. We bargain language in our contract for reduction in force for surplusage of the transfers of teachers to other schools. We have also been involved in school reform, as I have told you about with the empowerment schools; it has been one of our projects we have been working on together. While our contracts are set for a certain period of time, we have also negotiated a contract maintenance committee which meets quarterly to address contractual issues that may be timely and cannot wait until the end of the contract. Collaboration works for us. We have been recognized by Secretary of Education Arne Duncan, Dr. Ralfus and myself were in attendance at a meeting in Washington DC in December along with eight other school districts from across the nation, that were identified as leaders in collaboration and also working together in school reform. In fact, next week we will be taking part in an education conference in New York City to talk about the successes that we have.

Basically, we are asking that as we go through this issue of budget cuts and what we can do to solve the problem, I want you to remember whatever actions we take this time, we really need to

address the issue of what is causing this problem, because if we do not solve the problem now, it will come back in 2011, 2013, etc. Just like it was predicted by all of the tax studies that were done previously, if we did not do anything to fix the tax structure in this state, the perfect storm will hit. Well, it has hit. It is impacting all of us and until we take a look at that issue of how to adequately fund our social services in Nevada, including public education, I have a feeling we are going to be here year after year after year. Thank you very much.

CHAIR BUCKLEY:

Thank you for your testimony. Questions? I do not see any, thank you very much. I would like to ask the Chancellor to come forward. Thank you for waiting; we are only about seven hours past the time we told you we thought you would be.

DANIEL KLAICH, CHANCELLOR, NEVADA SYSTEM OF HIGHER EDUCATION:

I want to thank you for the opportunity to be here. I would like to make a couple of comments and then the best thing to do is to follow the lead of the superintendents who answered your questions. Madam Speaker, thank you for allowing a couple of our students to testify. I cannot tell you how proud I am of these students. Folks from Southern Nevada who spent the night on the bus to be here and talk to you today, and folks from Reno and Carson City all of whom were here simply to ask you to help them continue their educational pursuits, and I appreciate that greatly. I am not sure I appreciate quite so much the opportunity to follow Mr. Willden. I have no handouts and I want to be very clear that as a result of anything I have to say, nobody is going to have to choose between chewing and seeing. No one will stop taking critical life sustaining medications and no one will be choosing whether or not to have home healthcare for an elderly parent.

I sat here, just like you, horrified at all of those statistics, but I want you to know that in a very real sense, I am the other end of that spectrum. If we defund education and in particular higher education, we are going to be driving more and more people to Mr. Willden's realm or worse yet, to Mr. Skolnik's. Those are our choices here. We know that as education levels increase, incarceration levels decrease and that the demand on social services decrease and those are the unfortunate choices that you are here making today. They are "Sophie's Choices" and I do not envy any of your jobs. We want to be clear that we believe very strongly, just as Mr. Willden was testifying, that lives will change as a result of the decisions you make today. Not in the horrifying ways he was testifying to, but to the contrary, you have the ability to change lives to the better. Particularly here in Nevada with our unemployment levels at an all time high, and people returning to school and particularly, to our community colleges at this time to try and move off of the unemployment rolls.

This is the time that Nevada needs education and I am extremely proud of our partners in K-12 who testified before us today who supply us with our base product in higher education and please support them. We need higher education in this state, now more than ever. We are talking about diversifying our economy—how are we going to do that? It is not going to happen by talking; it is going to happen by creating the environment that attracts businesses here. That environment, by and large, going to be created by having the kinds of schools that will allow businesses to bring their young professionals here forever and by having the kind of economic and intellectual engine that is generated in higher education, whether at the level of the research universities or the development of a workforce at our community colleges. That is the only way it is going to happen; it is not going to happen by wishing and hoping.

I think part of the reason that we are here today is because we understand it is not going to happen by keeping our taxes at the level they are today. Dr. Morrison testified, and I loved every word he had to say, that they are going to do their best to keep providing services and excel regardless of what happens here today. I probably over-stated his testimony just then and I apologize to him, but I guess I am here to tell you that I am not going to make that promise. We have gone about as far in higher education, in terms of cuts, as we can go and accommodate students. We are now at a point where we are choosing between will we try to maintain full access to Nevadans, a critical mission of higher education, or will we stand up and say we have to preserve the quality of our institutions even if they are smaller over time. I guess I am here to tell you that if that becomes the choice as a result of budget cuts—and I am trying not to be whiny or complaining about this but—I will choose quality and I will choose the fact that we

will have to serve fewer students, we will serve them well, we will turn out students who will be active and productive members of our society and people who can move into the job market. But we simply cannot maintain full access if the budgets continue to be rolled back particularly in the instance where higher education, as we all know, took the heaviest cut of any major state agency in the last session of the Legislature. Where I am still confused is by some of the numbers that are coming out of the Governor's Office, particularly with respect to salary cuts for higher education employees that confuse me, and I have asked Mr. Stevens, who you all know better than I, to work with your fiscal staff and the fiscal staff of the Senate and the Governor to try and understand how the cuts for salaries in higher education seemed to have gotten higher than anyone else.

The last thing I would echo is a comment that I heard the representatives of the Teachers Association allude to; please work to give us some stability. You will give us a budget and you will do your best I know to make that budget as significant as you can—I am absolutely convinced of that—but please do so in a way and work going forward in a way that we do not have to race from budget cut, to budget cut, to budget cut. I know it is no more fun for you than it is for us, but if you are asking us to plan for education and plan for the best foundation for education, it is almost impossible to do when we are always looking to the next cut. Stability would be a great gift that you could give to us and give to the students of Nevada. As I say, I do not envy your job. I hope that you do your best to minimize cuts wherever they occur in these critical services. For the future of the state of Nevada, for the diversification of the economy, and really for the creation of the kind of state we want to and should be, I encourage you to please keep the cuts to all education as low as possible. Madam Speaker, I will stand for any questions from this body.

ASSEMBLYMAN GOEDHART:

Thank you Madam Speaker, just a brief point of view from the private sector. I realize you folks have been asked to do more with less and you are under great strain. I want to put it in context with the private sector that when you say we race from budget cut to budget cut to budget cut, it is because the depth and severity of the downturn of the great recession as you might say has continued to defy expectations of a quick rebound. I think that would be generally indicative of the economy as a whole. In the state of Nevada, in 2008 to 2010, Nevadans' incomes went down by \$25 billion, which is \$10,000 per resident. With an average household of four people that is \$40,000 per household that was brought home less in that two year period. From my own personal perspective, I am a dairy farmer and I encountered prices on my milk that was the lowest since the 1970s. I invested in my own business and in the last 18 months, I have lost money every single month. I have not taken a paycheck in 18 months and that is a long time between meals. My wife just sold her 2004 vehicle that had 140,000 miles on it so she could drive her 1992 Camry with 251,000 miles on it, which she drives 100 miles a day. Just keep in mind in the broader perspective; there are a lot of folks out there in the private sector that would love to have it only as tough as you folks are having it in the public sector. Thank you.

DANIEL KLAICH:

I am not sure there is a question in there, so I will treat it as a comment then, thank you.

CHAIR BUCKLEY:

I have a question. I believe that we are all going to have to do more with less until the economy recovers. Everybody is going to have to change the way we have always done things, and that includes state employees, local employees, educational system both K-12 and Higher Ed, business as usual just cannot go on and I think that is the point the Mr. Goedhart makes and I agree with it. Yet, with our education system when it is already funded close to the bottom in the nation and when we have some many folks out of work wanting to go back to school, we need to have a balance. I think the best results will come from balance. It means you do more with less. It means that the top folks in education say the good days are over and we cannot be so free with our money on salary and benefits, on purchasing, on everything. Take a look at everything within your mission to say is this really necessary just because we have been doing this for 40 years does not make it worth—I mean we have to reevaluate and reprioritize everything. But I also believe we cannot gain prosperity by cutting education. My question in

there is if the university just cuts everything, we will just cut to mediocrity, and I think what we really need to do is lessen the cuts but also have the university reexamine every program, everything you offer to say, “does this still make sense?” and “is this crucial to our mission?” as opposed to someone’s pet project. How hard with that be with Board of Regents, with shared governance? How, if we invest in you, will you be able to be accountable back to us?

DANIEL KLAICH:

Let me just say as I start to answer that question that I do not find a lot to argue with in Mr. Goedhart’s comments either. Clearly, there are many, many people in this state hurting. Whether it is me on this side of the mike or you, I would like to think that we are all here trying to figure out, struggling with figuring out, how to do that. Speaker, I heard someone say earlier that there cannot be any sacred cows in this and I think that we have to reevaluate everything we do and this is an opportunity to do that. I said when I came to IFC two weeks ago, stealing from a conversation that the Majority Leader and I had that there were some tests that we should look at on everything and they have to do with: are we collaborating within in institution; are we collaborating among institutions, are we collaborating with business, and is what we are doing consistent with the goals of the state. I know that those are litmus tests that the Majority Leader is going to be looking at in evaluating programs, and quite frankly, I think they are right on. Just because we have done something a certain way in the past does not make any difference anymore, because these are not normal times. If you look back at the difficulties we had in this state in the early 80s and the early 90s after 9/11, we had deep cuts and deep dips in our revenue in this state but we bounced back relatively quickly, more quickly than the rest of the country. I think the reverse is going to be the truth here. I hope we are at or near the bottom but I think the recovery that we will have and we will have a recovery in this state. I think it will be more gradual and I think that what we are in for now is a complete rethinking of everything and I cannot sit here asking you all to make tough decisions if I am not willing to hold the institutions and presidents feet to the fire and do the exact same thing.

Your particular question, Speaker, was “How tough will that be?” and I think it is going to be enormously tough, because there is an enormous amount of inertia in any area of government and I think higher education has a lot of that. But, you know what; too bad. We have got to get over it. Because we do not have a choice, we simply do not have a choice anymore. It will be tough Speaker, it will be very, very tough but I think a hallmark of how we need to deal with each other is openly, honestly, transparently, and when I asked you for help, you should ask for transparency and accountability in return. I should not be able to ask you for anything or to make decisions any harder than I am willing to do and willing to ask the presidents to do. It is pretty much as simple and yet as difficult as that and I think it will include nothing short of a cultural change throughout higher education that I am willing to give 100 percent of my efforts to insure that every precious tax dollar that you give to us is spent with an absolute 100 percent efficiency within our system.

CHAIR BUCKLEY:

Thank you. Assemblywoman Parnell.

ASSEMBLYWOMAN PARNELL:

Thank you, Madam Chair. Dan, just a quick question. I have been amazed since the downturn, and I have talked with Helene Jesse quite often at Western Nevada College. Can you give everybody an idea of what your overall increase in enrollment has been in the last two years?

DANIEL KLAICH:

Yes. Our enrollment, system wide, is up about—I will have Mark take notes on this and to the extent that I misstate it we will get it to you tomorrow exactly for the record—I think our enrollment is up system wide about 4 percent, with the bulk of that enrollment being at the community colleges. Some of the community colleges are up double digits in enrollment. The enrollment at the two universities, undergraduate, is modest and in the 1 percent level. To be honest with you, Assemblywoman Parnell, I am concerned about that because I am sitting here telling you we are serving more students with fewer dollars and the only other factor has to be

quality. I have spent a lot of time talking with Dr. Lucy at Western Nevada College, as you have spoken with Helene Jesse, and I am amazed at the job she is doing in the small college but I also know the pressure she is putting on her teachers and her faculty and her staff; it is not sustainable. I keep telling her she is asking those folks to run a marathon but she is at a sprint pace. It is not going to work in the long run and, quite frankly, I do not think we can sustain those enrollment increases either.

ASSEMBLYWOMAN PARNELL:

Thank you. I just find it so disturbing, especially when you look at Western Nevada College and they have a campus in Douglas County, one out in Fallon, and it serves an awful lot of folks that have lost their jobs and who are going to the community colleges for the purposes of retraining or maybe finishing a degree. These are things that we as a state really want to encourage people to do. I just think it is so disturbing to look at it from that sense. I think Western Nevada College's enrollment was up about, or over, 20 percent last fall so it just goes to show how many people really are turning to our higher education system to improve their lives. Thank you.

DANIEL KLAICH:

Every institution within the system in its own way would have that same story. I look at one of the younger institutions in our system, UNLV, and it is celebrating its 50th year as a university. It is a very young university in the scheme of overall institutions. There are people here in this house who have watched that institution grow their entire adult lives, watched it grow from a period of a branch campus to the point where they are about to step into becoming a major research institution and the center and hub of Clark County and Las Vegas and the region. We are threatening all of that work that all of you have put into that university your entire adult lives. This is kind of a crude analogy, and I apologize in advance, but we are not a 7-11 in higher education and we cannot call up the distributor and say, "we have enough money today so bring in the bread and the chips and put them on the shelves." Once we start moving back and making cuts we are going to take years, if not decades, to build it back up. Dr. Wolfus talked about class-size reduction and other things that went away that Mrs. Smith pointed out. We will be lucky to get those back ever. While I appreciate that in many real ways public education has not suffered to the same extent that many of the individuals in this state have, pointed out so eloquently by Mr. Goedhart. We need a certain amount of stability and I think that the citizens of this state count on you to provide it.

CHAIR BUCKLEY:

Assemblywoman Gansert.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. I think we all agree that the university system and the educational system are fundamental to a strong economy and to diversification. I think it is important that we recognize that the state really has invested in infrastructure. You mentioned that UNLV is 50 years old and the size of it has grown, and the Nevada State College and the Community College system, and I appreciate that there has been a great investment. My question is that right now you are in unique position and you have the ability to make the students part of the solution. You can look at tuition; have you tested or do you know what the elasticity is on tuition? It is obvious that the demand is up because people want retraining, and I think it is important that classes are accessible and available—have you looked at that—because I believe that tuition is maybe 20 percent of the total cost—that is an old number—of what it is to educate a student. Have you looked at that? What are the boundaries? I know there was a plan to increase or maybe do some surcharges this year and maybe next year. Have you looked at that and have you forecasted that out? Thank you.

DANIEL KLAICH:

Yes we have. I was asked a question on the elasticity once in a public setting so much that I butchered it so badly and when I went back to the office and the staff has refused to let me talk about it, in much more the sense of a rubber band. Without getting into to elasticity let me go to the heart of the question. I think our students have stepped up remarkably. Tuition fees have

increased almost 40 percent over the last five years. At UNR and UNLV, undergraduate fees have increased 10 percent this year and they will increase 10 percent next year. Every time we have gone to the students to ask them to participate in maintaining the quality of their education they have stepped up, every single time. Quite frankly, I think they will do it again.

The concern that I have, Mrs. Gansert, is student dollars backfilling state dollars. There is only a certain level of increase before we hit that point where the elasticity comes in and students either stop coming or cannot afford it. What concerns me is if we use that gap between where fees are now and where we can put them to backfill state dollars, not only do we shift the burden of education more to the students, but we forever lose the opportunity to ask students to contribute to a margin of excellence because we backfilled for state funding and I am very concerned about that. I do think the students will step up. They have, and they will again, but it concerns me greatly the extent to which we ask them to participate.

With respect to affordability, I will also note, that we have one of the lowest rates of need based financial aids in the nation. We also have a huge population of low-income individuals in this state and by and large, that falls disproportionately heavy on under-represented populations. If we price those students out of the market of higher education, we are creating the potential for a permanent caste system in Nevada, where there are large portions of our society that cannot access higher education, so I have to worry about that too.

ASSEMBLYWOMAN GANSERT:

What are we doing for those students? If we raise tuition can we make more grants available? What about the Pell Grant and the Federal Stafford loan system that has been raised? What can we do to help the people who really need it?

DANIEL KLAICH:

Those all have helped and the Board of Regents, in our tuition and fee committee that just came forward, set a level of need-based aid that will be taken from all future fee increases just for that. We will help ourselves but that again creates a cyclical effect because you have to raise more to fill the gap if you are going to take some for need-based financial aid, but we will do that, and Pell aid has increased over this past year.

ASSEMBLYWOMAN GANSERT:

Thank you for being proactive on that.

DANIEL KLAICH:

Thank you for the question.

ASSEMBLYMAN MANENDO:

I had a constituent who is faculty member at CSN and his classroom is not full and there are desks available. He was wondering why he was told not to continue the enrollment and not allow any more students in his classroom. I did not know how to answer him—why would that be?

DANIEL KLAICH:

I cannot think of a good reason for that. There are levels of the optimum class but if you are below the level that should be in the class there are empty seats available and students that want to take the class we should be taking the students. I would be happy to talk to him if you want to refer him to me. There is not a good reason for that, if there are empty available seats below the classroom capacity.

ASSEMBLYMAN MANENDO:

I was pretty disappointed to hear that. One more quick follow-up, Madam Speaker; thank you. What are you doing to reach out to the business community, doing public private partnerships? That is essential, I know in my day job I work for a company and we have actually donated space to different programs and I have not seen much of that lately. I just wanted to know what you guys are doing.

DANIEL KLAICH:

I think the campuses are proactive on that basis. I will submit and supplement the record with details. We have partnerships with companies like Nevada Energy and Sierra Nevada Corporation. We were working with Nevada Institute for Renewable Energy Commercialization (NIREC) a consortium of entrepreneurs in the north to not only move through technology, but to apply for grants. The community colleges do the best in that regard, Mr. Manendo, and certainly with your background you would have some specific knowledge of that. We have to work with the unions, the casinos, we do on job-training and I think that is a critical part of what we do and a critical part of their mission in particular. They have to do more though.

ASSEMBLYWOMAN PIERCE:

Thank you Madam Speaker. I appreciate what my colleague from Carson City brought up and I think that it illustrates the point that the function of the public sector and the private sector are really quite different. The demands are different, particularly during a recession, and I think as we make these decisions, it is important to remember that for the most part it is comparing apples to oranges and I just hope we keep that in mind. Thank you.

CHAIR BUCKLEY:

Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you Madam Speaker. I have a question. We talk about raising tuition fees and really the parents are paying a big part in paying for the tuition fees, but what are the students getting back? Let me just say that I know there are some programs that are not currently available that we are sending some of our home grown students out of state to take. So if we raise tuition fees, does that mean there will be 20 students per class? I would be willing to pay a little more for that but I do not know that I want to pay more to have 200 students in a class because what kind of education is my student getting. How do you see raising the tuition fees; are the students getting less or more, or how does that work?

DANIEL KLAICH:

Thank you for the question, Mrs. Kirkpatrick. To the extent that we ask the students to come forward and backfill for budget reductions, the students are getting no more for more. I have got to tell you, I am a realist in where I see higher education funding going. We are going to have to work on models whether it is public-private partnerships, working on endowments, or raises in tuition. We are going to have to live in a world that is more self-supporting than it is today. I get that, but I had always hoped that we could go to the students and say that if you put in this much more, this is what we can do with it; this is how we can enhance your education. It was a great opportunity to provide margins of excellence for the education which we reasonably cannot come to the state and expect them to pay. When we are backfilling cuts with student fees, we cannot do that, certainly not with any honesty. You heard testimony from two students today so you know they are too smart to swallow it. Right now, they are not getting any more for paying more.

ASSEMBLYWOMAN KIRKPATRICK:

I look to Virginia a lot. Virginia is a pretty conservative state and education is one of their top things. How long is it going to take—2014—they say the medical industry is supposed to be the new wave for Nevada. However, I know of several students that are being turned away because the program is capped and cannot help them. How far behind is that going to put us if it takes a med student six to eight years, so if we are already capping that, how much farther is it going to put us behind on having our own students be in the industry that is supposed to be our next new wave?

DANIEL KLAICH:

We only have two choices and we have talked about them, either further behind every day, or fewer students getting through the pipeline at all, but getting through with the kind of quality that we all demand for the state. Those are the only two choices in declining appropriations. I wish I could say that there is a different way to do it, but I do not see it. I do agree with the

Speaker's admonition that we need a cultural change and that we need to be sure that there is absolute efficiency in the way we spend our dollars, and I cannot say that as we have grown over all of these years, there is not some redundancy, but with reduced budgets and even squeezing all of the efficiency out of it, those are our only two choices, longer or fewer.

CHAIR BUCKLEY:

Assemblyman Hogan.

ASSEMBLYMAN HOGAN:

Thank you, Madam Chair. When I first looked at the kind of cuts that the higher education system was being asked to impose, I was very disappointed; I thought back to an event that was held at UNLV last year to announce the arrival, and the arrangements worked out, of the fantastic Brookings Institute in Washington DC, where I had several opportunities to spend a lot of time studying. They brought with them a concept, or a set of concepts, that were absolutely inspiring. We were already into this recession and there was a bit of a feeling of doom in the southern Nevada area, and they brought a concept of the future of the intermountain west that was just amazing and positive. There seemed to be no ceiling on what we could achieve. Part of the concept had to do with the role of the university system developing the kind of finely honed skills and spinning off industries from each of the departments that has a capability to innovate and develop and invent. It was absolutely inspiring. I was so encouraged by that. I am worried to the extent to which lower level of funding will permit the university to fully take advantage of the advantages that may come with these opportunities to develop something like Stanford and the Silicon Valley. Our university system could be the source of ideas and inspiration to new industries. Suddenly we have diversification becoming not just something we have always talked about but something that might happen. I need to get some idea from you to what extent do you think you will still be able to carry on and take full advantage of the Brookings Institute arrangements to help us guarantee that kind of a future?

DANIEL KLAICH:

The question also fits with the Majority Leader's concept of what programs should be, and Mr. Manendo's concept of public-private partnerships, because that was at the heart of what the Brookings announcement did along with private funding from the Lincy Foundation established by Mr. Kerkorian; that was all about outreach into the community. That was all about pulling UNLV into the community in every sense of community and leveraging private dollars and charitable dollars within the community with the public institution and the knowledge of the Brookings Institute to create one and one equaling three or four or five. For any of you who were at any of those announcements, it was incredibly exciting—the energy and leap forward that we could feel for that campus was incredible—particularly in the times that we are all facing when we are cutting budgets back.

Directly to respond to your question, that is a privately funded operation for now. We expect and we would like Brookings to make a permanent home in Nevada, at UNLV in Clark County. Over time we will absorb that fully into the institution and make it part of our base budgets, but it will take time and I do not expect them to back out. Quite to the contrary, in your stakeholders' vision group to the tax study, Mr. Lang, who is a principal in the Brookings Institute, is chair of that, as I understand. They are already moving into the community and adding to the community. I expect them to stay, but I also expect them to be looking at the commitment of the state. I cannot give you a hard answer to that and I know I am being fuzzy, but I think they will look to a commitment, but I have not seen any waiver of their commitment to UNLV or their commitment to the State of Nevada at this point.

CHAIR BUCKLEY:

Thank you Mr. Hogan, and thank you, Chancellor.

DANIEL KLAICH:

Thank you very much Madam Speaker and thank you very much members of the Assembly. Good luck with your deliberations and we look forward to working with you and implementing them.

CHAIR BUCKLEY:

Thank you. Is there anyone who is here and who would like to testify?

REBECCA GASKA, PUBLIC ADVOCATE, AMERICAN CIVIL LIBERTIES UNION OF NEVADA:

We appreciate the opportunity to speak with you today. Unfortunately, I have been running back and forth between here and the Senate, so I'm not sure of all the agenda items that you've addressed so far. I will quickly cover four topics, and I'll make it brief. Please do expect an e-mail from me with additional information about these four topics. Primarily the ACLU, as you all know, is here to lobby on behalf of the public interest, and those individual rights and liberties protected under the federal *Constitution* and the *Nevada State Constitution*. I am here to talk to you today about four proposals that we believe would affect those civil liberties of Nevadans. The first one is under InsurNet, which is a proposal set forth by the Governor, to use a private third-party company in order to take pictures of license plates around the state. While we do note that there is no heightened level of privacy interest of a license plate per se, in the aggregate, we have seen that the government has taken information from global positioning systems (GPS) tracking information, cell phone triangulation, information from Internet service providers, and has taken and used that information without warrant or court oversight. So, what this company has the ability to do is take that information in real time, and it could be used by law enforcement in exactly that type of instance, in tracking people without court oversight or court warrant. From our point of view, that is just the surveillance state that our ACLU has fought against, not only here in the state of Nevada, but also nationwide.

What we are seeing is an increasing trend in these types of cases winding their way through national courts. Just last week, the Third Circuit Court heard a case dealing with GPS tracking. Back in 1983, the U. S. Supreme Court noted that were there to be surveillance by the state of dragnet-type surveillance at some point in the future available to law enforcement, they would reconsider that type of issue. So, we just wanted to flag this type of surveillance for you and make note that it is a perverse approach for the state to use to fill budget holes which is based on the hope that individuals will continue to break the law. Indeed, we do realize that people driving without insurance is problematic. It creates problems in our hospitals. It creates problems for individuals who are involved in car accidents, but we don't believe that creating a surveillance state is the way to go about that. I am sure you'll hear from representatives from the Department of Motor Vehicles who are working on their own system in order to address that. Finally, those people who can't afford insurance are the least likely to be able to pay the fines that might be assessed by such a system, so we hope you'll keep that in mind.

The second issue is school vouchers, and that was briefly touched upon a bit earlier. The ACLU nationwide has long opposed school vouchers, and we have long held the position that they violate the First Amendment, and indeed, in the state of Nevada our *Constitution* can't be more explicit. Actually, it says, "No public funds of any kind or character whatever, State, County, or Municipal, shall be used for sectarian purpose." That's Article 11, Section 10. The state of Arizona has a similar constitutional statute and just last year, the Supreme Court of Arizona threw out school vouchers. There were similar challenges that prevailed in the state of Florida and the state of Colorado, so it is our position that a school voucher program would not withstand constitutional scrutiny in the state of Nevada. We hope you will take that into consideration.

Furthermore, there is a second problem with school vouchers in that they totally fail to actually give meaningful choice to students of a lower socioeconomic status because a portion of the voucher could be applied to a private school, and we do know that private schools cost much more. So, the small amount of voucher doesn't actually give meaningful opportunity to students of lower socioeconomic status when applying that to schools.

The third issue that was just brought up today is the possible closing or closure of the Nevada Equal Rights Commission. We hope that you'll take into consideration that the possible savings won't actually balance out the extreme losses to individuals in our state who suffer from discrimination, particularly those who suffer under additional state laws that do not exist in federal protections. That is, particularly, sexual orientation; not only in employment but also in places of public accommodation. This last legislative session, we saw a big stride for the state of Nevada in extending protections, meaningful protections to individuals under the class of

sexual orientation and in places of public accommodation. Without the Nevada Equal Rights Commission (NERC) these individuals would have no way of redressing their grievances besides going straight to court. Any individual suffering from discrimination would otherwise have the opportunity under NERC's purview to seek mediation and other general redresses of grievances, so without that, we think this state needs to take into consideration increased court costs from individuals who would go straight to court.

The final issue is the closure of the state prison. There are obviously many, many budgetary issues that you all are considering, one of which is the closure not only of the state prison here, but also of Summit View in southern Nevada. While we don't oppose the closure of either of those per se, there is an unintended consequence of closing either of those. What the state is responsible for doing while holding people in custody is rehabilitating them. When you remove individuals from the communities in which their families reside, it upends the system of rehabilitation. Statistics nationwide show increased recidivism rates when individuals don't have that family or community structure around them in the local vicinity. Beyond that, if coupled with the closure of those institutions, it would include farming out, shall we say, our prisoners to other states. We think it's important that this body and the Senate also recognize that while sending our prisoners out of state might be out-of-sight out of mind, it doesn't actually work that way, because the state is still liable for what happens with those prisoners. The catch—22 is the state doesn't have actually any meaningful oversight when you send them out of state, so that's a really important consideration to be had while making your decisions. I appreciate your patience with these four issues, and again, I would be happy to answer any questions now, but I will also follow up with additional information for your consideration on those four topics. Thank you.

ASSEMBLYMAN COBB:

Thank you, Madam Chair. You mentioned the closing of NERC and said that if that were to take place that that would have an impact, especially on individuals who are discriminated against based on their sexual orientation when they come to use public accommodations in Nevada. Two questions: Firstly, it is our understanding that the federal government is required by law to handle those duties if we don't have such an office. So, won't they have redress under that system? Secondly, we passed S.B. 207 last session, which specifically prohibited discrimination against individuals based on sexual orientation in public accommodations here in Nevada. Wouldn't that provide the necessary protections for those individuals?

REBECCA GASKA:

I'm going to address the second question first. It's my understanding that the Nevada Equal Rights Commission allows individuals who otherwise might not have the resources to go to court to have their grievances redressed. That would involve something as simple as mediation, and would be a lot cheaper essentially for the person who had been discriminated against, or who felt that they had been discriminated against. That would be a more efficient manner in order to get those concerns addressed. Under state law, of course, they would be able to also file a lawsuit, but what NERC offers is the opportunity of a quick and easy resolution without going through that additional step. Since I am not a lawyer, I don't have all the answers, but I do understand that going through NERC is a step in the process of exhausting administrative remedies and without that it would just go straight into the court system. So, I'm not sure if that quite answered your question. If not, if you could be a little more specific, I'd be happy to look into that afterwards.

Your first question was about the federal responsibility of coming in and enforcing Nevada laws in the case that the state is unable to, correct? I think that that is an irresponsible way to look at the system, insofar as that the state of Nevada is responsible for the laws that it passes and for the laws that it has on its own books. I would hate for this to open up a flood from here on out with other state laws. I'm not sure if the federal government has the resources and would be able to come in and effectively deal with those issues. I'm not a representative of the federal government.

CHAIR BUCKLEY:

Let's go ahead and have Mr. Segerblom help us out here.

ASSEMBLYMAN SEGERBLOM:

If I could add to that, sexual orientation is not covered under federal law, so the federal government would not be able to come in and enforce our law, so that's one of the reasons that the Nevada Equal Rights Commission is so critical.

CHAIR BUCKLEY:

The state anti-discrimination laws do have the administrative process in it now, so we would have a law requiring the administrative process without it being in place. According to the information I received from the Governor's Office, there were 72 complaints, 26 public accommodations and 46 sexual orientation and employment complaints from January 1, 2009, to February 18, 2010, so that's our challenge. We can't just eliminate it. We have to figure out whether we need to keep it, or if the statute would have to be amended after we just passed it, which doesn't seem like something we would be willing to do.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Chair. Thank you for clarifying the position on Insurnet. Actually that company talked about the ACLU loving their program in a meeting I had with them. That was one of their talking points, so I find it interesting that in fact you have a position against it. I just wanted to clarify that on the record, that we have all heard an opposing opinion from the company.

CHAIR BUCKLEY:

I don't see any further questions. Thank you for your testimony. Is there anyone else that wants to provide testimony other than these two gentlemen? Okay Alison, you'll be next. Anyone else? We may have somebody in Las Vegas wanting to testify and if we do, those will be our final four witnesses.

ASSEMBLYMAN ANDERSON:

Since we are in committee, I see these gentlemen come off the floor. Are we not following the usual committee protocol? The public sits back here, not with us at our desks. I am offended if they've sat here the whole day instead of with the public, using the privileged space of the floor. If their intention is to give testimony, because they have not been denied testimony when sitting with the general public, they should be treated no differently than the rest of the public.

ASSEMBLYMAN COBB:

Thank you, Madam Chair. I'll be happy to take any responsibility for that. I specifically asked the Sergeant at Arms before we began this process if it was appropriate for them to sit here or in the gallery, and the answer was it is their understanding it is fine for them to sit here. So, if there is a problem with that, I take full responsibility. I asked about it ahead of time. It's never occurred before, but I don't think it diminishes what they have to say. Thank you.

CHAIR BUCKLEY:

Well, as the presiding officer, I will make the call and I will permit the witnesses to testify. You may proceed.

JEFFREY LAWRENCE, FISCAL POLICY ANALYST, NEVADA POLICY RESEARCH INSTITUTE:

Thank you, Madam Chair. I know everyone is tired, so I will try to make this short. I have a few comments, and then I'll pass it to my colleague Patrick Gibbons who is the education policy analyst, and then we will be open for questions. I have a few prepared things I would like to bring up before any action is taken to correct the current biennial shortfall. First, as we're all aware, the unemployment rate in Nevada has topped 13 percent. However, the U6 unemployment rate, which includes the category of discouraged workers, is closer to 20 percent, actually, so that means that roughly about 1 in 5 Nevadans is currently unemployed. Yet, this impact has predominantly been confined to the private sector. According to data from the Department of Employment, Training, and Rehabilitation, between the first quarter of Fiscal Year 2008 and the last quarter of Fiscal Year 2009 private sector employment fell 12.82 percent, while total wages fell 12.63 percent. Over the same timeframe, state government employment

increased 5.43 percent and total wages increased 14.17 percent. A similar trend occurred at the local government level, where in fact employment in the K-12 system increased 16.08 percent over this time period.

So, given the disparate impact that this recession so far has wrought on private-sector workers in the already tenuous state of the private-sector economy, it is likely that any new financial burden that might be placed on the private sector would further decimate the employment statistics. Of course, we all know that each of these statistics is about more than numbers. Each number represents a Nevada family that is struggling to put food on the table or stay in their homes.

I would also like to clarify a point that is often misinterpreted across the state by the media. The conditional wisdom holds that Nevada enjoys a uniquely low tax burden, and as a result, government is routinely underfunded in the state. This recession, however, ignores the fact that as a result of the state's unique demographics, government services have traditionally been concentrated more at the local level than the state level, particularly more so than occurs in other states, so this distorts the cross-state comparisons of state spending. When you compare the total tax burden of state and local tax burden combined, Nevada actually ranks 25th among the states in terms of per capita collections, according to the Tax Foundation. This information kind of lets us know that Nevada is bringing in more revenue than half the states already, yet, as many of us are aware, the quality of governmental services is often mediocre. This should indicate that while there should be adequate revenues, money is often poorly spent.

Over just the past six years, inflation adjusted per capita spending has increased by about 31 percent. Actually, I don't know if everyone can see this, but I brought a chart of inflation adjusted per capita spending over the past 16 years or so. You can see that after the 2005 Session, state spending went up significantly, in fact, for the 2005-07 biennium, there was about a \$273 inflation adjusted increase in per person spending. What that has done is to contribute to a sharp rise in the overall spending as well to beyond the long-term spending line. This is actually a model of what spending would have looked like had something similar to tax and spending provisions been in place since the mid-90s or so. You can see that for 10 years of this graph we would have stayed under that line pretty easily. However, after the 2005 Session, when the Legislature committed to a lot of misspending, we went above that line significantly. We are still over that line, in fact. I think total spending above that line would have been about \$3.64 billion over that time period.

So, now we are learning that that increase in spending from the 2005 Session is difficult for the state to afford. In order to address this current, as well as any future potential shortfalls, governments across Nevada need to enact fundamental reform that focuses on outputs and not inputs. Strategies such as competitive contracting, privatization, performance contracting, performance auditing, and indeed education reform that grants accountability to parents—are all strategies that should be aggressively pursued in order to realize higher quality public services at lower costs. In this special session, the Legislature has been asked to make about \$887 million in adjustments to the current budget. Of the Governor's \$888 million in recommended adjustments—I'm sorry, these numbers keep changing—only about \$348 million can probably be described as reductions to the appropriate operating budget with the remainder coming in fund sweeps as well as new revenues. So, under the Governor's plan, per capita state spending will still have increased by about 23 percent over the past six years. It is less than the 31 percent increase as the budget stands now. However, it's hard to sell a 23 percent increase in per capita inflation adjusted spending as a substantial cut, when in fact, the exact opposite is true. This is a perspective that I think we should all bear in mind as we move forward from here.

PATRICK GIBBONS, EDUCATION POLICY ANALYST, NEVADA POLICY RESEARCH INSTITUTE:

Madam Chair and members of the Assembly, I know you've spent the last two or three hours listening to reasons why you probably should not cut the budget. I am going to put this in a new perspective to make your job a little easier. I think there's been a lot of hysteria and maybe some hyperbole that's making your job harder than it needs to be. We all realize now that there are scarce resources; there will always be scarce resources. That means we have to use the resources we have more effectively. We have to spend money where it produces results. Now, I know a lot of people are worried about Nevada's spending ranks, and we hear about Nevada

ranking 48th or 49th in per pupil spending. I usually turn to the U.S. Department of Education or the U.S. Census Bureau for their figures as they are a neutral party, and have nothing to gain from messing with the figures. Their figures show that Nevada spending ranks anywhere between 26th and 47th in the nation, depending on what is counted and how you do the calculation. Now, the problem is spending ranks are not some magical barrier where student achievement suddenly improves. There is no correlation between spending and student achievement because public education finance focuses on complying with the rules and regulations from the federal government, state governments, and local governments and funding jobs for adults. That's not my conclusion, although I do agree with it, but it is the conclusion of the School Refinance Design Project at the University of Washington. It was made up of a panel of scholars from Stanford, Berkeley, and Penn State and some other schools. We could actually see some of this in more detail as we look at the budgets. Between 2001 and 2009....

CHAIR BUCKLEY:

Let me interrupt you for a second. We have a question.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. I have a question for you, and this is a reality number of Nevada versus other states. My daughter goes to Utah University because it's cheaper, for one. She has 15 students in her chemistry classes, so how do you think that Nevada students are going to compete with other states who are offering her a job, who are giving her a class size that is amazing. I mean 15 students in a college chemistry class for medical studies is amazing when at UNLV she was denied that opportunity. I sent my child out of state, who now wants to stay there. How do you say that dollars do not make a difference, when we're educating our future, for one? Secondly, some lucky business is now going to get a great student who is going to stay there forever. Where in Nevada can you say that a dollar doesn't make a difference? I don't understand that because I'm not a college student. Are you a college student? How many students did you have in your class? How has that changed in the last five years? When you say dollars don't make a difference, and to study this and study that, the reality is students today are being forced to have less and they're paying more within our state. I would like you to address that because every study in the world that you guys do, and I read some of your stuff, it truly doesn't make any sense. I am a little bit passionate about this because we need to keep Nevadans in Nevada, so that we have a future for our state.

PATRICK GIBBONS:

I didn't say dollars don't matter. I said that spending more money won't produce results. You can take any metric for student achievement. I've used the National Assessment of Educational Progress (NAEP) fourth grade reading exam and compared it to per pupil spending and did a regression analysis on that and do not come up with a statistically significant correlation between spending and student achievement. The reason for that is we literally are focusing on funding jobs for adults, and not focusing on what produces student achievement. With regards to the University of Utah, I believe you said was the school, the University of Nevada, Reno, spends far more per pupil than the University of Utah does. The University of Nevada, Reno, spends over \$30,000 per pupil, with about \$15,000 of those dollars going toward student-related expenditures. You can check those statistics from the Education Trust, a liberal think tank. I like going to other peoples' sources, especially if they are on the opposite side of the political spectrum, as we don't have a different opinion on some things. But, they show that the University of Nevada, Reno, spends over \$30,000 per pupil. This is significant. It ranks 62nd among the public universities in the nation, and their database, excluding the military academies, yet their graduation rate is less than 50 percent after six years. The four-year graduation rate is 15 percent. Those are embarrassing results. We spend a tremendous amount of money at UNR, and there aren't the results that our students deserve. Can things be better? Absolutely. We can use the existing resources that we currently have in a more efficient way, and that's the point I'm trying to make.

In regard to K-12 education expenditures, we have data from the U.S. Department of Education that shows spending in Nevada in 1959 was \$430 per pupil and adjusting for inflation to 2008, that's a little over \$3,100 per pupil. By 2007, we were spending \$8,600 per pupil.

That's an inflation adjusted increase of 180 percent per student, yet the results are flat. We're still last in the nation in graduation rates. In fourth grade, low-income students, black students, and Hispanic students cannot read at their grade level, according to the NAEP fourth grade reading exam. These are embarrassing results. There's a large achievement gap between white students, black students, and Hispanic students in math and reading and between the "haves" and the "have nots." Frankly, the spending that we've done has not produced the results that our students deserve. We need to focus the spending on what works.

I know we've talked about class-size reduction, but frankly small classes are only as good as the teacher. A study by Dr. William Sanders of the University of Tennessee found that good teachers are those teachers in the top quartile that were ten to twenty times more effective than small class sizes. What he developed was a method of grading teachers called value added assessment. Unfortunately, Nevada has no way to grade our teachers because we prohibit that by law, but value added assessment doesn't grade teachers based on students meeting a threshold score or comparing them with other students. It just compares that student with their own score from the previous year and looks at how much they grow. It projects a trend line out in the future and when teachers meet that trend line or exceed that trend line, we know those teachers are good to great teachers.

CHAIR BUCKLEY:

I'm sorry. I'm going to have to wrap up pretty soon. Are you going to be here tomorrow? Can you wrap it up pretty soon?

PATRICK GIBBONS:

We'll try to be here tomorrow. I'm going to finish up right now. In 2009 the State Legislature approved a total spending for K-12 education that was 4.9 percent larger than the previous budget. As Andrew Clinger just mentioned, the overall cuts that you're going to see are about 2.4 percent, which means that education, despite these reductions, is still going to have more money than the previous biennium. Adjusting for inflation, and it looks like—and this is probably low-balling it here—education is going to have \$40 million more dollars this biennium with these cuts than it did in the previous biennium. Thank you.

CHAIR BUCKLEY:

Thank you for your testimony. Thank you, sir, you may proceed in Las Vegas.

DR. KENDALL TRUELSEN, PEDIATRIC CARDIAC ANESTHESIOLOGIST, LAS VEGAS:

I am a native Nevadan, grew up here, and came back and began my practice here. I have ten years of experience working in Las Vegas and basically 14 years of training to do what I do here. One of the things that came up that we were concerned with in the special session is the line item cut, basically, to anesthesiologists, to have us come in line with CMS reimbursement standards. It was a very big concern to me and my partners. There are basically six of us in the state of Nevada and we are the only ones that provide this type of service for pediatric congenital cardiac services and neonatal and pediatric anesthesiologist services, for both cardiac general surgery and neonatal surgery and other subspecialties, et cetera.

What our big concern is here is that under the language where the cut is set up for in this session, it demonstrates about a 46 percent cut for us from our current reimbursement rates. For us that will make it very difficult for us to maintain viability of our practice and continue these services. We take care of approximately 5,260 patients per year and about 700 pediatric cardiac cases per year. Of the pediatric cardiac cases, about 55 percent of these cases come under Medicaid, mainly because this is such a devastating medical issue for families that it doesn't matter if they're insured, uninsured, or on Medicaid. Many of these patients end up on Medicaid, and we take care of all comers. It doesn't matter what their insurance is. If they need our help, we're there to help them; the program helps them.

My concern here is that we do such a large volume of Medicaid, actually to the point where the six people in my group that provide this care, we were actually audited from the state of Nevada to make sure that all our billing practices were in line, because we do probably more Medicaid patients than almost anybody in the state in this type of service. Again, we are the only ones here in the state of Nevada that can provide this service, and I really want to express

that I want to continue to provide these services. It's a very much needed service here in Nevada. As this goes forth and comes into being, we're not going to be quite able to continue on in a viable manner, continue our practice and our business, and it will end up being a significant decrease to access of care for the children of Nevada.

I know the economy is down turning. I know that we have a problem with the state budget, but this is one area that I would ask that you give a lot of priority to. Most of the work we do is life and death work. We cannot fail to do the work. The work has to be done. The patients in Nevada have to be taken care of, and if we're not here to do it, the patients will have to be sent to California or Arizona or some other state to where most of this work is done at the university level. The practice that we have here is basically a university level practice. I, myself, came from Stanford; some of my partners came from UCLA, and a couple other partners came from Harvard. This is a big-time practice that we're able to provide this service here in Las Vegas. I would hate to see that disappear based on the fact that we just can't afford to keep going. Now, unfortunately, if we lose this service, it's not something that we can bring back immediately. My partners and I, all the people that are involved in this, have been working on building this program for...myself, I've been here for 10 years and it's really expanded. Back in 1991, there were basically no pediatric cardiac anesthesia surgical services available in this state. Now, we send out very little of the issues these children have. It's all done here in Las Vegas. It doesn't cost the state the money to pay California for services to do this.

The other point on California and the university-type of practices doing this service is that whereas California Medicaid is lower, I understand that, but all these practices that are doing congenital heart disease are supported by large funds at the universities. They've got basically billions of dollars to support their programs. I would ask that you take this into consideration not to cut our program to such an extent. This represents a 45 percent cut for us. If it's based on Medicare and CMS relative value systems, then basically with the Medicare cut coming of another 21 percent, it would represent a 57 percent decrease in the funding for our program. The unfortunate part of this is not only do we lose the funding from the state but, of course, we lose the 2-1 matching funds from the federal government, basically taking out over \$6 million out of the funds to help support this program. Again, I would just hate to see this disappear. It has taken so long to build it up to where it is a thriving, successful program that helps the patients and children of Nevada. Thank you.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Madam Chair. Doctor, I thank you for sharing your experience with us. I had a similar question that I asked of a couple gentlemen this morning trying to get my arms around what happens if you all closed. My mind goes back to when I read about the Mayo Clinic when they stopped seeing Medicare patients. The big question was, where do they go from there? I just have two questions. For the kind of work that you and your partner's practice, what percentage of your anesthesiologist practice would you say is dedicated to those that are on Medicaid here in the state?

DR. KENDALL TRUELSEN:

Currently, for the pediatric cardiac practice, I actually ran the numbers this week, and it equals about 50 to 55 percent of those patients.

ASSEMBLYMAN CHRISTENSEN:

Would you say your practice is the largest?

DR. KENDALL TRUELSEN:

We're the only pediatric cardiac practice in the state of Nevada.

ASSEMBLYMAN CHRISTENSEN:

I guess that answers the question. Specifically, what happens if you all made the same decision that the Mayo Clinic made, then what? If you decided that it didn't make business sense to continue to serve that sector of the public, then realistically what would happen? You mentioned that they would go to California or elsewhere. Would this flood UMC? Do they go somewhere else? For this body, where we obviously don't have your experience in this, what's the net effect?

DR. KENDALL TRUELSEN:

What would occur if we could no longer afford to do this type of work? We currently are always looking to recruit good people into this practice because, again, it takes so long to get somebody trained to do this type of work. If we can't afford to do it, it would be next to impossible to recreate the program, and once lost you're talking about a ten year building period. Now, if you talk about UMC, our practice that we have here, at one time, we worked out of both UMC and the other hospital. The problem was for safety sake and efficiency, it was better to consolidate this into one hospital. Having a hospital that had the resources to provide care for these kids, so I cannot anticipate that UMC or any other hospital could bring this type of service back for ten, maybe twenty, years. What would happen to the children? They would have to be shipped out of town, and that's what used to happen. So, there would be no more availability of that type of service here.

ASSEMBLYWOMAN GANSERT:

I just want to thank Dr. Truelsen for coming today and providing this information. I think you pretty much covered it, so I just wanted to thank you because we have been emailing. I appreciate your rushing over because I know you had to work all day.

Submitted Exhibits

	A	B	C	D	E	F	G
1	State of Nevada						
2	Estimated General Fund Shortfall						
3	Fiscal Year 2010 and 2011						
4	As of February 22 at 12:16 PM						
5							
6			FY 2010		FY 2011		Total
7	General Fund Revenue		\$(234,473,496)		\$(352,958,806)		\$(587,432,302)
8	Unrestricted General Fund Reversions		(7,100,000)		(10,500,000)		(17,600,000)
9	Distributive School Account Shortfall		(84,020,858)		(122,694,466)		(206,715,324)
10	Medicaid Caseload Shortfall		(28,371,212)		(32,507,446)		(60,878,658)
11	Move Line of Credit to FY 2011		(30,000,000)		15,000,000		(15,000,000)
12							
13	Total Shortfall		\$(383,965,566)		\$(503,660,718)		\$(887,626,284)
14							
15							
16	Potential Budget Reduction Solutions:						
17							
18	10% Reductions being considered by Governor		82,516,181		191,420,860		273,937,041
19	10% - Nevada System of Higher Education		16,701,712		50,105,007		66,806,719
20	10% - Office of Secretary of State		368,052		1,125,381		1,493,433
21	10% - Office of State Treasurer		40,964		122,126		163,090
22	10% - Office of State Controller		151,183		438,051		589,234
23	10% - Legislative Counsel Bureau		1,003,146		2,939,661		3,942,807
24	10% - Supreme Court		291,431		820,355		1,111,786
25	Public Employees Benefit Program - Premium Holiday		11,361,933		-		11,361,933
26	Public Employees Benefit Program - REGI Investments		6,900,000		7,860,000		14,760,000
27	DSA Share of REGI Premium Holiday		3,053,798		-		3,053,798
28	Transfer from Healthy Nevada Fund (262-1090)		21,300,000		8,828,165		30,128,165
29	Transfer from Public Health Trust Fund (263-1091)		5,922,687		4,839,733		10,762,420
30	Other Non-General Fund Sources		32,804,850		64,430,547		97,235,397
31	Transfer from Stabilization Account (Rainy Day Fund)		632,516		-		632,516
32	Current Balance in Budget Reserve Account (101-9081)		643,960		-		643,960
33	Additional FMAP Funds		-		88,488,706		88,488,706
34	Suspend Unclaimed Property Transfer to Millennium		3,800,000		3,800,000		7,600,000
35	Transfer from Millennium Scholarship Fund (261-1085)		-		5,000,000		5,000,000
36	Transfer Department of Corrections ARRA funds		72,178,069		(72,178,069)		-
37	Transfer NSHE ARRA funds		92,389,311		(92,389,311)		-
38	Funding in IFC Contingency Fund for electricity and heating costs		2,206,295		3,126,269		5,332,564
39	Transfer from Bond Interest and Redemption Account (395-1082)		15,000,000		14,220,625		29,220,625
40	Defer General Fund Portion of Line of Credit Payback		15,000,000		15,000,000		30,000,000
41	Nevada Check Up (101-3178) surplus due to lower than proj. caseload		1,611,578		4,561,940		6,173,519
42	Funding in IFC Contingency Fund for unemployment assessments		1,359,834		554,405		1,914,239
43	State Employees 4/10 Schedule with 10 hours per month furlough		-		6,168,000		6,168,000
44	1.75% Salary reduction to NSHE to maintain equity w/ State		-		9,480,000		9,480,000
45	1.75% Salary reduction to K-12 to maintain equity w/ State		-		35,703,000		35,703,000
46	Executive Budget Office Other Recommended Reductions		5,176,303		4,424,739		9,601,042
47	Executive Budget Office Recommended Travel and Training Reductions		586,604		772,430		1,359,034
48	Executive Budget Office Recommended Vacant Position Eliminations		1,358,735		4,619,910		5,978,645
49	Insurance and Registration Verification Program		-		30,000,000		30,000,000
50	Net Proceeds of Minerals		25,000,000		25,000,000		50,000,000
51	Department of Taxation Unclaimed Property		-		1,777,612		1,777,612
52	Elimination of Plus 5% Salary Add-On		-		2,750,000		2,750,000
53	Collect Outstanding Insurance Premium Tax		-		5,000,000		5,000,000
54	Reductions in State Purchasing Contracts		-		1,500,000		1,500,000
55	Voluntary Retirements		-		5,000,000		5,000,000
56	National Judicial College & College of Juvenile & Family Justice		-		289,845		289,845
57	Close Casa Grande Transitional Housing Facility		(458,640)		1,071,981		613,341
58	Supreme Court Reserve Sweeps		-		704,159		704,159
59	Additional Unclaimed Property Receipts		4,081,000		-		4,081,000
60	05 & 07 CIP Reversions		6,921,414		-		6,921,414
61	Medicare Part D Clawback based on ARRA FMAP		16,328,228		-		16,328,228
62	Spend Down General Fund Ending Balance		-		4,963,635		4,963,635
63							
64	Total Potential Budget Reductions		\$ 446,231,144		\$ 442,339,762		\$ 888,570,907
65							
66	Net Shortfall		\$ 62,265,578		\$ (61,320,956)		\$ 944,623

Andrew Clinger-Administration

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10% Reductions - Recommended and Governor Considering

Adjutant General

Agency 431 ADJUTANT GENERAL & NATL GUARD										
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Maximum GF savings	Federal Y1	Federal Y2	Maximum Other
		None.	0	0			\$204,493			\$0
1	After retrofitting facilities with energy saving features, the agency estimates \$102,246 in General Fund utility savings each fiscal year. To balance to end target, the agency estimates a General Fund savings of \$224,493 for the 2009 reduction.									
2	Complete elimination of Project Challenge program in FY11.	Eliminates the entire program for FY11, including 1 filled position.	1	1			\$143,333			\$146
5	Elimination of one Grounds Maintenance Worker. This position was previously eliminated in FY08 on for budget reductions but added back during 2009 legislative action and subsequently filled.	Eliminates 1 filled position and requires other personnel to address grounds as needed.	1	1			\$37,790			\$0
Adjutant General Totals			2	2			\$408,476			\$146

10% Reductions - Recommended and Governor Considering

Administration												
Agency 080 DEPARTMENT OF ADMINISTRATION												
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Minimum GF savings	Federal Y1	Federal Y2	Minimum Federal	Other Y1	Minimum Other
	Budget & Planning Division - Salary savings from 1/2 time Management Analyst 2 held vacant through June 30, 2010. Elimination of 1 position in the Planning Division in FY10 and unfilled 5 months.	No known negative impact.	0	0			\$66,879		\$0			\$0
	Judicial College & College of Juvenile and Family Services - This account receives an appropriation in each fiscal year. The reduction for FY11 is \$32,205.		0	0			\$32,205		\$0			\$0
1	Budget and Planning Division - Reduced assessment paid to Administrative Services, 25% reduction in FY10 and 30% reduction in FY11.		0	0			\$33,523		\$0			\$0
Agency 081 BUDGET AND PLANNING DIVISION												
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Minimum GF savings	Federal Y1	Federal Y2	Minimum Federal	Other Y1	Minimum Other
1	Merit Award Board - Reduces employee awards.	No significant impact.	0	0			\$572		\$0			\$0
	Internal Auditor - Reduced assessment paid to Administrative Services, 25% reduction in FY10 and 15% reduction in FY11.	No adverse impact.	0	0			\$6,212		\$0			\$0
2	Internal Audits - Eliminates 2 vacant Executive Branch Auditor 2 positions.	Eliminating 2 Executive Branch Auditor positions will reduce the number of performance audits conducted.	2	0			\$335,570		\$0			\$0
3	Internal Audits - Eliminates 1 filled Auditor 3 position.	Eliminating the Auditor 3 position will not cause a negative impact on the agency and they will still meet their statutory requirements.	1	1			\$36,739		\$0			\$0
4	Internal Audits - Eliminates 1 filled Auditor 3 position.	Eliminating the Auditor 3 position will not cause a negative impact on the agency and they will still meet their statutory requirements.	1	1			\$76,632		\$0			\$0
5	Internal Audits - Eliminates 1 filled Auditor 2 position.	Eliminating the Auditor 2 position will not cause a negative impact on the agency and they will still meet their statutory requirements.	1	1			\$63,333		\$0			\$0
6	Internal Audits - Eliminates 1 filled Auditor 2 position.	Eliminating the Auditor 2 position will not cause a negative impact on the agency and they will still meet their statutory requirements.	1	1			\$54,439		\$0			\$0

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10% Reductions - Recommended and Governor Considering

Administration														
Agency	Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Biennium GF Savings	Federal Y1	Federal Y2	Biennium Federal	Other Y1	Other Y2	Biennium Other
Agency 082	3	BUILDINGS AND GROUNDS DIVISION	Further reduce janitorial services at low, medium, and all high volume client service building 1 from 5 or 6-day cleaning to 3-day cleaning. Also include in reduction in the Administrative Services cost allocation	Standards of cleanliness in public and private buildings are maintained and B & G staff response time to maintenance requests would be moderately to severely reduced. Zero employee who occupy buildings would be impacted. 1 reduction would likely have to assist in clean-up in urgent situations and in certain buildings may involve janitorial services. No janitorial services recommended at this time unless these buildings go to a 4-day work week.	0	0		SQ			SQ			\$1,025,583
Agency 086	Priority	ADMINISTRATIVE SERVICES DIV	Administrative Services - reduces Administrative Services cost allocation to agencies by 25% in FY11 and 25% in FY12. Hold vacant 3 positions through the biennium.	No negative impact on operations.	0	0		SQ			SQ			SQ

10% Reductions - Recommended and Governor Considering

Administration										
Agency	087	INFORMATION TECHNOLOGY								
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bismium GF	Federal Y1	Federal Y2	Bismium Federal
1	Eliminate alpha alpha, along with alpha for Alpha Interprime staff effective March 2010 and reduce non-scale printing authority.	No adverse impact.	0	0			\$4,993			\$0
1	Reduced assessment paid to Administrative Services.									
2	Reduce DUT Programmer services from authorized 6 months to 4 months.	No adverse impact.	0	0			\$28,730			\$0
3	Proposed for the Division Chief in accordance with PWS 286.477.	Reduced availability of the Division Chief for project oversight and other duties.	0.2	0			\$17,542			\$0
4	Reduce DUT DBA hours and contract hours for R2 and Associates (16 payment contractor)	Reduced support for the enterprise e-payment initiatives, as well as some services supported for NIDS, NPAAS, CTS and the database support services should result in any serious adverse consequences.	0	0			\$21,183			\$0
5	Reduce hours budgeted for the NPA Programmer and Alpha Interprime	Reduced support for the knowledge transfer for the DUT support in FY2010 and may impact support for NIDS, NPAAS, CTS, Open Government, and the AUSA database.	0	0			\$8,464			\$0
Administration Totals				6.2	4		\$80,236			\$0
										\$3,026,983

10% Reductions - Recommended and Governor Considering

Attorney General											
Agency 030 ATTORNEY GENERAL'S OFFICE											
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Maximum GF savings	Federal Y1	Federal Y2	Other Y1	Other Y2
1	Reduce nuclear waste litigation expenditures. Current projections show a surplus of funds due to a delay in litigation court expenses in SFY10 and anticipated in SFY11.	No adverse impact.	0	0			\$1,431,857			\$0	
2	Hold 7.75 positions vacant as follows: 1 Deputy Attorney General, 1 Deputy Attorney General, 1 Deputy Attorney General, 2 legal researchers, and 1 Administrative Assistant through June, 2010.		0	0			\$591,545			\$0	
Attorney General Totals			0	0			\$2,173,382			\$0	

10% Reductions - Recommended and Governor Considering

Business and Industry											
Agency 740 BUSINESS AND INDUSTRY											
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bismillah GF savings	Federal Y1	Federal Y2	Bismillah Federal	Other Y1
2	Use vacancy savings created from the transfer of a Deputy Director to the Governor's Office.	Affects the departmental cost allocation and the BIA's 3023 and State Administration, the remaining accounts are fee-based.	0	0			\$43			\$0	
											Bismillah Other \$20,976
Agency 743 CONSUMER AFFAIRS DIV											
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bismillah GF savings	Federal Y1	Federal Y2	Bismillah Federal	Other Y1
1	Elimination of two Administrative Assistant positions and related costs.	Eliminates two of the three positions in the BIA's budget account. Workload statistics support the eliminations.	2	1			\$138,000			\$0	
											Bismillah Other \$0
Agency 748 REAL ESTATE DIVISION											
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bismillah GF savings	Federal Y1	Federal Y2	Bismillah Federal	Other Y1
2	Savings from reduction to department cost allocation through vacancy savings in the Administration account.	Reserves in the Real Estate budget account are used to fund the remaining positions in the BIA's budget account. Comments to the GF's other savings in fee-funded accounts.	0	0			\$704			\$0	
											Bismillah Other \$0
Agency 749 ATHLETIC COMMISSION											
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bismillah GF savings	Federal Y1	Federal Y2	Bismillah Federal	Other Y1
7	Reduction in the Drug Testing Program.	Reduces the agency's ability to further drug test to ensure athletes are drug-free. The remaining accounts are fee-based.	0	0			\$19,000			\$0	
											Bismillah Other \$0
Agency 752 LABOR COMMISSION											
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bismillah GF savings	Federal Y1	Federal Y2	Bismillah Federal	Other Y1
4	Administrative Assistant 2, vacant from July 1, 2009, keeping the position vacant throughout the year and reducing to staff travel.	Redistributions of "Open Jobs Initiative" workload. Separate BIA LCQ for the position vacant throughout the year and reducing to staff travel. This results in a diversion of resources from the commission of services enforcing the state's labor laws.	0	0			\$83,891			\$0	
											Bismillah Other \$0
Business and Industry Totals			2	1			\$342,838			\$0	
											Bismillah Other \$20,976

10% Reductions - Recommended and Governor Considering

Conservation & Natural Resources												
Agency	700	CONSERVATION/NATURAL RESOURCES										
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bismillah GF savings	Federal Y1	Federal Y2	Bismillah Federal	Other Y1	Other Y2
10	DOH: Administration proposes to bid a Management Information System for nine months in FY 2017 and one month in FY 2018.	Holding this position open will impact the ability of the office and provides one last employment opportunity in this position.	0	0			\$102,710			\$0		\$0
11	The Tahoe Regional Planning Agency (TRPA) proposes to implement an unpaid furlough days for FY 2011.	Reference impact statement for priority #11.	0	0			\$100,900			\$0		\$0
11	The Tahoe Regional Planning Agency (TRPA) proposes to submit a request for budget for the Tahoe Regional Planning Agency (TRPA).	Reference impact statement for priority #11. The Tahoe Regional Planning Agency (TRPA) is continuing to face lower than expected funding from filing fees and other sources. The TRPA's General Fund is projected to impact \$844,000 in both the current and the next year's budget. The TRPA is projected to have a 10 percent OIA, caused each year's year's layoffs and operating costs. The TRPA will need to impact the effectiveness of TRPA to meet its environmental mission.	0	0			\$1,554			\$0		\$0
11	Estimates the non-bureaucratic training budget for FY 2012 for the Tahoe Regional Planning Agency (TRPA).	Reference impact statement for priority #11.	0	0			\$11,200			\$0		\$0
11	The Tahoe Regional Planning Agency (TRPA) proposes to submit a request for budget for the Tahoe Regional Planning Agency (TRPA) for two months in FY 2011 from the Tahoe Regional Planning Agency (TRPA).	Reference impact statement for priority #11.	0	0			\$8,011			\$0		\$0
11	The Tahoe Regional Planning Agency (TRPA) proposes to hold a Fish and Wildlife Program Manager position vacant.	Reference impact statement for priority #11.	0	0			\$40,243			\$0		\$0

10% Reductions - Recommended and Governor Considering

Conservation & Natural Resources										
Agency 701. CONSERVATION DISTRICTS										
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bureau GF savings	Federal Y1	Federal Y2	Bureau Federal
4	Underfill an Administrative Assistant position and reduce registration/membership fees.	The incumbent in this position, the Administrative Assistant, is the only person in the division who knows the registration and short-term savings are available in FY 2012.	0	0			\$1,106			\$0
19	Reduce out-of-state travel.	Eliminates one of the two remaining out-of-state travel expenses for the two professional staff positions. Participation in national conferences allows staff to work with partners in the state and gain grant and other state to locally generated funding opportunities for conservation programs in Nevada.	0	0			\$1,590			\$0
20	Reduce registration/membership fees.	This action would result in the Nevada Conservation Districts being able to send staff to the National Association of Conservation Agencies (NACA) and attendance at the NACA conference. Participation in this conference provides the opportunity for Nevada Conservation Districts to meet with federal partners and conservation agencies in other states to bring new funding opportunities to Nevada's Conservation Districts.	0	0			\$1,450			\$0
21	Reduce in-state travel.	Eliminates one of the two remaining out-of-state travel expenses for one of the quarterly Conservation Commission meetings (a teleconference meeting will be held instead of a face-to-face meeting).	0	0			\$2,100			\$0
35	Reduce grants to twenty-eight Conservation Districts.	The twenty-eight districts would be funding for each of the twenty-eight Nevada conservation districts by \$200. This is in addition to the \$500 that is currently provided to each district already in place. Prior to this, the twenty-eight districts received \$5,000 per year and, historically, Nevada Conservation Districts have been able to add to the state's conservation fund. The \$200 to each \$1.0 state grant funds for needed conservation projects throughout the state that also typically provide job opportunities.	0	0			\$5,600			\$0

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10% Reductions - Recommended and Governor Considering

Conservation & Natural Resources											
Agency 704 PARKS DIVISION											
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Biennium GF savings	Federal Y1	Federal Y2	Other Y1	Other Y2
3	Cancel the bi-annual State Park Training Academy for FY 2010.	Continuation of State Park Training Academy will substantially assist the agency's to training its staff, affect staff morale and communication between the various parks and	0	0			\$6,000		\$0		\$0
24	Freeze seasonal salary levels by reducing the number of seasonal hires.	Freezing seasonal salaries will directly impact services to park visitors by decreasing the number of park employees during the tourist season.	0	0			\$111,571		\$0		\$0
31	Hold the Conservation Staff Specialist vacant for six months in FY 2010 and all of FY 2011.	This proposal will significantly impact the agency's ability to effectively manage critical natural resources on approximately 240,000 acres of land. The loss of this critical staff member will impact the critical nature of the challenges that are facing park resources and the importance of this responsibility. The loss of this position was sacrificed to create this position.	0	0			\$140,839		\$0		\$0
33	Hold a commissioned park ranger position vacant at Valley of Fire for six months in FY 2010 and all of FY 2011.	Holding this position vacant will impact the division's ability to provide adequate training to its employees and will impact the division's ability of not providing required CHSA, law enforcement and first line supervisor training, and increase chance of loss of life or injury to being brought against State Parks.	0	0			\$37,570		\$0		\$0
34	Hold a non-commissioned park ranger position vacant at Spring Mountain Ranch for five months in FY 2010 and all of FY 2011.	This proposal will impact the division's ability to provide adequate training to its employees and will impact the division's ability of not providing required CHSA, law enforcement and first line supervisor training, and increase chance of successful litigation being brought against State Parks.	0	0			\$81,105		\$0		\$0

10% Reductions - Recommended and Governor Considering

Conservation & Natural Resources

Agency 704 PARKS DIVISION

Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Breakout of savings	Federal Y1	Federal Y2	Minimum Federal	Other Y1	Other Y2	Minimum Other
40	Reclassify the Park Supervisor position at Echo Canyon to a lower grade position in FY 2010 at 6%; hold vacant for 12 months; if not filled, reclassify at 8%, and hold vacant for FY 2010 and FY 2011 at 10%.	Downgrading and holding vacant the Echo Canyon Park Supervisor position for 12 months. If not filled, reclassify at 8%, and hold vacant for FY 2010 and FY 2011 at 10%.	0	0			\$130,034			\$0			\$0
41	Hold a Park Ranger position at Lakotaan vacant for FY 2011.		0	0									
44	Reclassify Park Ranger position at Fort Churchill vacant for two months in FY 2010 at 8%; seven months in FY 2010 at 8%; and all of FY 2010 and four months in FY 2011 at 10%.	Writing to have a full range position at Ft. Churchill Station in FY 2010 would delay the position responsible for overseeing the operation, maintenance and security of the historic site. The recently renovated Historic Burnside Station. Without the position at the station cannot be opened to the public.	0	0			\$63,327			\$0			\$0
							\$64,604			\$0			\$0

10% Reductions - Recommended and Governor Considering

Conservation & Natural Resources

Agency 705 WATER RESOURCES

Priority	Description	Impact	Positions elim.	Lengths	GF Y1	GF Y2	Bienium GF savings	Federal Y1	Federal Y2	Other Y1	Other Y2	Bienium Other
1	South Fork Reservoir Map Case savings as a result of the map being revised to do the work that was budgeted with General Fund.	No impact.	0	0			\$17,240		\$0			\$0
7	Discontinue the United States Geological Survey (USGS) Agreement in FY 2011.	This would result in a loss of improvements to the division's water rights and associated data bases and associated applications and reports which assist the public and help staff in processing water rights applications.	0	0			\$21,000		\$0			\$0
14	Change the funding source for an Engineering Technician position from General Fund to other funding that is only associated with Truckee River file work.	This funding switch will result in delays in processing reports of completed applications and processing of water rights applications and backlog reduction efforts. These delays could also result in a reduction to fees collected.	0	0			\$50,130		\$0			\$0
15	Change the funding source for a Staff Associate Engineer position that is currently funded with General Fund (25% of this position will be funded with water basin assessment funds).	This funding switch will result in delays in processing of water rights applications and the processing of water rights applications and backlog reduction efforts. These delays could also result in a reduction to fees collected.	0	0			\$15,890		\$0			\$0
16	Change the funding source for an Engineering Technician position from General Fund to water basin assessment.	This funding switch will result in delays in processing of water rights applications and the processing of water rights applications and backlog reduction efforts. These delays could also result in a reduction to fees collected.	0	0			\$50,130		\$0			\$0
23	Reassign Staff Engineer in Las Vegas for five months in FY 2010 and all of FY 2011.	The impact of this proposal will create delays in responding to general public's questions, as well as slow the processing of water rights applications and reports. These delays could also result in a reduction to fees collected, lessen the capacity of the southern Nevada Water Conservation District to provide professionalizing training opportunity in Clark County.	0	0			\$96,470		\$0			\$0

10% Reductions - Recommended and Governor Considering Conservation & Natural Resources

Agency 705 WATER RESOURCES

Priority	Description	Impact	Positions elim.	Layoffs	GP Y1	GP Y2	Maximum GP savings	Federal Y1	Federal Y2	Blernium Federal	Other Y1	Other Y2	Blernium Other
32	Eliminate Deputy State Engineer in Las Vegas two months in FY 2010 and all of FY 2011.	There will be no manager in the Las Vegas office to oversee and assign duties to staff. The staff will be directed by the State Engineer and the Deputy State Engineer from Carson City will be required to make frequent trips to Las Vegas.	0	0			\$86,642			\$0			\$0
36	Eliminate Engineering Tech in Carson City for six months in FY 2010 and twelve months in FY 2011.	Reducing this position open will result in delays in the processing of public questions, the processing of water rights and backlog reduction efforts. This could also result in a reduction in the number of projects directly result in less revenue to the General Fund.	0	0			\$93,435			\$0			\$0
43	Eliminate Staff Engineer in Carson City for five months in FY 2010 and twelve months in FY 2011.	Reducing this position open will result in delays in the processing of public questions, the processing of water rights and backlog reduction efforts. This could also result in a reduction in the number of projects directly result in less revenue to the General Fund.	0	0			\$112,955			\$0			\$0
45	Eliminate Engineering Technician in Elko for six months in FY 2010 and twelve months in FY 2011.	Delays in mine inspections, drilling coverage, surface water and ground water level measurements, dam inspections and maintenance of precipitation gauges, crop inventories and responding to the public. This could result in less revenue to the General Fund and less need to have this position vacant to realize budget savings.	0	0			\$108,435			\$0			\$0

10% Reductions - Recommended and Governor Considering

Conservation & Natural Resources										
Agency 706 FORESTRY DIVISION										
Priority	Description	Impact	Positions elim.	Layoffs	GP Y1	GP Y2	Minimum GP savings	Federal Y1	Federal Y2	Minimum Federal
12	Budget account 4138 Estimate deferred facilities maintenance.	Alternate storage space created savings for propane storage at the Pinalooth Conservation Camp.	0	0			\$1,550			\$0
26	Budget account 4126 Out staff air/orn funding.	Propane storage space created savings for propane storage at the Pinalooth Conservation Camp. heavy use and an extremely necessary for identification for inmate management, fire and emergency incidents.	0	0			\$4,164			\$0
28	Budget account 4126 Out volunteer fire department physical housing.	Propane storage space created savings for propane storage at the Pinalooth Conservation Camp. heavy use and an extremely necessary for identification for inmate management, fire and emergency incidents.	0	0			\$48,000			\$0
30	Budget account 4126 Out net computer purchase funding.	Propane storage space created savings for propane storage at the Pinalooth Conservation Camp. heavy use and an extremely necessary for identification for inmate management, fire and emergency incidents.	0	0			\$10,817			\$0
37	Budget account 4126 Delay hiring Sierra Front Coordinator position.	Propane storage space created savings for propane storage at the Pinalooth Conservation Camp. heavy use and an extremely necessary for identification for inmate management, fire and emergency incidents.	0	0			\$43,625			\$0
46	Budget account 4135 Out deferred facility/safety maintenance.	Propane storage space created savings for propane storage at the Pinalooth Conservation Camp. heavy use and an extremely necessary for identification for inmate management, fire and emergency incidents.	0	0			\$57,747			\$0

10% Reductions - Recommended and Governor Considering Conservation & Natural Resources

Agency	707	STATE LANDS	Priority	Description	Impact	Positions elim.	Layoffs	GP Y1	GP Y2	Budgetary savings	Federal Y1	Federal Y2	Budgetary Federal	Other Y1	Other Y2	Budgetary Other
2				The Nevada State Regional Planning Agency proposes to reduce amount budgeted for public notices.		0	0	0		\$102			\$0			\$0
5				Budget Account 4379 - (E640) - Short-term Vacancy Savings associated with the new Supervisory Land Agent (available only in FY 10).	Holding vacant the Supervisory Land Agent (E640) is not possible in long term. The position is not needed until the new Supervisory Land Agent is hired. The State Lands cannot meet its statutory requirements without this position. The Supervisory Land Agent is the immediate supervisor of the field office and is responsible for managing all work flow.	0	0	0		\$5,110			\$0			\$0
6				Computer hardware reductions.	Deferring computer hardware purchases will compromise the agency's computer network and the agency's computer network will risk if the existing hardware fails and could reduce staff productivity.	0	0	0		\$2,000			\$0			\$0
17				Reduction to computer software.	Deferring computer hardware purchases will compromise the agency's computer network and the agency's computer network will risk if the existing hardware fails and could reduce staff productivity.	0	0	0		\$8,782			\$0			\$0
18				Reduce out-of-state travel by eliminating attendance at one of the two Western State Lands Commissioners meetings held in FY 2011.	This will significantly reduce the agency's ability to learn from and meet with other state land management topics such as land and asset management.	0	0	0		\$2,850			\$0			\$0
22				Reduce operating	This action would make it increasingly difficult to meet the agency's needs.	0	0	0		\$1,000			\$0			\$0
27				Eliminate Administrative Assistant position vacant for nine months in FY 2010 and eleven months in FY 2011.	This action would reduce administrative support to the State Land Office by 50%, and having it unfilled may result in delays in receiving payments, as well as the potential to compromise with internal controls.	0	0	0		\$75,899			\$0			\$0
29				Reduce in state travel.	This action will continue to compromise the agency's ability to respond state owned parcels prior to the expiration of the 180-day deadline as compromised the agency's ability to carry out inspections on a regular basis to ensure that violations or encroachments are not occurring on state owned land.	0	0	0		\$8,150			\$0			\$0

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10% Reductions - Recommended and Governor Considering

Conservation & Natural Resources

Agency 707 STATE LANDS

Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bienium GF savings	Federal Y1	Federal Y2	Bienium Federal	Other Y1	Other Y2	Bienium Other
38	Cost-allocate 10% of the office manager's time (Management Analyst I position) to other non-general fund revenue sources: 5% to 1900 bonds and 5% to 1900 bonds and 5% to 1900 bonds.		0	0			\$3,803			\$0			\$0
39	Cost-allocate 40% of the District Administrator's time to other non-general fund revenue sources: 50% to 1900 bonds and 10% to Conservation bonds/Question 1 program.		0	0			\$30,524			\$0			\$0

Agency 708 NATURAL HERITAGE

Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bienium GF savings	Federal Y1	Federal Y2	Bienium Federal	Other Y1	Other Y2	Bienium Other
8	Reduce in-state travel for the Administrator.	This action will limit the Administrator's travel statewide with other state and federal partners on biological data and conservation planning for rare and scenic services.	0	0			\$1,000			\$0			\$0
9	Reduce out-of-state travel for the Administrator.	This action will limit the Administrator's ability to remain current on critical resource issues and participate in regional and national programs and coordination meetings.	0	0			\$3,213			\$0			\$0
13	Reduce operating.	This will decrease the administrator's capacity to effectively oversee the program's statewide responsibilities. The Administrator will need to cover their proposed cuts and the administrator will need to spend a portion of time on non-administrative tasks required by the grant.	0	0			\$7,698			\$0			\$0

10% Reductions - Recommended and Governor Considering

Conservation & Natural Resources

Agency 709 ENVIRONMENTAL PROTECTION

Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Biennium GF savings	Federal Y1	Federal Y2	Biennium Federal	Other Y1	Other Y2	Biennium Other
25	Reduce contract authority in FY 2011 for Water Quality Planning.	Units ability to fund water quality and water quality standards project which could ultimately delay implementation of appropriate water quality standards thereby impacting resource protection and economic development.	0	0			\$50,000			\$0			\$0
42	The Bureau of Safe Drinking Water proposes a delay in hiring an Environmental Scientist for four months in FY 2010 and six months in FY 2011.	There will be fewer inspections of public water systems. This will result in higher risk of contamination although the hiring delay will also result in longer timeframes to review design plans.	0	0			\$58,678			\$0			\$0
Conservation & Natural Resources Totals			0	0			\$2,130,034			(\$74,322)			\$0

10% Reductions - Recommended and Governor Considering

Corrections										
Agency 440 DEPARTMENT OF CORRECTIONS										
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Biosonium GF savings	Federal Y1	Federal Y2	Biosonium Federal
Other Y1	Other Y2	Biosonium Other								
1	Move AHS to Building 8H, which will allow for termination of the lease at the Curry Street location.	No impact.	0	0			\$138,379		\$0	\$0
2	Charge rent to the State/Corrections through the inmate welfare fund.	Charges may not be sustainable.	0	0			\$491,706		\$0	\$0
3	Charge the Inmate Welfare Fund for rest of the emergency services.	Charges may not be sustainable.	0	0			\$201,596		\$0	\$0
4	Elimination of office salaries for Violation Units with the Inmate Welfare Fund.	This cost is not sustainable beyond FY 2011.	0	0			\$1,691,510		\$0	\$0
5	Charge inmates a one-time energy surcharge on the purchase of electronic devices effective July 1, 2010.	This will increase the cost of electronics paid by inmates and will require tracking of the amounts paid for the inmate energy surcharge.	0	0			\$140,098		\$0	\$0
7	Reduction in Uniform Allowance in FY 2010 and FY 2011 only. Redirect the uniform allowance to FY 2010 by 25% and FY 2011 by 50%.	Those receiving a uniform allowance will have to purchase uniforms to replace necessary uniforms.	0	0			\$562,280		\$0	\$0
10	Eliminate one shift to reduce shift differential pay.	Pay, increase and extension of shift.	0	0			\$1,441,103		\$0	\$0
11	Medical convert to Federal 3428 program with Ramen and University Medical Center. This proposal prioritizes the medical records and medical equipment and two facilities.	Inmate medical records become property of the facility where the inmate is housed. Medical equipment agreements with Inquest and UMC. Note: this proposal is an either/or with priority #16.	7	0			\$1,000,000		\$0	\$0
12	Cancel of contract for substance abuse services, substance abuse treatment, financial planning, etc., effective April 2010.	Services available for majority of inmates are provided by the Department's own employees. Besides substance abuse services and the assistance for inmates in finding employment, many inmates receive services of inmates.	0	0			\$782,868		\$0	\$0
13	Eliminate 5% fiscal pay differential paid to Correctional Officers at the State Prison effective April 2010.	Reduction in cost of Correctional Officers. Note: Combined with proposed 3% cut to non full-timed employees this would result in a 8% cut in pay for all Correctional Officers.	0	0			\$371,559		\$0	\$0
14	Eliminate 5% fiscal pay differential paid to Correctional Officers at Lowlock Correctional Center effective April 2010.	Negative impacts the pay of Correctional Officers. Note: Combined with proposed 3% cut to non full-timed employees this would result in a 8% cut in pay for Lowlock Correctional Officers.	0	0			\$773,339		\$0	\$0

10% Reductions - Recommended and Governor Considering Corrections

Agency 440 DEPARTMENT OF CORRECTIONS										
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bureau GF savings	Federal Y1	Federal Y2	Bureau Federal
15	Eliminate Remote Area Differential of up to \$7.50 for each day reported to work. Note: Staff who receive this differential are not required to report to work each day as and can be compensated cost more than \$3.50 for each day they report to work. This proposal would be implemented at Southern District Correctional Center, Three Lakes Valley Correctional Center, Southern District Correctional Center and High Desert State Prison.	Employee pay.	0	0			\$1,611,982			\$0
16	Reduce medical payments to the Medicine rate to generate savings of approximately 10% of medical. Assumes an October 2010 start date with an estimated savings of \$4 million through June 30, 2011.	Availability of medical providers would be reduced. Note: this proposal is an either/or with priority #11.	0	0			\$0			\$0
17	Convert 17 State Prison from 12 hour shifts to 8 hour shifts. Holds 5 positions vacant for the remainder of the biennium.	Employee morale.	0	0			\$375,796			\$0
18	Convert LiveLock Correctional Center from 12 hour shifts to 8 hour shifts. Holds 5 Correctional officer positions vacant for the remainder of the biennium.	Employee morale.	0	0			\$412,220			\$0
20	Close 8 Nevada State Prison. This proposal frames 51 positions.	The community will be impacted by the loss of jobs. Note: There are currently 187 fixed positions.	152	116			\$13,873,531			\$0
		Corrections Totals	159	116			\$23,696,318			\$0
										\$207,613

10% Reductions - Recommended and Governor Considering

Cultural Affairs												
Agency 330 DEPARTMENT OF CULTURAL AFFAIRS												
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Maximum GF savings	Federal Y1	Federal Y2	Maximum Federal	Other Y1	Maximum Other
1	Delay the hiring of an IT Professional II until July 1, 2011.	The Department of Cultural Affairs (DCA) will continue to be short staffed in the area of IT maintenance support and implementing emulation initiatives such as improving the Department's website and managing an archaeological database. Having a ready database of archaeological sites is critical to the Department's construction projects. Non-emergency approval of construction projects will result in lost jobs and economic stimulus throughout the state. There are no other positions in the Department of Cultural Affairs that can be reduced in capacity.	1	0			\$165,009			\$0		\$0
9	Eliminate out of state travel and reduce training.	Staff will not be able to participate in out of state training and out-of-state travel funded by a non-state source.	0	0			\$22,452			\$0		\$0

10% Reductions - Recommended and Governor Considering

Cultural Affairs			MUSEUMS AND HISTORY											
Agency	331	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bureau GF savings	Federal Y1	Federal Y2	Bureau Federal	Other Y1	Other Y2	Bureau Other
14		This reduction reflects vacancy savings realized on a Curator position by hiring at a step 01 when position was budgeted at a step 10.	No negative impact	0	0	0	0	\$32,275			\$0			\$0
15		This reduction reflects increasing/deferring hiring of an Assistant Curator position from May 2010 through September 2010.	Operating without an Assistant Curator position for an extended period such as this does have negative impacts. Workloads on existing staff were increased in response to the increased workload. Services were centralized at the division office; this was in response to reductions in workforce at agency headquarters. Workloads increased on remaining staff. During the period this position is proposed to be deferred work will increase on the 2011-2013 biennial budget. Also, separation of duties will be collapsed, increasing the possibility of adverse audit findings in the future.	0	0	0	0	\$51,180			\$0			\$0

10% Reductions - Recommended and Governor Considering

Cultural Affairs										
Agency	332	STATE LIBRARY AND ARCHIVES								
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Biennium GF savings	Federal Y1	Federal Y2	Biennium Federal
6	Elimination of the Library Coordinator position and closure of the Nevada Library Office, which will also include the transfer of an Administrative Assistant II from the Nevada State Library Program to the Nevada State Library to continue support for critical library initiatives.	State agencies will have to find and possibly pay for the use of meeting room space.	1	0			\$238,472			\$0
		Elimination of the Library Coordinator position and closure of the Nevada Library Office, which will also include the transfer of an Administrative Assistant II from the Nevada State Library Program to the Nevada State Library to continue support for critical library initiatives. Reading programs (El Dia de los Niños/El Día de los Libros; Starwinkle Reading Week) in local libraries. Additionally, this action requires the Assistant Administrator for Library and Development Services to be responsible for the coordination of the Library program to the detriment of her other program areas.								

10% Reductions - Recommended and Governor Considering

Cultural Affairs

Agency	332	STATE LIBRARY AND ARCHIVES	Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Blended GF savings	Federal Y1	Federal Y2	Blended Federal	Other Y1	Other Y2	Blended Other
12	Freeing of the State Archivist Manager for the remainder of FY 2010 and FY 2011 and eliminating an Administrative Assistant in the State Records Office effective March 1, 2011.	The State Archivist Manager position is difficult to recruit and a national search has been completed. The Administrative Assistant position has been accepted but the offer was withdrawn due to budget reduction needs.	2	1						\$156,397			\$0			\$0
The elimination of the Administrative Assistant will require the Records Center to drastically reduce the following services until the position is no longer needed. 1.00 new records will be accessioned (boxes accepted from state agencies for storage); 2) current records maintained in the Records Center will be accessed by state agencies by appointment only; 3) back-up tape storage services currently being provided to state agencies including DoIT, LCO, and the Supreme Court will no longer be available; and 4) records currently stored in the old Oregon Building (551 Mutual Street) will have to be relocated within the NSGA Records Center (100 N. Stewart St). The Records Center will not have staff to access these records office. It will also be necessary to eliminate the rent paid to Building and Grounds which is reflected in the NSGA proposed budget reductions.																

10% Reductions - Recommended and Governor Considering

Cultural Affairs

Agency 332 STATE LIBRARY AND ARCHIVES

Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bimonthly GF savings	Federal Y1	Federal Y2	Bimonthly Federal	Other Y1	Other Y2	Bimonthly Other
26	Bookmobile funding - reduction of gas through the use of a van and the reduction of Federal Library Services and Technology Grant funds.	The consequences are the potential reduction of hours and the restriction of Bookmobile runs and hours in Humboldt, Lincoln, Elko, and Carson City counties and the Southeast Corner of Pershing counties. This proposal also reflects the reduction of federal library services and technology funding. ASLA is unable to meet the Maintenance of Effort requirements of the grant and our grant will be reduced. The reduction of the grant is not accepted. The Nevada State Library and Archives receives Library Services and Technology Act (LSTA) funding and the grant is determined by a three year average. Nevada must make match to receive the grant. The grant is currently reduced. With previous cuts and the proposed reductions, Nevada will make match for the reporting period. The grant is not accepted. Maintenance of Effort. To meet Maintenance of Effort Nevada is able to use library related funding. Therefore any significant reductions in the grant will affect the ability of the Nevada State Library Archives Program will affect the ability to meet Maintenance of Effort.	0	0			\$21,276			\$270,819			\$0

10% Reductions - Recommended and Governor Considering

Cultural Affairs											
Agency 333 NEVADA ARTS COUNCIL											
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Budgetary GF savings	Federal Y1	Federal Y2	Other Y1	Other Y2
3	Reduction to challenge grant monies.	There's no negative impact to challenge grant monies budgeted forward from FY 2009 since monies were reduced by grants.	0	0			\$12,861			\$0	\$0

10% Reductions - Recommended and Governor Considering

Cultural Affairs

Agency 333 NEVADA ARTS COUNCIL

Priority	Description	Impact	Positions elim.	Layoffs	GP Y1	GP Y2	Blended GP savings	Federal Y1	Federal Y2	Blended Federal	Other Y1	Other Y2	Blended Other
4	Suppression of Design Arts Grants; eliminate an Administrative Assistant; fund approximately 25% of the Cultural Resource Specialists using federal funds; reductions to in-state travel and operating in FY 2011.	The consequence of suspending the Design Arts Grants is that applicants to the grant category will be forced to seek other funding sources. The Project Grant, a grant category that has already been depleted due to previous budget cuts. Staff will not be able to participate in training and information conferences out-of-state unless funded by a non-state source. The suspension of operating expenses will reduce marketing supply inventory and agency marketing effort. The consequences of eliminating the Administrative Assistant is great as that is the agency's sole administrative support staff. Does not have the ability to manage receptionist, office management, travel arrangements and other job elements will be assumed by the Administrative Assistant and other professional staff members. The agency's professional staff, which deal directly with a very broad client base, will be prevented to conduct research, grant writing, oversight and grant compliance. Reductions include partially funding the Administrative Assistant and federal monies are not realized, the positions will be reduced to a .8 FTE. In this scenario, the agency will have to rely on professional staff to deal directly with a very broad client base to ensure: (1) quality technical assistance is provided to a statewide constituency during this particularly difficult time; (2) the agency's professional staff can provide technical assistance; and (3) experienced	1	1			\$205,392			(\$45,342)			\$0

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10% Reductions - Recommended and Governor Considering

Cultural Affairs									
Agency	Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bismarck GF savings	Bismarck Other
333		NEVADA ARTS COUNCIL	program oversight, grants management, and compliance with federal and state regulations are maintained.						
334		HISTORIC PRESERVATION							
13		Restorative funding sources for two Historic Preservation Specialties so they are primarily funded with federal funds.	Processed cuts require a greater share of federal support for two essential positions in the historic preservation specialty. The two new positions will now be supplied from the salaries and operating expenses of the Comstock Historic Landmark Commission. An increase in the federal historic preservation fund grant. Use of funds for preservation means that other projects will not be supported to that extent. In addition, a decline in federal funds would jeopardize critical functions with a high degree of federal support supported by the state and federal governments. Overrun of federal funds in this way places the state at risk of losing federal funds longer fulfill special conditions and requirements of the federal grant, placing heads of program in jeopardy. Funding sources cannot replace the annual grant or the new federal projects, a function that would revert to Washington, D.C.	0	0			\$34,316	\$0
Cultural Affairs Totals				7.6	2			\$1,437,061	\$11,763

10% Reductions - Recommended and Governor Considering

Education										
Agency 300 DEPARTMENT OF EDUCATION										
Priority	Description	Impact	Positions elim.	Layoffs	GP Y1	GP Y2	Maximum GP savings	Federal Y1	Federal Y2	Maximum Federal Other Y1 Other Y2 Maximum Other
1	Utilize funding for school support team leaders for schools that failed to make adequate yearly progress (AYP) for three years, who failed to make AYP for the first time, and the first time.	None anticipated.	0	0			\$1,233,398			\$0
1	Revert projected excess funds for the incomes for Licensed Educational Personnel.	These funds are anticipated to be available after paying costs for FY 2010 and FY 2011. This reduction is used to offset a portion of the P 12 budget reduction.	0	0			\$7,000,000			\$0
4	Reduce Basic Support to meet budget reduction target. Once final reduction target is determined, the individual districts will be asked to submit specific plans to meet the target.	We will need to be mindful of maintenance of effort requirements for both ATEA funding and other existing federal grant programs. For districts that are not submitting proposals from this agency for 6-8 10% reductions. If these proposals were accepted they would result in a dollar for dollar reduction to this budget cut.	0	0			\$213,126,822			\$0
Education Totals					0	0	\$135,923,200			\$0

10% Reductions - Recommended and Governor Considering

Employment, Training & Rehabilitation (DETR)													
Agency 901 REHABILITATION DIVISION													
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Blindness GF savings	Federal Y1	Federal Y2	Blindness Federal	Other Y1	Other Y2	Blindness Other
1.	DETR proposes an increase to client services for Vocational Rehabilitation and Services to the Blind, which will be achieved through the elimination of the Vocational Rehabilitation and Services to the Blind Program in the Nevada Equal Rights Commission (NERC) Program in order to meet the 10% target reserve.	Increasing client services provides access to more federal funding and improves services to a growing number of blind and visually impaired disabilities desiring to return to work, which would improve well. Lists and factor employment outcomes for the Vocational Rehabilitation Program to the Vocational Rehabilitation Division are related to reductions to the Administrative Services Division, Nevada Equal Rights Commission (NERC) Program, and the Vocational Rehabilitation Division (Memo 998) and should be considered together.	0	0			(\$31,257)			(\$1,592,065)			\$0

10% Reductions - Recommended and Governor Considering

Employment, Training & Rehabilitation (DETR)

Agency	908	DETR ADMINISTRATIVE SERVICES	Impact	Positions elim.	Layoffs	OP Y1	OP Y2	Blended GR savings	Federal Y1	Federal Y2	Blended Federal	Other Y1	Other Y2	Blended Other
1		DETR proposes elimination of the Nevada Equal Rights Commission and termination of twenty FTE in order to meet the 10% target reserve.	The Nevada Equal Rights Commission is currently dealing with severe budget cuts. The Commission's level of federal and state funding will be unable to continue in its current capacity at any level of budget cuts. Federal funding is expected to be reduced by the number of closures and layoffs, and the rate paid by FLOC for each. Current federal funding levels are expected to be reduced by support NSDC in the absence of General Funds since federal funding accounts for only 25% of total budget. The Commission is uncertain the state would need to determine whether to displace other agencies to absorb complaints of employment discrimination and potential discrimination in places of public accommodation or amend legislation to eliminate these services. Note: The proposed savings are related to reduction in the Vocational Rehabilitation Division (Agency 901) and should be considered together.	20	0			\$1,071,547			\$554,246			\$500
Employment, Training & Rehabilitation (DETR) Totals														
				20	0			\$660,300			(\$998,429)			\$500

10% Reductions - Recommended and Governor Considering

Gaming Commission and State Gaming Control Board												
Agency 611 GAMING CONTROL BOARD												
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bureau GF savings	Federal Y1	Federal Y2	Minimum Federal	Other Y1	Minimum Other
1	Projected payroll reversion due to vacancy, merit increase savings, and underfilling of positions.	No negative impact.	0	0	0	0	\$258,731	50	50	50	50	50
1	Investigative fee reversion for 1.4% pay increase	This proposal includes no reductions to expenditures. It is a revenue reversion that would be credited to the account to which the fee was previously applied. An Investigative Fund (Gaming's self-funded program) revenue reduction was applied to the Gaming Control Board account in 2010. Temporary 8% Salary Reduction of the legislatively approved budget. Both of those accounts revert to the General Fund. The amount of the revenue reversion is a projected revenue increase in the Investigative Fund to fund a transfer to the Gaming Control Board account. The amount of the revenue reduction and the 4.6% furloughs taken for those employees funded by the General Fund is projected to be the same as the 80% Salary Adjustment funding. It is projected to be needed unless additional, unanticipated turnover occurs. Instead the amount of the revenue reversion will be applied to the account for the next fiscal year end.	0	0	0	0	\$221,375	50	50	50	50	50
1	Revert investigative fees.	This proposal includes no reductions to expenditures. It is a revenue reversion that would be credited to the account to which the fee was previously applied. A request is requesting to use a projected revenue increase, attributable to increased regulatory demands, in the Gaming Control Board account. The amount of the revenue reversion is projected to be the same as the 80% Salary Adjustment funding. It is projected to be needed unless additional, unanticipated turnover occurs. Instead the amount of the revenue reversion will be applied to the account for the next fiscal year end.	0	0	0	0	\$245,518	50	50	50	50	50
2	IT Costs back-up purchased under the amount budgeted, which resulted in savings.	There is no negative impact.	0	0	0	0	\$20,000	50	50	50	50	50

10% Reductions - Recommended and Governor Considering

Gaming Commission and State Gaming Control Board

Agency 611 GAMING CONTROL BOARD											
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bioscience GF savings	Federal Y1	Bioscience Federal	Other Y1	Bioscience Other
3	Revert commission's out-of-state travel.	Diminishes participation in international and national conferences and meetings on behalf of Nevada and diminishes ability to travel to Washington, DC, New York, and elsewhere to represent Nevada's gaming interest.	0	0	0	0	\$24,339		\$0		\$0
4	Revert GSHA reimbursement.	No negative impact.	0	0	0	0					
5	Revert audit and lab in-state travel and lab vehicle.	This reduction allows for fewer regulatory compliance trips to Las Vegas for the Gaming Commission for licenses in areas outside of Las Vegas (metrol, Reno/Sparks, Carson City, Reno, and Laughlin) in internal and external affairs and regulatory matters. Greater likelihood of increases in outlying areas making undetected errors resulting in underpayment of taxes/fees.	0	0	0	0	\$4,678		\$0		\$0
							\$210,831		\$0		\$0
6	Revert information technology budget.	Reduction to information technology program would eliminate any enhancement and only maintain current IT structure.	0	0	0	0	\$50,000		\$0		\$0
7	Revert training budget and lab training.	Diminished training increases liability to the state and agency and reduces efficiency.	0	0	0	0	\$89,682		\$0		\$0
8	Reduce Gaming Control Board and Nevada Gaming Commission credential pay by 50%.	Adverse to retaining CPA's, engineers, and lawyers.	0	0	0	0	\$263,945		\$0		\$0

10% Reductions - Recommended and Governor Considering

Gaming Commission and State Gaming Control Board

Agency	Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Biennium GF savings	Federal Y1	Federal Y2	Biennium Federal	Other Y1	Other Y2	Biennium Other
611		GAMING CONTROL BOARD												
			6%.											
		Impact includes reduced Enforcement Division Operations Unit, slowing processing/approvals of table games and surveillance systems. Audit cycle for drug II testing will be extended from 60 to 90 days. "No contact" checks on licensees between audits, resulting in no contact with licensees for as much as two years. Loss of 100% of the Enforcement Division will require administrative staff to be spread among other management staff, reducing the number of staff performing random inspections and slowing investigations. Extended slot inspection cycles (routine and random inspections performed by Enforcement Division staff) will be a significant burden on the State and agency, and reduce efficiency. Professional staff will have to perform more clerical duties, reducing the effectiveness of professional duties and responsibilities. Slowed turnaround on assigned clerical work in divisions and Enforcement Unit will result in the Enforcement Unit in the Las Vegas Enforcement Office would be eliminated and as well as the Special Investigations Unit, turning away thousands of applicants.												
		Gaming Commission and State Gaming Control Board Totals		31.56	26.06			\$4,236,650			\$0			(\$444,893)

10% Reductions - Recommended and Governor Considering

Health and Human Services														
Agency 400 DEPARTMENT OF HUMAN RESOURCES														
Priority	Description	Impact	Positions elim.		Layoffs	GP Y1	GP Y2	Biennium GP savings	Federal Y1	Federal Y2	Biennium Federal	Other Y1	Other Y2	Biennium Other
1	Grants Management Unit - have an Administrative Assistant vacant for the biennium.		1	0	0			\$8,559			\$0			\$0
1	The Problem Gambling Fund is being swept to address severe revenue shortfalls.		0	0	0			\$1,842,082			\$0			\$0
1	FT 15 - 20 percent cut in all programs except for Tobacco cessation which is cut by 100 percent due to budget reductions.		0	0	0			\$0			\$0			\$1,279,699
3	Grants Management Unit - Switch the Family Resource Center's funding from General funds to Title XI and Children's Trust Funds.	The Family Resource Center granteees will not be affected by this scenario.	0	0	0			\$1,215,363			(\$979,419)			(\$153,839)

10% Reductions - Recommended and Governor Considering

Health and Human Services

Agency 402 AGING SERVICES DIVISION

Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Biennium GF savings	Federal Y1	Federal Y2	Other Y1	Other Y2	Biennium Other
1	Reductions to the Home and Community Based Program including case management, attendant care, respite, adult day care, adult congregate, homemaker and chore services. This will impact 62 potential candidates.		1	0			\$1,196,352		\$0			\$0
1	This surplus is due to the attrition of the Family Support Workers who had been providing the homemaker services. Please note, the Division began transitioning the services to the Home and Community Based Program less costly than the SH2010, thereby reducing General Fund and Title XX by that amount. There is an additional Title XX reduction for this dec unit totaling \$406,694.		0	0			\$40,270		\$405,694			\$0
1	Natural savings due to reduced caseload in the Home and Community Based Program. The program will merit the unspent personal assistance services funds unused during FY10.		0	0			\$714,300		\$0			\$0
1	Of the 223 Personal Assistance Services (not funded by the Legislature, only 199 slots will be filled over the Biennium.		0	0			\$440,004		\$0			\$0
1	Reduces the independent living grants by 20 percent in FY 11.		0	0			\$0		\$0			\$465,990
3	This budget reduction reduces the senior property tax average refund for those applicants above the poverty level from \$208 to \$202 totaling \$96, or 27%.		0	0			\$1,200,599		\$0			\$0
3	Reduces the Personal Assistance Services rate from \$18.52/hour to \$17/hour. This is consistent with the other paid services.		0	0			\$431,494		\$0			\$0
3	Reduces the Home and Community Based Program rate from \$4.25 per quarter hour to \$3.88 for a total reduction of \$ 17 per quarter hour of service.		0	0			\$71,237		\$0			\$0

10% Reductions - Recommended and Governor Considering

Health and Human Services

Agency 403 HEALTH CARE FINANCING & POLICY

Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bioscience GF savings	Federal Y1	Federal Y2	Other Y1	Other Y2	Bioscience Other	
1	Reduction includes improvements that are planned or in the process to increase cost effective delivery of medical services.	— Require a therapy clinical assessment prior to authorization of Personal Care Services. Implement 3/1/2010 - 5/6/2010 residents. — Reduce rates for anesthesia services to rates more comparable to Medicare's rates. Implement 3/1/2010 - 4/30 providers — Expanded the preferred Drug List (PDL) for excluded drugs in the four categories: Atypical antipsychotics and typical antipsychotics, Antidepressant medications, Anticancer medications and organ transplants. Implement 7/1/2010 — Lower monthly limit for incontinence supplies. Implement 3/1/2010 - 6/30/2011 — Eliminate disposable gloves as a covered medical service. Implement 3/1/2010 - 6/30 providers — Reduce administrative percent for non-emergency transportation. Implement date is 1/1/2010 - 1 provider — Revises behavioral health rates from a three tier structure based on provider qualifications to a single rate. Implement 3/1/2010 - 3/04 providers — Requires legally responsible residents who are unable to provide personal care to residents because employed or disabled must provide approved documentation. Implement 3/1/2010 - 4/31 residents. Impact to 429 anesthesiologists and one (1) transportation broker.	0	0				\$14,627,038		\$21,255,532			\$0
1	Reduces rates for anesthesia providers effective 3/1/2010 and reduces the administrative payment to the non-emergency transportation broker on 1/1/2012.	The average budgeted caseload for 2010 was 1,313 and for 2011, was 1,438. The projected caseload is 1,179 for 2010 and 1,441 for 2011.	0	0			\$65,695		\$125,523			\$0	
1	Reduction recognizes medical services costs savings resulting from the reduction in projected caseload for the Aging and Disability Services Division Crisis Waiver.		0	0			\$1,994,026		\$3,015,695			\$0	

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10% Reductions - Recommended and Governor Considering Health and Human Services

Agency	Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Budgetary savings	Federal Y1	Federal Y2	Budgetary Federal	Other Y1	Other Y2	Budgetary Other
403 HEALTH CARE FINANCING & POLICY														
1		Decreases Inpatient Hospital Specialty Inpatient Hospital, and Residential Treatment Center (RTC) rates by 5%. The rate reduction will be applied to all inpatient and residential care, including mental health, substance abuse, intensive care, intensive and inpatient psychiatric beds will be excluded from the reduction. The reduction will apply to both in-state and out-of-state facilities.	The following providers are impacted: — Specialty Inpatient Hospital - 39 providers — Specialty Inpatient Hospital - 13 providers — Residential Treatment Centers - 36 providers Implement 3/1/2010	0	0			\$6,235,042			\$9,290,308			\$0
1		Increases Respite Care Up programs as follows: — Families 150-175% FFC from \$20 to \$30 a quarter. — Families 175-200% FFC from \$30 to \$40 a quarter. — Families 200-225% FFC from \$40 to \$50 a quarter. — Families 225-250% FFC from \$50 to \$60 a quarter. — Families 250-275% FFC from \$60 to \$70 a quarter. — Families 275-300% FFC from \$70 to \$80 a quarter. — Families 300-325% FFC from \$80 to \$90 a quarter. — Families 325-350% FFC from \$90 to \$100 a quarter. — Families 350-375% FFC from \$100 to \$110 a quarter. — Families 375-400% FFC from \$110 to \$120 a quarter. — Families 400-425% FFC from \$120 to \$130 a quarter. — Families 425-450% FFC from \$130 to \$140 a quarter. — Families 450-475% FFC from \$140 to \$150 a quarter. — Families 475-500% FFC from \$150 to \$160 a quarter. — Families 500-525% FFC from \$160 to \$170 a quarter. — Families 525-550% FFC from \$170 to \$180 a quarter. — Families 550-575% FFC from \$180 to \$190 a quarter. — Families 575-600% FFC from 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10% Reductions - Recommended and Governor Considering

Health and Human Services

Agency 406 HEALTH DIVISION													
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Maximum GF savings	Federal Y1	Federal Y2	Eliminum Federal	Other Y1	Other Y2	Eliminum Other
3	Eliminate GP support for the Office of Minority Health.	Eliminate one filled FGN and terminate all GP supported activity. Anticipating activity dependent upon funding from the state through a competitive grant, which is up for reconsideration September, 2010. Elimination of GP support for support for competition for this federal grant.	1	1			\$155,182			\$0			\$0

10% Reductions - Recommended and Governor Considering Health and Human Services

Agency 407 WELFARE DIVISION

Priority	Description	Impact	Positions elim.	Layoffs	QF Y1	QF Y2	Blancum GF savings	Federal Y1	Federal Y2	Blancum Federal	Other Y1	Other Y2	Blancum Other
1	Reduced in-state travel and operating costs including reduced contract and licensing costs based on newly negotiated rates. Also reverts remaining high performance bonus funds.	This would have minimal impact as the contracts are already negotiated. The high performance bonus funds were going to be used for replacement equipment.	0	0			\$756,636			\$1,140,254			\$0
1	Savings from a caseload shift. Agency has increase in caseloads in the adult group care facility. The adult group care caseloads average \$310 per month. The adult caseload caseloads average \$26.	No impact as this is based on caseload experience.	0	0			\$300,000			\$0			\$0
1	Terminate the Northern Nevada NEON pilot project for the fiscal year 2009. The NEON pilot project was a pilot project for the TANF program. The pilot project was terminated as it was not successful. The savings result from swapping the funding.	This will provide further workload for the Welfare Division staff that are already working. The savings result from swapping the funding.	0	0			\$131,257			(\$131,257)			\$0
1	Reduces TANF transfers to other agencies including: Care and Welfare County emergency assistance, Blinn, CDS and HHS Director's Office (T-000).	Reduced funding impacts services at CDS, MIDS and those funded by TANF. The reduction to the counties eliminates the final 25% of the TANF transfers remaining in FY 2011 (the savings result from swapping the funding). The savings result from swapping the funding.	0	0			\$0			\$4,766,368			\$0
1	Eliminate one state staff position in WYOMERICA Center. Services will be provided by Family Resource Center. Services will be provided by Elko District Office. postion effective July 1, 2010.	Position was recently vacated which will be a reduced service need in this area.	1	0			\$22,460			\$44,927			\$0
1	Eliminate one Office Machine Operator II position effective July 1, 2010.	With the agency implementing a system that will reduce the need for paper, the position is being vacated. The position is being vacated and will result in a benefit if the current employee can not find another position prior to July 1, 2010.	1	1			\$28,224			\$64,178			\$0

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10% Reductions - Recommended and Governor Considering

Health and Human Services

Agency 407 WELFARE DIVISION										
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Director's Office savings	Federal Y1	Federal Y2	Director's Office savings
1	Reduce general fund for administration of the Supplemental Nutrition Assistance Program (SNAP) due to an increase in federal administration funds for SNAP.	This reduction has no impact as it is a new and unanticipated federal funding increase.	0	0	0	0	\$1,500,000	\$1,500,000	\$1,500,000	\$0
3	Change the funding for the new technology staff to the general fund. This staff was originally used in lieu of TANF.	As long as other reductions to TANF are made, this reduction will not create a problem. However, if the other TANF reductions are not made, this increase the TANF shortfall.	0	0	0	0	\$473,872	\$473,872	\$473,872	\$0
3	Revert projected savings from staff turnover and a reduction in travel and training.	Proposed to revert 50-100% of the projected savings from staff turnover and a small reduction to travel and training.	0	0	0	0	\$1,394,156	\$1,394,156	\$1,394,156	\$0
3	Replace general funds with state share of collections for Child Support Enforcement administrative costs.	This does not reduce positions or operations. However, it reduces the administrative costs of Child Support Enforcement.	0	0	0	0	\$2,247,922	\$0	\$2,247,922	\$0
3	Revert state share of collection in lieu of general funds.	Reverts funds available to implement AS 536 recommendations regarding child support enforcement.	0	0	0	0	\$842,518	\$0	\$842,518	\$0
3	Revert general fund and associated Federal Child Care grant funds.	Reverts general fund and associated Federal Child Care grant funds. This staff serves the number of children served in FY 2011 by approximately 342.	0	0	0	0	\$738,390	\$738,390	\$738,390	\$0

10% Reductions - Recommended and Governor Considering

Health and Human Services

Agency 408 NH/DS DIVISION

Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bienium GF savings	Federal Y1	Federal Y2	Bienium Federal	Other Y1	Other Y2	Bienium Other (\$136,653)
1	This is for the South Settlement Fund Year 1 reversion in FY2009 which will be brought back into the current year, balanced forward to FY 2011 and allow direct offset of General Funds to be reverted in FY2011.		0	0	0		\$116,555		\$0				
1	Revert projected savings in medications for Northern Nevada	Agency reports this is a result of a reduction in the number of prescriptions filled and effort and should not adversely affect their ability to provide medications to clients.	0	0	0		\$2,810,000		\$0				\$0
1	Salary savings due to position vacancies. The savings will be used to fund the agency and continue to recruit for these positions.		0	0	0		\$50,560		\$16,708				\$0
1	Revert projected savings in medications for Rural Clinics.	Agency reports this is a result of a medication savings management effort and should not adversely affect their ability to provide medications to clients.	0	0	0		\$513,200		\$0				\$0
1	Reduce monthly support rates for Autism and Self-Directed Support programs by 22% (25 people affected in Autism, 47 people in Self-Directed Support) in Rural Nevada.		0	0	0		\$0		\$182,655				\$0
1	Revert savings for Autism and a Health Program Support Specialist through May 2011 with SMTA and Grant funding.		0	0	0		\$88,135		(\$126,463)				\$0
1	This reduction is a natural savings since the agency will be used to still the first funds prior to the end of the year. The savings will be used to fund the agency and continue to recruit for these positions.	Due to reduced current caseload and reduced number of applications for placements, the agency will allow the agency to serve the projected increase in caseload through the bienium.	0	0	0		\$3,796,898		\$3,478,606				\$0
1	Reduce monthly support rates for Autism and self-directed support programs by 22% (Autism = 107 people, self-directed = 118 people) in Southern Nevada.	There are currently 1022 placements and this decision will allow the agency to serve the projected increase in caseload through the bienium. There are currently 1022 placements and this decision will allow the agency to serve the projected increase in caseload through the bienium.	0	0	0		\$0		\$1,052,120				\$0

10% Reductions - Recommended and Governor Considering

Health and Human Services

Agency 408 MH/DS DIVISION

Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Baseline of savings	Federal Y1	Federal Y2	Extension Federal	Other Y1	Other Y2	Baseline Other
1	Reduce monthly support rates for Autism and staff-created support programs by 22% (Autism = 25 people; staff-created = 47 people) in Northern Nevada.		0	0			\$0			\$254,285			\$0
2	This reduction is a natural savings since the agency will be able to utilize these funds prior to the end of the 2009-2011 biennium. This reduction will allow for a natural growth of 120 new placements in addition to the current growth of 120 new placements. This growth will eliminate the current waiting list of 78 and accommodate the projected number of new applications through June 2011. There are currently 1184 placements. Although this decision unit reduces the total number of possible placements there will be a sufficient number of placements to meet projected demand.	Although this decision unit reduces the current waiting list of 78 and accommodates the projected number of new applications through June 2011. This decision unit will allow the agency to serve the projected number of new applications through the biennium.	0	0			\$1,250,000			\$221,500			\$0
2	This reduction is a natural savings since the agency will be able to utilize these funds prior to the end of the 2009-2011 biennium. This reduction will allow for a natural growth of 120 new placements in addition to the current growth of 120 new placements. This growth will eliminate the current waiting list of 78 and accommodate the projected number of new applications through June 2011. There are currently 1184 placements. Although this decision unit reduces the total number of possible placements there will be a sufficient number of placements to meet projected demand.	Although this decision unit reduces the current waiting list of 78 and accommodates the projected number of new applications through June 2011. This decision unit will allow the agency to serve the projected number of new applications through the biennium.	0	0			\$5,750,829			\$5,906,224			\$0
2	This reduction is a natural savings since the agency will be able to utilize these funds prior to the end of the 2009-2011 biennium. This reduction will allow for a natural growth of 120 new placements in addition to the current growth of 120 new placements. This growth will eliminate the current waiting list of 78 and accommodate the projected number of new applications through June 2011. There are currently 1184 placements. Although this decision unit reduces the total number of possible placements there will be a sufficient number of placements to meet projected demand.	Although this decision unit reduces the current waiting list of 78 and accommodates the projected number of new applications through June 2011. This decision unit will allow the agency to serve the projected number of new applications through the biennium.	0	0			\$120,000			\$0			\$0
2	This reduction is a natural savings since the agency will be able to utilize these funds prior to the end of the 2009-2011 biennium. This reduction will allow for a natural growth of 120 new placements in addition to the current growth of 120 new placements. This growth will eliminate the current waiting list of 78 and accommodate the projected number of new applications through June 2011. There are currently 1184 placements. Although this decision unit reduces the total number of possible placements there will be a sufficient number of placements to meet projected demand.	Although this decision unit reduces the current waiting list of 78 and accommodates the projected number of new applications through June 2011. This decision unit will allow the agency to serve the projected number of new applications through the biennium.	0	0			\$1,947,010			\$1,763,062			\$0

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10% Reductions - Recommended and Governor Considering

Health and Human Services

Agency 409 CHILD AND FAMILY DIVISION

Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bicentennial savings	Federal Y1	Federal Y2	Bicentennial Federal	Other Y1	Other Y2	Bicentennial Other
	Reduction of 12% in the general fund money passed to the counties in FY 2011 for the support of the Child Support Agency, Child Welfare Services, Child Care Agency and the Mountain Youth Center in Clark County.	This reduction will have a direct impact on all 9 counties to which the money is passed.	0	0			\$170,598			\$0			\$0
1	Reduces the residential care category for non-OCFS custody youth by \$1,100,000 in each year of the biennium. \$500,000 represents a general fund reduction and \$500,000 represents a reduction in Title IV-E federal funds. The reduction is based on the companion decision unit with 1640 in BA 3126, Grants Management Unit and in BA 3200 JANP.	The legislative budget for residential care was approved based on an average monthly caseload of 278 for FY 2010 and 286 for FY 2011. The projected average monthly caseload is 297 for FY 2010 and 309 for FY 2011. The projected average monthly caseload is 297 for FY 2010 and 309 for FY 2011. The projected average monthly caseload is 297 for FY 2010 and 309 for FY 2011.	0	0			\$700,000			\$1,500,000			\$0
1	Reduces the substitute foster care category by \$1,110,000 in each year of the biennium. \$500,000 represents a general fund reduction and \$500,000 represents a reduction in Title IV-E federal funds. The reduction is based on the companion decision unit with 1640 in BA 3126, Grants Management Unit and in BA 3200 JANP.	These reductions will have no impact on the overall caseload for residential care. The projected average monthly caseload for residential care is currently lower than projected in the budget.	0	0			\$1,110,000			\$474,849			\$0
1	Increases projected Medicaid revenue by \$400,000 in FY 2010 and \$500,000 in FY 2011 based on the Governor's Approved Public Assistance Cost Allocation Plan.	This reduction will have no direct impact on services to children.	0	0			\$200,000			(\$700,000)			\$0

10% Reductions - Recommended and Governor Considering

Health and Human Services

Agency 409 CHILD AND FAMILY DIVISION

Priority	Description	Positions elim.	Layoffs	GF Y1	GF Y2	Blended GF savings	Federal Y1	Federal Y2	Blended Federal	Other Y1	Other Y2	Blended Other
1	Reduce the placement prevention program contracts by \$80,000 in each year of the Biennium.	0	0			\$160,000			\$0			\$0
Impact The placement prevention program was established for the purpose of addressing immediate needs of children in need of care through the DCFS Wraparound in Need for Children and Family program. Immediate need means goods and services that are necessary to the immediate safety of the child or the return of the child to the family or the return of the child from out of home placement to the family including return of the child from placement in foster care. This reduction will have a direct impact on services to children.												
1	Recommend the closure of the Summit View Youth Corrections Center (SYVCC) effective May 1, 2020. There are currently 48 youth housed at SYVCC. All of these youth will either be moved to the Nevada Youth Training Center in Elko or Caliente Youth Center in Caliente. The closure of SYVCC will result in the elimination of 10 positions. Programming offered through the Youth People Bureau. This includes the re-opening of one cottage (20 beds) at each facility in the 13/19 Caliente Youth Center and the re-opening of one cottage (20 beds) at the Summit View Youth Corrections Center. This will result in the loss of eight in-custody beds. This will result in the loss of eight in-custody beds for youth. It will also eliminate the payment to Lincoln County School District for SP111 as this will bring the Caliente Youth Center to full capacity.	10	20.5			\$3,464,746			\$22,674			\$0
Positions will remain: Three positions will remain: Youth Services Coordinator and two positions for the Youth Center. The Youth Center will be closed up of the facility through the end of FY 2020 and will perform ongoing maintenance on a part time basis in FY 2021. Manager - serves as the primary supervisor for all of the Division's correctional facilities as well as Youth People and Youth Services. The Manager is responsible for the treatment of all of the youth the Division serves. Personnel Analyst - only position responsible for the treatment of all of the Division's correctional facilities as well as Youth People.												

10% Reductions - Recommended and Governor Considering

Health and Human Services

Agency 409 CHILD AND FAMILY DIVISION

Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Balance of savings	Federal Y1	Federal Y2	Elimination Federal	Other Y1	Other Y2	Balance Other
1	Reductions of 10% in the general fund money passed through to Waldo County Department of Social Services in support of the child welfare integration Budget.	Please see attached letter from Mr. Kevin Schaller, Director, Waldo County Department of Social Services regarding the Governor's request for 10% reductions in the impact to children and families.	0	0			\$2,046,568			\$0			\$0
3	Reduction of 10% in the general fund passed through to Clark County Department of Family Services in support of the child welfare integration Budget.	Tom Morton was instructed by the Clark County Commissioners not to spend on services that are not essential for children and families.	0	0			\$6,107,647			\$0			\$0
3	Reduction of 10% in the general fund passed through to Clark County Department of Family Services in support of the child welfare integration Budget.	Clark County Commissioners instructed for children in Clark County who are uninsured and would otherwise not be able to access services. This request will have a direct impact on services to children.	0	0			\$180,000			\$0			\$0
3	Eliminates two part time administrative positions (1,002 FTE), one Administrative Assistant and one Accounting Clerk.	Layoff of part time position effective 3/7/10	2	1			\$37,896			\$27,488			\$0
Health and Human Services Totals								\$91,408,844		\$70,964,675			\$1,213,561

Judicial Discipline Commission

Agency 220 JUDICIAL DISCIPLINE COMMISSION

Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Balance of savings	Federal Y1	Federal Y2	Elimination Federal	Other Y1	Other Y2	Balance Other
	The 120% reduction target will be met by keeping the new Legal Research Assistant position vacant starting in October 2009 through February 2011. Decision unit will be kept at 100% and the Legal Research Assistant position vacant for 20 days and for terminal leave period costs in the account in fiscal year 2010. Decision unit also keeps and equipment purchases for new units from FY 10 to FY 11 and associated start-up costs.	This agency will not have additional in-house investigative support available this biennium as a time savings measure. The 120% reduction target will be met by keeping the new Legal Research Assistant position vacant starting in October 2009 through February 2011. Decision unit will be kept at 100% and the Legal Research Assistant position vacant for 20 days and for terminal leave period costs in the account in fiscal year 2010. Decision unit also keeps and equipment purchases for new units from FY 10 to FY 11 and associated start-up costs.	0	0			\$59,072			\$0			\$0
Judicial Discipline Commission Totals								\$99,072		\$0			\$0

10% Reductions - Recommended and Governor Considering

Lieutenant Governor												
Agency 020 LIEUTENANT GOVERNOR'S OFFICE												
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bioscience GF savings	Federal Y1	Federal Y2	Bioscience Federal	Other Y1	Bioscience Other
3	Eliminate the Assistant to the Lt. Governor position, reduce Out-of-State Travel, to State Travel, and eliminate the position of the Lt. Governor's travel replacement, consider hardware, new furniture, a laptop, and a color printer.	The elimination of this position will reduce the staff from 6.00 FTE to 5.00 FTE. The reduction in travel will impact the Lt. Governor in his capacity as chairman of Nevada Commission on Tourism and Nevada Commission on Economic Development.	1	1			\$80,445			\$0		\$0
Lieutenant Governor Totals			1	1			\$80,445			\$0		\$0

Motor Vehicles												
Agency 810 DEPT OF MOTOR VEHICLES												
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bioscience GF savings	Federal Y1	Federal Y2	Bioscience Federal	Other Y1	Bioscience Other
1	This proposal reduces funding provided for voter registration forms.	No impact.	0	0			\$2,431			\$0		\$0
Motor Vehicles Totals			0	0			\$2,431			\$0		\$0

10% Reductions - Recommended and Governor Considering

Office of the Governor

Agency 010 GOVERNOR'S OFFICE		Priority		Description		Impact		Positions elim.		Layoffs		GF Y1		GF Y2		Budgetary GF savings		Federal Y1		Federal Y2		Minuteman Federal		Other Y1		Other Y2		Minuteman Other	
1				Governor's Office - Miscellaneous operating expenses and travel reduction.		There will not be a major impact on the department.		0	0							\$7,333						\$0						\$0	
1				Governor's Mansion - Eliminate the Accountant to the First Lady.		The office of First Lady will be vacant, therefore, the Assistant to the First Lady position will not be necessary.		1	1							\$61,688						\$0						\$0	
1				Governor's Office - Reduced management salaries for Administrative Services, 25% reduction in FY10 and 15% reduction in FY11.		No adverse impact.		0	0							\$11,990						\$0						\$0	
1				Governor's Mansion - Reduced Assessment paid to Administrative Services, 25% reduction in FY10 and 15% reduction in FY11.		No adverse impact.		0	0							\$5,216						\$0						\$0	
1				Consumer Health Assistance - Elimination of one vacant position and reduction of one position currently operating with a 20% reduction of staff, from our 2008 budget. We have received no requests for funding to replace the vacant position needed to resolve appeal and billing issues to the benefit of the consumer. Further cuts would leave the program in jeopardy. Governor's Office is considering increasing the casual work of the others by 25%. We could not function at this staffing level.		The agency states: "The projected cost savings from the elimination of one vacant position and the reduction of one position currently operating with a 20% reduction of staff, from our 2008 budget. We have received no requests for funding to replace the vacant position needed to resolve appeal and billing issues to the benefit of the consumer. Further cuts would leave the program in jeopardy. Governor's Office is considering increasing the casual work of the others by 25%. We could not function at this staffing level."		1	1							\$60,090						\$0						\$63,320	
1				The Ethics Commission will utilize salary savings from the reduction of the Governor's Office and the Commission's staff to fund the Governor's Office and the Commission's staff. The Governor's Office and the Commission's staff will remain in Las Vegas.		This reduction will require the Governor's Office and the Commission's staff to fund the Governor's Office and the Commission's staff. The Governor's Office and the Commission's staff will remain in Las Vegas.		0	0							\$2,050						\$0						\$46,353	
2				Governor's Office - Miscellaneous Information services reduction.		There will not be a major impact on the department.		0	0							\$11,586						\$0						\$0	
2				Consumer Health Assistance - Reduce to 2008 level.		Further cuts here would eliminate the opportunity for outreach, events for patients, and the ability to work with the limitations of access to care and limited in-person communications. This would cause failure to perform statutory mandated outreach, or other programs that are critical to the health of the state and the City's long-term success.		0	0							\$107						\$0						\$293	

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10% Reductions - Recommended and Governor Considering

Office of Veterans Services

Agency	240	OFFICE OF VETERAN'S SERVICES	Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Blanckm EF savings	Federal Y1	Federal Y2	Blanckm Federal	Other Y1	Other Y2	Blanckm Other
1				Vacancy savings in the Commissioner for Veterans' Affairs account associated with a Program Officer position (4 months) and an Administrative Assistant position (4 months).	No impact provided by agency.	0	0			\$15,250			\$0			\$0
1				Vacancy savings in the Veterans' Home Account associated with a Health Information Coordinator (2 months) and an Administrative Assistant 2 position (2 months).	No impact.	0	0			\$17,035			\$0			\$0
2				Increase Veterans Private Pay Rate from \$102 per day to \$110 per day and the Non-Veteran Private Pay Rate from \$173 to \$187 per day.	The rate increase would not result in operating expenditure reductions but would allow the agency to revert General Funds in FY 2011.	0	0			\$246,978			\$0			\$0
2				Increase Veterans Private Pay Rate from \$101 per day to \$110 per day and the Non-Veteran Private Pay Rate from \$173 to \$187 per day.	The rate increase would not result in operating expenditure reductions but would allow the agency to revert General Funds in FY 2011.	0	0			\$48,992			\$0			\$0
2				Vacancy savings in the Veterans' Home Account associated with a Registered Nurse position (2 months) in FY 2010.	No impact provided by agency.	0	0			\$14,290			\$0			\$0
3				Vacancy savings in the Veterans' Home Account associated with a Certified Nursing Assistant position (5 months) in FY 2010.	No impact provided by agency.	0	0			\$17,972			\$0			\$0
3				Increase Veterans Private Pay Rate from \$108 per day to \$110 per day and the Non-Veteran Private Pay Rate from \$173 to \$187 per day.	The rate increase would not result in operating expenditure reductions but would allow the agency to revert General Funds in FY 2011.	0	0			\$48,000			\$0			\$0
Office of Veterans Services Totals										\$381,790			\$0			\$0

10% Reductions - Recommended and Governor Considering

Peace Officers Standards

Agency 230 PEACE OFFICERS STANDARDS & TRA

Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Budgetary GF savings	Federal Y1	Federal Y2	Budgetary Federal	Other Y1	Other Y2	Budgetary Other
	Building improvements.	Building repairs and/or project improvements would be deferred.	0	0			\$0			\$0			\$13,300
	Class and Registrations.	As a training organization, it is imperative that the Peace Officers Standards & Training Council continue to update their skills, however, this will be minimized to meet budget reductions.	0	0			\$0			\$0			\$7,337
	Reduction to Operating Expenses.	Decrease availability of cell phones and other personal items.	0	0			\$0			\$0			\$5,500
	Reduction to Reserve.	Reduction to reserves would decrease operations and efficiency of the division.	0	0			\$0			\$0			\$17,945
Peace Officers Standards Totals													
			0	0			\$0			\$0			\$42,282

Personnel

Agency 070 DEPARTMENT OF PERSONNEL

Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Budgetary GF savings	Federal Y1	Federal Y2	Budgetary Federal	Other Y1	Other Y2	Budgetary Other
3	Utilize reserves in FY 10 to cover 10% reduction and reserves and non-owned lease saving \$582,450 - Northridge for a total of \$1,111.	There is no impact - The Department of Personnel FY 10 Reserve account is currently at a 70-day reserve due to the fact that the account of \$500,296 from 7989 and have already moved from Northridge location.	0	0			\$0			\$0			\$1,383,953
Personnel Totals													
			0	0			\$0			\$0			\$1,383,953

Postsecondary Education

Agency 360 POST SECONDARY COMMISSION

Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Budgetary GF savings	Federal Y1	Federal Y2	Budgetary Federal	Other Y1	Other Y2	Budgetary Other
1	The agency will meet its 10% biennial reduction target by keeping the part time Administrative Assistant position vacant for all of fiscal year 2010 and through February of calendar year 2011.	The agency currently does not have any Administrative staff to answer telephone or provide general office assistance. Program staff will be required to cover these duties.	0	0			\$46,400			\$0			\$0
Postsecondary Education Totals													
			0	0			\$46,400			\$0			\$0

10% Reductions - Recommended and Governor Considering

Public Safety										
Agency 650 DEPARTMENT OF PUBLIC SAFETY										
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bimedium GF savings	Federal Y1	Federal Y2	Bimedium Federal
30	Police & Probation (PA 1743) Reduction of six vacant positions in the Police & Probation Bureau. The Bureau must move the cost reductions in the records & Technology cost allocation and reduce training by 38% in FY10 and 75% in FY11.	The consequences of these reductions will be that the Bureau will have to move the cost reductions in the records & Technology cost allocation and reduce training by 38% in FY10 and 75% in FY11. The cost reductions will not be taken away until the remainder of the year.	6	0			\$1,082,521	\$0		\$0
37	Investigation Div. (PA 1743) Reduction to operating, and elimination of training, uniforms, the crash fund, and one DPS Officer 2 position.	This reduction will have minimal impact on the agency.	1	0			\$170,023	\$0		\$0
Public Safety Totals								\$0		\$282,422

Public Works Board										
Agency 190 PUBLIC WORKS BOARD										
Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bimedium GF savings	Federal Y1	Federal Y2	Bimedium Federal
1	This proposal reduces operating.		0	0			\$4,000	\$0		\$0
1	This proposal reduces the Administrative Services Bureau's operating charge by 25% in FY 2010 and 25% in FY 2011.		0	0			\$2,566	\$0		\$0
2	This proposal reduces board member pay.		0	0			\$7,004	\$0		\$0
3	This proposal eliminates a replacement desktop computer and serial printer.		0	0			\$2,060	\$0		\$0
4	This proposal reduces tele-staff travel.		0	0			\$4,000	\$0		\$0
5	This proposal reduces a full-time Administrative Assistant position to part-time 80% in the 6th version, 85% in the 8th version and 75% in the 10th version.		0	0			\$21,286	\$0		\$0
Public Works Board Totals								\$0		\$0

10% Reductions - Recommended and Governor Considering

Taxation											
Agency 130		DEPARTMENT OF TAXATION									
Priority	Description		Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Bureau of savings	Federal Y1	Federal Y2	Bureau Federal Other Y1 Other Y2 Bureau Other
1	Closure of the Idaho Office, effective July 1, 2010		Department of taxation will not have a presence in a rural community and taxpayers would need to conduct business via the internet, phone (all certified), or at the Idaho office. Audits completed by this office would be completed by the Idaho office. Potential revenue loss of \$726,000 with the closure.	5	5			\$237,656			\$0
6	This proposal reduces staffing in the Division of Assessment Standards, Policy and Publications section and will result in the elimination of the section's function effective March 1, 2010		The Policy and Publication section is responsible for developing and publishing manuals, drafting regulations, and providing policy guidance and direction for the Division of Assessment Standards.	3	3			\$238,674			\$0
Taxation Totals								\$485,508			\$0

10% Reductions - Recommended and Governor Considering

Wildlife																			
Agency	702	WILDLIFE	Priority	Description	Impact	Positions elim.	Layoffs	GF Y1	GF Y2	Elimination of savings	Federal Y1	Federal Y2	Minimum Federal	Other Y1	Other Y2	Minimum Other			
1.				Use accrued salary savings from vacant positions in FY 2010 and take an advance of an anticipated increase in the federal match rate for the State Wildlife Grant in FY2011.	Sufficient savings exists to meet FY10 obligations. FY2011: Shift priorities and work to create other sources of revenue. Use of the State Wildlife Grant available federal funds or to perform all priority projects under Nevada's Wildlife Action Plan may be an option. The State Wildlife Grant is a source of the State Wildlife Grant priority under the Endangered Species Act.	0	0			\$113,927			(\$52,822)			\$0			
The FY 2010 grant (starting January 2011) will benefit the State by increasing the federal match rate from 50-50 to 65-35. This will require the Department of Conservation to make overall expenditures. However, this is dependent upon the ability to access the FY 2010 award as SFY 2011 is the start of the award of savings to the State. Additionally, an increase of approximately 50% in SWG funding is pending in Congress. Even with the enhanced match, this funding may not be sufficient to cover the ability to spend all available Federal funds.																			
Wildlife Totals													0	0	\$113,927		(\$52,822)		\$0
Grand Totals for 10% Reductions - Recommended and Governor Considering													\$278,517,044			\$1,782,206			

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Administration		Agency 080 BUDGET AND PLANNING DIVISION		Impact		Fiscal Year 2010	Fiscal Year 2011	Minimum Total
Priority	Descriptions							
6	1340 BUDGET AND PLANNING Budget Account: 101-000- Construction Education Account (NYS 624.670-580) This account was created in 2004 to provide grants to construction education programs. This account is administered by the Commission on Construction Education which is a 7 member commission appointed by the Governor. The Commission reviews programs of education which are approved by the Governor and awards grants from the Construction Education Account to those programs that apply and qualify. This account is funded by fines and interest. The funds must be used solely for the purpose of construction education and to pay the costs of the Commissioners only while employed in the offices of the Commissioners.	Impact The transfer of \$328,647 from this fund to the General Fund will result in fewer grants available to construction education programs. The transfer of this money to the General Fund will not significantly impact this account. Transfer of these funds to the General Fund will require legislative action to change NYS 624.580.		\$0	\$328,647	\$328,647		
7	1340 BUDGET AND PLANNING Budget Account: 101-2866- Controlled Substance Grants (NYS 372A.003-372A.130) This account is used for administering the taxes and fees collected by the State Board of Pharmacy from the registered dealers of controlled substances. The registered dealers are charged an annual fee of \$250 and they pay taxes based on the weight of the controlled substances they sell. The fees are used to fund the salaries of the staff of the State Board of Pharmacy and the number of staff that they all to the registered dealers. The Pharmacy Board maintains records of the number of each stamp and the name of the dealer whom it was sold. Treasury for credit to the State General Fund and accounted for separately. The money collected from this account, including civil penalties may be expended only for grants to county and city law enforcement agencies for the enforcement of NYS 603 Controlled Substances.	Impact The transfer of \$3,296 from this fund to the General Fund will result in less grant money available to law enforcement agencies. The transfer of this money to the General Fund will not significantly impact this account. Transfer of these funds to the General Fund will require legislative action to change NYS 372A.130.		\$0	\$3,296	\$3,296		

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Andrew Clinger-Administration #3

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Agriculture		Impact		Fiscal Year 2010	Fiscal Year 2011	Biennium Total
Agency 550 AGRICULTURE		Description				
14	4437 ASIR - GAS POLLUTION STANDARDS	Budget Account: 101-4537 - Gas Pollution Standards (NRS 590.210-590.150)		\$250,000	\$0	\$250,000
		Transferring the reserve to the General Fund results in an approximately 50% reduction, which may affect the productivity of programs.				
		This account is used for the protection of the public's health by reduction of air pollution components produced during fuel combustion. The public benefits from proper operation of internal combustion engines and from greater engine efficiency. This account provides funding for programs to test and certify engines and to inspect and certify repair shops. The account also provides for public information and education, and helps to ensure the engine performs as the manufacturer intended.				
		Transfer of funds will require legislative action.				
		The funding for this account consists of a transfer from the Department of Motor Vehicles, Motor Vehicle Pollution Control to carry out the provisions of the Nevada Petroleum Products Inspection Act administered by this Division.				
67	4545 ASIR - AGRICULTURE REGISTRATION/ENFORCEMENT	Budget Account: 101-4545 - Agriculture Registration/Enforcement (NRS 586, 588, and 590)		\$400,000	\$0	\$400,000
		Transferring the reserve to the General Fund results in an approximately 40% reduction, however as long as fees continue to come in as projected this account should not be jeopardized.				
		This account supports the registration, inspection, sampling and laboratory analysis of fertilizers, fertilizers and pesticide products offered for sale.				
		The funding for this account consists of Environmental Protection Agency and United States Department of Agriculture (USDA) Cooperative Agreements, Fertilizer Registration Fees, Fertilizer Tonnage Fees and Airframe Registration Fees.				
20	4551 ASIR - WEIGHTS & MEASURES	Budget Account: 101-4551 - Weights & Measures (NRS 581, 582, and 590)		\$450,000	\$0	\$450,000
		Transferring the reserve to the General Fund results in a 50% reduction, and as long as fees come in as projected this account will not be jeopardized.				
		This account is used to license, test and deem correct, all commercially used weighing and measuring devices. It is also used that the State Sealer inspect packaged goods to determine whether the stated amounts, sizes, pricing, etc. are correct. In addition, the bureau obtains samples of motor fuels, and delivers them to the petroleum chemists for analysis.				
		This account is replenished through fees and the transfer from the DMV for "Motorcruis and Pollution.				
		Transfer of funds will require legislative action.				
		The funding for this account consists of licenses and fees related to registered service agents, Public Weighmaster Licenses, Device Testing Fees, Petroleum Inspection Fees, and a transfer from the DMV for Motor Vehicle Pollution.				
Agriculture Totals				\$1,100,000	\$0	\$1,100,000

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Attorney General		Attorney General's Office		Impact	Fiscal Year 2010	Fiscal Year 2011	Biennium Total
Agency	Priority	Description					
1009 AG - CONSUMER ADVOCATE							
11 Budget Account: 330-1009 - Bureau of Consumer Protection (NRS 228.340 to NRS 228.350).							
This account provides professional representation, public education, and progressive advocacy for the consumers who utilize regulated services, utilities, water, and telecommunications. The account will maintain a more than 45-day reserve going forward.				Transferring the reserve to the General Fund results in a reduction in the accumulation of reserve funds.	\$0	\$500,000	\$500,000
The impact of the sweep is minimal since the account has consistently balanced forward over \$1 million since 2004 and the account will maintain a more than 45-day reserve going forward.							
The life expectancy of the account is not anticipated to diminish with this one-time sweep especially since reserves will still remain in this account and be allowed to accrue.							
Transfer of these funds will require legislative action. Additional legislative changes to NRS 228.340 are required.							
3348 AG - ATTORNEY GENERAL TORT CLAIM FUND							
2 Budget Account: 715-3348 - Attorney General Tort Claim Fund (NRS 331.187).							
The Tort Claim Fund is established to pay claims, including those pursuant to NRS 41.0340 and NRS 51.037, typical claims include automobile accidents, injuries on the state's premises or highways, and damages claimed for violation of the civil rights of consumers, state employees, or the general population.				Transferring the reserve to the General Fund results in reduction in the accumulation of reserve funds in this account. The account may require an infusion of cash at fiscal year-end closing in 2011, or having a rate adjustment in FY 2012-2013 based on the actual report. The only other reason the account may be compromised by this transfer would be unforeseen circumstances that would warrant a large sum payment.	\$0	\$2,000,000	\$2,000,000
An independent actuary calculates the potential vehicle and general liability for the Tort Claim Fund every two years. The Tort Claim Fund is paid by state agencies based on the number of participating automobiles and positions.				Transfer of these funds will require legislative action. Legislative changes to NRS 331.187 are required.			
Attorney General Totals					\$0	\$2,000,000	\$2,000,000

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Business and Industry		INSURANCE DIVISION		Impact	Fiscal Year 2010	Fiscal Year 2011	Biennium Total	
Agency	Priority	Description						
741	3818	3818.831 - CAPTIVE INSURERS						
			10	Transferring the reserve to the General Fund results in approximately a six week reserve. The longevity of this Budget Account is projected to be healthy through state fiscal year 2015. Transfer of these funds will require legislative action. Additional legislative change to NIS 694C is also required.	\$400,000	\$100,000	\$500,000	
		This account, established by the 1890 Legislative action, regulates and supervises captive insurers domiciled in the state of Nevada. A Captive Insurer is an insurance company established and owned by a parent firm in order to insure its loss exposures while reducing premium costs, providing easier access to a re-insurer, and perhaps easing tax burdens. This budget is self-funded through fees, assessments, and 25 percent of the state's insurance premium tax paid by captive insurers. The remaining 75 percent of captive insurer premium tax receipts are deposited into the state General Fund.						
1	3821	3821.184 - INSURANCE RECOVERY						
			1	Transferring the reserve to the General Fund results in a reduction to budget account 101.3824 Insurance Education and Research. The longevity of this account has been projected to be healthy through the end of state fiscal year 2015. Transfer of these funds will require legislative action. Additional legislative change to NIS 679A, 683A, 684A, 685A and 682A is also required.	\$0	\$100,000	\$100,000	
		Budget account: 101-3821 - Insurance Recovery (NIS 679A, 683A, 684A, 685A and 682A). The account was created to provide a means of partially satisfying claims against persons licensed under NIS 683A, 684A, 685A and 682A, by reducing the bonding requirements for brokers, surplus lines brokers and adjusters. The account is funded by a fee not to exceed \$15 which a licensee pays upon initial licensure and renewal.						
		4600 742 INDUSTRIAL RELATIONS DW						
742	4600	742.001 - INDUSTRIAL RELATIONS						
			7	Transferring the reserve to the General Fund results in a reduction to funding balance forward in the subsequent state fiscal year. The longevity of this account appears to be healthy and is not projected to need a replenishment from the General Fund. Transfer of these funds will require legislative action. Additional legislative change to NIS 616A, 640 and 616C, 403 is also required.	\$0	\$100,000	\$100,000	
		Budget account: 210-6025 - Uninjured Employees Claim Account (NIS 616A, 640 and 616C, 403). This account provides disability benefits and medical expenses to workers suffering from compensable injuries while working for employers who fail to provide workers compensation. This account is funded by fines, recovery funds, and interest earnings. The component transferred to the General Fund is the interest earnings.						

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Business and Industry

Agency 744 HOUSING DIVISION

Priority	Description	Impact	Fiscal Year 2010	Fiscal Year 2011	Minimum Total
5	3838 644 - LOW INCOME HOUSING TRUST FUND Budget account: 301-3888 - Low Income Housing Trust Fund (NYS \$19,500, \$19,500). This account assists and encourages the private sector and other governmental entities to create and maintain affordable housing throughout the state, serving as the main source of matching funds for federal HOME housing program. This program supports bricks and mortar initiatives of low-income households in the form of rental assistance, down payment assistance, and other housing related expenses. Additionally, the fund provides down payment assistance for first time home buyers in those same income restricted categories. The account is funded through federal grants, interest earnings and a transfer from the Department of Social Services. The account is currently authorized to receive up to \$200,000 in revenue of 10 cents per \$500 of assessed unencumbered net estate transfer value. The component transferred to the General Fund is from the real property tax funds.	Transferring the reserve to the General Fund results in a reduction to the transfer to local jurisdictions. The longevity of this budget account has been projected to be healthy through state fiscal year 2015. Transfer of these funds will require legislative action. Additional legislative change to NYS 310.500 through NYS 310.520 is also required.	\$750,000	\$2,250,000	\$3,000,000

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions
Business and Industry

Agency	748	REAL ESTATE DIVISION	Priority	Description	Impact	Fiscal Year 2010	Fiscal Year 2011	Revenue Total
14				REAL ESTATE DIVISION - COMMON INTEREST COMMUNITIES Budget account: 101-3820, Common Interest Communities (NRS 18.300-38.360, 116.615-116.795, and 116B.800-116.835). The account assists and educates boards and owners who live with common interest communities. The division also provides assistance and support to the areas that regulate them and investigates and assists in resolving disputes. This fee-based budget supports the Office of the Clerk for Common Interest Communities. The division also provides assistance and support to the areas that regulate them and investigates and assists in resolving disputes. This program is funded by fee collected annually from each registered homeowner association and from filing fees for Alternative Dispute Resolution, along with the interest collected on these funds. The component transferred to the General Fund is the accumulation of interest funds.	Transferring the revenue to the General Fund results in a reduction to the balance forward to the subsequent state fiscal year. The longevity of this budget account has been projected to be healthy through state fiscal year 2017. Transfer of these funds will require legislative action. Additional legislative changes to NRS 18.300-38.360, 116.615-116.795, and 116B.800-116.835 is also required.	\$500,000	\$0	\$500,000
106				REAL ESTATE DIVISION - REAL ESTATE ADMINISTRATION Budget account: 101-3820, Real Estate Administration (NRS 118.120, 118.114, 118A.602, 119B.380, 116.615, 116A.200, 116B.800, 645.045, 645C.170, 645C.110, and 645C.131). This account regulates real estate brokers and salesmen, property managers, appraisers, qualified investment advisers, and other persons engaged in the business of real estate. It also regulates the operation and regulation of the state and its subdivisions regarding the sale of subdivision lots, time shares, and campground memberships and also administers continuing education programs for real estate licensees in Nevada. The budget account is funded through a combination of fee, inter-agency transfers, and General Funds. The agency proposes to transfer funds from the Common Interest Communities budget account, 101-3820, and reduce the General Fund appropriation.	The Real Estate Division is a licensing and regulatory agency. Through the issuance of licenses, permits, certificates and registrations, the Real Estate Division seeks to ensure that the public is not harmed by any improper action concerning a violation of law or regulation under its authority or by individuals performing unlicensed activity. Adequate resources for the broad range of programs under the Real Estate Division enable the agency to promote development and commerce in the state while protecting the public in those transactions. There is a direct nexus between the Common Interest Communities, budget account, 101-3820, and the Real Estate Administration budget account, 101-3820. The Common Interest Communities, budget account, 101-3820, does not and cannot stand alone operationally. This account pays an internal cost allocation to the Real Estate Administration budget account, 101-3820, for the use of the Real Estate Division's resources to maintain the allocation is paid for rent in both the Boulder Building (Las Vegas) Office and the Carson City Office and to maintain the SQAIR integrated data system which is used by all sections of the division. The Licensing Section handles all licensing and registration for the Common Interest Communities Program. Refer to companion decision unit 1060 in budget account 8800. Transfer of these funds will require legislative approval. Additional legislative changes to NRS 118.120, 118.114, 119B.380, 116.615, 116A.200, 116B.800, 645.045, 645C.170, 645C.110, and 645C.131 may also be required.	\$16,471	\$176,666	\$149,197

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Business and Industry

Agency 748 REAL ESTATE DIVISION

Priority	Description	Impact	Fiscal Year 2010	Fiscal Year 2011	Biennium Total
9	3805 RBH - REAL ESTATE EDUCATION AND RESEARCH Budget account: 210-3826 - Real Estate Education and Research (NRS 645.641.640.8402). This account promotes and ensures awareness of relevant laws and practices required of real estate licensees and provides continuing education courses for licensees. It also provides immediate accessibility to division forms and information through the internet. The account is funded by any balance in budget account 210-3827 - Real Estate Recovery Account over \$600,000 remaining at the end of any fiscal year.	Transferring the reserve to the General Fund results in a reduction to the balance forward of funds to the subsequent state fiscal year. The longevity of the account has been projected to be healthy through the end of state fiscal year 2017. Transfer of these funds will require legislative action. Additional legislative change to NRS 645.641.640.8402 is also required.	\$0	\$200,000	\$200,000
1	3805 RBH - REAL ESTATE RECOVERY ACCOUNT Budget account: 210-3827 - Real Estate Recovery Account (NRS 645.641.640.8401). This account is used to satisfy claims against persons licensed under NRS 645. The budget account is funded by \$400,000 in charge with each original and renewal of a real estate license. The account is used to pay claims against licensees for damages caused by licensees. The fees totally flow into this budget to pay recovery claims against licensees as ordered by a court of law. At the end of the fiscal year, the balance of the funds in excess of \$400,000 is transferred to the Real Estate Division and Research budget account, 210-3826, for education and research efforts.	Transferring the reserve to the General Fund results in a reduction of the transfer to the Education and Research budget account, 210-3826. The longevity of the budget account is projected to be healthy through state fiscal year 2015. Transfer of these funds will require legislative action. Additional legislative change to NRS 645.641.640.8401 is also required.	\$0	\$100,000	\$100,000

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Business and Industry		Impact		Fiscal Year 2010	Fiscal Year 2011	Biennium Total
Agency 749	ATHLETIC COMMISSION					
Priority	Description					
8	3952.8M - ATHLETIC COMMISSION Budget account: 391-3952 - Athletic Commission (NRS 467 and NAC 467). This budget account regulates all contests or exhibitions of unarmed combat including boxing, kickboxing, and full contact martial arts. It supervises and regulates boxers, kickboxers, mixed martial arts contestants, ring officials, managers, promoters and matchmakers. The commission is comprised of five members appointed by the governor for staggered three year terms. The commission is responsible for the Amateur Boxing Program. The agency proposes a new annual transfer of the Amateur Boxing Program reserve fund to consolidate with the other reserve funds on the physical or mental condition of contestants as well as standardization of medical tests. Fees are collected from the sale of tickets to view boxing, kickboxing, and mixed martial arts, and from the sale or lease of television or motion picture rights. All revenue collected is deposited to the state General Fund, with the exception of the sporting events ticket surcharge revenue, which is used to award grants to organizations that promote amateur boxing contests or exhibits in Nevada through the Amateur Boxing Program. The agency proposes a new annual assessment against the Amateur Boxing Program reserve fund to consolidate with the other reserve funds on the physical or mental condition of contestants as well as standardization of medical tests.	This proposal presents as an offset to the agency's General Fund appropriation, a new annual assessment against the reserve of the Amateur Boxing Program fund to consolidate the agency for staff time spent in processing, analyzing, accounting and reporting of receipts, grant applications, Commission determinations as well as rule practice management and oversight. The assessment was derived based upon estimated actual time to date, in fiscal year 2010. Transfer of these funds will require legislative action. Additional legislative change to NRS 467 is also required.	\$15,943	\$16,072	\$31,955	
9	3952.8M - ATHLETIC COMMISSION Budget account: 391-3952 - Athletic Commission (NRS 467 and NAC 467). This budget account regulates all contests or exhibitions of unarmed combat including boxing, kickboxing, and full contact martial arts. It supervises and regulates boxers, kickboxers, mixed martial arts contestants, ring officials, managers, promoters and matchmakers. The commission is comprised of five members appointed by the governor for staggered three year terms. The commission is responsible for the Amateur Boxing Program. The agency proposes a new annual transfer of the Amateur Boxing Program reserve fund to consolidate with the other reserve funds on the physical or mental condition of contestants as well as standardization of medical tests. Fees are collected from the sale of tickets to view boxing, kickboxing, and mixed martial arts, and from the sale or lease of television or motion picture rights. All revenue collected is deposited to the state General Fund, with the exception of the sporting events ticket surcharge revenue, which is used to award grants to organizations that promote amateur boxing contests or exhibits in Nevada through the Amateur Boxing Program. The agency proposes a new annual assessment against the Amateur Boxing Program reserve fund to consolidate with the other reserve funds on the physical or mental condition of contestants as well as standardization of medical tests.	Transferring the reserve to the General Fund results in a reduction to the Amateur Boxing Program grant awards. The longevity of this account has been projected to be healthy through state fiscal year 2014. The account may need funding replaced in 2015 if revenues are not realized as projected. Transfer of these funds will require legislative action. Additional legislative change to NRS 467 is also required.	\$0	\$20,500	\$20,500	

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Business and Industry		Impact	Fiscal Year 2010	Fiscal Year 2011	Biennium Total
Agency 755 FINANCIAL INSTITUTIONS DIV					
Priority	Description				
3835 864 - FINANCIAL INSTITUTIONS					
6	Budget account: 101-3835 - Financial Institutions (NMS 03A, 640G, 648, 657-668, 669, 670, 670A, 671, 672, 676, 677, and 678).	Transferring the reserve to the General Fund results in an operating reserve of approximately eight months. The longevity of the budget account has been projected to be healthy through state fiscal year 2015.	\$250,000	\$0	\$250,000
	This account is to maintain a safe and sound financial institutions system that promotes a conducive business environment, protects consumers and defends the public interest through the efficient, effective and equitable licensing, examination and enforcement of depository, lending, asset collection and money transmission activities.	Transfer of these funds will require legislative action. Additional legislative change to NMS 03A, 640G, 648, 657-668, 669, 670, 670A, 671, 672, 676, 677, and 678 is also required.			
3842 864 - FINANCIAL INSTITUTIONS AUDIT					
3	Budget account: 101-3842 - Financial Institutions Audit (NMS 688.055).	Transferring the reserve to the General Fund results in a reduction to the business forward to the subsequent fiscal year.	\$150,000	\$150,000	\$300,000
	This account is responsible for conducting independent audits of division licenses upon request of the commissioner. The program also reviews annual financial information provided by existing licensees and for applicants for new licenses.	The longevity of the account has been projected to be healthy through state fiscal year 2012.			
	The account is funded by assessments on the industry. The portion transferred to the General Fund is an accumulation of reserve funds.	Transfer of these funds will require legislative action. Additional legislative change to NMS 688.055 is also required.			
Business and Industry Totals			\$11,190,314	\$3,420,968	\$15,011,282

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Commission on Mineral Resources Division of Minerals						
Agency		COMMISSION ON MINERAL RESOURCE				
Priority	Description	Impact				
3	4210 MINERALS Budget account: 101-4210 - Bond Reclamation (NRS 519A.250). This account manages the reclamation bond pool to allow mining and exploration operators, who would not otherwise be able to obtain required reclamation bonding, an opportunity to participate in the state bond pool, subject to specific requirements established by regulation. The bond pool is a fund which has been developed through making company participants' deposits, premiums and interest earned to cover an event where a participant fails to perform reclamation on mined land, as required by a regulatory authority (hereinafter Division of Environmental Protection, the U.S. Bureau of Land Management or the U.S. Forest Service). The Division of Minerals, pursuant to NRS 519A.250, is the administrator of the bond pool. Transfer of these funds will require legislative action. Additional legislative change to NRS 519A.250 is also required.	Transferring the reserve to the General Fund results in a reduction to the reserve without additional risk to the state, assuming no additional bonds are issued. The longevity of this account is projected to remain healthy through state fiscal year 2015. Transfer of these funds will require legislative action. Additional legislative change to NRS 519A.250 is also required.				
		\$427,817				
		\$0				
		\$427,817				
		Fiscal Year 2010				
		Fiscal Year 2011				
		Biennium Total				
5	519A MINERALS Budget account: 101-501 - Cash Pooled Bond Investments (NRS Title 46). This account consists of cash and certificates of deposits which bond oil, gas, and geothermal operations in the state. The account is funded by cash bond receipts and interest earnings. The interest earnings component is being transferred to the General Fund.	Transferring the reserve to the General Fund results in a reduction to the amount to be balanced forward into the subsequent fiscal year. The longevity of the account is to healthy through the current biennium. Transfer of these funds will require legislative action. Additional legislative change to NRS Title 46 is also required.				
		\$138,557				
		\$0				
		\$138,557				
		Fiscal Year 2010				
		Fiscal Year 2011				
		Biennium Total				
		\$566,374				
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Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Conservation & Natural Resources

Agency 700 CONSERVATION/NATURAL RESOURCES

Priority	Description	Impact	Fiscal Year 2010	Fiscal Year 2011	Biennium Total
12	4153 DCON - ADMINISTRATION Budget Account: 103-4144 - ADMIN/CI Bonds (Chapter 6, Statutes of Nevada 2021, 279 Special Session). This account maintains the bond sale call for C-12 program along with interest earned. This interest is used to protect and preserve the property or natural resources of this state or to obtain the benefits thereof for the following purposes: (a) for the acquisition of real or personal property or interests in real or personal property for purposes related to parks and recreation; or (b) to support nonrenewable capital improvements and renovations of facilities in state parks. Funding for this account is provided from the occasional sale of bonds up to \$200,000,000 in total. To date a total of \$160,000,025 in bonds have been sold; interest is accumulated on the current outstanding amount which will be used to cover the cost of the bonds and the principal amount. It is proposed that the unobligated interest in this account that is proposed to be transferred to the General Fund.	Transferring the unobligated accumulated interest in this account to the General Fund could potentially result in the inability to fully administer in the future the MMQCI bonds to protect, preserve and obtain the benefits of the property and natural resources of Nevada. It is critical to acknowledge that is one-time potential transfer of interest and that the account could not sustain a recurring transfer of interest funds. The life expectancy of the balance of the fund is undefined and will continue until the balance of the \$200 million in bond proceeds has been exhausted for its intended purpose. No General Fund are required in the future to replenish this account. Transfer of these funds will require legislative action.	\$100,000	\$400,000	\$750,000

Agency 704 PARKS DIVISION

Priority	Description	Impact	Fiscal Year 2010	Fiscal Year 2011	Biennium Total
35	4152 DCON - STATE PARKS Budget Account: 101-5100 - Performance Guarantees. The funding in this account is the balance of a \$5,000 performance guarantee received in fiscal year 2005. There have been no expenditures from this account since fiscal year 2001.	Transfer of these funds will not require legislative action.	\$2,062	\$0	\$2,062

Agency 705 DIVISION OF WATER RESOURCES

Priority	Description	Impact	Fiscal Year 2010	Fiscal Year 2011	Biennium Total
29	4271 DCON - WATER RESOURCES Budget Account: 101-4218 - Flood Mitigation and Disaster Relief (NRS 541.150) This account is established by the Legislature to provide emergency loans to repair damage to the state's water resources caused by flooding or other acts of God, resulting in an emergency condition of a shortage of water for public use. The account was established by legislative appropriation.	Transferring the reserve to the General Fund would result in the unavailability of these emergency funds in the event flood damage was caused and emergency repairs to the a subdivision's water system was necessary. The life expectancy of the balances of the fund is undefined and available as long as there is a principal balance in the account. A General Fund appropriation would be required in the future to re-establish the fund. Transfer of these funds will require legislative action.	\$0	\$0	\$0

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions
Conservation & Natural Resources

Agency	709	ENVIRONMENTAL PROTECTION	Priority	Description	Impact	Fiscal Year 2011	Fiscal Year 2012	Budget Total
3177 DNR - DEP ADMINISTRATION								
Budget Account: 101-3384 - Air Quality Management Account (NRS 4458.430) - NRS 4459.430								
3				This account funds the air quality management and regulatory functions of the state. Funds in this account are needed for operating and emergency air issues. The account is funded from air pollution control operating fees and interest income generated on these fees. It is the undedicated interest in this account that is proposed to be transferred to the General Fund.	Transferring the undedicated interest to the General Fund would result in reduced funding available over the long term for air pollution control programs. The life expectancy of the balance of the fund is undefined. Since the fund is supported through fees and penalties the fund is self generating and would not require General Funds to replenish the program amounts. Transfer of these funds will require legislative action.	\$0	\$184,464	\$184,464
3177 DNR - DEP ADMINISTRATION								
Budget Account: 101-4347 - Hazardous Waste Management Account (NRS 439.535)								
4				For the continued observation or other management of hazardous waste, including, but not limited to, establishing and maintaining a program of certification of consultants involved in the clean up of state of hazardous waste, hazardous material or a regulated substance from the site of release, including, but not limited to, the removal of hazardous waste, hazardous materials, hazardous material or a regulated substance; the training of personnel to respond to accidents or other emergencies related to hazardous materials; establishing and maintaining a program by the public utilities commission of Florida to inspect and otherwise ensure the safety of any shipment of hazardous materials transported by rail or motor vehicle within the State; and to provide financial incentives and grants to encourage the cleanup of the program. The program is funded from proceeds from agreements entered into regarding where state land are used for the disposal of hazardous waste, agricultural fees collected associated with the disposal of hazardous waste, agricultural fees collected associated with the disposal of hazardous waste, and penalties recovered responding to leaks, spills or accidents of hazardous waste, and all fees collected and all civil penalties imposed for improper disposal of hazardous waste. In addition to the various fees, reimbursement and penalties received this account also generate interest income. The account is self generating and would not require General Funds to replenish the program amounts. Transfer of these funds will require legislative action.	Transferring the undedicated interest to the General Fund could result in reduced funding available over the long term, for regulation of hazardous waste and environmental cleanup program. The life expectancy of the balance of the fund is undefined. Since the fund is supported through fees, reimbursements and penalties the fund is self generating and would not require General Funds to replenish the program amounts. Transfer of these funds will require legislative action.	\$0	\$382,496	\$382,496
3180 DNR - DEP MINING								
Budget Account: 101-3385 - Bureau of Mining Regulatory/Reclamation (NRS 4454.300-450A.730)								
3				This account is responsible for the state's mining regulatory program. Nevada's mining regulatory program addresses the design, construction, operation, closure and reclamation of mining and exploration operations. Major program elements consist of permitting, inspection, compliance monitoring, enforcement, and plan and report review. The account is funded from mining fees, charges for services and interest income generated on these fees. It is the undedicated interest in this account that is proposed to be transferred to the General Fund.	Transferring the undedicated interest to the General Fund would result in reduced funding available over the long term, for mining reclamation programs. The life expectancy of the balance of the fund is undefined. Since the fund is supported through fees and other charges the fund is self generating and would not require General Funds to replenish the transfer amounts. Transfer of these funds will require legislative action.	\$0	\$82,752	\$82,752

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Conservation & Natural Resources

Agency 709 ENVIRONMENTAL PROTECTION

Priority	Description	Impact	Fiscal Year 2010	Fiscal Year 2011	Benchmark Total
16	3337 DCKR - DEP SAFE DRINKING WATER REGULATORY PROGRAM Budget Account: 100-13159 - Nevada Division of Environmental Protection (NDEP) - Bureau of Safe Drinking Water (BDSW) (FNS 440-000-7801 440-000-7803) This account is responsible for implementing the Public Water System Supervision Program (PWSS) authorized under the federal Safe Drinking Water Act (SDWA) and maintains primacy for the State of Nevada to ensure that the State's public water systems comply with state and federal drinking water standards. The program assists water sources (including distribution systems) with compliance issues, and provides technical assistance to water systems. The BDSW also monitors operations, and requires public notification water systems to file of compliance. The BDSW also reviews engineering plans for public water systems and the subdivision of tracts. Funding for this account is provided by various federal grants, Missouri charges and a small portion of the federal portion of the Nevada State Lottery. The Nevada State Lottery is authorized to provide the required state match for the federal 3306 grant. The BDSW is prohibited to effect the General Fund appropriation to this account with a transfer of unobligated interest. Generated in the Hazardous Waste Management Account, Budget Account 100-43437, which would allow for the repayment of the General Fund in this account.	Transferring the unobligated interest income from budget account 100-43437 - Hazardous Waste Management Account to this account. The transfer of interest income from the Hazardous Waste Management Account to the Bureau of Safe Drinking Water account would reduce funding available, over the long term, for regulation of hazardous waste and environmental cleanup programs. The Hazardous Waste Management Account (BA 100-43437) is funded from proceeds from agreements entered into with the Nevada Department of Taxation. The application fees collected pursuant to agreements with the Nevada Department of Taxation and the Nevada Department of Taxation and the Nevada Department of Taxation recovered reporting to take up to six students of hazardous waste and all fees collected and all fees collected imposed for report disposal of hazardous waste. In addition to the various fees, reimbursement and penalties indicated this account is a generate interest income on those balances. It is the unobligated interest in this account that is proposed to be transferred. The life expectancy of the balances of the fund is indefinite. Since the fund is supported through fines, reimbursements and penalties the fund is self generating and would not require General Funds to replenish the transfer amount. Transfer of these funds will improve regulatory action.	\$66,419	\$98,523	\$346,912

Corrections

Agency 440 DEPARTMENT OF CORRECTIONS

Priority	Description	Impact	Fiscal Year 2010	Fiscal Year 2011	Biennium Total
2	3719 MDC - PRISON INDUSTRY Budget Account: 325-729 - Prison Industry Capital Projects (NRS 209.132) This account is used for new construction or the expansion of facilities to house new industries that are located within industries in the Industrial Program for employment of offenders. The account is funded through a portion of offender income from those who are employed in the Prison Industry program and interest earned on those funds. The proposal would transfer a portion of the reserve to this General Fund.	Transferring a portion of this reserve to the General Fund results in funds for Capital Projects being reduced to an amount that is just over the average expenditures from the last nine years. It is estimated that the balance of this fund will be approximately enough to fund the next two years with no new expansion or construction. This fund may need to be replenished by the General Fund if expansion or new construction is needed during that time. The transfer of these funds will require legislative action. Additionally, a legislative change to NRS 209.132 will be required.	\$0	\$948,000	\$948,000
Corrections Totals			\$0	\$948,000	\$948,000

Monday, February 22, 2010

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions **Legislative Council Bureau**

Agency	Priority	Description	Impact	Fiscal Year 2010	Fiscal Year 2011	Midterm Total
Agency 170 LEGISLATIVE COUNSEL BUREAU						
2630 INTERIM FINANCE COMMITTEE						
3		Budget Account: 332-2630 - Interim Finance Committee (NRS 353.269). This account is a special revenue fund that receives direct legislative appropriations for the Legislative Council Bureau. The account is used to fund the salaries and expenses of the Legislative Council Bureau, to meet expenses pursuant to legal requirements or as provided by specific statute. This account is funded by direct legislative appropriation of General and Highway Funds and is subject to specific legislation. The General Fund portion of the unrestricted balance will be transferred.	Transferring the unrestricted balance to the General Fund results in the reduction of the unrestricted reserve balance. Sufficient funding exists to support the reserve transfer. Depending on unforeseen circumstances, the unrestricted balance of the account may require a replenishment in the 2011 legislative session. Transfer of these funds required legislative action, changing Senate Bill 493, Chapter 465 from the 2009 legislative session.	\$6,000,000	\$0	\$6,000,000
2635 INTERIM FINANCE COMMITTEE						
6		Budget Account: 601-1385 - Disaster Relief Account (NRS 353.2755). This account is a special account in the fund to stabilize the Operation of the State Government, established in 1973. It is a fund that receives direct legislative appropriations for disaster relief. The account is used to fund the salaries and expenses of the Disaster Relief Account, to meet expenses pursuant to legal requirements or as provided by specific statute. This account is funded by direct legislative appropriation of General and Highway Funds and is subject to specific legislation. The General Fund portion of the unrestricted balance will be transferred.	Transferring the unrestricted balance to the General Fund results in the reduction of the unrestricted reserve balance and possibly a reduction in the amount of interest earned in the account. Current statute allows for deposits to be made into this account at fiscal year-end during transfer of these funds will require legislative action. Additional legislative change to NRS 353.271, NRS 353.275 and NRS 353.276 may be required.	\$4,000,000	\$0	\$4,000,000
Legislative Council Bureau Totals				\$4,000,000	\$0	\$4,000,000

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Motor Vehicles		Impact	Fiscal Year 2010	Fiscal Year 2011	Revenue Total
Agency	810 DEPT OF MOTOR VEHICLES				
Priority	Description				
6	4722 DMV - MOTOR VEHICLE POLLUTION CONTROL Budget Account: 201-4722-Motor Vehicle Pollution Control (NRS Chapter 463, 461.0475, 461.0477, 461.0481, 461.0482, 461.0483) The Compliance Enforcement Division, through this account, is responsible for ensuring compliance with Nevada's laws and regulations as they relate to the vehicle emissions standards in Clark and Washoe Counties. This division implements and enforces the on-road vehicle emissions portion of the state's Air Quality Program. Funding for this account consists of pollution control and license fees and this proposal would transfer a portion of the reserve to the General Fund.	Transferring a portion of this reserve to the General Fund will reduce the grant funds available to the counties. Current state law requires that the Department transfer grant funds to local governments for projects related to the maintenance and repair of the state's air quality. The amount of grant funds transferred to the counties would be reduced by the amount of the reserve funds transferred to the General Fund. As this is a one-time transfer of excess reserves, it is not anticipated to have a long-term effect. Excess reserves could be available to grant to counties during the fiscal year subsequent to the transfer. Transfer of these funds will require legislative action. Additionally, a legislative change may be required to NRS 463A.830.6, which defines the use of excess reserves.	\$0	\$700,000	\$700,000
Motor Vehicles Totals			\$0	\$700,000	\$700,000
Nevada System of Higher Education					
Agency	350 UCCSN				
Priority	Description	Impact	Fiscal Year 2010	Fiscal Year 2011	Revenue Total
16	2580 STATE SYSTEM ADMINISTRATION Budget account: 402-6110-Transfer/Appropriations (NRS 463.380). The purpose of the account is to cover costs associated with books issued pursuant to legislation authorized in 1975, 1981, 1987, 1988, 1991, and 1995. The account is also used to cover costs for specific capital improvement projects authorized by the Legislature. The account receives 25% of slot tax receipts after \$5 million is disbursed to the State Capital Construction Fund for Higher Education. The account is authorized to carry forward any unexpended funds to the next fiscal year. This proposal would transfer a portion of the reserve to the General Fund for certain capital improvement projects in the 2009 legislative session.	Transferring the anticipated slot tax receipts to the General Fund delays certain campus improvements. The life expectancy of this account is not expected to diminish as a result of this transfer. Transfer of these funds will require legislative action. Additional legislative change to NRS 463.385 and to Assembly Bill 564, Section 25, Chapter 440, 2009 legislative session.	\$0	\$2,500,000	\$2,500,000
Nevada System of Higher Education Totals			\$0	\$2,500,000	\$2,500,000

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Peace Officers Standards

Agency 230 PEACE OFFICERS STANDARDS & TRA

Priority	Description	Impact	Fiscal Year 2010	Fiscal Year 2011	Biennium Total
374 PEACE OFFICERS STANDARDS & TRAINING COMMISSION					
30	Budget Account: 101-374 Peace Officers Standards and Training (NSI 285,500) The Commission on Peace Officers Standards and Training (POAST) establishes and requires the Department of Justice to fund the State Peace Officers Standards and Training Commission (SPOST) and requires officers conduct basic law enforcement academy training, employee and audit continuing education courses and carries out for 133 criminal justice agencies a net 24 basic law enforcement training academies. This account is funded by 99% Court Assessments and 1% Registration Fees.	Transferring the Reserves to the General Fund would not result in the loss of any federal and/or matching funds. The impact would result in a difference of building maintenance, capital and other related operating expenses to future periods. There would not be a need to replenish these funds. Transfer of these funds would not require any legislative action to amend NSI 285,500.	\$0	\$52,282	\$52,282
Peace Officers Standards Totals			\$0	\$52,282	\$52,282

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Public Safety			Impact	Fiscal Year 2010	Fiscal Year 2011	Budget Total
Agency	650	DEPARTMENT OF PUBLIC SAFETY				
Priority	Description					
1	3672 DPS - HOME DISASTER ASSISTANCE PROGRAM Budget Account: 101-3672 - Homeowners Disaster Assistance Program (AR 372-2105 Section) This account is used to make grants to persons who own and occupy homes damaged by a disaster and are not eligible for other forms of assistance. The funding for this account is a General Fund reversion from a one-time rebate approved by the 2005 Legislature in AR 572.		Transferring the reserve to the General Fund results in the depletion of this account. Homeowners who are affected by a disaster and do not have another form of assistance will not be afforded state assistance. \$500,000 was designated for one-time rebates approved by the 2005 Legislature in AR 572. The funding in the Home Disaster Assistance Program is from the remaining balance reversioned to the General Fund once all rebates were paid. Once this money is depleted this account will no longer exist.	50	\$416,000	\$470,000
			Transfer of funds will require legislative action.			
2	3672 DPS - HOME DISASTER ASSISTANCE PROGRAM Budget Account: 601-1330 - Emergency Assistance Subaccount (NRS 424.415) The Emergency Assistance Subaccount within the Disaster Relief Account is used to: (a) Provide supplemental emergency assistance to this state or to local governments in this state that are severely and adversely affected by a natural, technological or man-made emergency or disaster; (b) provide relief to individuals, businesses, organizations, or local governments that are severely and adversely affected by a natural, technological or man-made emergency or disaster; and (c) pay any action expenses incurred by the Division for administration during a natural, technological or man-made emergency or disaster. The funding for this account is interest earned during the previous fiscal year on the money in the Disaster Relief Account in an amount not to exceed \$500,000.		Transferring the reserve to the General Fund results in less funding available for the purpose previously stated. This account is replenished through interest earned during the previous fiscal year on the money in the Disaster Relief Account in an amount not to exceed \$500,000. Transfer of funds will require legislative action. An additional legislative change to NRS 424.415 is also required.	50	\$500,000	\$500,000
			Transfer of funds will require legislative action.			
4	4489 DPS - BICYCLE SAFETY PROGRAM Budget Account: 201-4489 - Bicycle Safety Program (NRS 483.402 and 483.415) This account plans and administers a safety program, which includes safety education, training, and equipment for bicyclists. The program also includes funding for the purchase of safety equipment for local government entities, including school districts, to carry out programs on safety education. The funding for this account is from a fifty-cent fee charged for every driver's license issued or renewed, of which it receives 65%. Unexpended funds balance forward from year to year.		Transferring the reserve to the General Fund results in an approximate 50% reduction and depending on how fees are received going forward could affect a possible rate increase. This account is replenished by registration fees. Transfer of funds will require legislative action. An additional legislative change to NRS 483.415(2)(c) and 483.402 is also required.	50	\$46,611	\$46,611
			Transfer of funds will require legislative action.			
6	4491 DPS - MOTORCYCLE SAFETY PROGRAM Budget Account: 201-4491 - Motorcycle Safety Program (NRS 480-373.377 and 482.480) This account plans and administers a safety program that includes motorcycle training for new and experienced riders. The program also includes education of the driving public to increase awareness of motorcycles on our highways. The funding for this account is provided by a \$5.00 fee charged on every motorcycle registration or transfer provided by the DMV as well as interest earned on the cash balance in this account.		Transferring the reserve to the General Fund results in a 50% reduction, which could result in a rate increase above the reserve is from savings due to the receipt of federal funds over the previous four years and has now expired. This account is replenished through fees. Transfer of funds will require legislative action. An additional legislative change to NRS 486.172(1) and NRS 482.480 is also required.	50	\$126,418	\$126,418
			Transfer of funds will require legislative action.			

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Public Safety		Impact	Fiscal Year 2010	Fiscal Year 2011	Minimum Total
Agency 650 DEPARTMENT OF PUBLIC SAFETY					
Priority	Description				
3	4703 DPS - FORFEITURES - LAW ENFORCEMENT Budget Account: 201-4723 - Forfeitures (NMS 179,119,119)	Transferring the reserve to the General Fund results in depleting the state's cash balance. This account will be replenished with forfeitures transferred from budget accounts 201-6008 - State Seizures, which is a reserve holding account. Funds are held until the state has been adjudicated. Transfer of funds will require legislative action. An additional legislative charge to NMS 179,119,119 is also required.	\$0	\$55,729	\$55,729
8	4700 DPS - CRIMINAL HISTORY REPOSITORY Budget Account: 201-4729 - Criminal History Repository (NMS 179A and 179D) This account is used to administer the Nevada Criminal Justice Information System (NCJIS) and is responsible for the collection, storage, and dissemination of criminal history information. It also provides information and services to support a wide variety of public safety interests. In addition, it is the portal through which law enforcement statewide accesses criminal history records. Information at the Federal Bureau of Investigation (FBI) and other national and state criminal history databases. The funding for this account is made up of Court Assessments, Fingerprint Fees, Brady/Point of Sale Fees, and Out Home Check Fees.	Transferring the reserve to the General Fund results in the possibility of putting off the rewrite of the Criminal History database for another biennium as well as the possibility of reducing services such as Sex Offender operations, which are paid for by Nevada. This account is replenished through the various fees, however depending on the actual fees being received, cost assumptions may need to be increased based on the agency's projections as they will be short approximately \$60,000 at the beginning of FY12. Transfer of funds will require legislative action. An additional legislative charge to NMS 179A and 179D is also required.	\$0	\$1,556,136	\$1,556,136
13	4725 DPS - STATE EMERGENCY RESPONSE COMMISSION Budget Account: 201-4729 - State Emergency Response Commission (NMS 469,795-469,746) This account is used to protect the citizens of the State of Nevada against the negative effects of hazardous materials. The information is provided to the public and first responders for both planning and reference purposes through a combined database coordinated with the State Fire Marshal's Office. The funding for this account consists of Highway Funds, Certificate Fees, Program Fees, and Treasurer's Interest.	Transferring the reserve to the General Fund results in reduced funding available to grant to State agencies and Local Emergency Planning Committees throughout the State to support hazardous materials incident prevention, mitigation, and response. Funds are used for planning, training, and equipment purchases. This may also reduce the amount of federal funding provided by the U.S. Department of Transportation due to decreased State expenditures and decreased funding available for the 20th match. This account is replenished with the fees generated and interest earned on the unspent balance. Transfer of funds will require legislative action. An additional legislative charge to NMS 469,795 is also required.	\$0	\$301,635	\$301,635
15	4726 DPS - STATE EMERGENCY RESPONSE COMMISSION Budget Account: 201-4729 - Contingency Account for Hazardous Materials (NMS 459,715 and 482,379,666) This account is used to supply funding to local Emergency Planning Committees to support preparation for combat terrorism. The funding for this account consists of fees applicable to the "United We Stand" license plates as well as interest.	Transferring the reserve to the General Fund results in reduced funding available to State agencies and Local Emergency Planning Committees to support preparations to combat terrorism. This account is replenished through license plate fees and interest. Transfer of funds will require legislative action. An additional legislative charge to NMS 459,715 and 482,379,666 is also required.	\$0	\$218,794	\$218,794
Public Safety Totals			\$0	\$3,281,423	\$3,281,423

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Public Utilities Commission				Fiscal Year 2010	Fiscal Year 2011	Biennium Total
Agency	580	PUBLIC UTILITIES COMMISSION				
Priority		Description	Impact			
5	1000 PUBLIC UTILITIES COMMISSION					
		Budget Account: 224-3200 - Public Utilities Commission of Nevada (NRS 708.705, 707-720). This account is used for regulating public companies engaged in electric, natural gas, telephone, water and sewer services; gas and electric master meter service at mobile home parks; and home program systems. In addition, it monitors gas pipeline and railroad safety. The Commission is funded primarily through an annual regulatory assessment levied against public utilities in the State for which they receive recovery from their ratepayers. The Commission is authorized to set the rate of the assessment at 1.00 mill for the biennium, but the Commission set the assessment rate at 1.00 mill for the biennium.	Transferring this reserve to the General Fund could result in the Commission raising the assessment rate in Fiscal Year 2011. There is no loss of federal funds or matching funds as this budget is funded primarily with the annual regulatory assessment. The transfer of these funds will require legislative action. Additional legislative change to NRS 708.747 is also required.	\$0	\$1,000,000	\$1,000,000
Public Utilities Commission Totals				\$0	\$1,000,000	\$1,000,000
Secretary of State						
Agency	040	SECRETARY OF STATE'S OFFICE				
Priority		Description	Impact			
30	1000 SECRETARY OF STATE					
		Budget Account: 101-1057 - Notary Training (NRS 240.010). This account is used for providing courses of study for the mandatory training of notaries public. This account is funded by fees charged to each person who enrolls in a course of study for the notary public. Currently an individual pays an application fee of \$55 for a Certificate of Appointment.	Transferring this reserve to the General Fund may result in the Secretary of State's Office increasing the application fee or there may be fewer training classes offered. There is no loss of federal funds or matching funds as this account is funded entirely by application fees. The transfer of these funds will require legislative action. Additional legislative change to NRS 240.010 is also required.	\$0	\$100,000	\$100,000
Secretary of State Totals				\$0	\$100,000	\$100,000

Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions

Taxation		Impact	Fiscal Year 2010	Fiscal Year 2011	Biennium Total
Agency 130	DEPARTMENT OF TAXATION				
Priority	Description				
20	2843 DEPARTMENT OF TAXATION Budget Account: 101-6568 - Severely Financial Emergency Account (NRS 354.271) This account is a revolving short term loan account for local governments who are under the management of the Department of Taxation pursuant to NRS 354.045 to 354.725 to pay operating expenses until the local government receives revenues. The only source of revenue for this account is interest earnings.	Transforming the reserve to the General Fund results in less funds available to loan to local governments in severe financial emergency status. As this is a short term loan account, the balance of the account will continue to grow by the interest earned on loaning funds. Transfer of these funds will require legislative action. Additional legislative changes maybe required for NRS 354.721 to allow the transfer of the funds to the General Fund.	\$0	\$225,000	\$225,000
21	2843 DEPARTMENT OF TAXATION Budget Account: 610-0669 - Taxation Reserve Account (NRS 372.51) This account is an agency bond account used to record cash bonds received from taxpayers in security. If after three years the taxpayer is in good standing with the department or the taxpayer closes the business associated with the security, they can request to receive the funds. Funds in this account are taxpayer property and the liability associated with the funds would be transferred to the General Fund. This account is funded exclusively through cash bond receipts.	Transferring the reserve to the General Fund results in less cash available to refund cash bonds or other claims. The General Fund would be liable for any refunds or claims that cannot be covered by the account. A balance of \$15.52million should be sufficient to sustain this account. The department has proposed a regulation change to 372.521 to exempt taxpayers from paying cash bonds in the future. This change could have a significant impact on this account as many cash bonds received are for the \$1,000. Transfer of these funds will require legislative action. The bill don't request (BDR) should include language such as the following to address the liability of the funds: "... funds transferred to the State General Fund, but not subject to the provisions of NRS 372.521, shall remain the property of the State General Fund and shall be used for the purposes of NRS 372.521." Also recommended the following language added to the BDR: "If there is an insufficient amount of money in the Account to pay any cash or cash bond pursuant to subsection (7), the State Board of Examiners shall, upon the application of the Department of Taxation, authorize a transfer from the State General Fund to the Account of an amount necessary to pay their costs or charges. (Amend to NRS 372.521(b)(2))	\$0	\$335,000,000	\$335,000,000
Taxation Totals			\$0	\$335,225,000	\$335,225,000
Wildlife					
Agency 702	WILDLIFE				
Priority	Description	Impact	Fiscal Year 2010	Fiscal Year 2011	Biennium Total
29	4403 WILDLIFE - ADMINISTRATION Budget account: 101-4457 - Nevada Department of Wildlife Heritage Account (NRS 501.3575) This account was created to provide award funding to agencies or entities that enhance the propagation, restoration, translocation, and management of any game mammals, game bird, game fish, or fur-bearing mammal in the State of Nevada, and the management and control of predatory wildlife in the State of Nevada. This account is funded through gifts, donations, and interest earnings.	Transferring the reserve to the General Fund results in a decrease in funding for the activities in this account. The life expectancy of the account is through the current biennium. Transfer of these funds will require legislative action. Additional legislative change to NRS 501.3575 is also required.	\$0	\$0,600,000	\$0,600,000
Wildlife Totals			\$0	\$0,600,000	\$0,600,000
Grand Totals for Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions			\$0	\$640,825,000	\$640,825,000

Monday, February 22, 2010

Nevada Department of Health and Human Services
Proposed Budget Cuts

	Proposed Cut	GF Savings
R •	Revert unspent personal assistance services funds unused by the Office of Disability Services during FY2010 because actual caseload of 166 was smaller than budgeted caseload of 222. Mandate adequate funding to ramp up to 199 slots.	\$ 440,604
R •	Reduce the legislatively approved number of cases in the division's Community Services Options Program for the Elderly (COPE). Program was budgeted at 187 slots in FY10 and 193 slots in FY11. This cuts 62 slots, leaving a balance of 125 slots in FY10 and 131 slots in FY11. Actual served in Dec. 2009 was 105. Average served YTD is 118. Current wait list of 2.	\$ 1,196,352
R •	Reduce reimbursement rate for personal care attendants for both the senior and disability clients. This cut reduces reimbursement rates an equal amount as proposed by the Division of Health Care Financing & Policy for Medicaid recipients in certain long-term care facilities. The division has contracts with 34 agencies to provide personal care under the CHIP and COPE programs and one agency employing approximately 150 PCAs for the PAS program.	\$ 503,733
O •	Revert General Fund in lieu of civil monetary penalties assessed against nursing facilities as a part of federal inspections the state conducts on behalf of CMS. The state can use the funds for a variety of purposes. The division will use the money to fund the ombudsman program for nursing homes.	\$ 420,968
R •	Reduce senior property tax assistance program benefit. Average benefit will reduce 27% from \$353 to \$262 in FY 2011. <i>Reduction requires approval by Interim Finance Committee</i>	\$ 1,209,389
V •	Eliminate six vacant positions in the Home and Community Based Program (CHIP) budget due to lower than budgeted caseload. 5 - Social Workers and 1 Social Work Supervisor	\$ 187,229
Health Care Financing and Policy		
	Total \$ 31,532,284	
R •	Revise evaluation procedure for clients receiving personal care services, utilizing a physical evaluation by a physical therapist rather than relying on a statement of need by the client. Change already in process. Public workshops held in October, with public hearing held Jan. 12.	\$ 4,030,825
R •	Savings from lower-than-budgeted caseload in the CHIP program. Current wait list is 106. Dec. 2009 caseload was 1,123. With the budget reductions we can continue to grow the caseload to an average of 1,241 per month. FY10 caseload was Legislatively approved at 1,313 per month and FY11 was approved at 1,438 per month.	\$ 1,991,026
R •	Reduce Medicaid reimbursement for anesthesiologists, coming to scale with Medicare and eliminating some specific treatment enhancements. Will reduce payments to 829 providers statewide.	\$ 2,489,913
R •	Expand Medicaid's Preferred Drug List to include atypical and typical antipsychotic drugs, certain anti-injection medications and some anti-convulsion drugs. Savings in this category is less than during the 2009 Legislature because several antipsychotic medications are now available as generics. <i>Requires Legislative approval to remove the exemptions from the PDL law in NRS 422.4025</i>	\$ 766,741

Nevada Department of Health and Human Services Proposed Budget Cuts

	Proposed Cut	GF Savings
R *	Reduce the number of incontinence products, including adult diapers and bed pads, that Medicaid will pay for, bringing the state in line with national standards. The new standard will allow doctors to prescribe up to 186 diapers per month, down from 300 per month currently. The change will affect 216 providers. This change is already being made.	\$ 829,304
R *	Eliminate disposable gloves as a reimbursable expense for personal care services clients. Medicaid currently reimburses disposable medical equipment companies for disposable gloves purchased by Medicaid clients. Personal care service agencies will now be responsible for supplying gloves when attendants use them. This change is already in process and will affect 66 providers.	\$ 834,271
R *	Reduce the allowable administrative percentage for non-emergency transportation, capping it at 15%. The current provider, based on computing methodology, currently retain nearly 24% for administrative costs.	\$ 644,149
R *	Reduce reimbursement rates for behavioral health training and psychosocial rehabilitation. This change, which is already in progress, will reduce payments to 384 providers statewide.	\$ 4,964,832
R *	Require documentation when legally responsible relatives claim they are unable to provide personal care services to their family member, which then puts those individuals on the Medicaid caseload. This is the current policy, but the change will lead to stricter enforcement and some savings. The change will affect 453 clients.	\$ 132,668
R *	Reduce reimbursement rates for personal care services by \$1.50 per hour to \$15.50 per hour. The Governor's recommended budget included the \$15.50 per hour rate and the \$1.50 was added back in by the Legislature. The change will reduce reimbursements for 80 providers.	\$ 2,993,573
R *	Reduce hospital reimbursement rates by 5%. This reduction was included in the Governor's recommended budget, but was added back in by the Legislature. The proposed reduction exempts maternity, neonatal intensive care and psychiatric care because those areas were disproportionately affected by the original 5% reduction in 2008.	\$ 5,310,880
R *	Reduce reimbursement rates 5% for residential treatment centers, which are psychiatric facilities primarily serving youth. The reduction will affect 36 providers.	\$ 924,162
R *	Increase premiums for Nevada Check Up. With the change, clients who pay \$25 quarterly will pay \$75. Clients who pay \$50 quarterly will pay \$140. Clients who pay \$75 quarterly will pay \$180. Even with the increased rates, premiums remain below 3% of the clients' total income. The change will effect the families of 21,823 recipients.	\$ 1,065,444
R *	Eliminate optional services from Medicaid: Non-medical adult vision coverage. While the change affects potential coverage for all adults enrolled in Medicaid, 6,300 recipients utilized this benefit in Fiscal Year 2009.	\$ 716,766

Nevada Department of Health and Human Services Proposed Budget Cuts

	Proposed Cut	GF Savings
☐ Non-medical adult audiology. While the change affects potential coverage for all adults enrolled in Medicaid, 249 recipients utilized this benefit in Fiscal Year 2009.		\$ 113,860
☐ Hearing aids for adults. While the change affects potential coverage for all adults enrolled in Medicaid, 56 recipients utilized this benefit in Fiscal Year 2009.		\$ 18,073
☐ Adult therapy, including speech, physical and occupational therapies. While this change affects potential coverage for all adults enrolled in Medicaid, 1,313 recipients utilized this benefit in Fiscal Year 2009.		\$ 433,377
R • Cut reimbursement rates for skilled nursing facilities by \$10 per day, affecting revenue for 38 nursing homes. <i>Requires Legislative action to amend NRS 422.3785</i>		\$ 3,053,113
V • Eliminate two vacant Health Care Coordinators in the Administration Budget.		\$ 87,759
V • Eliminate four vacant positions in the Nevada Check Up program. 3- Family Services Specialists, 1 Administrative Assistant.		\$ 50,987
T • Eliminate non-essential travel and training in Administration budget.		\$ 79,557
T • Eliminate non-essential travel and training in Nevada Check Up program.		\$ 984
	Total \$ 10,425,490	
Health Division		
S • Sweep funds from the Health Radioactive and Hazardous Waste fund, which the health division uses to test, maintain and repair burial of low-level radioactive waste. During the 24th Special Session of the Legislature, \$4 million was swept from this account to help balance the state's shortfall. Further analysis shows additional revenue can be swept from this fund and reverted to the State's General Fund. <i>Requires Legislative approval to sweep the funds, similar to Assembly Bill 3 of the 24th Special Session of the Legislature.</i>		\$ 8,990,050
R • Eliminate General Funds associated with the Office of Minority Health, continuing the function using federal grants.		\$ 155,182
S • Sweep and revert funds from the Marijuana Health Registry. This is the fund Nevadans pay in to when they apply for inclusion on the registry allowing them to grow, possess and use marijuana for medical purposes. This covers the operating expenses of maintaining the registry. With the sweep, the account will maintain a six month reserve. <i>Requires Legislative approval to sweep the funds, similar to Assembly Bill 3 of the 24th Special Session of the Legislature.</i>		\$ 287,293
V • Eliminate one vacant Administrative Assistant position in the Chronic Disease Program.		\$ 2,998
V • Eliminate two vacant Administrative Assistant positions in Community Health Services.		\$ 108,307
V • Eliminate five vacant positions in Consumer Health Protection. 4 - Environmental Health Specialists and 1 Health Program Specialist		\$ 459,450

Nevada Department of Health and Human Services Proposed Budget Cuts

	Proposed Cut	GF Savings
V •	Eliminate ten vacant positions in Early Intervention Services. T - Speech Pathologist, S - Administrative Assistants, 3 - Developmental Specialists, 1 - Public Service Intern	\$ 220,304
V •	Eliminate one vacant Administrative Assistant position in Emergency Medical Services.	\$ 47,025
V •	Eliminate one vacant Administrative Assistant position in Health Statistics and Planning.	\$ 54,728
T •	Reduce to essential travel and training only in Cancer Control Registry.	\$ 5,960
T •	Reduce to essential travel and training only in Consumer Health.	\$ 14,670
T •	Reduce to essential travel and training only in Emergency Medical Services.	\$ 46,132
T •	Reduce to essential travel and training only in Health Statistics and Planning.	\$ 562
T •	Reduce to essential travel and training only in Maternal Child Health.	\$ 41,971
T •	Reduce to essential travel and training only in Health Administration.	\$ 3,348
O •	Reduce administrative costs (lease expenses) in Emergency Medical Services budget.	\$ 6,910
Division of Welfare & Supportive Services		
R •	Contract savings on the IBM Enterprise License Agreement due to actual costs coming in less than quotes used to budget. Minimal impact to operations.	\$ 106,943
R •	Save General Funds through JP Morgan Alternative Cost Proposal for the state's electronic benefit transfer system. The state will pay a lower cost-per-client in the early years to save this money now, and pay a higher cost-per-client in later years to pay back these savings.	\$ 640,834
R •	Revert General Funds used for administration and replace it with the state's share of collections from Child Support Enforcement. Removes an equal amount of funds from the child support enforcement program, compromising the division's ability to implement needed changes to improve customer service.	\$ 2,182,615
R •	Reduce travel and training expenses. Training for new and existing employees will be compromised.	\$ 6,769
R •	Revert Food Stamp High Performance Bonus funds, which were intended to replace equipment and fund repairs.	\$ 6,957
R •	Revert General Funds from additional staff turnover in administration, potentially affecting the division's ability to meet deadlines and federal performance measures.	\$ 127,785

Nevada Department of Health and Human Services Proposed Budget Cuts

	Proposed Cut	GF Savings
R •	Save General Fund by using TANF funds for staff in administration budget.	\$ 473,872
R •	Close Research Way facility and relocate Publications and IT warehouses, eliminating one maintenance position and potentially impacting the division's ability to produce printed materials in house.	\$ 28,224
R •	Savings based on caseload changes in the aged, blind and adult group care facility categories.	\$ 300,000
R •	Revert General Funds in lieu of the state's share of collections from the child support enforcement program. This takes an equal amount of funding away from child support enforcement and may compromise the division's ability to make planned program improvements.	\$ 65,307
R •	Reduce travel and training 5% for field service offices.	\$ 4,902
R •	Revert General Funds from additional staff turnover in the field services budget, reducing the state's ability to process existing and new cases.	\$ 1,259,582
R •	Discontinue northern Nevada NEON pilot program, approved by the Legislature in 2007. Existing staff will now provide this case management, further stressing public assistance services in northern Nevada.	\$ 131,757
R •	Close Welfare office in Winnemucca, eliminating one vacant position and shifting applications and questions to the Family Resource Center. Application processing and client services will be transferred to the Elko office.	\$ 22,460
R •	Revert State Share of Collections from the Child Support Enforcement Program.	\$ 825,518
R •	Revert General Funds designated for child care assistance, shifting approximately 347 children now served using partial state funds to federal only funds. This shift is possible because of excess discretionary funds.	\$ 738,390
R •	Reduce General Funds for administration of SNAP due to increased federal funding.	\$ 1,600,000
V •	Eliminate one vacant Program Officer position in Field Services budget.	\$ 22,673
T •	Reduce to essential travel and training only in Administration Budget.	\$ 11,196
T •	Reduce to essential travel and training only in Child Support program.	\$ 24,608
T •	Reduce to essential travel and training only in Field Services.	\$ 4,900

Nevada Department of Health and Human Services Proposed Budget Cuts

Mental Health and Developmental Services		Proposed Cut	Total	\$	31,573,164	GF Savings
R •	Carry forward United Health Settlement funding for a new year.					\$ 116,555
R •	Vacancy savings from the Mental Health Information System budget.					\$ 50,090
R •	Revert utility costs of buildings closed at NNAMHS.					\$ 300,000
R •	Pharmacy savings in mental health services due to better-than-anticipated efforts to align Medicaid and Medicare clients to private pharmacies, and the release of several popular medications in generic form.					\$ 8,162,406
	☐ NNAMHS = \$2,810,000 ☐ SNAMHS = \$4,633,206 ☐ Rural Clinics = \$519,200					
R •	Reduce out-of-state travel for administration in FY2010.					\$ 5,700
R •	Eliminate budgeted caseload growth for supportive living arrangements (supported housing) for people with developmental disabilities.					
	Desert Regional Center: Currently has a wait list of 78, but even with this cut DRC will be able to serve that wait list and additional 40 individuals. So the program can grow about 120-160 spots from current caseload.					\$ 9,587,717
	Sierra Regional Center: Currently has a wait list of 33, but even with this cut SRC will be able to serve that wait list and an additional 31 individuals. So the program can grow 64 more placements that currently caseload.					\$ 3,747,732
R •	Eliminate caseload growth for job and day training for developmentally disabled people at Rural Regional Center approved by the 2009 Legislature. The cut will leave 53 people without day program services during the biennium. RRC currently serves 263 clients with this service and has a wait list of 52 individuals.					\$ 449,546
R •	Reduce the number of families with developmentally disabled family members the Rural Regional Center can serve through its purchase of service program, which provides one-time assistance to individuals to address emergency needs, health and safety issues or enhance quality of life. A total of 70 fewer families will receive services over the biennium and a wait list will be created for the first time. RRC is currently budgeted to serve 141 clients over the biennium.					\$ 100,000
R •	Reduce services to the co-occurring disorder treatment program, resulting in 60 fewer people receiving services statewide. Five providers are contracted to provide these services, three in northern Nevada and two in southern Nevada. Southern providers are contracted to serve 373 clients for FY2010, and northern providers are contracted to serve 160 clients in FY2010. There is currently a waiting list of 35 people in the south, and there is no waiting list in the north.					\$ 350,944
R •	Freeze two vacant positions in the Substance Abuse Prevention and Treatment Agency and transfer one position to other funding sources. The frozen positions are a Health Program Specialist, and an Administrative Assistant. The position being funded by another funding source is a Management Analyst.					\$ 353,035

Nevada Department of Health and Human Services
Proposed Budget Cuts

	Proposed Cut	GF Savings
R *	Reduce Substance Abuse Prevention and Treatment Program's prevention efforts through a 3% reduction in FY2010. Substance abuse prevention capacity will be reduced by 474 clients during this period.	\$ 176,481
R *	Reduce funding for professional services from Rural Clinics, resulting in fewer psychiatric visits for clients, putting clients at a greater risk for relapses. The reduction will also undermine the division's ability to add new caseload, so the waiting list will grow, already standing at 146 adults and 17 youth. Of the savings, \$265,000 is being achieved in FY2010.	\$ 290,921
R *	Reduce inpatient capacity at Rawson-Neal Hospital by 22 beds. The daily census at the hospital has been averaging 40 beds below capacity. The 16 positions in the unit will be frozen, potentially resulting in layoffs if vacancies are not available within their job classifications. Decreasing the inpatient length of stay and increasing the efficiency of the psychiatric observation unit will compensate for the loss of these beds.	\$ 1,533,421
R *	Revert General Funds from Southern Nevada Adult Mental Health budgeted for residential placement assistance. There is currently no wait list for this service, and with the cut SNAMHS will still be able to add approximately 85 residential slots over the remainder of the biennium.	\$ 1,250,000
R *	Freeze multiple vacant positions at Lake's Crossing, including: six vacant Forensic Specialist III positions, two Forensic Specialist IV positions, one senior corrections officer, one administrative assistant, one quality assurance specialist and one psychiatric nurse. Freezing these positions may undermine the facility's ability to maintain patient and staff safety, meet minimum staffing requirements, and implement procedures to bill Medicare for patient services, among other services. If court referrals increase, the facility may be unable to comply with a court-ordered maximum wait list of 7 days. The average daily census for Lake's Crossing in January was 47.1 clients with a budgeted capacity of 76 clients.	\$ 1,360,247
R *	Revert unused funds for autism treatment from Desert Regional Center during FY2010. Savings is based on new participants not fully utilizing their monthly allotment while learning how to use the program. These savings are not expected for FY2011.	\$ 120,000
V *	Eliminate three vacant positions at Sierra Regional Center. (One account technician I, one licensed clinical social worker III, one administrative assistant I).	\$ 112,013
V *	Eliminate one vacant position at Desert Regional Center. (Occupational therapist II).	\$ 75,576
V *	Eliminate 4 vacant positions at Northern Nevada Adult Mental Health Services. 1 - Licensed Clinical Social Worker III, 1 - Psychological Assistant, 1 - Substance Abuse Counselor, 1 - Mid-level Practitioner	\$ 115,885
T *	Reduce to essential travel and training only at Sierra Regional Center.	\$ 19,394
T *	Reduce to essential travel and training only at Desert Regional Center.	\$ 33,137
T *	Reduce to essential travel and training only in Mental Health Information Systems.	\$ 9,400

Nevada Department of Health and Human Services Proposed Budget Cuts

	Proposed Cut	GF Savings
T •	Reduce to essential travel and training only in Mental Health Administration.	\$ 63,921
T •	Reduce to essential travel and training only at Northern Nevada Adult Mental Health Services.	\$ 66,450
T •	Reduce to essential travel and training only at Rural Regional Center.	\$ 13,841
T •	Reduce to essential travel and training only at Southern Nevada Adult Mental Health Services.	\$ 85,000
T •	Reduce to essential travel and training only in Substance Abuse Prevention and Treatment.	\$ 54,758
O •	Revert savings in operating expenses, building maintenance, autism assistance, family support, information services, jobs and day training and utilities at Sierra Regional Center.	\$ 970,430
S •	Sweep funds from the Alcohol Tax Program. This revenue is generated by a liquor tax and is used to fund programs that treat alcohol and drug abuse through detoxification and rehabilitation services. Fewer grants for these services can be made because of this reduction.	\$ 311,493
O •	Revert savings in operating expenses, building maintenance, autism assistance, family support, information services, jobs and day training and utilities at Desert Regional Center.	\$ 1,100,334
O •	Reduces travel in the Mental Health Administration budget to reduce travel for the state's Mental Health Commission.	\$ 12,800
O •	Savings in equipment and information services from Northern Nevada Adult Mental Health Services.	\$ 54,858
O •	Revert savings in operating expenses, residential supports, family support, information services and jobs and day training at Rural Regional Center.	\$ 370,813
O •	Savings in operating expenses, building maintenance and information services at Southern Nevada Adult Mental Health Services.	\$ 104,000
O •	Reduction in prevention grants from Substance Abuse Prevention & Treatment Agency.	\$ 38,296

Division of Child and Family Services

Total \$ 18,308,548

R • Savings in funding for room and board to behavioral health residential facilities that care for Medicaid-enrolled children who are not in custody of DCFS. This is based upon a lower-than-budgeted caseload. Caseload for FY2010 was budgeted at 278 but is now projected at 221. Caseload for FY2011 was budgeted at 298 but is now projected at 241. Medicaid pays for these children's behavioral health care, but does not fund room and board payments, a duty left to the state. However, this change will have no direct impact on children because the caseload is running significantly below budgeted for the current fiscal year. The reduction will also freeze three vacant social services program specialist positions through the biennium.

Nevada Department of Health and Human Services
Proposed Budget Cuts

	Proposed Cut	GF Savings
R •	Savings in foster care payments and residential care placements in Rural Child Welfare due to lower-than-budgeted caseloads. Savings in foster care category was approved with an average monthly caseload of 289 for FY2010 (currently projected at 242) and 297 for FY2011 (now projected at 272). Rural Child Welfare category was approved with an average monthly caseload of 289 for FY2010 (currently projected at 242) and 297 for FY2011 (currently projected at 272). Also, eliminates the budgeted statewide enhancement for sibling rates approved by the 2009 Legislature through the Appropriations Act. The Legislature placed \$1.6 million in each year of the biennium in the IFC contingency fund to establish a statewide foster care rate for children in sibling groups. This cut will result in these enhancements not taking effect in the rural portions of the state.	\$ 1,629,039
R •	Savings in Youth Parole based on lower-than-budgeted caseloads in the residential care category. This category was budgeted for 78 clients in FY2010 (now projected at 61) and 78 clients for FY2011 (now projected at 65). Also reduces funding for the transitional community reintegration efforts, which will reduce or eliminate services for an undetermined number of youth.	\$ 900,000
R •	Reduce General Funds for case management services provided by Wraparound in Nevada by \$720,000, due to higher-than-projected Medicaid funds based on the Division's approved Public Assistance Cost Allocation Plan. (\$720,000 in GF cut, but no net cut)	\$ 720,000
R •	Reduce funding for placement prevention and other immediate needs within the Wraparound in Nevada program designed to maintain families, reduce out-of-home placements and state custody cases. This will reduce the level of these intensive services provided to children and families.	\$ 160,000
R •	Freeze two vacant information technology positions within the UNITY/SACHS budget, reduce in-state and out-of-state travel and training. The major impact of this reduction will be the division's restricted ability to make improvements to its technology and data system.	\$ 224,347
R •	Close Summit View Correctional Center, transferring roughly 48 youth to the Nevada Youth Training Center in Elko or the Caliente Youth Center in Caliente. A corresponding budget increase at the other two facilities is required to open one 20-bed cottage at each facility. Summit View currently has 52 filled FTE, of which 48 will be laid off. This budget will also retain funding to contract for out-of-state correctional services for up to three youth per year should the division be unable to handle their correctional needs in state.	\$ 3,494,745

Requires Interim Finance Committee approval to create additional FTEs at Nevada Youth Training Center and Caliente Youth Center

Nevada Department of Health and Human Services Proposed Budget Cuts

	Proposed Cut	GF Savings
R •	Reduce by 10% the amount of General Funds passed to Washoe County in the Washoe County Integration budget in support of child welfare and child protective services. While Washoe County has indicated it could absorb the reduced budget for FY2010 with savings due to lower-than-budgeted foster care cases, that is not true for FY2011. The county reports: "The ten percent general fund reduction in FY 2011 will need to be a combination of salaries and services. In order to meet the reduction in all probability, the Department will cut all clinical staff positions, reduce funding for counseling services, reduce funding for contract home care and social emergency providers, decrease foster care respite days, and reduce adoption subsidies and licensing caseload increases." Even if these will greatly lower the county's level of services to child welfare, it will also result in long adoption wait times.	\$ 2,046,388
R •	Reduce by 10% the amount of General Funds passed to Clark County in the Clark County Integration budget in support of child welfare and child protective services. Clark County declined a request to summarize their likely reaction to a reduction in their General Fund appropriation. Target case management funding from Medicaid may partly offset Clark County reduction	\$ 6,101,647
R •	Reduce by 10% the General Funds passed to counties to support the operations of the China Springs / Aurora Pines Youth Camp in Douglas County and the Spring Mountain Youth Camp in Clark County. If counties do not backfill funding, services (youth served) may be reduced.	\$ 170,498
R •	Reduce contract mental health rehabilitative services for uninsured children in Clark County.	\$ 180,000
R •	Eliminate two part-time jobs and layoff one current employee from Southern Nevada Child & Adolescent Services.	\$ 37,896
V •	Eliminate five vacant positions in DCFS Administration, 3 - Social Services Specialists, 1 - Administrative Assistant, 1 - Management Analyst	\$ 254,462
V •	Eliminate two vacant positions at the Elko Youth Training Center, 1 - Youth Training Center Counselor, 1 - Academic Teacher	\$ 156,866
V •	Eliminate seventeen (17) vacant positions in Northern Nevada Child and Adolescent Services, 1 -1 Licensed Psychologist, 1 -1 Treatment Home Provider, 2 - Teaching Parents, 7 - Mental Health Counselors, 2 - Psychiatric Caseworkers, 1 - Accounting Assistant, 2 - Administrative Assistants, and 1 - Program Officer.	\$ 608,262
V •	Eliminate two vacant Administrative Assistant positions from Rural Child Welfare.	\$ 96,704
V •	Eliminate eight vacant positions from Southern Nevada Child and Adolescent Services, 3 - Clinical Social Workers, 4 - Mental Health Counselors, 1 - Public Service Intern, and 1 - Psychiatric Caseworker.	\$ 65,672
V •	Eliminate one vacant Management Analyst position from the Unity Information System budget.	\$ 65,340
V •	Eliminate eight vacant positions from Wraparound in Nevada, 1 - Developmental Specialist, 1 - Administrative Assistant, 1 - Management Analyst, and 5 - Psychiatric Caseworkers.	\$ 269,060

Nevada Department of Health and Human Services
Proposed Budget Cuts

	Proposed Cut	GF Savings
T *	Reduce to essential travel and training only in DCFS Administration.	\$ 37,186
T *	Reduce to essential travel and training only in Northern Nevada Child and Adolescent Services.	\$ 3,598
T *	Reduce to essential travel and training only in Rural Child Welfare.	\$ 76,715
T *	Reduce to essential travel and training only in Southern Nevada Child and Adolescent Services.	\$ 13,934
T *	Reduce to essential travel and training only in Wraparound in Nevada.	\$ 17,877
T *	Reduce to essential travel and training only in Youth Parole.	\$ 76,508
	Governor's Total	\$ 108,216,626
		\$ 40,890,585

Tobacco Sweep

Sweep money from Fund for a Healthy Nevada and Public Health Trust Fund.

Fund for Healthy Nevada:

Senior Rx:	\$ 8,891,525
Disability Rx:	\$ 3,748,095
Individual Living:	\$ 8,949,734
Tobacco Use:	\$ 6,956,879
Child Health:	\$ 868,610
Disability Services:	\$ 713,320
Total FHN	\$ 30,128,163
Public Health Trust:	\$ 10,762,420
	\$ 40,890,583

Policy decisions: 1) Hold Senior Rx and disability Rx enrollment flat

2) Eliminate Tobacco Cessation funding in FY11 and FY12

3) Reduce all others 10%

SEE TANF RELATED CUTS ON NEXT PAGE

**Nevada Department of Health and Human Services
Proposed Budget Cuts**

Proposed Cut	GF Savings
Actions Taken to Address TANF Shortfall	
Autism Services Reduce the monthly support rates by 22% for autistic children and self-directed support clients at the division's three regional centers because of lost TANF funds coming from the Welfare Division. Autism clients will see their monthly support decline: \$342 from \$1,555 to \$1,213 for clients aged 0-5; \$228 from \$1,037 to \$809 for clients aged 6-8; and \$171 from \$778 to \$607 for clients aged 9-10. Self-directed support clients will see their monthly assistance decline: \$98 from \$450 to \$351 some clients, and \$39 from \$175 to \$136 for other clients.	
☐ Desert Regional Center: 107 Autism clients and 116 Self-Directed clients will see the reduction	\$ 1,039,345
☐ Sierra Regional Center: 41 Autism clients and 69 Self-Directed clients will see the reduction	\$ 264,285
☐ Rural Regional Center: 25 Autism clients and 47 Self-Directed clients will see the reduction	\$ 182,655
	<u>\$ 1,486,285</u>
TANF to Title XX Transfer to DCFS This Title XX funding, passed through the Director's Office, was being used for room and board charges for non-DCFS custody kids. It should have no negative impacts as caseloads are running lower than budgeted.	\$ 1,500,000
Reduce TANF EA Payments for Front End Child Protective Services Case Management Washoe County Clark County	\$ 439,086 \$ 1,135,238
Eligibility and Program Support Reductions	\$ 2,590,757
Administrative and Systems Reductions	<u>\$ (272,330)</u>
	\$ 6,875,036
	<u>\$ 155,096,247</u>
	Schedule Total

Cover Sheet

The attached handout consists of the first 10 pages of signatures on a petition. The full petition is on file with the Assembly.

Kyle George/ UNLV
Nate Waugh/CSN Student Gov

Higher Education Pledge

I Lia Negrillo a Nevadan residing at
~~4440~~ 4440 Lele Kihapai St.,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

Higher Education Pledge

I Benjamin Stawha a Nevadan residing at
5060 Cava Rogers Dr, 89110,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

Higher Education Pledge

I Cotton Kaylegian a Nevadan residing at
3411 Wayne St, Las Vegas, NV, 89121,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

Higher Education Pledge

I Binh TRAN a Nevadan residing at
4973 WATKINNET WAY LV NV 89147
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

Higher Education Pledge

I Royce Molick a Nevadan residing at
590 Anna Ave,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X Royce Molick

Higher Education Pledge

I Shu Zhang a Nevadan residing at
6572 Cotfield Ave. Las Vegas NV 89134
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X [Signature]

Higher Education Pledge

I TRAYAN PEEV a Nevadan residing at
2842 ROSE CLIFF DR, Henderson, NV 89074
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X [Signature]

Higher Education Pledge

I Jalonn Wilkins a Nevadan residing at
2705 Slide Canyon Avenue 89121
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X [Signature]

Higher Education Pledge

I Narciso Zapata a Nevadan residing at
2475 Fremont St. 41 Las Vegas NV,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X Narciso Zapata

Higher Education Pledge

I Narciso Zapata a Nevadan residing at
2475 Fremont St. 41 Las Vegas NV
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X Narciso Zapata

Higher Education Pledge

I Jane Doe a Nevadan residing at
1075 Spring Mountain Rd. 89009 Las Vegas, NV 89117
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X Jane Doe

Higher Education Pledge

I Christopher W. La a Nevadan residing at
4655 Gold Dust Court 89120,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X Christopher W. La

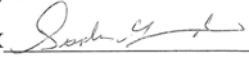
Higher Education Pledge

I Micheline Camis a Nevadan residing at
8605 Copper Ridge Ave. Las Vegas, NV,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

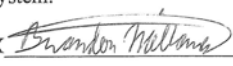
Higher Education Pledge

I Stephen Goodin a Nevadan residing at
3896 Swensen St,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

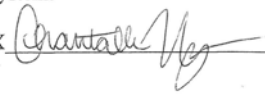
Higher Education Pledge

I Brandon Millares a Nevadan residing at
11059 Bowen Court,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

Higher Education Pledge

I Charitelle Utzin a Nevadan residing at
962 North Christy Lane,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

Higher Education Pledge

I Donald Woods a Nevadan residing at
927 N. Bywick Ave,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X Donald Woods

Higher Education Pledge

I Tara Altizer a Nevadan residing at
6423 Silent Pine Ave,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X Tara Altizer

Higher Education Pledge

I Anneeth Ortega a Nevadan residing at
2641 Lanci Avenue 89104
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X Anneeth V. Ortega

Higher Education Pledge

I Anton Cordero a Nevadan residing at
1536 Shady Rest Dr,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X Anton Cordero

Higher Education Pledge

I Everyn Correa a Nevadan residing at
4557 Maxwell Park Ct 89139,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

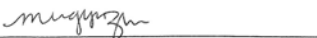
Higher Education Pledge

I Erin McAisk a Nevadan residing at
2039 Antique Blom Ave 89023,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

Higher Education Pledge

I Miranda Zhu a Nevadan residing at
10395 Pueblo Spring St. W. NV, 89183
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

Higher Education Pledge

I Bridget McMill a Nevadan residing at
4656 Sterling Ridge 89129,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

Higher Education Pledge

I Vinh Thai a Nevadan residing at
Henderson 11000 S. Eastern Ave Apt # 526 89052
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

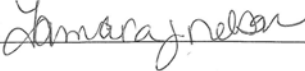
Higher Education Pledge

I Corey Cummings a Nevadan residing at
Clark County 8224
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

Higher Education Pledge

I Tamara Nelson a Nevadan residing at
7905 Waterfalls Ct 89120
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

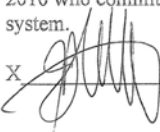
Higher Education Pledge

I Greg Puchala a Nevadan residing at
5556 Avant Ferry St Las Vegas 89118
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

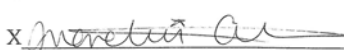
Higher Education Pledge

I Justin A. Tully a Nevadan residing at
6101 E. 8th St. Dr. LV, NV 89108,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

Higher Education Pledge

I Menelle Cerna a Nevadan residing at
1655 E. Sahara Ave. Apt # 3452 LV, NV 89104
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

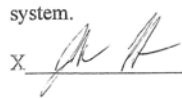
Higher Education Pledge

I Silvia Myares a Nevadan residing at
29 Village Ct. Henderson NV,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

Higher Education Pledge

I John Conlu a Nevadan residing at
787 Craigmark Ct Henderson 89002
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

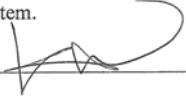
Higher Education Pledge

I John Kim a Nevadan residing at
7847 Blue Brook dr LV, NV 89147
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

Higher Education Pledge

I Kristy Hunt a Nevadan residing at
800 Balthman Ct. 89123,
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

Higher Education Pledge

I Kristie Sagara a Nevadan residing at
2305 W. Horizon Ridge Pkwy 89052
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

Higher Education Pledge

I Glen Cordaro a Nevadan residing at
7314 Colleyville Ave Las Vegas NV 89147
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X 

Higher Education Pledge

I Freudina Zepeda a Nevadan residing at
N. Las Vegas 808 Stanley Ave.
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X Freudina Zepeda

Higher Education Pledge

I Begonia Baez a Nevadan residing at
1515 Paris Street Ave
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X Begonia Baez

Higher Education Pledge

I Edwardo Perea a Nevadan residing at
3106 CHADFORD PL Las Vegas NV 89102-7830
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X Edwardo Perea

Higher Education Pledge

I Shelly Virtue a Nevadan residing at
8445 S. Las Vegas Blvd Apt 2148
 hereby pledge my support and my vote to candidates for state office in
 2010 who commit to supporting and funding Nevada's public education
 system.

X Shelly Virtue

On motion of Assemblyman Ocegüera, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 6:20 p.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Ocegüera moved that the Assembly adjourn until Wednesday, February 24, 2010, at 9 a.m.

Motion carried.

Assembly adjourned at 6:21 p.m.

Approved:

BARBARA E. BUCKLEY

Speaker of the Assembly

Attest: SUSAN FURLONG REIL

Chief Clerk of the Assembly

THE SECOND DAY

CARSON CITY (Wednesday), February 24, 2010

Assembly called to order at 9:24 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, April Mastroluca.

Let us pray. Heavenly Father, we come to You every morning and ask for forgiveness, ask for blessings, and ask for peace in our lives. Every day that we are here, we need that even more.

Please bless everyone in this building. We appreciate their work and their dedication. In Your Son's Name, we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguela moved that HIGH COUNTRY NEWS: Judith Lewis; KTVN-TV: James Shelby Flint, Blake McCoy, William Walton; KVVU-TV: Kevin Andre Bolinger, Justin Grant; NEVADA NEWS BUREAU: Elizabeth Crum; NEVADA NEWSMAKERS: Samantha Stone; THE NEVADA SAGEBRUSH: Tara Verderosa; UNLV Hank Greenspun School of Journalism, UNLV-TV: Andrew Garcia, Jennifer Ream be accepted as accredited press representatives, that they be assigned space at the press table in the Assembly Chambers and that they be allowed use of appropriate broadcasting facilities.

Motion carried.

Assemblyman Oceguela moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering the Governor's recommended budget cuts.

Motion carried.

IN COMMITTEE OF THE WHOLE

At 9:28 a.m.

Chair Buckley presiding.

Quorum present.

Governor's recommended budget cuts considered.

ALLISON TURNER, NEVADA PARENT TEACHER ASSOCIATION:

Thank you, Madam Chair. The Nevada PTA and its tens of thousands of members across the state understand the enormity of the current economic situation. What has gone unremarked, even yesterday, is the fact that there are still almost 450,000 students in Nevada who cannot afford a few years until we can afford to educate them again. Nor can Nevada afford to make them wait. A quick review of five years of enrollment data for Nevada public schools show 23,000 additional students enrolled during that time. In fact, this school year Nevada had a declining enrollment for the first time in many years, although at .02 percent, it is hardly statistically significant. It is a net loss of just 1,000 students statewide. Of course, Nevada generally runs a year behind in any real changes in funding, as count day in September is the basis for per pupil allocations for the school year. As for our ranking in per pupil expenditures for education, I won't debate 47th versus 49th. I will note that the other rankings cited yesterday, close to the middle of the pack, included capital expenditures. The problems with this calculation include: Nevada is home to the fifth largest school district in the nation, which was also the fastest growing for decades until quite recently. Clearly, Nevada has seen a great deal of school building during that time. And, of course, capital expenditures are not included in the state budget, nor budget changes currently considered by this legislature. Neither will I debate the proposed budget changes on a percentage basis. Is it 2, 10, 13 or 22 percent? It is simpler by far to use actual numbers. \$175 million from K-12 state support and \$76 million from higher education. Although we have heard a great deal about the projected savings from some of these proposed cuts, we must remember to consider the costs associated with them, as well. Additional cuts of this magnitude, to education, on top of cuts already sustained, can only jeopardize efforts to create jobs.

In order to attract new industries and new businesses and existing industries, Nevada must have a robust, Pre-K through 20 public education system. It is the keystone of any strategy to address to Nevada's ailing economy. As for education reform, Nevada PTA agrees wholeheartedly that doing the same thing and expecting different results is not productive. At the same time, please bear in mind, eliminating Nevada's support for research based, proven programs, such as class-size reduction and full-day kindergarten, will certainly not increase student achievement. The statewide voucher proposal has two major problems. First, research demonstrates that voucher programs do not increase student achievement. The University of Wisconsin study entitled, "Smaller Classes, Not Vouchers, Increase Student Achievement" says it all. Secondly, a quick analysis shows that Nevada does not have the private secular school seats capacity to accommodate this program. Certainly, not at any reasonable cost to families after vouchers are applied to tuition. In terms of teacher compensation, Nevada PTA supports development of research based strategies and/or programs that identify established criteria and compensate the most effective teachers, including the pay for performance model. We also note that this must be very carefully structured to take into account our phenomenal rate of transients within school districts and in and out of state.

This legislature approved a statewide pilot program to develop a pay for performance model during the 2009 Session. It was eliminated in the first round of subsequent budget cuts. This legislature approved a statewide pilot program to develop an empowerment school model during the 2009 session. It was eliminated in the first round of subsequent budget cuts. This legislature approved a statewide parental involvement coordinator position during the 2009 Legislative Session to help build on the work already being done in several of Nevada's school districts. It was eliminated in the first round of subsequent budget cuts. This legislature approved additional innovation grant monies to local schools and school districts during the 2009 Session. They were eliminated in the first round of subsequent budget cuts. Any and all reform must take into account the crucible of local conditions that have an enormous impact on students, teachers, schools, and school districts in Nevada including transients in and out of Nevada schools; transfer rate among Nevada schools, and the 100 plus languages supported by Nevada's school districts.

Understanding all of the above, Nevada PTA also recognizes that some extraordinary efforts must come under consideration. We urge the inclusion of the following:

Any extraordinary actions taken must have sunset provisions included. Nevada has been down this road before. During a similar session a couple of decades ago, the school day was

shortened by 30 minutes to offset the state's inability to fund a raise for teachers. All agreed this would be restored as soon as revenue was on the rise again. It never happened. Please bear in mind the strong correlation between the length of the school day and student achievement.

Utilizing the revenue specifically raised for capital improvements for operating expenses is a dangerous precedent to set. Many repairs and some maintenance have been postponed do to earlier budget cuts. A choice between keeping schools open and keeping schools safe is in no one's best interest.

Nevada school districts have an array of research based, proven programs available to provide the most effective instruction to their students. Provide school districts with enough autonomy to make the right choices for their unique student populations in implementing any additional budget changes.

Finally, Nevada PTA remains committed to education reform and efforts to bring it equitable, adequate, and effective education to Nevada's children, for their sakes and for all Nevadans. Our current efforts include the statewide parent involvement summit in Reno on March 12, 2010 and the Urban Family Engagement Initiative in Las Vegas, which kicks off this Saturday. Nevada PTA believes that research based, effective parental family and community involvement offer the best opportunity to improve academic success for students and their opportunity to succeed in life. Thank you for your consideration and your very hard work for all of Nevada's children. Thank you.

CHAIR BUCKLEY:

Thank you, Ms. Turner. Are there questions from the committee for Ms. Turner? I don't see any. Mr. Gold.

BARRY GOLD, DIRECTOR OF GOVERNMENT RELATIONS, AARP NEVADA:

We would like to speak on behalf of the most vulnerable in Nevada—the frail seniors and those who rely on essential services that enables them to keep living in their communities with their spouses and families. They cannot be here today. We appreciate the comments made by many of you in the legislature, expressing concerns over the severe impact some of the proposed cuts will have on them. These are not just ugly cuts. Many of them are horrific and unthinkable. Just because you are old or sick and poor, being able to see and hear and chew should not be considered optional. Adult diapers are not a luxury. We urge you to protect the essential services and home and community based programs that keep the most vulnerable in our state living with independence and dignity. Thank you.

CHAIR BUCKLEY:

Thank you, Mr. Gold. Are there questions from the committee? I don't see any. Thank you very much for your testimony and for being willing to wait until today.

Next, we are going to hear from Mr. Clinger; he is going to finish his presentation that was stopped as he had to go to the Senate. We will hear the complete, finished outline of the Governor's proposed plan. We will then review some of the sweeps that are being proposed. So, Mr. Clinger, thank you for coming, again, today.

ANDREW CLINGER, DIRECTOR, DEPARTMENT OF ADMINISTRATION:

I am going to continue where I left off yesterday, or where Mike Willden left off on the 10 percent cut list and then go over the summary list that I handed out yesterday. Again, it is the three documents that I handed out, that your staff gave to you, yesterday. One is entitled, "Ten Percent Reductions Recommended and Governor Considering." It's a legal size, 63-page document. The other document we will cover is the "Executive Budget Office Recommended Non-Executive Budget and Reserves Reductions," which is a 26-page document. There is also a one page summary document that has line numbers down the left-hand side.

I am going to start with the 63-page document, which is "Ten Percent Reductions Recommended and Governor Considering." I am going to skip ahead and just highlight, again, some of the major items that we haven't covered already. And, again, as I stated yesterday, I am not going to cover every item in here so if there is something I have skipped and someone has a question about and would like me to address, I would be happy to do that. Otherwise, I am going to skip to page 57 of the list, which is under the Office of Veterans' Services.

I just wanted to talk about a couple of the items on this page and, really, they go together. It begins with item priority No. 2. There are two of them there, grouped together, and then there is the last item on the page which is labeled as a priority No. 3. It talks about an increase in the Veterans' private pay rate from \$101 a day to \$110 per day, and the non-Veteran private pay rate increasing from \$173 to \$187 per day. This is an item that was approved by the Board of Examiners at their last meeting. Statute requires that these co-pay increases be approved by the Board of Examiners and they did that at their last meeting. This item had the support of the Veterans' Commission as well as support from the various veterans' groups who came to the Board of Examiners and testified in favor of that item. You can see the dollar amounts that allow us, then, to pull General Fund money out of this account.

The next item, if there are no questions on that, begins on page 60 and this is Parole and Probation under the Department of Public Safety. I just want to point out some of the reductions here. Again, looking at items together, if you look at the last two items on page 60, as well as the first item on page 61, I just want to point out that what we are recommending here is the elimination of 23 Parole and Probation officers positions. The impact of this is that the bank that they have, what they call their bank of cases, will simply grow without these additional staff on hand. Again, you can see the savings that this represents under the biennium General Fund savings column.

The last item that I am going to talk about on this page, and then we will go to the summary page, is on page 62. This is under the Department of Taxation. We are recommending the closure of the Elko office. Five positions will be eliminated, resulting in five layoffs. The department will continue to service the taxpayers in the Elko area through the Reno office and via the internet. So the function does not go away, the office simply will no longer be there.

That concludes the items that I was going to highlight on the "10 Percent" list. I will pause for questions and then we will go to the summary sheet.

CHAIR BUCKLEY:

Thank you, Mr. Clinger. Mr. Carpenter.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Chair. The question I have is on the closing of the Department of Taxation office in Elko. I think that has already been completed. At least the employees were given their pink slips or whatever you might want to call it. What I am wondering about is on the sheet that we have here, it says, "Potential Revenue Loss of \$726,000," with this closure. We are maybe going to save \$237,000. I am wondering what kind of math is that.

ANDREW CLINGER:

We had this discussion yesterday in the Senate, as well. And there will not be a loss of revenue because these accounts, whatever audits are needed to be performed, will be performed by auditors traveling out of Reno. The accounts that they have in the Elko area will still be serviced and will still be active. It is not accurate to say we will lose \$726,000 with the closure of this office.

To your initial comment, Mr. Carpenter, obviously it hasn't happened yet because of the noticing requirements and the fact that you have to give employees 30 days notice. Any employees that were recommended for layoffs have been given their notice, not just for the Department of Taxation, but across the board. It is still dependent, obviously, on final decisions, but because of the timing of things you have give those employees their notice 30 days in advance.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Chair. The only question I would ask, then, is who . . .

CHAIR BUCKLEY:

May I interrupt for a second? Because of the way we are broadcasting this, we need one microphone at a time. So, Andrew, if you can make sure your microphone off and Mr. Carpenter, and vice versa, when you are speaking, thank you.

ASSEMBLYMAN CARPENTER:

I guess my question would be who came up with the analysis that we would lose that kind of money, then. Does that come from the Governor's office?

ANDREW CLINGER:

I am not sure where that number came from. I would have to find out what analysis was done on that. I don't know if that came from the department. I am not sure.

ASSEMBLYMAN CARPENTER:

Maybe we could find that out. That would help me.

ANDREW CLINGER:

We can find that out for sure.

ASSEMBLYMAN CARPENTER:

Thank you.

CHAIR BUCKLEY:

We appreciate that. Distribute it to Tracy Raxter, our chief fiscal analyst, and have him distribute it to the entire body, but get it first to Mr. Carpenter.

Assemblyman Stewart.

ASSEMBLYMAN STEWART:

Thank you, Madam Chair. I just want to make a statement, not a comment. My tax preparer friends in Henderson say they get more response out of the Elko office than they do out of the Las Vegas or the Reno office. I know that seems kind of ironic but I thought you should know that.

CHAIR BUCKLEY:

Assemblyman Denis.

ASSEMBLYMAN DENIS:

Thank you, Madam Chair. Andrew, with Parole and Probation, I am trying to understand the bank thing. Could you explain that a little bit?

ANDREW CLINGER:

I can try. Someone from Parole and Probation would certainly be better to explain to it than myself, but the way I understand it, is that they have what they call administrative banks. Basically, these are cases that go into this administrative bank. And I don't know what criteria they use to decide which cases go into the bank versus which ones they put on their caseloads, so to speak. So it is essentially caseload that is not being dealt with, I guess, is the best way to put it.

ASSEMBLYMAN DENIS:

I guess that is my question. How does this affect the caseload? How do we know how much more that is going to increase or has the need for the service decreased? How will this particular thing affect that caseload?

ANDREW CLINGER:

I do not know the numbers. Certainly, Parole and Probation does have those numbers on what this will do to the caseload. The amount that it would increase the bank, I just don't have that with me. But I we can get it to you.

ASSEMBLYMAN DENIS:

Okay. Thanks. My concern is that if we are thinking about any type of early release type things or whatever, we are going to have a larger caseload. It is going to be harder to then be able to keep track of these individuals. I have a concern there. Thank you, Madam Chair.

CHAIR BUCKLEY:

Thank you, Assemblyman Denis. Are there any questions? I don't see any. Andrew.

ANDREW CLINGER:

Thank you, Madam Chair. I will then turn back to the one page summary sheet and just cover some of the other items on that list, that are not included on the 10 percent list and then we can go through the other budget reserve sweep list. Where we left off on that list is line 18 and that's the document we just went through. Line 18 recommends a 10 percent reduction to the Nevada System of Higher Education of \$66.8 million over the biennium. In addition to line 19, for the System of Higher Education, you also need to add in line 44, which is a component of the salary reductions to Higher Education of \$6.168 million. So, you would have to add the two together, the \$66.8 million and the \$6.168 is the total recommended reduction to the Nevada System of Higher Education.

Lines 20 through 24 are recommendations for reductions to other elected officials and other offices. We have received feedback from the Secretary of State's Office and the State Controller's Office, that they cannot cut the 10 percent. We have not been given any details on what they can do, so what is reflected on the sheet is a 10 percent reduction for those constitutional offices, including the Legislature and the Supreme Court.

Line 25 on the list is the Public Employees Benefit Program Premium Holiday. This is an item we have done a couple of times in the last biennium. What this is, is the state pays a subsidy for employees' health insurance and with a premium holiday, for one month the state would not have to pay that state subsidy. In addition, the employee would not have to pay their premium for the month that was selected on the premium holiday. Now, what that does is that it saves the state General Fund. If you look at lines 25 and 27, and add them together, line 25 represents the state portion and line 27 represents the school district portion. Between the two, it is \$14.4 million in savings. Now what this does do, however, is draw down the Public Employees' Benefit Program's reserves. They have two reserves. They have one which is called the IBNR, which stands for Incurred But Not Reported reserve. They also have what they call a catastrophic or rate stabilization reserve. This would essentially eliminate their rate stabilization reserve. They would still have a 100 percent IBNR reserve, but it would essentially wipe out their catastrophic reserve. I have spoken to the staff at the Public Employees' Benefit Program and the impact of this would be, potentially, if this is done, they may look at raising the premiums set rates for fiscal year 2011, raising the premiums to the employees. This is also may require, in the future, if this is done, some policy changes to the plan to help build those reserves back or rate increases. So that is the impact of drawing down that reserve.

CHAIR BUCKLEY:

Andrew, can I stop you there? The way I understood it, these two items were recommended, originally, and then as you indicated, upon further discussion with PEBP, they said this may lead to insolvency and they could not proceed with them. And then I understood they were going to get another suggestion to you but I think that didn't work out. Instead, the conclusion was that the subsidy for the retirees would have to be cut; that there was a plan to bring back the cutting to the retirees. Is that true or not true?

ANDREW CLINGER:

Madam Chair, I have not heard that. I am unaware of that.

CHAIR BUCKLEY:

Okay. When we were examining this, we looked at the salary decrease last time to state employees at 11 percent. We looked at the furloughs, the health insurance increase to the employees, and the PERS increase to the employees. We want to be really cognizant that that was already done this fiscal year. How much more can you add? We are at 11 percent. And so, with these items not being able to be accomplished, I think we need to see the subsidy proposal or at least know exactly from PEBP, if they were able to do these things, what rates would increase. Because, I think, as we were discussing it among legislative leadership, we were proposing perhaps that we only take the investment money and not the premium holiday. That might end up being sounder in light of the further information from the PEBP board. Do you have any comments on that?

ANDREW CLINGER:

Thank you, Madam Chair. We did receive some alternatives. I did not get from PEBP what the rates would be if we did this. I do not think they have made a decision on that, as far as where that would land. They only indicated to me that they potentially would have to do that. The alternative plans that we did receive from them—and I did not bring it with me, but I believe your staff has it—was to change the subsidy percentage that the state provides. Right now, the state provides 85 percent of the subsidy to employees. We asked PEBP to give us some alternative plans of shifting the subsidy to 80 percent. The state provides 80 percent and the employee provides 20 percent. Now the impact of that is there's an increase to the employee's premiums and I don't have the percentages or the numbers in my hand, otherwise I would give them to you. I do know that your staff has that analysis. So there is an analysis that shows what the subsidy would be or what the employees' rates would be at 75 percent, 80 percent, and then what they are currently are at 85 percent.

CHAIR BUCKLEY:

Okay. We would appreciate that information because I think we need to be transparent. Holidays sound so wonderful. Who wouldn't want a holiday? But, really, what it means at this level is that state employees would see their current 11 percent net reduction in pay and benefits being increased. I think we want to be transparent and talk about that and what that would mean. So we have starred this item to make sure that we are making a decision with all the facts.

ANDREW CLINGER:

Moving on to line 26 on the sheet, this is money that we began to set aside for what is called the Other Post Employment Benefits liability, otherwise referred to as OPEB liability. This is the liability for the retirees' group insurance and right now we have a \$3.6 billion liability with all the employees that we have when they retire. When you look at that from an actuarial standpoint, that number is \$3.6 billion. What this program here began to do was to start to prefund that, similar to PERS, where you have this trust fund set aside so that in the future you can pay for these retirees' benefits. Currently, the trust fund has \$25 million in it and line 26 represents the state share of that and so what we would do is start to draw down, essentially, on that trust fund and wipe it out. The \$25 million, when you look at it, when compared to \$3.6 billion, while it is a start, from a rating agency standpoint, if you will, when the state looks at us and they look at these sorts of liabilities, it is not going to, in my opinion, make that much of a difference to them whether we have \$25 million set aside or if we have none. I think we are one of only 10 states that have actually begun to fund this liability. This would drain that reserve down to zero.

Lines 28 and 29 are related to tobacco funds. These are items similar to what we did in the last biennium, where we swept funds out of the Healthy Nevada Fund and the Public Health Trust Fund. There are some cuts related to these. I do not know if Mike Willden covered them yesterday but there are some cuts related to these. We would be sweeping, not only the money that is sitting in the reserves, but there would be cuts related to these that we would then take. I know there are some independent living grants that are funded with these tobacco funds and a couple of other things, that don't come to mind, that I know are funded with this, as well. Again, this is partially cuts and partially taking money that is sitting in reserve. This is funded from our master settlement agreement on the tobacco settlement.

Line 30 gets to the list of other non-General Fund sweeps. You can see that is \$97 million. And that relates to the other document that I handed out, the 26-page document that lists all of the accounts we are sweeping. At this point, I would shift to that document and just highlight a few of the items that are in that document, that we are recommending be swept. These are, for the most part, what we are calling non-General Fund accounts, where we have identified excess reserve or excess interest income that we can then sweep into the General Fund to help balance the budget.

Again, I am not going to cover all of these but certainly would be happy to try and answer any questions on ones that I do not cover. The first item that I would cover is on page 4 of that document. That is the Attorney General's Tort Claim Fund. What we were recommending here is that we sweep \$2 million from that fund. The current balance in the Tort Claims Fund is around approximately—and the numbers I have were as of early February—\$6.2 million in the

account. This is an account that actually, in the last legislative session, we ended up putting an additional \$2 million of state funds in as a result of a settlement that was reached, related to a highway fund incident. So we think with the \$2 million coming out of there, that leaves a \$4.2 million balance in that account. We believe that is leaving enough in the account to allow them to pay future claims. Again, it depends on claims that come in. If we have a large claim that comes in, that we are currently unaware of, we could be coming back to the state to get the funding for this account. That is exactly what happened in the last session. We had a settlement that the funding in the account couldn't support and so we had to come to the state to cover that. Now we are taking money out. Just know that if a large claim comes forward, we could be coming back.

On page 5 is the next item I would highlight and that is the Insurance Insolvency Fund. We would transfer \$8 million out of this account.

CHAIR BUCKLEY:

Excuse me, Mr. Clinger. We have a question. Assemblywoman Spiegel.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Chair. Mr. Clinger, I have a question relating to these items on page 5. By way of disclosure, I own a firm that does worker's compensation claims audits and one of the clients my company works with is a very large insurance company that has been in liquidation for approximately a decade. What happens is that looking at the claims, just when an insurer goes out of business, the claims don't go away and the payments have to go on, year after year after year. And knowing from firsthand experience that at times claims can take up to more than a decade to be resolved; as well as having the funds swept that have been paid into by the insurances, private associations, and employers. I am wondering what would happen if and when we get past the point where we would need the funds that were swept.

ANDREW CLINGER:

Are we talking about the Insurance Insolvency Fund or are you going back to the Tort Fund?

ASSEMBLYWOMAN SPIEGEL:

No. I am talking about the Insurance Insolvency and Priorities, line 27 and 29, on page 5.

ANDREW CLINGER:

Again, I think if we did have an insolvency, the state would have to come up with the money. I don't know what the alternative would be. These are funds that are set up for insolvency. When you look back, historically, while there is no activity, that doesn't mean there won't be activity in the future. There is a risk, I guess, to all of these sweeps on the list. I don't think there is one item on the list where you can say, "Yes, that's easy. We can do that. There is no risk." There is a risk with all of the items on the list, that we would be on the hook for, at some point, unfortunately.

ASSEMBLYWOMAN SPIEGEL:

But then the state would not be able to give the money back to, let's say, to the Nevada Insurance Guaranty Association, without there being legislative action taken?

ANDREW CLINGER:

That is correct.

ASSEMBLYWOMAN SPIEGEL:

So what would happen to the people whose claims couldn't get paid?

ANDREW CLINGER:

We would have to go through an Interim Finance Committee (IFC) process, maybe. It just depends on the circumstance, I guess, on what it was. This doesn't completely wipe out these accounts. We are leaving some funds in there. It just depends on the size of the claim. But yes, to go back to what I said before, there is a risk with every item on this list.

ASSEMBLYWOMAN SPIEGEL:

Okay. Thank you.

ANDREW CLINGER:

Madam Speaker, on page 5, the Insurance Insolvency Fund, this is an account that is funded through initial and annual assessments paid by all associations of self-insured public and private employers and from the interest earned on the assets in the fund. We have projected out that, based on what we have looked at and we looked into the future, that we think this fund will be solvent through 2015. You can see we are recommending transferring \$8 million out of this account.

Page 7 is the next item that I would highlight. This is the Low Income Housing Trust Fund. Again, this is an account that we swept before, I think, for the same amount. I think it was \$3 million. This account supports brick and mortar initiatives or rental assistance for families whose income falls at or below 60 percent of median income. The account was funded through federal grants earnings. A portion of the Real Property Transfer Tax goes into this account, as well. What we are recommending is that \$750,000 be swept in fiscal year 2010 and \$2.25 million in 2011.

I am just trying to highlight some of the larger transfers, but again I would be happy to talk about any of the other ones.

The next one I would highlight is on page 13. This is the Q1 Bond Account. What are we are transferring out of this account or what we are recommending to transfer out of this account is the unobligated interest in this account and that it be transferred to the General Fund. Now, we are limited in this account to 5 percent administrative costs. In other words, we can only use interest, up to 5 percent, and so based on the \$350,000 in the first year and the \$400,000 in the second year. We are below that 5 percent administrative level. That is the portion we are recommending be transferred out of this account. This is not bond proceeds; this is the unobligated interest portion.

On page 16 is the next item that I would highlight. That is what is called the Prison Industries Capital Projects account. This account is funded through a portion of offender income from those who are employed in the prison industry programs and interest earned on those funds. Transferring a portion of the reserves to the General Fund results in the Capital Projects Fund being reduced to an amount that would be just over the average expenditures for the last nine years. So we think we can pull out \$948,000 and still have enough that would be equivalent to the average over the last nine years.

On page 17 is the Employment Security Special Fund. This is an account that the Department of Employment, Training, and Rehabilitation uses to fund maintenance for their buildings and facilities. They use it to fund technology initiatives. The sources of the revenue in this fund are interest and forfeitures collected from employers for late or non-payment of unemployment taxes. So this is not unemployment tax per se. These are the penalties and the interest that we charge when they fail to pay. We are recommending \$6.5 million be swept from this account.

The next item is on page 18. This is the Radioactive and Hazardous Waste account. Mike Willden may have touched on this account yesterday. It is part of his budget reductions. We are recommending almost \$9 million be swept from that account.

On page 19 are two accounts within the Legislative Counsel Bureau. The first is the Interim Finance Contingency Fund. We are recommending \$5 million dollars be swept from this account. This account is an account that is funded with General Fund appropriations. We usually put \$15 to \$17 million in this account every biennium, primarily for funding costs associated with fire suppression or any other unforeseen events that agencies need to come back in the interim and ask for funding. Transferring \$5 million out of this account I believe will leave approximately \$12 million dollars in what is called the Unrestricted Portion of the IFC Contingency Fund. We think that is enough to get us through to the next legislative session when this account would potentially be replenished again.

The next item under the Legislative Counsel Bureau is the Disaster Relief account. This is an account that is used to deal with natural disasters. For example, the costs that Ely incurred after the earthquake were paid out of this account. They came to the Board of Examiners and the Interim Finance Committee and received an allocation from this fund. Natural emergencies and

natural disaster type of events are what this account is used for. We are recommending transferring \$4 million from this account. The current balance in this account is \$6.8 million. This would obviously leave \$2.8 million in the account. We have also used this account in the past when the Interim Finance Contingency Fund had, essentially, run out of money. We went to the Disaster Relief account to cover some of the fire suppression costs in previous biennia.

The next item is on page 20. This is the Motor Vehicle Pollution Control account. The Compliance Enforcement Division within the Department of Motor Vehicles, through this account, is responsible for ensuring compliance with Nevada's laws and regulations as they relate to vehicle emission standards in Clark and Washoe counties. Transferring a portion of this reserve to the General Fund will reduce the grants available for those counties. We are recommending that \$700,000 be transferred under this account.

The next item on that page is under the System of Higher Education. This is an account that is funded with a portion of the slot tax. This is an account that is used to fund deferred maintenance projects within the System of Higher Education. We are recommending that in the second year that these funds be diverted to the General Fund. Again, this is an item that we did previously in the last biennium to help balance the budget. What this means is that there are some deferred maintenance projects that the system will not be able to perform if these monies are swept.

The next item I would highlight is on page 22. And while it is a smaller amount I did want to highlight it. It is at the top of page 22. That is the Homeowner's Disaster Assistance Program. This account is used to make grants to persons who own and occupy a home damaged by a disaster and who are not eligible for other forms of assistance. This account was established back when we had money. The money that funded this account was actually the money that was left over from the rebate that was done back in 2003. And so the transfer of \$476,000 out of this account will deplete this account. There will be no funding left in this account if this reserve sweep is done.

Page 23 is the next item I would highlight. The second item on that list regards the Criminal History Repository for almost \$1.6 million. This is the account used to administer the Nevada Criminal Justice Information System. The funding of this account is made up primarily of court assessments but there are also fingerprint fees and other fees that go into this account. The Department of Public Safety had planned on using these funds to rewrite their criminal history database and so by sweeping these funds they will not be able to do that.

CHAIR BUCKLEY:

We have a question. Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. I just wanted some clarification because I have received a lot of emails on this particular fund, saying they would not be able to access the records in a timely fashion and it would hold up court cases. Is there any legitimate concern on that?

ANDREW CLINGER:

I have not heard that. Part of what they did want to use these funds for was to replace their information technology system. They would have to continue to operate on their existing system. But I would have to find out and get more information as far as delays and those things because I have not heard that.

CHAIR BUCKLEY:

Assemblyman Denis.

ASSEMBLYMAN DENIS:

Thank you, Madam Chair. Andrew, I thought they had already started this process to do the new database. From what you just said, it sounded like they did not have it started at all. Can you give me an update on that?

ANDREW CLINGER:

I am not sure if they have started this process or not. They may have gone through the initial phases of analyzing what they had to do. I do not know if they have done a requirements

definition. Maybe they have done part of that. I do not think development has started. I think they have started to go down this road but I would have to get information from them as far as what their status is.

ASSEMBLYMAN DENIS:

If you are going to be checking on that, if you could get me an update I would appreciate it. Thanks.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Chair. I serve on this particular oversight board and their most recent report indicated that the system was about to crash. If the equipment is not replaced, the officers will be left in the field with no means of communicating such minor information as the type of vehicle that they pulled over or whether there is a potential gun or other kinds of life threatening things that officers face on a regular basis. They have been patch-working and trying to get this piece of equipment replaced for about six years. I think the most recent report, which is about a month ago, was that they were just starting to do it. I think it is very, very critical that we have the most up-to-date information and find out what the overall impact will be to the counties and cities who have bought into this for some time before we do away with their fund. I think we took money from this group in the last session rather extensively, when they had been trying to replace a larger piece of their infrastructure and computer system, to bring it up to date. This one may do away with the whole thing.

ANDREW CLINGER:

We will look at the status of the system replacement, as well as what the status of the current system is and the stability of that system and the delays and so forth. And you are correct. I believe we took \$4 million out of this fund in the last cycle when we did this.

CHAIR BUCKLEY:

Assemblywoman Smith.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Chair. Andrew, I know your plate is a little full right now, but maybe when we are out of this floor session, we could look at the potential for some ARRA funds in this area. I am sure the staff has been watching that but it seems to me that there has been a fair amount of money available in this area. So that might be one way we could make up for the loss. Thank you, Madam Chair.

ANDREW CLINGER:

I do know they did receive a big portion of what they call Justice Assistance Grant funds. I'm not sure whether those could be utilized for that function or not but that is a good suggestion and we can look into that.

CHAIR BUCKLEY:

Okay. There are no more questions pending.

ANDREW CLINGER:

Thank you, Madam Chair. Moving on to page 24, the item I would highlight on this page is the first item on the list and that is the Public Utilities Commission. This is an account that is funded with a levy against utilities, what we call the mill assessment. This is what we have identified as excess reserves in this account and we would be transferring \$1 million. We did receive feedback from the Public Utilities Commission on this. They are afraid that at a \$1 million they would have to raise their mill assessment and so I think this is a number that would need to be lowered to \$800,000 so that we don't have to raise the mill assessment. That is the latest information I have on that one.

CHAIR BUCKLEY:

I'm sorry. Andrew, I am working off of a different list—the shortened list. Do you know what number that was?

ANDREW CLINGER:

Madam Chair, which list are you on?

CHAIR BUCKLEY:

Your collapsed, other non-General Fund Sources list.

ANDREW CLINGER:

The list without the descriptions?

CHAIR BUCKLEY:

Yes. That's okay. I can find it.

ANDREW CLINGER:

I do have that list but I actually resorted it to match this list.

CHAIR BUCKLEY:

And that's different from the list of three days ago, which is different from the list of two days ago, which was different from the previous lists. Okay. I am with you.

ANDREW CLINGER:

Madam Chair, that is all I had on the reserve sweeps unless there are questions on some of the items I did not highlight.

CHAIR BUCKLEY:

There are some questions, but before we get to those I just want to advise the members that our legal counsel has determined that there are certain sweeps that she feels would be not in keeping with the law or the *Constitution*. I have supplied those to the Governor's office and to Mr. Clinger this morning. If my computer cooperates, I will read these to you. They are the Insurance and Solvency Account, the Uninsured Employers Account, and the Silicosis Pension Account. Our legal counsel believes that because of the language in Article IX, section 2 of the *Constitution*, those may not be swept. And that is a \$4.3 million item. There has also been a concern expressed to us about the Supreme Court sweeps and the Motor Vehicle Pollution Control sweep, which would take monies away from the Washoe and Clark County Health Districts. We are still trying to verify information on the A.B. 9, Question 1 sweep. Our legal counsel felt that that could not go forward because of the bond question. However, the Governor's office supplied additional information which is being analyzed at this time. We will also note of Assemblyman Anderson and the suggestion by Mrs. Smith to see whether if those funds could be replaced by ARRA or what that will do to the system. We will also note the mill assessment. I believe we have questions on a few other items, as well as public testimony.

Assemblyman Bobzien.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Chair. Andrew, we had a discussion about page 26, the Wildlife Heritage account, which is priority 29. I still have some unanswered questions after that meeting with the Governor the other week, about the origin of this particular sweep proposal. It just concerns me that this is a fund that's been funded over the years by private sportsmen's dollars. It is a partnership with folks in the public, to help the state out with the management of wildlife. I am just very concerned that by wiping this out, it is going to take years, if not at least a decade, to kind of rebuild that trust and get that tool back in the box. Can you just give me any insight as to the discussions? I would love to hear the origin of where this sweep came from. What have the discussions been about the long-term impacts of doing this sweep?

ANDREW CLINGER:

Thank you, Madam Chair. I just noticed, as you pointed that out, I actually missed the last page and there are a couple of big items on there. I will go back to the other one as soon as we do this one, and that's the Department of Taxation.

Assemblyman Bobzien, you are correct that the sources of funds in this account have been deemed to be donations. When the Department of Wildlife has an auction for one of their heritage tags, the amount or price for the tag itself goes to the Department of Wildlife. They will

raise, sometimes, hundreds of thousands of dollars, or even more than that, and that's what goes into this account. This, essentially, will wipe this account out. There's just slightly over \$5.6 million left in this account. This is an account they use for reforestation projects in wildlife areas and other types of restoration projects. They will not be able to use this account to fund those projects anymore in the future, if the \$5.6 million is swept.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Chair. I think, for the record, it is important to note that it's not just funded from those heritage account auctions that everyone thinks about where a lot of money is spent for the opportunity to hunt an animal. It's also from Partnership in Wildlife draws. It is a very wide swath of Nevadans that provide those funding sources. Thank you.

CHAIR BUCKLEY:

Here you have a group of people trying to supplement the state because the state isn't funding it and then you take their donations away from them, that they gave in order to help the state? That makes no sense to me. Assemblywoman Spiegel.

ASSEMBLY SPIEGEL:

Thank you, Madam Chair. Mr. Clinger, I have a question about page 8, related to common interest communities. I am very active in my homeowners association. I know that people who live in homeowners' associations are assessed \$3 per door, per year to pay into the ombudsman's office. I know that there is currently a surplus now because the Real Estate Division does not have the capacity to meet the needs of the homeowners. There are backlogs in dealing with all of the claims that have come into the Real Estate Division and I was wondering how an office that is supposed to be supported by assessments from homeowners in Nevada can be swept before they are able to actually get rid of the backlog to perform the duties they are there for, in a manner, with fees that are paid for by the people from whom they are serving.

ANDREW CLINGER:

I would have to defer that question to the Real Estate Division. I am not aware of the backlog and the issues they have there, so I would have to ask them what the status of that is.

ASSEMBLYWOMAN SPIEGEL:

Okay. Could you get back to me on that one?

ANDREW CLINGER:

Sure.

CHAIR BUCKLEY:

Assemblyman Manendo.

ASSEMBLYMAN MANENDO:

Thank you, Madam Chair. I had the same type of question. Also, from my understanding, there was some talk about increasing the fees from \$3, which the homeowners pay right now, to \$5. Maybe I'm just not seeing it. Is that in here? Maybe I am just not seeing it.

ANDREW CLINGER:

There is no fee increase.

ASSEMBLYMAN MANENDO:

Do you know how much is in the account, presently? It says it is solvent until 2017. But my understanding is that there is a backlog and that's something I would also like information on. So, I appreciate Assemblywoman Spiegel's question. Apparently they are not sweeping the entire account, just \$500,000.

CHAIR BUCKLEY:

The balance, as of February 4, 2010, is \$2,801,792. The recommendation is a \$500,000 sweep. I have a big concern about that. Thank you.

Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. Mr. Clinger, I have a question on the Public Utilities Commission and the mill assessment. I understood last session, when we looked at that account, to help fund the Energy Commissioner's office, that it was not a problem to take a couple of million dollars. So, what changed in the last year? And what is their current fund balance? And I thought we were being conservative when we funded that office. I am shocked it would change their mill assessment if we take the full \$1 million.

ANDREW CLINGER:

The current balance, as of February 4, 2010, was \$5.55 million in the account. And I guess what is changed is the fact that we did fund the energy portion out of there and we did sweep this account last time. I don't remember the amount but we did sweep it again. This is just feedback I am getting from the executive director there. They feel that if we took \$1 million, it would put them below a level they are comfortable with.

ASSEMBLYWOMAN KIRKPATRICK:

So, I guess if you direct me to the executive director, I will ask my own questions. They've had that money in there for a little bit of time. We would all like to be comfortable right now but we are all trying to make some decisions that are going to affect people in the long term. We did pull a small amount in order to utilize a whole bunch of ARRA funds. That really doesn't justify it for me because the small amount that we took out of a fund that had been in the positive for a long time is actually benefiting a lot more, for a longer time, so I guess if you could get me the information I will make my own phone calls. Everyone here wants to be comfortable, too, but how much is comfortable?

ANDREW CLINGER:

I agree. I just put it out there because they let me know that; so I felt an obligation to let you know their concerns. I agree that none of the stuff on this list is comfortable for any of us, frankly.

CHAIR BUCKLEY:

Assemblyman Cobb.

ASSEMBLYMAN COBB:

Thank you, Madam Chair. Under the Governor's proposal, is the Office for Nuclear Projects zeroed out? If not, what is the continuing line item amount and why is it not be zeroed out?

ANDREW CLINGER:

It is not zeroed out. I think it is down to a couple of staff members. I will have to get you the exact numbers of what is left in the account. And certainly Mr. Breslow could do a better job of explaining why it hasn't been zeroed out. I will say that the litigation account, over in the Attorney General's Office, has been zeroed out. But some of the administrative functions of the Nuclear Projects Office remain.

CHAIR BUCKLEY:

Andrew, if you can do a breakdown on the nuclear issue—what was cut from the Attorney General's budget, what remains exactly—and provide it to our staff, we'll distribute it. Assemblyman Cobb.

ASSEMBLYMAN COBB:

Thank you. Andrew, we are talking about some pretty significant cuts here in some very, very important areas for our state. We have a nuclear projects office which, of course, is primarily dealing with the Yucca Mountain issue, which is an issue where the license has been withdrawn by the federal government. The Senate Majority Leader has said the project is dead and the President has said the project is dead. I think if we are going to make some very serious cuts in some other areas, that should be an issue that should be put before the Legislature and that we should consider getting rid of that. It is, seemingly, an obsolete office now. Thank you.

CHAIR BUCKLEY:

Thank you. Assemblyman Ohrenschall.

ASSEMBLYMAN OHRENSCHALL:

Thank you, Madam Chair. Mr. Clinger, I have been looking through the packets and maybe I just cannot find the right line item but I wonder what cuts will be going towards the residential group care homes for adults who cannot live on their own. Where are they in the packets? What affect do you think they will have? Thank you.

ANDREW CLINGER:

I wished I knew that off the top of my head. I believe, probably, the best place to look for that is under the handout that Mr. Willden provided, which is the 13 page document that he provided. I cannot tell you off the top of my head where that is in here.

CHAIR BUCKLEY:

The question is, are there proposed cuts to group homes or residential treatment homes for individuals with disabilities?

ASSEMBLYMAN OHRENSCHALL:

Cuts to the individual group care homes for adults who cannot live on their own.

CHAIR BUCKLEY:

Assemblywoman Leslie? Assemblywoman Leslie will check with Mr. Willden and get back to you.

ASSEMBLYMAN OHRENSCHALL:

Thank you, Madam Chair and Mr. Clinger.

ASSEMBLYMAN MORTENSON:

Thank you, Madam Chair. I agree that the Nuclear Projects Office should probably be minimized, but I don't think it should be eliminated. We have still got a committee active, nationally, that is looking for other solutions for nuclear waste and we want to be sure that we are a watchdog and they don't put it in the Ruby Mountains, next time.

CHAIR BUCKLEY:

Just note for the record we laughed out loud at that one. Assemblyman Atkinson.

ASSEMBLYMAN ATKINSON:

Thank you, Madam Chair. Mr. Clinger, I have a question on page 20, when you were talking about pollution control and the \$700,000 that is going to be swept from that account. Is there anything going to be left in that reserve to deal with Environmental Protection Agency issues in these counties or is that going to be it? I only ask that question because I know most people who pay it don't like to pay it, but we convinced them that it is going towards making our air a lot cleaner and kind of makes me a little bit nervous that there may not be any money there to deal with those issues after citizens have paid this fee, almost annually. Even newer cars get smog checked, so that may cause some concerns with people.

ANDREW CLINGER:

The balance in the Motor Vehicle Pollution Control account, as of February 4, 2010, was at \$894,000. This takes almost all of the funds. It leaves a small amount remaining. As far as the counties' ability to utilize their remaining funds, I would have to get back to you on that. I am not sure.

CHAIR BUCKLEY:

Are there any more questions on the sweeps? Andrew, did you have any else to cover on the sweeps?

ANDREW CLINGER:

Madam Chair, I skipped the Department of Taxation Cash Bond account, actually.

CHAIR BUCKLEY:
Okay.

ANDREW CLINGER:

The last item I would talk about on the sweeps list, is on page 26. It's the item under the Department of Taxation. It is the second item under that list. This is the Department of Taxation Cash Bond Account. This is an account that when a new taxpayer applies for a sales and use permit, they either have to put up a surety bond or they have to put up a cash bond. This is the cash bond portion. There is currently a balance of \$52 million in this account. What we are recommending is that \$35 million of that \$52 million be swept from this account. In addition, what we would recommend is that language be added to the statutes similar to the unclaimed property language that we have in the statutes. If a taxpayer came forward and there wasn't enough money in the account to refund their bond, that this account have access to the General Fund. So, while we are sweeping the funds that are in the account, I guess the simple way to put it is the liability does not go away. We still have a liability to the taxpayer for these funds.

What we have done, though, in looking at this, is the \$35 million leaves enough, we think, based on the analysis we have done on the cash flow, that we would not run into an issue where the department was not able to make any refunds from this account, if the taxpayers came forward.

CHAIR BUCKLEY:

Okay. Mr. Clinger, how much more do you have to go through? Should I take public testimony on the sweeps and then have you finish? Or would you like to finish first?

ANDREW CLINGER:

Madam Chair, you can do public testimony. I was just going to go through the balance of the summary list on the items that we have not covered.

CHAIR BUCKLEY:

Let's take public testimony on the sweeps. And then we can kind of give you some final questions or directions on the sweeps and then we can move on.

We are preparing a bill draft on these sweeps and it is my hope to have the Committee of the Whole act on that, both in committee and on final passage, here shortly. We are going to pick up the pace a little bit, here, pretty soon. I would like to get final input on this sweep list and then we are going to move on to the other portions of the budget. Some of these are very ugly. Some of them we cannot do according to our legal counsel. However, every one we take off adds to the proposed cuts. These were calculated in to have agencies cut at a 10 percent level, except for Higher Education, which is still at almost 13 percent. But the more holes in the sheet, the bigger the proposed cuts to the others. And then, course, we still have the issues of fees to debate and whether we are going to enact some fees this session or say "No fees," and have deeper cuts to education and health and human services. So we are going to throw that all out and discuss it right here this afternoon or whenever we get our bills ready, maybe tomorrow morning. I think that if we try to segment them, we will make more progress. So let's take public testimony on the sweeps. Then let's talk as a committee on the sweeps, vote as a committee on the sweeps, and then we will start taking the other segments.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. Are we going to have a cleaned up list of the sweeps? What Mr. Clinger just provided us is about \$100 million. I was thinking that there were some other sweeps. Are we going to have the whole package together at some point, in time to review?

CHAIR BUCKLEY:

Yes, we are. We are going to have a bill draft, too. So we will have plenty of that, both for the committee to fill comfortable with and for the final bill. And we are going to try and do this by consensus, like the Assembly always operates. We can see what we can agree to and see what we can't. Okay? That is how it is going to work.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. When do you think we will have a cleaned up list? What is the time frame for when we will receive the list or a bill draft? Before we vote on it, so we have a chance to go back through it and check for any other questions.

CHAIR BUCKLEY:

Five minutes?

ASSEMBLYWOMAN GANSERT:

You are so generous.

CHAIR BUCKLEY:

Thank you.

Let's hear from public testimony. Is there anyone who would like to comment on the proposed sweeps that we have just heard, proposed by the Governor?

KYLE DAVIS, POLICY AND POLITICAL DIRECTOR, NEVADA CONSERVATION LEAGUE; ORGANIZER, CONSERVATION PRIORITIES FOR NEVADA:

We wanted to just take a few minutes today to talk to you briefly about the Wildlife Heritage Trust Fund, which was brought up briefly a few minutes ago. We just wanted to talk about the importance of this fund, the importance of the work that this fund provides and encourage you to please avoid sweeping the funding from this program.

Just for a little bit of background, I will give you a little bit of an overview and then I will rely on my colleague to give you a little more detail. The Wildlife Trust Fund is administered by the Board of Wildlife Commissioners. The money in the account is used for the protection, propagation, restoration, transplanting, introduction, and management of any game fish, game mammal, game bird, or fur bearing mammal and the management and control of predatory wildlife in the state. The funding for this account, as it has been said, comes from the general public. The funding comes through the auction of certain tags that are provided by the state and we are able to use that to leverage private dollars into this account. The funding also comes from a program called Partnership and Wildlife (PIW) which is actually a voluntary and optional program that offers hunting opportunities for hunters for a few statewide big game tags. The number of people put in on this . . . this is not a larger contribution on the individual basis but it does amount to a significant contribution.

I think the final thing I would say before I turn it over, is that the Wildlife Trust account, the Heritage account, is really one of the greatest examples we have in Nevada of a public-private partnership, to where the state and the population of sportsmen can work together to provide funding for habitat, funding for wildlife, that wouldn't otherwise be there. This funding goes to improve habitat, it provides jobs while doing so, and it is able to stretch our dollars even further. It is really a partnership that I think has worked very well and we would encourage it to continue to work that well. Thank you.

JEREMY DREW, DIRECTOR, COALITION FOR NEVADA'S WILDLIFE:

Thank you, Madam Chair and members of the Assembly. Everyone should have a copy of my written testimony, so I will make this brief. The account that is in question was created by sportsmen to raise money within our community for wildlife projects that would otherwise go unfunded. The money has been raised under the prerequisite that it would be used for and on the ground wildlife projects within the state.

Here are some examples of the projects which were funded in Fiscal Year 2010:

- Fuels reduction projects
- Watershed habit enhancement
- Sage grouse enhancement
- Mule deer winter range restoration

These are some of the big issues before the state and some of the wildlife in the state. Those projects are often matched, as well, with Non-Governmental Organizations (NGOs) in the

private side, and they stimulate economy via the purchase of goods and services, to carry out these projects. As a sportsman who has contributed to this account, I would ask that it not be swept. I am willing to answer any questions. Thank you very much for your time today.

CHAIR BUCKLEY:

Thank you for your testimony. I do not see any questions. Is there anyone else that would like to provide testimony on the sweeps? Public testimony? Okay. Seeing none, Andrew, let's have you come back and finish your presentation.

We have a copy of a document that we are getting printed right now. But the questions that I have for you are the following: On the problem gambling money, the Gaming Control Board has provided revised projections such that our fiscal projections do not match the budget divisions' and there is a \$142,000 gap. I will ask you to review that and get with out fiscal division and make sure your numbers match. We have the same problem with the Alcohol Tax Program. The Bond Interest and Redemption account seems to have some difficulties, too. There are several others. And then, in addition, our legal division believes that certain items are ineligible to be swept. I indicated those earlier. These are things like the Self-Insured Association Insolvency account, the Silicosis and Disabled Pension account, and the Uninsured Employers Account under Industrial Relations.

So we would like you to review all these items with the Governor's office and ascertain whether you agree or disagree. If you have any alternate legal reasoning, we would love to receive it. We would also like you to confirm the accounting discrepancies between the divisions. If you agree that those need to be modified, advise us. If, according to our accounts, there is an additional shortfall on this list, advise us what changes you would make to your overall presentation so that the budget is balanced. Would that be agreeable to you?

ANDREW CLINGER:

Madam Chair, that would. I would point out one of the discrepancies is on page 18 of the document. That is the Alcohol Tax Program. The change there would be that the \$105,000 would be drawn in Fiscal Year 2011 and the \$206,493 would be eliminated. I believe that agrees with your fiscal staff.

CHAIR BUCKLEY:

Okay. In special sessions, you have such a short amount of time and we don't want to have any mistakes or holes made, so all of these items need to be reconciled before our final passage.

Okay. Thank you. You can proceed.

ANDREW CLINGER:

Thank you, Madam Chair. I will proceed down the one page summary. Line 31 is where we left off. We just covered line 30, which was the sweeps. Line 31 is, again, another sweep. Essentially, it is the Rainy Day Fund. The \$632,000 is the balance that is left in that account. Line 32 is what we call our Budget Reserve Account. This is where we put funds that need to be reverted to the General Fund. There is a small balance in that account of \$643,960. We are proposing to sweep that account, as well. Item 33 on the list is additional Medicaid matching funds. This is a two quarter extension of the current enhancement to the federal matching rate on our Medicaid funds under the American Recovery and Reinvestment Act. We estimate that will bring in an additional \$88.48 million of federal funds into Medicaid, which will allow us to free up the state dollars.

Items 34 and 35 relate to the Millennium Scholarship Program. Item 34 is a suspension of the \$3.8 million a year that currently that goes into the Millennium Scholarship Program. Prior to last session, this was \$7.6 million a year. It was cut in half during the session to \$3.8 million a year. What the Administration is recommending is that the \$3.8 that is in there now be eliminated. In addition, line 35 would recommend transferring \$5 million out of that account. Based on these transfers out of this account, the account would be viable through 2013. The policy decision here is that in the future there has to be an alternative funding for the Millennium Scholarship Program in the next legislative session or a policy shift on eligibility for the program. This will have an impact on the length of the program and how long it is viable.

Lines 36 and 37 on this sheet don't save us any money. What they do is help us balance between the two fiscal years. These are ARRA funds that were placed in the Department of Corrections and in higher education accounts. What we are recommending here is that these funds be shifted from Fiscal Year 2011 to Fiscal Year 2010. Again, there are no net savings from these, it's just moving these funds from one year to the other, to help us balance Fiscal Year 2010.

Line 38 is money that was appropriated by the last legislative session to the Interim Finance Committee for any unforeseen increases in electricity and heating costs for state agencies. We are recommending that those items be eliminated. We had funding set aside in the last biennium for the same purpose and we swept it as well. Agencies would have to find the savings within their budgets to deal with any unforeseen increases in utility costs. We also believe that as a result of going to a four day, ten hour schedule, there will be some savings in utilities as a result of that. Again, this is money that is set aside in the IFC Contingency Fund, that we would recommend be eliminated.

Line 39 transfers money from the Bond Interest and Redemption Account. This relates to the line of credit. When the Legislature approved the budget and the \$160 million line of credit, they had included in the budget a transfer from the Bond Interest and Redemption Account of \$15 million each year to make payments back on that line of credit. What we are recommending, since we are not utilizing the line of credit in the first year, and we will not draw down on that line of credit until late in the second half of Fiscal Year 2011, is that those principal payments be deferred until the next biennium. So these funds from the Bond Interest and Redemption Account can be transferred into the General Fund to help us balance.

Line 40, again is related to that issue. These were payments on the line of credits that were budgeted to come out of the state General Fund. Again, since we are not drawing down on the principal until late in the biennium, we would recommend that these payments back to the line of credit, totaling \$30 million, be eliminated. That would be a savings to the General Fund.

Line 41 is surplus funds in the Nevada Check-Up program. This is just due to lower than budgeted caseload. This is the one area where we have lower than budgeted caseload. That's the good news. The bad news is that the reason we have lower caseload growth in Nevada Check-Up is because more of these individuals are qualifying for Medicaid.

Line 42 is, again, funding that was appropriated directly to the Interim Finance Committee Contingency Fund. This is for unemployment assessments to state agencies. The state is on a pay-as-you-go system when it comes to unemployment. We pay our claims out of a fund that we have. These are the assessments that we charge state agencies to go into that fund. Again, this was set aside for any unforeseen increases in the rate that we charge other state agencies for those unemployment assessments, so those agencies, again, if those rates did go up, would have to find the savings to cover the \$1.9 million that would no longer be available in the IFC Contingency Fund.

Items 43, 44, and 45 on the sheet are related to the Governor's recommendation that state employees convert to a four day, ten hour work week, with Friday's off. This has the impact on the employees, in that instead of taking 8 hours of furlough a month, they would take 10 hours of furlough a month. The savings you see in the Fiscal Year 2011, the \$6.168 million, is a result of the additional two hours of furlough, which equates to an additional 24 hours over the fiscal year, or approximately a 1.1 percent decrease in salary. This would continue to hold harmless their retirement and their other benefits. This would not impact those. It would simply impact their pay. Lines 44 and 45 are the equivalent amounts for the Nevada System of Higher Education and for K-12. We will note that on line 45, on the \$35.7 million that is listed here, we did reduce the 10 percent reductions to K-12 by an equivalent amount. When you add the \$35.7 million to the amount that is recommended in K-12 reductions on line 18, the total of those is a 10 percent reduction to the state appropriation.

Lines 46, 47, and 48 are recommendations that my office put together. We looked at vacant positions. We looked at non-essential travel and we looked at any other reductions that we thought could be made. On the vacant positions, what we looked at is that in a lot of cases state agencies would recommend holding a position for three quarters of the year. What we did is went in and extended those through the end of the biennium. We also went and looked and found where there were vacant positions and recommended eliminating a good portion of those,

as well. With travel and training, we simply looked at that unless it was a function of the business that the agency was engaged in, such as an auditing function, where the auditors have to go out and travel, that that travel and training be eliminated in those agencies. Other reductions were various cuts that were made to the state agencies that we went through. I do have a list for those. I did not hand it out. It is available on our website and I would be happy to answer any questions.

Item 49 on the list is the Insurance and Registration Verification program. This is the program that has been talked about a lot. This is the license plate reader system, if you will, which would generate a notice to the registered owner of the vehicle. There's a national database that this would check against when it takes a picture of the license plate. It goes to this national database and verifies that they have insurance. If they don't have insurance, the way I understand it is they receive a notification to prove that they have insurance. If they cannot prove that, then there is a fine that they have to pay. The \$30 million that we had included on the sheet is the amount that the company is guaranteeing that the state will receive in Fiscal Year 2011. They do anticipate that we will receive or estimate that we will receive over \$100 million but they are willing to guarantee \$30 million. To that end, they would set aside \$30 million in a trust fund for the state. If at the end of Fiscal Year 2011 we had not reached at least \$30 million in revenue, we could then transfer the balance to reach \$30 million—out of that trust fund into the state.

CHAIR BUCKLEY:

Can I just interrupt for a second here? There's been a lot of debate about InsureNet and the idea of pursuing this for this special session. Can I just get a show of hands from the committee of how many folks are interested in seeing this explored? Okay. Just one. This does not bind you to vote for it. I am just asking how many like the idea and think it makes sense for us to vet. Assemblyman Goicoechea says we need to look at it. If I was to ask the committee right now, how many would be in favor of voting for a BDR to introduce? Let me see how many hands I have for that. Okay. I guess we are not going to pursue that one. Let's cross that off the list for now. Okay, Andrew. Keep going.

ANDREW CLINGER:

Thank you, Madam Chair. Moving on to line 50, this is the Net Proceeds of Minerals.

CHAIR BUCKLEY:

I'm sorry. I missed a light. Assemblyman Atkinson.

ASSEMBLYMAN ATKINSON:

Thank you, Madam Chair. I actually had my light on before you began to ask those questions, so some of the questions I had about the InsureNet program have been answered. My question to Mr. Clinger is in lieu of doing that program—because obviously we don't have anything in statute that would allow it, so it would have to come from this body with some type of approval to put it into NRS—and without that and without this \$30 million, what will happen?

ANDREW CLINGER:

You can see that at the bottom of that page, on line 66, if you look in column G, it has \$944,000. That is the amount that we currently sit at, under the Governor's plan, above the minimum 5 percent ending fund balance. Obviously, if this body does not approve line 49 and does not bring in \$30 million in revenue, then we are simply \$30 million short.

ASSEMBLYMAN ATKINSON:

Okay. Madam Chair, can I follow up? And just so don't we alarm the public and other people, because obviously it is still an important issue with regards to insurance and people driving in our state with insurance. It is my understanding and through, obviously the paper and conversations with the DMV, even if we don't do this program, there is money set aside in the DMV for a program they are beginning or getting ready to launch next week or the week after. They actually do this but without cameras. They have an insurance verification program that is going to begin, that they have put a lot of money into. Correct?

ANDREW CLINGER:

That is correct. They have a program that they have set up. The main difference between theirs and the InsureNet program is that InsureNet will catch the out-of-state folks as well as the in-state folks. The DMV program, the way I understand it, is for those individuals that when they come in, they have to prove they have insurance. This would catch anyone who is trying to avoid paying that, that's not coming into the DMV. So there is a little bit of difference between the two programs on how they function.

ASSEMBLYMAN HARDY:

Thank you, Madam Chair. Along that same line, Andrew. For the state, Nevada Live or whatever the program is called, is that going to generate General Fund money as opposed to the \$30 million that the InsureNet would have been guaranteed?

ANDREW CLINGER:

There is no amount plugged in for the Nevada Live program, into the General Fund. I am not sure what the estimates are that that will generate above and beyond what the Insurance Verification program is generating right now. But those are amounts, I would presume, at this point, that are going into the highway fund.

CHAIR BUCKLEY:

That is true, Mr. Clinger. They are going into the highway fund, which is not general funded. Assemblyman Atkinson, in talking to DMV, we may collect more fines, which is something that will help the highway fund; potentially, it could even be bonded, perhaps to create some jobs, so I think we are very pleased at the progress the DMV has made. I am sure we will be hearing more about that later. Assemblywoman Smith.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Chair. I just wanted to follow up on that. The concept of InsureNet absolutely troubles me but I think that the idea of Nevada Live has a lot of advantages for us and we will see some additional funds to those funds. We should also see some additional insurance premium tax as more people get insured. We will have, obviously, more insured people on the roads and that will help hospital costs and that sort of thing. There are really net benefits to the program that is being developed in Nevada. I think that we should see how that works over the coming months and what it brings into the state. I think giving our own program a chance to operate is a good thing.

CHAIR BUCKLEY:

Okay. Andrew, I think you can continue.

ANDREW CLINGER:

Thank you, Madam Chair. I would move on to line 15 of the summary sheet, which is the Net Proceeds of Minerals. This is \$25 million a year. The recommendation here is that under the net proceeds tax, currently there are deductions that are defined in statute. Our recommendation would be that the deductions that are allowable be reduced by a percentage. Based on our calculations, at this point, those deductions would be reduced by 50 percent, which generates \$25 million a year to the state. It has also been pointed out, and I should point out for the members of this body, that there is an equivalent \$25 million a year increase that goes to the counties. Overall, it is a \$50 million a year in the Net Proceeds of Minerals tax.

I will move on to item 51, the Department of Taxation Unclaimed Property. These are funds that, when we were going through the process of looking at the cash bond account in the Department of Taxation, we did identify almost \$1.8 million of unclaimed property that is currently sitting in that cash bond account.

CHAIR BUCKLEY:

Andrew, we have a question. Assemblyman Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Chair. I am sorry, Andrew. I was trying to get to you on the net proceeds tax. It is still not clear. Are you saying you are going to go back and look at the statutes and say fifty percent of it does not apply?

ANDREW CLINGER:

It would be taking the existing deductions that are defined in statutes and saying the deduction allowed is 50 percent of those deductions or whatever the exact number is. We are using a rough estimate right now of 50 percent, so it would be just an addition to the statutes that say it is 50 percent of those defined in here.

ASSEMBLYMAN GOICOECHEA:

If I may, Madam Chair. So, you are talking about a statutory change? That we would just walk in and say we are changing this amount, you will only be allowed 50 percent? What happens to the NACs (Nevada Administrative Code), where this is actually structured?

ANDREW CLINGER:

With the NACs, I'm not sure. I know there is a question of the constitutionality because the net proceeds is in the Nevada *Constitution*. The term "net proceeds" is not defined in the *Constitution*. The formula for how you derive the net proceeds is actually in the statutes. I don't remember the specific cite. It is the statutory provisions that we are recommending to be adjusted, to get to that net proceeds number.

ASSEMBLYMAN GOICOECHEA:

Thank you.

CHAIR BUCKLEY:

If you have any analysis you could share about what is in and what is out on the deductions and how you calculated the percentages, we would love to receive that.

Assemblyman Carpenter.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Chair. I am wondering which year this would apply to. Is it for the money they are supposed to be paying this year and then they were supposed to pay ahead, too? Which year are we talking about?

ANDREW CLINGER:

The mining companies are on a prepay basis. That was one of the changes that were made in one of the last special sessions. They now prepay their tax. Their prepayment for Calendar Year 2010 is due in May. So this would affect the prepayment for Fiscal Year 2010, which is due in May, and also the prepayment that would be due in subsequent years following that. It would start and they would have to make that first adjusted payment, under this provision, in May of this year.

CHAIR BUCKLEY:

Assemblyman Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Chair. This is just to follow up on where Assemblyman Carpenter was headed. We already took a prepayment in the last session. Just exactly how is that going to fit and where is it going to be applied?

ANDREW CLINGER:

We are already on a prepaid schedule, if you will. In Fiscal Year 2009, the mining companies actually ended up paying two years worth because they paid under the old system and they also prepaid. Now we are on an annual basis moving forward. What this does is just increase the amount that they are paying. For Fiscal Year 2010, again, when they make that May payment, prepaying for Calendar Year 2010, it would be increased by the \$25 million for the state and then the \$25 million for the counties.

ASSEMBLYMAN GOICOECHEA:

But we would have to deduct the amount we have already taken. I believe that is coming in the 2012 budget year, regarding the prepayment we took last session from mining. Advanced payment of taxes, call it what you want, I think we are confusing the estimated payment versus what they actually paid in taxes. What is that going to do in the long run?

ANDREW CLINGER:

There is a "true up" that happens. Obviously, if they prepay, it is based on an estimate. When they come back, there is a true up. I understand what the question is as far as what is going to happen in the future. You are still always going to have that true up that has to happen. It is just based on a lower deduction amount for Calendar Year 2010 and Calendar Year 2011.

ASSEMBLYMAN GOICOECHEA:

I am really talking about the money the mining companies came forward with, which is the two year payment of the net proceeds they came forward with in the last budget cycle. We have to deduct that or take it off the board someplace. I believe it is in 2012. How is that going to impact these revenues? I am not talking about increasing the deduction allowance or taking away from it. We have already accepted prepaid funding from mining that we have to true up. If we made no changes to the deduction policy, we would still owe this credit that we gave the mining companies. How is that going to impact us through the next budget cycle? Am I making any sense to you?

ANDREW CLINGER:

I think so. There is no refund of that prepayment. They, essentially, paid twice in 2009 and moving forward they are continuing on a prepayment basis, so there is no point in the future where they get that prepayment back. They make a prepayment for this year and then we true up, compared to their actual proceeds, but then they are always prepaying in advance. It was a one time thing. In Fiscal Year 2009, we essentially got double the revenue we normally would have. But moving forward, since we are now on that prepayment schedule, there is no refund coming back on that. There is no adjustment.

ASSEMBLYMAN GOICOECHEA:

Thank you.

CHAIR BUCKLEY:

Assemblyman Carpenter.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Chair. We have heard some rumors that they are also going to be increasing the fee on their claims. Does that have anything to do with this? Or are you strictly talking about their deductions?

ANDREW CLINGER:

That is not the Governor's recommendation, so I am not sure what that is. The Governor's recommendation is strictly on the deductions. It is not on any other fees associated with mining.

ASSEMBLYMAN CARPENTER:

I think, maybe, what the Chair was asking is, do we have some kind of analysis of this situation? And whether it is really constitutional to do this? Where are we going to be on it? I need a little more, I guess you would say, explanation, because the people who are relying on the mining companies need a little more comfort in something like this before we can support it. Thank you.

CHAIR BUCKLEY:

Assemblyman Carpenter, with regard to mining, as I understand it, the Governor's plan is to change the deductions and hopefully we will get the analysis of how it will be done, how it is constitutional, which portion and the like, to back that up. With regard to alternate means for mining to contribute money, those are being explored by others, including Assemblyman

Oceguera. You might want to check with him about the claims and the other methods of financing. I expect we will be debating those very soon.

Any other questions for Andrew? You can continue.

ANDREW CLINGER:

Moving on to line 52, we are recommending here the elimination of 5 percent salary add-ons that employees receive. Employees receive this for things like being bilingual or if they are supervising another employee of the same grade. What we are recommending is the elimination of all 5 percent add-ons. The \$2.75 million in Fiscal Year 2011 is the General Fund savings as a result of eliminating those 5 percent add-ons.

Line 53 is the collection of outstanding insurance premium taxes. The Commissioner on Insurance has indicated that if they have additional audit help, and they had estimated \$500,000 worth of additional help, they felt like they could collect between \$3 million and \$12 million. The insurance commissioner felt comfortable that they could collect \$5 million in outstanding premium taxes if they had additional audit help and so that is what line 53 represents.

Line 54 is an effort that we have been working on. That is to reduce all state contracts by 15 percent. The Governor did send out a directive to all state agencies to report back on their ability to reduce state contracts by 15 percent. We are still in the middle of that analysis but have been able to identify in some of our master service agreements or "good of the state" contracts, \$1.5 million of savings. We will continue to pursue savings on other contracts as we get the information.

Line 55 regards voluntary retirements. The Public Employees' Retirement System has estimated that there are over 400 employees in central payroll in state government with an annual salary of almost \$25 million. We are estimating 20 percent of that, or \$5 million, could be recognized in savings in fiscal year 2011.

Line 56, the National Judicial College and the College of Juvenile and Family Justice—they get an appropriation of \$320,000 a year for the operations. We have cut a portion of it in the 10 percent cuts. Line 56 would eliminate the balance of the funding that goes to those two colleges.

Line 57 is an item that recommends the closure of the Casa Grande Transitional Housing Facility. This is the funding that can be cut from this. There are also debt service payments that have to be made out of this. We have left a balance of funding in here to continue to make those debt service payments. You can see over the biennium this saves \$613,000.

Line 58 regards Supreme Court sweeps of \$704,000. This represents approximately 10 percent of their reserves. We are still in the process of going through and identifying the specific accounts of where this would come from. This is an estimate, looking at 10 percent of the reserves that they have in their accounts. We are recommending to the Legislature that they sweep those funds.

Line 59 is additional unclaimed property receipts. We received a letter from the State Treasurer last week indicating we should raise our estimate for unclaimed property receipts in Fiscal Year 2010 by \$4 million. So we have included that on the list of solutions as well.

Line 60 is a reversion of the General Fund portion of funding that was included in the 2005 and 2007 Capital Improvement Projects (CIPs). This is the balance of funding that will revert from these funds. These are not CIP cuts. They are reversions of funding that was left over from those projects.

Line 61, and again, Mr. Willden may have talked about this yesterday, this additional federal funding is related to what they call claw back. This is increasing the percentage that we receive from the federal government to match the enhanced FMAP rate or Federal Medicaid Assistance Percentage, that we are receiving from the federal government. This is \$16.3 million in additional federal funds that, again, allows us to free up state funds for other purposes.

CHAIR BUCKLEY:

We have a question, Andrew. Assemblyman Anderson.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Chair. I would like to come back to line 57, the closing of Casa Grande. The concern that I have rests with the parole rate and getting people out and into transition housing, and the possibility of recidivism, which is one of the things we have been trying to cut

down on. In closing Casa Grande, and the analysis of fiscal costs, is there a potential for thus increasing those people who are going to be held in a traditional prison, at a higher cost, since they won't be in a work program, as is available through Casa Grande?

ANDREW CLINGER:

Obviously, if the inmates are not housed at Casa Grande they would have to be housed at one of the other institutions or camps, if you will. I am not sure what the comparison is as far as housing them at Casa Grande and the cost per day of doing that, versus housing them at a minimum custody institution or one of the other institutions. I can get that information from Director Skolnik and get it back to you.

ASSEMBLYMAN ANDERSON:

Would you include the transportation costs of the additional time travel to take them from one of the other institutions into town, if that is even going to be available to them, if work programs are going to be available to that part of the population that we are trying to transition back in.

CHAIR BUCKLEY:

Thank you. We appreciate that. Assemblyman Horne.

ASSEMBLYMAN HORNE:

Thank you, Madam Chair. Mr. Clinger, I think it is also important to note that one of the requirements of Casa Grande, for the inmates there, is a work requirement. Basically, closing Casa Grande down and having them put into another facility may, essentially, remove that requirement. Either we are going to provide transportation from one of the facilities back and forth to their place of employment or they will not be employed. Again, I think there are increased costs in keeping them at other facilities besides Casa Grande. One of the reasons we had it was that transitional component for inmates—particularly nonviolent inmates who are coming back into our communities and getting back on the right road—essentially things like closing Casa Grande takes them from a penal institution directly back into our communities. I do not if that is going to be fiscally sound and also sets them maybe on a road to high recidivism because they have not been transitioned in. Thank you.

CHAIR BUCKLEY:

Mr. Clinger, also, just going back to the net proceeds of minerals issue, for a moment. We also, in addition to the legal analysis, and how exactly the methodology would be on the deductions, may we also have how you came to the financial estimates? Our staff cannot figure out how, based on the new numbers, that it would equal \$25 million. If you could just add that to the list, as well, for our review. We have been told we better wrap up with you because the Senate wants you. I know we are almost through the list.

ANDREW CLINGER:

Madam Chair, the last item on the list is spending down the General Fund balance. The \$4.9 million represented there is the maximum amount that you can spend down the ending fund balance. We have a requirement to maintain a 5 percent ending fund balance and that \$4.9 million would take it right to 5 percent.

Finally, line 66 shows that we are actually \$944,000 above that minimum 5 percent.

CHAIR BUCKLEY:

Are there any questions? I know it is a lot of information. The Interim Finance Committee has reviewed a lot of it in advance of today but we thought it only appropriate that all members receive a general overview of the Governor's plan. Are there any questions for Mr. Clinger before he leaves? Assemblyman Carpenter.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Chair. This is in regard to the Millennium Scholarship. With the transfers and everything, will that affect any of the students that are now taking advantage of that scholarship?

ANDREW CLINGER:

The projections on the program, right now, without making any changes to the program, without finding alternative sources to fund the program, is that beginning in 2014, that program will be upside down. There won't be enough money in it to sustain the Millennium Scholarship program the way it is structured now.

CHAIR BUCKLEY:

Assemblywoman Gansert.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. Is that up until 2014 or is the 2014-2015 school year good? Do you know?

ANDREW CLINGER:

I think that is a fiscal year number. I would have to look at it to verify. I think that is a fiscal year number and I didn't bring that sheet with me, but in fiscal year 2014, the program is \$1.5 million upside down.

ASSEMBLYWOMAN GANSERT:

I am trying to think of the children that are in school right now and if it carries those students through an entire four years. Unless something else happens, maybe we do not have anyone else entering the program. Thank you.

CHAIR BUCKLEY:

Okay. I do not see any more questions. Mr. Clinger, again, thanks very much for coming today and for reviewing all of this with us. We appreciate it.

So, I think what we will do now is that we will take a five-minute break and allow everyone to get up and stretch their legs. With regard to the sweep list, I just want to clarify, because I have seen several panicked looks coming my way. What we are going to do is that we are going to have a complete list of all of the proposed sweeps. We are going to have notated which ones our staff thinks are legally problematic or which adjustments need to be made, from a fiscal point of view, to reconcile the opinions of the Budget Division and the LCB Fiscal Division. Everyone will be given that sheet.

So, what I am going to do is give everyone that sheet. I am going to request the introduction of a BDR; it does not mean that you are committing to final passage. It will allow us to get the bill draft ready. It will also allow you to do any further vetting that you would like. The sweeps that our Legal Division has deemed, in their opinion, to be unconstitutional, we will leave off. If the Governor's office is able to provide that information to LCB, we can then consider it in the hearing on that bill. But I will not have that drafted since our legal counsel believes it is unconstitutional. So we will take a five minute break. I will allow that document to be distributed and we will then vote on the introduction of that measure and then it will be drafted and heard. Are there any questions from members of the body?

Okay. We are in recess.

Submitted Exhibits

See below.



AARP Nevada T 1-866-389-5652
5820 S. Eastern Avenue F 702-938-3225
Suite 190 TTY 1-877-434-7598
Las Vegas, NV 89119 www.aarp.org/nv

26th Special Session
AARP Nevada Comments
February 24, 2010

Madame Speaker and members of the Assembly, for the record my name is Barry Gold and I am the Director of Government Relations for AARP Nevada. AARP is a non-profit, non-partisan membership organization for people age 50+. We advocate on legislative, regulatory, and legal issues and assist our members to serve their communities.

We would like to speak on behalf of the most vulnerable in Nevada. The frail seniors and those who rely on essential services that enable them to keep living in their communities with their spouses and families. They cannot be here today.

We appreciate the comments made by many of you in the Legislature expressing concerns over the severe impact some of the proposed cuts will have on them. These are not just "ugly" cuts – many of them are horrific and unthinkable.

Just because you are old, or sick, and poor – being able to see and hear and chew should not be considered "optional". Adult diapers are not a luxury.

We urge you to protect the essential services and home and community based programs that keep the most vulnerable in our state living with independence and dignity.

Thank you.

State of Nevada Fund Sweeps Fiscal Year 2010 & 2011													
	A	B	C	D	E	F	G	H	I	J	K	L	M
1													
2													
3													
4													
5	Fund	Agency Name	B/A	Budget Account Name	Balance As of 4-Feb-10	FY 2010	FY 2011	Total	Governor's Proposal	Difference			
6	101 400	Health & Human Services	3200	Prevention/Treatment of Problem Gambling	N/A	-	1,700,000	1,700,000	1,842,082	(142,082)	The Gaming Control Board has provided revised projections for the \$2 slot tax transfer to the problem gambling account that are consistent with the revised projections of restricted and non-restricted slot taxes for FY 2011. The Board has projected that the amount reduced from the legislatively-approved amount of \$1,708,129 to \$1,832,564. The FY 2011 projection is reduced from the legislatively-approved amount of \$1,708,129 to \$1,842,082. The FY 2011 projection is \$1,708,000 (\$1.5 million in slot tax revenues and \$120,000 in balance forward).		
7	251 406	Health Division	3152	Radioactive Materials Disposal	9,493,612	9,990,060	-	8,990,060	8,990,060	-			
8	251 408	Mental Health & Disability Services	3285	Alcohol Tax Program	N/A	-	105,000	105,000	311,493	(206,493)	LCB Fiscal does not believe the sweep of cash reserve for the Alcohol Tax Program is appropriate. The \$211,493 is available and recommends a sweep of just \$105,000 in FY 2011. While the agency and EBO reduced grant sweeps by \$200,000 each year, it does not believe that the amount of the sweep should be coming into the account are substantially less than the work program amounts by \$100,000 - \$150,000 when the grant is not available. The amount of the sweep in FY 10 was approximately \$140,000 less than the work program amount.		
9	101 749	Athletic Commission	3952	Athletic Commission	194,058	29,500	-	29,500	29,500	-			
10	262 050	Treasurer's Office	1090	Trust Fund for Healthy Nevada	30,128,165	21,300,000	8,828,165	30,128,165	30,128,165	-			
11	263 050	Treasurer's Office	1091	Trust Fund for Public Health	10,672,420	9,922,687	4,839,733	10,762,420	10,762,420	-			
12	261 060	Treasurer's Office	1085	Millennium Scholarship Fund	11,556,426	-	5,000,000	5,000,000	5,000,000	-	The State Treasurer's Office has indicated that \$5 million sweep would result in a zero balance in the fund on or before the end of FY 2011. LCB Fiscal has suggested that the Legislature may wish to consider to sweep the amount of the sweep from the fund of \$5 million annually transferred from the College Savings Plan Endowment Account to the Millennium Scholarship Fund.		
13	328 170	Legislative Counsel Bureau	2630	Contingency Fund - electricity and heating	N/A	2,206,295	3,126,269	5,332,564	5,332,564	-			
14	328 170	Legislative Counsel Bureau	2630	Contingency Fund - Line of Credit Payback	N/A	15,000,000	15,000,000	30,000,000	30,000,000	-			
15	396 050	Treasurer's Office	1082	Bond Interest and Redemption Account	30,000,000	15,000,000	14,000,000	29,000,000	29,220,625	(220,625)	LCB Fiscal has reduced the amount to provide margin of safety for FY 2011 interest payments due to the uncertainty of when the line of credit actually will begin being drawn.		
16	101 830	Board of Examiners	4883	Unemployment Assessments	N/A	1,359,634	954,405	1,914,239	1,914,239	-			
17	615 130	Department of Taxation	9069	Unclaimed Sales Tax Cash Bonds	1,777,612	1,777,612	-	1,777,612	1,777,612	-			

State of Nevada Fund Sweeps Fiscal Year 2010 & 2011												
A	B	C	D	E	F	G	H	I	J	K	L	M
1	2	3	4	5	6	7	8	9	10	11	12	13
Fund	Agency	Agency Name	B/A	Budget Account Name	Balance As of 4-Feb-10	PY 2010	PY 2011	Total	Governor's Proposal	Difference		
18	101	012 Governor's Office	1005	Nuclear Waste Project Office	1,233,000	263,000	970,000	1,233,000	0	1,233,000	Specialty General Fund appropriation identified for the Nevada Department of Energy grant. The agency will continue to be supported with General Fund appropriations. Federal Department of Energy grant appropriated for the Nevada Department of Energy grant account (NRS 698.305)	
19	101	741 Insurance Division	3824	Insurance Education and Research	487,000	250,000	-	250,000	0	250,000	Reserve primarily results from sweep funds in BA 3821 (Insurance Recovery) being transferred to this account (NRS 698.305)	
20	233	745 Daily Commission	4470	Daily Commission	587,310	350,000	-	350,000	0	350,000	CER Fund has determined could sweep up to \$350,000 provided for the amount proposed to be swept	
21		State Public Works Board		CIP projects	6,921,414	6,921,414	-	6,921,414	6,921,414	-	CIP Fund would still have a 63 day return of \$224,000	
22		Supreme Court		Supreme Court Reserve Sweeps	1,500,000	-	-	-	-	-	Fund sweep has been eliminated since no basis was provided for the amount proposed to be swept	
23	615	Department of Taxation	6069	Department of Taxation Bonds	52,313,976	15,000,000	15,000,000	30,000,000	35,000,000	(5,000,000)	Approved by Legal Division that originates to sweep per Article 9, Section 2 of the Constitution.	
24	210	741 Insurance Division	3802	Insurance Involuntary Fund	10,356,342	-	-	-	8,000,000	(8,000,000)	Sweeps eliminated per direction of leadership.	
25	235	902 Employment Security Division	4771	Employment Security Special Fund	9,200,855	6,500,000	-	6,500,000	6,500,000	-	Sweeps eliminated per direction of leadership.	
26	101	702 Wildlife Department	4457	NDOW Heritage Account	5,662,780	-	-	-	5,600,000	(5,600,000)	Sweeps eliminated per direction of leadership.	
27	328	170 Legislative Counsel Bureau	2850	Interim Finance Committee Contingency Fund	43,313,866	5,000,000	-	5,000,000	6,000,000	-	Sweeps eliminated per direction of leadership.	
28	601	170 Legislative Counsel Bureau	1335	Disaster Relief	6,546,757	4,000,000	-	4,000,000	4,000,000	-	Sweeps eliminated per direction of leadership.	
29	101	744 Housing Division	3838	Low Income Housing Trust Fund	17,050,046	-	-	-	3,000,000	(3,000,000)	Sweeps eliminated per direction of leadership.	
30	405	NSHE	6110	Special Capital Construction Fund For Higher Education	1,425,205	-	2,500,000	2,500,000	2,500,000	-	Sweeps amount reduced based on funding required to maintain the fund balance	
31	715	Attorney General's Office	1348	Tort Claim Fund	6,238,772	-	2,000,000	2,000,000	2,000,000	-	Sweeps amount reduced based on funding required to maintain the fund balance	
32	101	650 Department of Public Safety	4709	Criminal History Repository	2,022,176	1,000,000	-	1,000,000	1,556,236	(556,236)	Sweeps amount reduced based on funding required to maintain the fund balance	
33	223	741 Insurance Division	3817	Insurance Examiners	890,393	600,000	700,000	1,300,000	1,300,000	-	Sweeps amount reduced based on funding required to maintain the fund balance	
34	224	580 Public Utilities Commission	3920	Regulatory Fund	5,550,111	1,000,000	-	1,000,000	800,000	200,000	Governor originally recommended \$1 million but subsequently revised to \$800,000. The agency has indicated that the \$800,000 is sufficient.	
35	101	040 Secretary of State's Office	1050	Secretary of State	10,478,845	975,000	-	975,000	975,000	-	Sweeps amount reduced based on funding required to maintain the fund balance	
36	535	440 Department of Corrections	3728	P Capital Projects	1,048,974	948,000	-	948,000	948,000	-	Sweeps amount reduced based on funding required to maintain the fund balance	
37	101	500 Commission on Mineral Resources	4220	Bond Reclamation	4,509,427	427,817	-	427,817	427,817	-	Sweeps amount reduced based on funding required to maintain the fund balance	
38	101	550 Agriculture	4545	Agro Registration/Enforcement	2,015,056	800,000	-	800,000	800,000	-	Sweeps amount reduced based on funding required to maintain the fund balance	
39	101	700 Conservation/Natural Resources	4144	AB9021	36,383,988	-	-	-	750,000	(750,000)	Sweeps amount reduced based on funding required to maintain the fund balance	
40	101	810 Dept. of Motor Vehicles	4722	Motor Vehicle Pollution Control	894,154	-	-	-	700,000	(700,000)	Sweeps amount reduced based on funding required to maintain the fund balance	

State of Nevada Fund Sweeps Fiscal Year 2010 & 2011												
A	B	C	D	E	F	G	H	I	J	K	L	M
1	2	3	4	5	6	7	8	9	10	11	12	13
Fund	Agency	Agency Name	B/A	Budget Account Name	Balance As of 4-Feb-10	FY 2010	FY 2011	Total	Governor's Proposal		Difference	
41	101	081	Budget and Planning Division	9081	Budget Reserve Account	1,422,148	1,223,266	-	1,223,266	543,960	579,308	Amount increased for Department of Corrections pursuant to Section 7 of the Appropriations Act.
42	101	060	Controller's Office	6900	Rolling Day	632,516	632,516	-	632,516	-	-	
43	101	300	Department of Education	2700	Discretionary Grants-Unrestricted	732,421	300,000	300,000	600,000	600,000	600,000	
44	101	650	Department of Public Safety	4729	Emergency Response Commission	1,225,261	301,635	-	301,635	301,635	-	
45	101	650	Department of Public Safety	4728	Contingency Account for Hazardous Materials	216,794	216,794	-	216,794	216,794	-	
46	330	030	Attorney General's Office	1038	Consumer Advocate	2,760,861	500,000	-	500,000	500,000	-	
47	601	650	Department of Public Safety	1338	Emergency Assistance Subaccount	697,048	500,000	-	500,000	500,000	-	
48	210	741	Insurance Division	3804	Self-Insured Asset: Insolvency	1,031,890	-	-	-	500,000	(500,000)	Amount increased for Department of Corrections pursuant to Section 7 of the Appropriations Act.
49	101	741	Insurance Division	3818	Captive Insurers	444,121	400,000	100,000	500,000	500,000	-	
50	101	748	Real Estate Division	3820	Common Interest Communities	2,801,792	500,000	-	500,000	500,000	-	
51	101	650	Department of Public Safety	3872	Horned Disaster Asst. Program	476,042	476,000	-	476,000	476,000	-	
52	101	550	Agriculture	4551	Weights & Measures	913,464	450,000	-	450,000	450,000	-	
53	101	709	Environmental Protection	4187	Hazardous Waste Management	14,228,871	382,486	-	382,486	382,486	-	
54	101	500	Commission on Mineral Resources	0201	Cash Pooled Bond Investments	518,557	138,557	-	138,557	138,557	-	
55	101	406	Health Division	4547	Marijuana Health Registry	323,291	267,293	-	267,293	267,293	-	
56	101	550	Agriculture	4537	Gas Pollution Standards	545,898	250,000	-	250,000	250,000	-	
57	101	755	Financial Institutions Division	3835	Financial Institutions Audit	2,702,550	250,000	-	250,000	250,000	-	
58	101	755	Financial Institutions Division	3852	Financial Institutions Audit	380,789	150,000	100,000	250,000	250,000	-	
59	101	130	Department of Taxation	6058	Severe Financial Emergency	727,964	225,000	-	225,000	225,000	-	Amount increased for Department of Corrections pursuant to Section 7 of the Appropriations Act.
60	101	050	Treasurer's Office	1089	Sicopsis & Disabled Pensions	323,225	-	-	-	200,000	(200,000)	
61	216	748	Real Estate Division	3905	Real Estate Educ & Research	1,209,692	200,000	-	200,000	200,000	-	
62	101	930	Board of Examiners	4889	Emergency Fund	459,581	200,000	-	200,000	200,000	-	
63	101	709	Environmental Protection	3184	Air Quality Management	8,283,876	184,464	-	184,464	184,464	-	
64	101	060	Department of Administration	1009	Construction Education Account	128,647	128,647	-	128,647	128,647	-	
65	201	650	Department of Public Safety	4891	Multijurisdictional Safety Program	408,472	126,418	-	126,418	126,418	-	
66	101	040	Secretary of State's Office	1087	Nutrition Training	237,987	100,000	-	100,000	100,000	-	
67	101	741	Insurance Division	3821	Insurance Recovery	167,020	100,000	-	100,000	100,000	-	
68	210	742	Industrial Relations Division	6025	Uninsured Employers Claim Act	13,251,177	-	-	-	100,000	(100,000)	Amount increased for Department of Corrections pursuant to Section 7 of the Appropriations Act.
69	218	748	Real Estate Division	3927	Real Estate Recovery Account	469,912	100,000	-	100,000	100,000	-	
70	101	709	Environmental Protection	3188	Mining Regulation/Reclamation	2,600,834	82,752	-	82,752	82,752	-	
71	101	230	Peace Officers Standards & Tra	3774	POST	560,734	62,282	-	62,282	62,282	-	
72	101	650	Department of Public Safety	4703	Forfeitures	77,592	55,729	-	55,729	55,729	-	
73	101	705	Division of Water Resources	4218	Flood Risks & Disaster Relief	50,000	50,000	-	50,000	50,000	-	
74	201	650	Department of Public Safety	4689	Bicycle Safety Program	197,524	46,811	-	46,811	46,811	-	

	A	B	C	D	E	F	G	H	I	J	K	L	M
1	State of Nevada												
2	Fund Sweeps												
3	Fiscal Year 2010 & 2011												
4	5	Fund	Agency/Agency Name	BIA	Budget Account Name	Balance As of 4-Feb-10	FY 2010	FY 2011	Total	Governor's Proposal	Difference		
75	101	081	Budget and Planning Division	1344	Griffith Reward Fund	10,908	10,908	-	10,908	10,908	-		
76	101	081	Budget and Planning Division	2386	Controlled Substance Grants	3,796	3,796	-	3,796	3,796	-		
77	101	704	Parks Division	6190	Performance Guarantees	2,062	2,062	-	2,062	2,062	-		
78	Total Other Non-General Fund Sources					380,979,438	124,240,435	74,823,572	199,064,007	222,131,296	(23,067,289)		

Coalition for Nevada's Wildlife, Inc.
Post Office Box 70143
Reno, Nevada 89570-0143
Memo

To: Nevada State Senate and Nevada State Assembly
CC: Governor Jim Gibbons; Nevada Board of Wildlife Commissioners; County Advisory Boards to Manage Wildlife; Sportsmen Organizations Statewide
From: Coalition for Nevada's Wildlife
Date: February 18, 2010
Re: Wildlife Heritage Trust Account and the 26th Special Session of the Nevada Legislature

The legislature is being asked to transfer the Wildlife Heritage Trust Account (Account) into the State General Fund in order to help close the current budget gap. This proposed action is illegal per NRS 501.3575 which states that the Department of Wildlife *must* use money from the Account for "*The protection, propagation, restoration, transplantation, introduction and management of any game fish, game mammal, game bird or fur-bearing mammal in this State; and the management and control of predatory wildlife in this State.*" The Department is allowed to use 75% of the annual income and all annual interest from the Account to fund these projects. The Wildlife Commission must also approve all projects. See Attachment 1 for wildlife projects funded in fiscal year 2010.

The Account was created by sportsmen to raise monies within the sportsmen community for wildlife projects that would otherwise go unfunded. The intent of the Heritage Program is to develop a self-sustaining, reliable trust fund while at the same time providing annual appropriations for needed projects. Presently the Account carries a balance of approximately \$5.6 million. This money has been raised under the prerequisite that it would be used for on-the-ground wildlife projects in Nevada, not to fill the State's budget gap. See Attachment 2 for a description of these programs from the NDOW web site. To sweep this Account would undermine the entire Heritage Program, violate the trust of thousands of Nevadan sportsmen who have contributed to the Account, and eliminate a critical funding source for wildlife projects. Nevada's economy cannot afford to lose the revenue generated by sportsmen. Nevada's natural resources cannot afford the loss of a stable funding source in the face of catastrophic wildfires, invasion of noxious weeds, and potential listing of the Sage-grouse as endangered.

Funds in the Account are primarily derived through auction or sealed bid for special hunting tags known as Heritage Tags. The Account also receives funds generated by the Partnership in Wildlife (PIW) drawing that provides an opportunity for special hunting tags to resident sportsmen for a \$10 donation. Per NDOW records 18,905 PIW applications were submitted in 2009 alone. The Account can also accept personal gifts of money as a source of revenue. The Silver State Tag Program, enacted during the last legislative session, would also allow for the distribution of these tags through a drawing process, allowing access to such tags by the every-day sportsmen. Heritage dollars are, therefore, derived from all sportsmen from affluent auction tag buyers to every-day Nevadans.

The Coalition strongly believes that all Nevadans and special interests must shoulder the burden of the economic situation. However, undermining one of the most successful wildlife programs in the country, one that generates on-the-ground projects and the jobs and revenue that come with them is unacceptable. We urge the Nevada State Senate and Assembly to reject any consideration of utilizing this Account for any other purpose!

**NEVADA SPORTSMEN AND CONSERVATIONISTS WORKING FOR THE
ENHANCEMENT OF WILDLIFE AND HABITAT.**

**Jeremy Drew
Coalition for Nevada's Wildlife**

Nevada Board of Wildlife Commissioners
FY2010 Heritage Program Awarded Project List
Updated: 05/18/2009

Number	Project Title/Description	Submitted By	Heritage Funding Awarded
10-02	North Springs Valley habitat improvement and hazardous fuels reduction project	NDOW (Steve Foree)	\$ 7,500.00
10-03	Suzie Creek watershed habitat enhancement project	NDOW (Steve Foree)	\$ 7,500.00
10-04	Roberts Creek Mountain Sage-grouse habitat enhancement	NDOW (Shawn Espinosa)	\$ 5,206.00
10-09	China Camp Sage-grouse habitat enhancement	NDOW (Shawn Espinosa)	\$ 3,745.00
10-12	Shantytown mule deer winter range restoration project	NDOW (Tony Wasley)	\$ 14,500.00
10-13	Mule deer chaining maintenance project	NDOW (Tony Wasley)	\$ 6,250.00
10-05	Highway 93 ROW fencing removal	NDOW (Kari Huebner)	\$ 4,000.00
10-10	Giroux Wash big game water development project	NDOW (Katie Miller)	\$ 12,000.00
10-07	Eureka Fish Creek water development #6	NDOW (Mike Podborny)	\$ 8,000.00
10-01	2009-2010 Big game capture, transplant & monitoring program	NDOW (Mike Cox)	\$ 120,000.00
10-27	Sage Grouse nesting survival wildlife management areas 6 and 7.	Nevada Alliance 4 Wildlife (Pat Laughlin)	\$ 50,000.00
10-18	Survey and Maintenance of existing Big Game projects with limited access in Meadow Valley, Mormons, Arrows, Muddy, and Virgin Ranges.	Fraternity of the Desert Bighorn (Jelindo Tiberti)	\$ 5,495.00
10-19	Survey and Maintenance of existing Big Game projects with limited access in the Las Vegas, Sheep, Delamar, Pahranaagats and Hiko Ranges.	Fraternity of the Desert Bighorn (Jelindo Tiberti)	\$ 5,495.00
10-20	Survey and Maintenance of existing Big Game projects with limited access in the Last Chance, Devils, Spectre and Bare Ranges.	Fraternity of the Desert Bighorn (Jelindo Tiberti)	\$ 5,495.00
10-21	Survey and Maintenance of existing big game projects with limited access in the Spotted, Pintwater, Desert and Sheep Ranges.	Fraternity of the Desert Bighorn (Jelindo Tiberti)	\$ 5,495.00
10-22	McCullough/Highland Range Guzzler Tank Replacement	Fraternity of the Desert Bighorn (Jelindo Tiberti)	\$ 9,200.00
10-29	Dixie Valley solar pump project.	Pershing County Chukars Unlimited (Dan Hill)	\$ 7,085.00
10-06	Disease monitoring for the conservation of terrestrial big game species in Nevada	NDOW (Mark Atkinson)	\$ 17,750.00
10-08	Monitoring use & effectiveness of US HWY 93 wildlife overpass	NDOW (Mike Cox)	\$ 36,800.00
10-11	Wildlife water development fencing protection project	NDOW (Jason Salisbury)	\$ 10,000.00
10-23	Mule Deer Enhancement	Hunter's Alert, Inc. (Cecil Fredi)	\$ 50,000.00
10-14	Mule deer migration corridor fence modification project	NDOW (Tony Wasley)	\$ 7,500.00
10-28	Fish Creek partnership.	Joe Saval Company, LLC (Elisabeth Pugh)	\$ 19,000.00
10-26	Increase mule deer fawn survival, attempt to increase fawn to doe ratios and overall mule deer herd.	Nevada Alliance 4 Wildlife (Pat Laughlin)	\$ 113,200.00
10-25	Bighorn sheep population declines: The role of forage quality, disease and genetics.	University of Nevada, Reno (David Thain)	\$ 28,500.00
10-30	Factors regulating wood ducks in Lahontan Valley, Nevada.	Nevada Waterfowl Association (Chris Nicolai)	\$ 10,490.00
10-15	Wildfire impact mitigation and wildlife habitat restoration	NDOW (Dave Pulliam)	\$ 61,173.00
TOTAL			\$ 631,379.00
10-24	Spatial distribution and habitat use of wild horses in the intermountain west.	Brigham Young University (Steven Petersen)	Denied
10-16	Air operations fuel truck	NDOW (Bob Haughian)	Denied
10-17	Western region fisheries electro fishing boat	NDOW (Matt Maples)	Denied
10-31	Demographic responses of mule deer to removal of predators.	University of Nevada, Reno (Kelley Stewart)	Denied
10-32	Promotion and advertising of the OGT program to help deter, detect and apprehend wildlife law violators.	Operation Game Thief Citizen's Board (Don Quillic)	Denied

HERITAGE ACCOUNT - 100% INTEREST AND 75% OF PRINCIPAL AVAILABLE FOR EXPENDITURE IN FISCAL YEAR 2010 - \$631,379.00

Attachment 2
Description of Heritage and Partnership in Wildlife Programs on Nevada
Department of Wildlife Web Site www.ndow.org

The **Wildlife Heritage Trust** is administered by the Board of Wildlife Commissioners. The money in the account is used for the 'protection, propagation, restoration, transplanting, introduction, and management of any game fish, game mammal, game bird, or fur-bearing mammal and the management and control of predatory wildlife in this state."

The funds are obtained from bid, auction or partnership in wildlife drawings or from a gift of money made by any person to the Wildlife Heritage Trust Account. The amount of funds available from year to year for projects depends on funds deposited each year and interest earned annually on the account. The department is allowed to expend no more than 75% of the money deposited in the account the previous year, plus any interest earned during the prior year.

The Heritage Trust account started in 1998 and due to the generosity of its participants over the years, the account has now grown to over \$5 million. The table below displays the organizations that were awarded Wildlife Heritage tags to auction at their fundraising events. The auctioned tags benefit the Wildlife Heritage Trust Account.

You may also be interested in learning about our **Partnership in Wildlife (PIW)** program. PIW is a voluntary and optional participation program that offers unique hunting opportunities to hunters for a few statewide big game tags.

Partnership in Wildlife (PIW) is a voluntary and optional participation program that offers unique hunting opportunities to hunters for a few statewide big game tags. A person with a PIW tag may hunt in any unit with an open season for the species listed on the tag, during the season dates when that unit is open for that species, and only with the weapon authorized to be used during that open season.

The funds donated through PIW are placed in the Wildlife Heritage Trust Account, and the interest generated from these funds will be used each year for special projects benefiting game species. The account will one day become a stable, long-term source of revenue for game management. PIW promises to benefit both Nevada's wildlife and the sportsmen by providing voluntary support of game management programs and providing a hunting opportunity that would not otherwise be available to most sportsmen in Nevada.

Assemblyman Ocegüera moved that the Committee of the Whole recess until the call of the Chair.

Motion carried.

Committee of the Whole in recess at 11:35 a.m.

COMMITTEE OF THE WHOLE IN SESSION

At 12:19 p.m.

Chair Buckley presiding.

Quorum present.

Governor's recommended budget cuts considered.

CHAIR BUCKLEY:

The Assembly will come back to order. We are going to return to public testimony. We have Bruce Breslow, who is signed in to testify. Mr. Breslow, we will take your testimony at this time.

Mr. Breslow, I bet I know why you are here, so let's wait for Mr. Cobb to return, so that he can hear your testimony as well. Is Mr. Cobb on his way, do you know, Ms. Gansert?

ASSEMBLYWOMAN GANSERT:

He is right here.

CHAIR BUCKLEY:

All right, Mr. Breslow, you can proceed.

BRUCE BRESLOW, EXECUTIVE DIRECTOR, NEVADA AGENCY FOR NUCLEAR PROJECTS:

Thank you, Madam Speaker. To the question earlier by Assemblyman Cobb, this is one time I wish I could agree with you, but unfortunately, our news isn't as wonderful. I took the job to run the agency for Nuclear Projects with the knowledge that it would be short term and that my job was to eliminate my job. Despite the political comments you may have been hearing by all parties who are not quite there yet, the Yucca Mountain licensing hearing is now one year into a four-year process. We are technically on a stay, which is a pause that occurred a week ago. I spoke with the Deputy Secretary of Energy and they will be filing a motion next week, asking permission from the federal licensing board to withdraw the license with prejudice, which is what we have asked. If it is withdrawn with prejudice, they cannot come back, no matter what happens in politics in the future, although Congress can always enact something, but the odds of coming back would be very slim.

When they file their motion, all parties will have a timeframe to respond to that motion, and we know that there will be at least one major party that will be opposing not only the motion to withdraw, but in particular, the with prejudice portion, because they are banking on if they can get the with prejudice thrown out, that the project can be brought back if there is a different political climate in the future. With this in mind, the state of Nevada, for the first time after fighting the Department of Energy for I believe 23 years on their intent to do the project—the irony is, we will be joining them in support and working with them to try to get this motion withdrawn with prejudice, so it would not come back to the state of Nevada. The fight and the arguments will be over the fact that the Department of Energy has forever said that it is a perfect project, so for now for them to say, and the President to say, that science is the reason it is not going forward, they will be challenged on what the science is. I have been working to supply that information to the science counsel advisers of the White House, as well as the Department of Energy.

In the meantime, I have given written notice and laid off all of our contractors who are using state general funds. I have been instructed by the Governor's Office not only to cut the ten percent that he recommended, but to inform two of our four full-time employees that their services will end this June, one of whom is the gentleman who maintains the IT, the licensing

support network, which we are currently under a court order to continue, and I have done those things.

If all goes well, and well includes federal law suits, two of which have already been filed in the last seven days to try to prevent the Department of Energy for taking this action, then after they make their announcements, there will be more federal law suits asking them to stop. The process will in effect be paused in the middle of a hearing, until the final result, which I have been told and advised by our attorneys hopefully will happen before June or July, but with Yucca Mountain, every time we think it is dead, it seems to be crawling forward.

I have made a budget proposal to the Governor's Office to cut our general fund dollars for next fiscal year, not by ten percent, but by 75%, that is, by ending all of our contracts, reducing staff to myself and an administrative assistant, and working on some federal funding and some grant money that we receive from the Western Governor's Association, so general fund dollars would go from \$1,733,413.00 to \$420,945.60 if Yucca's license is withdrawn and we can move and shut this down. Finally, what has to happen after that is—there are a few things—our agency also works to, by mutual agreement, we are the integrator, to oversee the 1,273 shipments of mixed waste and low level waste that go into the Nevada Test Site every year. We have also been notified by the Department of Energy that for the first time ever, they plan to ship high-level waste through Interstate 80, across the state, so we are working with the Division of Health, with emergency services, and with the NHP to educate and train the counties and the cities along the I-80 corridor, but that will take place for the first time starting this summer.

We will also archive, according to state law, 23 years worth of records. We will also work with DRAW to Nevada's best advantage and untangle the associated lawsuits that have worked their way with Yucca Mountain; of course, working with the Attorney General who represents us. I am open for questions, I believe.

CHAIR BUCKLEY:

Thank you for your testimony, Mr. Breslow. Assemblyman Cobb.

ASSEMBLYMAN COBB:

Thank you, Madam Chair. So, you have reduced the amounts to just your position? You have kept yourself there? Are you a Department of Energy (DOE) lawyer?

BRUCE BRESLOW:

Am I a DOE lawyer? No.

ASSEMBLYMAN COBB:

Are you a DOE scientist?

BRUCE BRESLOW:

No.

ASSEMBLYMAN COBB:

But you think that you need to help the Department of Energy withdraw its own application?

BRUCE BRESLOW:

We have been asked to.

ASSEMBLYMAN COBB:

So you think the state of Nevada should fund you, a non-scientist, and non-lawyer, to help the Department withdraw its own application?

BRUCE BRESLOW:

Assemblyman Cobb, I am an administrator; I am a strategist; I oversee scientists, attorneys, private attorneys, the Attorney General's Office, in creating a strategy to keep Nevada safe in regard to the Yucca Mountain project. When the President agreed to withdraw the license and directed the Department of Energy to do so, that was something that we have been asking for, so in this rare opportunity to support a motion to withdraw, yes, we will be working and have been working, and communicating with the Department of Energy to protect the citizens of this state as best we can.

CHAIR BUCKLEY:

Assemblyman Mortenson.

ASSEMBLYMAN MORTENSON:

Thank you, Madam Chair. You mentioned that you do monitor and look at the activities of the transuranics that are shipped to the WIPP site. That is part of your job, right?

BRUCE BRESLOW:

Yes, sir. We coordinate with three other state agencies.

ASSEMBLYMAN MORTENSON:

Right, and we have super remediation sites at the test site which, hopefully someday, they may start cleaning up. I would think that this would be part of your job also, to monitor those activities and make sure that they are done cleanly and efficiently. Wouldn't that be part of the Nuclear Projects Office?

BRUCE BRESLOW:

Technically, our job is to regulate high-level waste. We have an inter-agency agreement that the Governor ordered us to put into place. It was Governor Guinn, I believe, who did that, with three other agencies to oversee the shipments of the transuranic waste that goes to WIPP. There are more than 1,000 shipments every year of waste to the test site. The Department of Energy is working to reapply, to expand their lower level nuclear storage capability and bury a lot more nuclear waste in the future. Through working with the Attorney General and their prodding over the years, they have done a great job. For the first time, the Department of Energy has agreed to take a full look and do an EIS, environmental study, on the whole test site. We have been working to support the Attorney General's Office on the issues that would come before us on that matter.

ASSEMBLYMAN MORTENSON:

So, I would think we have enough nuclear problems in this state, that the office should not be abolished. It certainly can be reduced because of our Yucca Mountain situation, but I think you still have enough work that the office should not be abolished, in my humble opinion.

CHAIR BUCKLEY:

Thank you, Assemblyman Mortenson. Assemblyman Goedhart.

ASSEMBLYMAN GOEDHART:

I applaud your efforts and that of your office. It is truly been a David vs. Goliath saga that has played out now for almost a quarter of a century, and no one really gave this state much of a chance, or good odds. I guess that is why they call us the battle born state. We don't run away from a battle. I live directly down gradient from Yucca Mountain and the Nevada Test Site. It was in the papers; Los Angeles Times reporters came out recently. If the nuclear contamination has not already left the test site, it is very close to the edge with residents in the town of Beatty, in very close proximity. An estimate from the USGS and the DOE, themselves, has that there is over 1.6 trillion gallons of water that has been contaminated. It is the largest contamination in the United States of America, if not the world, probably short of Chernobyl. The value at \$400 an acre foot would equate to \$4.4 billion, so I would encourage you to work with your contacts to see if we can get that listed as a superfund cleanup site and apply for some sort of federal mitigation for the damages they have done to Nevada's resources. Thank you.

BRUCE BRESLOW:

Thank you. The water has officially left the test site. The test wells have shown that it is migrating off. It is contaminated and contaminated with tritium; however, we are testing to see if the plutonium has also been found in the drains there. I am working with Alan Biaggi's office and they are in charge of the actual well monitoring; however, the fear has always been that somebody would try to use that water to pump it, and once they try to use that water, that somewhere . . . the feds own the land, but the state owns the water. If we disturb that water and

try to pump it offsite for another project, certainly the plutonium and other radionuclides that are settled at the bottom would be stirred up, and that would be a disaster for the state.

CHAIR BUCKLEY:

Further questions for Mr. Breslow? Assemblyman Hardy.

ASSEMBLYMAN HARDY:

Thank you, Madam Chair. So inasmuch as we have received what we would call a harm to the water that the state owns, is part of your office looking at restitution from the federal government?

BRUCE BRESLOW:

We very much are chopping at the bit to do that. We do not have the authority under what we are set out to do to pursue that matter at this time. We know the Attorney General would like to get involved into looking at that. There is a great deal of funds that could come to the state of Nevada, upwards of billions of dollars, if this site is declared what we are talking about. I would need authority to be able to move in that direction.

ASSEMBLYMAN HARDY:

You need that from the Legislature?

BRUCE BRESLOW:

Well, the Legislature created our agency and our role is, besides to inform the public and things, is on high-level waste, so if it was amended to be nuclear waste, then certainly we would go after those sorts of things.

ASSEMBLYMAN HARDY:

Is the water high-level?

BRUCE BRESLOW:

No, although we don't really know what's there because of all of the nuclear testing that has been done since the 50's. We don't own the land and it takes a long time to get clearance just to visit certain areas, and we are prohibited from going to other areas. It would be an interesting fight, but at the end, and it would take some time, but at the end the reward would be possibly unbelievably large.

ASSEMBLYMAN HARDY:

Thank you.

CHAIR BUCKLEY:

Assemblyman Stewart.

ASSEMBLYMAN STEWART:

Thank you, Madam Chair. The public, I think, is under the impression that everything goes away if indeed everything happens that you want to happen by June. What will actually be there if everything goes well, after June? What will be the presence of the federal government? Will the tunnels still be there? Can you go into that a little bit?

BRUCE BRESLOW:

The Department of Energy, under the Nuclear Waste Policy Act, is responsible for site mitigation. They must remediate the site back to, as close as they can, to its original condition. The practicality of doing so is an issue, because there is a big hole in the ground and unless Napa Valley can make the two largest Guinness Record corks, they will have to do something to either fill it up or protect the public for generations to come. I know that on the federal level, people are looking at alternatives for the site. I think it would be a great opportunity to test our bunker busting bombs, to see if they still work, to get at deep mountain tunnels, but the Department of Energy does not currently have an active remediation plan that addresses this issue. Their plan is for, once the mountain is full of waste, on how they would remediate the area around it. They have to do an amended plan and we have been asked to not only participate and make sure that they do it, but to maintain oversight over that. At the same time, the President and the Energy

Secretary, too, have announced finally, after a year of us holding our breathe, a commission, a federal blue-ribbon commission, to look at what to do with the nation's nuclear waste.

I was strongly advised by the Deputy Secretary, Dan Poneman, to monitor as close as possible the actions of the blue-ribbon commission, as how it may impact Nevada in the future. That is one of the things I would do if we were still here.

ASSEMBLYMAN STEWART:

If I may, we are still getting low level waste there, is that correct?

BRUCE BRESLOW:

In the first quarter of this year, we had over 800 shipments, I believe it was, to the Nevada Test Site, of low level waste. We have also taken transuranic waste, which has a little bit of plutonium in it, and shipped it from the Test Site, monitored that, made sure it safely left our border, escorted by the Highway Patrol, and it goes to Idaho, to the national lab there. There it is recharacterized and then prepared for shipment down to WIPP in New Mexico.

ASSEMBLYMAN STEWART:

So there will be no waste left then after June, if all goes well? Will there still be waste storage there of some low level nature?

BRUCE BRESLOW:

The only thing that would happen in June, if we were fortunate, would be the license application, and hopefully before June, for doing a deep geological repository for high-level waste at Yucca Mountain, would hopefully end, barring the lawsuits, staying the matter or continuing it for awhile, but we would still be receiving over 1,000 shipments annually of low level waste to the Nevada Test Site. There is no plan by the country to abandon it. It is the largest site in the country for burying low level nuclear waste. The Department of Energy has tried to remove the transuranic waste and ship it to WIPP, that is what they are set up to handle. They finished what they said was their last shipment last year and then they did a few more, and they may uncover additional shipments that would leave Nevada, but more than 1,000 shipments annually are still made to the Nevada Test Site with low level nuclear waste.

ASSEMBLYMAN STEWART:

And that will continue?

BRUCE BRESLOW:

Yes.

ASSEMBLYMAN STEWART:

So is there anybody in the state monitoring the federal government with those 1,000 shipments that are still coming in?

BRUCE BRESLOW:

Assemblyman Stewart, yes. On the Nevada Test Site, Alan Biaggi's group has authority. Outside of the test site, the Highway Patrol and the Division of Radioactive Health has authority. They wouldn't let NHP onto the grounds of the test site to check the trucks, so once the trucks left the site, we had to have NHP pull them over to be inspected outside the site. It is a constant battle with the Department of Energy on monitoring the shipments.

ASSEMBLYMAN STEWART:

Are you satisfied then that the shipments will be monitored effectively? Does the Highway Patrol know when they are going to come out?

BRUCE BRESLOW:

We receive a notification and then we inform the Highway Patrol and the Division of Radiological Health. With Health, I don't think they are a division, but they are part of that Health Division, and also Emergency Management and all of the other agencies coordinate how they are going to react to the various shipments.

ASSEMBLYMAN STEWART:

So you are satisfied....

CHAIR BUCKLEY:

I am sorry, but I am going to have to move this along, or we are going to be here in September. Mr. Goedhart.

ASSEMBLYMAN GOEDHART:

Thank you, Madam Chair, for your patience and indulgence. I will make it real quick. When you talk about the test site with the pumping of the water, Nye County actually made an application to appropriate 30,000 acre feet for potential future growth to cover a water shortage possibility in the distant future, in Pahrump, and were not granted access to that water resource, or to the test site, because they were worried that a cone of depression could accelerate the movement of those radionuclides through the saturated zone. It would also be interesting for this body to realize that on the DOE perspective, they pay Nevadans about five or ten percent as much as they pay Hanford, and let's see, there is another operation, Savannah, for the burial of that low level nuclear waste, so we are getting paid about five cents or ten cents on the dollar, so that would be something for this body in a future session to consider. Thank you.

CHAIR BUCKLEY:

Ok, thank you very much, Mr. Breslow.

BRUCE BRESLOW:

Thank you, Madam Chair.

CHAIR BUCKLEY:

I would like to turn to the sweep list. Does everybody have this on their desk? This was prepared by our staff and they reviewed each of these proposed sweeps, as proposed by the Governor. The language on the right side expresses our staff's notes, from the Fiscal Analysis Division. This is probably their fifth go-around with these sweeps. They check if the money is there, if it reconciles, and if it is legal. They have given leadership their opinions. We have made some modifications. But this is the entire list that has been proposed.

There are a few items where you can see that the recommendation has been to eliminate them. The reasons are set forth. It may say that they have been advised by the Legal Division that it is ineligible to be swept or it may be because— for example there are a few—let me read them by line. If you go to Accounts and line 26, Wildlife Department, the NDOW fee has been removed. If you go to line 29, the Housing Division has been removed. If you go to line 40, the Motor Vehicle Pollution item has been removed. And those have been removed or there was a suggestion to remove them. The Heritage money was removed because the sportsmen have paid that in to help Nevada. To take it and use it for something else seems like a breach of trust. The Low Income Housing Trust Fund item was removed. We have just received some money from the federal government for assistance with foreclosure and housing. There's a concern that if we take that, we won't have enough match. Finally, with regard to the Motor Vehicle Pollution control, Assemblyman Atkinson discussed that earlier and there is a concern because this goes to local governments.

The rest of the removals were done by Fiscal because they do not think they reconcile or they were recommended by Legal because of concerns for legality. If you go to the last page, you can see what those differences are. It amounts to \$23 million. This isn't a final calculation. The Legal Division may receive some additional information from the Governor's Office to allow them to reconsider their opinion. I doubt it, but it could happen. The Fiscal Division may get more information when meeting with the Budget Division, so that they can reconcile those terms. So the first action is to recommend the introduction of a bill draft so that we may then have it printed up in bill form and hear it.

Assemblyman Ocegüera moved that the Committee of the Whole request a bill draft request regarding the Governor's recommended account sweeps.

Seconded by Assemblyman Conklin.

Motion carried.

Assemblyman Ocegüera moved that the Committee of the Whole recess until 2 p.m.

Motion carried.

Committee of the Whole in recess at 12:44 p.m.

COMMITTEE OF THE WHOLE IN SESSION

At 2:56 p.m.

Chair Buckley presiding.

Quorum present.

Governor's recommended budget cuts considered.

Assemblyman Ocegüera moved the introduction of BDR 3-10 that requires certain income to be withheld from employees pursuant to support orders.

Seconded by Assemblyman Conklin.

Motion carried.

Assemblyman Ocegüera moved the introduction of BDR 23-14 that authorizes deviation from the required hours of operation for public offices.

Seconded by Assemblyman Conklin.

Motion carried.

CHAIR BUCKLEY:

While we are waiting, maybe we can discuss priorities a little bit in terms of our final budget plan. I remain concerned that K-12 cannot take a 10 percent budget cut. We heard the testimony in Clark County; that means 2,300 teachers would be laid off. In Washoe County, I think the estimate was 400—six additional students in every classroom.

I come from southern Nevada, as you all know. I had the opportunity to talk to my friend from Elko a little bit, and we were talking about the differences between an Elko classroom and a Clark County classroom. Our high school classes are so large already; I can't fathom six more students being added to those classrooms. Clark County faces a lot of challenges: non-English speaking students, transiency. You know, you teach kids that are not in the seat the first day. I can't tell you how many times my son has come home to talk about his new best friend in his class, and then he comes back again and they are gone. And that is because kids move. They start in starter neighborhoods, and when they get a job—if they get a job—they move up. Then they finally move into a house. The transiency rate in some Assembly districts is 70 percent in a year. And that can't be an excuse for not having success in schools, but it is a reality. It seems to me that 10 percent is just too much when they have already received a 9 percent cut this biennium.

So as we make our final decisions on the budget and where we are going, just as we did with InsureNet, I want to have a sense of where this body's priority is. Do we want to try to reduce the cut to K-12 from 10 percent to 5 percent? Where are our priorities?

Since our bills aren't here, let's talk some policy. Assemblywoman Gansert.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. I think we all are very concerned about education, both K-12 and higher ed. At this time, I know that we are making our best efforts to look at the sweeps and look at other reductions, cuts to reduce the impact. I am not sure whether we are ready to commit to something other than what the 10 percent is right now, but we are concerned about it. We do support education. We are concerned about the kids. I know I recognize that in the long run, it is vital that we have a strong educational system. But again, I am not sure if I am willing to raise my hand on any certain percentage or different amount for education at this time.

CHAIR BUCKLEY:

Okay. Assemblyman Hardy.

ASSEMBLYMAN HARDY:

Thank you, Madam Chair. I think as we are trying to put all these pieces together, it is more than a puzzle. I think it is the kaleidoscope effect where we are trying to figure out how we twist and turn different aspects of the budget as well recognizing the budget has two different directions: the funding and the anticipation of the funding and where it goes. Where I think I am, at least—the kaleidoscope—how does it fit in all of the puzzles. Recognizing that I am a unique person and we have to get consensus with many people in that kaleidoscope, I think we are not ready, as it were, to put that into a picture as much as there are still some moving parts. I think that is where I am at.

CHAIR BUCKLEY:

I guess I tend to differ because if you don't set a goal, how are you going to get there? What is our goal? Let's set a goal. It is not a final commitment, but are we going to stand up for education or not? Are we going to have a goal of saying we can do better than laying off thousands of teachers and having large class sizes, when we are already 49th in the nation? We may not be able to get there, but why wouldn't that be our goal? I guess that is my question right back at you. I think it is a good goal, and I think we should spend the rest of our time trying to get there, trying to come up with solutions, instead of saying, "I am not going to do this," or "I am not going to do that." That is not getting us anywhere. Why not focus on where we want to go and then talk about how to get there? Assemblywoman Leslie.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Chair. My thoughts were going in the same direction. As you all know, when we are preparing the budget we have to have a numerical goal. I don't think I have heard more from my constituents this session than I have heard about the cuts—the potential cuts of 10 percent to education. And it is not just the teachers; it is the support personnel, it is the psychologists, it is school counselors—when you think of our high suicide rate and that new survey that just came out about the behavioral health concerns in our school districts with our kids. I would like to not cut education at all, but I do think based on all the testimony we have had in the last two weeks at Interim Finance, and here in the body in the last day and a half, that 5 percent is a doable goal. I, for one, am ready to commit to that being the goal. I think that is realistic, I think we can get there, and I think we need to get there. Thank you.

CHAIR BUCKLEY:

Assemblywoman Spiegel.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Chair. I spend a lot of time visiting schools in my Assembly district. I speak with students, I speak with parents, I go to PAC meetings—the Parent Advisory Council meetings. I was recently at Thurman White Middle School speaking to a group of seventh graders, and a seventh grade girl raised her hand and asked me this question: She said, "Why are you going to cut the budget for education and destroy our future?" It was heartbreaking to look into the eyes of seventh graders and be posed that question.

The parents in my Assembly district want their children to have good educations, regardless of their backgrounds and their philosophies. The children themselves want to have a bright future. I also hear from the business community in my district, and the business owners and the

business managers say we need to have a well educated, well trained workforce that is ready to have the kinds of jobs that we need to bring ourselves out of this economic recession and have a bright future for our state. Our economic viability and our economic development depend on it. I think it is really important for us to take all of those things into consideration and to set strong goals for ourselves. I think that as a state, we cannot afford to destroy the education system.

Thank you.

CHAIR BUCKLEY:

Thank you, Assemblywoman Spiegel. Assemblywoman Dondero Loop.

ASSEMBLYWOMAN DONDERO LOOP:

Thank you, Madam Chair. I am in a unique position. I have been in a school in every single one of my colleagues' districts in the state. I have been in every county; I've been in every school, sans just a few. I can tell you that constantly I walk into classrooms where teachers are teaching, maybe without certain parts of their instructional materials. Maybe they are teaching students who have not had breakfast that morning, maybe don't have dinner—students that are homeless, students that have lack of clothing or shoes or medical help. I think that we ask—and we are asking for education and teachers to have goals and to be accountable—and I think, as a legislative body, we need to do the same thing for our education in Nevada. I think that if we are going to have educators have goals, we need to commit to them to have a goal for them, and that is that we will not let them down, we will not cut education, and we have a goal to attain also.

CHAIR BUCKLEY:

Thank you, Assemblywoman. Assemblyman Horne.

ASSEMBLYMAN HORNE:

Thank you, Madam Chairwoman. I keep thinking how we oftentimes hear that we are all state leaders, and you have to ask yourselves: Where are we going to lead the state? Toward what goal? As Madam Speaker said, "Are we going to set one?" And if so, let's do that. I think back—and I think all of us can think back—to when our parents told us of the importance of education for us. I bet every single one of us, our parents told us that we want you to have a better educational opportunity than they had for themselves. I keep asking myself, "Are we doing that for our children? Are we providing a better educational system for them than we had for ourselves?"

I am from southern Nevada—been there since second grade. I am a product of the public school system. But what is really important and really neat to watch is particularly my neighbor across the street. I have watched her grow up, be educated in the public school system, and now enter college. What are we providing for these children to do that? Five percent? It saddens me that we are here considering even a 5 percent cut to our children's education, but certainly 10 percent is unfathomable. I can't see how we are doing any good service to our children and to the future of this state, and I think that we need to be what people say we are. We are the leaders of this state, so let's start leading and let's set a goal and let's try to attain it.

CHAIR BUCKLEY:

Thank you, Assemblyman Horne.

As I see it, we have about six major things to decide before we *sine die*. We have to decide the level of cuts to K-12, the level of cuts to the university system and health and human services. And those decisions, I think, really involve a specific list of cuts that some think are unimaginable to do. It includes the dentures, eliminating all the dentures for seniors, the hearing tests, cutting off the children with autism. We have called it the "ugly list." We have all seen that list. That is the major discussion point in health and human services. We have to decide what to do about prisons. Are we going to close the Nevada State Prison? Are we going to close Casa Grande? We have to decide the state employee pay issues. Are all state employees going to be treated the same, or are we going to cut some of the guards' salaries by 15 percent more? Are we going to eliminate the differential, raising the pay cut for state employees above the 11 percent that is already in place now? A couple important agency budgets—Gaming Control Board, Secretary of State—if you look at what we are trying to resolve, those are the biggest issues left. If we are not going to be reaching agreement privately, then I don't have any

other choice but to ask folks where they stand here; set our goals and then see if we can meet them. I don't know of any other way.

So I don't say it to put anybody on the spot. You know, it is a kaleidoscope of a sort, but we need to move on. We need to get this budget resolved, and the best way I know is to have our priorities and our goals mapped out and then see if we can achieve them.

What I would like to do is get a show of the committee. How many would like to try to reduce the proposed levels of cuts to K-12 by 5 percent? [By a show of hands, the following Assemblymen voted to make an attempt to reduce the proposed levels of cuts to K-12 by 5 percent: Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Claborn, Cobb, Conklin, Denis, Dondero Loop, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McClain, Mortenson, Munford, Ocegüera, Ohrenschall, Parnell, Pierce, Segerblom, Smith, Spiegel]. The majority carries it then.

So be prepared for each one of these six topics. I am going to be doing the same thing. I need to know where people are going to land, so be prepared.

Our witnesses have arrived, so we are going to rise up out of the committee of the whole to introduce Assembly Bills 1 and 2. We will hear from our witnesses, and then we will proceed in processing these bills.

On motion of Assemblyman Ocegüera, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 6:20 p.m.

Madam Speaker presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee of the Whole:

Assembly Bill No. 1—AN ACT relating to support orders; requiring certain employers to electronically transfer to the State the income withheld from employees pursuant to support orders; and providing other matters properly relating thereto.

Assemblyman Ocegüera moved that the bill be referred to the Committee of the Whole.

Motion carried.

By the Committee of the Whole:

Assembly Bill No. 2—AN ACT relating to public offices; authorizing deviation from the required hours of operation for public offices if necessary because of a severe financial emergency; and providing other matters properly relating thereto.

Assemblyman Ocegüera moved that the bill be referred to the Committee of the Whole.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Assembly Bills Nos. 1 and 2.

Motion carried.

IN COMMITTEE OF THE WHOLE

Chair Buckley presiding.

Quorum present.

Assembly Bill No. 1 considered.

MIKE WILLDEN, DIRECTOR, DEPARTMENT OF HEALTH AND HUMAN SERVICES:

We are here today to present Assembly Bill No. 1, which is a request for the Legislature to consider requiring employers who submit child support enforcement payments to the state, to what we call the State Centralized Collection and Disbursement Unit. If employers employ more than 25 employees, they have to submit those child support checks electronically, rather than by the paper process. Madam Chair, I will stop there. If you would like Administrator Gilliland to go through the details of the bill, I would be happy to do that.

CHAIR BUCKLEY:

Are there questions of the committee? Assemblywoman Leslie.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Chair. Mike, can you explain the rationale behind this? Is this going to bring in more child support money? Is it going to save us money because we won't need as much staff? Could you go into that a little bit please?

MIKE WILLDEN:

Thank you, Ms. Leslie. Again, I could have Mr. Gilliland go into details about the reason we submitted this bill—it is an efficiency request. This is not a bill related to any one of the specific dollar items of budget cuts that we have been looking at. But what we see, in the process of collecting child support, is that about 42 percent of the child support that is now submitted is done electronically. The other 58 percent is done through paper process. The 42 percent that is submitted electronically, that can be handled by one Full Time Employee (FTE). The paper checks are handled by, I believe, about eight FTEs. What we are trying to do is to get more electronic submissions. Long term, it would require less staff.

CHAIR BUCKLEY:

Have you had any discussions with employers about their ability to do this? How easy or how hard will it be? What has your feedback been?

MIKE WILLDEN:

Madam Chair, I have not had any specific discussions with employers, but I did have some feedback that there was some concern that 25 was too low of a threshold, that maybe appropriately 50 employees would be a better threshold. That has been informal feedback. The concern is that the smaller we put the threshold, some employers may not employ a formal accounting service or bookkeeping service, and they wouldn't be able to comply. We have information from other states that we have queried. There are 11 states that we know provide for electronic funds transfer requirements. Two have a five staff threshold. One state has a 15 staff threshold. The remainder have a 50 staff threshold.

CHAIR BUCKLEY:

Okay. Assemblyman Gustavson.

ASSEMBLYMAN GUSTAVSON:

Thank you, Madam Chair. I understand the urgency of getting these bills passed. My concern is how are we going to notify the employers that this needs to be done, since the bill becomes effective March 1?

MIKE WILLDEN:

That is an issue that we hoped would be discussed. A March 1, 2010, implementation is too soon. We would obviously need to notify employers of the new requirement and inform them of the process. It is probably more effective for that be 60 or 90 days down the road. We would not have a problem or concern with a July 1, 2010, implementation. I can guarantee you we won't be able to implement it on March 1.

ASSEMBLYMAN GUSTAVSON:

Thank you.

CHAIR BUCKLEY:

Assemblyman Carpenter.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Chair. As a small employer, I am concerned. There are a lot of small employers, especially in the rural areas. I think that if you add a threshold of 50, it would be much more reasonable. Yesterday, we were talking about the state maybe taking this over but I know, in our establishment, we have sent those checks to the local district attorney's office. Unless that change is made that the state is going to take it over and we are going to send it to Welfare, then this would be a different situation. We would send it to Welfare and then I guess you would send it back to the counties. I don't know exactly what is going on there. I think that 50 would be a more reasonable figure for small employers.

MIKE WILLDEN:

Mr. Carpenter, as I indicated, we are amenable to a 50 employee threshold. That gets the ball started and is similar to what other states have done. I want to put out a couple of facts or statistics. At the 25 employee threshold, based on our collection records that we have now, this will impact about 250 to 260 employers, who now send paper checks. They would be required to send them electronically. Also, employers now shouldn't be sending checks to the district attorney's office or to the welfare office. The requirement is that they send them to the state Collection and Disbursement Unit. We are required to process those collections. I think there is a 48-hour turnaround time. Once we get a check into the system, we are required by law to turn checks around within 48 hours. Again, this is first, an efficiency issue with us, with long-term staffing. Secondly, it allows the custodial parent, many times a low-income custodial parent, to receive their child support more quickly. Electronic funds come in quicker. We send them back out on an electronic basis. We are trying to speed up the process, on both ends.

ASSEMBLYMAN CARPENTER:

Madam Chair, could I have another comment?

CHAIR BUCKLEY:

Yes.

ASSEMBLYMAN CARPENTER:

Reading this, it says that the employee shall make payment to the enforcing authority, which in Elko would be the district attorney or the state treasurer, as applicable. Then it goes on to say "if an employer has 25 or more employees, they shall make payment to the Division of Welfare and Supportive Services." Does that mean if I add 25 employees, I would send it either to the district attorney or the State Treasurer? It looks like it is not quite clear there. If it is all going to Welfare, it seems to me it should say Welfare.

MIKE WILLDEN:

When you are reading Section 3, I believe the language says that the payment shall be made to the enforcing authority or the State Treasurer. The enforcing authority, the payment

repository, is the State Collections and Disbursement Unit, so all checks are supposed to be routed through the State Collections and Disbursement Unit. That is the intent. That is the current practice. Occasionally, there are some stray or errant checks that go to the wrong place. If timely distribution of child support is to occur, checks, warrants, and EFTs (Electronic Fund Transfers), need to come into the State Collection and Disbursement Unit. They are deposited and matched to the proper child support case and turned around in 48-hours.

CHAIR BUCKLEY:
Assemblyman Hardy.

ASSEMBLYMAN HARDY:

Thank you, Madam Chair. It is my understanding, Mr. Willden, from what you are saying, that we already have the ability to do this. It is already permitted. But it would be required upon the effective date, whatever that date is. Are you equipped to handle those who eventually apply, whether it is 25 or 50 employees? Are you ready to accept those, even sooner than the required date?

MIKE WILLDEN:

The answer is yes. Again, in my statistics that I presented earlier, 42 percent of child support checks are now sent in electronically. What we are trying to get to are the employers that have large numbers, whether it is 25 or 50 or whatever threshold is established. They package their child support checks. Every payroll, they may have 10, 15, or 20 employees. They submit a single check and then we have to break that out to 10, 15, 20, or 50 child support checks. Again, paperwork is more labor intensive. We are trying to get it electronically and have a quicker turnaround. And, yes, we can handle increased volume on the EFT side. It would actually save us staffing on the paper side.

CHAIR BUCKLEY:
Assemblyman Conklin.

ASSEMBLYMAN CONKLIN:

Thank you, Madam Chair. Director Willden, was there an estimated cost savings to the Division for such an enterprise?

MIKE WILLDEN:

Assemblyman Conklin, we haven't specifically calculated that. It depends on, again, whether we get more compliance than just the 250 employers. The 250 wouldn't significantly save staff in the sense that one employee now does 42 percent of the transactions, while eight employees do 58 percent of the transactions. We are trying to move more and more people to Electronic Funds Transfer. When we start tipping it to 50 percent or 60 percent EFT versus paper, that's when we will see staff savings. Our goal would be, at some point in time, that we have close to 100 percent EFT transactions.

CHAIR BUCKLEY:
Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Speaker. I have two questions. What's the average amount of employers with less than 25 employees, that have child support collections? So, if you have 25 employees, is the average one or two or twenty two? Also, is there a fee associated with this, for the employer to make that electronic transfer?

MIKE WILLDEN:

Assemblywoman Kirkpatrick, I don't have the information on how many employees within an employer have child support obligations. The processing fee that the employer is allowed to take is \$3 per transaction. That is spelled out on page 2 of the bill, at the very top of the page. The employer may deduct \$3. That is current law. That isn't anything we are changing.

CHAIR BUCKLEY:
Assemblyman Carpenter.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Chair. I really want to get this money to the people that really need it, as quick as they can. I don't know, exactly, what we are supposed to do here. If we could just hold up a little bit. I know we have about 50 employees and we usually send out two or three and sometimes four child support checks. If we had a little bit of time, I can get ahold of my person that takes care of that and ask where they are sending it and how they are doing it and if they would be able to have the means now to electronically send that money.

I think we need a little time to see where we are at on this. I don't think we want to rush into it and then get a big flood back of people who didn't understand it. I am certain that March 1, 2010 is a little bit early to try and make these kinds of changes. Thank you.

CHAIR BUCKLEY:

Mr. Willden, there were suggestions about changing the implementation date to July 1. There were suggestions about changing it to 50 employees per employer. I think the sense of the committee is that people would like to think about it a little bit more. The committee will not vote on the measure. We appreciate your testimony.

MIKE WILLDEN:

Thank you, Madam Chair.

CHAIR BUCKLEY:

Is there anyone else that would like to provide public testimony on Assembly Bill No. 1? Seeing none, we will close the public hearing on Assembly Bill No. 1.

On the prioritization of K-12, to 5 percent, I counted the hands but I was quicker than the Front Desk. So, I am going to ask, again, if we can have a show of hands so that our Front Desk is able to capture the vote.

So, if you are in favor of having a goal of restoring 5 percent to the K-12 cuts, please raise your hand.

[By a show of hands, the following Assemblymen voted to make an attempt to reduce the proposed levels of cuts to K-12 by 5 percent: Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Claborn, Cobb, Conklin, Denis, Dondero Loop, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McClain, Mortenson, Munford, Ocegueda, Ohrenschaal, Parnell, Pierce, Segerblom, Smith, and Spiegel]

With that, we will open the hearing Assembly Bill No. 2. Who is here to present on Assembly Bill No. 2? We have Stacy Woodbury from the Governor's Office. Is Jeff Fontaine also testifying? You can both come down and save a little bit of time. Would you like to testify as well? Why don't all four of you come down.

Thank you for being here, to provide testimony on Assembly Bill No. 2. We welcome your remarks.

Assembly Bill No. 2 considered.

STACY WOODBURY, DEPUTY CHIEF OF STAFF, GOVERNOR GIBBONS:

Thank you, Madam Chair and members of the Assembly. My name is Stacy Woodbury. Assembly Bill No. 2 brings forward the ideas that Governor Gibbons put in the proclamation regarding flexible hours for agency operations. We support this wholeheartedly. We think it can result in cost savings if our agencies have some flexibility. We do have a few concerns with the bill as it's drafted. We had envisioned that the bill would amend NRS 281.110, paragraph a(2) to take out the required hours of operation so that this could be a permanent change to the way state agencies do business rather than, as the bill is drafted, that it have to be because of a severe financial emergency. If the Legislature chooses to go with the way of severe financial emergency, we would like a little bit of clarification. Does it mean the state as a whole or if it would be a severe financial emergency of the agency in particular and how that would work. Again, we were kind of looking for a permanent change in the way state government would operate. But we do believe this will give us a lot of flexibility for our agencies and we do have, I believe, at least six of our agency directors here who are willing to testify for this, including

Director Thienhaus from the Department of Personnel, if you would like additional information from the agencies on how this would allow them to operate. Thank you.

CHAIR BUCKLEY:

Thank you. Who would like to go next?

JEFF FONTAINE, EXECUTIVE DIRECTOR, NEVADA ASSOCIATION OF COUNTIES:

Thank you, Madam Chair. We, too, believe that Assembly Bill No. 2 is a good bill. It is certainly a step in the right direction. We, too, would like to see that it not necessarily be based on the finding of a severe financial hardship. Now, while we know that many counties are struggling and this could provide the same flexibility for the state, to allow counties to operate four ten-hour days or even furlough certain individuals, we think the counties are in the best position to know how to serve their constituents and would make good decisions. They currently track the usage of their services and the revenues received. We think that, overall, it would provide efficiency and effectiveness of local governments to make this permanent for the county governments. But again, we appreciate this bill and certainly believe it would help county governments.

CHAIR BUCKLEY:

Thank you for your testimony. Not having served on Government Affairs, I know some local governments are already closed on Fridays or Monday. There is already some flexibility that is being utilized in local governments. How does all of this fit with this request? Is that more done in charters?

JEFF FONTAINE:

Madam Chair, we are not aware of any flexibility like that for county governments. I know that my counterpart, David Fraser, from the League of Cities, is here to testify. He might be able to address that issue.

CHAIR BUCKLEY:

So is it flexibility for the city government because they give themselves that flexibility in their charter as opposed to county government? The chair of Government Affairs is nodding heavily.

Would you also like to provide some testimony?

JOHN SLAUGHTER, REPRESENTATIVE, WASHOE COUNTY:

We simply want to go on the record that we do support this. We think it is a step in the right direction. We would like to see the deletion of "severe financial emergency," as it is a standard operation for us. In particular, I just got off the phone with our county clerk and the section related to marriage license bureaus is something that is very much of interest to the county.

CHAIR BUCKLEY:

Thank you for your testimony. Questions from the committee? Assemblyman Gustavson.

ASSEMBLYMAN GUSTAVSON:

Thank you, Madam Chair. I am not quite sure who this question would be directed at, but if we use the language "severe financial emergency", what would the definition of that be or would we need a legal definition for that? Does anyone have an answer?

STACY WOODBURY:

That is the question that I had raised, Assemblyman Gustavson. It is rather vague to just say "severe financial emergency." We would need some kind of clarification on that, to tell us what exactly that meant. Does that mean we are in a budget crisis situation? Does that mean that one agency, if the revenues at the Gaming Commission dropped—can the Gaming Commission do it versus the Department of Personnel, which is General Fund funded? What about an agency that is fee funded? Their fees are fine so only General Fund agencies can do it? We would need some kind of clarification as to exactly what that meant.

ASSEMBLYMAN GUSTAVSON:

I agree. Thank you.

CHAIR BUCKLEY:

Assemblyman Horne.

ASSEMBLYMAN HORNE:

Thank you. On the marriage license bureaus, counties would, essentially, allow these bureaus to open only Monday through Thursday, using four ten hour days?

CHAIR BUCKLEY:

I sure hope not.

JOHN SLAUGHTER:

The issue that we have is the requirement to be open until midnight, all year long, and having the flexibility in tracking the demand. We know there are times when there just is no demand. I can say for Washoe County that we would not propose to close any single day of the week; it would be particular hours in the evenings. We would be interested in that.

ASSEMBLYMAN HORNE:

So it is an ongoing flexibility thing. The Commission would say for the month of April that they are going to reduce the hours and close at 8 p.m., instead of at midnight. The normal hours would resume when statistics show the license requests increase. Maybe they will, in the summer, go back to midnight. I don't know how it is going to operate but I hate to have visitors come here to get a license and the bureau is closed.

JOHN SLAUGHTER:

I haven't gotten that specific in talking with our county clerk but I think the idea is that she would have set hours. There may be times when she expands them but not contracts them, if that makes sense. If in February, she decides 9 p.m. is the time when business drops off and there's no longer a need, that would be our year round schedule, but during February, perhaps, we expand the hours back to midnight.

ASSEMBLYMAN HORNE:

Thank you.

CHAIR BUCKLEY:

Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. My question might be better for the League of Cities, but I always thought, when we talked about this in Government Affairs, that when there is severe budget decrease, they had to do a resolution before the local entity to put that in play. I understood that most charters did. I know we had a lot of discussion about that last time on some of the different budget issues. Maybe it would be something the counties would do as well, to let the public know that they are not meeting their budget criteria. In other words, "Here's a resolution and this is where we are going forward." Just for transparency reasons and a little bit of ability for people to know what is going on.

CHAIR BUCKLEY:

Thank you, Assemblywoman Kirkpatrick. Assemblyman Hardy.

ASSEMBLYMAN HARDY:

Thank you, Madam Chair. I am obviously going to support the concept of the bill. I will probably go a step further and ask why we need a severe financial emergency to do this? If we did have one, when is the severe financial emergency over? When do you go back? It seems to be that this is a quasi home rule issue and we probably ought to let the counties do some kind of transparent resolution, as the chair of Government Affairs is talking about and an open meeting.

They can post it and have public input and then be able to do what they want to do. I think they are going to govern best where it is closest to the people. Thank you.

CHAIR BUCKLEY:

The chair of Government Affairs is nodding. Assemblyman Settelmeyer.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Chair. When I was looking at the concept of severe financial emergency, I was wondering if we could put something in based on the concept of 25 percent below projected revenue or below revenue from previous years. I see within this that it actually states within the bill that basically the counties can make that decision on their own and just report to the Legislature that they feel they have a financial emergency. I guess we could put hard and fast rules but it seems almost, right now, that as stated in the bill, all they have to do is determine in writing that the deviation is necessary and submit it to us and that fulfills a requirement.

CHAIR BUCKLEY:

Yes. I agree. We certainly can hear from our legal counsel when we bring this back to work session but it won't be right now.

Assemblyman Cobb.

ASSEMBLYMAN COBB:

Thank you, Madam Chair. One of the concerns that developed after the most recent furlough program was put into place is that a lot of overtime suddenly accrued. Those department heads approved that overtime. According to this bill, this leaves it in the hands of the department heads, at least section 1 does, where you are dealing with the state, to request to move to this type of a program. My concern is that we are leaving too much control in the hands of individuals who perhaps have not followed through the way the Legislature has been trying to direct them in the past by saying, "We want you to move to a furlough program, in the first place, to save money." Then they go out and accrue all this extra overtime. How is this going to work? If you feel like it is not going to achieve this goal, how are we going to achieve this goal of finally making sure that we are going to have an effective furlough system? Why should we have it in the first place if there is so much latitude given to the same people who seem to be allowing so much overtime?

STACY WOODBURY:

The Governor issued a directive to all agencies several weeks ago, that basically put a freeze on hiring and overtime. So I think that kind of practice is going to be gone in the short term until that order is lifted. The way we see this helping is that the furlough system has been difficult because people are gone on sporadic days and so, the workload shifts to other folks and that is what is causing the overtime. If, for instance, the Department of Personnel was open Monday through Thursday, we think that would work out better for the agencies because there wouldn't be that fifth day, if that makes sense. Does that make sense? Did I answer that? But we are working and looking at the overtime. We realize it is an issue. We have been looking at ways to be able to avoid that and we are looking at enforcing it consistently amongst all the agencies and not having any exceptions. We are working towards that on overtime, as well.

CHAIR BUCKLEY:

Getting back to the question, though, would it make more sense for the decision to be made at the Governor's level or the Cabinet level? We are so fortunate to have some great state agency heads but there's a couple where we, sometimes the Governor's office and sometimes the Legislative branch, feel like they are not following the directive. So I actually agree with the comment that maybe it should come from a higher level.

STACY WOODBURY:

Madam Chair, we would be happy to require that approval to be at the Governor's office.

CHAIR BUCKLEY:

Further remarks? Assemblywoman Gansert.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. I was thinking during IFC the other day that we had some testimony where there was discussion about making overtime a policy or a program of overtime, for different agencies, that had to be preapproved by the Board of Examiners. That is what I remember in testimony the other day. We did not want overtime to come to the Board of Examiners for approval after it had transpired. There was supposed to be a plan. If there was required overtime, it had to be presented prior to it happening.

CHAIR BUCKLEY:

Ms. Woodbury?

STACY WOODBURY:

Madam Chair, I wasn't listening in on those discussions but I do believe that the directive the Governor has issued to the agencies is that overtime approval must be in advance and it is either by the Governor's office or by the agency head to do that. I do not recall which one at this point because I have not looked at that memo lately. There is a requirement for any overtime to be in advance.

CHAIR BUCKLEY:

I felt like the administration was taking it pretty seriously. There were a couple of agencies that were authorizing overtime to get around the furloughs. It was infuriating to the state employees who were suffering, who were taking the furloughs, to have that not being followed. I think there were protections in it for the two week period but not the month period and that's how some of it was happening and that the director of the Budget Office did put in an additional protection to guard against that. And along with the directive and the Board of Examiners, I felt pretty confident that they would be able to stop the abuse by a few that was really besmirching the reputation of all those who were taking the furloughs. I think that was the discussion that the minority leader was referring too, that we had in committee last week.

Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. I just want to follow up a little bit. I understand that you want to put some regulation on when their budget changes, but you know, we have had a lot of discussion about how local governments can actually have their budgets in place for a year. They review them often, with a resolution. What we didn't want to do is to have departments say that their budget is a certain amount, so that the next time it's even lower. You don't want to give them the opportunity to not have accurate numbers. That's why with the resolution, in the past, they have had to go before their local officials and say the reasons why they cannot meet five days a week. I live in North Las Vegas, along with my colleague from District 17. They have been doing it for years. They still run a 40-hour work week and everybody has been able to get used to the whole thing. I know the City of Henderson recently went that way. I know the City of Las Vegas did a study on it. At some point we have to give them a little bit of flexibility in order for them to come back and be accountable to their own constituents. I just don't want to put it in there too tight to where if they are only 23 percent short, it is not an option that they can put out there.

CHAIR BUCKLEY:

Well, I am going to assign this to an informal subcommittee of one, consisting of the chair of Government Affairs. If anyone has any input on this measure, that is where you will go.

Are there any other questions on Assembly Bill No. 2? Seeing none, thank you very much for your testimony, we appreciate it.

Is there anyone else who would like to provide public testimony in support of Assembly Bill No. 2?

CONSTANCE BROOKS, REPRESENTATIVE, CLARK COUNTY:

Good afternoon. I echo the sentiments of my colleagues from Washoe County and NACO in that we, too, support Assembly Bill No. 2. We think that it will allow for us to be more fiscally

prudent and give us the opportunity to have flexibility and for some of our offices to have more flexible hours. Thank you.

DAVID FRASER, EXECUTIVE DIRECTOR, NEVADA LEAGUE OF CITIES AND MUNICIPALITIES:

As was previously mentioned, this is more of an issue for counties than for cities but I did want to take the opportunity to thank this body for entertaining this bill. We think this is a good bill. We appreciate the attempt to give added flexibility to local governments in this regard and we would support the passage of Assembly Bill No. 2 with the changes as requested by the Nevada Association of Counties. Thank you very much.

CHAIR BUCKLEY:

Thank you for your testimony.

TERESA THIENHAUS, DIRECTOR, STATE OF NEVADA DEPARTMENT OF PERSONNEL:

As Stacy Woodbury mentioned, we would support this but have some concerns about doing this on a permanent basis to give the flexibility to the agencies. For example, in my agency, which is a very small agency, I only have 80 employees, and we operate on internal service funds. I am not sure if I could ever show a fiscal emergency or whatever the language is, if I'm required to by this bill, which I am not even sure of because of the way the language is written. I don't think I could do that. But I can tell you I could operate on a four day a week basis easily with my staff working 10 hour days, Monday through Thursday. I would just encourage you to consider allowing the flexibility, particularly since every agency is different and has its own individual types of services that it provides and every agency is not going to be able to show something along the lines of severe fiscal emergency.

I also wanted to mention, just to set the record straight on the overtime issue, that we gather the data for the overtime and, overall, overtime is down for this fiscal year. I realize that doesn't mean you aren't concerned about it. Your concern has to do with certain agencies increasing their overtime but there is no data anywhere, that I have seen, that ties the furloughs to that increase in overtime. There are agencies that experience spikes in overtime on a seasonal basis. I cannot statistically point to this having anything to do with furloughs. I just wanted to mention that at the same time. Thank you.

LARRY MOSLEY, DIRECTOR, NEVADA DEPARTMENT OF EMPLOYMENT, TRAINING, AND REHABILITATION:

Good afternoon Madam Chair and members of the committee. The Department of Employment, Training, and Rehabilitation has been utilizing four ten-hour work days in a variety of different agencies or departments, if you would, and have had positive results. A couple of months ago, I sent out a DETR wide memo to all of the employees regarding the four tens and looking at the Utah program, and the feedback was very, very positive. Our Equal Rights groups, the majority of the members there are working with the four tens, as well as in our Rehabilitation Unit.

We have been on a path for the last couple of years of really encouraging claimants to file for unemployment via online. We see that the four tens would be very, very positive regarding the filing as well. So, overall we are very, very much supportive of it. We do have concerns with the fiscal emergency component within the bill, but we think that this is very, very positive.

CHAIR BUCKLEY:

Thank you for your testimony.

DAN STOCKWELL, DIRECTOR OF THE DEPARTMENT OF INFORMATION TECHNOLOGY:

Madam Speaker, members of the Assembly, for the record, my name is Dan Stockwell. I am the Director of the Department of Information Technology and today is my birthday. I just thought I would get that into the record.

CHAIR BUCKLEY:

And we like you too much to sing to you.

DAN STOCKWELL:

And I may not get another chance, so I thought I would do that. I am also an internal service fund and have a very small staff. This would greatly help us in our area because of the fact of operating 24-7 in the areas that we oversee, from mountain tops to the mainframes, to keeping all of the systems operational. When we have someone on furlough or annual, or whatever it might be, and we have a breakage of any type or a mountain top failure, sometimes it takes us quite a bit to get a turnaround time to get two people up to those mountain tops or back into the offices to work on those systems. So this would greatly help us in those areas and give us more flexibility.

The only exception we have right now is for the people in the mountain tops and that also creates some restrictions; and I think this would be more advantageous to us. That is all I have to say. Thank you.

CHAIR BUCKLEY:

Okay. Thank you for your testimony; we appreciate it. We have a couple of other state agencies that have signed in to say it is a really good idea, but unless you really need to, we will just assume that you think it is a really good idea. Is there anyone else who would like to provide testimony on AB2? Please go ahead.

DIANE CORNWELL, DIRECTOR OF THE DEPARTMENT OF BUSINESS AND INDUSTRY:

Good afternoon, Madam Speaker, Assembly members, I am Diane Cornwell, Director of the Department of Business and Industry. I do support AB 2, the concept thereof. I do have an issue with the wording of "identifying a severe financial crisis." I think, in my Department for example, we are fee based and while we have been having a downturn in the amount of fees that we collect during this economic recession, we are not having a severe financial crisis like the departments that are solely based on general fund dollars.

I would ask that you provide us the flexibility, as department heads, to implement the four-ten work week, certainly with the approval of an overseeing body, but not the Interim Finance Committee or the legislative body. Thank you.

CHAIR BUCKLEY:

And the bill was going so well up until now. We do have the right to create laws....

DIANE CORNWELL:

Madam Speaker, just for the record, it is nothing personal about you. It is just hard to get to IFC and if you really need to implement this, I would think that you would want to do it fairly immediately, so I would be happy with the Governor's Office.

CHAIR BUCKLEY:

Okay. Please go ahead.

CONNIE BISBEE, CHAIRMAN OF THE NEVADA PAROLE BOARD:

Thank you, Madam Speaker and members of the Assembly. I am Connie Bisbee and Chairman of the Nevada Parole Board. We are in support of AB 2 and the flexible hours and are in support of the Governor's recommendation of Monday through Friday. We have talked about this, as many others have over the last couple of weeks, and feel that we can meet our requirements of seeing the inmates that we need to do see, and get that done in that four day period and assist in any way the need for the power on Fridays, and we are in support of AB 2. Thank you.

CHAIR BUCKLEY:

Thank you for your testimony. Assemblywoman Smith.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Chairman. I guess I am a little frustrated because we are in a special session, and we have so little time, and I am wondering if this bill was vetted with department heads, if you are the ones who are being affected. Did you not have input into the bill to begin with?

DIANE CORNELL:

For the record, Diane Cornwell, Director of Department of Business and Industry, to Assemblywoman Smith. We have discussed this issue, but sometimes when you have a discussion and then what comes out in a bill draft are two different things, so I think it was just a matter of having to maybe work on it and tune it up a little bit.

ASSEMBLYWOMAN SMITH:

Thank you. I appreciate that. I just am concerned because we have had so many concerns and objections and recommendations. I guess our one person subcommittee can handle it, but....

CHAIR BUCKLEY:

Yes, we will assign this to our subcommittee of one, and if anyone is interested in getting more answers to these questions, you can obviously consult with the Chairman of Government Affairs. For the record, I would like to say that we have the finest legal division in the country and we are all extremely proud of how hard they work for us every session, and every special session. Thank you for your testimony. Is there anyone else who would like to provide testimony on AB 2? Seeing none, I will close the public hearing on AB 2.

I would also note on Assembly Bill 1, I am going to assign that to an informal subcommittee of one, consisting of the Chairman of Judiciary, Assemblyman Anderson, so if you are interested in any amendments to that bill, effective date, number of employers, or want to explore it any further, please see the Chairman of Judiciary.

Next, we would like to hear from the Gaming Control Board, and then we also have the Secretary of State, to talk about their budgets and potential revisions to those budgets, so we apologize for making you wait. I see Mr. Neilander coming to the table. We thank you for coming. I think we have marked your budget as being one of the ones not resolved, and so we would like to hear from you about what your budget proposed reductions are, how you think that affects your ability to do your job, and any suggestions that you may have for us along that line.

DENNIS NEILANDER, CHAIRMAN, GAMING CONTROL BOARD:

Thank you, Madam Speaker and members of the Assembly. Towards the end of last session, the Board was asked, in conjunction with hearings on our budget, to prepare some information that would provide an analysis of what the existing fee structure is, and again, during the Interim Finance Committee meetings, we were asked to begin to think about that and actually respond to several specific questions.

We also were asked to report back to the money committees, through IFC, on July 1, with an analysis of these various fee structures, so we had begun that work prior to this special session. During the course of questions on our budget at IFC last week, we were asked to again prepare different scenarios that would affect how the Board's budget is funded.

Just by way of background, the Board presently, for FY10, has a budget of \$44.9 million. Of that \$31.2 million, or approximately 69 percent, is General Fund, and the rest comes from the investigative fund. That investigative fund is made up essentially of monies that we collect during the course of investigating licensing matters, and also some of it is from the approvals for new or modified gaming devices within our lab environment, so that is sort of structurally where we are right now; 70 percent general fund, and 23 percent, effectively, from the investigative fund.

What was proposed in the Governor's budget is the same thing as the other state agencies that I know you have already heard from, which is a ten percent reduction in our general fund budget. The effect of that would be—after cutting our operating expenses, which are the things you have already heard from all the other agencies, like training, travel, etc.—the eliminating of 31 positions. So during the course of the Interim Finance Committee meeting, we were asked to prepare some scenarios that would add back from the ten percent, and also to look at how could, and what would be the impact, if the Board were to become totally funded by fees, and not dependent upon the general fund.

CHAIR BUCKLEY:

Mr. Neilander, could you step back, though, a minute, and provide some information on why is a ten percent cut so bad; why would losing 31 positions or credential pay impact your

operations? Many of the Assembly members didn't have the benefit of serving on Ways and Means last time, or the Interim Finance Committee, so they might be wondering, why does it even matter?

DENNIS NEILANDER:

I would be glad to, Madam Chair. By comparison, the Board is a fairly small agency. We have a little over 400 employees. We are responsible not only for regulating the industry that is the primary engine for the economy in Nevada, but also collecting one-third of the state's tax revenue. In addition to the collection function for our agency, we also audit all of that tax revenue to ensure that the state is receiving its fair share. I have been the Chairman of the Board for approximately the last ten years. Before me, William Bible was the Chairman of the Board for ten years, and in between us, Steve Ducharme was the Chairman of the Board for two years. I can say that in that 22-year period, the Board has been incredibly conservative in its budgeting. This is not an agency that for any reason has ever had any fat in its budget at all, and based on the last legislative session, we eliminated an additional 18 positions, so the importance of the agency I don't think can be overstated, particularly in times where the economy is difficult like it is now; that is the time when we need to be our most effective.

Just as an example, much of what we do in the normal course of our business is being delayed, or not being done right now. We have formed a special entity within the Board to deal with distressed properties, and we presently have 47 individual properties that are in bankruptcy, and several others that are in bad shape. We have set up a special entity to try to assist those properties to get the necessary regulatory approvals they might need in order to continue, to refinance, change ownership, and get through bankruptcy. We spend almost every day meeting with creditors and other persons who now, whether they want to or not, have an unforced interest in the gaming industry. For our agency, ten percent; we get to about three percent cuts with operating and other types of hard costs, but then the rest of our budget is people, so at that point, we are looking at people.

I also would add that we are bit different in that when we do an audit, our agency is certified by the Nevada Board of Public Accountancy. What that means is that when we do an audit, we render a professional opinion as to whether or not the taxes have been paid appropriately. Our agency is made up in the Audit Division of primarily CPA's, who either oversee or conduct the audits themselves. The auditors that we hire because of our status as being certified, and the hours that they work on gaming audits, qualify them for their CPA certificates. So it is a little bit unusual when you look at sort of what the Board's mission is. Madam Speaker, I hope that provides a little more background.

CHAIR BUCKLEY:

It does. There is a question, though. Assemblywoman Gansert.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. I am not sure if this the right time for questions, or not. I was going to ask about the auditors. Were you going to talk more about the auditors as you go through, or should I ask now?

DENNIS NEILANDER:

I certainly can, but I would be glad to entertain a question.

ASSEMBLYWOMAN GANSERT:

Okay. Were you going to be adding more auditors? Was that part of your plan?

DENNIS NEILANDER:

No, obviously I should point out that the fees that we derive right now, they come only from investigations, which is licensing fees, and most of those are pre-licensing fees. These are companies that are coming through and attempting to get a Nevada gaming license for the first time. So the bulk of our fees come from that and the activities in association with our lab, which tests all the gaming devices before they are put on the floor, and then has a program that addresses them after they are on the floor. So that is our fee base right now. We do not bill for audit functions. The Board has never billed for audit functions and the way that works right

now, is that there is really—we like to refer to it as a stool that has three legs—the licensees generally have an independent auditor, if they are large enough to require one. There would be a certified public accountant who would also be engaged as an independent auditor, and then the Board's auditors, and it takes all three of those legs for that stool to stand.

In the past, we have not billed for audit hours, but that is something that the Interim Finance Committee asked us to look at, and we have provided that to your staff. I would be glad to discuss that in more detail if that is what you want.

ASSEMBLYWOMAN GANSERT:

Can I continue? I just wanted to ask about the recovery from the auditors when they have gone out and audited?

DENNIS NEILANDER:

Madam Chair, through you to Ms. Gansert, we were asked to come up with a recovery number yesterday. We do not keep our records that way, so what we did is we went back in and tried to manually pull out some of that information, and we did provide that to your fiscal staff, but basically, over the last five years, because of assessments that have been uncovered during the course of audits, we have assessed an additional \$7.8 million during that five-year period. These are things that we found in the course of our audits where the licensee has maybe deducted something they weren't entitled to, or even in some instances, it is a clerical miscalculation. So on a basis of per auditor, that equates to approximately \$17,000 that is generated per auditor per year, in terms of just recoveries.

That analysis becomes somewhat difficult sometimes because we do an audit whenever a property closes, or goes into bankruptcy, or there is a change of ownership, so that is in addition to our regularly scheduled audits. We do those audits, and when we do a closure audit, for example, or a bankruptcy audit, because the gaming industry pays their percentage fees three months in advance, there is an estimated fee adjustment that has to be made, so there is always a credit for those three months that have been paid in advance. That appears in our audit, even though it is not something that we uncovered or that they did wrong, or right; it is just kind of an anomaly that exists because of that pre-payment.

CHAIR BUCKLEY:

Assemblyman Settelmeyer.

ASSEMBLYMAN SETTELMAYER:

Thank you, Madam Chair. I am just curious; I am noticing that there seems to be a lot of duplicity within the system, that the Gaming Control Board requires an audit that is actually much more thorough than an independent CPA. Why are we requiring this level of duplicity? Why not just go to a concept that the little gamers, you know the ones that are possibly less than \$50 million, could just do a review instead, you know, something to try to help out—there are so many gamers, the little ones, that are going out of business. Some of this discussion is being put forward of creating a yearly full blown audit of \$80,000 that would put most little guys right out of business, which would create more unemployment. So, I am wondering why we can't get rid of some of the duplicity within the system.

DENNIS NEILANDER:

Madam Chair, through you to Assemblyman Settelmeyer, we would not consider it duplicative. Most of what we are doing is very different from what the other auditors are doing. We are very much focused on the taxes, whereas, the auditors and the CPA's are focused on the financial statements. We are actually much more focused on the taxes themselves and the conduct of gaming, so there is a series of minimum internal controls that are established with respect to the operation of the games, and so that is really where we spend a lot of our time.

I have had recently some discussions with some of the smaller operators about looking at the threshold which differentiates between an audited financial statement and a reviewed financial statement. There is a significant difference in the two and during those discussions I had indicated that the Board is, in fact, willing to look at and perhaps adjusted those thresholds. As you know, right now we are not charging for those audits at all, but there are independent auditors who sometimes are doing certain things, and then of course they are charging for that

service. We did indicate a willingness to perhaps look at that threshold. That threshold right now adjusts with the CPI, so it is something that was done through rule making several years ago, and the thought was that the CPI was perhaps the best thing, to try to graduate that up, to stay up with inflation and growth. We had also indicated we are certainly willing to look at that threshold again, and that would not require any legislative activity. That is done by regulation.

CHAIR BUCKLEY:

Thank you, Mr. Neilander. It seems to me, gaming is our state's dominant industry and we are so fortunate to have such a good reputation for our regulatory apparatus, and we need to make sure we can keep that reputation. This is a really important issue that should not be partisan. We know that times are tough, and the Gaming Control Board, like every other agency, is going to have to make some cuts, but we also need to make sure they can still do their job. These issues are so important. Other states look to us. We have gaming companies licensed by other states, other countries; this is not an area where we can be penny-wise and a pound-foolish and so we need to come up with a solution that makes sense. It may not be an across-the-board cut. What we did last time, Republicans and Democrats, was look at this budget and we made some cuts and we decided what we could not cut, and we need to do the same thing this time.

Whether we make the agency fee supporting, or we say no, we shouldn't do that too fast; we should just take the audit fees—we should do a combination of both, have it be self-supporting, but reduce other audits that might be duplicative to save money. To me, it doesn't matter what the combination is, it matters that it makes sense for Nevada.

So I guess my question to you, Mr. Neilander, is just having a very open and frank conversation about what you think your regulatory agency needs to maintain its ability to function at the level where we stand now; what do you need in your budget so that you don't lose the folks who are professionals and credentialed, and allow you to operate a mean, lean budget, but do it effectively?

DENNIS NEILANDER:

Thank you, Madam Chair. I will try to be succinct in my response. What we have provided to your Fiscal Analysis Division is essentially within the add-backs; what we would do is cut about \$1 million from our existing budget, and really focus that on being able to retain employees, and not lose positions, so the "net net" of that is that if we increase the existing investigative fee, which is the fee I referenced earlier that is mostly paid by new applicants who are trying to get a gaming license. If we increase that fee from the current \$80 to \$115, that would allow us to only lose seven people, plus a significant amount of our operating budget, but we think we can certainly get by at that level at this point, until we get through this recession and see where we are at that time. So, that isn't that much of an increase and like I said earlier, getting a Nevada gaming license is the gold standard in the world. It used to be that it was in the U.S., but gaming has globalized to the extent that licensees in Nevada are now engaged in gaming all over the world extensively.

Once you are licensed in Nevada, that really carries a great deal of weight when you enter into another jurisdiction, and so the value of that license is—I cannot understate the value of that license—and what we tried to do is to come up under that scenario, Madam Chair, with something that was the least impactive and still we would cut our agency to the extent that we feel we can still effectively regulate gaming and have the least impact on the industry, so that is the proposal that we provided.

CHAIR BUCKLEY:

And how much would that raise?

DENNIS NEILANDER:

I don't have the total amount, but it would essentially raise about \$3 million; I would have to get you the total amount.

CHAIR BUCKLEY:

Part of the concern that we heard on the other portion of the proposal, for example, raising the audit fees, I think we heard concern from a lot of the smaller operators who are barely holding

on, especially in some of the rural communities, but it is all over obviously, and you know, we are trying to balance, on one hand your work goes up when gaming institutions go out of business. We saw that from your emergency hearings trying to be able to license someone to take over another casino in time not to put people out of work, so we are balancing that. On one hand, if you don't have the resources you need to take emergency action, you could harm economies and put people out of work. On the other hand, we are balancing increased burdens on operators who are barely holding on. So we want to make the right decision and a thoughtful decision, and weigh all of those issues, at least most of us, as opposed to just saying, no new fees, no matter what, even if our Gaming Control Board functions fall apart.

So what is your assessment with regard to some of the smaller operators and audit fees and how you effectively balance all of those concerns?

DENNIS NEILANDER:

Madam Chair, we have tried in a short period of time to think that through. We think the proposal that I just discussed to raise the investigative fees just up to \$115, just to address our current situation, is one that is balanced as you indicated, and makes some sense in the short term. The notion of raising the audit fees, or actually instituting new audit fees, because that is something we don't do right now, as you said, that becomes a difficult thing because you have to figure out how to stratify it so that it is equitably applied, regardless of the size of the licensee. That becomes a difficult thing to do.

We have looked at perhaps doing a flat fee, as opposed to an hourly fee, which seems to be a bit fairer, but at the end of the day, what we think might be the fairest thing is to do a regulatory assessment fee that is a flat fee, that is based on the size of the operator, as opposed to tying it to any particular function, or tying it to an hourly rate. There are policy considerations. Any time there is consideration of an entity that is funded by the industry that it regulates, that does raise policy questions. To the extent that you can eliminate some of those by perhaps referring more on a flat fee basis that is graduated based on the size of the operator, so we did provide to your staff four different sort of scenarios that outline that, and we tried to estimate the potential impact, but we did that in a very short period of time and I am not sure how accurate those are at this point in time.

CHAIR BUCKLEY:

Let me ask you one final question. If you had the ability to do workshops, so that you could hear from all of the affected parties, and hear the different concerns about size and fairness and equity, what is your assessment of the likelihood of success of reaching some sort of consensus plan?

DENNIS NEILANDER:

I think we could certainly do that and I think it probably would be helpful, because we could also flush out some of the policy concerns that may be there before you are hit with them. We also can be more precise in trying to determine what the impacts are in thinking through perhaps what the best model is. It is fairly rare that we ever come to a consensus with the industry, but we may come to something that we can both live with, and we certainly can do that. As I indicated to Mr. Settelmeyer earlier, on that threshold for the audited versus reviewed statements, that certainly is the type of thing we can look at, in concert with what is the best way to have a fee based financing arrangement.

CHAIR BUCKLEY:

Thank you. Assemblyman Settelmeyer.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Chair. One of my constituents actually indicated though it would require the question of changing to a review, compared to a full blown audit; it does require one NRS change to 616B.336, dealing with self insured, because within that right now, it says you have to do a full blown audit, so the word "review" would have to be inserted in order to get around that.

CHAIR BUCKLEY:

Is that on worker's comp or on gaming? You are not self-insured for purposes of gaming, are you? It is worker's comp or...?

DENNIS NEILANDER:

Madam Speaker, that requirement is from the Labor Commissioner. That does not have anything to do with gaming. I believe it is in Chapter 6...; it is one of the 600 Chapters that the Labor Commissioner oversees and so I think what the Labor Commissioner does is require anyone who is self-insured to require independently audited financial statements. That is separate from the gaming requirement. Our requirement is actually in the regulation, for gaming only though.

CHAIR BUCKLEY:

So we would have to figure out public policy, the purpose behind that and would it apply to all entities, and the like. Assemblyman Grady.

ASSEMBLYMAN GRADY:

Thank you, Madam Chair. First, I would like to congratulate you on the job that you have done, your whole commission, for the state of Nevada over these many years. I guess probably in the time you have been there, ten years I believe you said, has your job really changed from a Nevada operation to now literally a world-wide operation?

DENNIS NEILANDER:

Madam Chair, through you to Assemblyman Grady, yes. I know you are busy and I don't want to take up a lot of this body's time, but in the last ten years, the complication of entities that come before the Board seeking licensure has grown incredibly, exponentially. We are now licensing entities that operate out of Australia, out of Macau, out of Japan, out of Canada, out of South Africa, and we are working on an investigation out of Japan right now.

With respect to the explosion in the public financing markets, we have seen a number of private equity firms come in seeking licensing, and because of this recession, we are trying to figure out how to license the likes of Deutsche Bank and others, so this industry has truly become a global industry. It has truly become a leader in some of the most sophisticated and newest types of financing and business structures. These are things that in the past, I think gaming generally perhaps lagged a little bit behind in those areas; it is now a leader in those areas. That has made our job—and I wouldn't say as much more difficult as it is—in trying to keep up with the industry has been difficult and it has required us essentially to hire people with different skill sets than we would have hired previously, because it is just the nature of the industry these days.

CHAIR BUCKLEY:

Chairman Neilander, why \$80 to \$115 on a new license? My bar license was a lot higher than that, and the complexities that are being discussed, especially from the foreign applicants, what was your thought process with regard to that?

DENNIS NEILANDER:

And that amount is per hour, investigative hour, so it would go from \$80 to \$115. That number is simply derived from getting us back to the add-back.

CHAIR BUCKLEY:

And what is your average hour rate; number of hours per applicant?

DENNIS NEILANDER:

It varies dramatically, depending on the nature of the application. We could have one entity that has "a" individual; it is a private company and the individual lives in Nevada and has a long history here. That may cost \$10,000. That counts as one application.

And then we may have Aristocrat Gaming, which has 16 individuals who are in a mandatory licensing position and is operated out of Australia, which requires international travel for us to do our background checks, has gotten in trouble with some entity in Malaysia, and we have to look at that. That may cost \$1 million, but it still only counts as one application. How many

hours it takes to complete an investigation really varies on a case by case basis. That number that we gave you of going from \$80 to \$115 is simply the number it takes to be revenue neutral.

CHAIR BUCKLEY:

Assemblywoman Gansert.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. First I want to thank you for all of your work, because you are world renowned for your expertise. Some of the other questions led me to this: When you have to investigate a global operator, do you charge for your travel and do you make sure that you cover all the costs? Also, we talked about—I think you said there are 47 Nevada locations that are in bankruptcy—so the concern is that if we go towards an audit schedule, that we don't want to damage those or put more of those businesses that are here in Nevada, locations in Nevada, into bankruptcy, so looking at how to balance that, Nevada locations versus the time and money spent globally, etc?

DENNIS NEILANDER:

Madam Chair, through you to Assemblywoman Gansert, the answer to your first question is “yes,” we do bill for travel time. It is at a lesser rate than a normal investigative hourly rate, but for example, in any given week, I will have agents both all over domestically within the U.S., as well as internationally. We do charge travel time. The flight, for example, from here to Hong Kong is approximately 16 hours, so these agents are in travel status and they are billing at a lesser amount.

The second part of your question was with regard to audits of smaller entities and that is a very legitimate concern. There are a number of entities where their profit margins are fairly thin and the recession....a lot of these entities, what they are doing right now is they are just trying to survive to get out of the recession, so they are putting off refinancing, or else they are not able to refinance, so they are having to do work outs, or else they are looking at debt structures that perhaps they normally would not carry, but if they can just hang on until the recession finally ends here in Nevada, so that is a very legitimate concern in terms of if you were to add a brand new fee right now, I am certain it would have to be done carefully with respect to some of those entities that are really struggling to make it right now.

CHAIR BUCKLEY:

Other questions for Chairman Neilander? We appreciate you coming today. Your budget is extremely important to the state of Nevada and we look forward to looking at some solutions that will balance all these public policy concerns, but achieve a correct outcome for our state. So, thank you for being here.

DENNIS NEILANDER:

Thank you, Madam Chair, and to the body, thank you for your consideration and understanding in these times. I know a lot of agencies are struggling. Mine is as well, and we know it is a difficult job you have in front of you right now.

CHAIR BUCKLEY:

Dennis, just one more question: If we do nothing, might we hurt the amount of revenue we are able to bring in as well?

DENNIS NEILANDER:

I am sorry, Madam Speaker, could you restate the question?

CHAIR BUCKLEY:

If your budget is left as was suggested, would it potentially affect the amount of revenue the state is likely to receive?

DENNIS NEILANDER:

Well, yes, it could because I cannot cut positions that bill, because that money goes to the General Fund, so if I leave those positions open, that has a direct impact on the General Fund. On the other hand, if I cut audit agents, then there is no recovery from the audit, so I am left with

cutting enforcement agents and I can't do that because they handle casino patron disputes and we have to have people available to do that, and numerous other things, so yes, I think it both has not only an efficiency, reputational effect, but it has a fiscal effect.

CHAIR BUCKLEY:

Thank you. Assemblywoman Gansert.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. My thought was that the ten percent cut is really about \$4.2 million, is that correct?

DENNIS NEILANDER:

I believe that is correct.

ASSEMBLYWOMAN GANSERT:

And I know that during this last session, we were supportive of the credential pay, because I think you have a great operation, and I don't want to do damage to that operation, so I think it is important that maybe we find a way to cover that. Our concern really is going beyond that and new charges when some of the Nevada locations are hurting right now. One of the reasons I asked you the question about the global operations is because I think that people who are on a global basis and are looking to get licenses in the state of Nevada probably have the resources. I want to make sure that the cost of those is truly covered, and that is why I asked about those. Thank you.

CHAIR BUCKLEY:

Thank you, Chairman Neilander. Assemblyman Conklin.

ASSEMBLYMAN CONKLIN:

Thank you, Madam Chair. Chairman Neilander, just for my own personal understanding, when you say "audit," you are talking about two things, right? You are talking about financial audit, in terms of payments back to the state, but there is also an audit of games and accuracy, and you mentioned it earlier, disputes. There are really two things that you are covering, is that correct?

DENNIS NEILANDER:

Madam Chair, through you to Assemblyman Conklin, that is correct. There are a number of things too; the primary things are the tax portion of the audit and then what we call the mix portion of the audit. What that is is that every licensee must adopt a set of minimum internal controls and these go down into the very details of how gaming is conducted. There are things like making sure that no two individuals have access to the same set of keys and who could collude together and steal. It is things that go down to that level, so we do audit against those, compliance with those mix, and that is a big part of our audit that we do at the same time as we do the tax audit.

ASSEMBLYMAN CONKLIN:

Thank you.

CHAIR BUCKLEY:

Thank you very much. Okay, we are really finished this time. Is there anyone in the public who wants to provide any input on the Gaming Control's budget?

Okay, seeing none, we have the Secretary of State here. We appreciate you waiting for us. Again, the Secretary of State's budget is extremely important. They now become the home for the business portal. They are our face as the "Delaware of the West" with regard to incorporations and the Interim Finance Committee heard much testimony that a ten percent cut would cause us to lose incorporations and potentially impact our competitiveness, and so we asked the Secretary of State to come up with additional solutions and to balance against just very tough economic times, but making sure we had a business plan for this office that served the state. Welcome, Mr. Secretary of State.

ROSS MILLER, SECRETARY OF STATE:

Thank you, Madam Chair, I am happy to be here. I can say that with absolute honesty because I was scheduled today to be in an all day meeting of the Board of TRPA, the Tahoe Regional Planning Agency, so by comparison, this is a relatively pleasant experience.

We had been asked by fiscal staff to provide a number of scenarios to try to revert money from our budget. The first scenario we had provided was a ten percent reversion that we had accumulated auction rate settlement securities funds in the amount of ten percent of our budget, and use that to offset the general fund dollars.

On Friday, February 12, we were asked by fiscal staff to come up with another scenario of an additional ten percent cuts. We provided a packet to all of you outlining the potential impact of those cuts. It is a six-page memo which I understand you may not have time to read through, but the bottom line is this: the service levels in our office have collapsed since the lay-offs we implemented in 2008, with the addition of the additional services that we added. Any additional cuts to the office, in my estimation, would collapse a very significant revenue stream for the state and in all likelihood, lead to a net loss in the amount of revenue we generate, which is significant.

We were also asked to provide a number of scenarios for potential fee increases in our office or potential revenue generating scenarios. We have provided a break-down for you of those scenarios, the first of which is reflected on the Power Point that is visual on your screen. The first is a securities exemption fee increase. That fee, before February 17, was \$300. That does not take a statutory change. We implemented that effective that day, which is the same day I testified before the Interim Finance Committee, to \$500. We estimate that would generate \$855,000 for the remainder of this fiscal year and for fiscal year 2011, about \$2.5 million, for a total of \$3.3 million. Also, in the Securities Division, we have proposed a number of fee increases, all of which would require statutory changes. There are six fee increases that we have outlined for your consideration, for a total of \$2.6 million. The largest of those deal with the sales representative fee, which would reflect an increase from \$100 to \$125. That would amount to an estimated \$2.3 million. Because we receive most of those on an annual basis, we don't expect that we will receive many fees in the remainder of this fiscal year. They are typically filed in December. That is an annual fee that sales representatives have to pay. It is a professional license fee and that would be used to offset the expenditures that we have in our office that deal with licensing and compliance, as well as the enforcement of the securities statutes.

We also have some proposals dealing with the Commercial Recordings Division. We have a number of fees for your consideration. The first is the UCC fee. We propose increasing that from \$20 to \$30, if that is processed online, which obviously requires fewer resources in our office, and it would be our preference to try to drive as much traffic towards our online services. We also propose increasing the UCC fees from \$40 to \$60 for all of those paper filings; increasing the trademark fees 50 percent for the different variations of those, as well as increasing the dissolution fee from \$75 to \$100. The sum total of those proposals is \$300,00 in FY2010 and for FY2011, approximately \$900,000.

We also scoured the office, looking for other agency fee proposals that could be implemented without such a devastating impact to the business community. We propose increasing the apostille and the authentication fees from \$20 to \$30. That would be implemented March 1 and would result in about \$182,000 in additional revenue. The notary training fee, which was implemented in the 2007 Session, we propose allocating 75 percent of that to the General Fund, which would result in \$153,000. Another fee sharing area relates to the Domestic Partnership Registration fee and we would reallocate the remaining balance of that to the General Fund, which would total \$50,000. All said, those other agency fee proposals amount to \$386,000.

Finally, we have come up with additional fees that relate to the standardization of agency expedite fees, increasing those by and large relating to the fees that we currently charge, \$75 for 24-hour expedites in our office, increasing that to \$125. That would largely standardize that fee. We estimate that would generate an additional \$900,000 over the biennium.

The last slide just reflects the total fee summaries, broken down by division. It is about \$6 million in fees that we would generate from the Securities Division, \$1.2 million from the Commercial Recordings Division, other agency fees \$386,000, and then the expedite fees,

\$900,000, for a total of what we would estimate to be \$8.5 million in additional revenue for the state. About \$4.2 million of that we have already implemented and would not take a statutory change and would be merely a policy change from our office.

Putting together these fees, we consulted with the resident agent community; about 60 percent of our filings go through the commercial registered agents, and it is my understanding that they are supportive of these fee increases. By and large, it would not impact their business. Their primary concern is that with the current service levels the way they are; we cannot continue to remain the “Delaware of the West” for much longer. When we instituted the layoffs, our processing times went from 5 days to today 37 days to turn around many of the processing filings. Our hold times went from 10 to 15 minutes to well over an hour. Obviously, those service levels are unacceptable. We are working on trying to make reductions to those and to try to operate as efficiently as we can, but if those service levels stay where they are, I would expect that it is going to have a very detrimental impact of significant revenue streams for the state, in all likelihood, collapsing it. I would expect that those entities that currently file with us because of our favorable business statutes and efficiency in processing would choose to file elsewhere, and it would result in a significant net revenue loss for the state.

That said, I would be happy to answer any questions that you may have.

CHAIR BUCKLEY:

Mr. Secretary of State, do you have anything in writing from any of the resident agent associations that you could provide for us, or could you get to us, perhaps tomorrow?

ROSS MILLER:

I can certainly provide it. The president of the resident agents is here today, if you would like to hear testimony from him, Matt Taylor.

CHAIR BUCKLEY:

Okay, actually I will after we are finished with your presentation and your testimony. We have a couple questions. Let's start with Assemblyman Christensen.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Madam Chair. Secretary, it is good to see you here. Many have applauded your office's efforts to automate over these past several years and I guess I was just thinking—have you identified any other large areas, just as you are referring to the manpower and everything that goes into processing—are there are areas that could be automated, like you have done over the past few years?

ROSS MILLER:

Madam Chair, through you to Assemblyman Christensen, we are continually looking for additional online services that we can add to our office. We would expect that articles of incorporation, for example, may be ready within the next couple of months. We are working our IT team as fast as we can to add those services. Significantly, we have added the business license fee to our office, effective October 1. When that was a program administered by the Department of Taxation, you could not pay the business license fee electronically; you now can. You can do that at the same time that you process many of your filings for other areas, your renewals with your LLC's, etc.

We also just released the RFP yesterday for the business portal, which many of you supported, which was sponsored by Majority Leader Ocegüera. We will begin to create the architecture for people to process many of their electronic filings through state and local agencies throughout the state, integrating those services and creating a true one-stop shop for all your business transactions with the state. When we do that, we will be the first state in the entire country to have an operational business portal, which I think will go a long way towards reinforcing our status as a pro-business jurisdiction, and one that takes a lot of pride in looking towards efficient services that benefit the consumer.

CHAIR BUCKLEY:

Assemblyman Anderson.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Chair. Mr. Secretary of State, thank you very much for coming over. It seems to me that it was not that long ago that we went through with your office several months ago, I guess some of these very fees that are being proposed, and I haven't had a chance to go through this with a fine tooth comb, like you have no doubt, but when were most of these fees raised last, other than obviously the filing fee for public office, which was in 1991, and a couple of these are new parts to your agency, and new responsibilities have been added, and within the last four years or so, other than that, when was the last time that these have been increased?

ROSS MILLER:

Madam Chair, through you to Assemblyman Anderson, it really varies. Many of the securities fees were last increased in 2003, as were many of the other commercial recordings fees that we have identified. Some of them have not been increased in 30 years. For example, the apostille fees were last increased 30 years ago or so. We have largely left untouched the largest revenue generators in our office, which account for most of the filings, because as you alluded to, many of those fees were seen to be increased in the last legislative session. In fact, the biggest impact that happened was that the business license fee increased from \$100 to \$200 and it was transferred from the Department of Taxation to our office. Much of the reason for the transfer was that we were seeing a large amount of uncaptured revenue. The Department of Taxation was supposed to collect that fee from all of the entities that were on file with our office, but because the systems are not integrated, they didn't know who those universal taxpayers were. So there were a good number of folks who weren't paying that.

Probably the biggest complaint that we are hearing today is that the fees in our office increased from \$200 to \$400, that the Legislature doubled them. Well of course, that is not true. If you want to file your articles of incorporation with our office, it costs \$75. Thirty days later, you file your initial list of officers for \$125, and you were supposed to have the \$100 business license fee. But because most people weren't paying it, they now see that as a \$200 increase. So the actual cost to them now that we have integrated the system is \$400 for the first year, which is significant. That is a little bit higher than Wyoming and many of our competitor states. We no longer have a significant advantage in terms of being a price leader in the industry. Our fees are in often cases higher than many jurisdictions, but we used to offer the additional benefits of not only having a pro-business environment with very favorable business statutes in place, but also offering efficient services. We no longer have efficient services in our office and if we don't do something to try to get those under control, I am afraid that we may lose out on significant revenue.

CHAIR BUCKLEY:

Any other questions for the Secretary of State? I don't see any; thank you very much for being here. I hope we all share the goal of making sure that we come up with a good resolution for your agency. Is there anyone else who would like to provide testimony on the Secretary of State's budget?

Thank you for being here today.

MATTHEW TAYLOR, NEVADA REGISTERED AGENTS ASSOCIATION:

Thank you, Madam Chair and members of the Assembly. My name is Matthew Taylor and I am with the Nevada Registered Agents Association. We are a trade organization that represents a large number of commercial registered agents here in the state. We came here to testify in support of Secretary Miller and the increases that he has proposed.

CHAIR BUCKLEY:

Well, that was succinct. So do you think that fees to support the Secretary of State's operation would be job killing, harmful things that will stop life as we know it?

MATTHEW TAYLOR:

Thank you, Madam Chair. No, I believe that the fees that have been outlined are not going to have a significant impact in the filing numbers, as far as corporations and LLC's registering here with the Secretary of State. My further hope is that it does help provide some additional funding to restore some of the services and some of the positions that the Secretary of State's office has

lost. One of the biggest things that we are facing currently is the vast increase in turnaround times, which has added to some of the struggles that our clients have already had in forming corporations and managing other things here in the state.

CHAIR BUCKLEY:

I actually would like to compliment some of your members. I received some very well-written letters from your members stating their concern about the level of service, stating that they enjoy using Nevada. They weren't even that concerned about the increased level of fees from last time, but they were more concerned now about service levels degrading. They talked about having to get a response time back quickly to their clients, not being able to do that. I know the Secretary of State was also copied on some of those letters that I received, but it was a common sense approach and it really gave a lot of detail on why this was necessary, so if anyone would like to see some of those written from a business perspective, supporting additional fees, I thought it was very well written.

Questions? Assemblyman Hardy.

ASSEMBLYMAN HARDY:

Thank you, Madam Chair. I think one of the problems we had is that when we increased the business license from \$100 to \$200, people expected better service instead of worse service, and I think that is where you are seeing people upset; that we pay more and we get less. I think that is the problem.

CHAIR BUCKLEY:

I agree. There are no more questions. Thank you very much for being here today on such short notice. We appreciate it.

MATTHEW TAYLOR:

Thank you, Madam Chairman and members.

Submitted Exhibits

See below.



OFFICE OF THE SECRETARY OF STATE

ROSS MILLER
Secretary of State

February 17, 2010

Mr. Brian Burke
Fiscal Analysis Division
Legislative Counsel Bureau
401 N. Carson Street
Carson City NV 89701-4747

Dear Mr. Burke,

In response to your email dated Friday, February 12, 2010 wherein legislative leadership requests expenditure reduction proposals totaling \$368,052 in FY 2010 and \$1,125,381 in FY 2011 (or some combination of expenditure reductions totaling \$1,493,433 for the biennium) exclusive of any general fund offsets such as Auction Rate Securities funds, we provide the following analysis. In short, to meet proposed expenditure reductions in excess of the 10% scenario we previously provided, this office would need to implement additional and extensive layoffs of staff resulting in significant increases in commercial recordings processing times, and thus jeopardizing this office's revenue production, a revenue stream that has been a consistent and reliable source for the general fund. We have also prepared, per your request, scenarios regarding fee adjustments in our office which may generate additional revenue.

As you know, this office has already implemented expenditure reductions including the layoff of personnel. These cuts are most likely in excess of any other state agency and were accomplished while absorbing significant additional responsibilities some of which have enhanced revenues, most significantly the collection of the business license fee. Previous budget cuts have contributed to service levels in many areas of the office which have reached a breaking point, resulting in frustration and anger among many constituents, in particular those who are operating or attempting to establish businesses in our state. It is our estimation, that the requested budget reductions in excess of those outlined in the scenario we provided using ARS funds to meet a 10% reduction will result in a significant net **revenue loss** for the state.

Ross Miller - Secretary of State

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When our administration took office, the office supported 143 employees and today retains only 125 positions to carry out the previously existing services, along with a host of additional programs and responsibilities including the domestic partnership registry, the advanced directives registry, the state business license filings, and the Nevada business portal. As you know, the business license filings and the business portal represent significant revenue potential, while the domestic partners and advance directives registry have been absorbed by this office at virtually no cost to the state, using existing resources. In the last biennium, we surpassed the request 14% cuts and reduced the agency budget by 21% through layoffs, position eliminations, additional reversions and ongoing efficiencies. This amount included savings reductions totaling more than \$1.4 million (to balance a deficit created by a budgetary shift of general fund to special services revenue) in excess of the cuts requested by any other state agency.

Due to previous reductions and streamlining of operating expenses, in order to meet expenditure reductions totaling \$368,052 in FY 2010, our office would likely need to layoff an estimated 19.51 employees. Similarly, a \$1,125,381 in FY 2011 would likely result in an additional 4 layoffs for a total of 23.51 positions being eliminated over the biennium. We have identified \$138,366 in non-personnel expenditure reductions for FY10. The requested reductions are summarized below:

Non-Personnel Reductions

Category 04 Operating Total	\$128,389
GL 7020 Operating Expense	\$6,465
7080 Legal and Court	\$25
7130 Utilities	\$5,028
7290 Phone	\$37,900
7370 Pubs and Periodicals	\$3,050
7390 Cr Card Disc Fee	\$68,621
7430 Professional Svcs	\$6,584
7630 Miscellaneous Goods	\$130
7760 Non-St Emp O/S Travel	\$230
7960 Rentals for Land/Equip	\$356

Category 17 ACPD \$2,340

Category 30 Training \$7,637

Total Non-Personnel Reductions \$138,366

FY 10 General Fund Expenditure Reduction \$368,052

FY 10 Non-Personnel Reductions \$138,366

FY 10 Personnel Reductions – 19.51 FTE \$231,642 (\$1,956 over 10% reduction)

FY 10 Personnel Reduction Detail

Admin Asst II – Customer Service - Probationary

Admin Asst II – Commercial Recordings - Probationary

Admin Asst II – Customer Service - Probationary
 Admin Asst II – Commercial Recordings – Probationary
 Admin Asst I – Commercial Recordings
 Admin Asst I – Commercial Recordings
 Admin Asst I – Commercial Recordings
 Admin Asst I – Commercial Recordings
 Admin Asst I – Commercial Recordings
 Admin Asst II – Customer Service
 Admin Asst II – Customer Service
 Admin Asst II – Customer Service
 Admin Asst II – Customer Service
 Admin Asst II – Commercial Recordings
 Admin Asst II – Customer Service
 Admin Asst II – Customer Service
 Admin Asst II – Commercial Recordings
 Admin Asst II – Commercial Recordings
 Admin Asst II – Customer Service
 Admin Asst II – Commercial Recordings

FY 11 Personnel Reduction Detail

Admin Asst II – Notary
 Admin Asst II – Commercial Recordings
 Admin Asst II – Commercial Recordings
 Admin Asst II – Commercial Recordings

IMPACT OF PREVIOUS PERSONNEL REDUCTIONS

As a point of reference, I have also included below a breakdown of the positions subjected to layoffs and elimination in September 2008:

September, 2008 layoffs:

Position Layoffs

0072 Admin Asst II – Commercial Recordings
 0074 Admin Assistant III - Commercial Recordings
 0091 Admin Assistant I – Commercial Recordings
 0117 Admin Asst II - Elections
 0118 Admin Asst III - Commercial Recordings
 0121 Admin Aid – Commercial Recordings
 0132 Admin Asst III – Commercial Recordings
 0160 Admin Assistant III – Commercial Recordings
 0038 Admin Aid - Securities
 0039 Admin Asst I - Securities
 0041 Admin Asst I - Securities
 0065 Admin Asst I - Securities
 0034 Chief of Registration - Securities
 0162 Compliance Audit Investigator – Securities

0022 Compliance Audit Investigator – Securities
 0159 Compliance Audit Investigator – Securities

Vacant position eliminations

0021 Admin Asst II – Customer Service
 0028 Compliance Audit Investigator – Securities
 0056 Personnel Tech II – Operations
 0059 Accounting Assistant III – Operations
 0092 Admin Asst II – Commercial Recordings
 0101 Admin Asst II – Customer Service
 0054 Admin Asst II – Commercial Recordings

To give some perspective to the impact that the previous personnel reductions, mandated furloughs and increased filing volume resulting from the business license have had we provide the following analysis. One year ago, processing times in the commercial recordings division averaged approximately 5 working days. Today our processing time has increased to approximately 39 working days. Similarly, a year ago, the average customer service hold time was approximately 15-20 minutes (16,000 monthly calls), customers today routinely wait in excess of one hour (23,000 monthly calls). Obviously, this decline in the level of service is troublesome and jeopardizes the future status of our commercial recordings revenue and Nevada's reputation as a business friendly state.

POTENTIAL IMPACT OF FURTHER PERSONNEL REDUCTIONS

Proposing additional personnel reductions would bring catastrophic consequences to our current process, devastate our service levels and collapse our revenue stream. We estimate that these outlined personnel reductions will result in processing delays in excess of 15-20 working days each month and would likely result in the elimination of the ability to respond to customer service inquiries by phone. Of the requested layoffs, 6 positions would be in the mail room which is currently 11 positions. Reductions in this area would result in an inability to timely receipt filings and deposit state revenue. As previously mentioned, the layoffs also include 9 customer service professionals. A reduction of this scope would render our customer service hotline inoperable and the remaining 3 positions would likely need to be converted to processing staff. Consequently, this office would need to require that any inquiries be made in writing, which would result in a complete inability to adequately respond to issues or questions pertaining to commercial filings and business license. Notably, the projected layoffs also include 8 administrative assistants who process our commercial filings.

As you know, Nevada's status as a premier commercial recordings filing jurisdiction can be attributed to our favorable business statutes, our processing efficiency, and our competitive fees. If the service levels decline even further, we anticipate that businesses currently incorporated can and will choose to relocate to another jurisdiction, resulting in a decline in the revenue stream our office provides. Further, the attraction of incorporating in Nevada will be diminished and we will see a decline in new filings as

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businesses will choose to incorporate in other states.

REVENUE ENHANCEMENTS IMPLEMENTED EFFECTIVE FEBRUARY 17, 2010
Exemption Fee increase from \$300 to \$500 immediately by order of the Administrator as allowed by NRS 90.540. This increase will result in an *estimated \$1,675,000.00 annually* beginning FY 11. There will be some immediate impact however it is difficult to estimate this revenue for FY 10.

Standardization of all 24-hour expedite fees. Currently, there is statutory authority to charge up to \$125 for 24-hour expedite processes. By policy, some filings are charged a lower rate. We estimate that standardizing 24-hour expedite fees will result in increased revenue which at this time we are unable to project.

PROPOSED FEE INCREASE OPTIONS (Require Statutory Changes)

With respect to fee adjustments which may generate additional revenue, we have prepared several scenarios which may result in additional general fund revenue. Notably, we have not prepared any scenarios recommending an increase in entity filing fees in the commercial recordings division because we believe any further increases will put our state at a competitive disadvantage to similarly situated jurisdictions who offer similar business filing environments at a lower cost. Similarly, your email specifically requested that we prepare scenarios contemplating fee increases in the expedite fees. We believe any major fee increases to our expedite services would also result in diminished funds in a budget category that is already a declining source of revenue. Consequently, we offer the following options for your consideration:

Commercial Recordings - UCC

UCC fees are currently \$20 for online filings and \$40 for paper filings. These fees were last increased in 2003 and generated \$1,270,498 in revenue in FY09. We are currently experiencing declining revenues in this category, likely due to the depressed economy. An increase to the base UCC fees of 50% would generate *approximately \$465,600 annually*. This would be an increase of \$10 for online filings and \$20 for paper filings.

Commercial Recordings - Dissolution

Dissolution fees are currently \$75 for Title 7 entities. An increase in the fee by \$25 to \$100 would generate *approximately \$387,000 annually*.

Commercial Recordings - Trademarks

Increase trademark fees by 50% which would result in *approximately \$50,400 annually*.

Apostille & Authentication Fees

The Office provides Authentication of Signatures, also known as Apostilles or Certifications. Any document to be presented to a governing body of a foreign country, or a document to be used for official business within the United States is eligible for this service. The current fee for each Apostille is \$20. An increase of the fee to \$30 would

generate approximately an *additional \$137,500 annually*.

Securities Licensing Fees	Estimated Annual Increase
Broker Dealers: Increase from \$300 to \$330 = 10%	\$56,600
Sales Reps: Increase from \$110 to \$125 = 14%	\$2,328,000
Investment Advisers: Increase from \$300 to \$330 = 10%	\$37,600
IA reps: Increase from \$110 to \$125 = 14%	\$48,200
BD Branches: Inc. from \$100 to \$150 = 50%	\$62,000
IA Branches: new requirement of \$150 (new revenue)	<u>\$135,000</u>
Total Revenue estimated annually	<u>\$2,667,400</u>

Candidates for Elective Office Filing Fees

Filing fees for candidates have not increased since 1991. Currently, the filing fees for local including judicial offices and most state legislative offices are collected by the counties and deposited into the county general fund. None of these candidate filing fees are remitted to the State. As Chief Elections Officer, the elections division in my office spends a significant amount of time addressing local candidate requests and therefore a filing fee increase directed to the State should be considered as should an increase in the filing fees currently collected by the State. We would be happy to provide guidance on changing the filing fees.

PROPOSED FUND SHARING (Requires Statutory Changes)

Notary Training Fees

In 2007, the Legislature approved our request for a mandatory notary education course for which we are permitted to set the fee for the cost of the training. Twenty-five percent (25%) of this fee could be retained for the costs of conducting the training and the remaining 75% directed to the general fund. The Secretary of State would retain the interest earned on this account for costs related to the training program. The assignment of these training fees to the general fund of the office would result in *approximately \$153,600 annually*.

Domestic Partnership Registry Fees

SB 283 which established the registration of Domestic Partnerships authorized the Secretary of State to establish the filing fee for the cost of managing the program. The statutory language could be amended to require that any remaining balance in the domestic partnership fund after all costs for administering the registry are paid be reverted annually to the general fund. This would be an *estimated \$50,000 annually*.

TOTAL ADDITIONAL REVENUE (APPROXIMATELY) \$5,586,500

-6-

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409 1082 

FEE CONSIDERATIONS (NOT RECOMMENDED)***Online Processing Surcharge***

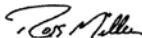
Increasingly, customers within the commercial recordings division are taking advantage of the increased number of services that can be processed as part of our online services. Several states charge additional fees for online filings. While we have not projected the amount of revenue any potential fee could generate, we are concerned that imposing a fee for online fees would result in a less desirable outcome because it may affect increased paper filings and a corresponding increase in required resources.

Credit Card Processing Fee

In FY09, our office expended \$839,989.81 in credit card discount fees. We project that a \$2 - \$8 credit card processing fee would generate between \$463,116 and \$1,852,464 in revenue to offset the expenditure which is estimated to reach \$1.7 this FY due to the addition of the State Business License. Under the current MSA, we understand our office is prohibited from passing on credit card fees to the consumer.

Please know that we remain committed to finding solutions to assist in managing the worst budget crisis this state has ever faced. That said, it is my firm belief that significant fee increases saddled by cuts to services that provide a positive cash flow and that encourage the growth of businesses in Nevada would be a mistake. Should you need any additional information, please contact us.

Sincerely,



ROSS MILLER
Secretary of State

cc: Legislative Leadership

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One Page Summary – Secretary of State Proposed Fee Restructuring

In a memo to LCB fiscal staff dated 2/17/10, I outlined several fee restructuring options proposed by my office. Please find below a synopsis of those fees and their impact over the current biennium.

Fee	Effective Date	Impact FY 10	Impact FY 11	Total Impact	Legislative Modifications
Securities Exemption Fee Increase from \$300 to \$500	February 17, 2010	\$855,314	\$2,532,193	\$3,387,507	None
Standardization of Expedite Fees	March 1, 2010	\$225,400	\$676,200	\$901,600	None
Securities Broker Dealer Fee from \$300 to \$330	March 1, 2010	**	\$56,600	\$56,600	NRS 90.360
Securities Sales Representative Fee from \$100 to \$125	March 1, 2010	**	\$2,328,000	\$2,328,000	NRS 90.360
Securities Investment Advisers Fee from \$300 to \$330	March 1, 2010	**	\$37,600	\$37,600	NRS 90.360
Securities Investment Advisor Representative Fee from \$110 to \$125	March 1, 2010	**	\$48,200	\$48,200	NRS 90.360
Securities Broker Dealer Branches Fee from \$100 to \$150	March 1, 2010	**	\$62,000	\$62,000	NRS 90.360
Securities Investment Advisor Branch Fee new requirement of \$150	March 1, 2010	**	\$135,000	\$135,000	NRS 90.360
Commercial Recordings UCC Fee from \$20 to 30 for online and \$40 to \$60 for paper filing	March 1, 2010	\$155,200	\$465,600	\$620,800	NRS 104.9525
Commercial Recordings Trademark Fee	March 1, 2010	\$16,791	\$50,374	\$67,165	NRS Chapter 600
Commercial Recordings Dissolution Fee from \$75 to \$100	March 1, 2010	\$128,942	\$386,827	\$515,769	NRS Chapters 87, 87A, 88, 88A
Apostille & Authentication Fee from \$20 to \$30	March 1, 2010	\$45,000	\$137,500	\$182,500	NRS 240
Notary Training Fee reallocation to GF of 75%	July 1, 2010	--	\$153,600	\$153,600	NRS 240
Domestic Partnership Registry Fee reallocation of remaining balance to GF	July 1, 2010	--	\$50,000	\$50,000	SB 283 / NRS 122A codified
** Securities licensure fees for the remainder of FY 10 will be nominal as most of the fees are received on a calendar year basis in December and have been received for FY 10.				<u>\$8,546,241.00</u>	



Office of the Secretary of State

Proposed Fee Restructuring

Securities Exemption Fee

Implemented 2/17/10

- Securities Administrator Implemented
- \$300 to \$500 increase in Exemption Fee
 - FY 2010 - \$855,314
 - FY 2011 - \$2,532,193
- TOTAL revenue over biennium \$3,387,507

Securities Licensing (effective 3/1/10)

<u>FEE</u>	<u>Proposal</u>	<u>FY 11</u>
• Broker Dealer Fee	\$300 to \$330	\$56,600
• Sales Representative Fee	\$100 to \$125	\$2,328,000
• Invest. Advisor Fee	\$300 to \$330	\$37,600
• Invest. Advisor Rep. Fee	\$300 to \$330	\$48,200
• Broker Dealer Branch Fee	\$300 to \$330	\$62,000
• Invest. Adv. Branch Fee	\$300 to \$330	\$135,000
TOTAL:		<u>\$2,667,400</u>

*Securities licensure fees for the remainder of FY 10 will be nominal as most of the fees are received on a calendar year basis in December and have been received for FY 10.

Commercial Recordings (effective 3/1/10)

<u>FEE</u>	<u>Proposal</u>	<u>FY 10</u>	<u>FY 11</u>
• UCC Fee	\$20 to \$30 online \$40 to \$60 paper	\$155,200	\$465,600
• Trademark Fee	\$100 to \$150 \$50 to \$75 \$60 to \$90	\$ 16,791	\$ 50,374
• Dissolution Fee	\$75 to \$100	\$128,942	\$386,827
TOTAL:		<u>\$300,933</u>	<u>\$902,801</u>

Other Agency Fee Proposals

- Apostille & Authentication Fee – from \$20 to \$30
 - ✓ implementation March 1, 2010
 - ✓ \$182,500 (\$45,000 / \$137,500)
- Notary Training Fee – Allocation of 75% to GF
 - ✓ July 1, 2010
 - ✓ \$153,600
- Domestic Partnership Registration Fee – Reallocation of remaining balance to GF
 - ✓ July 1, 2010
 - ✓ \$50,000

TOTAL = \$386,100 over biennium

Standardization of Agency Expedite Fees

- Standardization of Expedite fees for Major Services from \$75 to \$125
 - ✓ Implementation March 1, 2010
 - ✓ 4 months @ \$56,350 = \$225,400 for FY '10
 - ✓ \$676,200 additional expedite revenue for FY '11
 - ✓ No statutory change required

TOTAL = \$901,600 over biennium

Fee Summary	
■ Securities	\$6,054,907
■ Commercial Recordings	\$1,203,634
■ Other Agency	\$ 386,100
■ Expedite Standardization	\$ 901,600
■ Total for FY 2010/2011	\$8,546,241

Assemblyman Arberry moved that the Committee of the Whole request a bill draft request regarding the fees associated with the Secretary of State's Office.

Seconded by Assemblyman Conklin.

Motion carried.

Assemblyman Ocegüera moved that the Committee of the Whole recess until the call of the Chair.

Motion carried.

Committee of the Whole in recess at 5 p.m.

COMMITTEE OF THE WHOLE IN SESSION

At 5:54 p.m.

Chair Buckley presiding.

Quorum present.

Assembly Bill No. 1 considered.

Assemblywoman Kirkpatrick moved to amend and do pass Assembly Bill No. 1.

Assemblyman Anderson seconded the motion.

Motion carried.

Race to the Top considered.

ASSEMBLYWOMAN APRIL MASTROLUCA, ASSEMBLY DISTRICT NO. 29, HENDERSON; VICE CHAIR OF LEGISLATIVE COMMITTEE ON EDUCATION:

Thank you, Madam Chair, and members of the Committee. This evening we are focusing our attention on the Race to the Top fund program, which is a program that is part of the American Recovery and Reinvestment Act of 2009, also known as ARRA.

The Race to the Top program has been proposed by the federal government as a competitive grant program to award approximately \$4.35 billion to states, to encourage and reward those states that are creating the conditions for education innovation and reform, implementing ambitious plans in four education reform areas, as described in ARRA, and achieving significant improvements in student outcomes. The United States Department of Education has developed nonbinding budget ranges which place each state into one of five categories, with an estimated range of money that each state may be eligible to receive if it is awarded a competitive grant. Nevada is being placed in category four, which is a budget range of \$60 million to \$175 million.

To be eligible to submit an application for the funds, a state must meet certain criteria requirements. In addition, a state may accumulate points based on the basis of its demonstrated achievements in school reform and its proposals for the future of such reforms. At this time, I would like to ask staff to provide a brief overview of the Race to the Top criteria.

MINDY MARTINI, LEGISLATIVE COUNSEL BUREAU RESEARCH DIVISION:

As legislative staff, I can neither advocate nor oppose any of the proposals before you. I am here at the request of Assemblywoman Mastroluca to provide you with a brief overview of the criteria.

As noted, the Race to the Top fund is a competitive grant program designed to encourage and reward states to do several things:

- Create conditions for educational innovation and reform for achieving significant improvement and student outcomes;
- Implementing ambitious plans in four core educational reform areas

Those areas are located in a handout that you should have, entitled "Race to the Top Executive Summary." These first areas are listed on page 4 of the executive summary if you would like additional information. The first core area is adopting standards and assessments that prepare students to succeed in college and the workplace and to compete in a global economy. The second is building data systems that measure student growth and success, and inform teachers and principals about how they can improve instruction. The third is recruiting, developing, rewarding, and retaining effective teachers and principals, especially in the locations where they are needed most. The fourth core area is turning around our lowest achieving schools.

An important factor included in this application for Race to the Top is a requirement tied to the percentage of school districts that agree to participate in these reform efforts. It is a decision of each school district within the state as to whether they will participate in Race to the Top. A state cannot mandate participation. A defining factor as to whether a school district will decide to participate in Race to the Top is tied to the funding provided to each school district to carry out these requirements. One of the things that Race to the Top does provide for, is that it allows the state to supplement the formula funds received by a school district, with funds that are reserved for the statewide implementation of Race to the Top. If the state chooses to do this, it may encourage some of the other school districts to participate. If a school district decides to participate in Race to the Top, they must commit to substantially implement all of the reforms. They cannot pick and choose. It is all or nothing. If awarded, the state has four years to spend these funds.

Looking at the application itself, there are 500 points available. Half of the points are based upon the state's accomplishments to date. The other half are based upon what the state is going to plan to do. The phase two deadline is June 1, 2010. There are six major selection categories for which the state receives points. Please note that the United States Department of Education has a very detailed informational handbook on how they will evaluate each of these proposals. What I am going to provide you now is a various brief summary of what is entailed.

The first section is worth 125 points and is entitled, “State Success Factors.” This category includes such things as a state’s education reform agenda and the school districts’ participation in it. It also includes building a strong statewide capacity to implement, scale up, and sustain proposed plans. Finally, it includes demonstrating significant progress in raising achievement and closing the gaps. According to testimony provided by Dr. Keith Rheault, our state superintendent of public instruction, and this was at the December 11th, 2009, Legislative Committee on Education meeting, Nevada should do well in most of these criteria, for this category. The one area where we may be weak is in the area of sustaining proposed plans, as it requires a commitment to continued funding of these reforms after the program has ended.

The second category is entitled, “Standards and Assessments.” This is worth 70 points. This category includes such things as developing and adopting common standards as well developing and implementing common high quality assessments. According to testimony, again from the state superintendent, Nevada should do well in this category, as well. A few points may be lost for not having common core standards adopted by August of 2010.

The third component is entitled, “Data Systems to Support Instruction.” This is worth 47 points. This category includes such things as fully implementing the statewide longitudinal data system, accessing and using data and using the data to improve student achievement. Again, according to testimony by the state superintendent, Nevada should do very well in this category. I believe the Department of Education has applied for a federal grant and it is called the Longitudinal Data Systems grant, that would substantially help Nevada do well in this category.

The fourth section is entitled, “Great Teachers and Leaders.” This is a very high point area. There are 138 points, the most in the application. According to the state superintendent, this will be Nevada’s weakest category. It includes things as providing high quality pathways for aspiring teachers and principals, improving teacher and principal effectiveness based upon performance, ensuring equitable distribution of effective teachers and principals and improving effectiveness of teachers and principal preparation programs.

Some of the testimony provided by the state superintendent is that we currently do not have an alternative pathway for principals. We also do not currently have the evaluation system required for teachers and principals as required under Race to the Top.

The fifth section looks at turning around some of our lowest achieving schools. This is worth 50 points. According to the state superintendent, Nevada should do very well in this category, as well.

The final section is a general category section. It is worth 55 points. This category includes such things as making education funding a priority, ensuring successful conditions for high performing charter schools and other innovative schools as well, like empowerment schools, and, finally, demonstrating other significant reform conditions. Here the superintendent has testified to the importance of maintaining the percentage of funds for education, which I believe has been discussed earlier, in the last couple of days. For the charter schools, we do have a charter school program and the state superintendent knows that we should do well in this area.

This does conclude my comments, summarizing the main components of Race to the Top.

CHAIR BUCKLEY:

Thank you very much for your testimony. Are there questions of the committee? Assemblyman Settlemeyer.

ASSEMBLYMAN SETTELMAYER:

Thank you, Madam Chair. I was just curious. From my understanding, the reasoning for the change of this bill is that in 2003, this language was inserted and now that currently bars us from being accessible to Race to the Top funds. So I am just curious how the additional words, which are being added, benefit education? How do they benefit our children?

ASSEMBLYWOMAN MASTROLUCA:

Assemblyman Settlemeyer, if I can finish my presentation, it may answer some of your questions.

During the 2009-2010 interim, the Legislative Committee on Education has focused its attention on the eligibility requirements and various selection criteria as set forth in the Race to the Top application guidelines. The committee has received testimony that Dr. Keith Rheault,

Superintendent of Public Instruction, is working with various parties, including the superintendents of the 17 school districts, to review various actions that could help the state gain more points in its application. In addition, the state of Nevada could enhance its application by making certain changes to regulations or increasing the pace for implementing certain interagency projects.

Eligibility to apply for the Race to the Top funds has been a major topic of discussion over the past few months. One of the requirements of competition is that there must not be any legal statutory or regulatory barriers at the state level linking student achievement data to teachers and principals for the purpose of evaluations. Nevada does not currently meet those requirements and at present we cannot apply for those funds. In response to calls from legislative leadership, the Legislative Committee on Education held two meetings in December, 2009, to address this matter. The first meeting was held on December 11 and laid out our options. We discussed a number of recommendations for potential actions. During the week between the two meetings, the chair of the committee, Senator Joyce Woodhouse, Assemblyman Stewart, and I worked with the school board, the NSCA, and school district representatives on language that would be agreeable to each of these key parties. The committee then held a work session on December 17 to consider revisions to Nevada Revised Statutes that would make Nevada eligible to apply for the Race to the Top funds. We considered three proposals and those proposals should be on your desk, labeled A, B, and C.

The first proposal would remove the prohibition of the use of certain information concerning principals to evaluate a teacher or a paraprofessional. This was a deletion of the 15 words that created the barrier. This is handout A. Handout B would add clarification to the information that could not be used as the sole criterion for evaluating the performance of a teacher, paraprofessional, or other employee. Handout C, in addition to the language of the first and second proposal, would add clarification that the information could not be used for taking disciplinary action against such an employee.

After substantial discussion during the work session, the committee approved language incorporating all three proposals. This removes the only barrier that the state faces in being eligible to apply for Race to the Top funds. It is my hope that this language will be strongly considered by the Legislature in the near future. This is the compromise agreed to by the teachers' association, the school board, and the school district representatives. This document passed unanimously by the committee with only one member absent.

The committee has also looked at statutory changes to increase potential points Nevada could receive in its Race to the Top application. Although, in general, the state appears to be in a good position to apply for Race to the Top funds, there are statutory and regulatory changes that could be made that would increase the points we receive.

I would be happy to discuss those if anyone has questions on those specifically. We also have staff here to provide a summary of the committee's framework for the Race to the Top activities, if Mr. Sturm could proceed.

PEPPER STURM, CHIEF DEPUTY RESEARCH DIRECTOR, RESEARCH DIVISION, LEGISLATIVE COUNSEL BUREAU:

As research staff, I cannot advocate or oppose any of the proposals before you. I am here at the request of Assemblywoman Mastroluca to provide you with further information about the activities of the Legislative Committee on Education.

As Assemblywoman Mastroluca noted, the Legislative Committee on Education has structured its interim work around the Race to the Top application. I think Mindy noted that the Race to the Top selection criteria that will be used by the U. S. Department of Education to evaluate the state's fund. That executive summary document plays into what I am about to tell you.

Each of the meetings of the Legislative Committee on Education are structured to provide a comprehensive review of each of the criteria. This includes an overview of each category and evaluation of Nevada's strengths and weaknesses within each of the specific subcategories, and potential actions that can be taken to improve our points score for the application. To date, the committee has held three meetings specific to the selection criteria, plus the December meetings mentioned to craft the recommendations for removing the barrier to apply for Race to the Top

funds. The November 17, 2009, meeting reviewed Selection Criteria B, Standards and Assessments, that you can see outlined on page 3 of the executive summary. The committee's January 13, 2010, meeting reviewed Selection Criteria D, Great Teachers and Leaders, also summarized on page 3. The committee's meeting now scheduled for March 16, 2010, will look for selection criteria for item C, Data Systems to Support Instruction and item E, Turning Around the Lowest Achieving Schools. The April 7, 2010, meeting will take up the final selection criteria, items A, the State Success Factors, and F, General Selection Criteria.

The committee has taken certain actions after each of these items, and expects to have additional recommendations, especially as the U.S. Department of Education provides feedback to the states that have already applied under Phase 1.

Madam Chair, I would direct the committee's attention to the document entitled, "Summary of Specific Actions by the Legislative Committee on Education Concerning Race to the Top." This provides you with a number of bullet points of the actions of the committee. The first item was mentioned earlier by Assemblywoman Mastroluca and it's the repeal of the provision that is the barrier for us for applying in the first place. The second was mentioned by Keith Rheault, the State Superintendent of Public Instruction, as a potential change to Senate Bill No. 416 of the 75th Session. As you may recall, last session there was a moratorium on local testing. I believe the superintendent, at this point, does not believe this bill needs attention but it is possible if it doesn't sunset, we may need to take a look at it to provide additional evaluations for testing that is not covered by our state Criterion Reference Tests.

The next category is letters that have been sent by the committee, urging certain regulatory changes. Additional points can be gained by having an alternative certification process in place for Nevada's professional educators. I think, as Mindy mentioned, the state already has such a mechanism for teacher licensure but does not have an alternative path in place for administrators. To address this issue, the committee voted to send a letter to Dr. Rheault and to the Commission on Professional Standards in Education supporting the review and development of an alternative route to administrator licensure.

Next, the committee voted to send a letter, early on, to urge the superintendent to prepare and submit Nevada's application at the earliest possible date, assuming the barrier that was covered in the first bullet point was removed. The committee also sent a letter to the superintendent asking him to exercise his prerogative to commit the state of Nevada to joining a consortium of states that is currently working toward developing and implementing common assessments that are aligned with the common core academic standards that are, I believe, being drafted right now.

CHAIR BUCKLEY:

Okay, Pepper, I am going to cut you off.

PEPPER STURM:

Okay.

CHAIR BUCKLEY:

Thank you.

Back to Assemblyman Settelmeyer's question. Assemblywoman Mastroluca, based on the testimony of the committee and the feeling of the committee members, how does this help kids?

I think that was the long and short of it.

ASSEMBLYWOMAN MASTROLUCA:

Thank you, Madam Chair. To Mr. Settelmeyer, this piece was designed for the protection of the teachers. As Mindy discussed, in Section 4 of the bill, Great Teachers and Leaders, it talks about ensuring equitable distribution of effective teachers and proving the effectiveness of teachers. Those 15 words needed to be removed in order to make us eligible. The additional words will allow for protection of the teachers so that they can do their job to the best of their ability.

CHAIR BUCKLEY:

Can you comment as to the timing? When does the bill have to be effective? When is the application due? Can you comment on that for a moment?

ASSEMBLYWOMAN MASTROLUCA:

The application is due June 1, 2010. In order for Dr. Rheault to continue to move forward, this needs to be done as soon as possible.

CHAIR BUCKLEY:

We have a number of people who wish to testify. We also have a number of people wishing to ask questions, who are showing up on my "permission to speak" screen. We are going to get to all of them, but what I think I will do is try to get through the testimony. Some folks may have to leave a little early. Then I will come back and go through all the lights for all the folks who have questions.

Who else is here to testify? Why don't I take the next panel?

Thanks for being here and thank you for coming over after just doing this in the Senate. We appreciate it. Whichever order you would like to proceed.

KEITH RHEALT, SUPERINTENDENT OF PUBLIC INSTRUCTION:

Thank you, Madam Chair. You are here today to allow us to be eligible to apply for Race to the Top. I can tell you when the criteria for being eligible came out in November, there were only four states that did not have a barrier similar to Nevada's. It was New York, Wisconsin, California, and Nevada. Since that time, the other three states have removed the barrier. In New York's case, their law was sun setting this year, anyway, so they were off the hook. California and Wisconsin have adopted new language within their statutes to allow them. We need this in Nevada so that we become eligible. It doesn't mean that we will receive the grant, but at least we can move forward.

I can tell you my staff has expended a lot of time already working toward a grant in putting the data together. I brought along a preliminary timeline. We are adding new dates all the time. I will leave it with your secretary so that you can use it as an exhibit. But we have established, as an example, a task force to develop a definition and college readiness standards. And that will be before the State Board of Education in a workshop coming at their March meeting. We have done a number of items and met with all the school districts and other players and have a lot of other work to do.

The federal government estimates that it will take 640 hours to develop the application. It is probably one of the most complicated applications that I have seen come out of the federal government. I just ask that we move forward, at least allowing us to be eligible. I know that in these times of furloughs and limited overtime that I am not wasting staff time putting this together for an application we may not be eligible to apply for.

With that said, I support the language that has been proposed through the Legislative Committee on Education. It will get us to be eligible. I can say that it will allow us, 100 percent, to apply for the funding. One of the important aspects, if you look at the criteria and the points under the State Success Factors, under the very first one, it is worth 65 points. That is articulating a state education reform agenda and getting the buy in from local education agencies and other participants. A key factor is having the compromise groups that have agreed to this language sign off on the application that we provide. If the language will allow that to happen, we would be supportive 100 percent.

I would be available to answer any specific questions you have. I do ask and hope that you pass this today.

HEATH MORRISON, PH.D., SUPERINTENDENT, WASHOE COUNTY SCHOOL:

It is a pleasure to come before you again. I had the opportunity yesterday to talk about reform. And as I shared with you yesterday, I came to the great state of Nevada because I had the opportunity to lead one of the largest school districts in the country that was on the path of reform and no longer accepted the status quo. But change is hard and in public education, it can be very difficult. And so, what we are here today to talk about is a piece of federal programming that gives us a \$4.3 billion reason to change—and that is Race to the Top. Now, as I have talked about our reform agenda in Washoe County, as I have discussed this with our board of trustees and our community, if we felt like Race to the Top was not aligned to the things that we wanted to do, we would not be aggressively discussing the hope and desire for the state of Nevada to apply for it. What Race to the Top purports to do, what it encourages school districts

across our country to do a better job of, is to aggressively set higher standards; to hold ourselves accountable, through data, to those standards; to make sure that in every single school in our great state, we have a great principal, and a great teacher; and that we have the courage, when we know that we have a school that is not meeting the needs of our students, to do something about it. How could we not come together to want to go after not only the right things to do but the resources with which to do them?

It has been interesting the last few days as I go out and speak to our public and our community and our stakeholders. I get asked very much what is going on in Carson City and how bad the cuts will be and what it's going to mean to public education. But probably, just as much, I have been asked if Race to the Top is going to be considered. Is it going to be passed? And, really, the question isn't framed, "Why would we not?" The question is, "Why wouldn't we?" As I consider that question, I think there are some very important areas to look at. A lot of people might say, "Well, it is going to take a lot of work." And as Dr. Rheault has said, it is going to take a lot of work to apply for this grant—easily over 600 hours of man and woman power to write this grant. But Washoe County and Clark County have, right from the start, pledged their support toward the state Department of Education to help with the heavy lifting that it is going to take to pass, to come up with a competitive grant. It has been amazing to watch the community support all across the state—private individuals and groups of business-minded individuals—coming together to say, "This is the right thing to do for the Silver State."

That is one reason.

There is also the question of "Well, we may not get it." I have come to have the opportunity to meet many of you, and I respect you as leaders. And as leaders, I think we all have a responsibility not to do that which is easy, but to do that which is right. And it is the right thing to apply for this grant because, again, when you look at what it is asking us to do—better schools, better principals, better teachers in our schools, higher accountability, and the courage to turn schools around—how can we not want to do that? Now, we may not get it, and that is certainly a valid concern. But I believe that our chances are better than many people might suspect. And even if they are not, we'll learn a lot about our state going through this process of asking of how we do reform at scale. And the thing that is important to know is that I had the opportunity, recently, to have a private meeting with the Secretary of Education, Mr. Arnie Duncan. What Mr. Duncan shared at that meeting was that this is the future of grants through the federal Department of Education. So, the times when many grants from the federal government were done by formula are going to start to be replaced by competitive grants, much in line to the things that are in Race to the Top. So this will make us better for future grant opportunities that we can seek down the road.

Then there is a question of, "Well, even if we get it, and we get \$175 million, what happens at the end of the grant?" And I think the answer to that question is that if we get this grant and we were able to bring in \$175 million dedicated to reform in Nevada, and, let's say, at the end of it, it didn't work. What then? Why would we want to continue it? But let's look at a more optimistic version of that—it does work. And so, if it is \$175 million and it is producing better schools all across Nevada, making a better educational opportunity for all of our children, how would we not find a way to continue the things in its reform-minded agenda? Even if we don't get \$175 million at the end of this grant, I believe that we, as district leaders, have a responsibility to take whatever dollars we have, whether they come at the highest level of funding in 50 states or near the bottom. We have a responsibility to take those dollars and do that which is right. And so, again, I think the alignment of this grant to the things that we know will produce a better educational system are too important not to do.

I know there has been a lot of conversation about the 15 words and would it be a better grant if we removed those words to make us more competitive. I support the state superintendent in his belief that the grant would be best if it is done in collaboration with all the people who are going to be impacted by it. Currently, the 15 words that have been modified in the grant if it has the associations, our teachers, doing this in collaboration, it will make it a more competitive grant. Some of the states that will turn in an application for Race to the Top will not have teacher support, and I believe that will make for a weaker grant. I will tell you that when our board of trustees discussed this in Washoe County, our local teachers' association came to the table and said that if, in fact, we were eligible to apply for this, they would work in collaboration

and cooperation with us for these reforms. That is going to make it a stronger state grant. So I join our state superintendent in asking you to pass this evening. Thank you.

JOYCE HALDEMAN, ASSOCIATE SUPERINTENDENT, CLARK COUNTY SCHOOL DISTRICT:

I echo the sentiments of the two doctors sitting next to me. In addition, I wanted to make sure that you understood the position of the Clark County School District. The dollars that this could infuse into our budget are greatly needed. The reforms that have been talked about are some things that have been tried on a pilot basis in Clark County, and we would really like this money so that we can continue those things that we are doing with empowerment schools, mentors, and other things.

Additionally, I wanted to put on the record that the Clark County School District was a part of the compromise language which was worked out at the Legislative Committee on Education. We started with a different position, but as we worked through the negotiations, we felt that the compromise language that was worked out is absolutely fine. We think it gives us the opportunity to apply for the grant, and additionally, it puts into statute language that we have worked for for several years, and that is the ability for us to use student achievement in order to evaluate teachers. I would like you to keep that in mind too, separate from the Race to the Top application. This is statute language would remain in force to help us with other things as we go on. We stand fully supportive of this language and encourage you to pass it. Thank you.

CHAIR BUCKLEY:

Thank you for your testimony. Questions of the committee? Assemblyman Anderson.

ASSEMBLYMAN ANDERSON:

In part, I had intended this for Ms. Mastroluca and our staff but I think Dr. Rheault would be more than happy to answer this particular question. He always likes me to pick on him. One of the concerns that were raised in this time period, when the public found out about the potential availability of these dollars, seems to revolve around the dates of when we knew and when these dollars became available. I would like, for the record, someone to clarify that while the President signed the bill in February and we could have seen it, in reality your understanding of it didn't come until November, when those regulations were finally published. The public doesn't seem to understand that, and I was kind of hoping maybe you would talk a little about that timeline.

KEITH RHEAULT:

Assemblyman Anderson, you are a hundred percent correct. When the Recovery Act was first initiated in February that was one piece, and they kept talking about this "Race to the Top," but nothing was ever provided in detail. It was not until November of this past year that they even identified the criteria for that, and that's when we first learned of the prohibition against having a barrier using student data. So that was in November. I think the Legislature acted on this. We had two special meetings of the Legislative Committee on Education in December to address the barrier and to see how the state could move forward. I think part of the initial concern was that they were spending the money or distributing the money under phases. The first phase applications were due January 19th, and 40 states were able to apply for that. Unfortunately, Nevada was not even eligible, so that eliminated us from that procedure. But there were nine other states that did not apply also.

I think another concern was that by not applying under Phase 1, we would lose out on some funding. It does not make any difference whether you get approved under Phase 1 or Phase 2; the range that they gave Nevada will still be the same and we would be eligible as before, between \$60 and \$175 million. So that did not have an effect. In my timeline, it takes everything from November, when the act was first identified, and backs it up to June 1, when the applications are due and the Secretary of State has to sign off on it, as well as the Governor, and the application has all those details we've mentioned. If anyone has a question as far as some of the future activities and collaboration we are going to write the grant, it is in the timeline.

CHAIR BUCKLEY:

Thank you, Assemblyman Anderson. Assemblyman Cobb.

ASSEMBLYMAN COBB:

Thank you, Madam Chair. We have been talking a lot about reforms, and this is obviously part of the reform process under section D of the pamphlet that was handed to us about the federal program itself. It is entitled “State Reform Conditions Criteria,” which is one of those cited by the presenter of the bill as to why we would want to do this.

Under section IV, subsection d, for improving teacher and principal effectiveness, it states, “Working in collaboration with participating LEAs”—which I am assuming is a local education agency—“have a high quality plan and ambitious yet achievable annual targets to ensure that participating LEAs remove ineffective tenured and untenured teachers and principals.” And it goes on from there.

One of the problems that I have had with so-called reform efforts of the past is things like pay for performance is really just a bonus system. There is no accountability on the back end in holding teachers who aren’t performing accountable. How do you, as the heads of the local LEAs, plan on using this money under this bill, through these criteria, to hold teachers accountable who aren’t performing?

HEATH MORRISON:

Madam Speaker, though you, to the Assemblyman. What Race to the Top will help do is to provide resources to create robust professional growth systems. In a robust, professional growth system, you have a clear definition of success, you have clear measures with which to measure that success, and you have an obligation to try to build the capacity of that employee. But then through the measures that you have and the systems that you support, you have the opportunity to either get that employee, whether it is a teacher or principal, to a satisfactory level, or you have an obligation to have a courageous conversation, in explaining they cannot lead a school or they cannot teach in a classroom because it is not what is in the best interest of students.

The Race to the Top gives us resources to build better support systems. It will give us the ability to create better accountability systems, data systems, and dashboard score cards so that we are doing a better job of being able to truly measure what is effectiveness. I think that is why I am so encouraged about it, because I believe that accountability is something everybody welcomes. This gives us the resources to be able to hold people accountable but also to build capacity to hold them accountable for the job they are tasked to do.

ASSEMBLYMAN COBB:

More specifically, my question is, how are you going to use this, as it specifically states, “To be able to remove ineffective, tenured and untenured teachers and principals?” So, not to build a support system but actually remove those who aren’t performing?

HEATH MORRISON:

Madam Speaker, through you to the Assemblyman. Again, I don’t want to be repetitive about it, but I think, in many ways, it is the same answer. You do not just go into any kind of organization and say we need to get rid of people. Obviously, at some point, whether it is public education or private industry, somebody thought enough of someone to hire them. So the first obligation that we have is to try to build their capacity. And before that, we have an obligation to define success. This Race to the Top will help us do that. But I think the other thing that I know it will do is it will give us a clear pathway to define what effectiveness is, and that is a difficult task. It will give us the ability to have multiple measures with which to define that effectiveness. But at the end of day, no matter what program you are talking about, it is about the courage to turn around and look someone in the face and say, “I appreciate your efforts. I value you as a person. But in public education, you are not serving the interest of kids.” So this Race to the Top gives us resources, definition, processes, and data systems to do a better job of that. We have to do that in public education. It is a necessity.

CHAIR BUCKLEY:

Assemblyman Stewart.

ASSEMBLYMAN STEWART:

Thank you, Madam Chair. Thank you, all three of you. I just want to be reassured, once again, that you are confident that the removal of the 15 words, in the addition of the other wordage, is going to make us competitive with the other states in this area. You are confident of that?

KEITH RHEAULT:

As state superintendent, I am confident that we will be eligible. Now there are a few areas we may lose points on, but it's not going to be because of the barrier we have removed.

CHAIR BUCKLEY:

Assemblyman Hambrick.

ASSEMBLYMAN HAMBRICK:

Thank you, Madam Chair. I have a question. I am not sure if the witnesses in the well have the agenda—A, B, and C. In going through it, and watching the way the process grew, but then going to the bill, on page 3, starting with line 12, going down to “inclusive with line 18,” we are talking about numbers and words. I am curious to find out the genesis, on line 18 of page 3, of five particular words: “or taking disciplinary action against.” From line 12, down, we are dealing with performance and dealing with pupil improvement and the effectiveness of the teachers. Where did those five words on line 18 come from? How did performance and disciplinary action come to play? I would like to have someone explain the genesis. To me, there is a disconnect. Thank you, Madam Chair.

CHAIR BUCKLEY:

What do those words mean, in your opinion—that “The information must be considered, but not used as the sole criterion—either in an evaluation or disciplinary action?” I think that is the question.

ASSEMBLYMAN HAMBRICK:

Primarily line 18, starting with “or taking disciplinary action against.” Just those five words. Leaving them in is one thing; taking them out does not detract from the purpose of this paragraph. I am very curious to the genesis—why we are dealing with potential disciplinary action in this particular section of the bill.

KEITH RHEAULT:

Madam Chair, I will take an attempt at it. I think the language was put in—and you have to take it in the full context of the full change to the language. That is we are allowing the use of student achievement data in evaluations. As part of the act, it says that it needs to be a significant portion, but only a portion, and that there have to be multiple factors. I think the reason this additional language was put in was to make sure that the student achievement data was not the sole purpose that a teacher was disciplined but that you look at all the standards that have been set in the evaluation process and that is what would be used—to make it clear that it is not just student achievement being used to discipline or evaluate a teacher.

CHAIR BUCKLEY:

Assemblyman Anderson.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Chair. Dr. Rheault and superintendent, I believe that the responsibility for the site administrator to do proper evaluation in the classroom is not in any way changed in terms of what his or her responsibility is to make sure that the quality of education in that classroom is the highest that he can possibly do. This does not lower that standard in any way, or the teacher's responsibility to provide the best that he or she can for their students every day.

KEITH RHEAULT:

Assemblyman Anderson, I concur with that. We are not changing any of the annual evaluations that are required. If we adopt this, as part of a school district agreeing to participate in the Race to the Top, they will have to go back—and it may take a year or two—to work out

the agreements as to how student achievement and the other factors are going to be modified into a new evaluation system. But the evaluation requirements and criteria of a principal on staff are going to stay identical to the requirements that we currently have in place.

CHAIR BUCKLEY:

Assemblywoman Woodbury.

ASSEMBLYWOMAN WOODBURY:

Thank you, Madam Chair. I have a question on line 16, “the information must be considered.” While student achievement is what we are after, I am just wondering how that will work. Because even if you just measure growth—not necessarily raw scores, but growth—some teachers have students that come from different subgroups and different populations, whether it be learning disabled or other special needs, such as second language learners. Or there are students that come from different types of homes, have different amounts of parent involvement, and have access to different resources. How will you ensure that it is fair or that you are measuring appropriate growth? Because some kids not only don’t achieve as high, but they have less ability to grow as quickly.

HEATH MORRISON:

First of all, we have to start off with a belief that all kids can learn and that it is our responsibility to make sure that they do. If we do not start off from there, then we should not even be having this conversation today about educational reform. I think your question, though, is that some kids come more prepared to learn more quickly. How do you evaluate a teacher fairly when they may have many students who come from different readiness to learn?

For example, if a teacher has a higher percentage of students in poverty, have mobility issues, or who speak English as a second language—we know those are factors and challenges in education. They are not barriers. How do we expect that teacher to perform if they have more students impacted by poverty, mobility, and language than a teacher who doesn’t? And I think you hit it right on the head. Part of what Race to the Top wants public school systems to do is to develop growth measures. When you look at No Child Left Behind today, whether you are a big fan of that piece of legislation or not, it brought an unprecedented amount of accountability to public education. I think the issue that many people have with it is that it does leave children behind. If you have three students and you are trying right now, a couple of weeks before the CRTs, to get those students to pass our state tests, and you have one student who came in, and they’re seventh grade, and he or she is reading on a tenth grade reading level, they are money in the bank. If you have a student on the opposite end who is reading on a second grade reading level and they are in seventh grade, then a couple of weeks before CRTs, how are you going to get them to read at an appropriate level for CRTs? If you have a student who is reading at a sixth or seventh grade reading level, you are putting all your attention on that student in the middle. You have left behind two out of the three students, trying to do something called No Child Left Behind.

Race to the Top changes the mechanisms under a growth model that says, “We expect you to have growth with each student. We expect you to have growth with the student at the high end, growth with the student at the low end, and growth with the student in the middle.” As a matter of fact, if we structure this well, because we not only want to raise the bar but close gaps, we want to see more growth with those students at the low and middle end. But we want to see growth with all students. That’s why the capacity building under No Child Left Behind, for teachers and principals, is an essential part of this key piece of legislation. If we do that well—and we can do that well, and we use multiple measures, it’s not only testing—but testing is a component of it—then I believe we can create evaluation systems that are fair and that at the end of the day are solid and good and will give our administrators and teachers the tools they need to do this important work.

JOYCE HALDEMAN, ASSOCIATE:

Madam Speaker and Assemblywoman Woodbury, I also wanted to point out that this will be a complex process that we go through to determine the evaluation processes that will be used. It certainly is not something that will be done in a vacuum. It will be done at the bargaining table

with the appropriate people having input so that we treat all employees fairly. We do need to have a hook so that we can take care of the people who need some additional help, or if it comes to that, terminating their contracts. This is something that will be done in conjunction with a lot of people, not just simply applied to people.

CHAIR BUCKLEY:

Assemblyman Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Chair. Dr. Morrison or Keith, I guess I am going to move away from the language and more to the Race to the Top itself. Is this the program that actually has some mandates in it, that says that if you are in an underperforming school at a certain level, then you have to change the principal and/or a percentage of the staff? No? Okay, I'm on the wrong page.

CHAIR BUCKLEY:

Any other questions of the committee? I guess I just have one.

The reason I supported the language that the committee came up with was because I was concerned that if we made it sound like test scores could be the sole reason for a teacher being fired or disciplined and we didn't thoughtfully use a growth model, as was just suggested, what we might see happen is more highly qualified teachers leaving poverty schools. I come from an inner city district in Las Vegas. I was just looking at my son's accountability reports, both for his elementary school and for the middle school, which are very conveniently placed on the Clark County's School District's website. And in the middle school that my son is zoned for, we have 12 percent lack of highly qualified teachers in math, 13 percent in science, and 14 percent in English. The worst thing we can do is drive out highly qualified teachers from the schools that need them. And so that is why we have to be thoughtful in what we are doing and look at things like growth models, assume that every child can learn, of course, but not send the message that we want teachers to either abandon high poverty schools or the special populations where we need the best teachers to stay in special education and ELL and with high poverty schools. Am I off the mark in my assessment?

HEATH MORRISON:

Madam Speaker, we try to do a lot of things right in public education. But what I think we need to take ourselves to task for is that for too many years, we have given less in schools to the children who come to us with less. So when students come to us impacted by poverty, mobility, and language, they don't often or always get the nicest schools. They don't always get the nicest materials. Unfortunately, too often, they don't get access to the best teachers. As we all across the country look at how do we raise the bar and close the gap and really educate all children at high levels, the research is very clear. The number one thing that can make a difference in the life of a child is three years of effective teaching. The next thing is having an effective principal in every building. But the number one thing is three years of outstanding teaching closes and eliminates all achievement gaps. And so, if we can use the resources in Race to the Top, and build a better educational system and get us mechanisms to put great teachers in every classroom, but especially not shortchange those students who come to us in poverty, mobility and language, I think we are going to have an educational system here in the Silver State we all are going to be very, very proud of.

JOYCE HALDEMAN:

Madam Speaker, if I can add one thing. I think if it is done correctly, this provision could actually increase the number of highly qualified schools and teachers to go to those schools. When you think about it, if you are teaching at a school that already has a high achievement level, making growth on that upper end is very difficult; moving from 95 to 96 percent is a lot more difficult than moving from a 20 percent achievement level to something that is 30 percent or 40 percent. If we write the language carefully enough, I think it could actually serve to be an incentive to attract teachers to those schools.

CHAIR BUCKLEY:

Thank you. Assemblywoman Smith.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Chair. In looking at how it might affect our application for Race to the Top, and I looked at couple of other states and how they changed their law. I noticed Wisconsin, which one of you mentioned, which is one of the last states—theirs has the discipline language in it. And Utah, a state many of our colleagues like to talk about when we look at education issues, actually has a very complex system for evaluations that refers it back to the district, and they have a committee that sets up all the criteria. It is much, much more burdensome than these few words in this section that we are talking about today. I just wanted to confirm that I am right about that—in the way I am looking at those. The other states have a lot of different language as well.

KEITH RHEAULT:

Assemblywoman Smith, you are a hundred percent correct. I know that same question came up on the Senate side. Would Nevada kind of stick out by themselves by having this kind of language to remove the barrier? I can tell you that almost every state has different language. Nevada is just a little bit different. It is probably fairly close to what Wisconsin has adopted.

Most states became eligible for the Race to the Top by not even addressing the issue in statute, which meant they did not have a barrier—they did not have anything supporting it, but they did not have a barrier, which meant they were eligible to apply and didn't have to modify anything. Where they ended up describing how they would get to the evaluation piece was just in their application and may not even be in statute. What they required though, was if a district wanted to participate and receive the funding, then they had to sign off on that process. I think you are correct and that if all 50 states eventually apply, we will probably have 35 different models, so all that is going to happen.

HEATH MORRISON:

Madam Chair, through you to the Assemblywoman. I think the concern, in having had conversations with many of the individuals in this room, is what happens if we don't take the 15 words out. Are we going to make ourselves less competitive? And I certainly appreciate individuals who are afraid of that, but I think the better question is what makes us the most competitive? I am optimistic about a lot of things. I am optimistic about the individuals who have come together across the state to want to help. It is not only all the school districts working in conjunction with our state Department of Education, but we've got businesses and businessmen and women who have come together. We have one individual who has gotten graduate assistants and has looked at all the competitive applications and has given us great resources to put together an amazing, amazing application.

I think one of the things that is going to be very, very unique about Nevada, in our application, is that you have representatives from the two largest school districts before you tonight. So between our two school districts, we represent almost 90 percent of the students in this state. One of the things they are going to look for is whether the school systems that represent a majority of students at the table applying for this grant. And the answer, for Nevada, is going to be yes.

Additionally, they are going to look to see if there is collaboration. The Secretary of Education has been very clear. It is one thing to write a competitive grant. An even more important question is can you execute it? Can you make it happen? You can try to do this in one of two ways. You can do a grant like this and try to execute it at people, or you can try to make it happen and implement it with people. Our ability to put forward a grant that is going to have broad-based support and have our associations and our teachers signing off on it, which I believe they will do with the words that have been recommended for you tonight, is going to make our application very unique and something I hope, and I know you hope as well, will be considered.

CHAIR BUCKLEY:

Okay, we thank you for your testimony. Is there anyone else who would like to provide testimony on Senate Bill 2?

We appreciate you being here and look forward to your testimony.

ALLISON TURNER, PRESIDENT, NEVADA PARENT TEACHER ASSOCIATION:

Nevada PTA supports the recommendation of the Legislative Committee on Education. We are very appreciative of the hard work of the many stakeholders to hammer out an acceptable compromise that also opens the door to this opportunity for Nevada.

In terms of teacher compensation, as I have mentioned before, Nevada PTA supports the development of these strategies and programs. I will also note, again, but very briefly, that this legislature approved several reform components during the 2009 Session, all of which were eliminated during the first round of budget cuts, including, of course, a pay for performance model, a statewide empowerment school model, a state level parental involvement coordinator position, and additional competitive grant monies for innovation and improvement, following up grants from S.B. 404 and S.B. 185 of the 74th Session. Obviously, Nevada is no stranger to the will to adapt and reform.

I will also note that these monies are intended to supplement, not supplant. And yet, we have all these programs ready to go that you guys have already vetted and voted on. I will also note that the range of grant monies available to us are between \$60 and \$175 million. This is an opportunity for Nevada, not a panacea.

Finally, once again, Nevada PTA remains committed to efforts to reform and efforts to bring an equitable, adequate, and effective education to Nevada's children. For their sakes and for all Nevadans, thank you so much for your consideration and all your very hard work on behalf of the children of Nevada.

CHAIR BUCKLEY:

Thank you, Ms. Turner, for your testimony.

CRAIG STEVENS, DIRECTOR OF GOVERNMENT RELATIONS, NEVADA STATE EDUCATION ASSOCIATION:

I am going to be brief. Since well before the inception of Race to the Top, the issue of tying test scores to educator evaluations has not been an easy one. The NSEA fully supports the collaboration that occurred across all state co-interests on this issue in regard to Race to the Top. Through the interim legislative process, a compromise was reached. With this language, Nevada will finally become eligible to apply for these funds. The NSEA fully endorses the interim Legislative Committee on Education's language and also believes that the collaborative work that we have done will only help our application and help us score more points as we move through this process. Thank you.

CHAIR BUCKLEY:

Thank you, for your testimony? Are there questions of the committee? There are none. Thank you for being here.

Submitted Exhibits

See below.

Race to the Top Program Executive Summary



U.S. Department of Education
Washington, D.C. 20202

November 2009

"It's time to stop just talking about education reform and start actually doing it.
It's time to make education America's national mission."
— President Barack Obama, November 4, 2009

BACKGROUND

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA), historic legislation designed to stimulate the economy, support job creation, and invest in critical sectors, including education. The ARRA lays the foundation for education reform by supporting investments in innovative strategies that are most likely to lead to improved results for students, long-term gains in school and school system capacity, and increased productivity and effectiveness.

The ARRA provides \$4.35 billion for the Race to the Top Fund, a competitive grant program designed to encourage and reward States that are creating the conditions for education innovation and reform; achieving significant improvement in student outcomes, including making substantial gains in student achievement, closing achievement gaps, improving high school graduation rates, and ensuring student preparation for success in college and careers; and implementing ambitious plans in four core education reform areas:

- Adopting standards and assessments that prepare students to succeed in college and the workplace and to compete in the global economy;
- Building data systems that measure student growth and success, and inform teachers and principals about how they can improve instruction;
- Recruiting, developing, rewarding, and retaining effective teachers and principals, especially where they are needed most; and
- Turning around our lowest-achieving schools.

Race to the Top will reward States that have demonstrated success in raising student achievement and have the best plans to accelerate their reforms in the future. These States will offer models for others to follow and will spread the best reform ideas across their States, and across the country.

KEY TIMING

The Department plans to make Race to the Top grants in two phases. States that are ready to apply now may do so in Phase 1; States that need more time may apply in Phase 2. States that apply in Phase 1 but are not awarded grants may reapply for funding in Phase 2, together with States that are applying for the first time in Phase 2. Phase 1 grantees may not apply for additional funding in Phase 2.

Notices Published:	November 2009
Technical Assistance:	
Informational Conference Calls:	November and December 2009
Technical Assistance Workshops:	December 3 in Denver, CO; December 10 in Washington, D.C.
Other Events	TBD
Applications:	
Phase 1 Applications Due:	January 19, 2010
Phase 1 Awards Announced:	April 2010
Phase 2 Applications Due:	June 1, 2010
Phase 2 Awards Announced:	September 2010

OVERVIEW OF PROGRAM AND POINTS**Selection Criteria****A. State Success Factors (125 points)**

- (A)(1) Articulating State's education reform agenda and LEAs' participation in it (65 points)
- (A)(2) Building strong statewide capacity to implement, scale up, and sustain proposed plans (30 points)
- (A)(3) Demonstrating significant progress in raising achievement and closing gaps (30 points)

B. Standards and Assessments (70 points)

- (B)(1) Developing and adopting common standards (40 points)
- (B)(2) Developing and implementing common, high-quality assessments (10 points)
- (B)(3) Supporting the transition to enhanced standards and high-quality assessments (20 points)

C. Data Systems to Support Instruction (47 points)

- (C)(1) Fully implementing a statewide longitudinal data system (24 points)
- (C)(2) Accessing and using State data (5 points)
- (C)(3) Using data to improve instruction (18 points)

D. Great Teachers and Leaders (138 points)

- (D)(1) Providing high-quality pathways for aspiring teachers and principals (21 points)
- (D)(2) Improving teacher and principal effectiveness based on performance (58 points)
- (D)(3) Ensuring equitable distribution of effective teachers and principals (25 points)
- (D)(4) Improving the effectiveness of teacher and principal preparation programs (14 points)
- (D)(5) Providing effective support to teachers and principals (20 points)

E. Turning Around the Lowest-Achieving Schools (50 points)

- (E)(1) Intervening in the lowest-achieving schools and LEAs (10 points)
- (E)(2) Turning around the lowest-achieving schools (40 points)

F. General Selection Criteria (55 points)

- (F)(1) Making education funding a priority (10 points)
- (F)(2) Ensuring successful conditions for high-performing charters and other innovative schools (40 points)
- (F)(3) Demonstrating other significant reform conditions (5 points)

Priorities

Priority 1: Absolute Priority – Comprehensive Approach to Education Reform

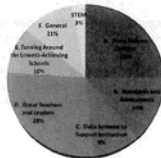
Priority 2: Competitive Preference Priority – Emphasis on Science, Technology, Engineering, and Mathematics (STEM) (15 points, all or nothing)

Priority 3: Invitational Priority – Innovations for Improving Early Learning Outcomes

Priority 4: Invitational Priority – Expansion and Adaptation of Statewide Longitudinal Data Systems

Priority 5: Invitational Priority – P-20 Coordination, Vertical and Horizontal Alignment

Priority 6: Invitational Priority – School-Level Conditions for Reform, Innovation, and Learning

Race to the Top Points

ELIGIBILITY REQUIREMENTS

A State must meet the following requirements in order to be eligible to receive funds under this program.

(a) The State's applications for funding under Phase 1 and Phase 2 of the State Fiscal Stabilization Fund program must be approved by the Department prior to the State being awarded a Race to the Top grant.

(b) At the time the State submits its application, there must not be any legal, statutory, or regulatory barriers at the State level to linking data on student achievement (as defined in this notice) or student growth (as defined in this notice) to teachers and principals for the purpose of teacher and principal evaluation.

PRIORITIES**Priority 1: Absolute Priority -- Comprehensive Approach to Education Reform**

To meet this priority, the State's application must comprehensively and coherently address all of the four education reform areas specified in the ARRA as well as the State Success Factors Criteria in order to demonstrate that the State and its participating LEAs are taking a systemic approach to education reform. The State must demonstrate in its application sufficient LEA participation and commitment to successfully implement and achieve the goals in its plans; and it must describe how the State, in collaboration with its participating LEAs, will use Race to the Top and other funds to increase student achievement, decrease the achievement gaps across student subgroups, and increase the rates at which students graduate from high school prepared for college and careers.

Priority 2: Competitive Preference Priority -- Emphasis on Science, Technology, Engineering, and Mathematics (STEM). (15 points, all or nothing)

To meet this priority, the State's application must have a high-quality plan to address the need to (i) offer a rigorous course of study in mathematics, the sciences, technology, and engineering; (ii) cooperate with industry experts, museums, universities, research centers, or other STEM-capable community partners to prepare and assist teachers in integrating STEM content across grades and disciplines, in promoting effective and relevant instruction, and in offering applied learning opportunities for students; and (iii) prepare more students for advanced study and careers in the sciences, technology, engineering, and mathematics, including by addressing the needs of underrepresented groups and of women and girls in the areas of science, technology, engineering, and mathematics.

Priority 3: Invitational Priority -- Innovations for Improving Early Learning Outcomes.

The Secretary is particularly interested in applications that include practices, strategies, or programs to improve educational outcomes for high-need students who are young children (pre-kindergarten through third grade) by enhancing the quality of preschool programs. Of particular interest are proposals that support practices that (i) improve school readiness (including social, emotional, and cognitive); and (ii) improve the transition between preschool and kindergarten.

Priority 4: Invitational Priority -- Expansion and Adaptation of Statewide Longitudinal Data Systems.

The Secretary is particularly interested in applications in which the State plans to expand statewide longitudinal data systems to include or integrate data from special education programs, English language learner programs,¹ early childhood programs, at-risk and dropout prevention programs, and school climate and culture programs, as well as information on student mobility, human resources (i.e., information on teachers, principals, and other staff), school finance, student health, postsecondary education, and other

¹ The term English language learner, as used in this notice, is synonymous with the term limited English proficient, as defined in section 9101 of the ESEA.

relevant areas, with the purpose of connecting and coordinating all parts of the system to allow important questions related to policy, practice, or overall effectiveness to be asked, answered, and incorporated into effective continuous improvement practices.

The Secretary is also particularly interested in applications in which States propose working together to adapt one State's statewide longitudinal data system so that it may be used, in whole or in part, by one or more other States, rather than having each State build or continue building such systems independently.

Priority 5: Invitational Priority -- P-20 Coordination, Vertical and Horizontal Alignment.

The Secretary is particularly interested in applications in which the State plans to address how early childhood programs, K-12 schools, postsecondary institutions, workforce development organizations, and other State agencies and community partners (e.g., child welfare, juvenile justice, and criminal justice agencies) will coordinate to improve all parts of the education system and create a more seamless preschool-through-graduate school (P-20) route for students. Vertical alignment across P-20 is particularly critical at each point where a transition occurs (e.g., between early childhood and K-12, or between K-12 and postsecondary/careers) to ensure that students exiting one level are prepared for success, without remediation, in the next. Horizontal alignment, that is, coordination of services across schools, State agencies, and community partners, is also important in ensuring that high-need students (as defined in this notice) have access to the broad array of opportunities and services they need and that are beyond the capacity of a school itself to provide.

Priority 6: Invitational Priority -- School-Level Conditions for Reform, Innovation, and Learning.

The Secretary is particularly interested in applications in which the State's participating LEAs (as defined in this notice) seek to create the conditions for reform and innovation as well as the conditions for learning by providing schools with flexibility and autonomy in such areas as--

- (i) Selecting staff;
- (ii) Implementing new structures and formats for the school day or year that result in increased learning time (as defined in this notice);
- (iii) Controlling the school's budget;
- (iv) Awarding credit to students based on student performance instead of instructional time;
- (v) Providing comprehensive services to high-need students (as defined in this notice) (e.g., by mentors and other caring adults; through local partnerships with community-based organizations, nonprofit organizations, and other providers);
- (vi) Creating school climates and cultures that remove obstacles to, and actively support, student engagement and achievement; and
- (vii) Implementing strategies to effectively engage families and communities in supporting the academic success of their students.

SELECTION CRITERIA**A. State Success Factors (125 points)****(A)(1) Articulating State's education reform agenda and LEAs' participation in it (65 points)**

The extent to which—

- (i) The State has set forth a comprehensive and coherent reform agenda that clearly articulates its goals for implementing reforms in the four education areas described in the ARRA and improving student outcomes statewide, establishes a clear and credible path to achieving these goals, and is consistent with the specific reform plans that the State has proposed throughout its application; (5 points)
- (ii) The participating LEAs (as defined in this notice) are strongly committed to the State's plans and to effective implementation of reform in the four education areas, as evidenced by Memoranda of Understanding (MOUs) (as set forth in Appendix D)² or other binding agreements between the State and its participating LEAs (as defined in this notice) that include— (45 points)
 - (a) Terms and conditions that reflect strong commitment by the participating LEAs (as defined in this notice) to the State's plans;
 - (b) Scope-of-work descriptions that require participating LEAs (as defined in this notice) to implement all or significant portions of the State's Race to the Top plans; and
 - (c) Signatures from as many as possible of the LEA superintendent (or equivalent), the president of the local school board (or equivalent, if applicable), and the local teachers' union leader (if applicable) (one signature of which must be from an authorized LEA representative) demonstrating the extent of leadership support within participating LEAs (as defined in this notice); and
 - (iii) The LEAs that are participating in the State's Race to the Top plans (including considerations of the numbers and percentages of participating LEAs, schools, K-12 students, and students in poverty) will translate into broad statewide impact, allowing the State to reach its ambitious yet achievable goals, overall and by student subgroup, for— (15 points)
 - (a) Increasing student achievement in (at a minimum) reading/language arts and mathematics, as reported by the NAEP and the assessments required under the ESEA;
 - (b) Decreasing achievement gaps between subgroups in reading/language arts and mathematics, as reported by the NAEP and the assessments required under the ESEA;
 - (c) Increasing high school graduation rates (as defined in this notice); and
 - (d) Increasing college enrollment (as defined in this notice) and increasing the number of students who complete at least a year's worth of college credit that is applicable to a degree within two years of enrollment in an institution of higher education.

(A)(2) Building strong statewide capacity to implement, scale up, and sustain proposed plans (30 points)

The extent to which the State has a high-quality overall plan to—

- (i) Ensure that it has the capacity required to implement its proposed plans by— (20 points)
 - (a) Providing strong leadership and dedicated teams to implement the statewide education reform plans the State has proposed;
 - (b) Supporting participating LEAs (as defined in this notice) in successfully implementing the education reform plans the State has proposed, through such activities as identifying promising practices, evaluating these practices' effectiveness, ceasing ineffective practices, widely disseminating and replicating the effective practices statewide, holding participating LEAs (as defined in this notice) accountable for progress and performance, and intervening where necessary;
 - (c) Providing effective and efficient operations and processes for implementing its Race to the Top grant in such areas as grant administration and oversight, budget reporting and monitoring, performance measure tracking and reporting, and fund disbursement;

² See Appendix D for more on participating LEA MOUs and for a model MOU.

(d) Using the funds for this grant, as described in the State's budget and accompanying budget narrative, to accomplish the State's plans and meet its targets, including, where feasible, by coordinating, reallocating, or repurposing education funds from other Federal, State, and local sources so that they align with the State's Race to the Top goals; and

(e) Using the fiscal, political, and human capital resources of the State to continue, after the period of funding has ended, those reforms funded under the grant for which there is evidence of success; and

(f) Use support from a broad group of stakeholders to better implement its plans, as evidenced by the strength of statements or actions of support from— (10 points)

(a) The State's teachers and principals, which include the State's teachers' unions or statewide teacher associations; and

(b) Other critical stakeholders, such as the State's legislative leadership; charter school authorizers and State charter school membership associations (if applicable); other State and local leaders (e.g., business, community, civil rights, and education association leaders); Tribal schools; parent, student, and community organizations (e.g., parent-teacher associations, nonprofit organizations, local education foundations, and community-based organizations); and institutions of higher education.

(A)(3) Demonstrating significant progress in raising achievement and closing gaps (30 points)

The extent to which the State has demonstrated its ability to—

(i) Make progress over the past several years in each of the four education reform areas, and used its ARRA and other Federal and State funding to pursue such reforms; (5 points)

(ii) Improve student outcomes overall and by student subgroup since at least 2003, and explain the connections between the data and the actions that have contributed to— (25 points)

(a) Increasing student achievement in reading/language arts and mathematics, both on the NAEP and on the assessments required under the ESEA;

(b) Decreasing achievement gaps between subgroups in reading/language arts and mathematics, both on the NAEP and on the assessments required under the ESEA; and

(c) Increasing high school graduation rates.

B. Standards and Assessments (70 points)

State Reform Conditions Criteria

(B)(1) Developing and adopting common standards (40 points)

The extent to which the State has demonstrated its commitment to adopting a common set of high-quality standards, evidenced by (as set forth in Appendix B)—

(i) The State's participation in a consortium of States that— (20 points)

(a) Is working toward jointly developing and adopting a common set of K-12 standards (as defined in this notice) that are supported by evidence that they are internationally benchmarked and build toward college and career readiness by the time of high school graduation; and

(b) Includes a significant number of States; and

(ii) (20 points)

(a) For Phase 1 applications, the State's high-quality plan demonstrating its commitment to and progress toward adopting a common set of K-12 standards (as defined in this notice) by August 2, 2010, or, at a minimum, by a later date in 2010 specified by the State, and to implementing the standards thereafter in a well-planned way; or

(b) For Phase 2 applications, the State's adoption of a common set of K-12 standards (as defined in this notice) by August 2, 2010, or, at a minimum, by a later date in 2010 specified by the State in a high-quality plan toward which the State has made significant progress, and its commitment to implementing the standards thereafter in a well-planned way.³

³ Phase 2 applicants addressing selection criterion (B)(1)(ii) may amend their June 1, 2010 application submission through August 2, 2010 by submitting evidence of adopting common standards after June 1, 2010.

(B)(2) Developing and implementing common, high-quality assessments (10 points)

The extent to which the State has demonstrated its commitment to improving the quality of its assessments, evidenced by (as set forth in Appendix B) the State's participation in a consortium of States that—

- (i) Is working toward jointly developing and implementing common, high-quality assessments (as defined in this notice) aligned with the consortium's common set of K-12 standards (as defined in this notice); and
- (ii) Includes a significant number of States.

Reform Plan Criteria**(B)(3) Supporting the transition to enhanced standards and high-quality assessments (20 points)**

The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan for supporting a statewide transition to and implementation of internationally benchmarked K-12 standards that build toward college and career readiness by the time of high school graduation, and high-quality assessments (as defined in this notice) tied to these standards. State or LEA activities might, for example, include: developing a rollout plan for the standards together with all of their supporting components; in cooperation with the State's institutions of higher education, aligning high school exit criteria and college entrance requirements with the new standards and assessments; developing or acquiring, disseminating, and implementing high-quality instructional materials and assessments (including, for example, formative and interim assessments (both as defined in this notice)); developing or acquiring and delivering high-quality professional development to support the transition to new standards and assessments; and engaging in other strategies that translate the standards and information from assessments into classroom practice for all students, including high-need students (as defined in this notice).

C. Data Systems to Support Instruction (47 points)**State Reform Conditions Criteria****(C)(1) Fully implementing a statewide longitudinal data system (24 points)**

The extent to which the State has a statewide longitudinal data system that includes all of the America COMPETES Act elements (as defined in this notice).

Reform Plan Criteria**(C)(2) Accessing and using State data (5 points)**

The extent to which the State has a high-quality plan to ensure that data from the State's statewide longitudinal data system are accessible to, and used to inform and engage, as appropriate, key stakeholders (e.g., parents, students, teachers, principals, LEA leaders, community members, unions, researchers, and policymakers); and that the data support decision-makers in the continuous improvement of efforts in such areas as policy, instruction, operations, management, resource allocation, and overall effectiveness.⁴

(C)(3) Using data to improve instruction (18 points)

The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan to—

- (i) Increase the acquisition, adoption, and use of local instructional improvement systems (as defined in this notice) that provide teachers, principals, and administrators with the information and resources they need to inform and improve their instructional practices, decision-making, and overall effectiveness;
- (ii) Support participating LEAs (as defined in this notice) and schools that are using instructional improvement systems (as defined in this notice) in providing effective professional development to teachers,

⁴ Successful applicants that receive Race to the Top grant awards will need to comply with the Family Educational Rights and Privacy Act (FERPA), including 34 CFR Part 99, as well as State and local requirements regarding privacy.

principals, and administrators on how to use these systems and the resulting data to support continuous instructional improvement; and

(iii) Make the data from instructional improvement systems (as defined in this notice), together with statewide longitudinal data system data, available and accessible to researchers so that they have detailed information with which to evaluate the effectiveness of instructional materials, strategies, and approaches for educating different types of students (e.g., students with disabilities, English language learners, students whose achievement is well below or above grade level).

D. Great Teachers and Leaders (138 points)

State Reform Conditions Criteria

(D)(1) Providing high-quality pathways for aspiring teachers and principals (21 points)

The extent to which the State has—

- (i) Legal, statutory, or regulatory provisions that allow alternative routes to certification (as defined in this notice) for teachers and principals, particularly routes that allow for providers in addition to institutions of higher education;
- (ii) Alternative routes to certification (as defined in this notice) that are in use; and
- (iii) A process for monitoring, evaluating, and identifying areas of teacher and principal shortage and for preparing teachers and principals to fill these areas of shortage.

Reform Plan Criteria

(D)(2) Improving teacher and principal effectiveness based on performance (58 points)

The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan and ambitious yet achievable annual targets to ensure that participating LEAs (as defined in this notice)—

- (i) Establish clear approaches to measuring student growth (as defined in this notice) and measure it for each individual student; (5 points)
- (ii) Design and implement rigorous, transparent, and fair evaluation systems for teachers and principals that (a) differentiate effectiveness using multiple rating categories that take into account data on student growth (as defined in this notice) as a significant factor, and (b) are designed and developed with teacher and principal involvement; (15 points)
- (iii) Conduct annual evaluations of teachers and principals that include timely and constructive feedback; as part of such evaluations, provide teachers and principals with data on student growth for their students, classes, and schools; and (10 points)
- (iv) Use these evaluations, at a minimum, to inform decisions regarding— (28 points)
 - (a) Developing teachers and principals, including by providing relevant coaching, induction support, and/or professional development;
 - (b) Compensating, promoting, and retaining teachers and principals, including by providing opportunities for highly effective teachers and principals (both as defined in this notice) to obtain additional compensation and be given additional responsibilities;
 - (c) Whether to grant tenure and/or full certification (where applicable) to teachers and principals using rigorous standards and streamlined, transparent, and fair procedures; and
 - (d) Removing ineffective tenured and untenured teachers and principals after they have had ample opportunities to improve, and ensuring that such decisions are made using rigorous standards and streamlined, transparent, and fair procedures.

(D)(3) Ensuring equitable distribution of effective teachers and principals (25 points)

The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan and ambitious yet achievable annual targets to—

- (i) Ensure the equitable distribution of teachers and principals by developing a plan, informed by reviews of prior actions and data, to ensure that students in high-poverty and/or high-minority schools (both as defined in this notice) have equitable access to highly effective teachers and principals (both as defined in

this notice) and are not served by ineffective teachers and principals at higher rates than other students; and (15 points)

(ii) Increase the number and percentage of effective teachers (as defined in this notice) teaching hard-to-staff subjects and specialty areas including mathematics, science, and special education; teaching in language instruction educational programs (as defined under Title III of the ESEA); and teaching in other areas as identified by the State or LEA. (10 points)

Plans for (i) and (ii) may include, but are not limited to, the implementation of incentives and strategies in such areas as recruitment, compensation, teaching and learning environments, professional development, and human resources practices and processes.

(D)(4) Improving the effectiveness of teacher and principal preparation programs (14 points)

The extent to which the State has a high-quality plan and ambitious yet achievable annual targets to—

(i) Link student achievement and student growth (both as defined in this notice) data to the students' teachers and principals, to link this information to the in-State programs where those teachers and principals were prepared for credentialing, and to publicly report the data for each credentialing program in the State; and

(ii) Expand preparation and credentialing options and programs that are successful at producing effective teachers and principals (both as defined in this notice).

(D)(5) Providing effective support to teachers and principals (20 points)

The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan for its participating LEAs (as defined in this notice) to—

(i) Provide effective, data-informed professional development, coaching, induction, and common planning and collaboration time to teachers and principals that are, where appropriate, ongoing and job-embedded. Such support might focus on, for example, gathering, analyzing, and using data; designing instructional strategies for improvement; differentiating instruction; creating school environments supportive of data-informed decisions; designing instruction to meet the specific needs of high-need students (as defined in this notice); and aligning systems and removing barriers to effective implementation of practices designed to improve student learning outcomes; and

(ii) Measure, evaluate, and continuously improve the effectiveness of those supports in order to improve student achievement (as defined in this notice).

E. Turning Around the Lowest-Achieving Schools (50 points)

State Reform Conditions Criteria

(E)(1) Intervening in the lowest-achieving schools and LEAs (10 points)

The extent to which the State has the legal, statutory, or regulatory authority to intervene directly in the State's persistently lowest-achieving schools (as defined in this notice) and in LEAs that are in improvement or corrective action status.

Reform Plan Criteria

(E)(2) Turning around the lowest-achieving schools (40 points)

The extent to which the State has a high-quality plan and ambitious yet achievable annual targets to—

(i) Identify the persistently lowest-achieving schools (as defined in this notice) and, at its discretion, any non-Title I eligible secondary schools that would be considered persistently lowest-achieving schools (as defined in this notice) if they were eligible to receive Title I funds; and (5 points)

(ii) Support its LEAs in turning around these schools by implementing one of the four school intervention models (as described in Appendix C): turnaround model, restart model, school closure, or transformation model (provided that an LEA with more than nine persistently lowest-achieving schools may not use the transformation model for more than 50 percent of its schools). (35 points)

F. General (55 points)*State Reform Conditions Criteria***(F)(1) Making education funding a priority (10 points)**

The extent to which—

(i) The percentage of the total revenues available to the State (as defined in this notice) that were used to support elementary, secondary, and public higher education for FY 2009 was greater than or equal to the percentage of the total revenues available to the State (as defined in this notice) that were used to support elementary, secondary, and public higher education for FY 2008; and

(ii) The State's policies lead to equitable funding (a) between high-need LEAs (as defined in this notice) and other LEAs, and (b) within LEAs, between high-poverty schools (as defined in this notice) and other schools.

(F)(2) Ensuring successful conditions for high-performing charter schools and other innovative schools (10 points)

The extent to which—

(i) The State has a charter school law that does not prohibit or effectively inhibit increasing the number of high-performing charter schools (as defined in this notice) in the State, measured (as set forth in Appendix B) by the percentage of total schools in the State that are allowed to be charter schools or otherwise restrict student enrollment in charter schools;

(ii) The State has laws, statutes, regulations, or guidelines regarding how charter school authorizers approve, monitor, hold accountable, reauthorize, and close charter schools; in particular, whether authorizers require that student achievement (as defined in this notice) be one significant factor, among others, in authorization or renewal; encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students (as defined in this notice); and have closed or not renewed ineffective charter schools;

(iii) The State's charter schools receive (as set forth in Appendix B) equitable funding compared to traditional public schools, and a commensurate share of local, State, and Federal revenues;

(iv) The State provides charter schools with funding for facilities (for leasing facilities, purchasing facilities, or making tenant improvements), assistance with facilities acquisition, access to public facilities, the ability to share in bonds and mill levies, or other supports; and the extent to which the State does not impose any facility-related requirements on charter schools that are stricter than those applied to traditional public schools; and

(v) The State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.

(F)(3) Demonstrating other significant reform conditions (5 points)

The extent to which the State, in addition to information provided under other State Reform Conditions Criteria, has created, through law, regulation, or policy, other conditions favorable to education reform or innovation that have increased student achievement or graduation rates, narrowed achievement gaps, or resulted in other important outcomes.

DEFINITIONS

Alternative routes to certification means pathways to certification that are authorized under the State's laws or regulations, that allow the establishment and operation of teacher and administrator preparation programs in the State, and that have the following characteristics (in addition to standard features such as demonstration of subject-matter mastery, and high-quality instruction in pedagogy and in addressing the needs of all students in the classroom including English language learners and student with disabilities):

(a) can be provided by various types of qualified providers, including both institutions of higher education and other providers operating independently from institutions of higher education; (b) are selective in accepting candidates; (c) provide supervised, school-based experiences and ongoing support such as effective

mentoring and coaching; (d) significantly limit the amount of coursework required or have options to test out of courses; and (e) upon completion, award the same level of certification that traditional preparation programs award upon completion.

College enrollment refers to the enrollment of students who graduate from high school consistent with 34 CFR 200.19(b)(1) and who enroll in an institution of higher education (as defined in section 101 of the Higher Education Act, P.L. 105-244, 20 U.S.C. 1001) within 16 months of graduation.

Common set of K-12 standards means a set of content standards that define what students must know and be able to do and that are substantially identical across all States in a consortium. A State may supplement the common standards with additional standards, provided that the additional standards do not exceed 15 percent of the State's total standards for that content area.

Effective principal means a principal whose students, overall and for each subgroup, achieve acceptable rates (e.g., at least one grade level in an academic year) of student growth (as defined in this notice). States, LEAs, or schools must include multiple measures, provided that principal effectiveness is evaluated, in significant part, by student growth (as defined in this notice). Supplemental measures may include, for example, high school graduation rates and college enrollment rates, as well as evidence of providing supportive teaching and learning conditions, strong instructional leadership, and positive family and community engagement.

Effective teacher means a teacher whose students achieve acceptable rates (e.g., at least one grade level in an academic year) of student growth (as defined in this notice). States, LEAs, or schools must include multiple measures, provided that teacher effectiveness is evaluated, in significant part, by student growth (as defined in this notice). Supplemental measures may include, for example, multiple observation-based assessments of teacher performance.

Formative assessment means assessment questions, tools, and processes that are embedded in instruction and are used by teachers and students to provide timely feedback for purposes of adjusting instruction to improve learning.

Graduation rate means the four-year or extended-year adjusted cohort graduation rate as defined by 34 CFR 200.19(b)(1).

Highly effective principal means a principal whose students, overall and for each subgroup, achieve high rates (e.g., one and one-half grade levels in an academic year) of student growth (as defined in this notice). States, LEAs, or schools must include multiple measures, provided that principal effectiveness is evaluated, in significant part, by student growth (as defined in this notice). Supplemental measures may include, for example, high school graduation rates; college enrollment rates; evidence of providing supportive teaching and learning conditions, strong instructional leadership, and positive family and community engagement; or evidence of attracting, developing, and retaining high numbers of effective teachers.

Highly effective teacher means a teacher whose students achieve high rates (e.g., one and one-half grade levels in an academic year) of student growth (as defined in this notice). States, LEAs, or schools must include multiple measures, provided that teacher effectiveness is evaluated, in significant part, by student growth (as defined in this notice). Supplemental measures may include, for example, multiple observation-based assessments of teacher performance or evidence of leadership roles (which may include mentoring or leading professional learning communities) that increase the effectiveness of other teachers in the school or LEA.

High-minority school is defined by the State in a manner consistent with its Teacher Equity Plan. The State should provide, in its Race to the Top application, the definition used.

High-need LEA means an LEA (a) that serves not fewer than 10,000 children from families with incomes below the poverty line; or (b) for which not less than 20 percent of the children served by the LEA are from families with incomes below the poverty line.

High-need students means students at risk of educational failure or otherwise in need of special assistance and support, such as students who are living in poverty, who attend high-minority schools (as defined in this notice), who are far below grade level, who have left school before receiving a regular high school diploma, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who have been incarcerated, who have disabilities, or who are English language learners.

High-performing charter school means a charter school that has been in operation for at least three consecutive years and has demonstrated overall success, including (a) substantial progress in improving student achievement (as defined in this notice); and (b) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

High-poverty school means, consistent with section 1111(h)(1)(C)(viii) of the ESEA, a school in the highest quartile of schools in the State with respect to poverty level, using a measure of poverty determined by the State.

High-quality assessment means an assessment designed to measure a student's knowledge, understanding of, and ability to apply, critical concepts through the use of a variety of item types and formats (e.g., open-ended responses, performance-based tasks). Such assessments should enable measurement of student achievement (as defined in this notice) and student growth (as defined in this notice); be of high technical quality (e.g., be valid, reliable, fair, and aligned to standards); incorporate technology where appropriate; include the assessment of students with disabilities and English language learners; and to the extent feasible, use universal design principles (as defined in section 3 of the Assistive Technology Act of 1998, as amended, 29 U.S.C. 3002) in development and administration.

Increased learning time means using a longer school day, week, or year schedule to significantly increase the total number of school hours to include additional time for (a) instruction in core academic subjects, including English; reading or language arts; mathematics; science; foreign languages; civics and government; economics; arts; history and geography; (b) instruction in other subjects and enrichment activities that contribute to a well-rounded education, including, for example, physical education, service learning, and experiential and work-based learning opportunities that are provided by partnering, as appropriate, with other organizations; and (c) teachers to collaborate, plan, and engage in professional development within and across grades and subjects.⁵

Innovative, autonomous public schools means open enrollment public schools that, in return for increased accountability for student achievement (as defined in this notice), have the flexibility and authority to define their instructional models and associated curriculum; select and replace staff; implement new structures and formats for the school day or year; and control their budgets.

Instructional improvement systems means technology-based tools and other strategies that provide teachers, principals, and administrators with meaningful support and actionable data to systemically manage continuous instructional improvement, including such activities as: instructional planning; gathering information (e.g., through formative assessments (as defined in this notice), interim assessments (as defined in this notice), summative assessments, and looking at student work and other student data); analyzing information with the support of rapid-time (as defined in this notice) reporting; using this information to inform decisions on appropriate next instructional steps; and evaluating the effectiveness of the actions taken. Such systems promote collaborative problem-solving and action planning; they may also integrate instructional data with student-level data such as attendance, discipline, grades, credit accumulation, and student survey results to provide early warning indicators of a student's risk of educational failure.

Interim assessment means an assessment that is given at regular and specified intervals throughout the school year, is designed to evaluate students' knowledge and skills relative to a specific set of academic

⁵ Research supports the effectiveness of well-designed programs that expand learning time by a minimum of 300 hours per school year. (See Frazier, Julie A.; Morrison, Frederick J. "The Influence of Extended-year Schooling on Growth of Achievement and Perceived Competence in Early Elementary School." *Child Development*. Vol. 69 (2), April 1998, pp.495-497 and research done by Mass2020.) Extending learning into before- and after-school hours can be difficult to implement effectively, but is permissible under this definition with encouragement to closely integrate and coordinate academic work between in-school and out-of school. (See James-Burdumy, Susanne; Dynarski, Mark; Deke, John. "When Elementary Schools Stay Open Late: Results from The National Evaluation of the 21st Century Community Learning Centers Program." <http://www.mathematics-mpr.com/publications/redirect_PubsDB.aspx?Site=http://epa.sagepub.com/cgi/content/abstract/29/4/296> Educational Evaluation and Policy Analysis, Vol. 29 (4), December 2007, Document No. PP07-121.)

standards, and produces results that can be aggregated (e.g., by course, grade level, school, or LEA) in order to inform teachers and administrators at the student, classroom, school, and LEA levels.

Involved LEAs means LEAs that choose to work with the State to implement those specific portions of the State's plan that necessitate full or nearly-full statewide implementation, such as transitioning to a common set of K-12 standards (as defined in this notice). Involved LEAs do not receive a share of the 50 percent of a State's grant award that it must subgrant to LEAs in accordance with section 14006(c) of the ARRA, but States may provide other funding to involved LEAs under the State's Race to the Top grant in a manner that is consistent with the State's application.

Low-minority school is defined by the State in a manner consistent with its Teacher Equity Plan. The State should provide, in its Race to the Top application, the definition used.

Low-poverty school means, consistent with section 1111(h)(1)(C)(viii) of the ESEA, a school in the lowest quartile of schools in the State with respect to poverty level, using a measure of poverty determined by the State.

Participating LEAs means LEAs that choose to work with the State to implement all or significant portions of the State's Race to the Top plan, as specified in each LEA's agreement with the State. Each participating LEA that receives funding under Title I, Part A will receive a share of the 50 percent of a State's grant award that the State must subgrant to LEAs, based on the LEA's relative share of Title I, Part A allocations in the most recent year, in accordance with section 14006(c) of the ARRA. Any participating LEA that does not receive funding under Title I, Part A (as well as one that does) may receive funding from the State's other 50 percent of the grant award, in accordance with the State's plan.

Persistently lowest-achieving schools means, as determined by the State: (i) Any Title I school in improvement, corrective action, or restructuring that (a) is among the lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring or the lowest-achieving five Title I schools in improvement, corrective action, or restructuring in the State, whichever number of schools is greater; or (b) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years; and (ii) Any secondary school that is eligible for, but does not receive, Title I funds that (a) is among the lowest-achieving five percent of secondary schools or the lowest-achieving five secondary schools in the State that are eligible for, but do not receive, Title I funds, whichever number of schools is greater; or (b) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years.

To identify the lowest-achieving schools, a State must take into account both (i) The academic achievement of the "all students" group in a school in terms of proficiency on the State's assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and (ii) The school's lack of progress on those assessments over a number of years in the "all students" group.

Rapid-time, in reference to reporting and availability of locally-collected school- and LEA-level data, means that data are available quickly enough to inform current lessons, instruction, and related supports.

Student achievement means—

(a) For tested grades and subjects: (1) a student's score on the State's assessments under the ESEA; and, as appropriate, (2) other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across classrooms.

(b) For non-tested grades and subjects: alternative measures of student learning and performance such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across classrooms.

Student growth means the change in student achievement (as defined in this notice) for an individual student between two or more points in time. A State may also include other measures that are rigorous and comparable across classrooms.

Total revenues available to the State means either (a) projected or actual total State revenues for education and other purposes for the relevant year; or (b) projected or actual total State appropriations for education and other purposes for the relevant year.

America COMPETES Act elements means (as specified in section 6401(e)(2)(D) of that Act): (1) a unique statewide student identifier that does not permit a student to be individually identified by users of the

system; (2) student-level enrollment, demographic, and program participation information; (3) student-level information about the points at which students exit, transfer in, transfer out, drop out, or complete P-16 education programs; (4) the capacity to communicate with higher education data systems; (5) a State data audit system assessing data quality, validity, and reliability; (6) yearly test records of individual students with respect to assessments under section 1111(b) of the ESEA (20 U.S.C. 6311(b)); (7) information on students not tested by grade and subject; (8) a teacher identifier system with the ability to match teachers to students; (9) student-level transcript information, including information on courses completed and grades earned; (10) student-level college readiness test scores; (11) information regarding the extent to which students transition successfully from secondary school to postsecondary education, including whether students enroll in remedial coursework; and (12) other information determined necessary to address alignment and adequate preparation for success in postsecondary education.

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AGENDA ITEM NO. VII

386.650 Adoption and maintenance of system; adoption of uniform program for school districts to collect, maintain and transfer data to system; duties of Superintendent of Public Instruction; access to data within system.

1. The Department shall establish and maintain an automated system of accountability information for Nevada. The system must:

(a) Have the capacity to provide and report information, including, without limitation, the results of the achievement of pupils:

(1) In the manner required by 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, and NRS 385.3469 and 385.347; and

(2) In a separate reporting for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361;

(b) Include a system of unique identification for each pupil:

(1) To ensure that individual pupils may be tracked over time throughout this State; and

(2) That, to the extent practicable, may be used for purposes of identifying a pupil for both the public schools and the Nevada System of Higher Education, if that pupil enrolls in the System after graduation from high school;

(c) Have the capacity to provide longitudinal comparisons of the academic achievement, rate of attendance and rate of graduation of pupils over time throughout this State;

(d) Have the capacity to perform a variety of longitudinal analyses of the results of individual pupils on assessments, including, without limitation, the results of pupils by classroom and by school;

(e) Have the capacity to identify which teachers are assigned to individual pupils and which paraprofessionals, if any, are assigned to provide services to individual pupils;

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, school districts and the public schools in this State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.

➤ The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction. ~~[but must not be used for the purpose of evaluating an individual teacher or paraprofessional.]~~ The information may be considered, but must not be used as the sole criterion, in evaluating the performance of an individual teacher, paraprofessional or other employee, or in taking any disciplinary action against an employee.

2. The board of trustees of each school district shall:

(a) Adopt and maintain the program prescribed by the Superintendent of Public Instruction pursuant to subsection 3 for the collection, maintenance and transfer of data from the records of individual pupils to the automated system of information, including, without limitation, the development of plans for the educational technology which is necessary to adopt and maintain the program;

(b) Provide to the Department electronic data concerning pupils as required by the Superintendent of Public Instruction pursuant to subsection 3; and

(c) Ensure that an electronic record is maintained in accordance with subsection 3 of NRS 386.655.

3. The Superintendent of Public Instruction shall:

(a) Prescribe a uniform program throughout this State for the collection, maintenance and transfer of data that each school district must adopt, which must include standardized software;

(b) Prescribe the data to be collected and reported to the Department by each school district and each sponsor of a charter school pursuant to subsection 2 and by each university school for profoundly gifted pupils;

(c) Prescribe the format for the data;

(d) Prescribe the date by which each school district shall report the data to the Department;

(e) Prescribe the date by which each charter school shall report the data to the sponsor of the charter school;

(f) Prescribe the date by which each university school for profoundly gifted pupils shall report the data to the Department;

(g) Prescribe standardized codes for all data elements used within the automated system and all exchanges of data within the automated system, including, without limitation, data concerning:

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

(h) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school and university school for profoundly gifted pupils located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

(i) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

AGENDA ITEM NO. VIII

A**386.650 Adoption and maintenance of system; adoption of uniform program for school districts to collect, maintain and transfer data to system; duties of Superintendent of Public Instruction; access to data within system.**

1. The Department shall establish and maintain an automated system of accountability information for Nevada. The system must:

(a) Have the capacity to provide and report information, including, without limitation, the results of the achievement of pupils:

(1) In the manner required by 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, and NRS 385.3469 and 385.347; and

(2) In a separate reporting for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361;

(b) Include a system of unique identification for each pupil:

(1) To ensure that individual pupils may be tracked over time throughout this State; and

(2) That, to the extent practicable, may be used for purposes of identifying a pupil for both the public schools and the Nevada System of Higher Education, if that pupil enrolls in the System after graduation from high school;

(c) Have the capacity to provide longitudinal comparisons of the academic achievement, rate of attendance and rate of graduation of pupils over time throughout this State;

(d) Have the capacity to perform a variety of longitudinal analyses of the results of individual pupils on assessments, including, without limitation, the results of pupils by classroom and by school;

(e) Have the capacity to identify which teachers are assigned to individual pupils and which paraprofessionals, if any, are assigned to provide services to individual pupils;

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, school districts and the public schools in this State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.

➤ The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction. ~~(but must not be used for the purpose of evaluating an individual teacher or paraprofessional.)~~

2. The board of trustees of each school district shall:

(a) Adopt and maintain the program prescribed by the Superintendent of Public Instruction pursuant to subsection 3 for the collection, maintenance and transfer of data from the records of individual pupils to the automated system of information, including, without limitation, the development of plans for the educational technology which is necessary to adopt and maintain the program;

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(c) Ensure that an electronic record is maintained in accordance with subsection 3 of NRS 386.655.

3. The Superintendent of Public Instruction shall:

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(b) Prescribe the data to be collected and reported to the Department by each school district and each sponsor of a charter school pursuant to subsection 2 and by each university school for profoundly gifted pupils;

(c) Prescribe the format for the data;

(d) Prescribe the date by which each school district shall report the data to the Department;

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(f) Prescribe the date by which each university school for profoundly gifted pupils shall report the data to the Department;

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(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

(h) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school and university school for profoundly gifted pupils located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

(i) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such

information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

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AGENDA ITEM NO. VIII

386.650 Adoption and maintenance of system; adoption of uniform program for school districts to collect, maintain and transfer data to system; duties of Superintendent of Public Instruction; access to data within system.

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(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, school districts and the public schools in this State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.

➤ The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction. ~~[but must not be used for the purpose of evaluating an individual teacher or paraprofessional.]~~ The information may be considered, but must not be used as the sole criterion in evaluating the performance of an individual teacher, paraprofessional or other employee.

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(4) Programs and financial information;

(h) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school and university school for profoundly gifted pupils located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

(i) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

SUMMARY OF SIGNIFICANT ACTIONS BY THE
LEGISLATIVE COMMITTEE ON EDUCATION CONCERNING
NEVADA'S RACE TO THE TOP APPLICATION

The Committee took the following actions with regard to Nevada's proposed Race to the Top Application:

Potential Statutory Changes:

- At its meeting on December 17, 2009, the Committee voted to recommend that the provisions of NRS 386.650 be revised to repeal the prohibition on use of student achievement data and to provide that the information may be considered but must not be the sole criterion in evaluating performance of teachers, paraprofessionals, or other employees, or in taking any disciplinary action against an employee.
- Although the Committee took no action, Keith W. Rheault, Ph.D., the Superintendent of Public Instruction, pointed out a possible need for a statutory change to Section 7 of Senate Bill 416 of the 2009 Legislative Session (Chapter 423, *Statutes of Nevada 2009*). That provision requires the temporary suspension of any additional district-wide tests. In the next few months, the Department of Education will be working with the school districts to determine what other measures will be used to evaluate teacher performance for those grades that do not use the current State tests. This temporary suspension of additional district tests may be a factor if the revised evaluation system includes other tests at the district level.

Committee Letters Urging Certain Actions or Regulatory Changes

- One regulatory change considered by the Committee involves the additional points that might be gained for having alternative certification processes in place for Nevada's professional educators. The State already has such a mechanism for teacher licensure, but does not have anything in place for administrators. To address this issue, the Committee voted to send a letter to Dr. Rheault and to the Commission on Professional Standards in Education supporting the review and development of an alternative route to administrator licensure with a focus on the needs of rural communities and school districts.
- The Committee also voted to send a letter to the Superintendent of Public Instruction, urging him to take all necessary steps to prepare and submit Nevada's application at the earliest possible date. The Committee also called upon Dr. Rheault to accept offers of assistance from Nevada school districts and other interested education stakeholders.
- The Committee further sent a letter to the Superintendent of Public Instruction asking him to exercise his prerogative to commit the State of Nevada to joining a consortium of states that is working toward developing and implementing common assessments aligned with common core academic standards. The Committee urged him to select a consortium that includes a significant number of states as provided in the Race to the Top guidelines.

- According to testimony received by the Committee at its December 11, 2009, meeting, the automated System of Accountability Information for Nevada (SAIN) provides or is capable of containing all of the elements listed except the reporting of student-level college readiness test scores. At its meeting on December 17, 2009, the Committee voted to urge the Superintendent to proceed with modifications to the SAIN system to provide for the reporting of the results of such tests.
- In addition, points can be accumulated for data systems that allow for tracking of graduates of teacher preparation programs when they enter Nevada public school classrooms. Although a related project is currently underway, the Committee voted to send a letter to the Board of Regents of the Nevada System of Higher Education urging them to work with the Superintendent of Public Instruction to review and put in place any needed changes to improve Nevada's acceptability for Race to the Top funds, and to have the Superintendent work with private institutions as well.

W100434-1

On motion of Assemblyman Ocegüera, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 6:59 p.m.

Madam Speaker presiding.

Quorum present.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 6:59 p.m.

ASSEMBLY IN SESSION

At 7:07 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 24, 2010

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 2.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 2.

Assemblyman Ocegüera moved that the bill be referred to the Committee of the Whole.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Senate Bill No. 2.

Motion carried.

IN COMMITTEE OF THE WHOLE

Chair Buckley presiding.

Quorum present.

Senate Bill No. 2 considered.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. I have some concerns about the language. It is my understanding that some states have different types of language and so forth but I think it is very important for us to be able to apply for this grant money. I think it is an opportunity for our state to receive a substantial sum. Therefore, I will be supporting this measure.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Chair. I just wanted to say that I support this motion and appreciate the work that has gone into this. There was a lot of effort put into the compromise language on this bill between many of the associations and the Legislative Committee on Education.

I think I would like to just suggest that people think of it in a different way, too, rather than it just being connected to Race to the Top. We are changing this law, whether we get the grant or not. This is the law that the districts and the teachers will live by, at least until some other body changes it. The one thing that I thought about was people being able to look their child, their grandchild, or their neighbor, who is a teacher, in the eye and them being able to say that they did or did not think that test scores should be the sole criteria for judging them. And if you don't think that it is appropriate to do that, then this language takes care of it.

We all know teachers. We all know what a great job they do. Many are under a great deal of pressure every day. I think it is really appropriate for us to remember that this is about much more than Race to the Top. This is about how we judge people and how we evaluate them and how we discipline them. I do not think it is appropriate that it is done with one measure only and hope that all of my colleagues will remember that, as we vote, this is about much more than Race to the Top. This is about how we are judging the people who are teaching our kids in the classroom every day. Thank you, Madam Chair.

Assemblyman Ocegüera moved to do pass Senate Bill No. 2.

Assemblyman Conklin seconded the motion.

Motion carried.

On motion of Assemblyman Ocegüera, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 7:14 p.m.

Madam Speaker presiding.

Quorum present.

COMMUNICATIONS

OFFICE OF THE GOVERNOR

JIM GIBBONS

GOVERNOR

February 24, 2010

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Nevada State Assembly,
401 South Carson Street, Carson City, Nevada 89701

TO THE HONORABLE MEMBERS OF THE NEVADA STATE ASSEMBLY:

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, and that when convened in Special Session the Governor may request the Legislature to consider matters other than those set forth in the call.

I have therefore issued an amendment to the proclamation calling the Legislature into a Special Session to include certain policy issues relating to education reform, collective bargaining and water rights, and terminating the Special Session no later than 11:59 P.M. Pacific Standard Time on Sunday, February 28, 2010.

My staff and I hope to work with you over the next few days on these important policy issues.

Sincerely,
JIM GIBBONS
Governor

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that the reading of the Proclamation by the Governor amending the Legislature's call into a Special Session be dispensed with and that the Proclamation be entered into the Journal.

Motion carried.

COMMUNICATIONS

STATE OF NEVADA
OFFICE OF THE GOVERNOR
EXECUTIVE ORDER

FIRST AMENDED PROCLAMATION

BY THE GOVERNOR:

On February 23, 2010, I, Jim Gibbons, Governor of the State of Nevada, through my proclamation, convened a Special Session of the Nevada Legislature. Section 9 of Article V of the Nevada Constitution provides that the Governor may request the Legislature, when convened in Special Session, to consider matters other than those set forth in the call. With this First Amended Proclamation, I am exercising my constitutional authority to bring additional legislative business to your attention.

Therefore, during this Special Session, I ask the Legislature to consider the following additional matters:

1. Revising NRS 386.650(1)(h) by eliminating language prohibiting the use of student test scores for the purpose of evaluating teachers or paraprofessionals;
2. Amending Chapter 288 of NRS regarding collective bargaining to allow for re-opening of collective bargaining contracts at the discretion of local governing boards, to provide that collective bargaining discussions are subject to Nevada's Open Meeting Law, and to specify that all collective bargaining contracts that receive funds from the State general fund are subject to final approval by the State Board of Examiners;
3. Revising Title 34 of NRS by adding a new chapter that provides for scholarships available to Nevada resident students in grades 1-12 who attend private schools;
4. Revising NRS 388.700-388.720 by eliminating the mandatory language relating to the reduction of pupil-teacher ratio in certain classes;
5. Revising Chapter 385 of NRS by eliminating the elected State Board of Education and creating an education advisory board with certain powers and duties and requiring the State superintendent of public instruction to be appointed by and report to the Governor;
6. Revising Title 34 of NRS, specifically, NRS 389.500-389.570 by eliminating the Council to Establish Academic Standards for Public Schools and transfer its duties to the State Board of Education and Department of Education; NRS 388.780-388.805 by eliminating the Commission on Educational Technology and transfer its duties to the State Board of Education and Department of Education; NRS 385.3781-385.379 by eliminating the Commission on Educational Excellence and transfer its duties to the State Board of Education and Department of Education; NRS 385.600-385.620 by eliminating the Advisory Council on Parental Involvement and transfer its duties to the State Board of Education and Department of Education;

NRS 218.5356 and NRS 385.359 by eliminating the Legislative Bureau of Educational Accountability and Program Evaluation;

7. Revising provisions in Assembly Bill 522 considered in the Seventy-Fifth Session of the Legislature to allow energy efficiency projects to be eligible for the ARRA revolving loan program; and

8. Revising NRS 533.370 concerning the time in which the State Engineer must act upon a water rights application so that subsection 4 applies retroactively to all applications filed with the State Engineer between July 1, 1947 and July 1, 2003 and so that provisions of subsection 8(d) apply retroactively to pending applications and applications/permits under appeal involving certain transfers of groundwater.

The Special Session shall end no later than 11:59 P.M. Pacific Standard Time on Sunday, February 28, 2010.

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 24th day of February, in the year two thousand ten.

Jim Gibbons
Governor

Ross Miller
Secretary of State of Nevada

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee of the Whole, to which was referred Assembly Bill No. 1, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee of the Whole, to which was referred Senate Bill No. 2, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BARBARA E. BUCKLEY, *Chair*

GENERAL FILE AND THIRD READING

Assembly Bill No. 1.

Bill read third time.

The following amendment was proposed by the Committee on Committee of the Whole:

Amendment No. 1.

AN ACT relating to support orders; requiring certain employers to electronically transfer to the State the income withheld from employees pursuant to support orders; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires employers with ~~25~~ 50 or more employees to electronically transfer to the State the income withheld from employees pursuant to support orders.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 31A.090 is hereby amended to read as follows:

31A.090 1. A notice to withhold income is binding upon any employer of an obligor to whom it is mailed. To reimburse the employer for the employer's costs in making the withholding, the employer may deduct \$3 from the amount paid the obligor each time the employer makes a withholding.

2. Except as otherwise provided in subsection 3, if an employer receives notices to withhold income for more than one employee, the employer may consolidate the amounts of money that are payable to:

(a) The enforcing authority and pay those amounts with one check; and

(b) The State Treasurer and pay those amounts with one check,

➔ but the employer shall attach to each check a statement identifying by name and social security number each obligor for whom payment is made and the amount transmitted for that obligor.

3. If the provisions of NRS 353.1467 apply, the employer shall make payment to the enforcing authority or the State Treasurer, as applicable, by way of any method of electronic transfer of money allowed by the enforcing authority or the State Treasurer. ***If an employer has ~~25~~ 50 or more employees, the employer shall make payment to the Division of Welfare and Supportive Services by way of any method of electronic transfer of money allowed by the Division.*** If an employer makes ~~such~~ payment by way of electronic transfer of money ~~it~~ ***pursuant to this subsection***, the employer shall transmit separately the name and appropriate identification number, if any, of each obligor for whom payment is made and the amount transmitted for that obligor.

4. An employer shall cooperate with and provide relevant information to an enforcing authority as necessary to enable it to enforce an obligation of support. A disclosure made in good faith pursuant to this subsection does not give rise to any action for damages resulting from the disclosure.

5. As used in this section, "electronic transfer of money" has the meaning ascribed to it in NRS 353.1467.

Sec. 2. This act becomes effective on ~~March~~ July 1, 2010.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 2.

Bill read third time.

Roll call on Senate Bill No. 2:

YEAS—42.

NAYS—None.

Senate Bill No. 2 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 1.

Bill read third time.

Roll call on Assembly Bill No. 1:

YEAS—42.

NAYS—None.

Assembly Bill No. 1 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Concurrent Resolution No. 1; Assembly Resolutions Nos. 1, 2, and 3.

Assemblyman Ocegüera moved that the Assembly adjourn until Thursday, February 25, 2010, at 9 a.m.

Motion carried.

Assembly adjourned at 7:19 p.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE THIRD DAY

CARSON CITY (Thursday), February 25, 2010

Assembly called to order at 10:38 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Bernie Anderson.

Thank You, Lord, for the opportunity to serve and the trust and responsibility that our neighbors have placed on us to watch out for their wellbeing. Keep us mindful of Your power and that, while we are temporary custodians of limited power, with You all things are possible.

Thank You for the Front Desk and Sergeant-at-Arms, and the fiscal analysts, bill drafters, researchers, guards, and custodians—all who try to ease our burden and add to our understanding.

We know that there is a season and a reason for all things under the sun and that, in time, this tide will indeed pass. We pray humbly for the strength and patience to meet the challenge of this day so we can see the light of Your promised bright tomorrow.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

Assemblyman Conklin moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering the budget.

Motion carried.

IN COMMITTEE OF THE WHOLE

Chair Buckley presiding.

Quorum present.

Budget recommendations considered.

CHAIR BUCKLEY:

Let's consider the prison's budget. I think this was one of the budgets that the Interim Finance Committee had a lot of concern with. The testimony was, at times, confusing. We did receive a housing plan, finally, but there was a lot of concern from members of the committee. Should the Nevada State Prison (NSP) be closed? Should Casa Grande be closed? What should we do about the proposed pay cuts to correctional officers? Should they receive the same pay cut as every other state employee or should their pay cut be greater? Let me open that up and get a sense of the Committee and where you want to land on that issue.

ASSEMBLYWOMAN MCCLAIN:

Thank you, Madam Chair. I chaired the budget subcommittee for public safety during last session. We spent a lot of time debating the merits of closing NSP and laying off 150 or so prison guards in Carson City where the economy is in terrible shape like the rest of the state. It was a consensus of that body and the money committees that it was not prudent to close NSP and build a new prison. So, we did not build a new prison; we didn't close NSP; we did not allow some of the rural camps to close, for economic reasons. But here we are again talking about the same issues. Last session it was suppose to save \$20 million to close NSP. This year it is down to \$12 million. We have had testimony from employee groups and correction officers, while in the mean time they have not been able to institute the furlough program. It has been extremely difficult to get numbers that are understandable from the Department of Corrections.

I see today, on my desk, there is a new memo justification on saving money. I think some of the questions are: Do you want to decimate the Carson City economy a little bit more? Do you want to close a perfectly good prison that is not as old as every one says it is? The original prison was built around the 1860s; the buildings that are there now were built in the 1920s and 1940s. The new units on the hill were actually built in the middle 80s. It is a functioning prison. As much as I hate to even think about it, our only death chamber is in there, so they would have to leave parts of it open. You would have to leave some staff there to continue maintenance on it. I just don't think that this is a prudent way of saving money when we can institute the furlough program in the prison, just as we have across other state agencies.

They have come up with several different ideas. I would like to have some of the guards, and some of the AFSCME people present their alternatives to the 8 hour days. The 12 hour shifts, apparently, work much better in a prison setting and the guards, about 80 percent of them, prefer the 12 hour shifts. I think that there are a lot of things we need to look at and we haven't been able to get the really good answers yet, but I don't think closing NSP or Casa Grande is the right way to go. I would love to hear suggestions from other members.

CHAIR BUCKLEY:

How are people feeling about the pay differential for the guards? Should they have the same cut as all the other state employees or do we increase the cut?

ASSEMBLYMAN COBB:

Thank you, Madam Chair. I am a little bit confused about how we are describing what the pay cut is. I know that certain individuals get extra benefits on top of what their normal pay is. So, when we're saying we're going to take away extra benefits from individuals, are we considering that all a pay cut or are we considering just take back just an extra benefit that someone has enjoyed over a period of time because we have to make some very tough decisions right now?

CHAIR BUCKLEY:

They way the law is written. If you work in a remote location, you get a remote pay differential. So, you are getting that pay now and if this legislation passes you won't get it. I consider that a pay cut. It is in your pay one week and if we pass it, it won't be in your pay the next week. Now, certainly we can talk about if should there even be remote differentials. Is that a necessary benefit to recruit and retain people to work in the rural communities? We are not talking about going forward; we are talking about taking it away from the folks who are getting it right now. So, I think it is a decision this body has to make. Are we going to do it or not? I would be curious what the thoughts are from some of our rural folks, because a lot of these prisons are in the rural locations. We made the decision long ago as a state, before most of us were serving, to build our prisons in remote areas; they are there. We are not going to close any one of them any time soon, I don't think. So, those folks are already living in those communities. They made their decisions based on what we told them we would do. Certainly they would get the same pay cut as everybody else; whether it is the 4.6 or if we increase the furlough hours to a higher one, but, will they take one on top of that?

ASSEMBLYMAN CARPENTER:

Thank you, Madam Chair. I think that those increases were put in for a reason to get good staff to these rural communities. They are being given it in Lovelock and Ely. According to the memorandum that I have, it is the opinion of the Attorney General, that this is a contractual agreement with those people and it would be difficult to break this agreement. I think that those of us who have lived in the rurals for all our lives—we made that decision. I think that the increase they get is worth it to have those people there to staff our facilities. I just hope we would not take those increases away from them because I think it would make it harder to get the good staff that we need. In Lovelock we never hear anything. I think Lovelock runs really well, from the people I have talked to and to my knowledge. Sometimes in Ely we have a few problems, but I think most of them have been taken care of. So, for my own personal opinion, I think that the small increase they get is worth it to keep it. Thank you.

ASSEMBLYMAN GRADY:

Thank you, Madam Chair. In some ways I think the state created the problem that we are facing now. When the decision was made to put the prison in Ely, White Pine County was told that certain things would happen, like a new courthouse and things like that – that never happened. When they decided to put the prison in Lovelock it was based partially on economic development theory that the prison would bring in all these people to Lovelock and Lovelock would continue to grow – that never happened. We turn around, as a state, and said “through a contract, we will pay you people more money if you live in Fallon, Reno, or wherever and drive to Lovelock.” So, after the folks who are employed there took this as part of their employment package, we now say we have changed our mind, we’re not going to do that. I don’t think it is fair to them, just as I didn’t think it was fair to Lovelock when this was first done and nobody moved to Lovelock to cover these positions. I would agree with my friend from Elko that there is a contract and we ought to honor it. Thank you.

ASSEMBLYMAN COBB:

Thank you, Madam Chair. I am not going to address the legal issues; I haven’t had a chance to read the memo from the Attorney General’s office. Just coming from the private sector, we are looking at 13 percent unemployment; in real terms, it is probably over 20 percent, because people have just flat out given up looking for jobs. If people aren’t willing to take a job that has a steady paycheck, nice benefits, nice pension, I think we need to look at that as an issue of a problem not on the government side but on the other side. I think that when we are going through and talking about cuts to all sorts of areas but we don’t want to layoff teachers, but we are going to have to layoff teachers. If individuals are going to actually quit their jobs because they are not going to get these added benefits that they have been getting in the past I don’t think that is the fault of the government. I think that is the fault of the individual and it is a choice that they can make. We are not forcing them to quit. I just think that we keep going through all these budgets, we keep adding things back, we keep taking things off the table that are potential ways to save money for the state. At some point we need to say, “the private sector is doing this, the government needs to make some tough choices, and sorry we are not going to keep giving you extra benefits.” Thank you.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Chair. I am going to echo the comments of my two colleagues in the front row. Clearly, I believe that because they have been receiving the 5 percent rule pay differential, those people that are presently under contract or employed, looking at the memorandum, probably need to receive it. I do agree that the Lovelock prison hasn’t worked out as well as it should. I would recommend going forward with any new hires, i.e. transfers if we could, that the differential should be shifted. I believe those people have relocated to the rural area, although you choose to call them remote. Lovelock and Ely are not that remote. We have a number of others, with our honor camps, whether it is Wells, Tonopah, or Pioche. Again, most of those people have chosen to live in that community. Let’s hire the people out of that community. I would like to move away from the 5 percent rule pay differential, but I do agree at this point it would be inappropriate to sever that contract. Thank you.

CHAIR BUCKLEY:

Assemblyman, have you checked with anyone about whether the remote option could be eliminated on a going forward basis? For example, if we do not want to breach our promise to the people who took the job, knowing that was the benefit structure, what if we eliminated it going forward? It is always difficult when you bring on those different disparities because then you have people working side by side getting different pay. But if you are going to phase it out and you don't want to affect people getting it now and you just want them to have the same 11 percent pay cut, with all the other state employees and not a 20 or 25 percent pay cut, that would be the only way to do it. I don't know if you have explored that at all?

ASSEMBLYMAN GOICOECHEA:

These are difficult times. I don't have to tell you. I think it requires difficult measures. I think it is a lot easier if we look at it when that person comes on; it is not available to them and it's not part of the package. That is a lot easier than somebody who has been there for ten years and telling them we moved them out there expecting a 5 percent pay differential and then telling them they no longer get it. I think going ahead—it might be tough on morale, and might also be tough on the bookkeeper but the bottom line is we have to make those changes.

ASSEMBLYMAN SETTELMAYER:

Thank you, Madam Chair. Many constituents have contacted me that they work at NSP, and, of course, they said give up the rural pay differential to save NSP. I told them that won't be enough money to do that so that is not reasonable. It is also unreasonable, to me, to try to change existing contracts with individuals. I do agree with previous speakers that going forward we do need to change it for the new hires or people who then transfer out to these more remote areas. The way I look at it we are already allowed to do a differential and have different pay systems set up within PERS, depending on which year you came into the system. There is clearly a difference on what package you are eligible for. So, in that respect I believe it can be done.

ASSEMBLYMAN HARDY:

Thank you, Madam Chair. On a little different issue, I am trying to digest the February 25 memorandum from the Department of Corrections and I have been unsuccessful in as much as I can not see a comparison of closure of NSP and Casa Grande as far as the net difference – where they go, and who's hired. It would be helpful to have a sheet of paper that actually makes a comparison that I can read as to be able to make that decision or have somebody walk us through it. It seems to me that it needs to be a fiscally responsible decision and it is hard for me to digest it. With Casa Grande, obviously we've heard testimony over the years that we haven't utilized it as much as we could. When the Tonopah Honor Camp gets closed it is easier to walk away from Casa Grande then it is from the Tonopah Honor Camp—it's probably a longer walk up there. I think there is some clarity that I'm not able to see in the memo as to what an apple is and what an orange is if we close NSP, particularly, and/or Casa Grande. Thank you.

CHAIR BUCKLEY:

I know we worked to try to get those answers in the Interim Finance Committee meeting and I think it was very difficult to get those straight answers.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Chair. I think that going ahead on the differential pay would not be necessary. I do not think we can break the contract with the people who are there now. In these tough economic times may be we can find people that will go take those jobs and maybe, like my partner from Eureka says, "it is really not that remote" and maybe they would be happy to get a good steady job rather than draw unemployment. I think going ahead would be perfectly . . . that is the way we should do it. They should not get that pay differential. Thank you.

ASSEMBLYMAN STEWART:

Thank you, Madam Chair. I have grave concerns about closing NSP. I know in southern Nevada the past few weeks the Ritz Carlton Hotel is closed, the Monte Logo is about to close, and these are properties that are perhaps as large as NSP and there are 600 plus workers that were put out of work there. Again, these are tough times. Private enterprise is making tough decisions and I think we have to make equally tough decisions here. Thank you.

CHAIR BUCKLEY:

There is no doubt we are making tough decisions. When you close the Ritz Carlton it's traumatic for 600 people, but when we close a prison we have to make sure those prisoners aren't going to be moving into our neighborhoods. So, not completely analogous, though both are tragic. What I struggle with is if we close NSP and the prisoners are sent, as discussed by Director Skolnik last week, to High Desert Prison and we give up on the idea to create a medical unit there—to have all the prisoners with medical conditions go there, which would cut down on our medical budget, then are we in the long run going to spend more money instead of less? I think that the best thing we can do is an effective cost benefit analysis and what is going to save us the most money in the short run and the long run. If we save \$12 million right now but it ends up next session costing you triple, we would have made a poor decision. To do that, we need the good data. We need to compare it. Where are we going to house those high cost medical inmates? Just where they are now, so that we are going to continue adding to a \$25 million medical budget? If the prison population goes up next year, what are you going to do? Are you going to build more, or are you going to reopen NSP or Jean? The problem with the prison plan is that it's been flip flopping all over the place—one minute we are going this route then it's this and then it's this. I think what we all need is we need to save as much money as possible in every budget but you need the data to be able to make the best decision possible and I feel, getting back to Dr. Hardy's point, that that is what we are missing.

I am inclined to recommend that we not close NSP, that we not close Casa Grande, and that we kick this to the Interim Finance Committee since as much as we are enjoying staying here in Carson City I think many of us would prefer to end this special session sooner rather than later. If we don't have the data—and we have been asking for it now for two weeks—we should not make a hasty decision which may cost us more money in the long run. We can kick it to the Interim Finance Committee for that cost benefit analysis and allow them to make the decision based on the data that we receive. We also should consider the remote deferential pay issue and not taking the pay away from the existing employees but examine eliminating the deferential for all new hires. We can see if that receives the assent of the body and if it does then we would check with legal counsel to make sure we can do that. I think we can. Make sure we open it up to public hearing, make sure we are considering all the items we need to consider making a good decision and if it makes sense we go forward with that plan.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Chair. I agree with what you are saying because, as an IFC member, it has been really frustrating to me that we haven't received a good package of information about everything that is involved in closing and moving prisoners. There is transportation to be considered, and there are the medical issues and the meal issues. As an example, in the CIP committee last session we had a request to build a new execution chamber at the Ely prison and that did not move forward, of course. That would have to be handled if we closed NSP. There are so many unknowns and we keep asking for the information. All we got the other day was a list of each prison and how many prisoners are there—the list did not even have the capacity on it. So, for me, until I can see that analysis, of what it costs to house where and what it is going to cost to transport, what the moves would cost, what it costs to shut it down, how in the world would we know how to make those decisions? We are talking about cutting here. We are not talking about not cutting, we are talking about cutting in the most fiscally responsible manner and also in a manner that protects the prisoners, the public, and the staff that has to transport and house those prisoners. I am very concerned about making a hasty decision here about how we'll allocate all of those funds which would support the idea you are talking about because of that.

ASSEMBLYWOMAN MCCLAIN:

Thank you, Madam Chair. One of the other things we could think about—I know we have talked about this a lot—is requiring the 12 hour shifts. That would actually save some money in different areas, such as the travel pay and stuff. So, maybe if we consider the 12 hour shift for all the prisons and then deal with the other issues in IFC where we can see the cost benefit of that particular measure, and then we can put it together with the other costs like transportation, medical and the other costs. That might be the smart way to go and maybe we will actually get some numbers.

ASSEMBLYMAN SEGERBLOM:

Thank you, Madam Chair. As someone who is opposed to the death penalty— if closing the prison would mean we would eliminate the death penalty, I would support closing the prison.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. In regard to closing this prison I think I have toured this prison many times and it seems to me it has a useful life. When they built this prison they really did it right. You can go in there. They were doing it the last time we were over there, and you can put in the plumbing and the electrical. They left the runway, I guess you call it, to do that. To me doing something like that is a lot cheaper than building a new prison. I then wonder what happens to the industries that are there, especially the license plates. I think they do a lot of other things there. I think somebody really put their thinking cap on; this prison has a lot of useful life in it. That is just my off the top of my head analysis. To do some remodeling there is going to be a lot cheaper than building a new prison somewhere.

CHAIR BUCKLEY:

One of the other things to consider – one of the cost drivers in prisons is overtime and part of the reason for the overtime sometime occurs when they have to do medical transports of prisoners because they don't let them go to the hospital by themselves. So, sometimes you have two guards, if they are a danger, and then you have to put the staffing back in the prison because you can't leave them alone either. So, that is one of the reasons why this medical concentration plan was established to see if that would cut costs in the long run, not just medical cost but transport costs, guard costs, and overtime costs. So, in the end, that might end up being a cost saver. I think that needs to be part of the data that needs to be analyzed. In the prison budget reductions there were also a number of other items such as charging the inmates through the Inmate Welfare Fund for electronics, the gymnasium, and other items. I assume we would go forward with all of those reductions, examine the pay differential on a going forward basis, not implement the differential elimination for existing personnel, and not close NSP and Casa Grande. Is there any other discussions? Let me get a sense of the committee members of how many think that would be a good resolution?

ASSEMBLYMAN SETTELMAYER:

I wonder if we can add to that, that there is a change for new hires.

CHAIR BUCKLEY:

Yes. Does everyone understand? Should I restate it or is it clear? I should restate it? Ok, the proposal would be to keep the budget reductions in the Governor's budget in regards to inmates, eliminate the pay differentials for correction offices for new hires and keep it for existing employees, not close NSP or Casa Grande at the present time, and allow the issue to go to IFC for an examination of the data which would be a cost benefit analyst to see whether it made sense.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Chair. Are we also going to look at trying to go to 12 hour days at most prisons?

CHAIR BUCKLEY:

Yes—I think that would be the direction and, as I understand it, that is in the four day, ten hour day bill, to have 12 hour shifts for prisons. That is in the furlough bill that is now in the Senate and we will be getting it this afternoon. I am really getting a sense of the body I won't include it in that because we are going to discuss that in the furlough bill.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Madam Chair. I just had a question about the savings on the four-ten's, but if we are going to address that later I will just hold off on that.

CHAIR BUCKLEY:

Yes—that will be in a separate bill that we will hear this afternoon. Are there any other questions, comments, or suggestions? Again, I am just getting a sense of the body as a priority, it doesn't commit you—we obviously will get it written up so you all can see the details, but on all these budget items I want to get resolution on every single one of them, what the priority of the body is so we can move forward with the final budget bill. How many think that is the best way to go?

Okay, moving on. Can we have a discussion about the Nevada Equal Rights Commission? The proposal in the Governor's budget was to eliminate it, however, there was some holes that the testimony revealed in that.

ASSEMBLYMAN SEGERBLOM:

Thank you, Madam Chair. In my private life I deal with this agency a lot and I deal with the agency which the Governor's plan proposes to transfer this Commission to, which is the Emergency Operations Center (EOC) federal agency. I have two thoughts about this. Firstly, Nevada has never sought to have the federal government come into our lives. We have always wanted the federal government out of our lives. The thought that we would turn something over to the federal government is surprising to me. Secondly, as far as actually having contact with somebody, if you try to call the EOC in Las Vegas, it is an 800 number; you get a message and are unable to talk to someone. The Nevada Equal Rights Commission is there and people can call in times of economic hardship. It is the poor, the disadvantaged, minorities, and those discriminated against because of sexual orientation that are the people who need help and need to be able to talk to someone and discuss their issues with them. The Nevada Equal Rights Commission provides a vital service and I think this is a particularly inappropriate thing to do at this point in the economic cycle. So I would oppose eliminating the Nevada Equal Rights Commission. Thank you.

CHAIR BUCKLEY:

Further comments? Assemblyman Denis.

ASSEMBLYMAN DENIS:

Thank you, Madam Chair. I chaired the General Government Subcommittee for Ways and Means when this proposal came forward. The same concerns that my colleague expressed came forward and the committee was not sure that Nevadans could get the help they needed. There are at least two areas there that we would still have to cover in other areas. The concern is, if we are already cutting in other areas, that people will not get the help they need. I agree that we need to keep it so that we can make sure that those that need that help can get it. Thank you.

CHAIR BUCKLEY:

So I assume that the agency would still get a 10 percent budget cut. The agency would still be subject to a 10 percent budget cut but they would not be eliminated. Is that your thought?

ASSEMBLYMAN DENIS:

Yes, they would still have to take a cut but at least the work load would still increase and they might have to wait a little bit longer for the thing but at least they would get it.

CHAIR BUCKLEY:

Assemblyman Munford.

ASSEMBLYMAN MUNFORD:

Thank you, Madam Chair. I know in my district there are quite a few cases of discrimination and so forth. Many of those complaints have been referred to the National Association for the Advancement of Colored People (NAACP) and then some of my constituents come back and tell me that the NAACP refers them back to the Equal Rights Commission. We still need the Equal Rights Commission because maybe the NAACP might feel that the case load is too heavy. I know there are still a lot of things that need to be addressed and there are still a lot of problems in terms of equal opportunity and equal treatment. The only source and the only opportunity and option that they have in many cases are the Equal Rights Commission and I support trying to keep it open. Thank you.

CHAIR BUCKLEY:

To me, too much attention sometimes is paid to the differences people have instead of the similarities they have and I think businesses being accused of discrimination and employees accusing employers of discrimination would both prefer to have a Nevada entity involved and not the federal government. I think both will be equally disappointed if all they have is the feds making a decision as opposed to someone with a little bit more Nevada sense. Is there a sense that we would like to retain this function for Nevada if we can, with the 10 percent budget reduction that we are doing for other agencies? May I have a show of hands? Thank you.

We have covered a lot of the remaining areas of differences, so the next one would be higher education reductions. As everyone knows, higher education took a 13 percent cut already this year. The students were asked to increase their fees already this year, so what we are faced with is what level of cuts can be implemented this time and if we should deviate from the 10 percent to try to assist higher education. The exact numbers of the General Fund support were decreased 13.4 percent this biennium. The University of Nevada, Las Vegas (UNLV) received a 15.4 percent cut. Student fees were increased this biennium by 21 percent at UNLV, 16.5 percent at the University of Nevada, Reno (UNR), and 15.4 percent at the community colleges—with 9 percent of their staff eliminated. So, the question now is what level of cut should higher education receive going forward? I would like to keep higher education at the same level as was recommended for K-12, and that is at a five percent level. I think that would still be a significant cut to higher education, but would ensure at a time when so many of our unemployed are going back to school that they will have classes to attend as they try to get retrained for future educational opportunities that may be available. I will open that up for discussion.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. I agree that we are all concerned about higher education, and they have sustained substantial cuts that we reduced significantly last session. We realize that there is a tremendous demand because people are looking to retrain. People are looking to expand and further their education. I know that we are supportive of restoring something towards higher education and K-12, not that I can put a number on it today. We are very interested in supporting some restorations of funding because education is critical to our state as we move forward. Thank you.

CHAIR BUCKLEY:

We probably should separate out the discussion as well because higher education is targeted for a 13 percent cut, and the other state agencies are at 10 percent. So, maybe we should talk about that first. The reason is because of the pay differential. Higher education was slated for both a pay cut and a 10 percent cut, so when you add those together they are at a 13 percent cut level. So, they get hit twice, more than other state agencies. It gets confusing in the Ways and Means Committee because what we always try to do is have the pay cuts be the same for state employees, higher education, and K-12, but we don't control the pay in higher education and K-12. To make it even more complicated, when you look at state employees cuts, the program cuts of 10 percent aren't going to affect the salaries of state employees, but it may affect the salaries of higher education and K-12. It is just because of the way we budget and because of our state financing rules. That was the reason why higher education had the additional amount on the sheets.

ASSEMBLYWOMAN GANSERT:

If I could follow up, I haven't quite gotten that math, yet, because I remember the 10 percent cut and then an additional 1.75 percent cut to personnel costs. I'm not sure how we got to the 13 percent versus the 11.75 percent or even a little less than that because the 1.75 percent is on personnel, not on the entire budget, though personnel comprises the majority of the budget. So, could somebody help me with the math? I do agree that there is an additional cut on top of the 10 percent. I'm just not sure what that is right now.

CHAIR BUCKLEY:

Oh, Mark Stevens is here. I think higher education was having trouble figuring out the cuts as well. They were having discussions with the budget office. I don't know if Mark will come down or not. Sorry to pick on you, Mark. Assemblywoman Gansert was trying to ascertain the cuts proposed by the Governor and the percentage for higher education seemed higher than the other state agencies' proposed cuts. I thought I had heard a 13 percent cut when you factored in the additional salary cut recommendations, but the value of it seemed to be 1.75 percent, yet that wasn't the value placed on the state employees' proposed additional furlough hours, so just a lot of confusion. Do you have any clarity from your discussions with the budget office as to the exact proposal and its affect on higher education?

MARK STEVENS, ASSOCIATE VICE CHANCELLOR, NEVADA SYSTEM OF HIGHER EDUCATION:

Thank you, Madam Chair. There are a number of cuts on the sheets for higher education. There are the 10 percent reductions. There is also the 1.75 percent salary reduction. Chancellor Klaich talked to both bodies about that and felt the reduction should be aligned with that taken by state employees, which would be closer to a 1.15 or 1.17 percent reduction. There is also \$2.5 million that is being swept out of the Special Higher Education Capital Construction accounts on the sweep list. There are some other reductions included in the sheets that aren't separately identified, including elimination of plus-five percent for classified employees and a couple of other areas where it will impact higher education, but the specific amounts aren't separately identified. I do not know how the 13 percent number was specifically calculated. When I took a look at it, I got close in the upper 12 percent range, a little bit below 13 percent, when I added in the 10 percent reductions. The value that is included in the Budget Division sheets, at least for the salary reduction, the \$2.5 million in Special Higher Education Capital Construction funds, and an estimate of the plus-five percent reductions gets very close to the 12.8 or 12.9 percent range, so that's where I think that number came from.

CHAIR BUCKLEY:

So it's the 10 percent budget reductions, the 1.75 percent salary differential compared to the 1.17 for state employees and the capital fund sweep. What was the other one?

MARK STEVENS:

There are some other items on the sheet, Madam Chair. On line 52 there is an elimination of a plus-five percent salary add-on that would impact the classified positions within the Nevada System of Higher Education, although the impact on higher education is not separately identified.

CHAIR BUCKLEY:

Would you mind putting that all on one sheet and doing the calculation for us, so that way if it's 12.8 or 12.9, we can accurately reflect that amount? Thank you.

MARK STEVENS:

I would be happy to do that, Madam Chair.

ASSEMBLYWOMAN GANSERT:

I just had a question about the plus-five percent. So, who gets the plus-five percent in the university system?

MARK STEVENS:

The classified employees would be eligible for that if they are working at a class or are bilingual. There are a number of other reasons for why one could get a plus-five, but it wouldn't impact the professional employees within the system. It would impact the classified employees within the system.

ASSEMBLYWOMAN GANSERT:

Could you just put a brief list together of what that is and the amounts, for informational purposes, because I never realized that. Thank you.

MARK STEVENS:

It would be an estimate but would be very close.

CHAIR BUCKLEY:

We will have to bring that up, too, on the discussion list on the plus-five. Exactly who is it available to? How many people are getting it? Do we eliminate it for the employees who are currently receiving it or going forward? What are the pros and cons? We would probably have some of the same legal issues taking it away, so we may have to check with our legal counsel. We will set that for a separate discussion, just so we know where we are going on that as well. Are there any more questions for Mr. Stevens?

ASSEMBLYMAN COBB:

Thank you, Madam Chair. Please forgive me. I am not on the budget committee, but we hear a lot about per pupil spending. I'm talking more about K-12 and things like that. Whenever people hear that we are adding in things like capital expenditures, everyone says, "Whoa, whoa, whoa. That's not per pupil spending. That's not teaching kids." So, now we are sweeping an account such as capital expenditures, and you want us to include that in the overall discussion in terms of taking money out of the education system?

MARK STEVENS:

I was attempting to answer a question on where the 13 percent number that the Budget Division is using and that was the only way that I could get up to that number. I was not the one that came up with the 13 percent figure, but I was trying to answer the question of how it was derived. It may be better to ask Mr. Clinger how that 13 percent reduction number was calculated. I haven't seen the numbers on how specific it was, but by adding that in I got very close.

CHAIR BUCKLEY:

Mark, when you prepare the sheet exclude the capital dollars separately when you calculate your percentages. Are there further comments or questions of Mr. Stevens? Thank you for putting yourself on the spot by sitting in the audience. So, we have two issues. We have the higher percent issue, as well as just what should the goal be on higher education funding. Are we going to try to reduce that amount or are we going to proceed with the 12.6 or 12.7, whatever it turns out to be without the capital expenditure portion?

ASSEMBLYMAN STEWART:

Thank you, Madam Chair. I am sure that we all, Republicans and Democrats alike, would like to reduce this 12 point whatever percent it is. The problem I have is that we have a hole or a level the Governor has set and we keep digging that hole deeper and deeper by removing these things, and we are going to have to be accountable at one point. I think we need to consider the total picture of a family. If we continue to reduce, reduce, reduce things, we are going to have to fill that hole somewhere. It's going to have to come from additional fees to families. It's going to have to come from additional cuts to other programs. I think we have to be very careful. I would love to reduce it down to zero cuts for my grandchildren's future, my seven grandchildren, but we have to be realistic. We are going to have to fill this hole at some time. We keep digging deeper and deeper and there is no dirt on the side to fill it up. That's my concern. Thank you.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Chair. I want to express my appreciation to you for the style of work that we're going through right now because I think it is important to set out those aspirations and to take the temperature of the room when it comes to what our goals are. Representing my district where the University of Nevada, Reno, is located, I certainly heard the personal stories. We have all heard the personal stories, the challenges, the impacts that the proposed cut level will have on everyone. I hear from students. I hear from faculty. I hear from staff, but I also want to provide some comments just to show how pragmatic it is that we are looking at reducing these cuts. In my district higher education is economic activity. It is the engine that fuels the small businesses in my district and frankly it is the engine that is going to get this state back on the track. So, we need to step forward today and say we are going to work hard while we're here to reduce these cuts. I want to express my appreciation, and urge the members of the body to strive for this goal to reduce these cuts.

ASSEMBLYMAN HARDY:

Thank you, Madam Chair. In way of full disclosure I am a doctor, and so I'm interested in health and get paid by people who are sick, and hopefully people who want to be more well. I don't know that any of the votes that I am going to do will affect me any differently than anyone else. We're having a discussion about making cuts and restoring cuts that will apply to every single thing on the lines from one to seventy-five or pick a number on the sheets. We are going to have the same discussion about restoring Medicaid. We can tell the stories about the children who aren't going to have pediatric heart surgery because there's nobody to put the child asleep and more importantly anybody can put a child to sleep, but they can't get them to wake back up. We are going to have these discussions about why we're all upset because we're in a very difficult position. We are going to have difficult decisions that we are going to have to make on every single one of these, and it still comes back to some priorities. If we are going to start at the top with education on the sheets, well we're going to get down to health, and I don't know if there's anything more important than health. So, what is it that we're going to do? The Governor's proposed budget, and we can use all sorts of words for it, but bottom line is we're in a hole and we're still digging as we take our shovels and get rid of the cuts. I think we're in a hole, and we have to figure out what the Committee of the Whole is trying to do. Are we digging or are we trying to get out of this hole? From my personal standpoint, I don't want to hamstring education and at the same time I am recognizing that hamstrings are important to keep moving. I don't know that there's an easy way to raise my hand and say "This is my goal," because in that kaleidoscope it all has to fit with something, and so I think there are some, on both sides and in both houses, that are trying to figure out how to make it all work. I appreciate the opportunity to say how I feel or how I don't feel by either raising the hand or otherwise. I think we need to figure out where we're at with the bottom line and be able to work back up because if I commit now to something I'm not going to be able to fill something downhill from this discussion. So, I am not ready to raise my hand on something that I don't have a good firm understanding of.

CHAIR BUCKLEY:

Just to be clear, we will either make progress with the leadership of both caucuses and both houses and present proposals for consideration or we'll do it this way, and we will come up with a budget plan that will be a balanced budget that will make difficult decisions and difficult cuts. There is no way to balance this budget without harmful cuts. There is no way to do it. Everyone who is affected by a cut will be upset that they were not spared, but no one will be spared. We have to do cuts in a responsible manner. This morning we talked about cutting the pay of guards. If we offered that and they accepted it and made a decision to move, they have a contract right and could then sue us; tying it up in court. Is that a smart decision? Is that a smart cut? We received a sense of the body, and I was pleased that it wasn't all just one party. We had a common sense vote on what we thought made sense. We're going to get out of here soon, so if I have to go through every single one of these to get a sense, and then go through every single way to make it balance in public in a transparent manner, that is what we're going to do. We are going to come up with a balanced budget plan in this body. It will be done as soon as we go through all of these decisions. The only way I know how to do it on the expenditure side is to

say what are your priorities? You then examine your revenue to make it balance, and if you say in the end, "I want this cut versus that," so be it. I started with education because of the educational requirement of education first. Education first says you consider the education budget first, not what's left at the end. That's what we did. So, health and human services is coming this afternoon, and I think you're going to see from that budget that we're going to have to make cuts, but at what level do we have to stop. Are we going to tell seniors that they're not going to be able to chew? Are we going to tell those autistic children that we fought so hard to cover last time that they are now going to be cut off their coverage? Some cuts are going to have to happen, but we have to be careful which ones we make. We have to prioritize. That's what we're doing right here. We are prioritizing. I don't know of any other way to produce a budget plan than to prioritize.

ASSEMBLYWOMAN KOIVISTO:

Thank you, Madam Chair. In my working life, I worked at the University of Nevada, Las Vegas, in the provost's office. About 16 or 17 years ago, at the beginning of every class time, we had students lined up outside the door because they couldn't get their classes. Do we want to go backwards to that? I think that's our choice here today.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Chair. Every private sector business starts out their budget process by looking at their strategic imperatives and setting goals and priorities. Madam Chair, I really appreciate that we're taking a good hard look at our priorities and looking at what we think is most important, not just for the short term, but also taking a longer term view of what's important to the state of Nevada. As I look at the education and higher education systems, I look at the needs that that system fulfills. Firstly, it fulfills a promise that we make to our children, and I think that we can never lose sight of that. Secondly, and from a more practical and longer-term strategic vantage point, there are a couple of needs that our system of higher education meets. It trains professionals for us, for jobs that are very much needed to be filled and allows us to develop our own. Schools like Nevada State College train teachers and nurses who will fill valuable roles that we need to have filled. Additionally, I spoke to a number of people about bringing companies and bringing jobs to Nevada and building our economy and fostering economic development. All of the people I spoke with in various states throughout the country all tell me that Nevada needs to have a well-educated work force. Regardless of the industry, jobs have become increasingly more technical, and we need to have resources here in order to develop and then sustain economic development. I wholeheartedly support higher education, and I am delighted to make it a priority as we make some of these very difficult decisions. Thank you.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Chair. My concept for discussion right now, to tell you the truth on raising hands or not raising hands, has nothing to do with the subject at hand. What I'm finding problematic is that coming from a business, I look first at how much money I have. So, if we're going to go line by line and make a decision to lessen the affect, I feel responsible that at the same time we must be determining where we're going to gain that money immediately. Otherwise, I feel we're boxing ourselves into a corner, hence the old terminology that we're making promises that our checkbook cannot keep, and that's what I'm afraid of.

ASSEMBLYMAN AIZLEY:

I think that higher education has already been cut more than it should have been cut in the first place. The cuts to higher education are especially self-defeating. At the two universities, UNR and UNLV, it has resulted in less time for research; less time for research means less time for grant writing, less time for innovation and new ideas for economic development. By cutting and cutting and cutting, we are actually limiting the future revenue for the state of Nevada. I think we should minimize the cuts if possible.

ASSEMBLYWOMAN MASTROLUCA:

Thank you, Madam Chair. I understand and can respect the concerns that some of my colleagues have about making choices not knowing how much money is going to be there at the

end. But, I also feel strongly that we were elected to do a job to represent our constituents and part of that job is to make the special session as short as possible. If we don't have these discussions and we wait until we find out what the bottom line is, we're going to be here for a very long time. I don't know about you, but I can't afford it. I have a family at home and a job at home that I want to get back to, so that I can get back to my life and my constituents and be able to talk to them about issues that they're going to be facing in the next session, because the decisions are going to be a whole lot harder than they are right now. So, I appreciate the opportunity to move forward, and I appreciate the opportunity to talk in an open discussion about what's important to each one of us so that we can make intelligent decisions. Thank you.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Chair, for a second time. What we are doing right now in this chamber is actually amazingly similar to how things are done in the private sector and how things are done in an entrepreneurial spirit. We're putting together the business plan for this state's recovery, for this state's future. When a business sits down and says, or a group of entrepreneurs say that they have an idea for how they can build value, that they can make money on an investment, that they can deliver a superior product and plan for the future—that's what we're all doing. We all know our requirement to balance this budget. We all know that we will have to make hard choices to meet these aspirations, but step one in a business venture is laying out the vision and that's what we're doing here. I think we're striving to reduce these cuts, and we're going to have cuts to higher education, but reducing these cuts is a strong statement that this body can make, that we are investing in the future jobs for Nevadans in a full economic recovery.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. I know we're all concerned about education, K-12 and higher education, but we're also concerned about the hole. I think several of my caucus members talked about that. We need to be able to put this whole plan together. So, while it's important to prioritize, we also need to figure out how we can afford any of this. We seem to be working from the top down instead of looking at how much we may actually have to spend, if any is given, the federal money and the sweeps, and if mining ends up paying more than their original estimate or whatever comes in. So, I guess we need to be able to tie those together, of course, but we seem to be looking at the spending versus potential revenue and income that already exists, so that's where I am. It's very difficult to commit given that we don't have the entire picture. Thank you.

CHAIR BUCKLEY:

Well, the sweeps bill has arrived, so unless any of my remaining colleagues who have their buttons pushed feel the absolute need to weigh-in . . . We have one.

ASSEMBLYMAN MORTENSON:

Thank you, Madam Chair. There is a proposal to cut state employee's salaries by 1.5 percent, but university employees by 1.75 percent. I have heard no rational reason why one group should be discriminated against, especially when they are teaching us. I would propose that there be no differential. Whatever we decide to cut in the salaries should not be harder on the university employees than the other employees in the state.

ASSEMBLYMAN OHRENSCHALL:

Thank you very much for your indulgence, Madam Chair, and I will keep it brief. I was fortunate enough this last fall to have it be my last semester at UNLV. Many of my classmates were very happy for me and said, "James, we're very happy you're graduating in December, but we're scared about us." They asked, "Will the classes we need for our degrees be available? Will we be able to afford the increased tuition? When we started here because we wanted to become lawyers, we thought we could afford tuition. We thought we could take out loans and make it, but now with the increases, we're not sure we can finish. We feel like we're having the rug pulled out from under us." So, I hope that we will take action to not pull the rug out from under all of our students in Nevada. Thank you.

CHAIR BUCKLEY:

In response to my colleagues who are concerned about setting priorities. We are going to have a revenue discussion. It might be this afternoon, and if not, it will be tomorrow morning. It's coming, and of course, we have to consider both. I mean, how else could you prepare a balanced budget? You have to prioritize first. What is essential? What is your goal? What do you want to accomplish? That's what you do when developing your vision statement. That's what you do for your goals. Now, the next part will be what revenue we have to blunt the cuts. Firstly, the cuts that make no sense and will cost more in the long run, and, secondly, the cuts that we think will harm economic recovery. We will have that debate, and it will be done when we enact a bill that has spending. It will be discussed then as well. So, this isn't your final chance to say do we have a way to pay for this? Obviously, that discussion is coming. So, all of those in favor of establishing a goal of reducing the cuts to higher education to a five percent level, please raise your hands. Thank you.

Submitted Exhibits

See below.

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Fax No.: (702) 486-2810
BRIAN L. DAVE, Legislative Services Officer (702) 486-2800MEMORANDUM

DATE: February 25, 2010

TO: Members of the Nevada Legislature
26th Special Session, 2010

FROM: Fiscal Analysis Division *1d*

SUBJECT: Information Requested from the Department of Corrections

At its February 10, 2010, meeting, the Interim Finance Committee requested information from the Department of Corrections. Attached are responses to those questions, and additional information on early release of prisoners provided by the department.

Attachments

*DOC***Original on File at the Legislative Counsel Bureau Research Library.**

Assemblyman Ocegura announced if there were no objections, the Committee of the Whole would recess subject to the call of the Chair.

Committee of the Whole in recess at 11:57 a.m.

IN COMMITTEE OF THE WHOLE

12:36 p.m.

Chair Buckley presiding.

Quorum present.

Budget recommendations considered.

Assemblyman Conklin moved the introduction of BDR 10-28 that revises provisions relating to state financial administration.

Seconded by Assemblyman Horne.

Motion carried.

On motion of Assemblyman Ocegüera, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 12:37 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 25, 2010

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 1.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee of the Whole:

Assembly Bill No. 3—AN ACT relating to state financial administration; revising provisions relating to the transfer of certain money from the Abandoned Property Trust Account; providing for the temporary reduction by the Legislature of the assessment on state agencies for a portion of the costs of premiums or contributions for retirees with state service participating in the Public Employees' Benefits Program; authorizing certain sums appropriated to the Department of Health and Human Services to be transferred among the various budget accounts of the Department under certain circumstances; reducing certain amounts of money budgeted for the 2009-2010 and 2010-2011 Fiscal Years; providing for revisions of certain work programs necessary to carry out and process those reductions; requiring the transfer of certain money to the State General Fund; making corresponding changes relating to such transfers; and providing other matters properly relating thereto.

Assemblyman Ocegüera moved that all rules be suspended, reading so far had considered first reading, rules further suspended, and Assembly Bill No. 3 considered engrossed, declared emergency measure under the Constitution and placed on third reading for final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 3

Bill read third time.

Remarks by Assemblymen Hardy, Gansert, and Christensen.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Assemblyman Christensen moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 12:47 p.m.

ASSEMBLY IN SESSION

At 12:52 p.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bill No. 3 be taken from the General File and referred to the Committee of the Whole.

Motion carried.

Assemblyman Ocegüera moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Assembly Bill No. 3.

Motion carried.

IN COMMITTEE OF THE WHOLE

Chair Buckley presiding.

Quorum present.

Assembly Bill No. 3 considered.

CHAIR BUCKLEY:

Let's open the hearing on Assembly Bill 3. Tracy, would you come down to the witness table for us and answer some questions? We have moved this train without you all so come down to the witness table and answer some questions for the good of the body and we will also ask Ms. Erdoes to come put on the record that this is not an ongoing authorization but the direction of one time money into these accounts. We want to make sure that everything is on the record and clear for the members comfort.

Tracy, the question from Assemblyman Hardy was regarding pages 53, 59, and 63. Turning first to page 53, paragraph 12, could you advise the body exactly why these funds are proposed to be swept and could it, in any way, jeopardize any claims?

TRACY RAXTER, ASSEMBLY FISCAL ANALYST, FISCAL ANALYSIS DIVISION, LEGISLATIVE COUNSEL BUREAU:

On page 53, item number 12, budget account 1013835, is the Division of Financial Institutions. This is their administration account and main operation account for the agency. The proposal that you see before you in the bill is a sweep of \$250,000. The balance in that account, as of the beginning of February, was approximately \$2.7 million. I would point out that this is also a recommendation that was made by the Governor in his proposal. The second one that Dr. Hardy indicated was on page 59, Section 53. This is a proposal for a sweep of \$150,000 from the Financial Institutions Auditing Account. This account is utilized for when a financial institution has failed and is a state chartered institution. The individuals that are paid out of this budget account have to go out to that financial institution and provide for an orderly shutdown of the institution. If it is transferred to another bank, they ensure that the process is done in an orderly manner and that all of the record keeping is taken care of. The sweep there is of \$150,000, which was also in the Governor's proposal. This sweep of \$150,000 is for FY 2010 and on page 63, Section 69 is the same account for a sweep of \$100,000 for FY 2011. Those are the purposes of those budget accounts. The first budget account, 3835, is the Financial Institutions administration account and 3882 is the Financial Institutions auditing account, which is the account that funds the staff that goes out and works with an institution that has failed.

ASSEMBLYMAN HARDY:

They have pretty well figured it out, as far as the "siloing" of where this comes from, coming from General Fund money. I do not think we are getting into the problem where we have taken it from what they put into it and, therefore, I think we are protecting ourselves from having a legal kick back or legal back kick from us. I think when we start looking at this, it is a one time thing in 2010. I guess one of the accounts is more ongoing because it happens again 2011, so I guess this is hitting it twice on a sweep as opposed as to hitting it once because we continue to put General Funds in it. Which brings me to the observation of us continuing to fund the General Fund of a thing that we are sweeping, which does not make much sense to me but that is not a major sticking point for me. Yes, I think they have done a good job trying to help me understand it better.

CHAIR BUCKLEY:

Tracy, with regard to Assemblyman Christensen's question, we put an S.O.S. into Brenda Erdoes but perhaps you can answer the question from your analysis of the bill and your working with Legal on the language. This bill only authorizes this to be done on a one time basis, is that correct?

TRACY RAXTER:

Please repeat the question. I am not sure which item he was referring to.

CHAIR BUCKLEY:

The question refers to all of the sweeps—that this bill does not allow authorize them to be swept again and basically sunsets. It is a one time action of the amount on the bill and does not authorize it to be done again.

TRACY RAXTER:

I would just reference the members of the Assembly to Section 83 of the bill and also Sections 84-86—these are where the monies that are being swept are. The bill proposes that all of these funds go into budget account 1019081, which is a budget account called Budget Reserve, which has been used in the past. In the last interim, this budget account was where we did all of the sweeps and we put all of that money there; it just reverts to the General Fund at the end of the fiscal year. You will note, as an example, in Section 83 it says these funds revert to the state General Fund at the close of FY 2009-2010. Those are the ones that apply to FY 2010 and are also the same for Section 84. In Section 85 and 86, they apply to the reversions that are applicable to FY 2011 but those sweeps would occur in those years and those years only.

CHAIR BUCKLEY:

So it does not authorize any continuing sweeps other than what is specifically set out in the bill?

TRACY RAXTER:

That is correct, Madam Chair.

ASSEMBLYWOMAN GANSERT:

I have a few questions. First, regarding the millennium scholarship, Mr. Clinger testified the other day that it was going to last until 2014 but we did not know if that was through school year 2014-2015 or 2013-2014. I just want to check to see if students that are currently enrolled would have enough funding available to allow them to finish.

TRACY RAXTER:

The proposal that the Governor presented was a sweep of \$5 million from the Millennium Scholarship fund and then also a redirection of \$3.8 million per year of unclaimed property proceeds that would have normally gone to the Millennium Scholarship fund and putting those into the General Fund. It is a total amount of \$12.6 million out of the two-year biennium. If that were to occur, the information provided by the State Treasurer indicates that the Millennium Scholarship fund would have a zero balance on or before the end of FY 2011. Staff has taken a look at this and has worked with the State Treasurer and has come up with a potential solution that the Legislature may want to consider. That would be to take \$2 million a year transfer from the College Savings Plan Endowment Account and transfer those funds to the Millennium Scholarship fund. There is a restriction that those funds be utilized for higher education purposes but, obviously, with the Millennium Scholarship fund, that would appear to meet that criteria. By doing that, it would reduce that total sweep of \$12.6 million down to \$8.6 million and the impact on the Millennium Scholarship fund would be that it would, according to the State Treasurer, extend the solvency date through FY 2015.

ASSEMBLYWOMAN GANSERT:

In this bill, we are actually sweeping but we are not replacing any at this time? So are we to expect another bill, maybe, to replace that? What do we need to do to take the 529 interest money to move it?

TRACY RAXTER:

I will defer that question to the Legal Division. It is my understanding that IFC (Interim Finance Committee) has the authority to approve that kind of a transfer.

BRENDA J. ERDOES, LEGISLATIVE COUNSEL, LEGAL DIVISION, LEGISLATIVE COUNSEL BUREAU:

Actually, this is something that we did look into and we came to the conclusion that because the section itself says that they can use the money for this purpose, they would be able to carry forward that transition without legislative act.

ASSEMBLYWOMAN GANSERT:

We will be looking to move \$2 million a year for both of these fiscal years; so this current year and next year, from the 529 interest going to the Millennium Scholarship Fund.

BRENDA ERDOES:

Yes.

ASSEMBLYWOMAN GANSERT:

My next question had to do with the Q1 bond funds. We have a large reserve account and I know that there was some investigation of whether we can use any of that or not. It is not on our sheets at all so I am assuming that it was resolved that we cannot use any of that money?

BRENDA ERDOES:

There are very strict requirements. It is 5 percent that can be used for administration of the bond provisions and those are being used. It is the administration of the bond provisions, so that

money could not be transferred to the state General Fund for unrestricted use. So there may be some money there; we were not actually able to confirm for certain as to whether they were using the whole 5 percent. Even if they are not, it is all that is allowed to be taken out. Even if they are not, you can only use that up to 5 percent for actual administration of those bonds. We wouldn't be able to put it in the General Fund for unrestricted use.

ASSEMBLYWOMAN GANSERT:

My last question is about the common interest communities. It looks like that is now off of our sheet so we are not taking any money from the Common Interest Community Fund.

TRACY RAXTER:

That is correct.

CHAIR BUCKLEY:

Just to add to that for a moment. The Senate also took up the sweeps bill yesterday and they landed very close to where we did. There were a couple exceptions; one is that they did not sweep the problem gambling fund and we did. In discussing this with Senator Horsford, I mentioned that it will probably add two more days onto our schedule if we both have the same identical bill, we both amend it, and send them to the other house—it is not very efficient. We suggested that we split it in the middle between the Senate and Assembly. Obviously, everybody is concerned about problem gambling, but as we talked all morning we cannot keep everything the same—there has to be cuts. So that is one suggestion that was made. There were continuing concerns about the home owners association and whether this may lead them to doing more assessments, which we did not want to see happen; so the recommendation was to take that off. The Senate had a few things that they did not include that we had included, so they were going to accept those; then it came over and there was a small substance abuse treatment account but other than that there were no differences between the Senate and what the Assembly did. All of the ones that we took off, due to legal concerns or policy concerns that we talked about yesterday, it appears they are in agreement with. I believe, although nothing is certain, that we will be able to do one bill without having substantial amendments. Further questions?

ASSEMBLYMAN GOICOECHEA:

On Section 79, I want clarification. That is the premium holiday for Public Employee Benefit Program (PEBP), correct or incorrect?

TRACY RAXTER:

Section 79 is not the premium holiday. There is a fund called the Retirement Benefits Investment Fund. You may recall that in FY 08 the Legislature approved transferring funds to be set aside for future health insurance costs for state retirees. This represents that amount of money; it is \$24.7 million. What Section 79 does is that it takes the \$24.7 million out of that retirement benefits investment fund and moves it back to the State Retirees Health and Welfare Benefits Fund, which is the actual fund that is utilized by PEPB for the payment of health insurance costs for state retirees. This is a one shot utilization of funds that were placed there in FY 08. Once this sweep is done those funds will no longer be there and this opportunity will not exist again.

ASSEMBLYMAN GOICOECHEA:

It depletes the fund and from there on in the future those assessments would just go right into the PEPB account directly.

TRACY RAXTER:

That is correct. Section 6 of the bill provides for changing the assessment, if the Legislature would do that, because we are sweeping the \$24.7 million. The assessment for FY 11 can be reduced, so Section 6 allows for the temporary reduction of the Retired Employee Group Insurance (REGI) assessment for FY 11.

ASSEMBLYMAN GOICOECHEA:

That is the 95 to the 75 reduction in subsidy?

TRACY RAXTER:

It is not a reduction in the subsidy; it is a reduction in the assessment to state payroll that goes into the retiree health and welfare benefits fund.

CHAIR BUCKLEY:

Tracy, along the same lines, the Governor had proposed an \$11 million premium holiday and a \$14 million sweep of the investment account. PEBP indicated that they felt it would cause serious harm to the fund and I thought the alternate suggestion was to only sweep the REGI investment fund for a total of \$14.760 million and not to take the value of the premium holiday, so that the amount would be lowered. I think that is what we had discussed as a potential solution. Can you address that?

TRACY RAXTER:

Certainly, Madam Chair. You are correct; the Governor did recommend a premium holiday. It would have been \$11.3 or \$11.4 million to state employees and then also \$3 million from the Distributive School Account (DSA), for a total of approximately \$14.4 million. When this was first looked at by the Public Employees Benefits Board or the program itself, back in January, they were estimating excess reserve over and above their IB and R reserve [1:12:05] of about \$11 million; however, the medical trend for cost in the program is based on updated information they got from their actuary because they are in the process of developing the rates for FY 2011. Based on that updated information, it shows the medical costs are trended a little higher this year than what they were expecting. The expected excess reserve that was going to be utilized to adjust as part of the rate settings in FY 2011 went down from \$11 million to around \$6 or \$7 million. I would also point out that the legislatively approved budget, approved in the 2009 Session, also contemplated that the majority of those excess reserves would be utilized in FY 10-11 as part of the rate setting structure. In other words, it allows the premiums for the participants in the program to actually be lower than what they would otherwise be. Based on that information, it appeared advisable to staff. We have relayed that information to leadership that a premium holiday was not necessarily advisable.

CHAIR BUCKLEY:

Tracy, does the amount in this bill have to be modified to reflect the \$14.760 million, as opposed to the amount that is now in the bill?

TRACY RAXTER:

No, Madam Chair. The amount in the bill is \$24.7 million, but that represents the full amount of money that is in the Retirement Benefits Investment Fund. The General Fund share of that is \$14.760 million, which you see on the sheets that Andrew Clinger went over yesterday. That represents the General Fund piece that, by reducing the assessment for REGI in FY 2011, will result in a General Fund savings of the \$14.760. That will be offset by a portion of the \$24.7 million which will be transferred and that is the amount that is in the bill.

CHAIR BUCKLEY:

Thank you for that clarification. Just to make it clear, will the sweeping of these reserves of the REGI trust fund, according to PEBP, result in them having to reassess how the benefits structure exists?

TRACY RAXTER:

The sweep of the \$24.7 million represents funds that were set aside in 2008 by the Legislature for future liability of retiree health insurance and will have no impact, according to PEBP, on their current plan or the plan going forward for this biennium. That was merely future liability that was being set aside to meet the GASB (Governmental Accounting Standards Board) standards for recognizing—there is not a requirement to set aside those funds but to recognizing what that liability is.

ASSEMBLYMAN ANDERSON:

In this particular area, we made cuts—to the GASB program. We made cuts of \$53 million. We took money from there in the last session. I want to make sure I am dealing with the right

funding area. Are we placing the state at greater risk here and in the future and meeting the GASB responsibility rather than being one of ten states that are trying to put something aside for the economic problems that will be facing the state in the future? It is a multi-sided question as all my questions are.

TRACY RAXTER:

You are correct. We did sweep money out of some of the funds that were set aside. The 2007 Legislature set aside approximately \$52 to \$53 million. Some of that was for FY 2008 and some was for FY 2009. The amount for 2008 had already been placed in the Retirement Benefit Investment Fund before the state shortfall occurred in the 2008-2009 interim. So those funds could not be swept, but the 2009 funds appropriated by the Legislature were able to be swept in 2009. In regard to your second question about the future impact on the state by doing this sweep, the funds are future retiree health insurance cost. Assuming the actuarial value is correct, these costs will have to be paid sometime in the future unless the Legislature makes some change to the benefits structure for retirees for this program or the PEBP Board itself and some how adjusts the benefit structure for the program. Barring those two things, there would be a potential for paying these costs in the future. Particularly what year that would occur is undetermined at this point.

ASSEMBLYMAN STEWART:

Does this mean there are no funds left in that fund at all?

TRACY RAXTER:

That is correct.

ASSEMBLYMAN CARPENTER:

With the actions we are taking here, will there be any reduction in the benefits to the retirees, either in retirement or health benefits? Will they remain the same?

TRACY RAXTER:

This was presented by the PEBP Board. They presented three options originally in January. One was a premium holiday, another was a slight sweep from REGI that pays current fiscal year claims, and the third option was this proposal that we are reviewing today. The PEBP did not indicate that this would impact the retiree benefits for health insurance in the current biennium. Again, these are the funds that were set aside for future liability and there was no identification of which fiscal year in the future that these funds would be utilized. It was just to acknowledge that there was a future liability for the GASB purposes and the setting aside those funds. The proposal now would be, instead of sweeping those and utilizing these funds in the future, they would still be utilized to pay for state retiree health care; but they would be utilized in FY 2011. Any future state retiree health benefit cost will be paid through the assessment and the subsidy that is approved by the Legislature in a future biennium.

CHAIR BUCKLEY:

I think this is what is called making the worst possible choice of many difficult and hard options. It is not good, taking money out of the reserve; it is not going to help but we do not have a lot of good choices. This is the least harmful of the options presented by PEBP.

TRACY RAXTER:

Madam Chair, there is one point that I would like to clarify. There are two sweeps on the list that everybody did receive; one of those sweeps is on line 6, on the first page, which is the account for the Prevention and Treatment of Problem Gambling. I just wanted to make sure that everybody was aware that this sweep was in the Governor's 10 percent list and we are displaying it here and it is being reflected in the sweep bill. It will not be counted in the 10 percent reduction, so it will not be double counted. The other item is on line 18 on the second page, which is the Nuclear Waste Project Office. This is a sweep of \$57,563 in FY 10 and a sweep of \$970,000 in FY 11— the same thing. A portion of this sweep was recommended by the Governor in his proposal and his 10 percent list. We have reflected this as a part of the sweep

and included it in the sweep bill; we are not going to be double counting this as part of the 10 percent reductions.

CHAIR BUCKLEY:

Thank you; we know you have been having a difficult time—you have sweeps and you have reductions. You have four different types of the reduction sheets and compiling them all is a lot of work and we appreciate all that you are doing for us. Thank you for the clarifications. Is there anyone that would like to provide testimony on this measure?

ASSEMBLYMAN GOICOECHEA:

I was curious as to the net value of the sweeps and is it reflected on the spreadsheets that staff has provided the members?

CHAIR BUCKLEY:

Could we get an updated sheet which reflects the bills that everyone could utilize?

ASSEMBLYMAN GOICOECHEA:

I would be fine with the value of this bill; it would give us something to work on.

TRACY RAXTER:

The spreadsheet that was provided to all of the members—on the last page we do have the totals of what is in the bill. The total is \$123 million in FY 2010 and approximately \$73.9 million in FY 2011, for a total of \$197.4 million. I would point out that the transfer from the Retirement Benefits Investment Fund of the \$24.7 million is not in that total. The other item, that is not in that total, which is in the bill, is the \$3.8 million per year from the Unclaimed Property Account that would go to the General Fund.

ASSEMBLYMAN GUSTAVSON:

I have been going through this and trying to do a quick auditing just to compare the bill with the spreadsheet that we have and I am still going through that. To follow up with my colleague from Eureka, as far as a total number goes, I am trying to compare the budget items with the spreadsheet and the bill itself. Budget account numbers 409, 410, 466, and 468—I have not seen on the spreadsheet yet. Could you assist me with those numbers? I am not on Ways and Means so I am not as familiar with these spreadsheets as some of the other members.

TRACY RAXTER:

I refer you to the second page. On line 21, there is a spreadsheet and it lists state agency names, the state public works board, and then it says CIP projects of \$6.9 million. That is all of the budget account numbers that you referenced in fund 409, 410, 466, and 468.

ASSEMBLYMAN GUSTAVSON:

On page 55.

TRACY RAXTER:

That is correct.

ASSEMBLYMAN GUSTAVSON:

Thank you. I did not see those numbers in the spreadsheet. Thank you very much.

ASSEMBLYMAN HARDY:

Have we taken the \$3.8 million from the unclaimed property? What does that leave us in the unclaimed property?

TRACY RAXTER:

Nevada Revised Statute (NRS) 128.620 provides that the first \$7.6 million each year of the ending balance in the unclaimed property fund is to be transferred to the millennium scholarship trust fund. In the 2009 Session, in the General Appropriations Act there was a section placed in there to redirect half of that amount, \$3.8 million per year, to the General Fund. What you see in the bill today in front of you is the other \$3.8 million per year, the other half, which is still statutorily required to go to the Millennium Scholarship Trust Fund based on NRS 128.610.

I can not tell you what the current balance is in the Unclaimed Property Fund. The statute provides that at the end of each year the first \$7.6 million is what is transferred out first before anything else.

CHAIR BUCKLEY:

Is there anyone who would like to provide testimony in the Committee of the Whole on this measure? Seeing none I will close the public hearing and bring it back to committee.

Submitted Exhibit

See Below.

State of Nevada Fund Sweeps Fiscal Year 2010 & 2011										M				
	A	B	C	D	E	F	G	H	I	J	K	L		
1	Fund	Agency	Agency Name	BIA	Budget Account Name	Balance As of 4-Feb-10	FY 2010	FY 2011	Total	Governor's Proposal		Difference		
2														
3														
4														
5														
6	401	400	Health & Human Services	3200	Prevention/Treatment of Problem Gambling	N/A		850,000	850,000		1,842,082	(892,082)		
7	251	408	Health Division	3152	Reactive Material Disposal	9,493,612	8,990,050	-	8,990,050		8,990,050	-		
8	251	408	Mental Health & Disability Services	3258	Alcohol Tax Program	N/A		-	-		311,483	(311,483)		
9	101	749	Athletic Commission	3952	Athletic Commission	194,058	29,500	-	29,500		29,500	-		
10	262	050	Treasurer's Office	1090	Trust Fund for Healthy Nevada	30,128,165	21,300,000	8,828,165	30,128,165		30,128,165	-		
11	263	050	Treasurer's Office	1091	Trust Fund for Public Health	10,672,420	5,922,887	4,839,733	10,762,420		10,762,420	-		
12	261	050	Treasurer's Office	1085	Millennium Scholarship Fund	11,556,426	-	5,000,000	5,000,000		5,000,000	-		
13	328	170	Legislative Counsel Bureau	2630	Contingency Fund - electricity and heating	N/A	2,206,265	3,176,269	5,332,564		5,332,564	-		
14	328	170	Legislative Counsel Bureau	2630	Contingency Fund - Line of Credit Payback	N/A	15,000,000	15,000,000	30,000,000		30,000,000	-		
15	395	050	Treasurer's Office	1082	Bond Interest and Redemption Account	30,000,000	15,000,000	14,000,000	29,000,000		29,220,625	(220,625)		
16	101	830	Board of Examiners	4853	Unemployment Assessments	N/A	1,399,834	554,405	1,914,239		1,914,239	-		
17	615	130	Department of Taxation	8089	Unclaimed Sales Tax Cash Bonds	1,777,612	1,777,612	-	1,777,612		1,777,612	-		

LCB - TRACY RAXTER
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State of Nevada Fund Sweeps Fiscal Year 2010 & 2011													
	A	B	C	D	E	F	G	H	I	J	K	L	M

	A	B	C	D	E	F	G	H	I	J	K	L	M
1	State of Nevada												
2	Fund Source												
3	Fiscal Year 2010 & 2011												
4													
5	Fund	Agency Name	BIA	Budget Account Name	Balance As of	FY 2010	FY 2011	Total	Governor's		Proposal	Difference	
77	101	104	Police Division	6190	Performance Guarantees	2,002	2,002	2,002	2,002		2,002	-	
78	Total Other Non-General Fund Sources					380,879,438	123,534,908	73,868,572	197,403,919		223,331,798	(24,927,720)	

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Assemblyman Ocegueda moved to do pass Assembly Bill No. 3.

Assemblyman Conklin seconded the motion.

Motion carried.

On motion of Assemblyman Ocegueda, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 1:30 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee of the Whole, to which was referred Assembly Bill No. 3, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BARBARA E. BUCKLEY, *Chair*

GENERAL FILE AND THIRD READING

Assembly Bill No. 3.

Bill read third time.

Roll call on Assembly Bill No. 3:

YEAS—41.

NAYS—Goedhart.

Assembly Bill No. 3 having received a constitutional majority, Madam Speaker declared it passed.

Assemblyman Ocegueda moved that all rules be suspended and that Assembly Bill No. 3 be immediately transmitted to the Senate.

Motion carried.

Madam Speaker moved that the Assembly recess until 3 p.m.
Motion carried.

Assembly in recess at 1:39 p.m.

ASSEMBLY IN SESSION

At 3:29 p.m.
Madam Speaker presiding.
Quorum present.

Assemblyman Ocegüera moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering the budget cuts to Health and Human Services.

Motion carried.

IN COMMITTEE OF THE WHOLE

Chair Buckley presiding.
Quorum present.
Health and Human Services budget cuts considered.

CHAIR BUCKLEY:

As you recall, we did hear from Mike Willden and the presentation of the proposed cuts to the Health and Human Services budget. We are not going to re-review those. There are a number of those cuts that will painful are going to go forward. This is just the list of some that was compiled to reexamine in greater detail, to make sure that we did the cost benefit analysis to understand all of the decisions we are facing.

ASSEMBLYWOMAN LESLIE:

I am here to present this as the vice chair of Ways and Means and the chair of the joint subcommittee that takes up these budgets. The Department of Human Resources, as you all know, is the largest department in state government. It consists of five divisions: the Division of Welfare, Aging and Disability Services; Child and Family Services; Mental Health; Developmental Services; and Health Care Financing and Policy, which we usually call Medicaid.

Before I begin, I really want to thank Mike Willden. Thank you, Mike, for all the help you have given us and the help of your staff as we've been working over the last three weeks or so, through the IFC and through leadership, to really understand what the proposed cuts would mean to our citizens. They have done a lot of extra work; they have taken tons of phone calls, tons of emails, and responded always very quickly and very nicely. I really do appreciate that.

You should all have a sheet of paper. It doesn't say "the ugly list." Its title is "The Worst Human Services Budget Reductions". So, that is what I am going to be working on. If I get into trouble Mike is going to save me but I do know these budgets fairly well having served on that committee many years so we will see if I can answer your questions. There are other people here who would like to offer public testimony who are obviously more expert in this field than I am and they can probably answer any detailed questions as well.

Let's start at the top. You will see four boxes and off to the right, in the final column, you will see "Governor Restored". So, what these boxes represent are original cuts that were in the Governor's original list. Through the work of IFC and public testimony and the town hall meetings that many of us attended, the Governor did agree to restore these four items. I will briefly go over those. The first one is to delay growth for residential placements in rural Nevada. This is on the Development Services side—you can see the total amounts in that column. The second item is to reduce the residential caseload growth by 142 placements. This is for the severely mentally ill in Las Vegas. What we are doing here is restoring 85 housing

slots. You will recall that over the last six to eight years, we talked a lot about restoring the mental health budget, especially in housing, especially in Las Vegas, because the only public health emergency in our state that was ever called was in Las Vegas, when the emergency rooms were so full of mentally ill people. You remember that; people with broken arms that were waiting long hours because we couldn't get the mentally ill out of those beds. We know one of the keys to reducing that problem in Las Vegas is to have housing resources. The Governor originally had asked for a \$2.7 million, almost \$2.8 cut. Actually, it was more, almost \$4 million. Mike knows this. We put back \$2.7 million and the reason we did not put back the extra \$1.2 is that Mike has been managing the budget really well. He knew we were in this situation and so they have not ramped up the housing caseload slots because they did not know what we were going to do in the special session, so there is a natural opportunity to save some money there. The bottom line is 85 more people in Las Vegas will have housing because of this restoration. The third one we have talked a lot about already in the special session—these are the optional services from Medicaid. This item represents the \$4.9 million in dentures and the adult-day-care program. We heard a lot of testimony about that at the town halls for people with Alzheimer's, so that they have a place to go during the day and give their families a break, and have transitional rehabilitative out-patience services. If you are thinking: What about the hearing aids? What about the glasses? We are going to get to that in a minute. The Governor has restored all of these in the budget. The final item the Governor restored was the 77 field services staff at Welfare; you know the welfare case loads naturally go up in a deep recession and we have a court case and Federal mandates that say we have to process applications in a certain amount of time. We need those 77 positions in order to do that. So, the bottom line is that the Governor has already agreed to put back \$9.3 million. The rest of the items on this page are items I would like for you to consider restoring to the budget. As the Chair said, we have been processing this through leadership the last two weeks and through IFC. I think there is general agreement that these are very important items, to protect are most vulnerable citizens.

The first item is child welfare; actually, let's talk about the first two. You remember that we have changed our child welfare system to an integrated system and the state is responsible for funding to the counties in order to have an integrated system. The first box represents a 10 percent cut to the Washoe County child welfare program. What this would mean in Washoe County is that there would be a huge decrease in home services. A lot of times we try and provide in-home treatment to keep abuse and neglected kids safely within their family environment, because we all know that parents are the best at raising kids. We would be eliminating family preservation services, we would be eliminating respite care for foster families—which is so they could have a break once in a while and get out of town—and increasing case loads. In Clark County, which is the next box, the \$6.1 million represents at least 27 jobs that would be eliminated. Foster care caseloads would increase to about 50 foster children per case worker. Just to give you an idea, the national standard is about 11 to 15 kids. So, if we went to 50, obviously that would not be good for the children and we might be facing some federal penalties as well.

The third item . . . actually, let's take the next three items. You are very familiar with this, the personal assistant services item, where the Governor is recommending that we reduce the rate that we reimburse for the cost of providing assistance to disabled people in their daily living. This is assistance for things such as taking showers, getting dressed, and being able to go out. During the 2009 Session, the Governor had proposed a \$3.00 an hour cut. Through lots of testimony, those of you who served on Ways and Means, had hours and hours of testimony about the ramifications of cutting the personal care attendant services hours. We ended up cutting their salary by \$1.50. What we are recommending to you today is that we not cut it another \$1.50—that we leave it where it is now at the original \$1.50 cut.

The next item is increasing the Nevada Check-Up premiums. The Governor is suggesting is that we triple the fees. You can see the amounts there. What it would mean and just to remind you, Nevada Check-Up is our SCHIP program, which is health care insurance for children of working families. It is not for the poorest families because they are served through Medicaid. Nevada Check-Up serves people who are working, but either their employer doesn't offer insurance or they can't afford family coverage. Even though the amounts look small to you, from \$25 to \$75 a quarter, it is a tripling, a 300 percent increase to these families. Many of

them, I think, would drop off of Nevada Check-Up. What happens is then we have more children without health insurance. The last study I saw showed that Nevada is the fourth worst in the nation in terms of the number of our citizens who have health insurance, so obviously kicking more kids off of health care is not going to be a good thing for our state.

The next item is what I was talking about before, the other optional services of Medicaid for adults—the non-medical vision and the hearing aids. This is for the seniors who we know need to eat but they also need to hear and see, so we are proposing putting that back in the budget. The next item is the Governor's proposal to decrease, by \$10 a day, the per bed and day rate in our skilled nursing facilities and our nursing homes. Of course, our seniors in nursing homes are among our most vulnerable people and the last thing we want to do is lower the quality of our nursing homes.

The next item is decreasing, by another 5 percent, the hospital rates. If you recall this from the 2009 Session, we did decrease it by 5 percent then, so this would be an additional 5 percent, for a total rate decrease of 10 percent. It does not apply to most of the rural hospitals but it does apply to rural hospitals in Elko, Churchill, and Boulder City. I think everyone in the body is pretty familiar with this item since we heard it so much in the last session. We are recommending we not enact an additional 5 percent rate decrease in that area.

The next item will also be very familiar to everyone and that is the autistic children. It represents a \$1.5 million decrease in the amount that we allot for families of autistic families; some are for families of autistic children who are also mentally retarded, who purchase services that are very specific to their children. We would be decreasing the amount of money that we reimburse parents to purchase those services; so, what we would be doing through this cut is taking kids off their treatment. Kids that are getting treatment now would not be able to get all of their treatment; parents would have to decide which services they would be sacrificing.

The last one is another mental health cut which we are recommending be restored, which is for co-occurring disorders—people who have a severe mental illness and substance abuse. We know those rates are very high. It represents 42 people getting services today in Clark County and 18 in Washoe County, so these are among our clients in mental health in need of integrated services who would no longer be getting those. We know people aren't getting services, which are severely mentally ill, often end up in our hospital emergency rooms, our jails, and our prisons. We do not think that is a good investment. The other thing I want to draw your attention to is the amount of federal dollars that we get that coincides with this amount of money. If you take the \$9.3 million and the \$25 million we are suggesting, we put back \$34.4 million into the budget. The federal match for these items is \$32 million. The total amount of money back into our economy—and remember, jobs go along with this because in health and human services a lot of the services are provided by people—is a put back of \$68.4 million. I won't ask the assistant majority leader to repeat his lecture to us from yesterday about the multiplier effect. I just want you to know how much federal money we would be getting if we put this amount back in the budget.

I guess, in conclusion, I would like to put back more things. We are still not funding tobacco prevention. We are still taking away substance abuse prevention dollars when we know we have one of the highest rates of substance abuse in the country. There are more mental health cuts that I personally would like to put back, but we can't, the money isn't there. I would ask that you consider these priorities. I started out with a three page list when we started and I'm down to one page. I think that if we restore these services, it will not only save jobs, even more importantly, it will save lives. I am asking for your consideration for these budget restorations. Madam Chair, I am happy to entertain any questions. Bring Mike Willden down if you need him. I know there are some people who would offer public testimony.

CHAIR BUCKLEY:

Thank you for your testimony. Assemblywoman Leslie, do you know or should we ask Mike Willden? If you separate out the items on this page, what are still the overall cut to health and human services?

ASSEMBLYWOMAN LESLIE:

Mike can give you a more accurate number I am sure.

CHAIR BUCKLEY:

There was intimation earlier that there aren't cuts being made. This is a targeted list of some of the worst ones but overall, between the agency cuts and the public health trust funds, tobacco funds, all the agencies within the department's jurisdiction, how much is being cut?

MIKE WILLDEN:

From my testimony I provided yesterday or the day before, our thirteen page cut list does not include the federal dollars. The total number of reductions being made in Health and Human Services is \$155 million; \$108 million of that is off the five documents that Director Clinger presented for the Governor's cuts—the travel and training, the staffing cuts, and the sweeps. On top of the \$108 million there was \$41 million worth of the tobacco sweep and almost \$7 million related to the Temporary Assistance to Needy Families (TANF) block grant. So, the total reduction in Health and Human Services was almost \$156 million. So, if I am following this add back list, it is roughly \$25 million. So, it would be \$56 million minus \$25 million.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. I want to thank you for going through all of these cuts. I want to thank Mike for all the help and the reiterations that have transpired to try to get this thing cleaned and make sense of it.

I had a question about the personal care assistant rates. I was thinking, during testimony, and had asked and I thought that they had said that we could cut the \$1.50 and the services would still be provided because they would reorganize what they were going to do. Thank you.

ASSEMBLYWOMAN LESLIE:

Madam Chair, might I answer that and then turn it over to Mike Willden? There are actually three areas and that is why they are out there in three ways. I think what you are referring to is the St. Mary's program. What we want to do is have consistency in the rates. The St. Mary's program did come forward and say they could manage by redoing things. I am sure that they would rather have the \$1.50. The big money is actually in the Medicaid portion – so there are three areas – and Mike will give more details on that.

MIKE WILLDEN:

Madam Chair and Assemblywoman Gansert, to break out the three line items, you can see the first one was \$431,000. That is what we call the St. Mary's program, which is the Office of Disability Services. They are currently paid a higher rate of \$18.50 versus the other personal care attendants (PCAs) who make \$17.00 an hour. The difference in the two rates, as I testified before, is that St. Mary's is getting paid for the case management plus the services and the other providers provide just the services. The second line down, the \$72,000 and some change, is the impact on the Aging Divisions' Home and Community Based Services. The third line down, the \$2.9 million to \$3 million is the impact of the personal care services in the Medicaid program.

ASSEMBLYWOMAN GANSERT:

Thank you. I understand. I just thought that St. Mary's said they could do it for less. I was wondering if everybody else could do it for less. Do we need to add this back or can we still get the services?

ASSEMBLYWOMAN LESLIE:

What I would say is that we have to have consistency in the rates. I would hate to penalize St. Mary's for being the one who said they could manage. I have not seen the letter so I am not sure what was said. My impression of it was that they would rather try to muddle along then lose the program—they are very committed to providing this service. I would hate to say that we were not going to pay you because you said you could manage. We don't want competition between personal care attendants; we have some testimony here from people who actually use these services—they can explain it much better than I. My recommendation would not be to reduce the St. Mary's program. I personally think, based on the testimony we had during the session, that disabled people who are served through the Medicaid program would definitely suffer if we enacted the additional \$1.50. They wouldn't be able to hire people and the quality of care would suffer. They could probably answer that better.

ASSEMBLYWOMAN GANSERT:

Thank you, that is actually more to my question. It is not differentiating them, because I think they are a huge help. I completely agree. It is at what price can we afford to do it?

Thank you.

CHAIR BUCKLEY:

Thank you, Ms. Gansert. I don't see any other questions. Thank you, Assemblywoman Leslie. Thank you, Mr. Willden. Wait, we have another question.

ASSEMBLYMAN MUNFORD:

Thank you, Madam Chair. I just want to say to Mike, I thank you for what you do in my district. You are always accessible and you respond to my calls. I wanted to also ask you, I think Berry Gold mentioned it yesterday, about the diaper program. I received quite a few calls. I guess it was up to 300. Where is it now?

MIKE WILLDEN:

Let me give you a little background on the incontinence products and the policy that we have recommended. Medicaid pays for what we call non-durable medical supplies, for things like diapers and gloves for changing those types of things. We recommended the policy to limit the number of the incontinence products that would be reimbursed without prior authorization. The old policy was 300. Again, we did some national polling and checking around and the average seems to be 186. Our recommendation is to move forward with the policy of 186 and, again, I would want the committee to know, if someone needs more than 186 and there is a rationale, we will accommodate that, but we are not going to automatically fill 300 diapers or incontinence products, every month. The 186 will be the limit without additional justification. I also note, for the committee, that if you are on Medicare, they don't pay for any diapers.

ASSEMBLYMAN MUNFORD:

Some of my constituents are on medication, a lot different type of prescription drugs, and it makes them feel like they may need additional diapers because of that. They are not regular like you would normally be if they were not on these medically prescribed medicines.

CHAIR BUCKLEY:

Mike, I think this is just one of those ones you can never explain and needs to come off the list. Thank you, again, for your testimony and how hard you worked.

CHAIR BUCKLEY:

We will open the hearing for public testimony. Paul, I know you were waiting before our break, so thanks for waiting; we really appreciate it.

PAUL GOWINS, CHAIRMAN, COMMISSION ON PEOPLE WITH DISABILITIES:

Thank you, Madam Chair. I appreciate the opportunity to speak today.

My name is Paul Gowins and I am currently the Chairman on the Commission of People with Disabilities. I looked at the "worst" list today and I appreciate the opportunity to talk about this worst list.

As a person who deals with the Commission on Disability, there is not one area in here that is not affected by somebody I talk to on a daily basis. Whether you are old or young, whether you happen to be in the St. Mary's program or happen to be in the institution, you probably are going to have a disability and I am supposed to say something for you today.

First of all, there will be some experts addressing other parts of this list, but my expertise mostly has been in the area of personal care attendants. I have to tell you that I receive personal care attendant services through St. Mary's and have for many years. That aside, I sat on the fundamental review when Governor Quinn was Governor. I also helped work on the rates commission when these rates were set—it was ten years ago. So, when we see these cuts—a \$1.50 doesn't seem like much. It is really difficult to explain to somebody what happens with the \$1.50. I surveyed three companies before I came here. One company—the last time the rate was cut—took their employees down 75 cents, a fairly efficient way to do that. One of the middle grade companies took their employees down \$1.00—starting from an average rate of

about \$10 or \$11. The last company I spoke with took their employees down \$1.50. One company said, "We are no longer going to do state people because we are going to try to do private—only because we can not make it at that rate."

There have been quite a few questions about St. Mary's and I want to speak on their behalf, not just because I am receiving services, but there is one real major difference with that program. They provide health insurance for individuals if they work 30 hours per week. I am not aware of any other company that provides that type of service, and retirement and those kinds of things; they are really truly employees and they are looked at as long-term employees. I think that is a real major thing because if you keep cutting a good program like that we are going to lose—they have approximately 200 employees now—and they are going to lose their health insurance. So, what do you think is going to happen there? I don't think that is going to be cost effective for us.

The last \$1.50 cut round, everybody ate the bullet and tried to make it adjust. If we have the same take next time, if you take 30 percent out of \$10 an hour, they are going to be making minimum wage again. We haven't done minimum wage since 1985 when we first developed some of these programs. I really think you seriously need to look at the impact. Often, when we talk about the programs, we look at the community based versus the institutional care. It doesn't matter to me, because I am representing people with disabilities. If you are in an institution or if you are in the community and you have a disability, we need to be concerned about how we deal with it. I had a friend trying to open a safe and he said, "We don't crack the safe, we don't break the bank, we just brutalize it." Right now people with disabilities in the state of Nevada are being brutalized with every service you cut. If you are in education—you get it; any of these programs—you get it. It is very, very important to look at really what is going on and how it is going to decimate the system.

I think they often try to pit the community services against those that are in institutions. If you look at Nevada overall, \$170 million a year is spent in the institutions and about \$70 million in community based. Within the institutions they average about 3,000 customers a month and in the community, it is about 5,500. You can see, we have done very well at balancing that—it use to be very different. We used to build 500 beds a biennium for institutional beds and we have not done that in years. These small little \$1.50 increments make a big impact over a period of time. I really encourage you to restore these issues.

I would challenge anybody that has not been to a nursing home in a long time to show up at a nursing home at a shift change on a Saturday, or go to one at 12 o'clock at night to visit their grandmother, and see what the staffing is like. I cannot tell you what the conditions are like. I know they are trying to comply with the law. I heard the man speak at the last IFC about just barely trying to comply with the law. So, just trying to comply with the law – what does that tell you? I would really encourage you to do something about the cuts and getting them restored.

I could talk about any one of these to a great extent. Keep in mind we are not just talking old people; we are talking children. We've got them cut up in a pile—we will feel like a bunch of pit bulls getting put into a bull pit and having to fight it out to see if the old people win out over the little kids. We really need to have these cuts restored and really look at it as a holistic thing in the system. I can guarantee to you that if we do these cuts, the impacts that you are going to see in trying to see and fix the problems when you come back during regular session are going to be decimated. You are really going to have some difficulties on trying to deal with the problems that are created with \$1.50 cut. I could say more but I need to be conscious of your time.

CHAIR BUCKLEY:

Thank you, Mr. Gowins, and thank you for all your advocacy for individuals with disabilities. I don't see any questions; thank you very much.

PAUL GOWINS:

Madam Chair, it always scares me when I don't get any questions. I don't know if I said the right things or the wrong things. Hopefully we said the right ones.

CHAIR BUCKLEY:

Let's have a show of hands: right or wrong? It looks all right to me.

We have a number of other people signed in to testify. I think I will just go down the list. We have three seats so I will ask you to come up three at a time. We have Larry Matheis, Kevin Schiller, and Jon Sasser.

KEVIN SCHILLER, DIRECTOR, WASHOE COUNTY SOCIAL SERVICES:

Thank you, Madam Chair and other members of the committee. For the record, I am Kevin Schiller, Director with Washoe County Social Services.

The primary impacts of these cuts in child welfare . . . the best way I can phrase it is that we don't deal with the numbers so much as we deal with families and children.

One of the things that we try to do in our business is we are trying to keep kids home and we are trying to get kids home. In dealing with abused and neglected children and the impact of these cuts, the most dramatic will be the loss of intensive in-home clinical services to the children and the families we serve. To highlight this—what has occurred in Washoe County with the help of these services? We have reduced our foster care placement rate from about 1,020 kids, at its highest, to about 765-770 children, currently. This is a result of being able to respond, provide services, and get into a home to prevent that ultimate trauma, which is foster care placement.

I would also emphasize that foster care placement, once it does occur, the number one goal that we have as soon as that child is placed, is to return the child to their family of origin. With these reductions what we may see, and one of the concerns is, that placement numbers will climb. In the reduction of services and the increase in placements, ultimately I may be before you in the next session talking about an increase in foster care placements and again, an ultimate impact to the budgetary situation that we are currently here discussing.

I would also highlight that the other reductions that many of you are hearing about, such as adult mental health, children's mental health and other services, have a cumulative effect on the families and the kids that we serve.

I appreciate the ability to talk to you today. I urge you as much as possible if you can spare the children these reductions—it may ultimately benefit the children and the ability to keep them in their homes. I acknowledge that we are in a deficit that we need to come to the table and support, but I want to emphasize beyond just the financial impact. It is truly going to impact the families and the children and the citizens of Washoe County. Thank you.

CHAIR BUCKLEY:

Thank you for your testimony.

LARRY MATHEIS, EXECUTIVE DIRECTOR, NEVADA STATE MEDICAL ASSOCIATION:

Thank you, Madam Chair. Larry Matheis, Executive Director of the Nevada State Medical Association. I have also been the chair of the Nevada Covering Kids and Families Coalition and I serve on the board of Access to Health Care Network in northern Nevada.

I was asked to talk to you about our concerns about the Nevada Check-Up Program and the consequences of the premium increases. I would like to make three points about that.

First, the amount of the premium increases is likely to simply result in people not being able to make the choice and afford that program. It wasn't that long ago, before the state children's health insurance program was developed by the federal government as a joint federal and state program, those children were getting some care. They were county indigent; they didn't qualify for Medicaid, but they got some services. What they didn't get was preventive services; what they didn't get were the things that come with more robust coverage. They got the essential care that comes primarily from going to an emergency department. With the creation of Nevada Check-Up and its equivalents around the country, those children found their way into the system early enough that they got the preventive services, the immunizations, and the other things that really do matter at that age. These are families that are marginally in the system and, in effect, the premium increase simply becomes a cap without a cap—there were savings then.

My second point is savings in Medicaid and savings in programs like the Nevada Check-Up Program are illusory; they are huge cuts in the over-all program. As with Medicaid, there are two federal dollars for every one dollar that you remove of state money. So you remove three dollars from your total budget— from the total program—not one—and that has consequences. It has consequences for what services are available, it has consequences in terms of the over-all

economy by people who have money—taxpayers who have money to spend. So, as with Medicaid, so it is with Nevada Check-Up. Those children are going to get minimal services, but they are not going to get the essential services, there are going to be more costs down the road. If their needs are not met until too late, we will get them in the Medicaid program, or we'll get them in the mental health program. We will have children with disabilities that will be undiagnosed until they have to be treated. The cost savings are illusory and I think you should always be careful about short-term savings that turn into major long-term costs.

The third point is that these children used to be considered county indigent patients. They were the category that would use county services. If you turn them back into becoming uninsured, which is what the premium increase is going to do to a lot of them—their families won't be able to make the premiums—they will be uninsured. Yes, there are some programs, like the Access to Health Care Network, but those are already strapped; they are already beyond their capacity in terms of absorbing more of a safety net function. For the counties, I don't know if it is an unfunded mandate; it is certainly going to be an unfunded increase in our shift in the burden of taking care of children who are uninsured and who have emergencies and other health care needs.

So, for those three reasons, we would encourage you to consider not implementing the premium increases and not implementing what is in effect a cap without a cap on the number of children who will be enrolled in the Nevada Check Up Program.

Thank you, Madam Chair.

CHAIR BUCKLEY:

You are welcome. Mr. Gold.

BARRY GOLD, DIRECTOR OF GOVERNMENT RELATIONS, AARP-NEVADA:

Madam Chair and members of the Assembly, for the record my name is Barry Gold. I am the Director of Government Relations for AARP-Nevada.

Yesterday, when I spoke to you, I said, "I wanted to speak on behalf of the most vulnerable, who could not be here today." I talked about some of the cuts and some of the impacts and would like to go into those a little deeper today.

One of the things we talked about earlier and that Assemblywoman Leslie talked about was adult day care. We are very appreciative that adult day care has been restored. I think that some of the testimony before—we've heard about how that is one of the last options for families to stay together. At a health committee meeting there was a woman who begged and pleaded, "Please don't make me put my mother back into a nursing home." She came out because her mother could go to adult day care. These services we are talking about aren't merely ugly as I said before, they are horrific and they are unthinkable. So we appreciate that the adult day care is currently off that list and it is really important. As Mr. Matheis said, "These actually save us money, because if people go into nursing homes, it costs all of us more."

I would like to talk about some of the other things. The ability, just because you are old, poor, or sick, to able to see and hear and chew should never be considered optional. We do appreciate that dental has been added and that is very important, but I would like to talk about vision for a minute. Imagine today, and I look around and I see many of you are wearing glasses and those who aren't, maybe like me wearing contacts, for vanity reasons, but imagine if today you broke your glasses or imagine if after today you could never get another pair of glasses again for the rest of your life. That is what we are talking about; these are poor people on Medicaid. So imagine how many people in our state are going to become functionally blind over \$150 pair of glasses; that is a horrific thing to think about. We are not talking about designer frames; we're not talking about expensive glasses that these people get. Imagine if today none of you could get another pair of glasses. How many people would become functionally blind? Mr. Ocegueda, you have this wonderful baby, which I saw yesterday. Imagine if because you couldn't get a pair of glasses, you couldn't watch him grow up? Let me ask the members of the body and the people who are watching—what if you couldn't watch your children or your grandchildren grow up over a pair of glasses? It is a terrible thing to think about.

Now, I want to talk about hearing. I turned the microphone off for a reason because I know that there are some people in this audience today who might have hearing aids and I bet if you

asked them, hearing aids don't just improve the quality of their life a little, it allows them to function; it allows them to interact with others. That is how important hearing aids are.

I said I wanted to speak on behalf of the most vulnerable because we are talking about these Medicaid services for people over the age of 21. It is not just the AARP members that I represent; it's all people over 21. So, imagine how many people aren't going to be able to interact fully in life over the cost of a hearing aid.

After saying that, on behalf of—you have heard me say this before—the 311,000 AARP members across the state and all the most vulnerable that we are talking about all across Nevada who rely on these services to live their lives with some dignity and as much independence as possible; we urge you to restore these important services back to the budget.

Thank you.

CHAIR BUCKLEY:

Thank you, Mr. Gold. There are no questions. We appreciate your testimony.

I would like to ask Jan Crandy in Las Vegas and Ralph Toddry here in Carson City to come to the table.

RALPH TODDRE, MEMBER, NEVADA COMMISSION ON AUTISM SPECTRUM DISORDERS:

Thank you, Madam Chair.

For the record, I'm Ralph Toddre. I am on the Nevada Commission on Autism Spectrum Disorders. At this time, autism is on a tremendous rise—the last time I spoke to you was at the regular session earlier in the year—and it affected 1 in 150 children. It now, since that time, affects 1 in 110, and those numbers are guaranteed to keep growing. We cannot afford to cut the services of those receiving them from the regional centers. Receiving services from the regional centers is incredibly important to these children and to these families. In order for them to receive these services, they must meet certain conditions and one of them is income. So, a lot of these people at the regional centers, which this cut will affect, are in the lower income bracket.

Hours of therapy are the key for opening the door for these children into a world through improved communication, socialization, and behavioral skills. Once a child begins to receive therapy, stopping or reducing that treatment may, and, in most cases, will cause regression. Cutting the amount of time that a child receives therapy puts an incredible burden on the family and that child. In scientific research, research has shown over and over again that the number of hours of therapy a child receives makes all the difference. Too little will not help the child and that is exactly what will happen under these proposed cuts. Treatment in doses that are too small will not be effective.

The amount of therapy they are now receiving through the autism self-directed funding at the regional centers is at the lowest amount that shows effectiveness. Cutting that would put them in a crisis situation and will undo the positive effects of treatment to date. In the long run, cutting that treatment now will result in much, much more expense in the future. Our goal is to get our children to be able to lead a productive, independent, and somewhat typical life and without that therapy and treatment now, it will not happen. Eventually the state will have to take on the burden of that care at a much higher rate and that is bad for everyone. I urge you to consider this request not only for the sake of our children, but for the future of the financial burden that it will put on the state.

This financial crisis is not going away soon. This small amount of funding has done wonders for the children and families getting it. Some families are supplementing this funding at a rate they can barely afford, just to add additional hours to what they are getting through these centers. With this cut they will not be able to afford that supplementation. For the 400 kids who will see their treatment decline and their life change drastically, I urge you to not do these cuts. Thank you.

CHAIR BUCKLEY:

Ralph, I have a question for you. You work in the private sector when you are not advocating for children with autism, and your industry has seen huge amounts of cuts, loss in revenue; what would your advice be to the state as we look at a solution toward our budget shortfall? How do you balance everything effectively?

RALPH TODDRE:

One of things we have found in our industry—I work for Sunbelt Communications Company—is that you can go through and you can find areas that you can effectively cut, but trying to run a business on cuts does not work. You have to have revenue. I don't understand and have no idea how we can expect, as a state, to just cut, cut, and cut to meet this shortfall, without actually doing something with revenue.

ASSEMBLYMAN COBB:

Thank you, Madam Chair. I'm not actually that familiar with the state of your business but I know journalists, in general, are doing pretty poorly. The Reno-Gazette Journal has laid off a lot of people and certainly cut back on any types of perks that they've had, and, coming from the private sector, we've done the same thing. We've raised health care premiums; we've taken back all cellular phones; we've taken back cars; and in certain cases, we have lowered salaries and laid off a huge number of people. Have you done the same things with your business—laid people off, taken back perks, things like that—or have you exclusively raised your fees on your customers?

RALPH TODDRE:

No, we are not raising our fees on our customers; we are looking at other ways of creating revenue through other sources. It is not that easy just to raise your fees. Yes, we have gone through and done the cuts that we could afford to do without completely destroying our product. You get to a point where you are going to destroy your product and then your chances of receiving revenue in the future are going to be slim and none, and you are going to put yourself in a position of going out of business, which a lot of the media places have done. Newspapers, which you have mentioned in general—a lot of those have already gone out of business.

We are looking at what we are doing and we're working with consultants. I am currently at a project with John Hopkins University, working with their fellowship program to develop new sources of revenues for our medium. So, we are looking for those new sources of revenue; we're not looking at going out and trying just to raise the cost. The key is the new sources.

ASSEMBLYMAN COBB:

That is a very interesting concept because you are talking about innovating and you are talking about what is the next thing for the realm of journalism. For instance, online, in blogging and things like that; you are seeing that increase significantly versus readership in a lot of the print newspapers. That is innovation, that's creating new markets, and that is finding ways to create new revenue, much along the lines of perhaps a project like, in Nevada, where we had the opportunity for a Yucca Mountain type source of revenue from the National Waste Fund. Of course, that is not just going out and raising fees, taxes, and things like that. I believe they are two different things. That is why I just wanted to clarify. As we approach this, I think as best as we can, from a business perspective in terms of being successful, we are going to have to get creative and innovative and not just cut, but also not just run back and raise fees and taxes every time.

Thank you.

RALPH TODDRE:

Correct. I agree with that.

CHAIR BUCKLEY:

So is the answer a balance? It can't all be fees and taxes. It can't all be cuts. It has to include innovation as well?

RALPH TODDRE:

I absolutely think so. That is what we have gone through in our industry and that is what we've gone through from a business standpoint. In some areas there will be some things that would be considered fees and taxes. As a television broadcaster, we are working with cable companies in order for them to pay for our products. That does get passed on to the consumers, so in some ways, it is kind of like a tax. In order for us to get re-transmission consent money, more than likely the cable companies and the satellite companies will pass that along to the

consumer; we understand that. It is just a necessary thing of doing business and trying to stay in business.

CHAIR BUCKLEY:

Thanks for your perspective — we appreciate it. Let's go back to Las Vegas and see if we have cleared up the problem with the line.

JAN CRANDY, MEMBER, NEVADA COMMISSION ON AUTISM SPECTRUM DISORDER:

For the record, my name is Jan Crandy.

We have to work so hard to build services and then, instead of growing them, we have to chip away at them until they are no long effective. I believe citizens will stand behind you as you change the direction Nevada is headed. Autism services in Nevada, like other programs, are already underfunded.

The Governor's proposed budget decreases funding to these children by 22 percent; that is a big cut. I can tell you right now it is very hard to buy services—enough services to treat these children at the current funding levels that they are getting. The current funding supports about ten hours per week, less for older children. If we cut the funding to what the Governor is suggesting, families will not be able to buy ten hours a month. I also think it will drive them to do treatment that is not evidence based.

Funding autism is expensive but it is cost effective and, in the long run, it will save Nevada millions of dollars. These are not just words, it is fact. Without treatment, children with autism will need lifelong support and some will require institutional living. I wanted to share with you how expensive the choice to not fund treatment can be.

Today, in Las Vegas, there is a 20 year-old that, in the past, did not receive treatment. He is currently being taken care of at St. Rose Hospital. It's been a month-long stay at a total cost of \$74,818.00 to Medicaid. This is not his first visit; he has had five ER visits since 2008 to St. Rose Hospital. I don't know what other costs are to other hospitals.

In Elko, there is a 16 year-old girl and she is one of the children who received the regional self-directed funds. At 16, she was originally receiving \$778 a month. With the previous cut that we took, before this cut we are proposing, she received \$450 a month; she was on the self directed money. This is hardly enough money to purchase respite, definitely not enough to purchase treatment. Mom is a single mom; her child has critical behavior issues. At Thanksgiving, mom could no longer handle it. This state, at Medicaid's expense, has placed her in Texas Neuro Rehab Residential home and she remains there today. Of course, our Medicaid dollars are paying for her stay. I don't know the cost per day, but I am pretty sure it is significantly more than the monthly allotment the state autism funding programs are providing.

If we look at both of those, how much is funded, and we look at how much we are funding for one child for autism per year, it is less than that monthly stay.

Now I want to share one of the success stories with you. One of our initial children that we funded by the autism self-directed program, Chloe—she started right when we got that funding—began regular kindergarten this year without an IEP; she will be an independent adult one day. We have to continue the services at the current level to insure that those children are not in out-of-state placements in the future and have the opportunity to live independent lives. I assure you that funding these children now is going to save Nevada money—these are just a handful of the kids, there are now over 6,000 children in Nevada with autism. We are already going to have to pay for out-of-state placements. They are coming right now. It is going to start to impact us very soon because with those kids—10 years ago, 13 years ago—the incident was 1 in 10,000. Those kids are growing up and we are not going to have placements for them in Nevada so we will have to place them out-of-state, which is very expensive.

Thank you. Please put back the funding for the autism kids. It will save us money in the long term. We cannot afford not to.

CHAIR BUCKLEY:

Thank you for your testimony. Does the gentleman who is next to you want to testify as well?

DR. ALAN SOMPHONE, M.D., ANESTHESIOLOGIST, SUNRISE HOSPITAL AND MEDICAL CENTER
DEPARTMENT OF ANESTHESIOLOGY:

Thank you, Madam Chair. My name is Alan Somphone. I am an anesthesiologist here in Las Vegas. I represent a group of 50 anesthesiologists. Our group is the largest provider of obstetric anesthesia services in southern Nevada.

Under the current cuts to Health and Human Services, it is being proposed that the Medicaid reimbursement be reduced to that of the federal Medicare levels. So, just to give you some of the numbers—the current Medicaid reimbursement is about \$37 per unit for anesthesia time. The federal Medicare rates effective March 1st will be \$16 per anesthesia unit, which is effectively a 56 percent reduction.

Our main concern in our group is that three out of the eight hospitals that we cover are almost exclusively underserved Medicaid patients. At those three hospitals we are barely able to cover those services at the current reimbursement levels, and the problem we are having right now is with the 56 percent reduction. How we are going to be able to cover those hospitals? The main services we provide are anesthesia for C-sections as well as labor epidurals for pain.

With almost every anesthesiologist I have spoken to here in southern Nevada, the proposal that we have made in the past, and we are not sure if anyone has actually heard this, is if the Governor is asking for a 10 percent reduction, every anesthesiologist I know is more than happy to take a 10-15 percent reduction. But a 56 percent reduction would be devastating to the population we serve. A 10-15 percent reduction would serve two main purposes. Firstly, it would allow continued access of care to anesthesia services. Secondly, and as mentioned before, it would also preserve an equal amount of federal matching dollars.

Thank you for your time.

CHAIR BUCKLEY:

Thank you for your testimony and we know that you have been waiting several hours and came back and forth. So, thank you very much for that.

Are there questions of the committee? I don't see any. Thanks again for your testimony.

Also signed in at Las Vegas is Tom Morten. Please come forward now and thank you for waiting around for us.

Tom Morten, Director, Clark County Department of Family Services:

Thank you, Madam Chair and members of the Committee of the Whole. I would like to speak briefly about the potential impact of the proposed 10 percent reduction of the state integration budget to Clark County Department of Family Services.

I would like to start with the point that previously to this, as a result of the last session, the Clark County integration budget was reduced by approximately 9.35 percent, or almost \$10 million. As a result of that, we currently have 40 positions that are held vacant and likely will not be filled for several years, so we are already experiencing a severe impact of budget reductions. Assemblywoman Leslie mentioned a figure of 27 persons. I want to point out that this is one of two possible scenarios and the scenario of 27 positions is predicated on the assumption of a concurrent 10 percent reduction in payments to foster parents, and 10 percent reductions in payments to adoptive parents through adoption subsidy payments. I also would point out that the figure of 27, and I will reiterate this in a minute, is based on an average cost per position based on our collective bargaining agreement. We lay off people, if that is necessary, based first on probationary positions and secondly, on seniority. I currently have 20 people on probation in Clark County, 14 of those being funded by the state integration budget and approximately 10 of those are case managers. So, that reduction would result in a nearly permanent loss again for the next few years of 10 case managers, who currently average 30 children per worker, and would increase caseloads.

The second scenario, if we hold payments to foster parents and adoptive parents harmless, would mean that all of the cut would accrue to the personnel side of the budget. Again, using an average cost figure, that would mean the elimination of 87 positions, on top of the 41 already held. I really estimate, based on the parameters I said earlier, which have to do with seniority and the fact that when you enter a reduction in forces you are largely eliminating lower, not higher paid people, that this could be as many as 100 or more of our 266 current filled and funded state positions.

A secondary impact is that as a result, again, of our contract, we would have to lay off across the board and that would mean targeting not only state funded positions, but obviously county positions based on seniority. Ultimately, eliminating 100 positions could touch more than 200 positions as people are laid off—there is bumping as a result of seniority. I would point out that one of the potential impacts of that is that as many as 600 children may experience a change in case manager or caseworker. The licensing of foster homes might be delayed and we would face the dilemma of either leaving kids in unlicensed homes, losing federal reimbursement, or being forced to move children into other foster homes, resulting in overcrowding.

A study in Milwaukee found that each change of case manager lengthens the time in foster care by three months. If I project that out, the consequence of changing case managers for 600 children could cost the state of Nevada \$2 million in additional foster care payments. So, when you roll all of this up, basically as I said, we have currently 266 positions of which about 215 are direct child-serving positions. There is no way to take 10 percent cut out of personnel without decimating our service capacity. I would echo what Mr. Schiller said as well. We have already, as a result of prior costs reductions, reduced our Family Preservation Services and our Family Clinical Services. There really is no place left in our budget to go other than payments to parents on behalf of children, or significant—and I would even use the word draconian—cuts to the service capacity of the child welfare agency.

Lastly, I would also point out that we primarily in child welfare identify maltreated children and maltreated families. We assess, we plan, and then we refer. We are morally, legally, and constitutionally obligated to make reasonable efforts to prevent the removal of children and make reasonable efforts to make sure that families have an opportunity to have their children returned to them safely. That becomes pretty impossible to do when mental health services are not accessible, drug treatment services are not accessible, adequate housing and childcare and a multitude of other community services are not accessible. All of that will mean, ultimately, that kids will stay longer in foster care because families cannot make progress, because they cannot access services; and that, in turn, will increase the cost of foster care in Nevada.

Thank you very much.

CHAIR BUCKLEY:

Thank you for your testimony. There are no questions. Is there anyone else that would like to provide testimony in Las Vegas?

NANCY MCCLAIN, DIRECTOR, CLARK COUNTY SOCIAL SERVICES:

Good afternoon. My name is Nancy McClain. I am the Director of Clark County Social Services and also the Chair of the County Social Service Administrators of Nevada, which is an affiliate of NACO.

The counties, as you know, serve individuals who can't be served by other programs under a statutory requirement. We are part of the continual services that serve Nevada residents in all counties. Our services are those that many states provide as a Medicaid waiver and we have many concerns about the cuts that you have to make, that will shift the burden of these costs to the counties because of our statutory requirement.

To give you some examples—food for thought—as you go through this process, we are extremely appreciative of the restoration of the adult day care funding—that is a critical service in our community and certainly one of the least restrictive options for the elders and disabled in the community. However, nursing home costs are still expected to increase if Medicaid waiver programs and the home and community-based programs are capped. We estimate that about half of the people who would be moving toward those programs might have to be institutionalized if those programs are not available. If they move it even into the Medicaid match program, which is the least expensive option we have for nursing home care, the cost to Clark County is estimated to be about \$2.5 million a year under the enhanced FMAP rate, closer to \$3 million a year when that rate expires.

As you probably know, one additional nursing home client can exhaust the indigent medical budget of a small county because their funds are so limited. I would also point out that while the state is facing the serious budget shortfalls that you are having to deal with, the counties' indigent programs, which are funded by property taxes, are also facing, in many cases, up to

double digit budget cuts, in addition to what we might receive in terms of clients who cannot be served by the state.

Cuts to mental health services will drive mentally ill persons to emergency rooms, which you have already heard today, and limit access to medical care for people with true emergencies. The cost of medical care for seriously mentally ill persons who are homeless averages about \$50,000 a year because of repeated emergency room visits and because of the increasing severity of their medical conditions. In Clark County, we see many, many homeless individuals who are mentally ill; who are repeatedly using emergency rooms. The cuts of the Rawson-Neal Hospital concern us greatly. As you know, if county medical funds are depleted, hospitals are not paid for treating county indigents, although they still have the responsibility to provide the care. That is of great concern to us because the hospitals throughout our community are also facing the Medicaid cuts to the reimbursement rate. In many ways it is a double hit that they will be facing.

In terms of our medical services budget, the likely point of failure is outpatient specialty care, which is an optional program that we've implemented because we have limited access to specialty care through our hospitals. Providers will not accept clients if they are not paid; if we run out of money, we will not be able to pay them. Some of these services include oxygen for people who are homebound, oncology treatments for individuals with cancer, dialysis and other lifesaving treatments.

You have my support and my sympathy as you go through this process and I want to make sure that you are aware that all of the counties in Nevada, all the indigent programs, stand ready to help in any way we can. We just wanted to make sure that you are aware of the cost shifting possibilities and unintended consequences that could result. Thank you for your time.

CHAIR BUCKLEY:

Thank you for your testimony. Is there any one else in Las Vegas who wants to provide testimony? I don't see any. How about in Carson City? Who would still like to testify? Let's take Mr. Welch, Mr. Perry, and Mr. Ashleman and then we will come with the rest. Thank you for being here today.

BILL WELCH, PRESIDENT, NEVADA HOSPITAL ASSOCIATION:

Madam Chair and Assembly members, thank you for the opportunity to speak to you regarding this issue.

For the record, my name is Bill Welch, President of the Nevada Hospital Association. I have presented to you three documents. I assure you I will not walk you through the entire documents. I would like to give you a brief overview of them and then close with some comments.

One of the documents you received is a one-page flyer which we presented to those of you who are on the finance committees, as well as the health care committees; you have seen it before. This document basically shows you the amount of costs, uncompensated healthcare costs, hospitals provide annually, which is in excess of \$1 billion. It also demonstrates to you what our pair mix is, showing how that has changed dramatically over the last few years, going from only 36 percent of our patients paying the costs of health care services to 30 percent of our patients, so that we currently have 70 percent of patients who do not cover the cost of healthcare they received. It shows you that the hospitals are currently operating under a 3.91 negative operating margin. It also demonstrates to you some of the consequences as a result of that as far as reduction in the services we are able to provide.

The second document that is provided to you is a power point presentation that I presented to the Health Care Committee and to the Interim Committee on Finance. This gives you a little bit more background to the prior document. It provides you an overview of the challenges that the hospital community is facing in trying to maintain their viability. It reviews some of the efforts that the hospitals are trying to make to manage the more than \$1 billion in uncompensated costs of healthcare; it then reviews to you some of the consequences of where we find ourselves as a result of the difficult economic environment that we find ourselves in.

The last document that was provided has two sides to it. The first side which looks like this—I apologize for the busyness of the document—but we tried to get a lot of facts on one sheet. We tried to summarize the information that had been presented in these various prior documents. I am going to review this in my closing comments. The second side provides you

an overview of the history of Medicaid reimbursement to hospitals. As I've listened to the debate, and the difficult debate that it has been for you, a lot of questions have come up about what has Medicaid reimbursement been to hospitals? This document shows you what Medicaid rates have been and how they compare to our cost. Our costs have been going up dramatically and yet our Medicaid reimbursements—we've had slight adjustments—are declining. Currently we are at 2001 level rates of reimbursement. With the proposed cut on the table we would be at 1999 rates of reimbursement for services. Unfortunately, I am not able to say that our costs for providing those services are at 1999 levels, as well.

In summary of all this information, in 2009 Nevada's hospitals—full service acute care hospitals—operated at a \$130 million net loss. This includes the 5 percent reduction in Medicaid reimbursement that was imposed on the hospitals during the last regular legislative session, as well as the sweeping of the indigent accident fund—the supplemental fund which covers the cost of individuals who are in accidents or who have catastrophic healthcare needs, who find themselves in the hospital and have no other source of payment. Those two reductions affected the hospitals negatively \$40 million annually.

Hospitals have attempted to manage this and have tried to reduce their overhead operating expenses. This has included the reduction or the laying off of 1,150 full-time equivalent employees. I can assure it is more employees than that but the best we could provide for you today was full-time equivalencies. More than 1,100 individuals have been laid off as a result of these efforts to manage our costs. Ultimately, we've had to hit services and last year more than 18 different type of services throughout our hospitals statewide have had to be reduced or eliminated, and there are more reductions being considered, both in staff and as well as services. As I indicated, even with these efforts, our hospitals still lost \$130 million last year.

Hospitals must—just as you do at the Legislature—try to balance their budgets and they will have to do that. And yet we find ourselves faced today with an additional 5 percent cut and with the enhanced FMAP that means \$21 million annually to the hospitals and additional reduction in payments for services, services for which we already do not get covered as far as the cost incurred for providing that service. If you add the impacts of the 2009 Legislative session, as well as these proposed cuts in this budget, hospitals will have taken a \$60 million reduction in payment for services on an annual basis. That will be impossible to absorb and still maintain the current status. Hospitals will find themselves having to have additional staff reductions and will ultimately have to continue to reduce and eliminate services that we provide. Who does this really affect? This affects the 2.9 million plus individuals that our hospitals care for on an annual basis, either through admissions to the hospitals, through visits to the hospitals emergency rooms, or for outpatient diagnostic services that individuals are not otherwise able to obtain because of their payment sources or lack of payment sources. Nevada's hospitals are truly your only 24-hour, 365 days per year safety net providers. We encourage you to support this effort through restoring these cuts and I would be happy to answer any questions, Madam Chair, that the members may have.

Submitted Exhibits

See below.

Worst Human Services Budget Reductions

Restored by Governor

Agency	Description	Total Amount	
MHDS	Delay growth for residential placements in Rural Nevada.	\$ 242,355	Governor Restored
MHDS	Reduce residential caseload growth by 142 placements in safe housing.	\$ 2,750,000	Governor Restored all but \$1,250,000
HCFF	Eliminates optional services for adults 21 years and older and reduces utilization management costs to First Health Services Corporation as a result of the elimination of optional services (Dentures, Adult Day Health Care & Transitional Rehabilitative Out-patient Services).	\$ 4,939,318	Governor Restored all but \$1,282,066
Welfare	Eliminate 77 intermittent field services staff set to start on June 1, 2010	\$ 1,381,899	Governor Restored
Total Restored by Governor:		\$ 9,313,572	

Additional Restorations Under Consideration

DCFS	Reduction of 10% in the general fund money passed through to Washoe County Department of Social Services in support of the Child Welfare Integration Budget.	\$ 2,046,368	Governor Cut
DCFS	Reduction of 10% in the general fund money passed through to Clark County Department of Family Services in support of the Child Welfare Integration Budget.	\$ 6,101,647	Governor Cut
Aging	Reduces the rate for Personal Assistance Services for disabled persons from \$18.50/hour to \$17/hour. This is the program operated by St. Mary's.	\$ 431,496	Governor Cut
Aging	Reduces the rate for Personal Care Attendant services for aging persons from \$17/hour to \$15.50/hour. This matches the reduction for PCS services in the Medicaid program.	\$ 72,237	Governor Cut
HCFF	Reduces the Personal Care Services (PCS) reimbursement rate in the Medicaid program by \$1.50 per hour. The rate will be reduced from \$17.00 to \$15.50 per hour.	\$ 2,993,573	Governor Cut
HCFF	Increases Nevada Check Up premiums as follows: Families 100-150% FPL from \$25 to \$75 a quarter; Families 150-175% FPL from \$50 to \$140 a quarter; Families 175-200% FPL from \$80 to \$180 a quarter.	\$ 1,065,444	Governor Cut
HCFF	Eliminates optional services for adults 21 years and older (Non-medical Vision, Audiology, Therapy, Hearing Aid Dispenser).	\$ 1,282,066	Governor Cut
HCFF	This decision unit reduces the base per diem rate paid to free-standing Skilled Nursing Facilities by \$10 per bed/day on March 1, 2010.	\$ 3,053,113	Governor Cut
HCFF	Decreases Inpatient Hospital, Specialty Inpatient Hospital, and Residential Treatment Center rates by 5%. The rate reduction will be applied only against medical/surgical beds per diem rates. Neonatal intensive care, maternity, and inpatient psychiatric beds will be excluded from the reduction. The reduction will apply to both in-state and out-of-state facilities.	\$ 6,235,042	Governor Cut
MHDS	Reduces the monthly support rates by 22% for autistic children and self-directed support clients at the division's three regional centers as a result of a reduction in available TANF funds.	\$ 1,486,285	Governor Cut
MHDS	Reduces funding for the co-occurring mental illness and substance abuse treatment program. The reduction would result in 60 fewer clients receiving services statewide.	\$ 350,944	Governor Cut
Total Reduction Recommended by Governor:		\$25,118,215	

2/25/2010 11:57 AM

ASSEMBLYWOMAN LESLIE/HHSO

Assemblyman Ocegura moved that the Committee of the Whole recess until the call of the Chair.

Motion carried.

Committee of the Whole in recess at 4:49 p.m.

COMMITTEE OF THE WHOLE IN SESSION

At 4:50 p.m.

Vice Chair Anderson presiding.

Quorum present.

Health and Human Services budget cuts considered.

VICE CHAIR ANDERSON:

Questions? Thank you very much.

RENNY ASHLEMAN, REPRESENTATIVE, NEVADA HEALTH CARE ASSOCIATION:

For the record, I am Renny Ashleman, from the Nevada Health Care Association, along with Mr. Perry, who is the executive director of that association. We very much appreciate the privilege of addressing you on these matters of great concern to us. You certainly have our sympathy. I am a lot happier to be sitting at this table than I am at the ones that you have at the present day. As you know, you have a couple of handouts from us. I am not going to go over the material in these handouts. I know your time is precious and we would all like to get out of here as soon as we can.

As you further know, this industry has already contributed by allowing it to be taxed to help with the matching money and to help with the cost in the past. We also pay fairly good assessments to cover the cost of our own inspection. So, we are doing some of the things that you wish to have other people join you in doing today.

The essential message of what would happen with these next cuts is that the state that already has the fewest nursing beds per capita will get worse. We are not reimbursed for our costs, as is the case of the hospitals. We have had two of our chains notify us that they will close two buildings under these costs. Our analysis is that at least two more buildings that are currently not making it financially will have to close. That will cause a loss of roughly 600-700 jobs and it will cause a loss of 600-700 beds.

This is a real problem, because when you move patients—because of course those people cannot just go home—you have something that is called relocation shock, which is very hard on people, primarily the aged population. It will basically fill the remaining beds that we have in this state that might be vacant causing a little bulge in the python. Guess who that affects? It affects the hospitals—they won't be able to get their people out. Eventually you overcome the python bulge; it won't go on forever but it will be a difficult proposition. What you won't be able to overcome is that Medicaid pending patients will no longer be in anyway desirable to us; the incremental loss on it will be just too great.

What is the meaning of this? The meaning of this is that, in fact, the projected \$3 million savings, which will cost the industry \$10 million, won't be achieved because it is more expensive to keep people in hospitals than it is to keep them in nursing homes. The shock to Medicaid will be fairly severe; the shock to the hospitals will be much more severe because at nursing homes rates, they are not being paid for the costs of their beds even remotely. The factor is about 10-1 on that.

That concludes my remarks, I will be happy to take questions. I think Mr. Perry has a few more remarks that he would like to add.

CHARLES PERRY, EXECUTIVE DIRECTOR, NEVADA HEALTH CARE ASSOCIATION:

Thank you very much, Mr. Vice Chairman, and thank you members of the Assembly for listening to us today.

Echoing what Mr. Ashleman said, I want to thank you very much for the sacrifices that you make to serve the state. I know that there are many and we appreciate it very much.

The one thing that I would like to impress upon you and that I ask for you to please understand is that any problems with access to care that comes from any decisions that are made by our providers to limit access to certain individuals to nursing homes is something that we absolutely do not want to do. It is not in our best interest, it has never been in our best interest, and never will be in our best interest to deny service or to turn people away from our facilities and that is not what we want to do. We realize that you are faced with a difficult decision here today, but we appreciate your listening to us and we hope if there is any way possible that these cuts can be restored that you will consider it.

Thank you very much.

VICE CHAIR ANDERSON:
Assemblywoman Smith.

ASSEMBLYWOMAN SMITH:

Thank you, Mr. Vice Chairman. I wanted to take this opportunity, not to really ask a question, but to indicate that I appreciate the information and the testimony. I've learned so much about this industry and the connections to our state government over the last few years

from all of you. This is the perfect example that what we do at state government absolutely impacts the private sector; that we have a distinct relationship. The money that we influence affects the private sector and the jobs that you provide, not to mention the care that your industry provides. I think it is an important thing for us to recognize.

We currently have something like \$260 million in contracts that the state pays in tax revenue to the business sector in this state. We have a symbiotic relationship, if you will, and I think your businesses and what you do is the perfect example of that. I didn't want to let this opportunity pass by to make note of that.

Thank you, Mr. Chairman.

VICE CHAIR ANDERSON:

Thank you, Mrs. Smith. Are there other questions? Thank you gentlemen.

ASSEMBLYMAN HARDY:

Mr. Vice Chairman?

VICE CHAIR ANDERSON:

Wait gentlemen. Don't run away. Assemblyman Hardy, of course.

ASSEMBLYMAN HARDY:

Thank you. I was trying to get a feel for the cuts vis-à-vis the total amount of money that we are looking at. I suspect that somebody has written down, "what they could live and what they couldn't live with." It seems to me we need to see some numbers in order to be able to say how this would affect the kaleidoscope of trying to work that final budget number that we are at. So, if the presenters could get that to us, I would appreciate it, whether those be the presenters that were in Clark County or here, so that we can start to figure out where the pieces fit. I'd appreciate it.

VICE CHAIR ANDERSON:

Thank you. Gentlemen, if you could help with the development of those numbers for our fiscal staff, we would appreciate that. Doctor Hardy, is that sufficient?

RENNY ASHLEMAN:

The problem we have is that we are already well below cost and those are costs that are audited by the state. So, you are asking us how much more below costs we can go and function. No one is going to tell you that we couldn't lose \$100 industry wide. The fact is we have been deteriorating steadily over the last many years as it is, just as the hospitals have presented. In terms of any material number, we really cannot absorb any more and expect to keep all these facilities open and all these folks employed. There really isn't a worthwhile number from the standpoint of the state of Nevada to offer to you.

BILL WELCH, PRESIDENT, NEVADA HOSPITAL ASSOCIATION:

Mr. Chairman, if I might respond as well. Nevada's full service acute care hospitals are already operating at a \$130 million deficit. Adding an additional \$21 million will go directly to the bottom line. Our only choices in balancing that would be to attempt to shift that cost to other payers in the community. I don't believe that there is an appetite for any payer to want to absorb that. I think that is represented in the data that we presented in showing that the insurance population pays the costs of healthcare services and shrank from 36 to 30 percent in just two years. With all the cuts that we have made, we still find ourselves in that difficult situation; we are continuing the cuts from the last legislative session of some \$15 million in Medicaid rate reductions. We are still experiencing the \$25 million sweep of the IAF supplemental funds. I believe that the hospital community has stepped up and has tried to balance to a \$40 million reduction in annual payments for services. I don't believe that the hospital community—without having to take steps as I've indicated previously, and that is for the reduction or attempt to shift that cost—I don't believe that there are many options left for us. Thank you.

VICE CHAIR ANDERSON:

Assemblyman Hardy, I presume then that maybe your question would be best followed up with them directly. It sounds to me as if they are saying we are cut so deep, we can't bleed anymore.

ASSEMBLYMAN HARDY:

Thank you, Mr. Vice Chair.

VICE CHAIR ANDERSON:

Gentlemen, thank you. Ms. McMullen and Mr. Sasser.

CONNIE McMULLEN, CHAIR, STRATEGIC PLAN ACCOUNTABILITY COMMITTEE:

For the record committee members, I am Connie McMullen, Chairman of the Strategic Plan Accountability Committee for seniors in our state.

I am here today to talk about small business—the small guy—and those seniors and people with disabilities who are displaced out of our state.

First of all, I want to talk about the personal care attendant rate reduction that is being discussed, not the St. Mary's program but that program that is being discussed in both aging and Medicaid, the \$17 down to \$15.50. This was a rate that was hard fought for by both the disability SPAC and the senior SPAC in 2003. It was first identified as an area that was not being serviced and served well for people with disabilities. They told us that, we fought for that, we joined, and we came together and made sure that that rate was adopted—the \$18.

Last session we again got word that it would be reduced and we fought for that again. We heard from the small businesses, the personal care agencies and the disability people themselves and seniors who rely on those services. The personal care attendant agencies told us this, and the majority of them are small businesses, that they would either stop doing the service, that they would go out of business, or that they would only take private pay—those people who could afford it, not the low income person who is on Medicaid. These are small businesses that are doing the best they can in our communities, in our neighborhoods, to keep people living in their homes, in our communities, and in our neighborhoods.

So let's talk about who those people are. They are low income people as I said; they do not have too many options in the community. Their last resort is to be institutionalized. This is a hypothetical. They may be confined to a wheelchair using incontinent products such as the diapers; they may not have someone looking in for them; they may not have family and may rely on their neighbors for charity care. That must be a very frightening experience, but it is a real and true experience for a lot of people living in our neighborhoods. It might even be your neighbor.

So let's talk about the cut in the per diem rate paid for freestanding nursing homes. This is an ongoing concern and it overlaps into the personal care attendant rate because people rely on that to stay in their homes; otherwise they are institutionalized. If they cut the rate, what is the incentive for the nursing home to take these people? They are the lowest paid—they are not private pay—they have only so many beds for them, and its Medicaid. What is the business incentive to take this group of people?

A lot of you know me because I have been advocating in this state for the out-of-state placement problem. We have a certain group of people in this state, at least 78, maybe 286 annually, who are put out-of-state in nursing homes because Nevada nursing homes won't care for them because they are behaviorally challenged. They are the most at risk; they don't get along well; they have behavior problems; and they are challenged. So Medicaid pays for their care in other states, some as far away as Massachusetts. What is the incentive? If we can't get an enhanced rate for the nursing home industry—if we cannot expect them to take an enhanced rate to care for these people—what is the incentive to take those people? There is none; this is the end of the line. It is like Mr. Perry said, "we do not want to turn anybody away." What is their option? What is their due process as human beings? That is what I am here to talk about. All we are doing is shifting the cost and we are making it harder for people—low income people—to stay in their homes, in their communities and now in the institutions, as well. That is all I have to say. I thought I would bring up that end of the reality, because there is no place for them to go.

Thank you.

VICE CHAIR ANDERSON:

Questions for Ms. McMullen? I see no questions, thank you for your testimony. Mr. Sasser?

JON SASSER, REPRESENTATIVE, WASHOE LEGAL SERVICES:

Thank you, Mr. Vice Chair. For the record, Jon Sasser, representing Washoe Legal Services. I also have the pleasure to serve with Mr. Gowins on the Commission for Services for People with Disabilities and with Mr. Matheis over the years with the Nevada Covering Kids Coalition as its advocacy chair.

The group asked me to go last today because over the years, I have had an opportunity to touch and work on most of these programs that you are hearing about today and so, if some question came up, I would be here if someone was unable to answer. The people testifying before me have done a superior job, so luckily I will not have to play that role.

Let me just make a few remarks. I have listened to many, like Assemblyman Goedhart, who have spoken eloquently about the pain that the private sector is in and that private families are in and that people are tightening their belts. I appreciate that pain. Unfortunately, what happens when the private sector is in pain and needs to cut costs, the way they cut costs is often by laying people off; people lose their jobs. Where do the people then go who now need to be helped? They come to the state and come to our safety net programs.

As you probably know, our Medicaid program has some 20,000 recipients more than you budgeted just a few short months ago and is expecting to have 40,000 more by the end of this biennium. Our food stamp program is some 33,000 over the projected caseload, just seven months into the fiscal year, and our TANF program is some 4,000. The state is seeing the people who are coming as a result of the recession and the impact that it has had on the private sector. The role of government is somewhat different than that of a private business. Our role is to be there and to provide the services that these folks need in this very difficult time. As we have talked about before, if we are looking at cutting in this time of increased need, we can look at three things. We can look at cutting out groups of people that we cover—eligibility groups. In Nevada, we have very few optional eligibility groups under the federal program.

The next big one would be to cut out the entire population that the nursing home industry serves. So we could just stop paying for them. That would be one group we could eliminate. Since we don't have any optional groups to eliminate, we then have to look at cutting services and that is why you saw things like glasses and hearing aids being eliminated, because we have very few optional services that we can cut.

The final place where we can cut is rates. You have heard all of these folks who have had their rates set ten years ago at the last big rate commission and have had them cut already, coming back for another cut. The consequence from that, we saw from the last hospital cut, may be things like the closing of the cancer clinic where people receive their oncology services at UMC. That is the situation that we are dealing with.

If we dealt with this entire almost \$900 million problem through cuts alone, we would be looking at not 10 percent cuts and not the most horrible that you are reducing here, but 22 percent. We would be looking, as we know from the next item from testimony at IFC, the elimination of the Nevada Check-Up Program and the elimination of the Mental Health Court. The Early Childhood Intervention Program is facing cuts, and there is a reduction of services to pregnant women under the HIPAA waiver. So, in every time that I have been involved in the last few years when we faced one of these crises, we have taken a balanced approach. We have cut, as we've had to do, and we've raised revenues, as we've had to do. You did about a billion dollars of each at the last session.

I am encouraged that we are even having this discussion today because I assume that in some room that I am not in, somebody is looking at some revenues and that gives us the option perhaps of avoiding these most painful of cuts.

I applaud you for listening to us today and I urge you to find that revenue and to avoid these cuts and the ones that would be far, far worse if we have to cut deeper. Thank you very much.

VICE CHAIR ANDERSON:

Questions for Mr. Sasser? Thank you very much for your testimony. It was most helpful for all of us.

Submitted Exhibits

See below.

Las Vegas mail FAX

05:58:00 p.m. 02-25-2010

1/1

February 22, 2010

Dear

I am an anesthesiologist who has lived and worked in Las Vegas for over 27 years. I am writing to you at this time to address a serious concern I have with respect to the proposed drastic revision of the Medicaid reimbursement schedule for anesthesia services.

The proposed overnight rate reduction of over 43%, linking reimbursement to Medicare rates, will severely limit access to care. Our parent organization, the American Society of Anesthesiologists has long battled the Medicare fee schedule because of the gross inequality in reimbursement to our specialty. This has been recognized by the GAO for a long time. Additionally, our State recognizes this in the form of the DIR rates for reimbursement for anesthesia services, which currently are more than 300% of the Medicare fee schedule.

and make f
Mr. Sasser
The result of this will be to force anesthesiologists to cost shift, making access to care for Medicaid patients more difficult. You are well aware of problems that Medicare patients face in their ability to access care (witness the Mayo Clinic in Arizona). This will no doubt be duplicated in our State.

The group of anesthesiologist I work with helped to pioneer the development of the State's only pediatric open heart surgery program. Additionally, we care for the vast majority of obstetrical and pediatric patients in Clark County. I ask that you take a second look at this drastic rate reduction, unprecedented in the history of the State's program. I realize that the State is in dire financial straits and that we all need to play a part in weathering this economic storm. As a long time member of the medical community in Nevada I am more than willing to play my part, but surely a 43% reduction in reimbursement is a burden that you have asked no one else to bear.

I thank you in advance for your time and look forward to your response.

Sincerely,

Edmond S. Freis, MD
3010 W. Charleston blvd. #150
Las Vegas, NV 89102
epf@cox.net

Edmond S. Freis MD
edmond@cox.net

Edmond S. Freis MD

Edmond S. Freis MD
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Jason Workman MD
jworkman@gmail.com

Rajeev Khamankar, MD
rskh@lrymedical.com
(702)340.2500



Protect Patients' Access to Hospital Care

Patients are affected when health care funds are reduced

In 2008, patients received the following care from Nevada's 33 acute care hospitals:

- Patient admissions – 262,000+
- Newborns – 36,000+
- Emergency room visits – 871,000+
- Other outpatient visits – 1,900,000+
- Dialysis patients - 8,300+ (46,000 treatments annually)
- Plus additional health care services

Pressure to reduce or eliminate hospital services continues...

Did you know?

- For the six months ended June 30, 2009, Nevada's acute care hospitals were operating at a negative 3.91 operating margin or losing -\$130,000,000 annualized.
- More than half these hospitals were operating at a loss.
- During that same timeframe, these hospitals were estimated to provide \$1,015,000,000 in cost of uncompensated care to their communities which is primarily driven by Medicaid, Medicare, Other Government Programs and uninsured paying less than the cost of care.
- Medicare, Medicaid, Other Government Programs, and uninsured represent 70% of the patients utilizing hospital services and are paying less than the cost of hospital care. These programs continue to reduce, freeze or adjust their payment rates with increases less than the rate of inflation.

While Nevada hospitals have worked hard to manage their costs (which is demonstrated by the average increase in cost per patient day over the last 8 years of 5.5% compared to the national average of 6.0%), in order to remain viable, Nevada hospitals have been forced to limit or eliminated access to certain services:

- Outpatient dialysis
- Post emergency hand clinic
- Rancho Rehab inpatient services
- Chemotherapy
- High risk obstetrics
- Outpatient mammography
- Medicaid high cost pediatric patients
- Outpatient pediatric dialysis
- Pediatric scoliosis with significant implants
- Adult Vagus nerve stimulators (used for epilepsy and depression treatment)
- Level II nursery
- Neonatal intensive care
- Obstetric services
- Cardiac rehab
- Nuclear medicine
- TheraSpheres/SIR-spheres radioisotope therapy implants (used for liver cancer treatment)

Additional services at risk include:

Inpatient

- Neonatal Intensive Care
- Neurosurgery
- Nursery
- Obstetrics
- Oncology
- Orthopedics

Inpatient - continued

- Thoracic Surgery

Outpatient

- Chemo/Infusion Therapy
- Dialysis
- Wound Therapy

As further budget reductions are being considered, patients seeking care at their community acute care hospital are only **increasing**...

- Number of the uninsured is growing - (unemployment continues to increase)
- Medicaid case load is increasing - (35% in the last 12 months)
- Medicaid and Medicare rate reductions are driving more patients to hospitals since lower cost settings won't provide the care
- Number of Medicare-age patients is growing and seeking more services than younger population

We are your community's only 24 hour, 365 day safety net provider.

Further Medicaid payment reductions will impact access to care for the many Nevadans we care for each day. Support your safety net providers so that we can be here to support you when you need us.

Bill Welsh
NHA

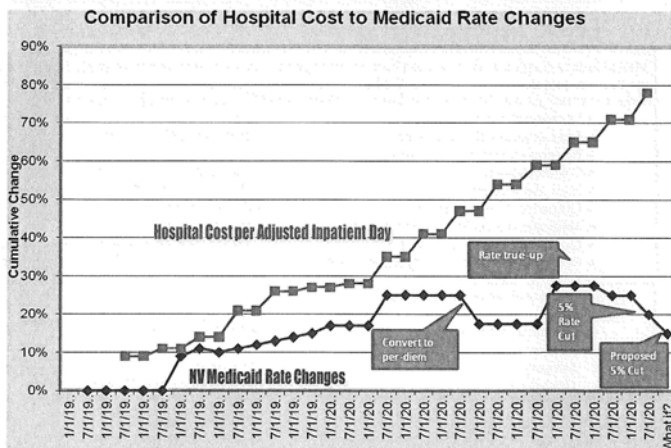


Nevada's Medicaid Story

Due to the economic downturn across the United States, most states are faced with reduced funding for their Medicaid programs. Nevada's unique position is the starting point from which we must consider those reductions:

- Nevada ranks 50th in the U.S. in terms of Medicaid enrollment per capita.
- Nevada ranks nearly last in the U.S. in terms of Medicaid dollars spent per capita.
- Nevada Medicaid does not have a Medically Needy program.
- Nevada is only 1 of 16 states without presumptive-eligibility or a similar process for pregnant women, which would allow women to become eligible for Medicaid and access care more quickly.

Below is the recent history of Medicaid rate changes and the related rate of change in hospital costs:



Key points:

- ✓ With the proposed 5% medical/surgical rate reduction to hospitals, hospitals will be receiving the same level payments as in 1999.
- ✓ At the same time, hospital costs increased 50% over the same time period.

Conclusion:

As Medicaid payments to hospitals are reduced and Medicaid patients continue to receive their care in hospitals (the most expensive setting), hospitals will be forced to reduce or eliminate services to remain viable.



Decreasing Access To Health Care Services in Nevada (updated 1/11/10)

As a result of the growing cost of uncompensated health care service provided by Nevada hospitals, our industry is faced with a unique challenge of having to shift the cost of health care services to a diminishing group of insured payers; and when hospitals can no longer continue to cost-shift, they are ultimately forced to reduce and/or eliminate services. Despite the cost-shifting and Nevada hospital's efforts to cut costs, a reduction of services for the medically needy has taken place in several communities within our state.

Problem

Uncompensated Cost

Uncompensated Cost 2008 (1)	\$733,000,000
5% Cut in Medicaid Budget in Sept. 2008	\$15,000,000
IAF/Supplemental Fund Sweep	\$25,000,000
Unemployment Impact (2)	\$242,000,000
Estimated Annual Uncompensated Cost in 2009	\$1,015,000,000
(Additional uncompensated community benefits are \$75 million)	

(1) Per Uncompensated Cost Reports & NV Hospital Report for 2008 FYE's

(2) Per Uncompensated Cost Reports & NV Hospital Report for 2008 FYE's. Uninsured Uncomp. Cost \$295,079,673 x 82% increase in unemployment rate 9/08-9/09 per BLS.

The problem drives the cost shift which creates a hidden tax

Percentage of Cost Paid

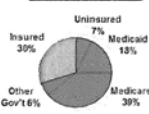
	2007	2008
Uninsured **	10%	5%
Medicaid **	70%	63%
Medicare *	81%	72%

* Per HICP - all short-term acute care hospitals
** Per 2008 FYE Uncompensated Cost reports for > 100-bed hospitals

2007 Data



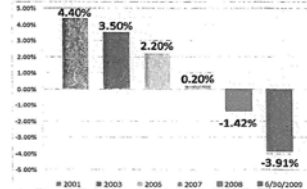
2009 Data



- 1/3 of those receiving care (insured seen in green) pay for the cost of their care plus any unpaid cost for all other patients
- The other 2/3 (seen in red) are the government payers and uninsured who pay less than the cost of care.

Hospitals Cannot Further Cost-Shift, Leaving Hospital to Function with a NEGATIVE Operating Margin

Nevada Hospitals Operating Margin



2001: 4.40% 2003: 3.50% 2005: 2.20% 2007: 0.20%
2008: -1.42% 1/1 - 6/30/09: -3.91%

The Final Result Impacts Access to Care

University Medical Center (Las Vegas)

- Eliminated routine outpatient kidney dialysis
- Eliminated the post-emergency hand clinic
- Eliminated Rancho Rehabilitation inpatient services
- Eliminated outpatient oncology
- Eliminated University Women's Center, high risk obstetrics & outpatient mammography

North Vista Hospital (North Las Vegas)

- Eliminated the level II nursery
- Closing the newborn intensive care unit in January

Pershing General Hospital (Lovelock)

- Discontinued cardiac rehabilitation
- Discontinued nuclear medicine

Desert View Regional Medical Center (Pahrump)

- Closed the Labor & Delivery department

Sunrise Hospital & Medical Center (Las Vegas)

- Not accepting Medicaid reimbursement for high-cost pediatric cases
- Stopped providing select high-cost services, such as outpatient pediatric dialysis, TheraSphere/SIR-spheres radioisotope therapy implants (for liver cancer), pediatric scoliosis with significant implants, and adult Vegas nerve stimulators (for treating epilepsy and depression).

Bill Welsh
NHA

2/22/2010

Access to Hospital Care Service Reductions due to Economic Environment

Presented by

Bill Welch, President & CEO
Nevada Hospital Association
Nevada Legislature, February 2010 Special Session



1

Current state of Nevada hospitals

Overview of current economic factors and impact on hospitals:

- Hospitals provide benefit to their communities
- Who uses hospital services (payer mix)
- Who covers the cost of hospital care and who doesn't
- Hospital operating margins

Result...
Hospital services will be reduced which affects patient access





2

Bill Welsh
NHA

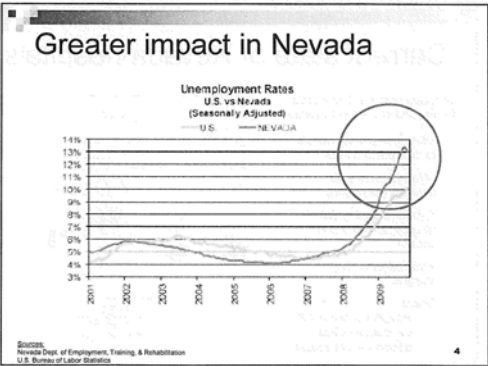
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2/22/2010

Mounting pressure on the healthcare system

- Uninsured
- State of Nevada Revenue Shortfalls
 - Medicaid cuts
- Healthcare Reform
 - Impact of Medicare payment reductions

3

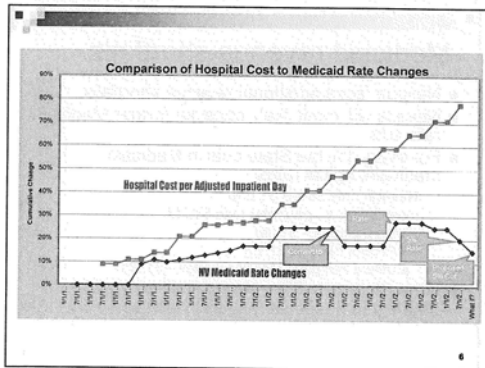


2/22/2010

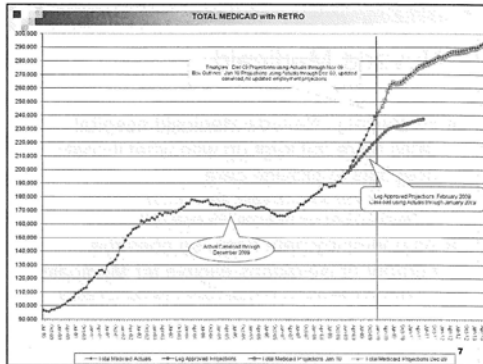
Nevada Medicaid

- Historically, Nevada Medicaid hospital rates have not kept up with what it costs hospitals to provide care
 - Hospital rates are at the same level as in 2001
 - Hospital costs have increased 50% since 2001
- As unemployment rises, so does the number of Nevadans eligible for Medicaid
 - Medicaid caseload has increased 35% in the last 12 months

5



2/22/2010



Medicaid revenue shortfalls

- Nevada faces additional revenue shortfalls
- Nevada will most likely consider further Medicaid rate cuts
- For every 1% the State cuts in Medicaid medical/surgical rates:
 - Nevada only saves \$1.2 M
 - Hospitals (i.e., patients) lose \$4.3M
 - State portion – \$1.2M
 - Federal match – \$1.9M
 - Others that pay at Medicaid rates – \$1.2M
- If the State cuts 5% - Nevada will **only save \$6.0M** and hospitals (patients) **will lose \$21.5M**

2/22/2010

Healthcare Reform – Senate proposal

■ Estimated increased payment shortfalls with the following assumptions:

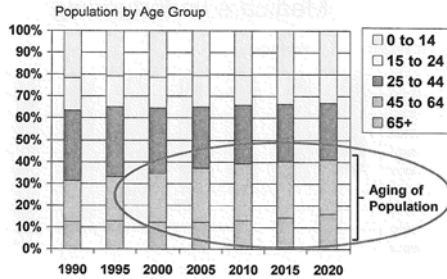
- 5.5% increase in costs per year
- 2.6% average market basket increases before reform reductions are applied
- Projects impact to the end of 2013
(additional populations may be impacted in 2014)

■ Does not take into consideration:

- Aging Medicare population
- Any additional payment reductions included in Healthcare Reform

9

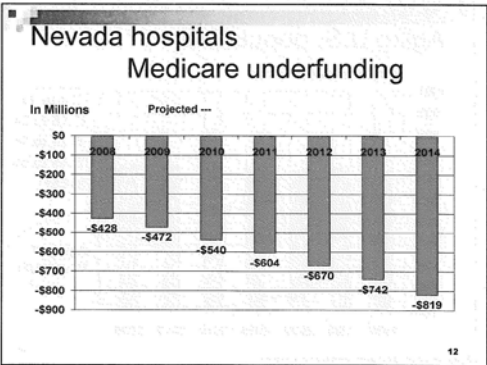
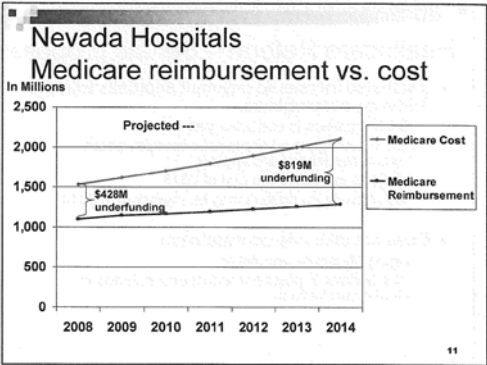
Aging U.S. population



Source: U.S. Census Bureau Historical Estimates & Future Projections

10

2/22/2010



2/22/2010

Direct impact to patient care

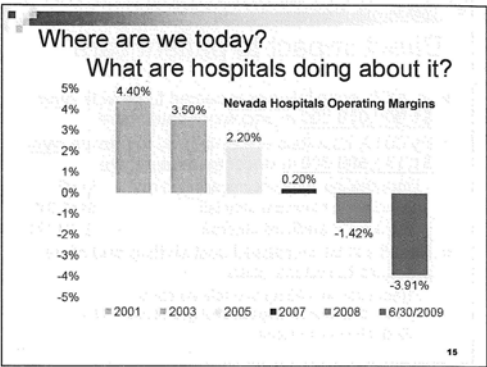
- In 2009, hospitals are expected to provide over \$1,000,000,000 in uncompensated care
- By 2010, hospitals are estimated to provide over \$1,133,500,000 in uncompensated care
 - Includes the 2009 uncompensated cost — \$1.0B
 - Increase in Medicare shortfall — \$112.0M
 - Increase in Medicaid shortfall — \$ 21.5M
- Result will be increased cost shifting and more pressure to reduce costs
 - Reduction in staffing and related costs
 - In 2008, Nevada hospitals employed 24,000+ FTE's
 - Reduction in services

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Indirect impact to patient care

- Each of items below will impact the full service acute care safety net providers — either forcing patients to hospital ER's or not allowing patients to leave the hospital timely
 - Reductions to Mental Health Services
 - Reductions to freestanding skilled nursing facilities
 - Elimination of optional Medicaid services for adults (vision, audiology, hearing aids, day health care, etc.)
 - Increased furlough hours and not filling vacancies will slow Medicaid eligibility

2/22/2010



- What are hospitals doing to stay financially viable?
- Cost management
 - ☐ Reducing staffing costs
 - ☐ Reducing supply costs
 - ☐ Reducing professional fees
 - ☐ Reducing other costs
 - ☐ Reducing investments in new services due to limited cash availability
 - ☐ Evaluating reduction or elimination of services that lose money
- 16

2/22/2010

Service evaluation

- Hospitals consider the following when deciding which services to close or reduce:
 - ☐ Services with negative margins
 - ☐ Number of patients served
 - ☐ Others in the community that provide the service and if there will still be enough capacity in the community if one service provider closes
 - ☐ Whether the service is core to other services provided by the hospital

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Services affected to date

University Medical Center (Las Vegas)

- Discontinued routine outpatient kidney dialysis
- Closed post-emergency hand clinic
- Discontinued Rancho Rehabilitation inpatient services
- Discontinued outpatient oncology (chemotherapy) – Reopened with private contributions
- Closed University Women's Center (high-risk obstetrics and outpatient mammography)

North Vista Hospital (North Las Vegas)

- Closed the Level II nursery
- Closed NICU and reduced obstetric services

Pershing General Hospital (Lovelock)

- Discontinued cardiac rehabilitation
- Discontinued nuclear medicine

Desert View Regional Medical Center (Pahrump)

- Discontinued obstetric services

Sunrise Hospital & Medical Center (Las Vegas)

- Not accepting Medicaid reimbursement for high-cost pediatric cases
- Discontinued outpatient pediatric dialysis
- Discontinued TheraSpheres/SIR-spheres radioisotope therapy implants (for liver cancer)
- Discontinued pediatric scoliosis with significant implants
- Discontinued adult Vagus nerve stimulators (for treating epilepsy and depression)

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2/22/2010

Services at risk

- Services that generate a loss to hospitals
 - Inpatient
 - Intensive Care Nursery
 - Neurosurgery
 - Nursery
 - Obstetrics
 - Oncology
 - Orthopedics
 - Thoracic Surgery
 - Outpatient
 - Chemo/Infusion Therapy
 - Dialysis
 - Wound Therapy

19

Who is being impacted?

The patient

- All those needing hospital care in Nevada
 - In 2008 hospitals provided care to:
 - Inpatient admissions – 262,000+
 - Newborns – 36,000+
 - ER visits – 871,000+ (19% are admitted)
 - Other outpatient visits – 1,900,000+
 - Dialysis patients – 8,300+ (46,000 treatments annually)

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2/22/2010

Need for hospital safety net continues to grow . . .

which affects more patients

- Unemployed (uninsured) population has more than doubled since 2008
- Medicaid projected to increase by approximately 50% from 2008 to 2013
- Aged population projected to grow faster than other groups

21

Conclusion

- Going forward you will need to consider:
 - As Nevada revenue shortfalls are incorporated into the budget
 - Impact any additional reductions will have on the availability of hospital services
 - Remember, we are your community's only 24 hour 365 day safety net provider

22



**NEVADA HEALTH CARE
ASSOCIATION**

4550 West Oakey Boulevard, Suite 99 B
Las Vegas, NV 89102
(702) 434-2273 ♦ (702) 434-3974 (Fax)
www.nvhca.org

Testimony of the Nevada Health Care Association.

The proposed \$10.00 per patient per day reduction in the Medicaid rate will create a problem with access to care and, we believe, will yield the State very little -if any- of the projected "savings". I would respectfully remind the Committee this proposal COSTS our profession \$10,000,000.00 to possibly save \$3,000,000.00.

Currently, Nevada's Skilled Nursing Facilities are admitting patients / residents who are of a pending status with Nevada Medicaid. The definition of a Medicaid "Pender" is that an application for benefits has been submitted for approval but has not been processed. Under good conditions the wait for Medicaid approval can be from 45 to 60 days. The approval process for Hospitals has the same processing time as the Skilled Nursing Facilities. Approval of this reduction will result in Skilled Nursing Facilities not being able to admit a patient / resident from the hospital setting until the Medicaid application is approved.

Medicaid pays \$1,429.00 per day for a med/surg patient in the hospital. They will pay this amount until the patient no longer needs acute services and is reduced to an "administrative rate" of \$237.00 per day for Skilled Care or \$180.00 per day for Intermediate Care; all resulting in MORE costs to the Program. By contrast the nursing home rate is \$187.00 per day. I believe it's important to note that Medicaid imposes no limits to the time a patient may spend in the hospital.

Without the safety net provided by the Skilled Nursing Facilities these patients will have to be retained in the more expensive acute care settings until such time as appropriate discharge can be arranged. Our members have told us they will, at a minimum, reduce the number of

CHARLES PERRY - NCHA

beds available for Medicaid pending and Medicaid eligible residents. Many of the facilities already are not accepting these residents as they transition to alternative payment sources such as Medicare. One of the major providers indicates it will likely close at least one its facilities. See attached.

Nursing Home Provider Tax

As a result of working collaboratively with the Division of Health Care Financing and Policy (DHCP) over an extended period of time to develop a new Rate Methodology, we reached agreement on a methodology that should have resulted in \$200.00 per day but yielded only \$180.00 per day. This was due to budget constraints (later described a "budget neutrality"). The "Base Rate" being paid at that time was \$121.00 and the difference was made up by the Provider Tax. The current proposal is to cut the \$121.00 to \$111.00. The result is \$27.61 below our actual costs. Plainly if 70-80% of your patient load is compensated for dramatically below cost, you cannot stay in business.

Charles Perry

From: Charles Perry [Charles@nhvca.org]
Sent: Tuesday, February 16, 2010 8:33 PM
To: Judee Spagnola
Subject: FW: Nevada Medicaid



Charles Perry
Charles Perry
Nevada Health Care Association
4550 W. Oakey Blvd #99b
Las Vegas, NV 89102
702-434-2273

From: Dale Patterson [mailto:dpatterson@ehcmail.com]
Sent: Tuesday, February 16, 2010 7:27 AM
To: Charles@nhvca.org
Subject: Nevada Medicaid

Charles,

We have become aware of proposed additional Medicaid rate cuts equal to or exceeding \$10.00 per patient day effective as early as March 2010. Due to the already existing State underpayment of over \$12.50 per day below calculated cost, it is difficult to see any clear path as to how a facility could properly deal with such a dramatic additional decrease in Medicaid rates without serious negative consequences.

Certainly, some facilities would be forced to stop admissions as they could not afford to staff at appropriate levels to provide the requisite patient care. Freezing wages is already a given, but some facilities would also have to give consideration to other possible ways to align staffing with the financial resources available. This would likely result in staff reductions in some locations and continue a downward spiral in employment in the state—only serving to make the problem that much worse.

Restricting admissions would help reduce the loss to a facility, but it would be counterproductive to the State's needs as it would result in decreased provider tax revenues and the state's ability to maximize the federal match. Only about 35% of the rate cut would be saving state dollars. Given the existing federal match rate and the impact of a rate decrease of this magnitude upon Nevada's economy, we would urge legislative leadership to find other ways to balance the state's budget problems.

Sincerely,

Dale Patterson, CFO
Evergreen Healthcare
Desk 360-604-4212
Cell 360-798-3025
Fax 360-816-1568

FUNDAMENTAL CLINICAL CONSULTING

February 19, 2010

To Whom It May Concern::

This letter is in response to the Nevada Department of Health and Human Services proposed budget cut of \$10.00 per day for Skilled Nursing Facilities. This reimbursement reduction against our most frail, at risk, and vulnerable seniors is most concerning.

Fundamental Clinical Consulting currently manages 9 inpatient properties representing around 1200 inpatient beds and the largest post acute provider in the state of Nevada. Currently, 60-65% of our population consists of Medicaid and/or Medicaid pending recipients that we are currently caring for at a price of \$17.00+ per patient per day lower than our actual costs. With this additional reimbursement cut, there would be a shortfall of around \$27.61 per patient per day. With this type of devastating cut, we would be left with no other choice than to implement the following steps:

Step 1: Two buildings would need to cease operations and move forward with facility closure (loss of 269 beds to the community);

Step 2: Immediately cease taking Medicaid and/or Medicaid pending patients at our remaining 7 facilities - resulting in patients staying in the acute hospital leading to "new patient access" issues to those same hospital beds;

Step 3: Comprehensive review of all remaining Skilled Nursing Facilities operations based on this reimbursement cut; and implementing cost reductions such as personnel reductions, wage reductions; wage freezes, etc... to help sustain operational cash flow needs;

Step 4: Pursue decertifying our Skilled Nursing Facilities Medicaid beds from the Medicaid program.

It is our hope that these steps would not be needed and that our elected representative will vote "no" against the 10% reimbursement cut for Skilled Nursing facilities.

Respectfully,

Darrin Cook
Regional Vice President
Fundamental Clinical Consulting

American Health Care Association

National Center for Assisted Living

LONG TERM CARE ECONOMIC IMPACT STATISTICS

Senator Harry Reid (D-NV)

NURSING FACILITIES, STAFF & PATIENTS

In Nevada

48 Nursing Facilities

5,662 Employees

4,724 Patients Cared for Every Day

14% of patients rely on Medicare; 58% rely on Medicaid; 28% pay for care with private or other funds.

JOB VACANCIES FOR NURSING FACILITY STAFF

In Nevada

331 Long Term Care Job Vacancies

20.0% Vacancy rate for Registered Nurses (RNs)

11.5% Vacancy rate for Licensed Practical Nurses (LPNs)

10.9% Vacancy rate for Certified Nurse Aides (CNAs*)

* Individuals often can train to be a CNA in a few weeks; some facilities may offer assistance with training.

LONG TERM CARE'S ECONOMIC IMPACT

Direct & Indirect Contribution To Nevada\$540.9 million or 0.4% of state economic activity
(direct effect)\$805.1 million or 0.7% of state economic activity
(total impact)

*Long Term Care Facilities" include nursing facilities, assisted living and other long term care residential facilities.

American Health Care Association • National Center for Assisted Living
1201 L Street NW • Washington DC • 20005
www.ahcancal.org

CHARLES PERRY - NCHA

American Health Care Association

Economic Impact of Long Term Care Facilities**Nevada**

January 2009

Summary: Economic Impact of LTC Facilities

Estimated Impact	Direct	Indirect	Induced	Total	% of Total State Activity
Output (in millions of dollars)	\$540.9	\$81.0	\$183.1	\$805.1	0.7%
Labor Income (in millions of dollars)	\$333.1	\$28.0	\$61.3	\$422.4	0.6%
Employment (jobs)	9,560	670	1,510	11,730	0.7%
Estimated Impact	State/Local	Federal	Total		
Tax (in millions of dollars)	\$31.7	\$97.9	\$129.6		

LTC facilities support other industries and sectors statewide...

Industry/Sector	Estimated Impact	
	Employment (jobs)	Economic Activity (in millions)
Health and Social Services	9,860	\$570.0
Real Estate and Rental	1,300	\$180.9
Retail Trade	330	\$23.8
Finance and Insurance	10	\$8.8
Accommodation and Food Services	100	\$8.3
Professional - Scientific and Tech Services	30	\$4.5
Manufacturing	80	\$3.3
Wholesale Trade	10	\$2.3
Administrative and Waste Services	10	\$1.4
All other industries	10	\$1.7
Total	11,730	\$805.1

NAICS: North American Industry Classification System

Note:

Numbers may not add due to rounding.

Sources:

Economic impact analysis: The Lewin Group analysis using
 Impact Analysis for Planning (IMPLAN) software, Minnesota
 IMPLAN Group, Inc. 2007 data
 Population data: U.S. Census Bureau, <http://www.census.gov/>

Economic Impact Definitions

Direct Effect represents the impact (e.g., change in employment or revenues) for the expenditures and/or production values specified as direct final demand changes.

Indirect Effect represents the impact (e.g., change in employment or revenues) caused by the iteration of industries purchasing from industries resulting from direct final demand changes.

Induced Effect represents the impacts on all local industries caused by the expenditures of new household income generated by the direct and indirect effects of direct final demand changes.

Total Impact is the sum of the direct, indirect and induced effects.

Labor Income is the sum of employee compensation and proprietary income.

Prepared by:

The LEWIN GROUP

American Health Care Association

Nevada's Health Care Industry

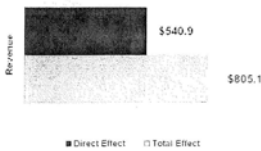
Economic Impact of Long Term Care Facilities

Nevada

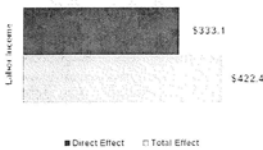
January 2009

Long Term Care (LTC) facilities* support an estimated \$805.1 million or 0.7% of the state's economic activity

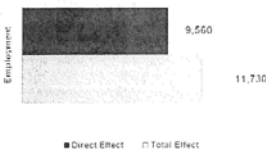
LTC facilities support \$805.1 million in revenue...



LTC facilities support \$422.4 million in labor income...



LTC facilities contribute to approximately 11,730 jobs...



*Long Term Care (LTC) facilities include nursing homes, assisted living, and other residential care facilities. These facilities do not include government-owned or hospital-based facilities.

LTC facilities' **direct** economic impact on Nevada represents...

- 0.4% of economic activity
- 0.4% of labor income
- 0.6% of employment

LTC facilities' **total** economic impact on Nevada supports...

- 0.7% of economic activity
- 0.6% of labor income
- 0.7% of employment

LTC facilities generate \$129.6 million in tax revenue...

- \$31.7 million in state/local taxes
- \$97.9 million in federal taxes

Demographics of Nevada

Population (2007)	2.5 million
% Population 65+ years (2007)	11.1%
% Population 85+ years (2007)	1.1%
State economic activity (2007)	\$120.5 billion

Prepared by:

Assemblyman Ocegüera moved that the Committee of the Whole recess until the call of the Chair.

Motion carried.

Committee of the Whole in recess at 5:10 p.m.

COMMITTEE OF THE WHOLE IN SESSION

At 6:15 p.m.

Chair Buckley presiding.

Quorum present.

Budget recommendations considered.

CHAIR BUCKLEY:

We are still in the Committee of the Whole. We can go through the agreements or try to narrow our differences and review the plan that was just discussed. What would probably be most helpful for me, Assemblywoman Gansert, is if we go through the document that I gave you several days ago. We will compare the differences.

Obviously, there are some substantial similarities to what I prepared and gave you, but I see some differences, too. Maybe we can start with Health and Human Services. Have you agreed to try and restore the ugly list that we heard today?

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. I do not have a copy of your plan right now. Does everyone have copies of everything?

CHAIR BUCKLEY:

I only gave this plan to you, Senator Raggio, and Senator Townsend. I did not give it to all of your members. I am not sure if you did. I can make copies of it, if you like.

So, let's start with Health and Human Services.

ASSEMBLYWOMAN GANSERT:

On Health and Human Services, we were trying to restore all the cuts on the ugly list. The numbers are off a little bit because I had a number from this morning and not this afternoon. I think it is just off a bit.

CHAIR BUCKLEY:

Is the Governor's restoration in the \$24 million or is the Governor's restoration now in the \$273 million and you are adding the rest of the ugly list, on line 20?

ASSEMBLYWOMAN GANSERT:

That is correct.

CHAIR BUCKLEY:

We never got to do a vote, a hand vote on the ugly list but it sounds like we have reached agreement that the worst of the Health and Human Services cuts will be restored. Is that the sense of the committee? Okay. I won't do hands if I am getting enough nods.

Let's go to K-12. Our list, obviously, reduced the K-12 cut to 5 percent and you are saying you will go from 10 to 7.5 percent. Assemblyman Cobb.

ASSEMBLYMAN COBB:

Thank you, Madam Chair. Since you are asking for the sense of the committee, I do want to point out that, without speaking for anyone else, when I look at this overall proposal, I look at it as an overall package. If we are going to go line item by line item, I do not want to commit to anything by saying, "I definitely want this level of funding for this." I think we need to return to the old method of how you budget by looking at the overall picture. If we adopt this as an overall picture, yes, I am fine with restoring that list, which we discussed earlier. I want to make

sure that it is understood, as you are asking the sense of me, and I think a lot of the other committee members who brought this forward, that we look at this as a single unit and that is what we are agreeing to not each individual line on its own.

CHAIR BUCKLEY:

We have to achieve agreement with both houses and the Governor; two-thirds of the houses, if we do not have the Governor. Every part of it has to be balanced. It goes without saying that if we all reach agreement on line 32 alone, we will still have a lot of work to do because the budget must be balanced, but I understand what you are saying.

Okay, you are proposing to change the cut for K-12 from 10 to 7.5 percent, instead of the 5 percent we proposed?

ASSEMBLYWOMAN GANSERT:

Yes. We are trying to restore some of the money to K-12. You can see that higher education is on there for a restoration of 2.5 percent, as well.

CHAIR BUCKLEY:

You agreeing with the restoration of the Nevada Equal Rights Commission (NERC), but our numbers are different.

ASSEMBLYWOMAN GANSERT:

I was using spreadsheets from the Governor's office and our Fiscal staff to try to figure out what the numbers should be and that was the latest number that I had. Really, this document is an attempt to try to integrate the ideas that we have been hearing, as far as restoration of funds for education and for health and human services. I know there were concerns about Nevada State Prison. We were also trying to . . .

CHAIR BUCKLEY:

No. Do not get me wrong. I think it is good. We made this offer two days ago, and I have not heard anything. This is progress. Maybe we can go home tomorrow.

I am not offended by you accepting some of the ideas that we gave and suggesting alternatives. That is what this process is all about. We can check with staff to make sure which numbers are right but with the idea of agreeing to restore the Equal Rights Commission. I think it is a positive step.

Nevada State Prison, the same thing? You are agreeing to keep it with us, that we should keep it open? What about pay differentials? You are agreeing that the correction officers will not have the extra cut. Is that still with the idea that we discussed today? That we would eliminate the differentials going forward?

ASSEMBLYWOMAN GANSERT:

Yes.

CHAIR BUCKLEY:

There are the State Purchasing contracts and the reduction in state contracts. That is \$6.3 million. That is the same number I gave you. With higher education, we reduced it to 5 percent and you are reducing it to 7.5 percent. Those are the two major differences. There is the restoring of the Judicial College, which is Senator Raggio's item, I am sure. There is the restoration of dignity protection. I do not think we had that, but it is very minor.

If anyone has questions along the way, jump in.

Secretary of State—is that agreeing to the Secretary of State fees as Ross presented them yesterday?

ASSEMBLYWOMAN GANSERT:

No. It does not have new fees from the Secretary of State. These are the numbers that were provided by Fiscal staff. And they might be the same numbers that the Governor had. There are so many spreadsheets out there. We are trying to figure out what they were without any fee increases for the Secretary of State.

CHAIR BUCKLEY:

Are you agreeing to the restorations in the office? What about the fees to finance that?

ASSEMBLYWOMAN GANSERT:

We do not have any new fees from the Secretary of State in this document.

CHAIR BUCKLEY:

Okay. Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. I am sorry. What is the dignitary protection?

ASSEMBLYWOMAN GANSERT:

The dignitary protection is for the Governor. At some point in time, it was cut out, and I think that was reflected in the \$273 million. We wanted to make sure it stayed, but that number may be duplicated. It was our understanding that it might have been cut out of part of this budget. We wanted to make sure they still had the dignitary protection.

CHAIR BUCKLEY:

In the 10 percent budget document provided by the Governor, there was a proposal to eliminate the protection for the First Lady because there will not be one fairly soon. There were some other minor changes. We can cross-reference that with the page in the larger document.

The State Treasurer's Office is the same. The State Controller's Office is the same. The Legislative Counsel Bureau, the Supreme Court, Nevada Check-Up—all the rest of those are the same.

ASSEMBLYWOMAN GANSERT:

I think you will find that most of them are the same.

CHAIR BUCKLEY:

The Federal Medical Assistance Percentages (FMAP) are the same. The federal funds are still the same.

ASSEMBLYWOMAN GANSERT:

We tried to confirm all the numbers.

CHAIR BUCKLEY:

We still need to confirm, Assemblywoman Leslie, whether we are getting an additional \$22 million from the feds. Would you please check on that?

Unclaimed property is the same. Tax amnesty—we had tax amnesty at \$15 million and you have changed it to \$5 million.

ASSEMBLYWOMAN GANSERT:

In discussions with the Governor's Office, it sounded like it would be closer to \$5 million. The \$15 million reflected what was expected from the tax amnesty program and part of that would go to local governments. We reduced that to a conservative amount of \$5 million.

CHAIR BUCKLEY:

We think that is not aggressive enough but okay. There is \$25 million from the Capital Projects Fund. Just for the members of the body that are not familiar with this, Assemblywoman Smith, in consultation with the Clark County Superintendent, received their permission to allocate \$25 million from their capital bond program in order to help ensure that not as many teachers were laid off. We appreciate that work that you did. Obviously, Assemblywoman Gansert, I assume you want to credit Assemblywoman Debbie Smith.

ASSEMBLYWOMAN GANSERT:

I absolutely would, and for the next item, too.

CHAIR BUCKLEY:

We really need to work together and get a balanced budget that makes sense. But I also want to give her the credit for all of her hard work. It was not an appropriation of funds but, instead, was a collaboration to stop the layoff of teachers and credit goes where credit is due. I would like to thank Assemblywoman Smith for all of her work over the last two weeks.

Okay. What is next? The Clark County Reclamation Fund, which is Senator Horsford's idea. You are obviously willing to support his idea. We did not have the spend down balance on our worksheet, but that was on Andrew's sheet from yesterday.

ASSEMBLYWOMAN GANSERT:

I incorporated that into here.

CHAIR BUCKLEY:

We are fine with that, I am sure. There is \$91 million from the Unclaimed Property Program. What is that?

ASSEMBLYWOMAN GANSERT:

That is an innovative idea. Basically, we receive unclaimed property pretty consistently. It has been growing over the years. That is the same fund we have used in the past to help fund the Millennium Scholarship. We have had some discussions, and we could pledge \$5 million or \$10 million, any particular amount, and you can pick the number of years, to be able to receive this \$91 million. As an example, if you were to pledge \$10 million over a 10 year period, you could yield \$70 million. So, \$10 million for 10 years, we could monetize that and receive \$70 million. If you took \$10 million over 20 years, the monetization would be \$130 million, just to have some benchmarks.

ASSEMBLYMAN OCEGUERA:

Would this be similar to a securitization, then, similar to what the Lieutenant Governor tried to do with the tobacco funds?

ASSEMBLYWOMAN GANSERT:

It is different in that when he was trying to securitize the tobacco funds, we really did not know how much we were going to receive. There was uncertainty with that. Whoever was going to provide those funds or provide a note or an amount of money for the note, we would not receive nearly as much money because of the uncertainty that had to do with the stream of cash or flow from tobacco companies. The Unclaimed Property Fund is extremely stable and taking a piece of it and monetizing it over a period of time, whether it is 10 years, 15 years, or 20 years, can produce millions of dollars. We would expect to have a low interest rate given that it is secured by the unclaimed property and given that it is with the state of Nevada.

ASSEMBLYMAN OCEGUERA:

Have we checked with the State Treasurer, the legality of it and the possibilities there? Is she on board with this?

ASSEMBLYWOMAN GANSERT:

We have taken counsel with a person to check these numbers. Not with the State Treasurer but with someone who is an expert in financial analysis. I think it would be important for the State Treasurer to check this and go head out.

CHAIR BUCKLEY:

Who reviewed it? Can you say?

ASSEMBLYWOMAN GANSERT:

I would rather not say.

CHAIR BUCKLEY:

So, explain it to us in more detail.

ASSEMBLYWOMAN GANSERT:

We take a portion of the unclaimed property, which we consistently have done. Again, we have used that before for the Millennium Scholarship. You pledge a certain amount; it could be \$5 million, \$7 million, or \$10 million, whatever you need to do, for a certain period of time. It is a secure note using unclaimed property that we should be able to get a very good interest rate on, to be able to produce \$70 million or if we needed \$90 million, whatever the amount would be.

CHAIR BUCKLEY:

Help me out here. We have unclaimed property in the State Treasurer's Office, and the property belongs to someone else. We do not know if they are going to come forward and claim it. We are holding it. Do you take a portion of those assets and sell it or do you borrow against it?

ASSEMBLYWOMAN GANSERT:

You borrow against it. You pledge a conservative portion of it to receive funds today, knowing that you will use those other funds to pay off the amount. You do not use general funds. It is aside from the General Fund. It is not making a hole in the General Fund. You use the amount that is in Unclaimed Property. Again, we have been moving \$7.6 million a year to the Millennium Scholarship Fund on a consistent basis. We have also used unclaimed property. The State Treasurer has been very good about finding extra unclaimed property on a conservative basis that we have moved over when we have needed to, to look at reserves.

CHAIR BUCKLEY:

What do you think the interest rate would have to be? What is the discount factor?

ASSEMBLYWOMAN GANSERT:

I do not have that information. I was basically provided ballpark estimates of what we could get if we pledged certain amounts for certain time frames. Again, if we were to pledge \$10 million, over a 10 year period, we could borrow in the ballpark of \$70 million today.

CHAIR BUCKLEY:

Is it a loan? It is really a loan, is it not?

ASSEMBLYWOMAN GANSERT:

It would be a loan that is secured using unclaimed property. Again, that is not General Fund dollars. They are monies that are sitting over in another pool of funds.

CHAIR BUCKLEY:

How ironic that Republicans are suggesting getting a loan for operating expenses and the Democrats have concerns. If you wait long enough, anything can happen.

ASSEMBLYWOMAN GANSERT:

I guess that is where our concerns are. We do not want to raise significant amounts of fees or new revenues, taxes, at a time when so many households are hurting and when the economy is sluggish. It looks like the recovery is not going to happen tomorrow. It is not going to happen the day after that. We do not know how long it is going to take. How can we support some of these programs that we think are important, like K-12 and Health and Human Services? How can we do that without taking substantial revenue, substantial funds out of the economy in the form of taxes? This was our innovative idea.

CHAIR BUCKLEY:

I think that these are really, really tough times. I have to say that ideas I would have rejected out of hand before, I don't do anymore, on anything we are considering. I worry about this, and I look forward to hearing your testimony tomorrow on how it makes sense. I am not going to condemn the idea because we have to come together very quickly and enact a balanced budget and reduce the amount of proposed cuts to education and to all those other items we talked about today. We wouldn't be doing our jobs if we weren't. We look forward to hearing more about that.

What are the rest of the differences?

ASSEMBLYWOMAN GANSERT:

We have state park fee increases. It is my understanding that \$750,000 is a conservative number. We have the Athletic Commission, for increased gate fees of approximately \$500,000, which I believe is also a conservative figure. The Gaming Control Board license investigation fees are equivalent to the 10 percent cut to the Gaming Control Board. This would be the increase in the hourly rate for new licensees. We also have mining. My understanding is that \$62 million would be a reasonable number to expect from mining. The other reductions, I believe, are numbers that came through the Governor's Office and probably our Fiscal staff and are numbers they probably agreed to. The Insurance Premium Tax, I believe the \$5 million was the Governor's Office. We did leave that one. We had testimony the other day on that.

Again, in this our objective was to integrate a lot of the ideas from both the Democrats and the Republicans, from both houses, to try and put together a plan that would work, moving forward for Nevada. Not just in the near term, but also in the long term. We, too, are concerned about some of the substantial cuts that we face. Therefore, we made an effort to restore some of the funding and I truly appreciate, and I mean that, I truly appreciate the homework that had been done on some of these numbers. I apologize for not letting you know that earlier. Some of these numbers that were put together, I know that took a lot of time and energy. The effort, again, was to make sure these numbers were accurate, checking with the different spreadsheets. This is somewhat of a fluid document but is the concept of what we think is within our realm, something we want to work with is on this paper. We also were very concerned with collective bargaining and transparency, and we talked about that a little bit earlier. We believe that the majority of taxpayer dollars are spent through collective bargaining; we need to have some sunshine on it. It should be under the open meeting law.

CHAIR BUCKLEY:

Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. I just have two questions. On line 36, regarding the Clark County Redevelopment Authority Funds, we swept all of their money last time and their mothballing it, doing all the right things. Where did that come from? They mothballed it last time. Secondly, with the Gaming Control Board licensing fees, how many new properties are going to open up, to give those dollars?

CHAIR BUCKLEY:

The Clark County Redevelopment Agency number is a technical adjustment, in addition to our figures. They abolished that last year, and we just did not claim all of that money in last year's reconciliation. This really came from the Budget Division and our staff. It is a technical adjustment.

Assemblyman Horne.

ASSEMBLYMAN HORNE:

Thank you, Madam Chair. I am interested in two things. I would like more clarification, more detail on how they came up with the \$62 million for the mining. How did they reach that number? Is it an educated guess or assumption? Also, the closing of Casa Grande still gives me pause and concern. What is the rationale of closing Casa Grande?

CHAIR BUCKLEY:

I think you are agreeing with us to add it back.

ASSEMBLYMAN HORNE:

Is this adding it back?

CHAIR BUCKLEY:

It is adding it back.

ASSEMBLYWOMAN GANSERT:

You know what, the way that it is on here, I think that we discussed that this afternoon and that was not integrated as an “add back.” Nevada State Prison was an “add back.” This is still under reductions at the bottom so this is something we would have to discuss.

CHAIR BUCKLEY:

We had proposed on our sheet that we gave them, not closing Casa Grande, instead sending both, as we discussed this afternoon, to the Interim Finance Committee with the data analysis. Are you changing your mind from this afternoon when we discussed the resolution on the prisons? No? We need to fix that then.

The fees you are proposing are approximately \$67 million. Assemblyman Ocegueda, with regard to mining, I know you have been working on this issue for two weeks, what is the \$62 million. How does that compare to where you are with mining, if you can disclose that information? I do not know. Obviously, I know you are working on a bill draft of what is going to be introduced tomorrow.

ASSEMBLYMAN OCEGUERA:

Correct. That number is fairly close to the adjusted forecast that, quite frankly, does not come out until March 1, 2010. It is privileged information for those mining companies. But yes, it is within reason.

CHAIR BUCKLEY:

Was there additional money from mining that they offered, in addition to this?

ASSEMBLYMAN OCEGUERA:

On top of that, there was another \$42 million.

CHAIR BUCKLEY:

So if the industry is going to support that, and we can use that to lower the reductions to K-12 to 5 percent, are you willing to do that, to prevent the layoff of teachers in our state?

Assemblyman Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Chair. As it pertains to the mining revenues, that was the only number we had to work with, which was the projected net proceeds. Clearly, I know the majority leader is privy to some other increases that we just didn't know of, so that is the number we plugged into this spreadsheet. I think most of us, as we look at this sheet, both in this house and in the Senate, what we are trying to do is hold the line to the extent we can so that we aren't faced . . . anything we put back into this budget, the reductions, will end up being something in the base budget, for next session, that we have to work from again. We are just trying to make sure . . . I think our caucus and the other caucus is trying to get as much reduction out of this as we can. None of us wants to reduce K-12. None of us wants to reduce higher education. But the bottom line is, we are going to have to squeeze this down, or we will never get through to next session.

CHAIR BUCKLEY:

Those are legitimate points. The majority leader has spent the last couple of weeks working on what seems to be a fair resolution.

ASSEMBLYMAN GOICOECHEA:

That is fair and we, again, were not working with mining. We knew the majority leader was. But on the flip side, we took the initiative and tried to look at the unclaimed property to see if we could fill a hole with that. Again, I think we are all on the same page; we are all trying to get there and get this budget balanced with as little pain as possible.

CHAIR BUCKLEY:

If mining supports the increases, you are going to support them, too?

ASSEMBLYMAN GOICOECHEA:

I would like to see what they are proposing.

CHAIR BUCKLEY:

Fair enough. Assemblywoman Smith, did you have anything to add about anything?

ASSEMBLYWOMAN SMITH:

I think the only thing I have to add at this point is that I was put into an uncomfortable position tonight because some of this was privileged information. While we have spent a lot of work on that, I personally did not have a copy of this previous spreadsheet because it was so confidential. My personal situation has been compromised with the people I have been working with. I have apologized to those folks. I need to say, for the record, that sometimes this information that is put out confidentially needs to stay confidential. It really allows us to maintain our relationships and do the work we need to do. Thank you, Madam Chair.

CHAIR BUCKLEY:

Just so we are clear, the money from the Clark County School District was something that the staff said they would recommend to the Board, or that they would at least discuss it, and the Board would have to make the final decision. When we gave you that plan, it was in confidence so that we wouldn't burn the relationship. We made sure that the proper people were supportive of it. And that is the disadvantage of handling it in this manner. We would have loved the opportunity, before you used our confidential spreadsheet, to just give them the courtesy of a head's up.

ASSEMBLYWOMAN GANSERT:

My apologies. I truly apologize. I thought that because I had received some feedback on these numbers that these numbers were actually out there. I did not realize the confidential nature of them. I would have plugged in some other number if I needed to. Again, I apologize. I did not realize that those numbers were confidential at this point in time.

CHAIR BUCKLEY:

I had only given it to you, Senator Raggio, Senator Townsend and no one else, for that very reason. I apologize to you, as well, Assemblywoman Smith.

Finishing the review, the Insurance Premium Tax on the sheet we gave you was \$15 million and here you have it at \$5 million. Again, with \$90 million to \$163 million, we really wanted to incentivize the insurance commissioner to begin collecting these taxes. It is not fair to all the businesses that are paying their taxes. We really wanted a more aggressive target. What was your thinking in lowering that?

ASSEMBLYWOMAN GANSERT:

You know, in listening to the insurance commissioner's testimony, I think he testified that they had 96 audits over a period of four years and received \$300,000. To be able to collect even the \$5 million, he was going to have to do over 1,100 audits. The concern was to have a number on here that made sense. And, again, I think they only did 96 audits over a period of four years. We, too, want to be aggressive. If someone owes an Insurance Premium Tax, we are completely in support.

CHAIR BUCKLEY:

I think the concern that we had after the hearing is that the insurance commissioner has the ability to contract out for auditors and probably that is the better way to go rather than hiring state employees. It seemed that they could take a more aggressive approach using the private sector.

Assemblywoman Smith.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Chair. I have not looked at this until just this moment. I know when I was reviewing a lot of our consultant agreements, that is an area where we spent a lot of money, contracting out. As we are going through this issue, we need to talk about that some more because we already spend millions of dollars, if I am not mistaken, on contracting out. We need to figure out if we already have that built into the budget, in our professional contracts.

CHAIR BUCKLEY:

I think we have \$6.3 million in reduction, and that includes the lease.

ASSEMBLYWOMAN SMITH:

What I am saying is that I think we already contract out for some of this work we are talking about. We need to look at those agreements and see if, on the auditors' side, if we're already contracting and already have that built into our budget. When I was looking into contracts during session, what I was told was, "Well, we have these contracts, but we do not always spend down the money that is in them." Maybe that is where we can find some of that work and some of those savings.

CHAIR BUCKLEY:

That's a good idea. Thank you. Assemblyman Atkinson.

ASSEMBLYMAN ATKINSON:

Thank you, Madam Chair. I have a question about line 58, the Clark County Reclamation Fund. Is that coming from the Clean Water Coalition or the Clark County Water Reclamation District?

ASSEMBLYWOMAN GANSERT:

That was a number that was provided to us, so I do not have the details. I think that we had someone do some research on that. But I don't have the information on it.

CHAIR BUCKLEY:

It is from the Clean Water Coalition, which is the project that is not going to go forward due to lack of feasibility. The plan was to distribute it. Senator Horsford was working with them to redirect it to prevent some layoffs and to also see if there could be a plan on some bonded capacity to produce jobs. That is what that was. Any further questions? Assemblyman Anderson.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Chair. Could I come back to the unclaimed property question, for just a moment? Since the property that is under the unclaimed property office is unclaimed, obviously, and people show up and have a right to claim, provided they can prove who they are, do we know what percentage of the outstanding unclaimed property that is sitting there, that they are trying to bank against, as compared to the amount of unclaimed property that is coming in on an annual basis? Do they have a formula by which they determine which funds are available and how much they need to keep on hand to meet the yearly or annually first time notice of coming to pick up your \$1.25 or whatever the amount is?

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. On the unclaimed property, again, there is quite a bit of unclaimed property which gets deposited with the state every year. It pretty much reaches a steady state in that quite a bit is paid out. I believe the Treasurer has been very aggressive with trying to get money back to people. It is a growing fund, and we have used it for the Millennium Scholarship Program, and we have also used it for reserves. We have moved money out of it before because we had more than the Treasurer believed we needed at the time. It is something that we can look at and examine and make sure that there is an appropriate amount that we can leverage to receive funds today, in the near term.

ASSEMBLYMAN ANDERSON:

Madam Chair, I also have a question about the Gaming Control Board license and investigating fee on line 63. Does this hold up with the information Chairman Neilander provided to us yesterday, relative to if we did away with those quality controls, making sure the games are legal and making sure we are getting our fair share or cut of the dollars and all the other needs for the legitimacy or keeping the reputation legitimate; the reputation of Nevada gaming as being straight up? Is this predicated on the belief that we are going to make additional cuts in this particular area to the people who are going to be doing these investigations? In other words, are there going to be fewer auditors?

ASSEMBLYWOMAN GANSERT:

The \$4.2 million is the 10 percent cut to the Gaming Control Board's budget. It is not related to the auditors. Mr. Neilander testified that he would have to cut some personnel if we did, in fact, cut the \$4.2 million. Yesterday, he suggested that he could increase the hourly rate on new investigations for gaming licenses in the state of Nevada. We talked about how they travel overseas and that there is a lot of global operators, now, who want Nevada licenses and that if he were to raise the fee on new investigations, that we could approximate covering his 10 percent cut.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Chair. I, too, also want to apologize to my colleague from Reno and the Senator across the hall. We did not know these were confidential numbers. We have seen so many of these spreadsheets in the last ten days; we see items appear and disappear on them. I, too, have to apologize, but I don't think any of us knowingly changed any sheet or any number. We were just crunching numbers and had no idea that they were supposed to be confidential. Apparently, those are the only two items that we weren't supposed to talk about? I would like to know so that we don't transgress again.

CHAIR BUCKLEY:

It is a little too late now.

ASSEMBLYMAN GOICOECHEA:

I would agree, but are those the only two items? Again, we had no clue what was confidential and what wasn't. I have a stack of them here I cannot step over, these spreadsheets provided by staff.

CHAIR BUCKLEY:

Next time you are going to release our plan, just check with us first, and we will tell you which ones are confidential.

ASSEMBLYMAN GOICOECHEA:

We would be glad to do that and I think, if there is time, we would like to have some numbers from you. Thank you.

CHAIR BUCKLEY:

At any time, you know where my office is. Assemblyman Atkinson.

ASSEMBLYMAN ATKINSON:

Thank you, Madam Chair. On line 44, it says see attachment, but there isn't one. I am assuming that the attachment is the entire list. It's not what we voted on today? This \$197 million is actually the entire number from the Governor's original list, not what we had today. Am I correct?

ASSEMBLYWOMAN GANSERT:

I think it reflects what was passed out today. We were able to update that number to what was included in the bill today. I think the majority leader can confirm that.

ASSEMBLYMAN ATKINSON:

I am confused because I have two different versions.

Assemblywoman Kirkpatrick:

Could I ask the same question? I thought they said we needed to add in the \$24.7 million and then we needed to add in the \$3 million, which made it \$225 million, which is what I ended up with. I am just trying to understand this because they kept telling us that we had to add this and had to add that to get to that number. So maybe most of us were confused during that process.

ASSEMBLYWOMAN GANSERT:

Madam Chair, I do actually remember part of the PEBS trust, but I am trying to remember if that was included. This number reflects exactly what was on the spreadsheets that had the sweep accounts on them, which we had listed today. In testimony, earlier, I believe Mr. Raxter from

Fiscal said that there was \$24.7 million. I am not sure if that is reflected on this sheet or not. But that would be to the good.

ASSEMBLYMAN OCEGUERA:

We did pass the bill exactly like this. There might be some changes in other things but this is how we passed the bill.

CHAIR BUCKLEY:

That would have to be adjusted. We prepared this sheet that was used to make the changes and at the time that we did, line 40 had the PEBS cut. However, our staff, in preparing the final bill, thought it would be more prudent for the PEBS investment reduction to be in the sweeps bill. That is why you see it. Our sheet was prepared before our staff decided it would be easier to combine it in one bill. Am I right, Tracy? Yes? Good. That is why there is a discrepancy.

Assemblywoman Spiegel.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Chair. Assemblywoman Gansert, tomorrow when you present information on your innovative idea of securitizing unclaimed property, I am hoping that there is some information that you could present to us. Specifically, I am wondering if you could comment on the experiences of Louisiana and Connecticut and if you could comment on the legal cases in California and New York. If you could also include an analysis of how we would address the concerns that have been raised by the securities industry related to escheatment laws and interstate aspects relating to having companies that are based in Nevada, that have operations in other states, and vice versa, and the interstate implications of having assets from one taken and reverted to be used in the operation funds of another. I may have some additional questions. If I could email those to you, I would appreciate that.

Submitted Exhibits

See below.

DRAFT		GF Balance 02252010b (2).xlsx					
	A	B	C	D	E	F	G
1	State Of Nevada						
2	Projected General Fund Shortfall						
3	2009 - 2010 Biennium						
4				As Of			
5				February 16, 2010			
7	Shortfall:		FY 2010	FY 2011	Total		
8	General Fund Revenue		\$ (234,473,496)	\$ (352,958,806)	\$ (587,432,302)		
9	General Fund Reversions		\$ (7,100,000)	\$ (10,500,000)	\$ (17,600,000)		
10	Distributive School Account Shortfall		\$ (84,020,858)	\$ (122,694,466)	\$ (206,715,324)		
11	Medicaid Caseload Shortfall		\$ (28,371,212)	\$ (32,507,446)	\$ (60,878,658)		
12	Eliminate Line of Credit		\$ (15,000,000)		\$ (15,000,000)		
13	Move Line of Credit to FY 2011		\$ (15,000,000)	\$ 15,000,000	\$ -		
14	Projected Shortfall 2009-11 Biennium		\$ (383,965,566)	\$ (503,660,718)	\$ (887,626,284)		
17	Solutions:						
18	Reductions to Operating Appropriations:						
19	Budget reductions proposed by the Governor (February 16th cut list)		\$ 82,516,181	\$ 191,420,860	\$ 273,937,041		
20	Less Restoration of Portion of HHS Reductions		\$ -	\$ (24,695,034)	\$ (24,695,034)		
21	Less Restoration of Portion of K-12 Reductions (reduces K-12 to 7.5%)		\$ (10,545,456)	\$ (15,511,095)	\$ (26,056,551)		
22	Less Nevada Equal Rights Commission Reductions		\$ -	\$ (982,752)	\$ (982,752)		
23	Less Restoration of NSP		\$ (487,147)	\$ (12,330,386)	\$ (12,817,533)		
24	Less Restoration of Corrections Pay		\$ (1,160,857)	\$ (4,503,404)	\$ (5,664,261)		
25	Reductions in State Purchasing Contracts		\$ -	\$ 6,300,000	\$ 6,300,000		
26	Reduction - Nevada System of Higher Education		\$ 16,701,712	\$ 50,105,007	\$ 66,806,719		
27	Less Restoration of Portion of NSHE (reduces NSHE to 7.5%)		\$ (4,175,428)	\$ (12,526,252)	\$ (16,701,680)		
28	Less Restoration of Judicial College		\$ -	\$ (290,000)	\$ (290,000)		
29	Less Restoration of Dignitary Protection		\$ -	\$ (180,000)	\$ (180,000)		
30	Reduction - Secretary of State (updated per 2-19-10 response)		\$ 368,052	\$ (300,000)	\$ 68,052		
31	Reduction - Office of State Treasurer		\$ 40,964	\$ 122,126	\$ 163,090		
32	Reduction - Office of State Controller (updated per 2-17-10 response)		\$ 146,106	\$ 398,758	\$ 544,864		
33	Reduction - Legislative Counsel Bureau		\$ 1,003,146	\$ 2,939,661	\$ 3,942,807		
34	Reduction - Supreme Court		\$ 291,431	\$ 820,355	\$ 1,111,786		
35	Nevada Check Up surplus due to lower than projected caseload		\$ 1,611,578	\$ 4,561,940	\$ 6,173,518		
36	Clark County Redevelopment Authority funds offset to Casa Grande Debt repayment		\$ 1,150,000	\$ 1,150,000	\$ 2,300,000		
37	Total Reductions to Operating Appropriations		\$ 87,460,283	\$ 186,499,784	\$ 273,960,067		
39	Redirected Fund Transfers						
40	Public Employees Benefits Program - REGI Investments		\$ 6,900,000	\$ 7,860,000	\$ 14,760,000		
41	Suspend Unclaimed Property Transfer to Millennium Scholarship Fund		\$ 3,800,000	\$ 3,800,000	\$ 7,600,000		
42	Total Redirected Transfers		\$ 10,700,000	\$ 11,660,000	\$ 22,360,000		
44	Fund Sweeps (see attachment)		\$ 123,534,998	\$ 73,868,572	\$ 197,403,570		
46	Federal Fund offsets						
47	Additional FMAP Funds		\$ -	\$ 88,488,706	\$ 88,488,706		
48	Additional SNAP Funding		\$ 250,000	\$ 1,250,000	\$ 1,500,000		
49	Enhanced FMAP rate - State "Clawback" payments			\$ 16,544,966	\$ 16,544,966		
50	Transfer Department of Corrections ARRA funds		\$ 72,178,069	\$ (72,178,069)	\$ -		
51	Transfer NSHE ARRA Funds		\$ 92,389,311	\$ (92,389,311)	\$ -		
52	Total Federal Fund offsets		\$ 164,817,380	\$ (58,283,708)	\$ 106,533,672		
54	Revenues and Fees						
55	Increase in Unclaimed Property Transfer (per State Treasurer 2-19-10)		\$ 4,100,000	\$ -	\$ 4,100,000		
56	Tax Amnesty		\$ -	\$ 5,000,000	\$ 5,000,000		
57	Clark County SD Capital Projects Funds		\$ -	\$ 25,000,000	\$ 25,000,000		
58	Clark County Reclamation Fund		\$ -	\$ 56,000,000	\$ 56,000,000		
59	Spend Down Ending Fund Balance			\$ 4,963,535	\$ 4,963,535		
60	Unclaimed Property Program			\$ 91,000,000	\$ 91,000,000		
61	State Park Fee Increases			\$ 750,000	\$ 750,000		
62	Athletic Commission			\$ 500,000	\$ 500,000		
63	Gaming Control Board License Investigation Fees			\$ 4,200,000	\$ 4,200,000		
64	Mining			\$ 62,000,000	\$ 62,000,000		
65	Total Revenues and Fees		\$ 4,100,000	\$ 249,413,535	\$ 253,513,535		
67	Other Reductions:						
68	State Employees 4/10 Schedule with 10 hours per month furlough		\$ -	\$ 6,168,000	\$ 6,168,000		
69	Executive Budget Office Other Recommended Reductions		\$ 5,176,303	\$ 3,538,137	\$ 8,714,440		
70	Executive Budget Office Recommended Travel and Training Reductions		\$ 586,604	\$ 772,430	\$ 1,359,034		
71	Executive Budget Office Recommended Vacant Position Eliminations		\$ 1,358,735	\$ 4,619,910	\$ 5,978,645		
72	Collect Outstanding Insurance Premium Tax		\$ -	\$ 5,000,000	\$ 5,000,000		
73	Voluntary Retirements		\$ -	\$ 5,000,000	\$ 5,000,000		
74	Close Casa Grande Transitional Housing Facility		\$ 700,000	\$ 1,264,609	\$ 1,964,609		

DRAFT		GF Balance 02252010b (2).xlsx			
	A	C	E	G	
75	Total Other Reductions	\$ 7,821,642	\$ 26,363,086	\$ 34,184,728	
76					
77	Total Solutions to Projected Shortfall	\$ 398,434,303	\$ 489,521,269	\$ 887,955,572	
78		\$ 14,468,737	\$ (14,139,449)	\$ 329,288	

On motion of Assemblyman Ocegüera, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 7:08 p.m.

Madam Speaker presiding.

Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bill No. 1; Senate Bill No. 1.

Assemblyman Ocegüera moved that the Assembly adjourn until Friday, February 26, 2010, at 9 a.m.

Motion carried.

Assembly adjourned at 7:08 p.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE FOURTH DAY

CARSON CITY (Friday), February 26, 2010

Assembly called to order at 1:47 p.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Moises Denis.

Our Heavenly Father, this afternoon, as we gather to meet once again, we are grateful for the opportunity and privilege of serving the great people here in the state of Nevada. We are grateful for our families, our friends, and our loved ones that support us, help us, and sacrifice so that we might be here. We are grateful for our health and our strength, and we would ask that Thou would be us with us this day as we deliberate and as we discuss, that we will be able to find commonalities and be able to find the things that will help us come to a solution.

We know that these are difficult times. There are many that are struggling each and every day; the things that we do impact their lives. Help us, that we might have Thy spirit with us as we do these things, that we will make the right decisions. Bless us, that all will go well and that our families and loved ones will be safe and protected while we are away and that we might quickly be able to be back with them and be able to do the things that we need to do in our lives. We thank Thee for these blessings and for giving us this opportunity, Father, and say these things in the name of Jesus Christ.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 25, 2010

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 3.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee of the Whole:

Assembly Concurrent Resolution No. 2—Urging certain actions by the school districts and the Nevada System of Higher Education to respond to the current budget shortfall.

WHEREAS, The serious downward movement of the economy of the United States has, in turn, had a negative effect on the economy of the State of Nevada, including high rates of unemployment and an alarmingly high rate of foreclosure; and

WHEREAS, Although the 2009 Session of the Legislature addressed what was then a looming budget gap by making cuts to the State's budget of about \$1 billion and implementing temporary

tax increases amounting to an estimated \$781 million, recent economic projections yield a nearly \$900 million budget shortfall; and

WHEREAS, While meeting its constitutional duty to balance the State's budget, the Legislature has taken extraordinary measures to shield public education from further cuts with the recognition that public education funding is imperative to ensure the future success of Nevada's children and in the long term, to ensure the success of Nevada's economic recovery; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislature hereby urges the boards of trustees of the 17 county school districts and the Board of Regents of the University of Nevada to make every possible effort during this fiscal crisis to protect the needs of Nevada's students and to ensure a high-quality public education while examining ways to maximize efficiency by:

1. Examining the function and efficacy of programs and services to determine whether any should be eliminated or replaced because they no longer serve a useful purpose;
2. Examining whether benefits offered to higher-level staff can be reduced or temporarily reduced;
3. Reviewing the ratios of administrators to staff and administrators to students and considering adjustments to those ratios if it is determined that the number of administrators is too high in relation to the number of staff or students, as applicable;
4. Posting organizational structures, administration levels and budgets on publicly available websites to ensure transparency;
5. Examining overhead costs to determine if there are efficiencies that may be gained in implementing alternative methods of purchasing, maintenance and other practices;
6. Ensuring that any adjustments made to salaries and benefits are made in a fair and equitable manner so that some employees are not exempt from the impact of such adjustments; and
7. Considering the "shared sacrifice" that is necessary to prevent massive layoffs and to ensure a high quality of service to Nevada's students; and be it further

RESOLVED, That on or before September 1, 2010, the board of trustees of each school district and the Board of Regents of the University of Nevada provide a report of their findings and any adjustments made and actions taken as a result of those findings to the Director of the Legislative Counsel Bureau for transmission to the Interim Finance Committee and the next regular session of the Nevada Legislature; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the president of the board of trustees of each school district and the Chair of the Board of Regents of the University of Nevada.

Assemblyman Ocegüera moved that the resolution be referred to the Committee of the Whole.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee of the Whole:

Assembly Bill No. 4—AN ACT relating to education; temporarily providing flexibility for school districts from the requirements of pupil-teacher ratios; and providing other matters properly relating thereto.

Assemblyman Ocegüera moved that the bill be referred to the Committee of the Whole.

Motion carried.

By the Committee of the Whole:

Assembly Bill No. 5—AN ACT relating to education; providing a temporary waiver from certain requirements governing expenditures of money for textbooks, instructional supplies, instructional software and instructional hardware by school districts, charter schools and university schools for profoundly gifted pupils; and providing other matters properly relating thereto.

Assemblyman Ocegüera moved that the bill be referred to the Committee of the Whole.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Assembly Concurrent Resolution No. 2 and Assembly Bills Nos. 4 and 5.

Motion carried.

IN COMMITTEE OF THE WHOLE

Chair Buckley presiding.

Quorum present.

Assembly Concurrent Resolution No. 2 considered.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Chair. I'm here this afternoon to talk about a package of bills that has been developed based on the current fiscal crisis we are facing, and based on a great deal of testimony and input we've had, particularly in our Interim Finance Committee over the last several weeks.

I would like to start with Assembly Concurrent Resolution No. 2. I think we have all heard over the past few days what the impact of our budget situation has on our education system financially, and what it means to our communities and to our students, teachers, parents, and to our business community, as well. I do believe that we're working collectively to mitigate those cuts, to make those cuts as low as they can be, so that the students in the classroom are impacted as little as possible. In doing that, I think we all agree that we would like to make sure that our public has the most accountability possible in these difficult times, and in times when we are trying to make these cuts smaller, and also for us to provide some flexibility in the legislation that we are talking about today. So, we have this resolution that I would like to walk through with you that would be directed to our 17 school districts and to our Nevada System of Higher Education. I think it sends a very strong message from this legislative body to the decision makers at each of the 17 school districts and, of course, to the Board of Regents for the Nevada System of Higher Education.

Firstly, we would like to encourage each of those boards to examine all of their programs and services. It's exactly what we've been doing here over the last biennium, in particular, in looking at every dollar we spend, every program we fund, the cost effectiveness, who we serve, and whether it is efficient. We want to make sure that at the district and higher education level those same examinations are taking place.

Item 2 is examining whether benefits offered to higher level staff can be reduced or temporarily reduced. I think that speaks for itself. We heard many of those comments on this floor, and in public testimony as well, that it's important for us, particularly in these difficult budget times, that we make sure that across the board we're looking at salaries and benefits that are offered. Are they fair? Are they shared?

Item 3 is one we've heard about a lot. This is the ratio of administrators to staff and students, and whether those are appropriate. Some of that information, I think we have seen over time, and we do hear that reductions have been made as budget cuts have been implemented, but I know we always have the sense—and there's always a lot of public discussion about whether we're looking at those ratios—whether we're making sure that the cuts stay as far away from the classroom as possible, and this would be the suggestion that those numbers need to be looked at and also demonstrated to the public.

Item 4 is the transparency issue requiring that the organizational structures, budgets, and administrative information be placed on websites for the public's perusal and ability to see where their public tax dollars are being spent, and how.

Overhead costs, we have certainly done a lot of that here looking for efficiencies and ways that we can streamline and cut back on some of our overhead costs. We would like all of the districts and the higher education system to do the same.

Item 6 is ensuring that adjustments made to salaries and benefits are made in a fair and equitable manner. We've seen a lot of email and letters, had a lot of phone calls and testimony from employees about their feelings that sometimes practices aren't distributed fairly amongst the employees.

That also relates to Item 7, which is the shared sacrifice that I think we've all talked about, and we would all like to see happen. Our state employees, in particular, have really taken a lot of the brunt of this financial turnaround and our budget crisis. I think this resolution encourages all of our employees to be able to participate in the sacrifices that have to be made. I think the public has indicated that this is what they expect and what they want to see. These are difficult times, so we would like all of the districts and the higher education system to examine all of their practices in this area, and make sure that they are making every attempt to make sure that employees are all treated equitably and fairly, as much as possible.

So, Madam Chair, that is the gist of this resolution. Of course, it is a resolution, and we hope that in its transmission to the school districts, to the leadership, the 17 boards, and the Board of Regents, that they will take these requests seriously, as we are taking our job seriously in trying to mitigate the cuts that we have to pass on for them to ultimately deal with at their level. Thank you, Madam Chair.

CHAIR BUCKLEY:

Thank you, Assemblywoman Smith. Are there questions from the Committee about the resolution? I don't see any. Thank you very much.

ASSEMBLYWOMAN SMITH:

May I move on to Assembly Bill 4, Madam Chair?

CHAIR BUCKLEY:

Let me see if we have any public testimony on this. Is there anyone who would like to provide testimony on Assembly Concurrent Resolution No. 2? Okay, I think people are tired. I just want to make a comment. I think this measure is really important. We are making extraordinary efforts to cut the proposed reductions to K-12 and higher education, and we probably could have cut higher education and K-12 by 10 percent on Monday and gone home, but we didn't want to see the layoffs of 3,000 teachers and increased class sizes, so we're still here making that happen. In exchange for that, we need everyone to look at their existing programs. There are a couple in higher education that I wonder why they're still there. We constantly receive reports about administrator to teacher ratio, and whether it's true or an urban myth; it doesn't matter, because perception is reality. The case has to be made to the public why so many administrators are needed. That's not done yet, and that needs to happen. We hate reading in the newspaper about higher education administrators getting special benefits. They can't. We have to do more with less. It seems to me that if we're allowing those things to happen, while making extraordinary efforts to protect education, and those things go on, then the public wonders why we tried so hard. So, I just would like to add from my position that we all have to make sure that we're preserving what is essential, and that means cut-backs at the top. So, I think this resolution says that. Any other comments? So, we'll close the public hearing on Assembly Concurrent Resolution No. 2 and open the hearing on Assembly Bill 4.

Assembly Bill No. 4 considered.

ASSEMBLYWOMAN SMITH:

As you all know, existing law imposes requirements for class-size reduction in grades 1-3. In the 2009 Session, we appropriated money for class-size reduction in an amount estimated to achieve ratios of 16-1 in grades 1 and 2 and 19-1 in grade 3. In recognition of the extreme fiscal situation we are dealing with in this session, and based upon the consistent testimony we have heard from school districts for flexibility, this bill authorizes school districts to increase class size by 2 pupils per teacher for the 2010-2011 school year only. If the school district elects to increase class size, it must use the saved money to minimize the impact of budget reductions on class size in grades 4-12. The reduction of class sizes in grades 4-12 must be carried out in a fiscally neutral manner so that it does not cost more to implement that plan than it would be to implement the traditional class-size reduction program. This bill provides the flexibility that the school districts have been asking for, and I think it is an important piece of what we are working on to solve our immediate budget crisis.

I would like to say, Madam Chair, that as a person who has been stalwart in asking for class-size reduction legislation, many, many years ago, and working to maintain it, this is a difficult one for me to ask for, but I know that it is necessary so that, again, we have some shared sacrifice and we spread the pain of the budget situation that we are in. I remember when the class-size reduction legislation was being promoted when it was a bill and being heard in the Legislature, and there was a big banner hanging in the lobby of the Legislature that said, "Who is for kids and who is just kidding," and that was a very symbolic thing for me as a parent who had three children in the public school system at that time, and had our middle child in a first grade class that had 35 students in it, with one teacher and a half-time aid that was in the class every other day, and 35 students. I was so happy when this bill passed and our youngest daughter was able to experience the benefits of being in a smaller class size. When I would go to volunteer in the class, I saw how productive it was to be in that environment with fewer students.

I have been an advocate all of these years and so this is hard for me, but again, I think it is what we have to do to get through this situation that we are in. I cannot bear the thought of some of the classes that are so large at the upper grades having to be larger because teachers may have to be laid off and there will not be the ability to make these changes within the class-size reduction. The bill is written very tightly so that there is room for two students to be added to these lower grades, and the money has to be spent so that the impact is mitigated at the higher grades 4-12, and it does have a sunset provision, so this is for the next school year. Again, this is one of the main things that districts have asked to have and because personnel costs in the district are the highest costs and again because it is the teacher in the class room that is what is so important to the achievement of our students. The size of classes is a very important thing that we deal with in this Legislature, and I think to help keep these high school classes from reaching 45 kids or a 7th grade class having 35 kids, this is what we have to do. Madam Chairman, there are representatives from the two larger school districts here, and also from the school board association, who will be speaking on behalf of the other districts that can answer any questions that our members may have on the technical issues regarding any class-size reduction questions, and also lend their support for this idea. Thank you.

CHAIR BUCKLEY:

Thank you, Assemblywoman Smith. Are there questions of the Committee? Assemblyman Carpenter.

ASSEMBLYMAN CARPENTER:

In Elko, we have been allowed to go to a class size, I think from kindergarten to 6th grade, of 22 to 1, and it has been in effect for many years. Would this legislation have any effect on them or could they actually put a couple more kids in the class if they wanted to or had to?

ASSEMBLYWOMAN SMITH:

Yes, this would benefit other districts that have already had the flexibility because it would extend it through grade 12, and I think you will hear Mrs. Merrill, representing school boards associations, testify on that issue.

CHAIR BUCKLEY:

Is there anyone from the public who would like to testify on Assembly Bill 4?

JOYCE HALDEMAN, ASSOCIATE SUPERINTENDENT, CLARK COUNTY SCHOOL DISTRICT LAS VEGAS, NEVADA:

Before I testify in favor of this bill, I just need to make sure that you understand what strong advocates the Clark County School District is of class-size reduction. We strongly feel that it makes a difference in the early years of childhood learning, and it makes a difference in how well children learn to read and learn basic math skills. We share Assemblywoman Smith's trepidation of how we are dealing with this issue right now. However, these are extraordinary times when we recognize that we do need to make sacrifices across the board. The Clark County School District has dealt with budget cuts in the past. One of the things, that is a convenient and easy way for us to do it, is to simply add another student per class. It is a high dollar amount if we add one student per classroom across the district; it is nearly \$27 million that we can save. When we are faced with budget cuts, it is always a temptation for us to do that. With the class-size reduction protection for those early grades, the higher grades have really taken the brunt of those maneuvers over the past few years, as we have dealt with budget cuts. Reluctantly, we agree that it is time for us to share that sacrifice and have those early grades be increased by a couple of students. We appreciate that the bill is a one-year fix. We really look forward to making sure that when this session is over, and we are dealing with things on a long term basis, that class-size reduction is protected. We are grateful that we are not tapping into the class-size reduction fund, and that we are keeping it in the areas that it goes to reduce the number of pupils in a classroom. We are very supportive of those things.

Over the years we, in Clark County, have worked in many ways to make sure we use class-size reduction dollars appropriately. When the bill first was passed, I was a PTA parent working on the class-size reduction because I was worried about my five children who were attending public schools and I thought that the class sizes were too large. I remember when the bill was passed; there was a concern that we did not have the right facilities in order to implement class-size reduction in Clark County when it started out. It was one of those, "which comes first, the chicken or the egg." Do you build the classrooms and then hope that people will fund them at a lower class size? Or do you pass class-size reduction and then worry about the facilities? We did the second, and for a long period of time there was a lot of team teaching in Clark County. Then I became a district employee and one of the roles that I had in that position was to work on the school bond campaigns. When a major bond campaign passed, one of the first things we did was change the construction of the buildings so that these lower grades would be at the capacity of a smaller class size. We have some limitations in how many students that we can add to the classes in grades 1-3, simply because of the size of the classroom that we have constructed to go along with these classes. We have just about virtually eliminated team teaching in Clark County. We have very few situations left where we—because of the demographics of the area and the way things are configured—that we still have team teaching. It is just about completely gone. I feel we have made a lot of progress on class-size reduction. I really hope that we do not regress with that, but even saying those things, we strongly support this. By increasing class size by one student in grades 1-3, we will save \$15 million. If we increase it by two students, it will help us save \$30 million, and that is an important amount for us right now as we face these budget cuts.

CRAIG HULSE, DIRECTOR OF GOVERNMENT AFFAIRS, WASHOE COUNTY SCHOOL DISTRICT:

In the interest of time, I will echo the sentiment from my colleague from Clark County. This is also something we are not happy that we need—we are in trying times right now—and with this bill and the language, it allows us the flexibility and that stays consistent with our message through this entire thing that once we have a cut, and once we know what we are going to do, that we have as much flexibility as possible to do that, and that is what this allows through June

30, 2011. We also lend our full support to this language and we appreciate the hard work of this Committee and Assemblywoman Smith.

DR. DOTTY MERRILL, EXECUTIVE DIRECTOR, NEVADA ASSOCIATION OF SCHOOL BOARDS:

On Tuesday afternoon you heard from Sharla Hales, the immediate past president of the Nevada Association of School Boards, on behalf of our 107 school board members in Nevada. She encouraged you to provide flexibility as local boards consider responsible cuts in their individual school districts. We appreciate the increased temporary latitude that is provided in this bill and we encourage your support. In response to Assemblyman Carpenter's question, in Section 1, subsection 3, it states, "A district may elect to increase the class size by not more than two pupils." Some districts that have applied class size reduction in other grades may not need to consider this as an option but it does provide the latitude in school districts where boards do need to consider this option. Thank you for your service, particularly during such difficult times.

ASSEMBLYWOMAN WOODBURY:

I had a question about the expiration date. Will that take into account year-round schools that end in August, or will this be readdressed in the next session, to make sure that this can continue through August of 2011?

JOYCE HALDEMAN:

I don't know that I am really qualified to answer that, but the way that I read the bill is that it would be extended to contracts that have been signed within that period of time. Once you have a contract, until it expires, we are set.

ASSEMBLYMAN CARPENTER:

To the representative from Clark County, what kind of student ratios do you have in your other classes, if you can give me an idea?

JOYCE HALDEMAN:

The current ratios that we have right now are grades 1 and 2 are funded at 1 to 16, and grade 3 is 1 to 19. Grades 4-6 are funded at 1 to 25. The secondary grades are funded at 1 to 30. When I tell you they are funded that way, that is an average amount that we use but every class size is different. For example, if you have a AP Chemistry II class that has 12 students in it, then there is another class somewhere that has the balance of those students in it, to make up for that small class size. Some of our class sizes with PE or band, and some of the larger classes, are larger than that, 60 or even 75 students per teacher. As regular classrooms go, we try to keep to the 30, but many times they creep up, especially in some of the general education classes, so that some English and math classes have in excess of 35 or 40 students.

CHAIR BUCKLEY:

For the Clark County School District, do you track that? I know that because most of the time we get averages, and averages really do not tell you that there are 45 students in a class. Do you track that?

JOYCE HALDEMAN:

You might recall during the last session that I was asked that question and I had a couple of people who spent a good many hours trying to track that. We have, of course, 330 schools and a lot of classrooms within each of those schools, so it is pretty hard to keep those class sizes tracked. What we finally ended up doing is tracking extremes; we took out some of those classes like PE or orchestra that have lots of kids in them because of the way they are taught, and then tried to look for the classrooms that had extreme numbers, anything over 35 and anything under 12. I cannot quite remember the numbers. I could probably resurrect that, but it was for a previous year. It is not something that we have easy access to produce those numbers for.

ASSEMBLYMAN MUNFORD:

Since I have been elected to the Legislature, I have had the opportunity to visit about five or six of the high schools in Washoe County/Reno and I direct this question to Mr. Hulse. In regard to the ratios in the schools, I did not see much of a problem with class size; they were pretty level. How is the ratio in the elementary and middle schools? When I was a teacher I

would have relished some classes like that. I am still an advocate of class-size reduction, but I want to know your ratio in the elementary and middle school grades.

CRAIG HULSE:

We have the same ratio—for grades 1-3, they are funded by law; 16-1 for grades 1 and 2; and 19-1 for grade 3. I do not have the information for grades 4-8 with me and I apologize for that. In our high schools, we average about 30/32 to 1 and that is not controlled by class-size reduction and grades 1-3 were consistent with what the current law is funded at.

ASSEMBLYMAN ANDERSON:

In setting the ratio for the accelerated programs, such as advanced chemistry and those others, does Clark County use the minimum number of students before a particular program can qualify; in other words, if you are going to have a fourth year French program or fourth year German program, do you have to have a minimum of 12 students to qualify? Or do you go ahead with programs that have less than 12 students?

JOYCE HALDEMAN:

Generally speaking, yes, we do have to have a minimum number. There are some exceptions to that and it has to do with if there is an expertise or a program where it builds upon each other and we promised that to the students, but generally speaking, those programs are so popular that meeting the minimum class is not a difficult situation. I do not want to give you just a blanket “yes,” because there may be some exceptions, but generally speaking, yes, we have a minimum. I believe that it is 15 students but it might be more than that. I would have to check and find out.

ASSEMBLYMAN GUSTAVSON:

I have a two-fold question on class-size reduction. I know that class sizes are quite large, especially down in Clark County because they have been unable to keep up with the growth that has been going on down there recently, though the last couple of years I think your enrollment has dropped off somewhat. The first part of the question is: How many schools do you have under construction right now? Once those schools are completed, do you think that will alleviate the problem of large class sizes?

JOYCE HALDEMAN:

We are on the construction of our final four schools that have been dealing with the growth. We would like to construct more schools to replace existing older schools, but that is also put on hold right now. The schools that are under construction for growth are actually dealing with students that are currently in the district in other over-crowded schools. In fact, on Tuesday night of this week, the school board had a zoning meeting that was very contentious about the rezoning for those new schools. It is always a problem when you get a new school but then you have to do the rezoning to go with it. We are finished with that part of the construction program.

ASSEMBLYMAN GUSTAVSON:

Do you think that will help alleviate some of the problems with large class sizes right now?

JOYCE HALDEMAN:

I want to say yes, but I will tell you that every school has an attendance zone that is fairly large. We, unfortunately, build schools at an outrageous size and they have a lot of students in them, so the formula that we use for funding teachers is really what drives our class size, not so much the facility. It is the formula that we have for funding.

CHAIR BUCKLEY:

If you cut the funding, you have to increase class sizes, so it does not help at all. If we kept the funding the same for education and provided them teachers for the new schools—yes—it would reduce class sizes in high schools. If you are cutting the funding that you need to hire the teachers, then you are not going to have any relief. Is that right?

JOYCE HALDEMAN:

That is correct.

CHAIR BUCKLEY:

Is there anyone else that would like to provide testimony on Assembly Bill 4? Seeing none, I will close the public hearing on Assembly Bill 4 and open the public hearing on Assembly Bill 5.

Assembly Bill No. 5 considered.

ASSEMBLYWOMAN SMITH:

Madam Chair, thank you again. School districts and charter schools under existing law are required to expend a certain amount of money each fiscal year on textbooks. You may remember that last session we actually passed a couple of bills regarding this issue. One of them was A.B. 13, which authorized a school district or charter school to submit a request to the Department of Education for a waiver from that minimum textbook expenditure during economic hardship. This bill is a bit of a housekeeping bill that would waive the requirements that we set forth in Assembly Bill 13, and provides all districts with the waiver. We know that all 17 districts were applying for the waiver, and felt that in an effort to save on staff time—for the Board of Examiners, the school districts, the Department of Education—it would make sense to just, for this biennium only, grant that waiver, so that the districts have the flexibility to use that money for other things. That doesn't mean they won't be buying textbooks, but it means again that it gives them the flexibility. I would imagine they would have all been granted the waiver due to the budget situation we are in. This will make the system much more efficient, and make it happen faster. Thank you, Madam Chair.

CHAIR BUCKLEY:

Thank you, Assemblywoman Smith. Are there questions from the Committee? Assemblyman Settelmeyer.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Chair. I was just curious, on a statewide basis, how much money is in the textbook fund, totaled together?

ASSEMBLYWOMAN SMITH:

I didn't bring the budget amount with me for this biennium. I will get that for you and provide that to you before we leave this floor session.

ASSEMBLYWOMAN DONDERO LOOP:

Madam Chair, I would like to disclose that while I work for an instructional material company, my company, nor myself, will benefit any more than any other company by this, so I will not be abstaining from voting.

CHAIR BUCKLEY:

Thank you for the disclosure. Any further comments or questions of the Committee? Seeing none, thank you very much. Is there anyone who would like to provide public testimony on AB 5? Seeing none, I will close the public hearing on AB 5 and bring these measures back to the Committee. The Chair would entertain a motion on ACR 2. Potential conflict of interest declared by Assemblywoman Dondero Loop.

Assemblyman Ocegüera moved to adopt Assembly Concurrent Resolution No. 2.

Assemblyman Conklin seconded the motion.

Motion carried.

Assemblyman Ocegüera moved to do pass Assembly Bill No. 4.

Assemblyman Conklin seconded the motion.

Motion carried.

Assemblyman Ocegüera moved to do pass Assembly Bill No. 5.

Assemblyman Atkinson seconded the motion.

Motion carried.

On motion of Assemblyman Ocegüera, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 2:32 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee of the Whole, to which were referred Assembly Bills Nos. 4, 5, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, Your Committee of the Whole, to which was referred Assembly Concurrent Resolution No. 2, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

BARBARA E. BUCKLEY, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Concurrent Resolution No. 2, just reported out of committee, be placed on the Resolution File.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 2:35 p.m.

ASSEMBLY IN SESSION

At 7:56 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 26, 2010

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 3.

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

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 3.

Assemblyman Ocegüera moved that the bill be referred to the Committee of the Whole.

Motion carried.

Assemblyman Ocegüera moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Assembly Bill No. 3.

Motion carried.

IN COMMITTEE OF THE WHOLE

Chair Buckley presiding.

Quorum present.

Senate Bill No. 3 considered.

CHAIR BUCKLEY:

Let's consider Senate Bill 3. We've asked Brenda Erdoes, our Legal Counsel, to come forward and to assist us by presenting the bill. Just for the members and for those listening, our agenda for this evening is we're going to hear testimony on Senate Bill 3 and then we will adjourn for the evening. We're going to come back in tomorrow at 11 a.m., as I think most people know we made some significant progress today with legislative leaders and the Governor. We're going to meet again in the morning, and if luck goes our way, we may have a consensus, or we hope to have a consensus and a bill for this body to consider. Maybe I'm an optimist, but the talks went very well. Let's consider Senate Bill 3.

BRENDA ERDOES, LEGISLATIVE COUNSEL, LEGISLATIVE COUNSEL BUREAU:

Thank you, Madam Chair. The bill in front of you, if you start on page 3, that's where the text of this starts, you'll see that the first sections are amendments to Chapter 391, *Statutes of Nevada 2009*, and that was the money bill in which this was included as sections 3, 4, and 5 during the 2009 Legislative Session. What you're seeing here is an amendment of Section 3 of the bill from the 2009 Session that set up the furlough program. Just basically, going line by line, the concept here is that on line 7, and you'll see this throughout, the classified employees—if you recall in the furlough bill from last session—had a different plan than all the other employees in the sense that those employees could take the furlough hours in any combination that they wished. The rest of the employees under this furlough program are required to take the furlough in 8-hour days, and one day per month; the classified employees had more leeway in terms of how to use that. They didn't have to take them all in one 8-hour day a month. What we were doing is adding the employees of the Legislature, the Legislative Counsel Bureau, and the Budget Division of the Department of Administration to the group with the classified employees because the thought was that you wouldn't want us and legislative employees or the Budget Division staff to actually be taking furlough days during session. So, what this will do is enable us to have flexibility; we will still take the full number of furlough days, but what we'll do is take them before and after session and so will the Department of Administration, so that just adds that part in there.

On line 23, you start to see the first change. That's what this bill did as drafted. It changes the furlough time from 8 hours to 10 hours, so you'll see those changes throughout. Where the 8s are changed to 10s, that is to reflect that this bill is moving from 8 hours to 10 hours for the furlough. The changes at the bottom of that page are, again, adding the same thing, just accounting for the fact that the Legislature's employees, as well as the Counsel Bureau, and the Budget Division, are added to the classified employee part. Again, on page 4, that is essentially what that is. On the top of page 4, however, line 1 accounts for the difference between what was the case, which was 8 hour furloughs going to 10 hour furloughs. That is actually 120 hours of furlough leave that would be taken each year. The rest of the changes here, until you get down

to line 23, on page 4, are making the same change in the places that it needed to be made and to account for the 8 to 10 hour days and also the addition of those folks to the classified employees.

The provisions of lines 23 through 28 are an authorization for school districts to require their employees to take unpaid furlough days; however, the way this is set up it is not the same program as the state. It enables the school districts to put together a program of their discretion—how many days, how many hours, how it works—would be up to them. They're not part of this program with the 10 hours and four 10s. The rest of the changes over to page 5, on line 20, are still conforming changes. On line 20, subsection 8, provides that this provision says that on subsection 4, which I just described, does not apply to the extent that the provisions authorizing the furlough would conflict with the provisions of the collective bargaining agreement. That is possibly the case, anyway, because of impairment of contract, but we stuck that in there just to make this a little bit easier to make it work.

Regarding the provisions of 24 through 28, you may recall that shortly after the 2009 Session, there was an issue as to whether the licensing boards were required to take the furlough leave. We were required to draft an opinion. We came to the conclusion that they did not need to take the furlough leave because they were outside the Budget Act, but since there was some question, we thought that it would be good to add that in this time to make it clear that this doesn't apply to the licensing boards. The requirements there are that their sole function is regulation, and that they are not subject to the Budget Act. That's what that citation is right there. The next section, Section 2, which starts on page 5, essentially amends Section 4 of the act from last session and makes some conforming changes. It says public employers because now we have, not just the state, but a quasi-state and school districts. This begins the part where the other substantive change in this bill provides that employees who are exempted from the furlough, their pay will be cut in an equivalent amount. So, the way that this will work now is, instead of whole exemptions from the furlough, and it would be by positions, so if the positions in the agency are exempted from the furlough then they would take a pay cut that is equivalent to the amount of the reduction from the furlough days. This is accounting for that language.

Also in the back of the bill, related to this, is a provision that voids all of the existing exemptions that have been granted from furloughs and provides that the agencies must apply again for furloughs. The reason that we did that is that now that the exemption from furlough causes a reduction in pay, we thought that the process should start over. There are approximately 2,060 some employees who are exempted from the furlough, so that starts again.

The language in paragraph b of subsection 1 of Section 4, which starts on line 42, provides that in the case of school districts the school district will determine if the employee will be held harmless under PERS. This is amending the provisions that are currently in the 2009 bill, which held state employees harmless from PERS for the pay cut. In other words, the contributions are still made on the same amount as they would be, but for school districts it's left to the discretion of the school district. The changes on page 6 are all related to the change from the 8 hours to 10 hours. The rest of these are all just conforming changes on what you have to report to PERS.

The next substantive changes are on page 7, line 25—that's being taken out. Previously, if you got an exemption from the furlough, then you wouldn't be reducing the amount in your budget. The agency was required to identify other cuts that could offset that amount, but now that it's going to be offset by a pay cut. You don't need that provision anymore.

Line 33 reflects a change that was made in the amendment on the Senate side, to require for the exemptions that are approved by the Board of Examiners and the Board of Regents be approved by the Interim Finance Committee before they become effective. Those exemptions that are granted by the Public Employees Retirement Board, the Supreme Court, and the Legislative Commission remain as they are, which is they don't go to IFC for approval.

The provision that starts on page 8, line 12, describes that the provision that I already told you about, which is that if the furlough position is exempted, the employee would have an 8.75 percent pay cut in lieu of the furlough leave. Section 4, which starts on line 19, of page 8, is the provision that reduces the salaries. An equivalent amount of the employees of the Legislature and the employees of the Assembly and the Senate, you may recall, have their pay set out in Chapter 218, in the chart. That chart provides for increases, so this provision says that in calculating the amount of the compensation, not only is it reduced by the same amount, but no step increases may be given during this same period where the state employees have furloughs.

Section 5 of the bill is the section that provides that all state offices must be closed on Fridays and be open for the transaction of business for 10 hours, from 7 a.m. to noon, and then to 6 p.m. There is an exemption. Exemptions are provided later. They would be granted by the same entities that provide exemptions for the furlough themselves, which is the Board of Regents for NSHE and the Board of Examiners for the Executive Branch. These are the same ones.

Line 42, on page 8, basically, deals with holidays. When you have four 10s, Monday through Thursday, and the holiday is on Friday, then that would be 10 hours in addition. This bill provides that during any week in which you have one or more holidays, the plan goes back to five 8-hour days so that the employees would work the five 8-hour days and then actually take off one of the days as the holiday or two if it's Thanksgiving and Family Day.

ASSEMBLYMAN HARDY:

Thank you, Madam Chair. On page 8, line 18, if a position has already had a prior cut in salary, does this take into account the cut already taken in salary, based on the employees unreduced salary? Have we defined that, if that becomes an issue?

BRENDA ERDOES:

I'm sorry, I need some clarification. When you say if the employee's salary has already been cut . . . I don't know what situation you are describing.

ASSEMBLYMAN HARDY:

If we have an employee who had already had a cut in pay or salary, is this before their prior cut or is this from the base that is in effect, at a certain date?

BRENDA ERDOES:

I think that this doesn't take into account if the salary was cut previously for some other reason; but if what you're asking about is how, this bill does provide, if you had special or other adjustments for, like the 5 percent, those adjustments, as well as overtime, are paid on the basis of the unreduced salary of the employee. Is that addressing your question or am I missing it?

ASSEMBLYMAN HARDY:

So, if I want to speak in lawyer's speak, I would probably understand it better. If I make \$10 an hour and then I receive a pay cut to \$9 an hour and then this furlough swings over as a percent of decrease, would it match the equivalent of the furlough because I am exempt? Would I go down to 45 cents or would I go 50 cents or what would be my base?

BRENDA ERDOES:

Under this bill, there is only one pay cut that would happen. So, if they were taking furloughs and it was cut, it is actually just a reduction in pay based on that furlough day. But, if they were exempted, then that same reduction would carry over. It wouldn't be counted twice, so the salary would only be reduced one time.

ASSEMBLYMAN HARDY:

It would be reduced from the most recent base that the person was at? Not the prior base that they were a year ago?

BRENDA ERDOES:

It would be at the prior base before the furlough reduction. If they were reduced for some other purpose, then it would go on top of that. Is that what you're asking?

ASSEMBLYMAN HARDY:

Yes. I think what I'm saying is whatever I was supposed to make last month, or the month before this takes effect, this would be below that.

BRENDA ERDOES:

This would be below that only if you had been exempted from the furlough plan, so that no pay cut had been made. If you were under a furlough plan, and then you were exempted and went to the pay cut, your salary would stay the same.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Chair. Just along a similar vein, just so that I am clear, I know that after the last session the people who worked at the Nevada State Museum had the museum closed one day, so they cut were back by one day a week. They're not going to be cut further are they?

BRENDA ERDOES:

No. This bill leaves in the exemption from the whole furlough program for those employees. That was in the bill before, and this bill does not take that out, so they will still remain exempt from the furlough program.

ASSEMBLYWOMAN PARNELL:

Thank you, Madam Chair. Brenda, on page 3, lines 23 through 26, it says an employee must take one day and cannot take portions of the day, and then on page 4, lines 10 through 15, it says that they can be taken in portions. Can you explain the difference in those two?

BRENDA ERDOES:

Yes. On page 4, where it says they can be taken in portions, it applies to classified employees and has applied to classified employees in the past. We are adding the Legislature, Legislative Counsel Bureau, and Budget Division staff to that category. The rule that you read on page three, which says you have to take the flat 10 hours per month in one day, applies to all the rest of the employees.

ASSEMBLYWOMAN PARNELL:

Okay. I just wanted that clarified and on the record. I talked with some people that really, especially the lower salaried employees, when they have to take, now, 10 hours in one pay period—it has really been a hardship. They've been trying to split that up. I just wanted to make sure they still could.

BRENDA ERDOES:

So, going back to page 8, I just want to point out the provision because it goes to Assemblyman Hardy's question. Lines 15 through 18 provide that when a person takes a pay cut in lieu of a furlough leave, the payment of any special or other adjustments to the base rate, any overtime, is going to be calculated based on the unreduced salary.

I think we got to page 9 and the provisions on subsection 3. An office and its employees may be exempted; these are the exemptions that we talked about. Those exemptions, as you can see from lines 9 to 25, are made by the same entities which exempt the employees from furloughs—the Board of Examiners for the Executive Branch and the Board of Regents for NSHE. Then, subsection 5, on lines 26 through 30, requires that the exemptions granted for this, for the 8-hour days, which is what this section is about, would have to be reported to IFC no later than 60 days after they were made. Then, subsection 6, which is lines 36 through 38 on page 9, provides that notwithstanding the requirements that are put in subsection 3, an employer or an employee of an office that is exempted from the requirements of this section may take the leave in portions of the day. We put that in because if you were exempted from the four 10s and you were taking a 10-hour furlough and you were working an 8-hour day, you can see that you would have to take a day in a portion, so that is just allowing that flexibility for those employees as well. Subsection 7, which is on lines 39 to 43, on page 9, is for all the offices that don't get an exemption. They're closed on Friday and they're open 10 hours a day, Monday through Thursday. This provides that if there is any kind of deadline that falls on a Friday, where someone would need to file on a Friday, that deadline is automatically, under this, extended to the next business day, at the end of that day.

ASSEMBLYMAN HAMBRICK:

Thank you, Madam Chair. Going back to page 8, referencing the units and organizations that would be on 40 hours, what about those commissions that are funded solely by federal funds, both on staff, travel, and anything else that comes strictly from federal funds? Are they subject to this provision?

BRENDA ERDOES:

Yes. They are. They continue to be. The 2009 furlough program included all the employees across the board. So it would apply to the federal employees. This bill does not change that.

CHAIR BUCKLEY:

Brenda, there was a case in California, I think, having to do with Social Security disability processors. Did you consider that as you were drafting that section?

BRENDA ERDOES:

Yes, we did. In fact, there are several of those cases. We looked at the holdings from the California court and determined that there was no issue with the way that these furloughs were being applied with the federal money.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Chair. On page 9, at the bottom of the page, on lines 44 and 45, it says that it does not apply to a board, commission, or agency, the sole function of which is a regulation, and then there is another paragraph in the regulation before that, that says the commissions or agencies are exempt. I was wondering the reason for that. Seems to me they get money from the taxpayer, so they should be subject to the same thing. I just wonder why.

BRENDA ERDOES:

This provision was put in to make it parallel to the furloughs. After the last session, we looked at the language and determined that it did not apply to these boards that are funded solely through the receipt of fees from the people that they regulate. It's a policy choice that the Legislature made, and you can certainly change that. This is the exemption from the four 10s. There is an exemption earlier from the furloughs themselves for these boards. That's a policy choice that this Legislature can make.

ASSEMBLYMAN ARBERRY:

Thank you, Madam Chair. Brenda, on page 8, at the bottom, lines 42 through 45, number 2, can you explain that a little more? Maybe I'm reading it wrong. Is that if a holiday falls in that week, they now then go to 8 hours a day that week?

BRENDA ERDOES:

Yes. That's how it works, so that the holiday can be taken. Because holidays are 8 hours and the furlough days are 10 hours, the problem with that is if you had four 10s, for example, and the holiday fell on a Wednesday, then that would be a 10-hour day, so technically the holiday is 8 hours, so then either the employee would have to take two hours of leave or come in for two hours on the holiday to make the system work. Similarly, if the holiday fell on a Friday, they would have already worked the 40 hours so then you couldn't pay them for the eight unless you paid them overtime. So, to eliminate that problem we just provided that in the weeks where there was one or more holidays. You just go back to the five 8s. Then, they are prohibited from taking a furlough day during that week because it would be short. It's just a way to make the system work.

CHAIR BUCKLEY:

Okay. There are no more questions.

BRENDA ERDOES:

I think we're on page 10, Section 6. This is an exception to the rule that there will be four 10s Monday through Thursday and that on Friday the office would be closed. That exemption is in here for the Board of Regents to establish a schedule for NSHE, which would be rolling 10-hour days so that they would stay open for the five days a week. The rolling 10-hour days, the way that works is to allow staffing so that like some employees would be 10-hour days, Monday through Thursday, and others would be Tuesday through Friday, or some variation of that, so that they were all staffed and they were not closed on any day, but the employees still worked for tens. Section 7, on lines 9 through 28 . . .

CHAIR BUCKLEY:

Brenda, there's a question there.

ASSEMBLYMAN DENIS:

Thank you, Madam Chair. Did we look to see if there are any agencies that might have additional statutes that determine what their work days are, that specifically say you have to be open Monday through Friday, or that type of a thing?

BRENDA ERDOES:

We did and only found the one section in 281, which was for all the state employees and that is amended in here. We're hoping we didn't miss any. Section 7, page 10, essentially provides that if more overtime is going to be required as a result of this furlough program, that is if an agency is going to have more overtime than they had in the previous year or in previous years of the biennium if they're matched up, then the agency is required to file an overtime plan and have that overtime plan approved by the same entities that grant the exemptions, so the Board of Examiners for the Executive Branch, the Legislative Commission for the Legislative branch, and the Supreme Court for the Judicial branch. That is a plan where components of that plan would be left to the body that was going to be approving the plan, so that they could ask for whatever information they want in order to make that determination.

Section 7.5 is a change to the provisions of 209.183. This is a part of the provisions of the bill which limit the additional pay or additional salary adjustments, in that they are prohibited to be paid to new hires after March 1, 2010. So, this one was in statute; most of them are in regulation. We needed to change this statute to conform to that requirement, so you can see that. It says each person employed before March 1, 2010, is eligible. It is the rural travel expenses provision, which is an adjustment to salary.

Section 8.1 on page 11 provides that the commission in Section 284 is the Personnel Commission; so it provides an exception for subsection 4 of 284.175, which we're going to get to. These are all conforming exceptions on this page, as you come down. The effect of this Section 8.5 is to require the additional adjustments that are currently being paid under regulation to not be paid to employees who are hired on or after March 1, 2010, and that's the Personnel Commission.

The provisions in Section 9 on page 12 are changes to conform to the requirements of the law. The law sets out the definition of overtime and this matches. The last part of this, the 40-hour week, matches up to the FLSA (Fair Labor Standards Act), but then we have the provision in statute you'll see on lines 41 through 43. That provides that overtime is time worked in excess of eight hours in one calendar day, in any 16 day period or 40-hour work week. We had to add the provisions for 10-hour days right above that, which is the same provision, but only for 10-hour days, to provide that flex scheduling when there is overtime.

The next change is on page 13 and it applies specifically to corrections officers, to require that they work three consecutive 12-hour shifts and not less than seven 12-hour shifts during each 14 day period, so that they work a total of 84 hours in a period before they start working overtime. There's an FLSA provision that provides for that 84 hours of work, to make that work.

On lines 29 through 34 on page 13, there's a conforming change to just provide that bi-weekly schedule. The eligibility for overtime will be determined in accordance with the Fair Labor Standards Act, which applies anyway, so it just simplifies that section. The next changes are in Section 10, on page 14, starting on line 12. That section as it is currently is in the bill; those changes were made to account for the 10 hour days. If we left the working day language in there so this accrual of annual, there is a parallel section for sick leave, and if you left accruing at 1.25 working days for those employees who work 10 hours, the number of annual leave hours would be actually 12.5 and that would be an increase from the number of annual leave hours that are currently granted. So, we converted the working days to hours and put them in here. The same thing is true all the way through. The numbers are just converted to hours instead of days.

Section 11 is doing the same thing for sick leave, converting it to hours. The next change is all the way over to page 17, lines 10 through 14. These sections don't appear in the language but they are transitory sections so there are new provisions to the bill.

Section 12 defines working day. We had the same problem with that in some Personnel Commission regulations, so to keep the Personnel Commission from having to go all the way through the regulation process to conform something to this bill, we just provided in here that where they use that term in regulation it would be conformed to the provisions that we just told you about, the annual leave and sick leave provision changes in 284.

Section 13 is the provision that I described earlier where we void all the existing exemptions for furloughs and provide that the agencies can reapply for those. Section 13.5 is a section which provides for the continued payment of the allowances that are additional and we list in here which allowances those are. It's the rural travel in NRS 209 and 209.183. These are all of the additional allowances that are allowed in those regulation sections. We provide for those sections as they existed on February 23, 2010, which was the first day of the session. The section goes on to say that if an employee defined in the section was receiving payment of these types of payments on February 23, 2010, or becomes eligible, then they would continue to get those payments. In subsection 2, we just described it to make sure that if this was challenged, it was clear that this didn't make any additional people eligible and didn't take away any eligibility.

Section 14 of this act is the last section on page 18. It differentiates for you the sections that expire by limitation and those that don't. Going to subsection 3 first, on lines 12 through 14, what those sections do is take the furlough act from Sections 3, 4, and 5 of the 2009 bill and make those and the new changes to that expire by limitation on June 30, 2010. Subsection 2 is concerning the allowances and the statutory changes, which do have a sunset, and the other sections of the bill become effective upon passage and approval. That's the entire bill. If you have questions, I'd be happy to answer them.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Chair. Brenda, just to clarify, if somebody has accrued but has unused either sick or vacation time, will that be converted to hours and then taken on an on going basis in terms of hours instead of days?

BRENDA ERDOES:

Actually, there won't be any conversion necessary. I'm not quite sure why the statute spoke in days in the beginning, but what the personnel systems do, of the different branches, is automatically convert that. When see it on your paycheck, they're taken by hours anyway, so there won't be any difference there.

ASSEMBLYWOMAN MASTROLUCA:

Thank you, Madam Chair. Brenda, I want to go back to Section 5. It says that businesses will be open, or that state offices, departments, boards and commissions will be open, from 7 a.m. until 6 p.m., Monday through Thursday. Does it say that in those weeks where there is a legal holiday that the business hours of the office will change to 8 a.m. to 5 p.m. for any day that is not a holiday?

BRENDA ERDOES:

Yes. The employees will work the 8-hour days instead of the 10-hour days.

ASSEMBLYWOMAN MASTROLUCA:

I'm a little concerned if we have people who are going to the DMV and they know that it's open from 7 a.m. to 6 p.m., and then don't think about the fact that there was a holiday on Monday for Labor Day, and now they go at 5:30 p.m. and the DMV is closed. I am also thinking that the week between Christmas and New Years—that's two weeks in a row—that the DMV is only going to be open 8 hours a day. Is that common in other states that have gone to this format?

BRENDA ERDOES:

We did not actually see any other state laws which provided for this level of detail. What we saw was that there were various ways in which this issue was worked out. Another option here would be to make it so that you kept the office hours but you went to a rolling schedule during those hours to keep them open. In other words, it would be rolling in the day and you would

bring in part of your employees from 7 a.m. to 4 p.m. and the other part from 9 a.m. to 6 p.m. Any of those options are available. The reason we didn't put that in is because this applies to so many employees, small offices as well as large, that if you're going to have one rule for all of the offices there would have been additional fiscal impact for the small offices where you have, especially in the rural areas, a small number of employees. We were told that they would be unable to cover those periods, without additional overtime. It is a policy choice that the Legislature can make. It's sort of balancing no matter which way you go, but it certainly can be changed.

ASSEMBLYWOMAN MASTROLUCA:

Madam Chair, that is something that I would like to consider for large groups like DMV and things that our public really depends on. I would like to see if we could look at that a little further. Thank you.

BRENDA ERDOES:

I would also point out that there are the exemption provisions from the four 10-hour days, if they wanted to get an exemption. For example, the DMV could go to the Board of Examiners if they wanted to do that, to go to a different schedule than the four 10s or being closed on Friday.

ASSEMBLYWOMAN MASTROLUCA:

The exemption is for the hours for the employees. Correct? Not for the hours of business.

BRENDA ERDOES:

No. There is an exemption in here from the four 10s and being closed on Friday.

ASSEMBLYMAN HARDY:

Thank you, Madam Chair. Just to confirm on page 9, southern Nevada Veterans Home, for instance, would probably qualify for exemptions so they can do 24/7 care of their patients on line 8, and then they would try to figure out which one of those would grant them the exemption from furloughs, so that they could have the salary reduction. Is that correct?

BRENDA ERDOES:

Yes. I believe it would be the Board of Examiners because they are considered to be in the Executive Branch, and then they could decide whether it would be all of the employees of that agency or only the ones who supported the 24-hour care. All the details could be worked out at that point.

ASSEMBLYMAN DENIS:

Thank you, Madam Chair. Brenda, in that same section that you talking about just a second ago, on Section 5, on line 42, where it starts to talk about the holidays, it says that the hours are at least from 8 a.m. to 12 p.m. Wouldn't that give them the option to be able to do 7 a.m. to 6 p.m. still because it say at least those hours, which doesn't limit them and they can still do the rolling?

BRENDA ERDOES:

I believe you're right, and I would correct the answer. This is something that we added in, so you're right. We did figure that out. If they could stay open from the 7 a.m. to 6 p.m., they could definitely do it under here, if they chose to.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. Brenda, we already do this in some of our departments already. I know for instance that the DMV, if there's a holiday, than they're automatically closed on that Saturday. They take both the Friday and Saturday, so we're already alerting the public on some of these issues already. Is that not correct? Most of them post their hours on the website.

BRENDA ERDOES:

Yes. I believe that is correct.

ASSEMBLYWOMAN KIRKPATRICK:

Then, lastly, I'm glad to hear you talk about the regulation process because it was painful last time. I didn't want to have to go back through it, but they also can have their hours be adjusted, as well, through their regulation process, correct?

BRENDA ERDOES:

I believe so, and in a lot of cases, I don't even think they'd have to do the reg process.

ASSEMBLYMAN OCEGUERA:

Thank you, Madam Chair. For the members, there are a couple changes that need to happen to this bill still and those amendments are being worked on, so we won't be voting on this bill tonight. There's an issue on the uniforms, and there's an issue on the sick leave, which are being addressed right now and can be cleared up in the Senate. Theoretically, there may be another change if all agreements hold true. So, there are probably three amendments coming on this bill in the morning.

CHAIR BUCKLEY:

There is some discussion, potentially, of reducing the furlough hours and eliminating the extra hours, but we will further discuss that. It appears that there is some agreement to do that. Brenda, if we did process that amendment, are those changes difficult to draft?

BRENDA ERDOES:

No. I'm not sure what you're asking, but we've been working on them all afternoon trying to get ready for them, so we believe that we have worked it out. Some of them are more complex than others, but we believe that we have worked it out.

ASSEMBLYMAN MORTENSON:

Thank you, Madam Chair. Rigid laws are more likely to have unintended consequences than flexible ones. I wonder if this Committee would consider taking out the provision that there can be no partial days. It seems to me this would be a good decision for a department head to make or a division head, or maybe even a supervisor. Especially since LCB has seen fit to regulate themselves so that they can take partial days. I'm thinking of somebody who may be trying to go to school, while they're holding a job down, something of that nature.

BRENDA ERDOES:

That is a policy choice for the Legislature to make. I think there was, in the request to us, information that the four 10s, with the closure on Friday, was intended as a money saving measure, and that's why this was set up in this manner. As far as the flexibility for how you use the hours, which went to the state Department of Personnel; that was their request for one day a week. I believe that the reason that that was requested is that there are a group of employees, a fairly large number of employees, that are exempt from the FLSA and they don't get paid overtime. Those employees, if they have variable furloughs, any week in which a day they are required to account for their hours—and that what this would be with the furlough day—that week they are subject to being paid for overtime. In other words, the state would have to pay them overtime. The way that they're working this now is that the state agencies prohibit the overtime in those weeks where the furlough day is taken. If the employee was allowed to take the furlough day across the weeks, then I believe that those employees would become nonexempt and you would need to pay them for their overtime. There would be a financial cost to that, and I think that's why that decision was made. The LCB employees in the Legislature are already exempt from the FLSA.

ASSEMBLYMAN MORTENSON:

Couldn't a person who, let's just say, was trying to take a couple of hours off each day to go to school, or something like that, could they not make up their time on a furlough day and not have to be paid overtime?

BRENDA ERDOES:

I think the answer is yes. However, those employees who are in that group can take two hours off a day. They are not required to work the full eight hours. They're not required to

account for their hours, and that's the trade off in the FLSA for exempting them from the overtime requirement. So, they can already do that. The furlough doesn't add anything to that. They can do that without any reduction in pay.

CHAIR BUCKLEY:

It's complicated. As a director, I struggle with that in my own office. You have the professional employees having no overtime, but you can't dictate the number of hours they work. You're paying for a service for this many hours. If they don't work it and you're not getting your money's worth, you have to treat it as a disciplinary matter, as opposed to docking them because of the rules. So, it seems like a furlough program seems so easy, but it's difficult. I think what we tried to do is to make it work because we're, at least, giving something to our employees at the same time that we're taking pay from them. It's not easy though, that's for sure. I think Brenda and the Executive Branch did a really good job on this bill. It's staggering considering all of the issues that you have to balance.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. I just wanted to say to my colleagues, I do have all of the policies that each department went through with their employees on the original furloughs, which Brenda says are not going to change. They did work well within their own departments to make sure that they could accommodate so many different things. They took into consideration the busy times of year. There were a lot of different issues that they considered, and I am more than happy to give that to anybody in here. I think there are about 17 policies, both Senator Horsford and myself asked for them at the Legislative Commission. I will tell you that the first meeting of the Legislative Commission was very painful for a lot of us, to work on it. I think Ms. Blotter did a very good job. Our Legal Department worked with them. I would hate to undo all of the many hours that went into setting those policies, so I am happy to share with anybody.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Chair. I'm still wondering why we're exempting the boards and commissions and agencies. It seems to me they are paid by fees and maybe if they had to comply with this, maybe the fees wouldn't need to be so high, the same as our taxes. Hopefully, they are not going to be so high with these changes. Maybe we could help people on the fees, too. I just like a little discussion of that.

CHAIR BUCKLEY:

Okay. We'll save that for tomorrow. Are there any other comments or questions for Brenda? Thanks again, Brenda, for that really thorough explanation. We appreciate it. Is there anyone that would like to provide public testimony on Senate Bill 3? We have Mark Murphy signed in and Ronald Bratch.

RONALD BRATCH, CORRECTIONAL OFFICER, CARSON CITY:

I appreciate the consideration of the 12-hour shifts. I believe it will save the state money throughout the state by us picking up the extra hours on an 84-hour schedule, saves 70 employees, for their benefits, across the state. As part of the furlough, I have talked to a lot of the correctional officers in the area, and we don't see the furloughs really working in the Department of Corrections because of the 24-hour coverage each day. We understand that we will be taking a pay cut, so the new hours that we'll be working on the 84-hour schedule will be, basically, donated to the state with no problem. We understand the problems that the state is having.

I would like to address a couple of the cuts that we would like to sunset. The rural area differential for our fellow officers in the south, for driving a long way to those rural areas—we think this money is important as an offset. We believe that the 12s will also cut down on savings to the state because we're commuting three days less and it's a per day rate. The other thing is bilingual pay, which is very important to us because the bilingual pay is for the officers, so if we have communication barriers, they're there for us and we would hate to see them lose their pay for their extra expertise. Thank you.

CHAIR BUCKLEY:

Thank you for your testimony.

MARK MURPHY, AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES:

I did want to say that we appreciate the work that this body, the entire Legislature, is doing to try to minimize the impact of the cuts that have to be made to meet the budget deficit, to try to minimize the impact on state employees. They do realize what situation the state is in and have been giving their fair share to help solve the problem and they appreciate your efforts to try to minimize that. Most state employees favor the shift to the four 10s schedule. You have already heard testimony on the 12 hour schedule for the Department of Corrections. I just wanted to note the support of most employees for those. I wanted to emphasize what you just heard in terms of the importance of sunseting a couple of provisions that will eliminate premium pay for certain skills and for certain jobs that employees do. Those are in Section 8.5, Subsection 4, and that's the premium pay for employees who have those special skills like bilingual pay, shift differential, and rural area pay. There is no sunset on that section, so that employees hired after March 1, would no longer be able to get those premiums and the state would no longer be able to offer those premiums to fill important positions and duties with skilled state employees. Section 7.5 is the rural area differential and that is the same. It does not sunset, and we believe that it should. I understand other issues are being worked out, and I appreciate that. I wanted to state our support for the overall bill, and the importance of amending these couple of sections. Thank you.

JOYCE HALDEMAN, ASSOCIATE SUPERINTENDENT, CLARK COUNTY SCHOOL DISTRICT:

I wanted to express our appreciation for the clarification that we think the amendment in S.B. 3 provides for school districts. There is a weakness to the bill from our perspective and that is on page 5, Section 1, subsection 4, that has to do with the provisions of the subsection to the extent that these provisions conflict with the provisions of a collective bargaining agreement. Of course, that means for us that it's dependent upon the willingness of both parties to come to the table to do collective bargaining on this. Nevertheless, we recognize that this provision does us no harm, and we think it has the potential to help us a great deal. We appreciate the leeway that was given to the districts to set the program the way that we think it works the best and the leeway that's given to us about whether or not we would be held harmless with the PERS. We are very appreciative of that language. We think that the amendment has clear references to the school district. The way that I read the bill, this bill clearly signals the legislative intent that the policy of the state during this budget crisis is that the furlough should be a negotiated item. We recognize that both parties have to come to the table to do this, but we truly appreciate this language and its clear intent because to us it signals that a shortened work year ought to be negotiated at the bargaining table during this time of crisis. Thank you very much.

CHAIR BUCKLEY:

Thank you for your testimony. Are there any questions? I don't see any. Thank you very much. Is there anyone else that would like to provide testimony on Senate Bill 3? Seeing none, we will close the public hearing on Senate Bill 3.

On motion of Assemblyman Ocegüera, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 8:57 p.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Ocegüera moved that the Assembly adjourn until Saturday, February 27, 2010, at 11 a.m.

Motion carried.

Assembly adjourned at 8:57 p.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE FIFTH DAY

CARSON CITY (Saturday), February 27, 2010

Assembly called to order at 11:28 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Chris Kanowitz.

Let us pause for a moment and recognize the presence of God here with us in Spirit and in each of our hearts...

God of Love, we thank You for the gift of this beautiful day and the gift of the rain that brings moisture to our desert land.

We ask You to bless those whom we serve: those women and men who have lost their jobs; those families and single people who have lost their homes; those college students who can no longer afford an education; those sick or elderly who can no longer afford their medication. We ask You to bless our children, especially those who go to bed hungry every night and who sleep in motel rooms, or on couches, or in cars. Protect and comfort all those who every day live in fear.

On this day we especially ask Your blessing and peace upon all of those suffering from natural disasters, especially in Chile. Heal broken bones and broken hearts. Help loved ones reunite and keep those safe who are in the path continued devastation.

And we ask you to bless these legislators. Bless them with discomfort at easy answers, half-truths, and superficial relationships, so that they may live deep within their hearts. Bless them with anger at injustice, oppression, and exploitation of people, so that they may work for justice, freedom, and peace. Bless them with tears to shed for those who suffer from pain, rejection, and hunger, so that they may reach out their hands to comfort them and turn their pain into joy. And bless them with enough foolishness to believe that they *can* make a difference so that they can do what others claim cannot be done. And so may God bless you and us all.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 4.

Bill read third time.

Roll call on Assembly Bill No. 4:

YEAS—42.

NAYS—None.

Assembly Bill No. 4 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered immediately transmitted to the Senate.

Assembly Bill No. 5.

Bill read third time.

Potential conflict of interest declared by Assemblywoman Dondero Loop.

Roll call on Assembly Bill No. 5:

YEAS—42.

NAYS—None.

Assembly Bill No. 5 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered immediately transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 2.

Assemblyman Ocegüera moved the adoption of the resolution.

Remarks by Assemblyman Ocegüera.

Resolution adopted and ordered immediately transmitted to the Senate.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:39 a.m.

ASSEMBLY IN SESSION

At 2:13 p.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Ocegüera moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Senate Bill No. 3.

Motion carried.

IN COMMITTEE OF THE WHOLE

Chair Buckley presiding.

Quorum present.

Senate Bill No. 3 considered.

CHAIR BUCKLEY:

Let's take up S.B. 3. We have received some amendments that I would like the Committee to consider and you'll see them before you at your desk. One of the proposed amendments is to not require that state employees take further furlough hours, to keep them at the level they are now. We believe that we will be able to accomplish this with the budget. State employees have taken the largest cuts of any other public employee in the state, 4.6 percent in pay plus benefits plus PERS for a total of 11 percent. We thank them for all their sacrifices. They are about to do more with less with all of the budget reductions. They are also going to go to four-day work weeks, and for some it will be welcome; for some it'll throw their lives into a little bit of a state of confusion. I personally am very pleased that we are able to do this for our state employees. So,

the amendments before you are one proposal, and additionally there were some technical clean-up from our Legal Division to carry that out. I certainly would like the Committee to consider it.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. I agree that our state workforce has been doing overtime. I know that in our proposal, after we had it verified and confirmed the numbers, there was some money to be able to do that. I support restoring those two hours because we all know they are doing more with less, and these are trying times. If we can afford to put it in the budget, I support that restoration. Thank you.

CHAIR BUCKLEY:

We have been considering a lot of add backs as we've done our prioritization. This is another one at the top. Any other comments, questions, or concerns with adding this back in? Is everybody okay with adding this back in? I see some head nods. Is everybody okay?

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. You know we're concerned about the total budget, so I think this is something that I personally would like to do. I am not speaking on behalf of my caucus, but I think that we will have the funding to be able to restore that, but again we're still looking at the big picture, so given that we just received this, I have not run it past everybody; but again, that plan that we produced the other day, once we got the numbers, confirmed there were funds available to be able to do that. I think it's about \$6 million.

CHAIR BUCKLEY:

It is \$6.8 million, and I think we're pretty fortunate that it's on everybody's list of priorities and has been. I think we're in good shape.

ASSEMBLYWOMAN PARNELL:

Thank you, Madam Chair. I think it's important, too, for all of us who live in communities where we have a lot of state employees. Probably as pleased as state employees would be, would be our small businesses. I have had a number of calls from hairdressers and dry cleaning establishments that have really been concerned, so let's not forget how it's going to help them.

CHAIR BUCKLEY:

You're right. What I would like at this point is the chair would entertain a motion to amend and do pass S.B. 3.

Assemblyman Ocegüera moved to amend and do pass Senate Bill No. 3.

Seconded by Assemblyman Conklin.

Potential conflict of interest declared by Assemblymen Denis, Gustavson, and Settlemeyer.

Remarks by Assemblymen Conklin and Carpenter.

Motion carried.

On motion of Assemblyman Ocegüera, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 2:24 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee of the Whole, to which was referred Senate Bill No. 3, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BARBARA E. BUCKLEY, *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 3.

Bill read third time.

The following amendment was proposed by the Committee of the Whole:
Amendment No. 7.

AN ACT relating to governmental administration; ~~revising the amount of unpaid furlough leave that certain state employees are required to take during the 2010-2011 Fiscal Year;~~ providing for a temporary reduction in salary in lieu of furlough leave for state employees who are exempt from taking unpaid furlough leave; requiring the approval of a plan for additional overtime to be approved before the overtime is worked; providing for a temporary reduction in compensation for employees of the Senate and Assembly; providing for the closing of state offices on certain days and the revision of the workweek of state employees with certain exceptions and exemptions; temporarily authorizing school districts to require employees to take unpaid furlough leave; prohibiting certain additional compensation for and adjustments to the salaries of newly hired classified state employees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires state employees to take unpaid furlough leave during the 2009-2011 biennium and authorizes exemptions from that requirement. (Sections 3 and 5 of chapter 391, Statutes of Nevada 2009, pp. 2159 and 2161) **Section 1** of this bill ~~increases the amount of unpaid furlough leave for full-time state employees from 8 hours per month to 10 hours per month for the 2010-2011 Fiscal Year. Section 1 also~~ provides flexibility for employees of the Budget Division of the Department of Administration, Legislature and Legislative Counsel Bureau to use the unpaid furlough leave in increments of less than 1 day in the same manner as classified employees. In addition, **section 1** authorizes school districts to require employees to take unpaid furlough leave unless the requirement would conflict with a collective bargaining agreement. **Section 1** also provides that the furlough requirements do not apply to a board, commission or agency, the sole function of which is regulating a profession, occupation or business and which is not subject to the State Budget Act.

Section 3 of this bill provides that certain exemptions from the furlough requirement must be approved by the Interim Finance Committee and that the salary of any employee who is exempt from the furlough requirement must be reduced by ~~15.75~~ **4.6** percent in lieu of furlough leave for the 2010-2011 Fiscal Year.

Existing law provides that employees who are subject to the furlough requirement be held harmless in the accumulation of retirement service credit and reported salary for purposes of the Public Employees' Retirement System. (Section 4 of chapter 391, Statutes of Nevada 2009, p. 2160) **Section 2** of this bill provides similar protections for state employees whose salaries are reduced by ~~15.75~~ **4.6** percent in lieu of furlough leave but provides school districts with discretion as to whether such protections are provided to its employees.

Existing law sets forth the compensation of employees of the Senate and Assembly. (NRS 218A.605) **Section 4** of this bill requires that such compensation be reduced by ~~15.75~~ **4.6** percent in lieu of furlough leave and prohibits certain step increases in that compensation for the 2010-2011 Fiscal Year.

Existing law requires that state offices be open for the transaction of business for at least 8 hours on every day of the year, with the exception of Saturdays, Sundays and legal holidays. (NRS 281.110) Except for certain boards, commissions and agencies, **section 5** of this bill provides for the closing of state offices on Fridays and for the revision of the regular workweek of state employees to four 10-hour days. **Section 5** also authorizes exemptions for state offices that must remain open on Fridays because of the need to provide appropriate services that are necessary to the protection of public health, safety and welfare. **Section 5** further provides an extension of the time for filing any paper with or complying with any deadline involving a state office that is closed on Friday if the last day for filing the paper or complying with the deadline falls on that Friday. **Section 6** of this bill provides additional exceptions to the requirements of **section 5** for the employees of the Nevada System of Higher Education.

Section 7 of this bill provides that certain additional overtime required by state agencies may only be worked pursuant to a plan that is approved before the overtime is worked. **Section 9** of this bill revises the calculation of overtime to account for workweeks consisting of 8-hour or 10-hour days and with respect to corrections officers of the Department of Corrections. **(NRS 284.180)**

Existing law authorizes certain supplemental compensation for and adjustments to the base rate of pay of classified employees for various purposes. (NRS 209.183, 284.175, NAC 284.206-284.218) **Sections 7.5 and 8.5** of the bill prohibit such supplemental compensation for and adjustments to the salaries of classified employees hired on or after March 1, 2010. **Section 13.5 of this bill ensures the continued payment of such**

supplemental compensation and adjustments as well as uniform allowances to current employees.

Section 13 of this bill declares void all exemptions from furlough leave that were granted on or before June 30, 2010, but authorizes the reapplication for and granting of such exemptions. **Section 14** of this bill sunsets on June 30, 2011, the ~~requirements~~ **requirements**: (1) for unpaid furlough leave or a salary reduction in lieu of such leave; (2) that state agencies are closed on Fridays; and (3) that state employees work 10-hour days.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 3 of chapter 391, Statutes of Nevada 2009, at page 2159, is hereby amended to read as follows:

Sec. 3. 1. Except as otherwise provided in **subsection 9 and** section 5 of this act:

(a) For the period beginning on July 1, ~~2009,~~ **2010**, and ending on June 30, 2011, each employee of the State, other than a classified employee ~~or~~ **or an employee of the Legislature, Legislative Counsel Bureau or Budget Division of the Department of Administration**, shall take 1 day of unpaid furlough leave each month.

(b) Except as otherwise provided in subsection 5, the furlough requirement applies to all branches of state government and includes the Nevada System of Higher Education, the Public Employees' Retirement System and all other entities of state government.

↪ The requirements of this section do not apply to employees of the Department of Cultural Affairs whose standard workweek was reduced from 40 hours to 32 hours effective July 1, 2009.

2. Except as otherwise provided in this subsection, for the purposes of this section "1 day" consists of the number of hours an employee works in a standard workday, but not more than 8 ~~10~~ hours. An employee must take 1 day of furlough leave each month and cannot take portions of a day that combine to total the amount of the required monthly furlough leave. A full-time employee whose standard workday is longer than 8 ~~10~~ hours shall take 8 ~~10~~ hours of furlough leave on a single workday and may take annual leave for the remainder of the day, work a reduced schedule that day or work a modified schedule approved by his employer. An employee who works less than full time with a fixed schedule shall take as furlough leave the portion of an 8-hour ~~10-hour~~ day that his scheduled workweek or biweekly schedule bears to a full-time workweek or biweekly schedule.

3. For the period beginning on July 1, ~~2009,~~ **2010**, and ending on June 30, 2011, each employee in the classified service of the State ~~or~~ **and each employee of the Legislature, Legislative Counsel Bureau and Budget Division of the Department of Administration** shall:

(a) If he is a full-time employee, take 96 ~~120~~ hours of unpaid furlough leave. ~~each year.~~

(b) If he is employed less than full time, take a number of hours of unpaid furlough leave ~~[each year]~~ which is equal to the average number of hours worked per working day multiplied by 12.

➔ An employee in the classified service of the State ***or an employee of the Legislature, Legislative Counsel Bureau or Budget Division of the Department of Administration*** may take unpaid furlough leave in portions of a day that combine to total the amount of required yearly leave. To the extent practicable, full-time classified employees ***and full-time employees of the Legislature, Legislative Counsel Bureau and Budget Division of the Department of Administration*** should take 8 ~~[10]~~ hours of unpaid furlough leave per month. To the extent practicable, a classified employee ***or an employee of the Legislature, Legislative Counsel Bureau or Budget Division of the Department of Administration*** who works less than full time with a fixed schedule should take as unpaid furlough leave the portion of an 8-hour ~~[a 10-hour]~~ day his scheduled workweek or biweekly schedule bears to a full-time workweek or biweekly schedule.

4. ***For the period beginning on July 1, 2010, and ending on June 30, 2011, except as otherwise provided in subsection 8 and notwithstanding any other specific statute to the contrary, a school district may require each employee to take unpaid furlough leave in the amount and manner determined by the school district.***

5. Furlough leave pursuant to this section must be scheduled and approved in the same manner as other leave. Notwithstanding any statute or regulation to the contrary and except as otherwise provided by regulation adopted pursuant to this section by the Personnel Commission, an employee ***of the State*** who is on furlough leave is considered to have worked that day or portion of a day, as applicable, for all purposes except payment of salary and determination of overtime, including without limitation:

- (a) Accrual of sick and annual leave;
- (b) Determining the employee's pay progression date;
- (c) Continuity of service and years of service for the purposes of payments pursuant to the plan to encourage continuity of service;
- (d) The duration of a probationary period;
- (e) Determining eligibility for holiday pay if the shift immediately precedes a holiday;
- (f) Seniority for all purposes, including layoffs;
- (g) The Public Employees' Benefits Program; and
- (h) The Public Employees' Retirement System, including for the purposes of contributions to the System, subject to the requirements of sections 4 and 5 of this act.

~~[5.]~~ 6. The Board of Regents of the University of Nevada shall determine and implement the method by which:

- (a) The professional employees of the Nevada System of Higher Education will participate in the furlough requirement pursuant to this section; or

(b) The overall costs for the professional employees of the Nevada System of Higher Education will be reduced in an amount at least equal to the savings which would have otherwise been produced by furlough leave pursuant to this section.

~~{6.}~~ 7. Except as otherwise provided in subsection ~~{5.}~~ 6, the Personnel Commission shall adopt regulations **which are applicable to employees of the State** to carry out the provisions of this section.

8. ***The provisions of subsection 4 do not apply to the extent that those provisions conflict with the provisions of a collective bargaining agreement entered into pursuant to chapter 288 of NRS.***

9. ***The provisions of this section do not apply to a board, commission or agency the sole function of which is the regulation of a profession, occupation or business and which is not subject to the provisions of NRS 353.150 to 353.246, inclusive.***

10. ***As used in this section, "public employer" has the meaning ascribed to it in NRS 286.070.***

Sec. 2. Section 4 of chapter 391, Statutes of Nevada 2009, at page 2160, is hereby amended to read as follows:

Sec. 4. 1. It is the intent of the Legislature to establish a program whereby employees of the State and other participating **public** employers ~~{who}~~ :

(a) ***Who*** take furlough leave due to extreme fiscal need ~~{including employees required to take furlough leave pursuant to section 3 of this act,}~~ ;
or

(b) ***Whose salaries are reduced in lieu of furlough leave,***
↪ ***be held harmless in the accumulation of retirement service credit and reported salary pursuant to chapter 286 of NRS {1}, except that, in the case of an employee of a school district, the school district shall determine whether the employee will be so held harmless.***

2. Except as otherwise required as a result of NRS 286.537 and notwithstanding the provisions of NRS 286.481, an employee is entitled to receive full service credit for time taken as furlough leave pursuant to the program established pursuant to section 3 of this act if:

(a) The employee, ***if he is an employee of the State***, does not take more than 96 ~~{120}~~ hours of furlough leave ~~{in a year,}~~ ***for the period beginning on July 1, 2010, and ending on June 30, 2011;*** and

(b) The public employer certifies to the System that the employer is participating in the furlough program established pursuant to section 3 of this act and that the furlough leave which is reported for the employee is taken in accordance with the requirements of section 3 of this act.

3. In any month in which a day of furlough leave is taken, an employee is entitled to receive full-time service credit for the furlough leave in accordance with the normal workday for the employee. An employee who is less than full time is entitled to service credit in the same manner and to the

same extent as though the employee had worked the hours taken as furlough leave.

4. ***If the salary of any member is reduced in lieu of furlough leave, the public employer shall certify to the System that the salary of that member has been so reduced.***

5. When a member is on furlough leave pursuant to the program certified by the public employer in accordance with this section, ***or when the salary of a member is reduced in lieu of furlough leave and certified by the public employer in accordance with this section,*** the public employer must:

(a) Include all information required by the System on the public employer's regular monthly retirement report as provided in NRS 286.460; and

(b) Pay all required employer and employee contributions to the System based on the compensation that would have been paid to the member but for the member's participation in the program. The public employer may recover from the employee the amount of the employee contributions set forth in NRS 286.410.

~~{5-}~~ 6. Service credit under the program established pursuant to this section must be computed according to the fiscal year.

~~{6-}~~ 7. As used in this section:

(a) "Member" has the meaning ascribed to it in NRS 286.050.

(b) "Public employer" has the meaning ascribed to it in NRS 286.070.

(c) "System" means the Public Employees' Retirement System.

Sec. 3. Section 5 of chapter 391, Statutes of Nevada 2009, at page 2161, is hereby amended to read as follows:

Sec. 5. 1. It is the intent of the Legislature to limit exceptions to the requirement of furlough leave for employees of the State pursuant to section 3 of this act to identified areas of critical need. If ~~for~~ **a state** employer, ~~including the State,~~ participating in the program established pursuant to section 3 of this act determines that a position cannot be subject to furlough leave because of the need to provide appropriate services that are necessary to the protection of public health, safety and welfare, the governing body of the agency must make findings on the record in a public meeting that:

(a) The position is necessary to the protection of public health, safety, or welfare;

(b) The public health, safety or welfare will be significantly diminished if mandatory furlough leave is implemented for employees in these positions;
and

(c) No alternatives exist to provide for the protection of public health, safety or welfare. ~~}; and~~

~~(d) The agency has identified and will implement other methods to reduce overall costs equal to the savings produced by furlough leave under the program or received an allocation of funds as set forth in section 8 of this act.~~

2. For the purposes of subsection 1:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall determine positions within the Executive Branch of State Government that cannot be subject to furlough leave. ***Any such determination is not effective unless approved by the Interim Finance Committee.***

(b) The Board of Regents shall determine positions within the Nevada System of Higher Education that cannot be subject to furlough leave. ***Any such determination is not effective unless approved by the Interim Finance Committee.***

(c) The Public Employees' Retirement Board shall determine positions within the Public Employees' Retirement System that cannot be subject to furlough leave.

(d) The Supreme Court shall determine positions within the Judicial Branch of State Government that cannot be subject to furlough leave.

(e) The Legislative Commission shall determine positions within the Legislative Branch of State Government that cannot be subject to furlough leave.

3. The entities described in subsection 2 shall report to the Interim Finance Committee on a quarterly basis all positions that have been determined not to be subject to furlough leave pursuant to this section and the reasons for such determinations.

4. The salary of any position that has been determined not to be subject to furlough leave pursuant to this section must be reduced by an amount of ~~4.75~~ 4.6 percent in lieu of furlough leave, except that the payment of any special or other adjustments to the base rate and any overtime that is worked by an employee who is filling such a position must be calculated based on the employee's unreduced salary.

Sec. 4. For the period beginning on July 1, 2010, and ending on June 30, 2011:

1. The compensation of employees of the Senate and Assembly due pursuant to NRS 218A.605 must be reduced by ~~4.75~~ 4.6 percent in lieu of furlough leave;

2. In calculating the amount of compensation due such an employee pursuant to NRS 218A.605, no additional step increase authorized by that section may be applied; and

3. If such an employee is a member of the Public Employees' Retirement System who is contributing to the System, the provisions of section 4 of chapter 391, Statutes of Nevada 2009, at page 2160, as amended by section 2 of this act, apply with respect to the employee.

Sec. 5. 1. Notwithstanding the provisions of NRS 281.110 or any other statute or regulation to the contrary, except as otherwise provided in this section and section 6 of this act, for the period beginning on July 1, 2010, and ending on June 30, 2011, the offices of all state officers, departments, boards, commissions and agencies must be closed on Fridays and be open for the transaction of business at least from 7 a.m. until 12

p.m. and from 1 p.m. until 6 p.m. on Monday through Thursday. The workweek of the employees of those offices must consist of four 10-hour days, Monday through Thursday.

2. During any week in which falls one or more legal holidays pursuant to NRS 236.015, all such offices must be open for the transaction of business at least from 8 a.m. until 12 p.m. and from 1 p.m. until 5 p.m. on each day which is not a legal holiday, and the workweek of the employees of those offices during that week must consist of 8-hour days. ~~[No furlough leave may be taken by an employee on any 8-hour day described in this subsection.]~~

3. An office and its employees may be exempted from the requirements of this section upon a determination pursuant to subsection 4 that the office must remain open on Fridays because of the need to provide appropriate services that are necessary to the protection of public health, safety and welfare.

4. For the purposes of subsection 3:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall determine exemptions from the requirements of this section for offices within the Executive Branch of State Government.

(b) The Board of Regents shall determine exemptions from the requirements of this section for offices within the Nevada System of Higher Education.

(c) The Public Employees' Retirement Board shall determine exemptions from the requirements of this section for offices within the Public Employees' Retirement System.

(d) The Supreme Court shall determine exemptions from the requirements of this section for offices within the Judicial Branch of State Government.

(e) The Legislative Commission shall determine exemptions from the requirements of this section for offices within the Legislative Branch of State Government.

5. An entity described in subsection 4 shall report to the Interim Finance Committee not later than 60 days after determining that an office is exempt from the requirements of this section concerning the determination and the reasons for the determination.

6. ~~[Notwithstanding the provisions of section 3 of chapter 391, Statutes of Nevada 2009, at page 2159, as amended by section 1 of this act, to the contrary, an employee of an office that is exempted from the requirements of this section may take portions of a day as furlough leave that combine to total the amount of the furlough leave required by that section, except that any such employee described in NRS 284.148 shall take all required furlough leave each month during the same week.]~~

~~7.~~ If the last day limited by a specific statute for filing any paper with or complying with any deadline involving an office that is closed on a

Friday pursuant to this section falls on that Friday, the period so limited must expire on the following business day at 5 p.m.

~~{8-}~~ 7. *The provisions of this section do not apply to a board, commission or agency the sole function of which is the regulation of a profession, occupation or business and which is not subject to the provisions of NRS 353.150 to 353.246, inclusive.*

Sec. 6. *For the period beginning on July 1, 2010, and ending on June 30, 2011, the Board of Regents shall establish a schedule consisting of rolling 10-hour days which is designed to allow staffing by employees of the Nevada System of Higher Education on Monday through Friday, with each employee working on only four of those days.*

Sec. 7. *For the period beginning on July 1, 2010, and ending on June 30, 2011, if any state agency determines that it will require its employees to work more overtime than the amount of overtime the state agency required of its employees during the preceding fiscal year or, if the overtime requirements of the state agency vary substantially during each year of a biennium, during the corresponding year of the preceding biennium, the additional overtime may only be worked pursuant to a plan that is approved in advance by one of the following entities:*

1. *Except as otherwise provided in this section, the State Board of Examiners must approve overtime plans for the Executive Branch of State Government.*

2. *The Board of Regents must approve overtime plans for the Nevada System of Higher Education.*

3. *The Public Employees' Retirement Board must approve overtime plans for the Public Employees' Retirement System.*

4. *The Supreme Court must approve overtime plans for the Judicial Branch of State Government.*

5. *The Legislative Commission must approve overtime plans for the Legislative Branch of State Government.*

Sec. 7.5. *NRS 209.183 is hereby amended to read as follows:*

209.183 *In addition to his or her regular salary, each person employed before March 1, 2010, by the Department of Corrections or the Division of Forestry of the State Department of Conservation and Natural Resources at the Southern Nevada Correctional Center, the Southern Desert Correctional Center, the Indian Springs Conservation Camp, the correctional institution identified as the Men's Prison No. 7 in chapter 656, Statutes of Nevada 1995, and chapter 478, Statutes of Nevada 1997, or the Jean Conservation Camp is entitled to receive, as compensation for travel expenses, not more than \$7.50 for each day he or she reports to work if his or her residence is more than 25 miles from the respective facility. The total cost for compensation for travel expenses authorized by this section must not exceed the amount specially appropriated for this purpose.*

~~Sec. 7.7:~~ **NRS 227.150 is hereby amended to read as follows:**

~~227.150~~—**1.** *The State Controller shall:*

(a) Open and keep an account with each county, charging the counties with the revenue collected, as shown by the auditor's statements, and also with their proportions of the salaries of the district judges, and crediting them with the amounts paid to the State Treasurer.

(b) Keep and state all accounts between the State of Nevada and the United States, or any state or territory, or any person or public officer of this State, indebted to the State or entrusted with the collection, disbursement or management of any money, funds or interests arising therefrom, belonging to the State, of every character and description, if the accounts are derivable from or payable into the State Treasury.

(c) Settle the accounts of all county treasurers, and other collectors and receivers of all state revenues, taxes, tolls and incomes, levied or collected by any act of the Legislature and payable into the State Treasury.

(d) Keep fair, clear, distinct and separate accounts of all the revenues and incomes of the State, and of all the expenditures, disbursements and investments thereof, showing the particulars of every expenditure, disbursement and investment.

2. The State Controller may:

(a) Direct the collection of all accounts or money due the State, except as otherwise provided in chapter 353C of NRS, and if there is no time fixed or stipulated by law for the payment of any such accounts or money, they are payable at the time set by the State Controller.

(b) Upon approval of the Attorney General, direct the cancellation of any accounts or money due the State.

(c) Except as otherwise provided in subsection 3, withhold from the compensation of an employee of the State any amount due the State for the overpayment of the salary of the employee that has not been satisfied pursuant to subsection ~~101.9~~ 9 of NRS 284.350 or in any other manner.

3. Before any amounts may be withheld from the compensation of an employee pursuant to paragraph (c) of subsection 2, the State Controller shall:

(a) Give written notice to the employee of the State Controller's intent to withhold such amounts from the compensation of the employee; and

(b) If requested by the employee within 10 working days after receipt of the notice, conduct a hearing and allow the employee the opportunity to contest the State Controller's determination to withhold such amounts from the compensation of the employee.

➡ If the overpayment was not obtained by the employee's fraud or willful misrepresentation, any withholding from the compensation of the employee must be made in a reasonable manner so as not to create an undue hardship to the employee.

4. The State Controller may adopt such regulations as are necessary to carry out the provisions of this section.

Sec. 8. (Deleted by amendment.)

Sec. 8.1. NRS 284.065 is hereby amended to read as follows:

284.065 1. The Commission has only such powers and duties as are authorized by law.

2. In addition to the powers and duties set forth elsewhere in this chapter, the Commission shall:

(a) Advise the Director concerning the organization and administration of the Department.

(b) Report to the Governor biennially on all matters which the Commission may deem pertinent to the Department and concerning any specific matters previously requested by the Governor.

(c) Advise and make recommendations to the Governor or the Legislature relative to the personnel policy of the State.

(d) ~~{Adopt}~~ ***Except as otherwise provided in subsection 4 of NRS 284.175, adopt*** regulations to carry out the provisions of this chapter.

(e) Foster the interest of institutions of learning and of civic, professional and employee organizations in the improvement of personnel standards in the state service.

(f) Review decisions of the Director in contested cases involving the classification or allocation of particular positions.

(g) Exercise any other advisory powers necessary or reasonably implied within the provisions and purposes of this chapter.

Sec. 8.3. NRS 284.155 is hereby amended to read as follows:

284.155 1. ~~{The}~~ ***Except as otherwise provided in subsection 4 of NRS 284.175, the*** Commission shall adopt a code of regulations for the classified service.

2. The code must include regulations concerning certifications and appointments for:

(a) Positions in classes having a maximum salary of \$12,500 or less as of December 31, 1980, where the regular procedures for examination and certification are impracticable; and

(b) Classes where applicants for promotion are not normally available.

➔ These regulations may be different from the regulations concerning certifications and appointments for other positions in the classified service.

Sec. 8.5. NRS 284.175 is hereby amended to read as follows:

284.175 1. After consultation with appointing authorities and state fiscal officers, the Director shall prepare a pay plan for all employees in the classified service.

2. The pay plan and its amendments become effective only after approval by the Governor.

3. ~~{The}~~ ***Except as otherwise provided in subsection 4, the*** pay plan must include, without limitation, ranges for each class, grade or group of positions in the classified service. Each employee in the classified service must be paid at one of the rates set forth in the pay plan for the class of position in which the employee is employed and at such time as necessary money is made available for the payment.

4. ***The pay plan may not include any special or other adjustments to the base rates set forth in the pay plan for employees hired on or after March 1, 2010.***

5. The Commission shall adopt regulations to carry out the pay plan.

~~{5.}~~ 6. The Director may make recommendations to the Legislature during regular legislative sessions concerning salaries for the classified service of the State. In making such recommendations, the Director shall consider factors such as:

(a) Surveys of salaries of comparable jobs in government and private industry within the State of Nevada and western states, where appropriate;

(b) Changes in the cost of living;

(c) The rate of turnover and difficulty of recruitment for particular positions; and

(d) Maintaining an equitable relationship among classifications.

Sec. 9. NRS 284.180 is hereby amended to read as follows:

284.180 1. The Legislature declares that since uniform salary and wage rates and classifications are necessary for an effective and efficient personnel system, the pay plan must set the official rates applicable to all positions in the classified service, but the establishment of the pay plan in no way limits the authority of the Legislature relative to budgeted appropriations for salary and wage expenditures.

2. Credit for overtime work directed or approved by the head of an agency or the representative of the head of the agency must be earned at the rate of time and one-half, except for those employees described in NRS 284.148.

3. Except as otherwise provided in subsections 4, 6, 7 and 9 ~~{1}~~:

(a) During a workweek consisting of 10-hour days, overtime is considered time worked in excess of:

(1) Ten hours in 1 calendar day;

(2) Ten hours in any 18-hour period; or

(3) A 40-hour week.

(b) During a workweek consisting of 8-hour days, overtime is considered time worked in excess of:

~~{(a)}~~ ***(1) Eight hours in 1 calendar day;***

~~{(b)}~~ ***(2) Eight hours in any 16-hour period; or***

~~{(c)}~~ ***(3) A 40-hour week.***

4. Firefighters who choose and are approved for a 24-hour shift shall be deemed to work an average of 56 hours per week and 2,912 hours per year, regardless of the actual number of hours worked or on paid leave during any biweekly pay period. A firefighter so assigned is entitled to receive 1/26 of the firefighter's annual salary for each biweekly pay period. In addition, overtime must be considered time worked in excess of:

(a) Twenty-four hours in one scheduled shift; or

(b) Fifty-three hours average per week during one work period for those hours worked or on paid leave.

↪ The appointing authority shall designate annually the length of the work period to be used in determining the work schedules for such firefighters. In addition to the regular amount paid such a firefighter for the deemed average of 56 hours per week, the firefighter is entitled to payment for the hours which comprise the difference between the 56-hour average and the overtime threshold of 53 hours average at a rate which will result in the equivalent of overtime payment for those hours.

5. The Commission shall adopt regulations to carry out the provisions of subsection 4.

6. ~~For employees who choose and are approved for a variable workday, overtime will be considered only after working 40 hours in 1 week.~~
Corrections Officers of the Department of Corrections must be scheduled to work not less than three consecutive 12-hour shifts and not less than seven 12-hour shifts during each 14-day pay period. Overtime must be considered time worked in excess of:

(a) Twelve hours in one shift; or

(b) Eighty-four hours in any 14-day pay period.

7. Employees who are eligible under the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., to work a variable ~~180-hour~~ work schedule within a biweekly pay period ~~and who choose and are approved for such a work schedule~~ will be considered eligible for overtime ~~only after working 80 hours biweekly, except those eligible employees who are approved for overtime in excess of one scheduled shift of 8 or more hours per day.~~ ***in accordance with the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq.***

8. An agency may experiment with innovative workweeks upon the approval of the head of the agency and after majority consent of the affected employees. The affected employees are eligible for overtime only after working 40 hours in a workweek.

9. This section does not supersede or conflict with existing contracts of employment for employees hired to work 24 hours a day in a home setting. Any future classification in which an employee will be required to work 24 hours a day in a home setting must be approved in advance by the Commission.

10. All overtime must be approved in advance by the appointing authority or the designee of the appointing authority. No officer or employee, other than a director of a department or the chair of a board, commission or similar body, may authorize overtime for himself or herself. The chair of a board, commission or similar body must approve in advance all overtime worked by members of the board, commission or similar body.

11. The Budget Division of the Department of Administration shall review all overtime worked by employees of the Executive Department to ensure that overtime is held to a minimum. The Budget Division shall report quarterly to the State Board of Examiners the amount of overtime worked in the quarter within the various agencies of the State.

Sec. 10. NRS 284.350 is hereby amended to read as follows:

284.350 1. Except as otherwise provided in subsections 2, 3 ~~and 4,~~ **4 and 5,** an employee in the public service, whether in the classified or unclassified service ~~is~~:

(a) Except as otherwise provided in paragraph (b), is entitled to annual leave with pay of ~~{1 1/4 working days}~~ **10 hours** for each month of continuous public service. The annual leave may be cumulative from year to year not to exceed ~~{30 working days}~~ **240 hours.**

(b) Who works 24 hours in one scheduled shift is entitled to annual leave with pay of 1 1/4 working days for each month of continuous public service. The annual leave may be cumulative from year to year not to exceed 30 working days.

↪ The Commission may by regulation provide for additional annual leave for long-term employees and for prorated annual leave for part-time employees.

2. Except as otherwise provided in this subsection ~~1~~ **and subsection 3,** any annual leave in excess of ~~{30 working days}~~ **240 hours** must be used before January 1 of the year following the year in which the annual leave in excess of ~~{30 working days}~~ **240 hours** is accumulated or the amount of annual leave in excess of ~~{30 working days}~~ **240 hours** is forfeited on that date. If an employee:

(a) On or before October 15, requests permission to take annual leave; and

(b) The employee's request for leave is denied in writing for any reason,
↪ the employee is entitled to payment for any annual leave in excess of ~~{30 working days}~~ **240 hours** which the employee requested to take and which the employee would otherwise forfeit as the result of the denial of the employee's request, unless the employee has final authority to approve use of the employee's own accrued leave and the employee received payment pursuant to this subsection for any unused annual leave in excess of ~~{30 working days}~~ **240 hours** accumulated during the immediately preceding calendar year. The payment for the employee's unused annual leave must be made to the employee not later than January 31.

3. **Except as otherwise provided in this subsection, any annual leave in excess of 30 working days of an employee who works 24 hours in one scheduled shift must be used before January 1 of the year following the year in which the annual leave in excess of 30 working days is accumulated or the amount of annual leave in excess of 30 working days is forfeited on that date. If such an employee:**

(a) On or before October 15, requests permission to take annual leave; and

(b) The employee's request for leave is denied in writing for any reason,
↪ **the employee is entitled to payment for any annual leave in excess of 30 working days which the employee requested to take and which the employee would otherwise forfeit as the result of the denial of the employee's request, unless the employee has final authority to approve use**

of the employee's own accrued leave and the employee received payment pursuant to this subsection for any unused annual leave in excess of 30 working days accumulated during the immediately preceding calendar year. The payment for the employee's unused annual leave must be made to the employee not later than January 31.

4. Officers and members of the faculty of the Nevada System of Higher Education are entitled to annual leave as provided by the regulations adopted pursuant to subsection 2 of NRS 284.345.

~~4.4.5.~~ The Commission shall establish by regulation a schedule for the accrual of annual leave for employees who regularly work more than 40 hours per week or 80 hours biweekly. The schedule must provide for the accrual of annual leave at the same rate proportionately as employees who work a 40-hour week accrue annual leave.

~~5.4.6.~~ No elected state officer may be paid for accumulated annual leave upon termination of the officer's service.

~~6.4.7.~~ During the first 6 months of employment of any employee in the public service, annual leave accrues as provided in subsection 1, but no annual leave may be taken during that period.

~~7.4.8.~~ No employee in the public service may be paid for accumulated annual leave upon termination of employment unless the employee has been employed for 6 months or more.

~~8.4.9.~~ Upon the request of an employee, the appointing authority of the employee may approve the reduction or satisfaction of an overpayment of the salary of the employee that was not obtained by the fraud or willful misrepresentation of the employee with a corresponding amount of the accrued annual leave of the employee.

Sec. 11. NRS 284.355 is hereby amended to read as follows:

284.355 1. Except as otherwise provided in this section, all employees in the public service, whether in the classified or unclassified service, are entitled to sick and disability leave with pay of ~~1 1/4 working days~~ **10 hours** for each month of service, which may be cumulative from year to year. After an employee has accumulated ~~90 working days~~ **720 hours** of sick leave, the amount of additional unused sick leave which the employee is entitled to carry forward from 1 year to the next is limited to one-half of the unused sick leave accrued during that year, but the Commission may by regulation provide for subsequent use of unused sick leave accrued but not carried forward because of this limitation in cases where the employee is suffering from a long-term or chronic illness and has used all sick leave otherwise available to the employee.

2. Except as otherwise provided in this section, employees who work 24 hours in one scheduled shift are entitled to sick and disability leave with pay of 1 1/4 working days for each month of service, which may be cumulative from year to year. After an employee has accumulated 90 working days of sick leave, the amount of additional unused sick leave which the employee is entitled to carry forward from 1 year to the next is

limited to one-half of the unused sick leave accrued during that year, but the Commission may by regulation provide for subsequent use of unused sick leave accrued but not carried forward because of this limitation in cases where the employee is suffering from a long-term or chronic illness and has used all sick leave otherwise available to the employee.

3. Upon the retirement of an employee, the employee's termination through no fault of the employee or the employee's death while in public employment, the employee or the employee's beneficiaries are entitled to payment:

(a) For the employee's unused sick leave in excess of ~~{30 days,}~~ **240 hours ~~for~~ for employees to which subsection 1 applies and 30 days for employees to whom subsection 2 applies,** exclusive of any unused sick leave accrued but not carried forward, according to the employee's number of years of public service, except service with a political subdivision of the State, as follows:

(1) For 10 years of service or more but less than 15 years, not more than \$2,500.

(2) For 15 years of service or more but less than 20 years, not more than \$4,000.

(3) For 20 years of service or more but less than 25 years, not more than \$6,000.

(4) For 25 years of service, not more than \$8,000.

(b) For the employee's unused sick leave accrued but not carried forward, an amount equal to one-half of the sum of:

(1) The employee's hours of unused sick leave accrued but not carried forward; and

(2) An additional 120 hours.

~~{2.4.}~~ **4.** The Commission may by regulation provide for additional sick and disability leave for long-term employees and for prorated sick and disability leave for part-time employees.

~~{4.1.}~~ **5.** An employee entitled to payment for unused sick leave pursuant to subsection 2 may elect to receive the payment in any one or more of the following forms:

(a) A lump-sum payment.

(b) An advanced payment of the premiums or contributions for insurance coverage for which the employee is otherwise eligible pursuant to chapter 287 of NRS. If the insurance coverage is terminated and the money advanced for premiums or contributions pursuant to this subsection exceeds the amount which is payable for premiums or contributions for the period for which the former employee was actually covered, the unused portion of the advanced payment must be paid promptly to the former employee or, if the employee is deceased, to the employee's beneficiary.

(c) The purchase of additional retirement credit, if the employee is otherwise eligible pursuant to chapter 286 of NRS.

~~5.1.6.~~ Officers and members of the faculty of the Nevada System of Higher Education are entitled to sick and disability leave as provided by the regulations adopted pursuant to subsection 2 of NRS 284.345.

~~6.1.7.~~ The Commission may by regulation provide policies concerning employees with mental or emotional disorders which:

(a) Use a liberal approach to the granting of sick leave or leave without pay to such an employee if it is necessary for the employee to be absent for treatment or temporary hospitalization.

(b) Provide for the retention of the job of such an employee for a reasonable period of absence, and if an extended absence necessitates separation or retirement, provide for the reemployment of such an employee if at all possible after recovery.

(c) Protect employee benefits, including, without limitation, retirement, life insurance and health benefits.

~~7.1.8.~~ The Commission shall establish by regulation a schedule for the accrual of sick leave for employees who regularly work more than 40 hours per week or 80 hours biweekly. The schedule must provide for the accrual of sick leave at the same rate proportionately as employees who work a 40-hour week accrue sick leave.

~~8.1.9.~~ The Department may investigate any instance in which it believes that an employee has taken sick or disability leave to which the employee was not entitled. If, after notice to the employee and a hearing, the Commission determines that the employee has taken sick or disability leave to which the employee was not entitled, the Commission may order the forfeiture of all or part of the employee's accrued sick leave.

Sec. 12. Any use of the term "working day" in a regulation of the Personnel Commission which concerns the earning, calculation or use of annual leave or sick leave must be interpreted to mean a period of work consisting of 8 hours until that regulation is otherwise amended by the Personnel Commission.

Sec. 13. 1. Each exemption from furlough leave which was granted on or before June 30, 2010, is hereby declared void.

2. The provisions of subsection 1 do not preclude the reapplication for and granting of any exemption that is declared void by subsection 1.

Sec. 13.5. 1. Notwithstanding any contrary order, directive, policy or request made by any other officer or agency of the Executive Department of the State Government, the Department of Personnel or other responsible officer or agency shall administer, carry out and make payments pursuant to NRS 209.183 and 281.121 and NAC 284.206, 284.208, 284.210, 284.214 and 284.218, as those provisions existed on February 23, 2010, to any employee as defined in this section who:

(a) Was receiving such payments on February 23, 2010, in accordance with the provisions of those statutes and regulations; or

(b) Becomes eligible to receive such payments on or after February 23, 2010, in accordance with the provisions of those statutes and regulations.

2. This section does not:

(a) Make any employee eligible to receive such payments if the employee does not otherwise meet the criteria to receive such payments in accordance with the provisions of those statutes and regulations.

(b) Prohibit the Department of Personnel **or other responsible officer or agency** from stopping such payments to any employee when the employee no longer meets the criteria to receive such payments in accordance with the provisions of those statutes and regulations.

3. As used in this section, “employee” means a person who:

(a) Is employed by the Executive Department of the State Government on February 23, 2010; or

(b) Was employed by the Executive Department of the State Government on or before February 23, 2010, and who returns to employment with the Executive Department of the State Government on or after that date.

4. The term “employee” does not include any person who is employed by the Executive Department of the State Government for the first time after February 23, 2010.

Sec. 14. 1. This section and sections 7.5, 8.1, 8.3, 8.5 and 13.5 of this act become effective upon passage and approval.

2. Sections 1 to 7, inclusive, **7.7**, 8, 9 to 12, inclusive, and 13 of this act become effective on July 1, 2010.

3. Sections 1 to 7, inclusive, **7.7**, 12 and 13 of this act, and sections 3, 4 and 5 of chapter 391, Statutes of Nevada 2009, expire by limitation on June 30, 2011.

Assemblyman Ocegüera moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 3.

Bill read third time.

Remarks by Assemblyman Ocegüera and Stewart.

Potential conflict of interest declared by Assemblymen Denis, Gustavson, and Settlemeyer.

Roll call on Senate Bill No. 3:

YEAS—41.

NAYS—Goedhart.

Senate Bill No. 3 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblyman Ocegüera moved that all rules be suspended and that Senate Bill No. 3 be immediately transmitted to the Senate.

Motion carried.

Assemblyman Ocegüera moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering the securitization of the Unclaimed Property Trust Fund.

Motion carried.

COMMITTEE OF THE WHOLE IN SESSION

At 2:47 p.m.

Chair Buckley presiding.

Quorum present.

Securitization of the Unclaimed Property Trust Fund considered.

CHAIR BUCKLEY:

Lieutenant Governor, welcome to the Assembly Committee of the Whole. We look forward to your remarks.

LIEUTENANT GOVERNOR KROLICKI:

Good afternoon everyone. Brian Krolicki, Lieutenant Governor. It's not often that I'm taken off of General File on the Senate side of the building to come over and visit my friends on this side of the building. It is a pleasure to be here, and I suspect this is a conversation about the possibility of monetizing an asset that is a reliable one here in Nevada, and that is unclaimed property. I assume this is a give-and-take format, and I am delighted to take any questions.

You have all heard from me about taking streams of money and packaging them in a present-value sense. Previously, I have suggested this for the tobacco settlement monies about a decade ago, and that conversation was about protecting these future revenues by placing them in a solid trust fund capacity so these tobacco monies could be used for posterity. This moment in Nevada's history fiscally is so serious and literally so dire—we wouldn't be convened here if it wasn't—that unlike previous times, I think it's important that instead of protecting these monies for posterity, I think we need to use this long-term money now to save posterity.

We have difficult decisions, extraordinary decisions, and you all, I think—using the terminology these days—are trying to avoid “the ugliest of cuts.” I would submit that we also wish to avoid the ugliest of tax and fee increases. This idea to perhaps monetize a different stream of payment, unclaimed property, is only put forth as a tool to assist in bridging this gap between the revenues that are going to be available to all of you when you make these terrible and difficult decisions and trying to find the revenues to reconcile the sheet so we can all go home and be about our business, and Nevada knows what we've decided here.

So I believe that we can very safely take this stream of monies from unclaimed property. There are different ways to do so, and it all depends really on the desire for the amount to reconcile the difference between revenues and needs. I suspect and submit to you that in a very conservative manner, we could generate up to about \$120 million by using this asset, still preserving things like the Millennium Scholarship, still preserving revenues for the General Fund, up to about \$120 million, but certainly using far less if that's the need to reconcile these two chambers to *sine die*. Again, I don't know where that number might be, and I have heard it might be \$50 million or so. I think if we're looking at the higher end of this amount, and I'll just use \$100 million as an example, we could monetize these monies, which is essentially agreeing to enter into the selling of securities not counting against the state debt limit.

That's the beauty of these monies. This would not be considered a debt of the state. It would be an obligation of the trust fund for unclaimed property, abandoned property, so that is not a concern. We would take these monies, and we would pledge them for 20 years, and to get the \$100 million amount would be roughly about \$7.5 million, similar to the amount that we pledged the Millennium Scholarship out of these funds. To make this an obligation or contract or a security that would be acceptable to those who would be providing these monies up front, we would need to have covenants in the agreement that would ensure that we have certain reserve funds, perhaps parking a year's worth of interest into an escrow account, just to give them comfort. We would need to demonstrate—and there are different ways to do it—but I

would submit today, in speaking to different trading desks across the country who would be responsible for helping us in this project, that we would need to pledge that we will always have at least two times coverage of this debt service, which is about \$14 million.

I think that is very doable because—I don't know if it was handed out—but if you look at the historical revenues generated from unclaimed properties which were transferred to the State Treasurer's office about a decade ago—and it's been growing steadily because of enforcement techniques and just the size of the state—we generate approximately \$50 million today in this fund. So if we're committing that we would have at least \$14 million of revenue and the source, there's great comfort for the market which would be essentially buying this asset from us. We're pledging to enter into a contract to provide us monies up front. If we pledge to provide them with this amount of money sufficient to cover their return going forward, a very conservative interest rate that would entice those people in the market to buy these things—the trading desks that I have spoken to, and there have been more than one—would probably be about 5 percent, which I think is a decent price. I think it would probably be less than that, but if the question is how real is monetizing a stream of monies coming through the unclaimed property trust fund, I think it's exceedingly feasible, probably more feasible than some of the other revenue plans that are out there.

I assure that it can be done. That's what markets do. I don't believe any other state has done this yet, but I'm proud that Nevada can be on the cutting edge on this. I have complete confidence, wearing an old hat from the Treasurer's Office, this can be done, it can be done safely, and it can be done swiftly. I am happy to answer any questions, Madam Chair.

CHAIR BUCKLEY:

Assemblywoman Spiegel.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Chair. Thank you, Lieutenant Governor, for coming down. I appreciate your coming down and taking the time out from the Senate to come and speak with us. I'm in my first term and haven't had the benefit from any of the previous hearings. I was wondering if you could go back a step for me and explain how this would work. How would it be sold? Who would have oversight? How is the income generated? Who administers the program? If you could run through some of the basics, I would really appreciate that.

BRIAN KROLICKI:

Thank you, Assemblywoman Spiegel. The trust fund for abandoned, unclaimed property is administered in the State Treasurer's Office. It's done in the Las Vegas office. An extraordinary amount of money is misplaced, forgotten, or lost on an annual basis, different kinds of monies—travelers' checks, first month's deposits on rents, utility deposits, bank accounts, people pass away and a spouse didn't know that they had that account over at a brokerage firm, contents of safety deposit boxes—those monies all add up. There are different holding periods for different types of industry if there has been no contact with the last known owner or resident, but these monies essentially escheat to the Abandoned Property Trust Fund.

The number one duty of the Treasurer in this—and I have had this discussion before—absolutely the obligation is to return these abandoned monies, lost monies, to the rightful owners or heirs to these monies; absolutely job number one. Despite best attempts—and this is a national figure, not just Nevada—I would submit to you very roughly about a third of the monies generated on an annual basis actually go back out. That may not be from that year; it could be from years past where it is identified, but the batting average is about a third.

So two-thirds of these monies that come in annually—currently you have a statute that says it has been waived for the special session or part of your discussions—\$7.6 million is put into the Millennium Trust Fund for preservation of the Millennium Scholarship. The other monies would eventually make their way to the General Fund. These are part of the Economic Forum projections—how much money we will be generating in interest on investments but also how many dollars do we expect to be generated from unclaimed property. I think Fiscal Year—I don't have it in front of me—2010, about to conclude, is about \$52 million, and that's kind of the neighborhood that we've seen, and that's what is going to the General Fund, not the totality of the monies brought in.

That is the history, and what I'm suggesting to all of you as a possibility, and that has been broached in this building, is that we could enter into an agreement with buyers. Whether we actually sell a security that is not an obligation of the state, but again, just a security from this trust fund only backed by the assets of this trust fund, that these investors would take comfort in the first—if it's \$5 million or \$10 million, whatever the annual cost of paying off that note would be—we could take that money and put it away immediately. So the first \$5 million, first \$10 million would be segregated to pay that debt service. We would also have a reserve, and then it's your decision, but I suspect the next \$7.6 million would be part of the Millennium Scholarship Program, and then the rest of the monies that come in would go to the General Fund, if that answers your question.

ASSEMBLYWOMAN SPIEGEL:

That answers part of it, so thank you for that. Have you spoken with the people who sell these instruments? Is there a specific proposal that's on the table that you have vetted with people who sell these things? And do we have an estimate? I have started trying to research this; I've been trying to learn about this a little bit and understand it. Someone spoke to me about the concept of coverage, and I was wondering if you had a proposal that talked about the amounts of coverage that would be required, as well as what kinds of discount rate we would have to be giving for this securitization and what the costs associated with that would be.

BRIAN KROLICKI:

Great questions. There are two crucial conversations to have when you're looking at doing something like this. The lawyers who craft these agreements, the bond lawyers if you will—even though this isn't necessarily a bond; it could be a contract—but those who understand municipal finance, understand Nevada's municipal securities laws, and our state issuance procedures, so you need somebody like that. You need essentially what they call in the banking world a capital market desk, the people who actually package different kinds of securities and have the responsibility for selling it, for putting it out to the institutional investors, retail investors, however they wish to do it. But these would be considered tax-exempt investments, so it would be a taxable, capital market desk that is responsible. I have spoken to both sides of that equation, to several different parties in each of those disciplines, and there is no question that they believe, and completely and firmly believe, that this is absolutely doable. Even though it has not been done, there is no reason why it can't be done. We should take great comfort in that.

I mentioned a little bit about coverage, but a great question. Let me give you a couple data points just so we're squared away. If we did a ten-year obligation at one and half times coverage, to answer your coverage question, it really does not apply here because we wouldn't sufficiently generate money, but just so you know we're kind of off the radar screen at that point. If we did a two times coverage in the ten-year range, we would be looking to generate probably \$60 million at the \$10 million level. If we did the 20 year—so delay it out so we're committing an extra 10 years—if we have the one and half times coverage, we would be looking at approximately \$75 million. If we looked at the 20 years for the \$10 million, we would be looking at approximately \$100 million—I'm sorry, how about \$120 million. So it's just a matter of, you know, that a—

CHAIR BUCKLEY:

Lieutenant Governor, I am going to try to put a speed on the questions and answers because we would like to *sine die* sometime soon, but I want to keep the questions going.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Chair. So, then, just coming back, I guess we would be looking at a specific proposal before we would be asked to make a decision. Is that correct?

BRIAN KROLICKI:

There is a model that can work. What you would all need to do would be to pass language allowing that this revenue stream of unclaimed property can, in fact, be monetized or sold as a contract or obligated to bring up these up-front monies. Certainly, if you want to bring the terms of the actual transaction to the Interim Finance Committee, Madam Speaker, or something like

that, that's fine. The *sine die* maneuver at this point is making sure you have got a statute that allows this to be done.

ASSEMBLYWOMAN SPIEGEL:

A question I have comes from a discussion that I had yesterday with someone about this when I was trying to learn about it. I was told that sometimes in the market that conditions are favorable for securitizing revenue streams, and other times market conditions are not favorable to them and that depending on the conditions of the market and the specifics of the proposal would really answer the question about whether or not it makes sense to do that. One of the concerns that I have, or a question that I have is that not knowing enough about the market conditions, I'm not sure if I have the information or will have the information to make a decision.

BRIAN KROLICKI:

The tone of the market is certainly still troubled from the fiscal situation, but I promise you that if you have a \$50 million regular revenue source and you're only obligating 5 to 10 million dollars of \$50 million, that's pretty good credit. The market is not going to penalize you, regardless of the tone of the market. It can be done at a very reasonable cost, and as I submit to you very conservatively. I think the most it would be is a 5 percent coupon.

ASSEMBLYWOMAN SPIEGEL:

Okay, thank you.

CHAIR BUCKLEY:

Assemblyman Conklin.

ASSEMBLYMAN CONKLIN:

Thank you, Madam Chair. Mr. Lieutenant Governor, the Center on Budget and Policy Research talks about securitization, and here's what they have to say. They say when a state balances its budget using one-time resources or surpluses, it requires faster than normal growth the following year to maintain existing programs. This is because the state must replace the one-time revenue in the budget and also find funds to cover the normal growth and cost of services. States that have gone down this road are likely to find revenue slowdown like the current one doubly difficult to deal with. So the question becomes, and you're showing it right in here, we have transferred year after year after year the excess money from the unclaimed property into the General Fund, and we've used it to balance our budget. Now we're taking the money out of the General Fund and projecting it out into the future for a one-time payment. I guess I am curious why you would think that this would be a good and prudent use of our money. Given the fact that we already have a shortfall, wouldn't we be simply adding to the next biennium's shortfall by taking away that revenue stream?

BRIAN KROLICKI:

Thank you for the question. I might quote someone who just walked into the chamber, Treasurer Marshall. This just might be the best of a bunch of bad options you have. You're already using monies that aren't going to be available next biennium. You're probably \$3.5 billion, if not greater, in the hole when you just show up for work come January of 2011. As I said, you have got some ugly cuts to make or you have got some ugly fees and taxes to put in place. This is just an option that can be \$50 to \$120 million to help bring those together. If you wish to do it the other way, God bless you and be about your business. This is just an option that is available to you and that I'm submitting to you is available.

CHAIR BUCKLEY:

Lieutenant Governor, I think this is an ugly option, but these are ugly times. Have you analyzed all of the ugly options, and how do you rank them in terms of their relative ugliness? Here are some examples that states are looking at, and you know them all: the sale of buildings, the sale of assets, the lease of assets, securitization. You know, they have a lot of downside. You pay more in the long run, and you're doing it to finance operating costs. Yet you have to balance that. States are in incredible fiscal difficulties, and we're not going to get stimulus

money next time. We're going to rebound behind the national economy, so it may be two years, it may be three years, and when you're funded forty-ninth in the nation in terms of education and you don't want to decimate education further, these are really weighty, difficult decisions. I found myself in the ironic position in my caucus yesterday saying, "I don't think you should take anything off the table. I don't think probably you should do it yet. I don't know that we have to do it yet, but it may have to be looked at in 2011." These are tough choices, so how do you rank the worst of the worst, in terms of everything you have heard being considered nationally?

BRIAN KROLICKI:

Thank you, Madam Chair. I think the worst of the worst is what you didn't mention, and that would essentially be delaying debt service. You can essentially refinance your most ripe debt service payments, and you all, through legislative action, could appropriate that into the General Fund. I think that's not prudent. It's just a debt relief plan for a short term. The only attraction for the lease leaseback, which is better than a sale leaseback or even the tobacco securitization, is they can generate much more money than what we are talking about right here. I agree these are horrible times, and we are considering things that we wouldn't normally do.

Again, I have heard my own quote come back to me: "You don't sully a long-term asset for a short-term need. You match assets and liabilities on the balance sheet." This is not doing that. You're all going cold turkey. The things that you are talking about cutting or the fees that you are talking about raising are going to jolt the system and perhaps harm our recovery even greater. So this short-term injection, if you will, that you would never consider under ordinary times, I think is a compelling story and one that I am grateful that you're even willing to consider. I appreciate, Madam Speaker, you having an open mind. I know we haven't always agreed on the concept of this, but this is the first time we have talked about unclaimed property, and I think lost treasure can now become Nevada's short-term treasure. It's something I think we need to look at. Of all your options out there, again, this is probably the most desirable of a bad set of choices.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. I want to thank the Lieutenant Governor for coming over here on no notice. We basically pulled you off the floor to explain this. I thought at one point I was going to have to do it, and you did a much more thorough and expert job than I could have ever possibly covered. A couple things that you said stood out to me. One was that it is not an obligation of the state; it's an obligation of the trust itself. To confirm, that is correct?

BRIAN KROLICKI:

That is correct. And because the state is not standing behind it, that's why you have to have the coverage ratios and a reserve fund, but again, that gives comfort to the market that doesn't penalize you on the pricing side up front. It's not an obligation of the state.

ASSEMBLYWOMAN GANSERT:

Of the choices of the worst of the worst, I think we're digging pretty deep here, but I think the number that we're looking toward now is small. The thought that I had is first, it takes awhile to package this, put it together, but this could be something that would be the very last resort that we go to because we do have cash flow. We are trying to solve this budget crisis that was \$900 million—it's a little bit smaller now because of some other things that are coming in—but if these were the last dollars, if we had the tool in place and we didn't pull the trigger until the last minute, if we needed to do it, I think this is something that could be an option. We would be looking in the first half of 2011 if we needed it. My question, I guess, is the time frame and then also what your thoughts are on making it sort of the last resort as a plug in this budget today to be used as needed, if at all needed, at the very end of the biennium.

BRIAN KROLICKI:

If the question is how quickly can this be done, I think the Treasurer's Office is quite capable of doing it swiftly. I mean, this could probably be done in the next 60 to 90 days. You don't need to do it that quickly, but I think the cure could be done, and thoughtfully done and approved by the Board of Finance, and if again, a wish or desire to go to the Interim Finance

Committee with the actual details once you have a sizing—an actual transaction on the table—I think you could do it all pretty quickly.

ASSEMBLYWOMAN GANSERT:

Thank you very much.

CHAIR BUCKLEY:

Thank you very much; appreciate it. We also thank the Treasurer for coming, getting a phone call, and flying down on the highway from Reno to join us with also no notice, but that's what special sessions are all about: no notice. Thank you.

KATE MARSHALL, NEVADA STATE TREASURER:

Thank you, Madam Speaker, and thank you members of the House. My name is Kate Marshall; I'm the State Treasurer. You have some questions, I take it.

CHAIR BUCKLEY:

Kate, just first an overview. How ugly is this? How does it work? What would the time frame be? What are your thoughts? What are the pros? What are the cons? What do people who have never heard of this concept before have to know about it?

KATE MARSHALL:

Okay, Madam Chair. This is a "not good" option. There are other states in the country currently facing not good options and using them—states like California; states like Arizona. If you take this path, you are taking the path of not good options, but perhaps you are at a "come to Jesus" moment, and that's what you are faced with.

Can it be done? I believe so. Can it be done quickly? No. Why not? Because there is currently a legal dispute as to how it ought to be structured, and you want to work those things through to make sure that you can get the best legal structure, also a sound legal structure, and you want to make sure that you can price it and put it in the market when it serves you best. If the market knows that you're desperate, you will pay for that desperation. So I would highly recommend that if you are to try to do this, and that decision is up to you, that you try to do it in Fiscal Year 2011 and that you put some triggers in place so that if, by chance, your revenues come in greater than they are currently projected to be, you might find that you don't have to do the not good option. Give yourselves some breathing room, if you can, and give me the ability to structure this in the best way possible, which means not yesterday.

What do we have? Unclaimed property—we bring in money every year. I try to find the owners of that money. Where I don't find the owners, I turn the money over to the General Fund, but the owner can always come back and get their money. It is theirs; it is not ours. So if you look at the statistics, you will see that so far in Fiscal Year 2009, I brought in a little over \$77 million. We gave back to people in Nevada \$27 million, which meant we transferred to the General Fund \$50 million; that was a record year. Since I have been in office, the percentage retained by the state has been a little bit over 50 percent. That's because I significantly increased the amount of money we gave back to the people of Nevada, but I've increased the amount of money we have brought in, so in Fiscal Year 2007, \$23 million; Fiscal Year 2008, \$49 million; and last fiscal year, \$50 million. That's the kind of money we gave to the state.

Is there a revenue stream there, then, going forward that you could basically borrow from the future to pay for today, which is what you're trying to do? This is a payday loan. You give the guy your check with the date written out for a future date, and you take your money up front today and it costs you interest. That's what you're doing. Yes, you can do that—short answer. Will it affect the state's credit rating? There is a strong possibility it will affect the state's credit rating. What happens when it does that? That means you pay more on your bonds every time you issue a bond, any bond. How much will it cost to securitize this? Let's talk a little bit of numbers. I don't know what the market will give you today, and nobody else knows until we go into the market, so this is an educated guess. If you wanted about approximately \$125 million and you were to securitize \$10 million over 20 years, then it would cost \$74 million to do that, meaning you would spend \$199 million and you would collect \$125 million. Does that make sense? You would have to have some money in reserve for coverage. I assumed when I had my staff do that analysis—by the way, sitting to my left is Mark Winebarger; he is my deputy

treasurer. I assumed when I did that analysis that the state would back the securitization. I assumed it would back the securitization. If the state does not back it—I think there was some mention that the trust fund would do it by itself and the state would not be found—if the state does not back it, increase your costs because the people buying your bond would feel that that was a little riskier, and the more risk, the higher the cost.

ASSEMBLYWOMAN MASTROLUCA:

Thank you, Madam Chair. Kate, can you explain a little bit more about how this would affect the bond rating for the state and what the consequences of that would be?

KATE MARSHALL:

Thank you very much. Madam Speaker, through you to Assemblywoman Mastroluca. Anytime you engage in not so good options like deficit financing, borrowing from tomorrow to pay for today's operating costs, the credit rating agencies look at that and say, "Well, that's not very good." They don't like that so much. It is not fiscally as responsible as they would like, and so they start to say, "These guys are facing not so good options. I'm not sure they are as secure as they were before when times were good, so I'm going to lower their credit rating." Then the market says, "Okay, they're not worth as much; you're going to pay a higher interest rate." It's just like your credit rating yourself. If you go to buy a home and you've paid all your bills and you pay off your credit cards and your car is paid for when you buy the home, the guy says, "Hey, 30-year fixed, 4.5 percent." But if you go to buy the home and the guy says, "Wow, you've maxed out this credit card. You owe on this car. How many credit cards do you have, actually?" Then he says, "Hey, for you, 6.5 percent." And it works just like that.

CHAIR BUCKLEY:

Kate, have you seen any other states analyze ugly options, like do a side-by-side comparison like an RFP and see what securitization does, what sale would do, what lease would do, and all the other options that you really don't want to go to, and then kind of put it out to bid to then see which one makes more sense? Or do you automatically have all that data when you begin to undertake it?

KATE MARSHALL:

Madam Chair, thank you very much. We had a sense you guys were facing not so good options, and so we have a bevy of underwriters, and they came in Friday morning and they gave us a kind of overview of what some of those not so good options are. I haven't had time to digest it. There are others; I can digest them and come back to you with that. I'm sure you're thinking, "Yeah, like I have that time." I can digest those. I have not seen states analyze them side-by-side in the way in which you're asking. The best I can tell you is that the states I know that have taken this path, like California and Arizona, have been downgraded. It is not good to be treasurer in those states. It's costly for them to issue debt, and it's costly for them. You know, the hole gets a little bigger.

CHAIR BUCKLEY:

Assemblyman Hambrick.

ASSEMBLYMAN HAMBRICK:

Thank you, Madam Chair. We seem to be having some mixed metaphors here, if I may use the term. The document that was passed out for us to look at has "securitization" at the top. I'm not sure if I heard the Lieutenant Governor mention that word in his presentation. On this document we have, then, we see the term "monetizing." Is there not a difference in the philosophy or in the financial world? Are they not two separate and distinct methods in dealing with situations?

KATE MARSHALL:

Through you, Madam Chair, to Assemblyman Hambrick. What I understand, to put it in layman's terms, that you are talking about doing is taking 20 years of revenues from unclaimed property, \$10 million a year, and bringing it home today. That is the structure that you are talking about; I call that securitization.

CHAIR BUCKLEY:

Assemblyman Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Chair. Kate, I guess I want you to separate for me how this differs from the money we borrowed from the LGIP [Local Government Investment Pool]. We didn't dedicate a revenue stream to cover that \$145 million that we clearly will be using in the next—we assume 2011 budget year. All we did there is take \$145 million. I realize local governments probably aren't going to foreclose on the state, but it is still borrowed money, at a favorable rate—I understand that. But the bottom line is we don't have the money to cover that, either, other than a totally General Fund appropriation. So tell me why this is so much worse to take a dedicated revenue stream and borrow some money and project how far we're going to use it and pay it back.

KATE MARSHALL:

Thank you, Madam Chair, to Assemblyman Goicoechea. First off, you haven't borrowed any money from the line of credit. The line of credit is set up so that you do not borrow any money unless and until your General Fund cash balances are below \$200 million. They are not there. They are not close to being there, I'm happy to say, and so you haven't borrowed anything. That's a big difference right off the bat. The second thing is that the line of credit was set up to kind of bridge you through these tough times and to meet your 5 percent reserve requirement. That does not require actually using the money. The third thing is that there is, in fact, money set aside to pay back the line of credit as soon as you borrow it. There was \$15 million in the Bond Interest and Redemption Fund for Fiscal Year 2010 and \$15 million in the Bond Interest and Redemption Fund for Fiscal Year 2011, and I believe there was also some General Fund money set aside. The statutory requirements that the Legislature passed are pretty stringent on how quickly you must pay that back—within four years. So there was money set aside to begin paying it back, yes. It's built into your debt affordability report for 2010 and 2011.

ASSEMBLYMAN GOICOECHEA:

A follow up if I may, Madam Chair. Yes, I realize that, but unfortunately, the way we originally structured it when we were talking about using it—and again, we were going to take \$30 million and then it became due and payable the following year, and we would pay it back in increments. I think given this shortfall, we've kind of blown that out of the water, and we're looking at maybe \$145 million that we anticipate we will use a year from now, again depending on how the numbers come in and if we don't recover adequately.

I guess I'm still struggling with—it's a line of credit. I understand that, but the bottom line is we are anticipating using it. We've got it plugged in the budget, and usually when we budget things, we don't leave them there. I do believe that we are creating a hole. At some point down the road, we're going to have to pay that money back. I don't think we have the money in place today to pay the \$145 million that we are looking at using next March of 2011. We will have to appropriate it or dig a little bigger hole in the upcoming biennial budget. I hope you would agree.

KATE MARSHALL:

Through you, Madam Chair, to Assemblyman Goicoechea. As far as I know, you currently have in your budget built in to begin paying \$15 million next year on the line of credit. It is in the Bond Interest and Redemption debt affordability. It's built in there. I think it would be difficult for you to purchase money without having a way to pay it back. I'm sorry; I don't believe you are able to do that. You will have to have an appropriation in order to borrow that money.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Chair, and thank you, Kate. I think it's kind of apples and oranges to this body. No matter how we look at it, we're borrowing \$145 million, or anticipating borrowing \$145 million, from the LGIP. Now we're talking about a little different scenario, but I think we all agree: borrowing is borrowing. In these tough times when you're broke, you don't want to borrow money. Again, I think what we're looking at—this monetization program—is again, only another bridge to try and get us out of this.

KATE MARSHALL:

That is correct.

CHAIR BUCKLEY:

Assemblyman Hardy.

ASSEMBLYMAN HARDY:

Thank you, Madam Chair. Three questions along that same line and it has to do with interest. If we look at the interest from the local government trust fund versus the interest we would get on unclaimed property for monetizing, is there a feel for that inasmuch as we would have to pay more to get the interest with the local government option? Then along—

CHAIR BUCKLEY:

Why don't we do one question at a time.

KATE MARSHALL:

Through you, Madam Chair, to Assemblyman Hardy. At this current moment, you would pay a lot less to borrow from the Local Government Investment Pool than you would to sell your future revenues of the unclaimed property. That is because the way it is currently structured, you will pay a half a percentage point over what the Local Government Investment Pool is currently making. It is conservatively invested. It's not making much money because of that. Also, the one thing you should know, there is a second restriction. The members of the Local Government Investment Pool have their money in there, and they expect it to be quite liquid. They expect to be able to call our office and get their money by the next day. We oblige; we certainly do that for them. Because of those liquidity requirements, you are only allowed under the current statutory structure to borrow 25 percent of what is in the LGIP, which is currently \$150 million. That can change up or down depending on what the Local Government Investment Pool participants have in there at any given time.

ASSEMBLYMAN HARDY:

Second question: If the state bond rating is reduced because it stands behind the monetization—and we know that California and Arizona have had a decrease in their bond rating—what is the intersecting line for the state? Seems to me if they backed up the monetization that we're talking about, we would risk the whole state bond rating going down, which would seem to me to be worse than allowing the reserve in the monetization fund on the unclaimed property than we would affecting the whole state.

KATE MARSHALL:

If you borrow money to fund operating costs, it is that action which puts your bond rating at risk. It doesn't really matter how you do it.

ASSEMBLYMAN HARDY:

So the bond rating of the state would be adversely affected either way—counting towards the monetization only affected by the unclaimed property as well as if we did the state standing behind it?

KATE MARSHALL:

Yes.

ASSEMBLYMAN HARDY:

Thank you. In this monetization concept, is there—when other people do it in other ways—can there not be prepayment penalties waived if we get to the point where we pay it back or redeem it sooner?

KATE MARSHALL:

Just a minute please. It all comes down to the interest rate that you're going to pay. So if you want to be able to pay it back early, then you pay a higher interest rate for that.

ASSEMBLYMAN HARDY:

In that payment of the higher interest, you save money because of the concept of how long you're still paying it, based on your \$199 million to get \$120 million?

KATE MARSHALL:

That's a calculation, right. That's a calculation, so if I pay my mortgage off today but I have a penalty for paying it off today, is the penalty less than the interest if I paid it off over time? Since I don't know what interest you're paying and I don't know what the penalty would be because we haven't done this—you know, it's not out in the market—I can't tell you where the crossover is.

ASSEMBLYMAN HARDY:

But it's feasible to put that in the contract, as it were?

KATE MARSHALL:

Yes.

ASSEMBLYMAN HARDY:

Thank you. Thank you, Madam Chair.

CHAIR BUCKLEY:

Thank you, Dr. Hardy. Assemblywoman Gansert.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. I have a few questions. First of all, right now we have pledged—and we've been doing it fairly consistently until recently—\$7.6 million of the unclaimed property to go to the Millennium Scholarship?

KATE MARSHALL

Yes.

ASSEMBLYWOMAN GANSERT:

And then the unclaimed property fund—that's very stable, and it looks like it is growing. We had talked this morning, and you said you had a new program, the voluntary disclosure. Can you tell us about that a little bit?

KATE MARSHALL:

Through you, Madam Chair, to Assemblywoman Gansert. First off, I don't know what you refer to when you say "stable." What I can tell you is that every year, companies have unclaimed property. They give that unclaimed property to the Treasurer's Office. I try to find the owner, first and foremost. When I can't find the owner, you take the money until such time as we can find the owner. I don't know what you mean by stable. I have had people come from 20 years ago. They'll come and get two, three million dollars, and at any time they can come, and we will give them their money. I have also had times when companies have come. They have registered to do business in Nevada, like Citibank did, and all of the sudden I have a huge amount of money coming in, or a company could leave that provides unclaimed property, and then I would not have that money coming in. So I think stable is a relative term.

The voluntary disclosure program that I have is a fund program that I am very happy with. My staff put together a form. We don't have the staff to really conduct a serious audit program, so we have said to companies instead of getting audited, if you wanted to come in voluntarily and tell us that you owed us unclaimed property, I waive the fees and penalties because then I

don't have to go out and audit you. We put that up on our website. We have had no ability to advertise it because I don't have advertising money outside of the newspaper stuff, which is required by statute. So far, we've gotten \$8 million, so I think it is a great program. I believe it can grow; I hope to grow it. My goal is to get the unclaimed property and give it to the people of Nevada, so yes, I hope the program grows.

ASSEMBLYWOMAN GANSERT:

You talked about the Local Government Investment Pool. Now, we have sort of set aside—or we are expecting that we may need to borrow as much as \$145 million of that, so a couple of questions. First of all, did our doing that affect our bond rating at all? Because again, we're looking at borrowing some money in the near term. We are going to be using it for operating costs if we need to use it, and that is quite a bit of money, that's \$145 million. That's the first question. And then—

CHAIR BUCKLEY:

Why don't we do one at a time?

ASSEMBLYWOMAN GANSERT:

Okay, go ahead.

KATE MARSHALL:

Through you, Madam Chair, to Assemblywoman Gansert. Every single one of the rating agencies noted it, and I believe a number of them noted it in the actual documentation—that they were concerned that we had set up the line of credit. I assured them that we had not used it. So yes, they acknowledged it. We have not used it, so we have not borrowed for operating costs, so it has not affected our credit rating. We get calls on it probably quarterly, I want to say.

ASSEMBLYWOMAN GANSERT:

So it hasn't affected our rating, even though—

KATE MARSHALL:

Because we haven't used it.

ASSEMBLYWOMAN GANSERT:

Exactly. And the thought was on this is this would be kind of the end game at the end of the biennium—a trigger, as you suggested, that we may need to use as a last resort, so maybe it would be like that. Also, it sounded like it didn't have to be an obligation of the state, so I think there was a question there. So it could be an obligation, but it doesn't necessarily have to be an obligation of the state?

KATE MARSHALL:

Through you, Madam Chair, to Assemblywoman Gansert. Are you talking about the line of credit now?

ASSEMBLYWOMAN GANSERT:

Now I am talking back to the monetization of the unclaimed property does not have to be an obligation of the state. It can be one, but it doesn't necessarily have to be one was my understanding.

KATE MARSHALL:

When we did the analysis, we assumed it was one. I have not done the analysis under conditions where it would not be one. At a minimum, I can tell you that your costs would increase to do it in that structure.

ASSEMBLYWOMAN GANSERT:

The last thing is when we were looking at this monetization, we were looking at paying it back—a much smaller amount of money, maybe \$50 million over maybe a ten-year period. My concern with the LGIP that I think we talked about before is that we have to pay that back in about two years, so we really have to be able to put tens of millions of dollars back in a very near-term period, and that would be General Fund money. So that was the only other thing, I

guess—as I am looking at the General Fund, and if we do use the LGIP—having to put back money quickly versus having a little bit longer time for a smaller amount, if you wanted to comment on that.

KATE MARSHALL:

Through you, Madam Chair, to Assemblywoman Gansert. The differences are as follows. Under the LGIP, you do not borrow it until your cash fund hits below \$200 million on average. You are not there now. The way it is structured, you would have to pay it back in four years; it is a very aggressive repayment—four years. The interest rate is half a percentage point over what the participants are currently getting, and that is reassessed every month, so your interest rate is a fluctuating interest rate, and it will change. Whatever they would get in the market, you will pay half a percentage more. Today and since the time that that line of credit was established, you would pay very little—you would pay three-quarters of a percent today.

CHAIR BUCKLEY:

Three-quarters of 1 percent?

KATE MARSHALL:

Three-quarters of 1 percent today. If you are to take the option of securitizing unclaimed property, then you would pay a higher interest rate. You would pay over however long you structured that bond for. It looked to me like you were considering structuring it for 20 years, so you would take 20 years' revenue stream and you would pull it in today and then you would pay it back over 20 years. Although, Assemblyman Hardy asked about these call features. Could I pay it back early? The answer is yes; that increases your costs because the person buying it probably wanted to hold on to it for 20 years. If you pay it back early, it's going to cost you more.

ASSEMBLYWOMAN GANSERT:

I just wanted to thank you. I think this is something that maybe we could—if we ended up plugging a number in or something, that that would go to the Interim Finance Committee meeting so we could work out all the details. But again, it is sort of the last dollars to be used if we needed to set up a tool like this to bridge a gap during these very difficult times. So I want to thank you for your research, I want to thank you for your work on the unclaimed property because it's obvious the numbers are up, and it sounded like your voluntary disclosure program has been successful, so maybe they will be even greater. Thank you.

CHAIR BUCKLEY:

Assemblyman Cobb.

ASSEMBLYMAN COBB:

Thank you, Madam Chair. I'm sensing from what you're saying is that you're very apprehensive about the idea of setting up this monetization program with the unclaimed property. But I am also sensing that you have a little bit of the same apprehension about that line of credit if we do pull the trigger and go ahead and borrow against the LGIP. Is it your recommendation, then, that in terms of not 100 percent one way or 100 percent the other—because I know you're just saying, "Hey, it's a bad idea; I'm just giving you my professional opinion"—are you saying that it's just as bad to go ahead and use that line of credit from the LGIP as it is to go ahead and do the monetization program?

KATE MARSHALL:

Through you, Madam Chair, to Assemblyman Cobb. They are not good options. The line of credit was a great option to bridge you until your legislative session because I knew I would not use it. So I was able to get you from the special session to the regular session by setting up a structure that we would never use. It was an absolutely perfect vehicle. It was great, quite frankly. I got you there, and then you had 120 days to deliberate, which I think these things are hard. As an option that you would actually use, it is a not so good option. You pay less interest on that one. I have more control over it because it's pegged to the cash flow, so it's perhaps easier for me to control.

CHAIR BUCKLEY:

Did the ending fund balance affect any of the weighing of any of these decisions?

KATE MARSHALL:

Madam Chair, really the way the line of credit was set up originally was for the 5 percent reserve. I think where the ending fund balance comes in with respect to the unclaimed property securitization is that one of the items that bond counsel is trying to decipher is if you bond for operating costs with unclaimed property, the question is whether then, if you had excess money at the end of the fiscal year, whether you would be obliged to pay that back or whether you could put it into your Rainy Day Fund or something like that. That is a legal question, and I don't know the answer to that. They are still trying to sort through that. There appears to be a difference of opinion between the underwriters and bond counsel.

ASSEMBLYMAN COBB:

Madam Chairman, I just have a follow up, thank you. So just to be clear, your recommendation is not to actually follow through with the line of credit or the monetization?

KATE MARSHALL:

Through you, Madam Chair, to Assemblyman Cobb. I am not the policy maker here. In order for you to trust my numbers, I am not going to give you a policy recommendation. I think that's your job. I will tell you what those numbers are, regardless of what policy you take.

CHAIR BUCKLEY:

How much typically do you pay? With a line of credit, we are not paying any transaction costs. We know what the interest rate is, three-quarters of 1 percent, compared to what is it—4 or 5 percent for the securitization?

KATE MARSHALL:

Madam Chair, the underwriters believe right about now it would be about 5 percent.

CHAIR BUCKLEY:

And then what costs do you have and who makes money off of these deals? Is it brokers or who does these things? Banks?

KATE MARSHALL:

Madam Chair, the line of credit was something that we set up. In order for us to execute on the line of credit, bond counsel would have to be paid to structure it so that it was legally correct, so that it was a bond that we could actually sell in the market at some future date, a true, viable debt of the state. The LGIP would make half a percentage point more than they're making now. Nobody else makes any money that I am aware of. When you securitize your unclaimed property, then you're going to have bond counsel, a financial advisor, and an underwriter involved, and all of them will have fees. Those fees are done in an RFP. I do the RFP every couple of years. I don't have with me what those fees are, but that's where those fees are set.

CHAIR BUCKLEY:

Thank you. Assemblyman Bobzien.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Chair. I appreciate the discussion about the LGIP, and I think it is an important point to point out that they're getting a better interest rate over here. I have two questions. Madam Chair, my first one would be: Knowing the volatility of the fund and your successes in bringing more money in, but then knowing that those claims could come in at any time and you don't know how much it is, could you foresee a scenario in which we've gone down this path with this ugly option and we're making the payments, and at some point in the future for whatever scenario, we find ourselves not able to make a payment at a given time? Is that a likely scenario? What would be the penalty under that? Could you comment on that scenario?

KATE MARSHALL:

Through you, Madam Chair, to Assemblyman Bobzien. It is possible; it is not probable.

ASSEMBLYMAN BOBZIEN:

Madam Chair, thank you. My second question is a little more general. Returning to this idea of the impact of the bond rating to the state, I know that we've done well in trying to hold the line on having a good rating, but again, looking ahead and thinking about recovery and thinking about future spending throughout the state, could you talk a little bit about the impacts, not just to the state bond rating but to local governments, to projects that we're looking at in the future in terms of roads and schools and infrastructure that we're going to need going forward?

KATE MARSHALL:

Through you, Madam Chair, to Assemblyman Bobzien. So if it affects the state's credit rating—if the state's credit rating is downgraded, then what happens is when you go out to build roads or when you do any of your capital improvement projects, those will cost you more. So this year you issued about \$300 million and it cost you 4.5 percent, and it would cost you—no, actually it would cost you less because they'll use Build America Bonds—it costs like 3.9 percent. But it would cost you more, okay? So you will pay more, and we're not talking chump change here, so you pay a lot more on \$300 million—it's like a decent amount of money.

In terms of counties and municipalities, many of them do not have—outside of Clark County—do not have a credit rating that allows them to borrow as cheaply as this state. They try very much to use state programs to get the state's backing to increase their credit rating. For example, schools often use our permanent school guarantee fund. I have a reserve in there, so they get a AAA credit rating, and that would not be affected if they want to do construction on schools. It kind of depends. It's not across-the-board perfect.

ASSEMBLYMAN BOBZIEN:

Madam Chair, just a quick comment. I appreciate that answer. I think it's important that as we are discussing all these options, we are trying to pay attention to the impacts to local government. We are trying to pay attention to future possibilities that may not be seen right now. Thank you.

CHAIR BUCKLEY:

Assemblyman Grady.

ASSEMBLYMAN GRADY:

Thank you, Madam Speaker. In comparing the two programs, on the Local Government Investment Pool, we are basically at their mercy. We could only borrow a certain amount of that, and as they draw their money out, it would drop the amount that would be available to us. On the other program, we borrow the money, we know what we're borrowing, we know what the terms are, we know what the amortization is. So the two programs really can't even be compared because one of them, I hope you will agree, we can borrow a percentage of the money that is deposited and on the other one, we know how much money because we control that by how much money we put in there. Would you agree to that?

KATE MARSHALL:

Through you, Madam Chair, to Assemblyman Grady. It is correct that on the day that you would seek to access the line of credit from the LGIP, on that day you will only be able to borrow 25 percent of the total amount that is in there, and that amount can fluctuate. Now, it has fluctuated some but not drastically, so is it possible that there could be zero in there and you could not borrow? Yes; that has not occurred to date.

CHAIR BUCKLEY:

I think that part of the difference, too, is there is no more to borrow in that local government fund. I mean, we took all there was, so we can't go there anymore. I think that's another important point for those members who didn't follow this. The terms are a lot better, but there's no more to borrow from there. I think the other thing to keep in mind is this would be the second time that we borrow, and this body has to determine, both now and next session, when do

you think the recovery is and how long do you think it makes sense to borrow. I mean, those are all policy discussions that have to be addressed. Would you agree?

ASSEMBLYMAN GRADY:

Yes, I would, and I guess that is my point, Madam Chair, that we have borrowed what we can there. And again, they are the ones—the local governments—by the amount they have invested there, is we can borrow 25 percent of that. That has already been negotiated. We have that set up, and as you just said, there is no more there. So unfortunately, we have to look for other avenues that we can look at to get us through these times.

CHAIR BUCKLEY:

Assemblywoman Spiegel.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Chair. Kate, thanks for coming in today and thank you for taking the time to give us all these explanations. I do have a practical kind of operations question, which is that if we were to pursue securitizing these funds, would you have the staff employees to perform oversight and administer the program or would you need additional head count?

KATE MARSHALL:

Through you, Madam Speaker, to Assemblywoman Spiegel. You're asking the head of the Treasurer's Office if I would like more staff?

ASSEMBLYWOMAN SPIEGEL:

Well, no, I'm asking—

CHAIR BUCKLEY:

I'm cutting this off right now because I know what the answer is.

ASSEMBLYWOMAN SPIEGEL:

Well, no, I'm asking from a practical standpoint. Do you have the capacity to take something like this on?

KATE MARSHALL:

I'll move a little away from my staff. Yes, I believe my staff has the ability to handle that. Would it be extra work? Yes. Can they handle it? My debt person is not here today; yes.

ASSEMBLYWOMAN SPIEGEL:

Okay, thank you.

CHAIR BUCKLEY:

Assemblyman Stewart.

ASSEMBLYMAN STEWART:

Thank you, Madam Chair. Thank you again for coming, Ms. Marshall. It looks to me from the information that we've been given since Fiscal Year 1997 that this is a very stable source of revenue, the unclaimed property, and even in these troubled times, the amount of money we've transferred to the General Fund has increased every year. So it seems to me that compared to sales tax, compared to gaming tax, which have been going steadily down in the last three years, that this is a—would you agree that this appears to be a very, very stable source and therefore a good security for this type of monetary investment?

KATE MARSHALL:

Through you, Madam Chair, to Assemblyman Stewart. It's kind of like what I told Assemblywoman Gansert and what I told Assemblyman Bobzien—that I think stable is a relative term. This money belongs to the people of Nevada, and I try very hard to find them, and they can always come back and get their money. It is theirs. At the same time, is it—Assemblyman Bobzien asked me would it be possible that all of the sudden there would be no money there. It is possible, but not probable. You can see that in those statistics.

CHAIR BUCKLEY:

Kate, I have a question. All we do right now is look at sheets of the state's finances and say, "Hey, can we take \$5 million from there and here?" as we do our final sheet towards *sine die*. So let me ask you this: Can we take any of the principal? You have told us what we can take so far, but just as we ask the administration, "Hey, can we take \$5 million from the salary adjustment account?" and negotiated that this morning to put on the sheets, we're so close that I hate to borrow. You know, I wonder if you do a side-by-side or something in the interim of all these ugly options rather than to say, "Hey, it's 24 hours; let's borrow," and explore it. I don't know, but we still have a gap. So can we just directly and safely transfer any to the General Fund? In full disclosure, I did not tell her that I was going to ask her this question, so it's probably no, but if we're weighing the ugly options, you have a lot more revenue in this fund than you did in 1997, as pointed out by Mr. Stewart. Now we've transferred accordingly more money into the General Fund, as well, but just curious.

KATE MARSHALL:

Madam Chair, what happens—basically I told you for this fiscal year that we could give you \$52 million, and so the question is "Well, if you look here, you'll see that last fiscal year I had \$77 million, so how did I get to \$52 million?" What my staff tries to do is they try to figure out how much are we likely to return to people. What is our rate of return? How is it coming in? It is that analysis which brings me to \$52 million. Is there more in the fund currently? Yes. How much more? You can see here that last time, we gave \$27 million back, so we're close to the end of this fiscal year, so I'm getting closer and closer to how much I think is going to be given back and how much I have left over to transfer to the General Fund.

CHAIR BUCKLEY:

How about Fiscal Year 2011's money?

KATE MARSHALL:

For Fiscal Year 2011, we said we would give you \$48 million, so that's the same calculation where I sit there and think how much am I going to bring in and how much am I going to give out. So we feel comfortable telling you \$48 million. In other words, I believe I can—43? Did I just up it by \$5 million—no \$43 million.

CHAIR BUCKLEY:

I'm booking that. I heard five.

KATE MARSHALL:

Anyway, so that's what we feel comfortable with right now.

Going back to Assemblywoman Gansert's questions on stability, part of that is assessing, "Well, we have Citibank here, and they give us this much money. We have these people here, and they tend to turn over this." And this is kind of how this is working. Are we going to bring in more than \$43 million? You bet your bottom dollar. Do I hope to give back more than \$27 million? You bet your bottom dollar. So it's that assessment. I don't know what your gap is right now. If you were to take these not so good options and you were to say, "Let's hope we don't get there, but if we have to get there in Fiscal Year 2011, we'll set it up so that we have the flexibility to do that or not do that," that gives you some breathing room to say, "This is how much I need. That makes this a better path. I don't really need this much. I can squeak by over here." That's kind of a very nebulous answer, but it's the answer.

CHAIR BUCKLEY:

So did I hear a number in there?

KATE MARSHALL:

Well I think—my staff was cringing at the 48.

CHAIR BUCKLEY:

I'll meet you after the hearing, thank you. Okay, there doesn't appear to be any more questions. We thank you very much for coming on short notice. It was a good debate and a good discussion, and for all those members who weren't familiar with it, I think it helps flesh out the issues. Thank you very much for coming.

KATE MARSHALL:

Thank you, and thank you, everyone here. I know you guys are working really, really hard. I envy none of you, and I admire all of you. Thank you very much.

CHAIR BUCKLEY:

I had also just asked our staff if they had any thoughts, comments. Obviously, our nonpartisan staff do not take positions on bills for or against, but sometimes they have kind of a quicker, crisper way of looking at these things. Thank you, Russell.

RUSSELL GUINDON, SENIOR DEPUTY FISCAL ANALYST:

Thank you, Madam Chair. For the record, Russell Guindon, Senior Deputy Fiscal Analyst with the Fiscal Analysis Division. I know you're on a tight schedule, so I'll try to keep my comments sort of short and to the point with regards to the testimony that has been provided by Lieutenant Governor Krolicki and State Treasurer Marshall. First I'd like to point out, as all of you know, that as your Fiscal Analysis Division staff, I am nonpartisan and neutral with regards to this proposal.

As the Lieutenant Governor pointed out, is it a possible proposal for this body to consider? Yes. Securitization is not a new concept. It's been proposed and considered by this body. I have been with the Legislature since 1999, and I think almost every session, there is discussion about the possibility of securitization. So it's not new to this body. It's not new. I think, as the Lieutenant Governor pointed out, with regards to your Fiscal staff, the devil really would be in the details in terms of how much money are you trying to get from this. What's the market in terms of what's the interest rate you would have to give? What are the coverage ratios that you would have to give? What is the horizon that you're going to make the payments back? Obviously, the shorter the horizon, the less interest that you would have to pay to pay back the loan because as it's been testified here that it is a borrowing because you're going to have to borrow and get an amount and pay more than that amount back; thus, that's a borrowing and no different than a car loan or a mortgage loan. Obviously, then, the longer the time horizon, the more interest that will be paid.

With regards to the comments, there has been some discussion about the line of credit versus the securitization. The only point that I would make there as your Fiscal Analysis Division staff is that the line of credit is sitting out there on the books as an amount that is available, as was testified, that's equal to 25 percent of the balance that is in the fund, but we don't have to take all that. If the Treasurer notices that they are below the average balance, and they only need to take \$20 million and that's what gets us through, then that's all we have to borrow. It's really no different than sort of a home equity loan line of credit; just here, rather than taking the equity out of your house, the local government is sitting there as sort of the line of equity. So we don't have to go to the line of credit for the full amount. We could go for whatever amount the Treasurer deems necessary to keep the state's fund balance position where it needs to be, and then we would have to pay that amount back over four years. I think the reasoning for that was to try to keep the horizon relatively short to reduce the amount of interest that the state would have to pay for that borrowing, so that was the only point I wanted to try to make with regards to the line of credit.

With regards to the securitization, once you issue the bonds and take the money, now you're obligated to make those payments, then, for whatever the horizon is—if its 10 years, 15, 20 years. As most of you know and as was testified here, this body and the body on the other side of the building have made the decision to transfer \$7.6 million from this unclaimed property fund, which then reduced the amount that went to the General Fund to fund the Millennium Scholarship Program. Those transfers were made in FYs 2006, 2007, and 2008, but because of the financial difficulties that the state has had and we're all very well aware of, then those transfers were eliminated, and thus the \$7.6 million stayed in the General Fund. So I think when

you look at the sheet, you need to keep in mind—when you're looking at the amounts and what went into the General Fund—that the difference of the \$7.6 million going out and then coming back in; also, that if this body sometime in the future would like to be able to start putting that \$7.6 million back in the Millennium Scholarship Fund to keep that program solvent, depending on the financial circumstances and the analysis that's done at a point in time—I would need to see the details—but it would be my understanding that if you did the securitization and then you also had to try and transfer the money from this unclaimed property fund to the Millennium Fund, you would first have to make sure you made your payment for the securitization. Then if there's enough money to make the payment to the Millennium Scholarship, you would make that. And then if there is anything left, then that money would go to the General Fund. That's my understanding of how the proposal would have to work.

I then I just started to think—the last statement, when you do look at the sheets, this does look like a fairly stable revenue source. When you see the big bump in sort of FY 2002 that it sort of looks like it started doubling, there was legislation approved during the 2001 Session that accelerated the timeline for when properties were deemed to be unclaimed, and thus we get that. Obviously, you continue to get the flow from shortening the time period for when things are deemed to be unclaimed. As the State Treasurer has testified, there were some potentially one-time things that happened there that we got up into this mid—or \$50 million range, and as your staff, we don't know that that's sustainable.

I guess my final comment is that as was testified to, this is a borrowing, and thus there would be potentially the reduction, then, in the amount of General Fund money that comes from this. In this, it would be no difference than if we would be securitizing the state sales tax, the cigarette tax, or the liquor tax—any of the state's other General Fund revenue sources—because it is a General Fund revenue source that would be securitized, and we would have to commit, then, to make the payments. With that, Speaker, I think those are the statements, from my listening to the testimony and as your staff, I wanted to provide to the body.

CHAIR BUCKLEY:

Thank you, Russell. Assemblyman Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Chair. Russ, I was just curious. There is a basic difference here, at least that's our understanding—the fact that if it were a loan or we were borrowing against the General Fund, then that truly does encumber the state and our bond rating and the budget, whereas if we were using the unclaimed property side, it does not truly impact it the same way. Would you agree?

RUSSELL GUINDON:

You may be quickly getting outside of my area of expertise, but I think that would depend, as was testified, on the structure of it so that if you don't make it a general obligation of the state, then if there's not enough money to make the payment for the securitization from the unclaimed property receipts, you can't fall back on the state, then, to have to make that commitment to make the payment. But if, then, you did make it a general obligation commitment, then the state would have to be sort of the borrower of last resort. Again, I don't know from the detail, but I think from the Lieutenant Governor's testimony, I think he made those statements about it would depend on the structure. So if you made it so it's not a general obligation, then the state wouldn't be harmed if the unclaimed property receipts did not come in to make the payment.

ASSEMBLYMAN GOICOECHEA:

Thank you, Russell. Thank you, Madam Chair.

CHAIR BUCKLEY:

Thank you, Russell, for providing that additional perspective.

With that, I am going to close the hearing. Again, I appreciate individuals coming in on such short notice to give us some more perspective on these ideas. We will be in recess until 6 o'clock.

Submitted Exhibits

See below.

Unclaimed Property

Summary of Historical Transactions

	Gross Receipts	Disbursements to Owners and Expenditures	Transfer to		Percentage Retained by State
			CF	Millennium	
FY97	7,867,454	2,497,750	5,369,704		68.25%
FY98	10,624,264	3,738,516	6,885,748		64.81%
FY99	9,059,979	3,225,579	5,834,400		64.40%
FY00	11,895,953	4,165,380	7,730,573		64.98%
FY01	14,510,336	4,432,017	10,078,319		69.46%
FY02	25,688,510	6,359,577	19,328,933		75.24%
FY03	25,207,864	9,195,478	16,012,386		63.52%
FY04	28,002,980	8,391,375	19,611,605		70.03%
FY05	29,688,109	9,876,450	19,811,660		66.73%
FY06	38,783,209	8,913,611	22,269,598	7,600,000	57.42%
FY07	45,180,756	14,116,229	23,464,527	7,600,000	51.93%
FY08	83,530,132	26,750,598	49,179,534	7,600,000	58.88%
FY09	77,265,401	27,173,351	50,092,050	0	64.83%

Holding period changed

Securitization of Unclaimed Property Funding
Information/scenarios provided by Treasurer's Office Underwriters
February 2010

The following information was presented to the Nevada State Treasurer's Office by one of its underwriters in response to a request for information about the impact of monetizing the state's annual net unclaimed property payment made to the General Fund, including the associated costs to taxpayers.

"We note that for the benefit of generating up-front cash for use in 2010, each financing solution allocates the burden of paying that benefit to future taxpayers."

Underwriter presentation
February 2010

Securitization Scenarios (based on 20-year repayment at a 5% interest rate)

Annual Sec. Amount	Upfront Proceeds	Ttl. Interest	Total Cost
\$10 M	\$125 M	\$74 M	\$199 M
\$15 M	\$187 M	\$111 M	\$298 M
\$20 M	\$250 M	\$148 M	\$398 M

Advantages

- An upfront amount could be monetized based on expected future transfers from the Unclaimed Property Division to the state General Fund (see attached chart for a historical summary of such transactions between FY 1997 and FY 2009).

Disadvantages

- Considered deficit financing and would most likely have a negative impact on current and future bond ratings.
 - Millions of dollars in additional interest expense will be paid by taxpayers due to the downgrade.
 - May take years to raise the state's bond rating if lowered by such an action.
 - Underwriter Presentation, February 2010: "...given the States somewhat fragile ratings, we would caution the State to balance carefully the rating implications that might be associated with a budget deficit financing solution."
- Loss of future revenue stream of transfer from Unclaimed Property Division to the state General Fund.
 - Could directly impact the longevity of the Gov. Guinn Millennium Scholarship program.
 - All state agencies who receive an appropriation from the state General Fund may be adversely affected as well, as less money would be available.

Kate Marshall/State Treasurer

- Le Templar, communications director for the conservative Goldwater Institute, "...mortgaging your future makes no sense. In essence, it's a tax increase, you just pay for it over time."
- Nicholas Johnson, liberal-leaning Center on Budget and Policy Priorities, "Borrowing has gotten too many states in too much trouble."

Other Considerations

- Nevada Bond Counsel believes it may impact the state's ability to maintain a Rainy Day Fund.
- When tax-exempt debt is issued, IRS rules dictate that if revenue in the future outpaces General Fund expenditures, the state may be required to dedicate that difference to buying back the bonds issued in relation to the securitization.

NOTE: The Nevada State Treasurer's Office cannot support any kind of deficit financing for operating costs using future General Fund revenue streams as it is not fiscally prudent and risks the state's credit rating.

Chair Buckley announced if there were no objections, the Committee of the Whole would recess subject to the call of the Chair.

Committee of the Whole in recess at 4:07 p.m.

COMMITTEE OF THE WHOLE IN SESSION

At 8:38 p.m.

Chair Buckley presiding.

Quorum present.

On motion of Assemblyman Oceguela, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 8:38 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 27, 2010

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 4, 5; Senate Bill No. 4.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 2.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

Assemblyman Ocegüera moved that the Assembly adjourn until Sunday, February 28, 2010, at 11 a.m.

Motion carried.

Assembly adjourned at 8:40 p.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE SIXTH DAY

CARSON CITY (Sunday), February 28, 2010

Assembly called to order at 1:03 p.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, April Mastroluca.

Heavenly Father, all around us we see the signs of Spring appearing. It is a reminder that even after difficult times, You renew us. Like the flowers bursting from the earth and the leaves appearing on the trees, we, too, are renewed.

Today, we ask to be renewed after many arduous days of working to find solutions for the people of Nevada. We ask that You bless the people who supported us, watched over us, and helped us. Please protect those who are traveling today and those who are waiting for our return.

Every day, the sun rises and we are given the opportunity to begin again. We can experience Spring every day, through the sacrifice Your Son made on our behalf. It is our duty to use that gift to improve the lives of those around us. In Your Son's Name we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 27, 2010

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 7 to Senate Bill No. 3.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 4.

Assemblyman Ocegüera moved that the bill be referred to the Committee of the Whole.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 3, 4, and 5; Assembly Concurrent Resolution No. 2; Senate Bills Nos. 2 and 3.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that the following persons be accepted as accredited press representatives, that they be assigned space at the press table in the Assembly Chambers and that they be allowed use of appropriate broadcasting facilities: KTVN-TV: Bradley William Horn; THE NEVADA SAGEBRUSH: Emerson Marcus.

Motion carried.

Assemblyman Ocegüera moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Assembly Bill No. 2 and Senate Bill No. 4.

Motion carried.

IN COMMITTEE OF THE WHOLE

At 1:07 p.m.

Chair Buckley presiding.

Quorum present.

Assembly Bill No. 2 considered.

CHAIR BUCKLEY:

We have now resolved ourselves into the Committee of the Whole and the Committee will come to order. I am going to open the hearing on SB4 and I will ask that whoever would like to present this bill from the Administration, Mr. Duarte.....we thank you for waiting 20 hours for your hearing to be held and for coming in on a Sunday. Mike, we saw your daughter with you earlier, so we appreciate her coming here on a Sunday as well.

So the first thing we will do is distribute the bill for the members. Senate Bill 4; would members like to get a hard copy of the bill or would you like to read along in your computer; whatever the pleasure of the group?

If you would like a hard copy before we proceed, please raise your hands. All right, we will wait until there are copies on every member's desks. Why don't I close the hearing on that. Chuck, you can stay right there.

Committee, we have another bill in committee, that is Assembly Bill 2. This was a measure I assigned to an informal subcommittee of one, consisting of Assemblywoman Kirkpatrick, to review the many issues that came up in the hearing of that bill. Assemblywoman Kirkpatrick, do you have a report back to us?

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. I did draft an amendment that I think addresses all the issues that we had on this bill when it was first heard. One of the concerns that we heard was the definition of "severely financial." We did take that out. In light of the other furlough bill that we passed out yesterday from the Assembly, we took the state portion out of this bill and this bill now just allows local government, particularly the counties, to have the option of going to a four ten day, four days a week, ten hours a day option. They do have to bring a plan back to the local board so that there is some discussion. A resolution will be drafted. Most importantly, there is a sunset date on this because I think we need to make sure that it works, so next session, they can come back and have the ability—but we also included within their plan that they had to show that it was fiscally neutral or had cost savings, because we didn't want them to go out and do it and actually cost local governments more money. That is the amendment that I have brought forward.

CHAIR BUCKLEY:

Do all members have copies of that amendment on their desk?

ASSEMBLYWOMAN KIRKPATRICK:

Yes.

CHAIR BUCKLEY:

Do any members have any questions about the approach being taken and the amendment or need further clarification from Assemblywoman Kirkpatrick? Seeing none, the chair would accept a motion.

Assemblyman Hardy moved to amend and do pass Assembly Bill No. 2.

Seconded by Assemblyman Arberry.

Motion carried.

Senate Bill No. 4 considered.

CHAIR BUCKLEY:

Let's now take up Senate Bill 4. Do all members have a copy of this measure before them? Yes. Ok, Mr. Duarte, thank you; you may proceed.

CHARLES DUARTE, ADMINISTRATOR OF THE DIVISION OF HEALTH CARE FINANCING AND POLICY:

Thank you, Madam Chair. Good afternoon, members of the Assembly. It is an honor to be here today to present Senate Bill 4.

Senate Bill 4 removes restrictions that prohibit the Division from appropriately managing pharmacy program expenditures. The estimated savings associated with this proposed legislation is \$760,000 in State General Funds for the current fiscal biennium. The Division has managed a preferred drug list since 2004 that provides recipients with therapeutically equivalent pharmaceuticals and it does this in a safe manner. In addition, it has reduced the trend in pharmacy expenditures in the Medicaid program by allowing the Division to collect supplemental rebates. The initiative has saved over \$13 million since 2004.

Currently in the NRS, Section 422.4025, it requires the Department to establish a preferred drug list, but excludes from the management through a preferred drug list of six classes. Those six classes of drugs consist of anti-psychotic medications, both atypical and typical anti-psychotic medications, anti-convulsant medications, anti-rejection medications for organ transplants, any diabetic medications, HIV and AIDS drugs, and anti-hemophilic drugs. We are specifically requesting an amendment that allows us to deal with three of those classes through the preferred drug list.

For those of you who weren't around and haven't heard this presentation before, the preferred drug list is a list of drugs that are covered without prior authorization. When prescribed, these drugs allow the state to receive supplemental rebates from drug manufacturers, which lowers the net cost of the drug to the State of Nevada. We do have a Pharmacy and Therapeutics Committee, made up of Nevada licensed physicians and pharmacists, to decide which drugs in each class should be considered preferred products. There are groups of similar drugs, which are known as a therapeutic class; these are not chemically equal drugs; they are not generic drugs; these are drugs that have the same therapeutic result or outcome, and they are considered a class of drugs. These classes are reviewed by the P&T, or Pharmacy and Therapeutics Committee, to determine if they are appropriate for comparison, and by that I mean that they are therapeutically equivalent. The Committee then decides that if they are equally effective or therapeutically equivalent, which ones should be preferred. They do this without consideration of cost or savings to the State. They do it purely on a clinical basis.

One of the most frequent concerns we hear about the PDL, the Preferred Drug List, is that we are denying medications to recipients. This is not true. Commercial health plans, the Medicare Program, the VA Program—all of these can limit drug availability through what we call hard formularies. I think that those of you who have your own health plans know that only certain drugs are available at low cost and as you go to different tier levels in your health plan, you pay more out of pocket and sometimes, they are not even covered.

In the case of the Medicaid Program, federal law requires us to provide all FDA approved medications for their approved indications to Medicaid recipients; we cannot deny any drug. We

can establish, however, medical criteria for certain drugs as a way of controlling utilization. This prior authorization process is widely used by Medicaid programs to manage prescription drug use. Prior-auth is a common requirement that the prescribing practitioner, or physician, get approval from the PAR before the drug is dispensed and paid for. Preferred drugs do not usually require prior authorization.

There are a number of safety provisions in federal law that we adhere to that protect patients and some of these include the fact that prior authorizations must be approved within 24 hours, so from the time the physician calls in to try to get a non-preferred product, we have 24 hours to respond. I can tell you that phone calls—phone call prior authorizations—which make up about half of our prior authorizations, are responded to in three minutes, and so they are approved or denied within three minutes.

Additionally, we have a very low rate associated with the preferred drug list of denials, so physicians do know that they have to give us certain kinds of clinical information to get a non-preferred product approved through this prior authorization process.

We also have a list of clinical criteria established by the P&T Committee for non-preferred drugs, and these clinical criteria include things like allergies to preferred medication; if there is a medical contraindication, or a drug-drug interaction with a preferred product within the same class; a history of the patient's toxic side effects or unacceptable side effects to a preferred drug; a therapeutic failure of a preferred drug; an indication which is unique to a non-preferred product which is supported by peer review literature. Sometimes a non-preferred product in a class may have a special indication or clinical use for which you want to make sure that it is available to the patient through this process. So there are a number of clinical protections that we afford people.

Preferred drug lists are used widely throughout the United States. A survey of 40 states found that 37 had preferred drug lists, 25 of these states also managed the preferred drug list anti-psychotic medications.

I am going to briefly go through the bill with you. Section 1, subsection 2 of the bill—what this does—it establishes three classes of drugs that we want to use in our preferred drug process. The three classes that we are removing from this exclusion are atypical and typical anti-psychotic medications, anti-convulsant medications, and anti-diabetic medications; these are both insulins and oral medications for diabetes.

Section 1, subsection 3 of the bill adds a clinical criteria to the list of criteria already there and this particular criteria is that for these classes, if a patient experiences one therapeutic failure, that they would have a non-preferred product available to them.

Section 1, subsection 4 of the bill provides that we have to offer continued availability of preferred products until the P&T Committee decides which products in these three classes I discussed should be preferred, and the three classes again are anti-psychotic, anti-convulsants and anti-diabetic medications. Or if there is a new indication for the use of a drug, again, we can't restrict use until P&T Committee acts on it.

Section 1, subsection 5 requires prior authorization for new drugs and new indications. Section 1, subsection 6 is another protection measure where we will grandfather all patients currently receiving medications in these three classes, so that those drugs are available to them on an ongoing basis until their therapy changes.

Section 2 of the bill—what this does is allow the Medicaid program to continue to cover drugs in these classes until the committee acts, so this committee again would be the Pharmacy and Therapeutic Committee.

Section 3 of the bill—what this does is establish reporting time frames and a sunset on the bill. We will be reporting to the Legislature on December 31, 2010 as to the status of the implementation of our preferred drug list. We will be reporting back on June 30, 2011 and this bill sunsets on June 30, 2011.

One final thing I would like to note is that we are going to be working with the Legislative Committee on Healthcare to establish criteria for the reports that are included in this bill, so that will be done through a letter and discussion with members of the Legislative Committee on Healthcare.

I am available to answer any questions that you may have.

CHAIR BUCKLEY:

Thank you very much, Mr. Duarte. Assemblywoman Leslie.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Chair. Chuck, why are we sunseting it? It is only less than a year....

CHARLES DUARTE:

I think there were some concerns about it ongoing and they wanted to make sure that the full Legislature had an opportunity to review this once again.

ASSEMBLYWOMAN LESLIE:

So, are you anticipating that we will be reviewing it during the 2011 Session and then make a decision there?

CHARLES DUARTE:

That is our hope.

ASSEMBLYWOMAN LESLIE:

Your preference would be not to sunset it, I would assume.

CHARLES DUARTE:

That is correct, Ms. Leslie.

ASSEMBLYWOMAN LESLIE:

So would mine; okay; thank you.

CHAIR BUCKLEY:

Mr. Duarte, if you count the presentations then you will give to the Assembly and the Senate next legislative session, how many times will you have presented testimony on this bill?

CHARLES DUARTE:

Thank you, Madam Chair. I believe this is the fourth time I have given this presentation; the fourth time is a charm, hopefully, and we will see what happens after that.

CHAIR BUCKLEY:

Thank you, Mr. Duarte. Assemblyman Horne.

ASSEMBLYMAN HORNE:

Thank you, Madam Chair. I too have concerns on the sunset. It doesn't seem to make sense and particularly, your removing these drugs from the exclusion lists. People, then a year later, are going to be back—theoretically could be back on—if the next legislative body doesn't act, is that correct?

CHARLES DUARTE:

For the record, Charles Duarte. Yes, that is correct, Assemblyman Horne. Again, I think that in discussions with the stakeholders, with several Senators, there was concern about the effect of this and they wanted to make sure that reports were provided to the Legislature and there was opportunity for the Legislature to reconsider this bill.

ASSEMBLYMAN HORNE:

Couldn't there be language to have the next legislative body act to basically repeal it should the reports prove undesirable, as opposed to automatically having them have to keep it basically open? Just a thought....

CHAIR BUCKLEY:

Are there any other questions or comments on the measure? I don't see any; thank you very much for your testimony. Is there anyone else in the public who would like to provide testimony on Senate Bill 4? Seeing none, I will close the public hearing on Senate Bill 4 and bring it back to Committee.

Assemblyman Hardy moved to do pass Senate Bill No. 4.

Seconded by Assemblyman Conklin.

Motion carried.

On motion of Assemblyman Ocegueda, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 1:24 p.m.

Madam Speaker presiding.

Quorum present.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 1:25 p.m.

ASSEMBLY IN SESSION

At 1:42 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee of the Whole, to which was referred Assembly Bill No. 2, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee of the Whole, to which was referred Senate Bill No. 4, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BARBARA E. BUCKLEY, *Chair*

GENERAL FILE AND THIRD READING

Assembly Bill No. 2.

Bill read third time.

The following amendment was proposed by the Committee of the Whole:

Amendment No. 8.

SUMMARY—Authorizes deviation from the required hours of operation for ~~public~~ county offices under certain circumstances. (BDR 23-14)

AN ACT relating to ~~public offices;~~ counties; authorizing deviation from the required hours of operation for ~~public~~ county offices ~~if necessary because of a severe financial emergency;~~ under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the establishment of required hours of operation for ~~public~~ county offices. ~~[of both state and local governments.]~~ (NRS 122.061, 245.040, 252.050, ~~1~~ 1, 281.110) ~~Section 1 of this bill authorizes deviation from those required hours if the entity or officer in charge of an office of State Government determines in writing that the deviation is~~

~~necessary because of a severe financial emergency and submits a copy of the determination to the Legislature or Legislative Commission.] Sections 2-4 of this bill authorize deviation from those required hours for ~~offices of local government~~ county offices if the board of county commissioners ~~[determines that]~~ approves the plan for the deviation ~~[is necessary because of a severe financial emergency.]~~ submitted by the office. The plan must be fiscally neutral or result in cost savings.~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[NRS 281.110 is hereby amended to read as follows:~~

~~281.110 1. Except as otherwise provided in subsection 2:~~

~~(a) Unless required for the efficient transaction of business and the convenience of the persons with whom business is transacted, the offices of all state officers, departments, boards, commissions and agencies must:~~

~~[(a)] (1) Maintain not less than a 40-hour workweek.~~

~~[(b)] (2) Be open for the transaction of business at least from 8 a.m. until 12 p.m. and from 1 p.m. until 5 p.m. every day of the year, with the exception of Saturdays, Sundays and legal holidays.~~

~~[2.] (b) Variable workweek scheduling may be required in those agencies where coverage is needed on Saturdays, Sundays and legal holidays or on other days or during other hours, as necessary.~~

~~[3.] (c) The offices of all state officers, departments, boards, commissions and agencies that are open on the days and during the hours set forth in subparagraph (2) of paragraph [(b) of subsection 1] (a) must remain open during the noon hour of each working day if any such office has more than one person on its staff.~~

~~2. Any office of a state officer, department, board, commission or agency may deviate from the hours of operation required pursuant to this section if the entity responsible for the office determines in writing that the deviation is necessary because of a severe financial emergency and submits a copy of the determination to the Legislature, or the Legislative Commission if the Legislature is not in regular session.] (Deleted by amendment.)~~

Sec. 2. NRS 122.061 is hereby amended to read as follows:

122.061 1. In any county whose population is 100,000 or more, *except as otherwise provided in subsection 3*, the main office of the county clerk where marriage licenses may be issued must be open to the public for the purpose of issuing such licenses from 8 a.m. to 12 a.m. every day including holidays, and may remain open at other times. The board of county commissioners shall determine the hours during which a branch office of the county clerk where marriage licenses may be issued must remain open to the public.

2. In all other counties, the board of county commissioners shall determine the hours during which the offices where marriage licenses may be issued must remain open to the public.

3. *Any office where marriage licenses may be issued may deviate from the hours of operation required pursuant to this section if the board of county commissioners ~~[determines that]~~ approves the plan for the deviation ~~[is necessary because of a severe financial emergency.]~~ submitted by the office. Such a plan must be fiscally neutral or result in cost savings.*

Sec. 3. NRS 245.040 is hereby amended to read as follows:

245.040 1. Sheriffs, county recorders and county auditors, county clerks, county assessors and county treasurers shall keep an office at the county seat of their county which, except as otherwise provided in ~~[subsection 3,]~~ **subsections 3 and 4**, must be kept open on all days except Sundays and nonjudicial days from 9 a.m. to 12 m., and on all days except Sundays, nonjudicial days and Saturdays from 1 p.m. to 5 p.m. for the transaction of public business, but nothing contained in this subsection interferes with a duty now required of a public officer under the election laws of this State. County clerks shall keep their offices open on all election days during the hours when the polls are open for voting but may, with the consent of the district judge of the county, close their offices for all purposes except election business and the issuance of marriage licenses on any day on which the primary or general election is held.

2. Notwithstanding the provisions of subsection 1, the board of county commissioners of any county may, by an order regularly made and entered in the records of its proceedings, designate the days and hours during which the offices of the sheriff, county recorder and county auditor, county clerk, county assessor and county treasurer must be kept open for the transaction of public business. An order so made and entered must require each office to be kept open for not less than 40 hours during each week, and must not prevent the county clerk from closing his or her office for all purposes except election business and the issuance of marriage licenses on primary and general election days as provided in subsection 1.

3. The board of county commissioners may authorize a county officer to rent, equip and operate, at public expense, one or more branch offices in the county. The branch office may be kept open for the transaction of public business on the days and during the hours specified in subsections 1 and 2 or on such days and during such hours as determined by the board. The provisions of this subsection do not preempt any other statutory provisions which require certain duties to be performed at the county seat.

4. *Any county office may deviate from the hours of operation required pursuant to this section if the board of county commissioners ~~[determines that]~~ approves the plan for the deviation ~~[is necessary because of a severe financial emergency.]~~ submitted by the office, except that no such deviation may conflict with the election laws of this State. Such a plan must be fiscally neutral or result in cost savings.*

5. A county officer who violates the provisions of this section is guilty of a misdemeanor, and if an officer mentioned in subsection 1 absents himself or herself from office, except:

- (a) When called away from his or her office by official duties;
- (b) When expressly permitted so to do by the board of county commissioners or a majority of the members thereof in writing; or
- (c) When he or she makes provision to leave his or her office open for the transaction of public business on the days and during the hours prescribed by this section and in charge of a deputy qualified to act in the county officer's absence,

↪ there must be withheld from the county officer's monthly salary that proportion thereof as the number of days of absence bears to the number of days of the month in which the absence occurs. The money must be withheld from payment of salary to the officer for the next succeeding month by order of the board of county commissioners, but such an order must not be made without first giving the officer affected reasonable notice and an opportunity to appear before the board and defend the charge against him or her.

Sec. 4. NRS 252.050 is hereby amended to read as follows:

252.050 1. In counties where, at the preceding general election, the total votes cast for the office of Representative in the Congress of the United States exceeded 2,500, ***except as otherwise provided in subsection 5***, district attorneys shall keep an office at the county seat of their county, which must be kept open at least from 9 a.m. to 12 m. and 1 p.m. to 5 p.m. on all days except Saturdays, Sundays and nonjudicial days. Notwithstanding the provisions of this section, the board of county commissioners of any county may, by an order regularly made and entered in the record of its proceedings, extend the days and hours during which the office of the district attorney must be kept open for the transaction of public business. The board of county commissioners may authorize the district attorney to rent, equip and operate, at public expense, one or more branch offices in the county.

2. In counties in which the county seat is not the principal center of population, the county commissioners may authorize the district attorney to rent, equip and operate, at public expense, a branch office at the county's principal center of population. ~~{The}~~ ***Except as otherwise provided in subsection 5***, the branch office must be kept open for the transaction of public business on the days and during the hours specified in subsection 1, but the requirements thereof do not apply to a district attorney when called away from the branch office by official duties.

3. ~~{Any}~~ ***Except as otherwise provided in subsection 5***, any district attorney violating the provisions of subsection 1 or 2 is guilty of a misdemeanor. If any district attorney is absent from his or her office, except:

- (a) When called away from his or her office by official duties;
- (b) When expressly permitted so to do by the board of county commissioners or a majority of the members thereof in writing; or

(c) When the district attorney first makes provision to leave his or her office open for the transaction of public business on the days and during the hours prescribed in subsection 1 and in charge of a deputy qualified to act in his or her absence,

➡ there must be withheld from his or her monthly salary that proportion thereof as the number of days of the absence bears to the number of days of the month in which the absence occurs. This amount must be withheld from the salary of the district attorney for the next succeeding month by order of the board of county commissioners, ~~but~~ but no order in the premises may be made without first giving the district attorney reasonable notice and an opportunity to appear before the board and defend the charge against him or her.

4. Notwithstanding any other provision of ~~[this section,]~~ **subsection 1, 2 or 3, except as otherwise provided in subsection 5,** the district attorney in each county having a population of 700 or less, regardless of where the district attorney resides or where he or she keeps his or her office, shall:

(a) Attend all meetings, regular or special, of the board of county commissioners.

(b) Spend the hours from 9 a.m. to 5 p.m. of not less than 1 day each week at the county seat, and shall make himself or herself available to the county officers during those hours. The district attorney shall select the day of the week for his or her attendance at the county seat and shall thereafter spend that day each week at the county seat.

5. *Any office of a district attorney may deviate from the hours of operation required pursuant to this section if the board of county commissioners ~~[determines that]~~ approves the plan for the deviation ~~is~~ necessary because of a severe financial emergency. submitted by the office. Such a plan must be fiscally neutral or result in cost savings.*

Sec. 4.5. On or before April 1, 2011, each board of county commissioners that has granted deviations from hours of operation pursuant to this act shall submit to the Director of the Legislative Counsel Bureau for transmittal to the 76th Session of the Nevada Legislature a report evaluating the deviations granted, which must include, without limitation:

1. The number of offices in the county that were granted a deviation; and

2. Any cost savings resulting from the deviations.

Sec. 5. This act becomes effective upon passage and approval ~~H~~ and expires by limitation on June 30, 2011.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 4.

Bill read third time.

Roll call on Senate Bill No. 4:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Senate Bill No. 4 having received a constitutional majority, Madam Speaker declared it passed.

Assemblyman Ocegüera moved that all rules be suspended and that Senate Bill No. 4 be immediately transmitted to the Senate.

Motion carried.

Assembly Bill No. 2.

Bill read third time.

Roll call on Assembly Bill No. 2:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Assembly Bill No. 2 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Assemblyman Ocegüera moved that all rules be suspended and that Assembly Bill No. 2 be immediately transmitted to the Senate.

Motion carried.

Madam Speaker moved that the Assembly recess until 4 p.m.

Motion carried.

Assembly in recess at 1:49 p.m.

ASSEMBLY IN SESSION

At 7:52 p.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Ocegüera moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering issues regarding water rights, any budget bills that are delivered, and other matters.

Motion carried.

IN COMMITTEE OF THE WHOLE

At 7:55 p.m.

Chair Buckley presiding.

Quorum present.

Issues regarding water rights considered.

CHAIR BUCKLEY:

Assemblywoman Kirkpatrick, do you have copies of a measure being distributed?

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. I do have copies on everybody's desks. This is a draft of what the Senate had talked about and also there is an amendment that will be proposed through the testimony. I wanted to make sure that everybody had a chance to look at it.

CHAIR BUCKLEY:

Thank you. Mr. Powers, thank you for appearing before us.

KEVIN POWERS, SENIOR DEPUTY LEGISLATIVE COUNSEL, LEGAL DIVISION, LEGISLATIVE COUNSEL BUREAU:

Thank you, Madam Chair. As you know, we are a nonpartisan bill drafting agency, and we are here to just provide legal advice with regard to the potential consequences and impacts of particular pieces of legislation. We do not urge or oppose any particular piece of legislation.

Ms. Kirkpatrick has handed out a draft of a BDR dealing with some issues relating to the decision of the Nevada Supreme Court recently on January 28, 2010, in the case of *Great Basin Water Network v. State Engineer*. I will refer to that as *Great Basin* or the *Great Basin* case.

To understand the *Great Basin* case, you just need a little background. In 1989, the Water Authority submitted some applications to appropriate water from the rural counties for a pipeline transfer project where the water would be transported to the Las Vegas metropolitan area. At the time, the statute said that the State Engineer had to act on those applications within a year. The State Engineer did not act within a year, nor did the applications fall to any of the exceptions of that one-year period. The applications then were in limbo for roughly 16 years, when the State Engineer then began proceedings on those applications again. At the time, some of the original protestants appeared at the prehearing conference and asked that the State Engineer renote those 1989 applications and reopen the protest period so that those persons who had not had an opportunity to protest currently would have that opportunity, since 16 years had elapsed since those applications were first submitted to the State Engineer. That's the issue that went to the Nevada Supreme Court. They had to decide what the remedy was for the State Engineer's failure to act within that one-year period.

The Supreme Court determined that that issue needed to be remanded to the district court for determination of what the proper remedy was. The Supreme Court provided two options to the district court. The first option was for the district court to void the 1989 applications and require the Water Authority to refile new applications and proceed under the existing statutory framework. The consequence of that would be that the Water Authority would lose the priority of its 1989 filing date, and that would have an impact on the value of its water rights. Option number two: The district court could determine after the hearing to preserve the 1989 filing dates for those applications of the Water Authority but require the Water Authority to renote the applications and reopen the protest period so current individuals who were affected by the application would have an opportunity to have that protest heard by the State Engineer. The case has not gone back to the district court yet. The Water Authority has filed a petition for rehearing, and the Supreme Court will be considering that petition for rehearing. As long as the application is pending before the Supreme Court, the case will not be returned to the district court.

With that background in mind, we turn to the two BDRs that have been discussed this session dealing with this issue. Last night in the Senate, a BDR was introduced that was requested by the Administration. That BDR essentially was choosing a third remedy to offer and that essentially the Legislature, by enacting the bill, would be creating a third statutory remedy that the district court would have to consider and most likely have to follow because it was chosen by statute. In particular, that third remedy would be to preserve the priority of those 1989 applications, but only require a limited renoting and a limited reopening of the protest period. The only persons who would be eligible to file a protest during that limited reopening period would be successors in interest to original protestants or original affected water rights owners, and those would be the individuals who protested in 1989 or whose water rights were affected in 1989. So that legislation was heard in the Senate last night. They did not take a vote on whether or not to proceed with that BDR. The Senate did request that we draft an additional BDR dealing with the issue. Essentially what the Senate asked for—and what you have before you—is to draft a BDR where the statutory remedy would be option number two that the Supreme Court put before the district court. Option number two, again, was preserve the priority of those 1989 applications of the Water Authority, but require a full renoting and a full reopening of that protest period allowing existing people who are affected by these applications to file a protest and have their rights be heard. The remedy doesn't result—the remedy doesn't

produce a result; it just reopens the period for a protest. The State Engineer would still have to make the determination based on the information and evidence presented whether or not to grant or deny those applications.

In addition, this BDR does one other thing. If you look in section two, there was a question that arose that if the State Engineer did not act within the year period but granted the application after that—say within the second year or the third year—what was the status of that application. There was a fear that if the State Engineer was required to act within that year period, as the Supreme Court held, and he did not act, that any action he took on the applications after that year period could be declared void or at least would be subject to uncertainty. So section 2 of this proposed BDR would provide that if you filed your application with the Office of the State Engineer and the State Engineer did not act on the application within that one-year period, but did approve that application thereafter, that that approval is still valid and can't be challenged because of the Supreme Court's decision.

So that is a general overview of the legislation and the history of this issue, and I am certainly open to any questions.

CHAIR BUCKLEY:

Questions of the committee? Assemblyman Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Chair. I guess the one that really strikes out to me is section 1, sub 3, the very last line when it says "but they are not intended to change." Is there not a way we can word that a little stronger, "they cannot change"? I mean, clearly, that's the intent. We don't want to change the priority dates with any of the actions we take, and I guess I get a little bit nervous when I look at the language. It said that it's "not intended to," but to me, that points out it could.

KEVIN POWERS:

Thank you, Madam Chair. As a matter of drafting, I think the result is the same, but if this body prefers that the sentence say "but they do not change, alter, modify, or abrogate the priority of any application" then we could change the "they are not intended" to "do not," and that would, to me, equate to the same result.

ASSEMBLYMAN GOICOECHEA:

Thank you. I would feel a lot more comfortable with that—I don't know about the rest of the body—because technically, that is the meat of what this does—is that we want to really establish that the priority dates can't change. Thank you.

CHAIR BUCKLEY:

Thank you, Mr. Goicoechea. Other questions of the committee? Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. I just want to clarify with Mr. Powers. So section 2—because it's important that people that got their stuff in say 1960, 1950, that they would be protected under this part. Is that correct?

KEVIN POWERS:

Thank you, Madam Chair. That is correct. They would be protected under this part. Again, if the State Engineer failed to act on the application within one year when it was filed but approved it thereafter, this section would ensure that that approval remains valid and cannot be challenged.

ASSEMBLYWOMAN KIRKPATRICK:

May I follow up, Madam Chair?

CHAIR BUCKLEY

Yes.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you. And I think that's important because I don't think anybody—well, at least I don't believe that it's fair to go back and penalize them because the State Engineer's office was behind. Subsection 3, though, I just want to be clear. I know that I passed out a copy of my bill, and it has chicken scratch on it, and I apologize. But I underlined a section, "The provisions of this subsection are intended to require the State Engineer to renotece." Can you just talk a little bit about that sentence and the interested persons so that we're clear on the protest part?

KEVIN POWERS:

Thank you, Madam Chair. Under current statute, when someone first files their application for the water rights appropriation, there is a period in which the State Engineer provides publication—and that's the notice of the application—and also sends out a certified mail notice to certain particular affected property owners. Then there is a period for those interested persons who would be affected by that application to file written protests with the State Engineer, and then after those written protests, the State Engineer would make his determination. Because in 1989 none of that occurred in the first year period, there are many persons who were original protestants then who no longer live in the area, who are no longer affected by these decisions, but there are many new people who live in the area that would be affected by these decisions who weren't original protestants and didn't have that opportunity to file a protest. What this would do is renotece the applications, open up the publication period again, require the additional certified mail notice, and reopen the protest period and allow those current people who would be affected by these decisions to file their written comments with the State Engineer and to therefore protest and object to these particular applications.

ASSEMBLYWOMAN KIRKPATRICK:

And one last thing. Because I think water is a complicated issue and it takes a long time to get it, I just want to make sure we're clear with some of this, so I apologize for that. But those are on applications that haven't already been decided, correct?

KEVIN POWERS:

That is correct.

CHAIR BUCKLEY:

Assemblyman Carpenter.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. In the statutes now, if I want to comment on some of these applications, which "interested persons"—is that in the statute now? Does it define what "interested persons" are? I went to some of those hearings, and it seemed to me like there was a lot of testimony and everything where people wanted to, you know, have it reopened. Is there a definition of what "interested persons" are?

KEVIN POWERS:

Thank you, Madam Chair. The State Engineer, if he has an opportunity to testify, may be able to elaborate on this further. The statute, NRS 533.365, provides that any person interested may, within 30 days after the date of the last publication of the notice of the application, file with the State Engineer a written protest against the granting of the application setting forth with reasonable certainty the grounds of such protest, which must be verified by the affidavit of the protestant or an agent or attorney thereof. So again, the standard is an interested person, and I think the State Engineer could probably give you further elaboration of how he interprets that statute. But I would think you would have to establish some impact that would make you an interested person.

CHAIR BUCKLEY:

Assemblyman Goicoechea.

ASSEMBLYMAN GOICOECHEA:

To the maker of the bill, we've got a second sheet. Are we supposed to be questioning that or is that an amendment that will come later?

CHAIR BUCKLEY:

Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. That is an amendment that I believe is going to be proposed shortly, but I do think that our legal counsel should elaborate on it but probably after we hear from the proponent on what it does.

CHAIR BUCKLEY:

Okay. Assemblyman Anderson.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Chair. In light of my colleague from Elko County's question, if the State Engineer has already made a determination relative to—and held a hearing—we're not giving a group a second opportunity to come back and hold—or requiring the State Engineer to come and renote for a second set of hearings and notifications are we, with this? If that's already done and what we're doing is saying everything you did is okay, he's given a second bite at the apple.

KEVIN POWERS:

Thank you, Madam Chair. I want to refer back to the language in the bill. On page 2 of the BDR draft, subsection 3 sets up the conditions that will cause that subsection to be applicable. An application has to have been filed with the Office of the State Engineer before July 1, 2003. The State Engineer has to have failed to act upon that application within one year after the final date of the filing of the protest, and the State Engineer has to have failed to have approved or rejected the application before July 1, 2003. So if these things exist, then this particular section of the law would apply. And I just want to elaborate a little further on the July 1, 2003, date that is in there. In 2003, the Legislature passed legislation that made changes to the application process and provided that that legislation would apply to pending applications. When the State Engineer failed to rule on the Water Authority's applications in 1989 within the one-year period, the status of those applications became in doubt. Were they still pending? Were they dead? There was no statutory consequence for the State Engineer not acting within the one year, so there was a question as to what the true status or term would apply to those applications. When the Legislature enacted that legislation in 2003 and said it would apply to pending applications, that is one of the issues the Nevada Supreme Court had to determine—whether that term “pending” applied to just those applications that had been filed within that year and therefore were still within the one-year period, or did “pending” mean all applications that had been filed in the past in which the State Engineer did not act on within a year.

In order to determine whether it went back that far, the Supreme Court looked at the legislative history and tried to find the Legislature's intent. As a general rule of statutory construction, statutes are construed to be prospective in operation unless there is a clear and unmistakable intent of legislative desire to make the law retrospective. In this case, the Supreme Court didn't find that clear and unmistakable intent for retrospective application, and therefore they concluded that the 2003 legislation did not apply to those 1989 applications. What this bill will do is clarify the Legislature's intent and say yes, that 2003 legislation was intended to apply to those 1989 applications. But in accordance with what the Supreme Court said in its case, the Legislature by statute is saying the remedy is not to void the applications and lose the priority; the remedy is to preserve the priorities of those 1989 applications, but require renote and a reopening of the protest period. So again, we go back to this language and we establish what type of applications the Legislature is referring to, and that's one that was filed before the effective date of the 2003 legislation, one where the State Engineer failed to act on it within a year, and one in which the State Engineer never approved or rejected it before the effective date of the 2003 legislation, so those are the applications that will be affected by this portion of the BDR.

CHAIR BUCKLEY:

I have not spent any time on Government Affairs or significant time on water issues in my tenure at the Legislature, but let me try to just summarize in four sentences the issues before us and see if you agree or not, so we're all just really clear.

The state water engineer was supposed to process the cases in a year and didn't, so the question becomes when applications are just pending for a very long time, what individuals' rights are. The Supreme Court said, with regard to these cases, that there is no remedy in the statute, so there are two choices that are available to comply with due process of law. One result upon remand would be everybody loses their priority and then if someone else has filed, they get priority. Or two, you keep your priority but you have to renote and let everyone who wants to who is now affected file a protest. The bill that was in the Senate said something else—the original bill pending. It said you would keep your priority, but you didn't have to open up a new protest period, and you could limit the people who could file a protest to the people who had an interest or were related to that interest back when the application was filed. That bill was rejected by the Senate as being too restrictive, because what if you have someone now who has property next to a water rights and wants to have their voice heard. Unless they lived there in 1989, they could not do that. So what this version does is says you keep your priority and you're not hurt by the water engineer's failure to act within the year period, but you have to begin again at that time renoting and allow anyone affected to file a protest. That probably wasn't four sentences, but is that a fair summary of the issue before us?

KEVIN POWERS:

That is correct, Madam Chair, and you did do it in fewer sentences than I did.

CHAIR BUCKLEY:

Assemblyman Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Chair. I've got another question, then. We saw a lot of hype over the last 30 days—or since January 28, I believe is when the Supreme Court ruling came out—and we've heard this number 14,000, 14,500 applications, permits, or certificates that were also jeopardized by this Supreme Court ruling. But what I'm hearing you say is if an action was taken and finalized on that—in your opinion in interpreting the Supreme Court decision or ruling—that those aren't in jeopardy. Is that what I heard you say?

KEVIN POWERS:

Thank you, Madam Chair. That's one of the purposes of the BDR is that section 2 of this BDR would be to ensure that those prior approved applications before July 1, 2003, are not affected by the Supreme Court's decision. The Supreme Court's decision itself does not decide that issue; it leaves it open and remands the issue back to the district court. And what the district court will do one way or the other could have an impact on those applications.

ASSEMBLYMAN GOICOECHEA:

Follow up if I may, Madam Chair. Then you believe that the district court could, in fact, provide an interpretation that would jeopardize those applications, permits, or certificates.

KEVIN POWERS:

Thank you, Madam Chair. That is correct. There is a possibility that the district court's decision could jeopardize holders of existing water rights.

ASSEMBLYMAN GOICOECHEA:

Thank you, sir.

CHAIR BUCKLEY:

Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. But I want to be clear. I understood you to tell me earlier that if we did nothing and the Supreme Court made a decision, we could not go back and change that; is that correct? Or could you elaborate on that?

KEVIN POWERS:

Thank you, Madam Chair. If the Legislature does not enact this legislation, most likely the case will be remanded to the district court to determine the remedy. Once the district court determines the remedy and adjudicates specific rights between specific parties, that adjudication can't be upset by the Legislature by subsequent legislation because those become vested rights adjudicated for those parties. Now, the Supreme Court will probably get an appeal from that district court decision, and then what the Supreme Court decides based on the appeal will become the law of the state with regard to that particular issue. So that would be the consequences. You would essentially be leaving the determination of this issue to the judiciary.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. So I just—in reality, though—I mean, I'm not attorney—but what is the time frame that all of this takes to go through, do you think, our best guess? I mean, could they do it tomorrow or could it take two years?

KEVIN POWERS:

Thank you, Madam Chair. Any court can act as quickly as it wants, so it is certainly possible for the Supreme Court to rule quickly on the petition for a rehearing, and if they remand, then it certainly is possible for the district court to expedite the process and rule quickly. But even at the district court level, the district court has to hold evidentiary hearings, and the parties have to have an opportunity to prepare for those evidentiary hearings, so even if the district court acts quickly, I would think at the district court level would still require several months to decide. Then the possible appeal would follow. If they followed the ordinary appeal route and the Supreme Court didn't expedite the appeal, the appeal process can last anywhere from one to three years; expedited, you could probably do it in under a year because I have been part of cases where the Supreme Court expedited it, and it was decided in less than a year. It all depends on how the Court wants to address the issue and whether it sees a need to expedite, so anywhere from a year to three-year period probably.

CHAIR BUCKLEY:

Assemblyman Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Chair. I am opposed to trying to legislate a remedy to this in face of the Supreme Court decision, so my remarks will be a little bit slanted. But the bottom line here: It would be the perception to me that these attempts—and if we do act and pass on this bill—are somewhat an admission of guilt or at least admission to the Supreme Court that we think there is something wrong with it and we tried to fix it. I have talked to a lot of legal counsels, and most of them—especially those applications, permits, or certificates that have been dealt with from 1947 ahead—did have their due process served on them. I mean, they were advertised, hearings were held in the event of a protest, and ultimately proof of beneficial use was established, and those water rights are in place. Therefore most legal counsel that I've talked to said they're not in jeopardy because clearly, the due process was served on them. I think there are a number that were, i.e., being protested or new applications pre-'03 that probably fall in this litigation, but clearly, I really don't believe it is the 14,000, and by your remarks there, it sounds like maybe we'd be a lot better off taking this up in a regular session when we have a lot more time.

KEVIN POWERS:

Thank you, Madam Chair. As to the first part of your question, in its opinion, the Supreme Court said that in the absence of a statutory remedy, it was remanding the case to the district court to determine the proper remedy. Essentially, the Supreme Court was saying unless the Legislature was to provide a statutory remedy, the district court has to determine what that remedy is. So I believe the Supreme Court left open the possibility for this body to determine a statutory remedy and therefore guide the judiciary in how it resolved that case. This legislation also tried to take into account the two options that the Supreme Court was sending back to the district court. The Supreme Court would not remand the matter to the district court and tell the district court to select between two remedies if either of those remedies violated due process or interfered somehow with the separation of powers. So this legislation, by choosing as the

statutory remedy one of the remedies offered by the Supreme Court, would essentially be performing the function that the Supreme Court was suggesting—providing the statutory remedy—and doing it in a way that comports with due process. I believe that would be my answer to the first part of your question.

The second part of your question as to how many applications the Supreme Court decision may or may not affect—I think the district court decision on remand would factor into that, and there is a difference of opinion on that. I don't think it is clear one way or the other. What will happen, though, is that each of the water rights may be subject to litigation on each of those individual water rights. It won't be done *en masse* like a legislation that creates a statutory remedy and determines the issue; it is going to be decided on a case-by-case basis.

CHAIR BUCKLEY:

Assemblyman Goicoechea, just a comment. I was very skeptical of this legislation as introduced in the Senate. It seemed to be trying to circumvent the court decision, and I've seen over the years, sometimes, legislation introduced to do that, sometimes in a very heavy-handed manner, and that concerned me. I'm also concerned about how little time we have to examine it and all the unintended consequences, but one of the things that began to change my thinking and to consider allowing this hearing to happen was the fact that I don't think it is fair for people to lose their priority because the water engineer didn't do his or her job. That is just wrong. On the other hand, if the application has been pending for 20 years, it doesn't seem fair to not let people currently affected voice their concerns. So the idea of making sure people don't lose their priority, but letting whoever wishes to comment, comment seemed to me to be an approach at least worth considering. And I guess, to be perfectly frank, we'll hear from all the witnesses. If we can't consider this matter thoroughly in three and a half hours and have people feel comfortable, I would suggest another alternative would be to ask the Legislative Commission to form a subcommittee, have hearings, put a fair group together, hear it for a couple weeks, and if there is consensus reached, then request that the Governor call a one-hour special session. I don't think we should rush and make a mistake, but on the other hand, I'm now convinced that allowing people to lose their priority for the water engineer is just a bad precedent and a bad result.

I also think this body needs to thoroughly examine the water engineer's office. We talked yesterday about increasing the fees charged by the water engineer, and that kind of went by the wayside because of concerns with setting fees. But, you know, let's be real here. If we don't support the office by fees and have it function and process applications in time, we have chaos, and that's what we have here. I really commend my colleague, the chair of Government Affairs, and you last session, for the first time setting up fees for the water engineer and had support on the other side. That was a great first step. I think we need to do more of it and staff this office. If this isn't a clear example of what happens when you don't properly fund and watch an office, I don't really know what is.

In any event, I just wanted to share that perspective. I don't know how much time we're going to have between bills, but I think this conversation is great. Let's see where the conversation goes, let's see what the witnesses say, and see where we end up.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Chair. I agree with you. The priority of these applications or permits or certificates has to be maintained. There's no doubt about it. That's why I wanted to make sure that language was as strong as possible. But I would also concur we brought this bill forward at a very late hour on a day when we're all hustling. I do believe that there are a lot of people across this state that would like to comment one way or another, and although my colleagues that sit on the Legislative Commission—I don't want to bode them any ill will—but I would like to see them hear this for a little bit, at least give the public or somebody the opportunity to voice their concerns, and I think it's appropriate. Thank you, Madam Chair.

CHAIR BUCKLEY:

Well, let's do this. Let's see if there are any more legal questions for Kevin, call a couple witnesses. If folks want to discuss it more first, that's fine, too; whatever the pleasure of the body.

Assemblyman Bobzien.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Chair. Kevin, knowing that we're going to be hearing some concerns about the language and different scenarios that are in, that are out, and that there's been some discussion about amending this language a little bit to kind of take care of some of those concerns—you made a comment earlier about the due process test that's in play here and the fact that by recommending the second remand option, we're staying consistent with the imperative to stick with due process. Is there a concern that if we start adjusting this language one way or the other, that we start to drift away from the due process strength of the proposal? In other words, do we start getting into constitutionally suspect territory if we start changing this too much? Could you comment or respond to that?

KEVIN POWERS:

Thank you, Madam Chair. And I do believe that is a legitimate concern. Oftentimes when a supreme court remands a case to a lower court, it remands the case with instructions to determine the proper remedy without specifying what the possible proper remedies are. I think because of the due process concerns and the separation of power concerns that are involved in retroactive legislation, the Supreme Court narrowed it for the district court down to two remedies that would offer the proper due process and would not violate separation of powers, and therefore I do believe that if you move outside of those two remedies, you raise the possibility of making it more constitutionally suspect.

CHAIR BUCKLEY:

Can you say that again? If we choose an option other than the two suggested by the court, that it is constitutionally suspect?

KEVIN POWERS:

I think it just increases the possibility of it being constitutionally suspect. Again, the Supreme Court instructed the district court to choose between two alternative remedies, and each of those alternative remedies most likely complies with due process because I don't think the Supreme Court would have suggested remedies that don't comply with due process. So we know those two remedies most likely comply with due process. Any other remedies you choose outside of those two just increases the uncertainty as to whether you're complying with due process.

CHAIR BUCKLEY:

Okay. Assemblyman Settelmeyer.

ASSEMBLYMAN SETTELMAYER:

Thank you, Madam Speaker. I appreciate all the comments about water rights and the discussion thereof, and as a little bit of a story about how long water rights cases can last, my family had the longest running court battle, which was 58 years, in American history. Also, I will be abstaining from this under Assembly Standing Rule No. 23 for I have water rights that are within this affected area and will not be voting on any bill or amendment on this subject.

CHAIR BUCKLEY:

Thank you, Mr. Settelmeyer. Assemblywoman Spiegel.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Chair. Kevin, I was wondering if you could speak for a minute or two about some of the potential implications, particularly economic implications, of the two options that were put forth in the Supreme Court's decision.

KEVIN POWERS:

Thank you, Madam Chair. Option number one voids the applications filed in 1989 and thereby the Water Authority loses its 1989 priorities. Water rights are a form of personal property, and they have worth based on their priority—first in time, first in right. The earlier your priority is, the more your water right is worth, so there is an impact on the value of those water rights. In addition, if the Water Authority has to file new applications and doesn't have

that priority, they may not be able to get the amount of water they initially thought because all of the other applications filed from 1989 to now would have a higher priority and there will be a less amount of unappropriated water for the Water Authority. So that could have an economic impact because that could reduce the water resources available to the Water Authority and make the water resources available in the Las Vegas metropolitan area less reliable and less predictable, and that could have an impact on construction and development.

The second option in which the 1989 priorities are maintained, you'll remove those issues and require renote and reopening. The burden there would be one on the State Engineer and the Water Authority to absorb the cost of providing new proceedings: notice, hearing, time and effort, and staff resources involved. So there will be an impact there. Keep in mind that that cost in option number two will also be an additional cost in option number one. When you require the Water Authority to file new applications under option number one, you're going to renote and reopen the protest period because you're going to start from scratch. So whether under option number one or option number two, the due process component of notice and opportunity to rehearing will be a fixed cost for both of those options. The only difference is the economic impact from losing the priority of 1989 applications under option number one.

ASSEMBLYWOMAN SPIEGEL:

Madam Chair, may I ask a follow-up?

CHAIR BUCKLEY:

Yes, you can.

ASSEMBLYWOMAN SPIEGEL:

Now, is there also an impact that could be felt based on the time frames that it could take for the district court to make a decision if we fail to take some action?

KEVIN POWERS:

Thank you, Madam Chair. I think the first impact—and it probably will have some economic impact—is the uncertainty. As was discussed earlier, the ultimate legal impact can't be decided until the district court determines the remedy and then that decision gets appealed to the Supreme Court and the Supreme Court determines whether the district court was correct in choosing that remedy. So you do, again, have potentially a one- to three-year period of uncertainty, and so that will create, again, the issue of whether or not the Water Authority will be able to have enough water resources in the future to meet the needs of development in the Las Vegas metropolitan area.

ASSEMBLYWOMAN SPIEGEL:

Okay, thank you.

CHAIR BUCKLEY:

Thank you, Assemblywoman Spiegel. Assemblyman Carpenter.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Chair. Have some people filed some water rights applications after this ruling in order to maybe get an earlier priority than they would have had otherwise? Have there been any situations like that where they've tried to, I guess, take someone's water right by filing an application and getting an earlier priority, do you know?

KEVIN POWERS:

Thank you, Madam Chair. There has been, as I understand it, people rushing to file again, and the reason for that is the uncertainty over what their existing water rights have as a legal status. Again, if the Supreme Court's decision and the remedy chosen by the district court means that any application in which the State Engineer didn't act within a year period is void, then a lot of those priorly approved applications would be void, and in order to secure those water rights again, you'd have to file a new application. So out of prudence and an abundance of caution, I would think many water rights holders would want to file their applications as soon as possible so that if they lose their prior water right, then they're back in the game now with as early a priority as possible.

CHAIR BUCKLEY:

Okay. I really want to get the water engineer up. I'll call Mr. Powers back up after we hear from a couple people unless the budget bill arrives, and then you're getting bumped.

Thank you, Mr. Powers, and don't leave yet unless the Senate calls you.

ALLAN BIAGGI, DIRECTOR, STATE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES:

Good evening, Madam Chairman. My name is Allen Biaggi, and I'm the director of the Nevada Department of Conservation and Natural Resources. With me this evening is Jason King, who is the acting State Engineer. Obviously, this is an Administration bill. I felt it was very important to bring this bill forward because, as we have heard, this has the potential to impact as many as 14,500 applications of water rights, some of those existing and some of those currently active serving water to communities, to agriculture, and to industry in the state of Nevada.

This potential issue that has been brought up by the Supreme Court has been long recognized within the state of Nevada as being a problem. And let me just read to you a summary that then-State Engineer Hugh Richie wrote in 2002 with regard to the Garnet Valley decision. In that ruling he stated, "The 1-year statutory time frame is a statutory relic left from a much simpler time when processing water right applications was considerably different than what is presented to the State Engineer today." The population of the state in 1947 was less than 100,000 people until the 1950s. "Between 1905 and 1950, a little over 13,000 water right applications had been filed, averaging about 288 applications per year. Between 1950 and 1979, about 27,000 water rights applications were filed, averaging about 931 applications per year. Between 1980 and the present"—which this was in 2002—"an additional 28,900 water right applications were filed averaging about 1,313 applications per year." The ruling goes on to state that approximately 25 percent of the active permitted and certificated water rights that exist in Nevada today would be affected if a court were to determine they were void because they had not been acted upon within the one-year statutory time frame. The havoc of such a determination would be unimaginable. I would also like to point out that oftentimes it is not the State Engineer that requests the delay. Very frequently, protestants ask for the delay in order to do studies, in order to do further evaluations of the hydrologic regime. So it's not only the activities of the State Engineer that cause delays; oftentimes it is the protestants as well.

So with that said, last night—even later than tonight—we testified on behalf of this bill, and some grave concerns were brought up. Today we've been working very hard with all of the parties that are involved in this to craft some alternative language. The intent of this language is to address the due process issues that were raised by the Supreme Court associated with an interbasin groundwater transfer. What this language does before you is three important things, and I believe the chairwoman very adequately described them, but let me just go over them one more time. What this bill does is for all applications for interbasin transfers of groundwater that were pending on July 1, 2003, those will have their protest periods reopened. That includes the Southern Nevada Water Authority applications. In addition, this language will require all of those interbasin groundwater transfers that have been permitted but under appeal to also have the protest periods reopened. Finally, this language preserves the status of all water rights that took longer than one year to act upon and are currently active.

There are some potential unintended consequences to this language. We've done some very quick research today, and this has the potential to open some groundwater interbasin transfers in certain areas of the state. That would include Churchill County, Elko County, Nye County, some Aquatrac proposals in Washoe County, Jassick water rights also, I believe, in Washoe County, and some of the Virgin Valley Water applications. With that said, we are supportive of the language. We think it is a reasonable fix for now.

We do have two small modifications to the language you have before you. The first would occur in sub 3 in the first line. We would add the words "for a groundwater interbasin transfer" on the first line so that it would read "Except as otherwise provided in this subsection, each application for a groundwater interbasin transfer described in" and then continuing on with that line. What that language does—

CHAIR BUCKLEY:

I'm sorry. I'm writing a little slow tonight. What was it? "For a groundwater"?

ALAN BIAGGI:

"Interbasin transfer."

CHAIR BUCKLEY:

Thank you.

ALAN BIAGGI:

What that does is it references that this is not for surface water; it is for groundwater only.

Further down on line 4, it states "filing a protest and thereafter did not approve or reject the application." We would suggest that that reads "filing a protest and thereafter did not approve," omit the word "or," "reject," and add the words "or a study was requested" and then continue with that line. What that does is it makes it consistent with other statutory language.

CHAIR BUCKLEY:

Did you say "and thereafter would not approve, reject, or a study was requested"?

ALAN BIAGGI:

Madam Chairman, I'll read the line as amended: "filing a protest and thereafter did not approve, reject, or a study was requested, the application before July 1."

CHAIR BUCKLEY:

I'm sorry; I had trouble hearing you. "Approve, reject,"—

ALAN BIAGGI:

—"or a study was requested."

CHAIR BUCKLEY:

Okay, that's what I thought you said.

ALAN BIAGGI:

Finally, Carl Savely, who is a—

CHAIR BUCKLEY:

Does that make sense to anybody? No. Let's talk about that for a second. "If the State Engineer did not act upon the application within one year after the final date for filing a protest and thereafter did not approve, reject, or a study was requested." "Did not approve, reject, or approve a study to be conducted"? What's your point here?

ALAN BIAGGI:

Madam Chairman, the language, the way you stated it, is the intent.

CHAIR BUCKLEY:

Okay.

ALAN BIAGGI:

So it's a matter of—

CHAIR BUCKLEY:

Wordsmithing.

ALAN BIAGGI:

—elegance of the language, I suppose. I like the way you worded it.

CHAIR BUCKLEY:

Okay, you can keep going.

ALAN BIAGGI:

Finally, there is some language that I believe you have before you which was proposed by Carl Savely, who is a water rights attorney in the state of Nevada. What that would do is that

those groundwater transfers that were permitted after 2003 and that are not under appeal will not be reopened. We believe that is an important consideration. Finally—

CHAIR BUCKLEY:

Can you elaborate on that a little bit more? What's the import of that? So they're already granted or—

JASON KING, ACTING STATE ENGINEER, DIVISION OF WATER RESOURCES, STATE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES:

Madam Chair and members of the Assembly, again, for the record, my name is Jason King, acting State Engineer. What that language is attempting to do is since 2003, there may have been some interbasin groundwater transfers that were pending as of July 1, 2003, but have since been permitted, the idea being that if they have—if those permits are finalized—in other words, if they're no longer under appeal, those specific permits would not be reopened to the protest period.

CHAIR BUCKLEY:

So they've already been granted, but they might have been pending for more than a year? Is that what Mr. Powers was talking about earlier?

JASON KING:

That's correct. They are to exclude those that were pending but have since been permitted but are no longer under appeal. It would preserve the status of those rights whereas, as an example, in the Spring Valley applications that were pending July 1, 2003, we have also permitted those, but those are under appeal, and therefore they would be open to a new protest period.

CHAIR BUCKLEY:

Okay, we have some questions. Assemblyman Horne.

ASSEMBLYMAN HORNE:

He answered it, Madam Chair.

CHAIR BUCKLEY:

Okay, thank you. Assemblyman Mortenson.

ASSEMBLYMAN MORTENSON:

Thank you, Madam Chair. Interbasin transfers versus intrabasin transfers. I keep hearing you talking about interbasin transfers. Are there many intrabasin transfers affected by the judgment of the Court?

ALAN BIAGGI:

Madam Chair, to Assemblyman Mortenson. Assemblyman, as you know, there are 255 groundwater basins within the state of Nevada. An intrabasin transfer would be just the movement of water around with inside that basin. That's what we do in the state of Nevada all the time; that's just movement of groundwater from one part of a basin to another for irrigation purposes, drinking water. The interbasin transfers are from one basin to another, either adjacent basins or from quite some distance away. For surface water and for groundwater, that's sort of been a way of life in the state of Nevada. The very first interbasin transfer occurred in Virginia City, actually from the Lake Tahoe Basin to Virginia City to supply to the—

ASSEMBLYMAN MORTENSON:

Let me interrupt. I understand all that. What I'm asking is are there cases where people have asked—I'll just tell you. Right now, I'm applying for a water transfer. Are transfers within a basin—have they been ignored, and are they part of the contention that the Court has addressed?

ALAN BIAGGI:

Madam Chair, Assemblyman Mortenson. We believe that the Supreme Court ruling, while it was specific to groundwater interbasin transfers, did open the possibility, in the worst case scenario, for all kinds of issues with regards to groundwater and surface water within the state of

Nevada. What our original bill did and what these modifications do is to solidify those existing water rights and state very clearly and succinctly that if they were approved previously by the State Engineer, they are going to be active for the future.

ASSEMBLYMAN MORTENSON:

Then, also, you were talking about pending, but not under appeal, would not be addressed or would be considered defunct, I guess. Will you at least send out letters to people who may not have reappealed but are waiting for action by the State Engineer? I'm sure there are people in that situation. Will they get a notice saying that they're going to be ignored if they are not appealing?

JASON KING:

Madam Chair to Assemblyman Mortenson. If I understand your question, it is specific to those interbasin transfers that were pending July 1, 2003, but have since been acted upon. Is that correct?

ASSEMBLYMAN MORTENSON:

Have not been acted on.

JASON KING:

Have not been acted on?

ASSEMBLYMAN MORTENSON:

The ones that were—yeah, the ones that have not been acted on. As I understood what you said is that if they have not appealed them, then you will not consider them, or you will ignore them. I'm just saying will you at least send letters out to people who have applied, but have not been acted upon by the State Engineer, and tell them that they must appeal if they want action?

JASON KING:

What I believe will occur for those that have not been acted upon is they will be advertised again. That advertisement will be opened up again, and it would be the responsibility of anybody out there looking at the applications. The way I understand the way the bill reads, it will be the responsibility of the protestant to see such an application and file that protest.

ASSEMBLYMAN MORTENSON:

I think a letter would be more appropriate, but that's okay.

CHAIR BUCKLEY:

Did you have more testimony, or did you want me to keep going with questions?

ALAN BIAGGI:

Madam Chair, I just wanted to address Assemblyman Carpenter's question with regard to "interested person" and the scope of that. Assemblyman Carpenter, an "interested person" is very broad in this context. It could be anyone who wishes to file a protest and files the appropriate fees. We have had people from the East Coast file protests, who I'm not sure they even knew where Nevada was, but they have filed, so it's a very broad statutory provision.

That concludes my testimony.

CHAIR BUCKLEY:

Okay. Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. I want to clarify a couple of things. The amendment that everybody has on their desks is the amendment that you were talking about, correct, from the water lawyer, so that that's clear?

ALAN BIAGGI:

That is correct.

ASSEMBLYWOMAN KIRKPATRICK:

And then the other thing is to address Mr. Carpenter's concern. We have talked about that, though, at least the last two sessions in Government Affairs about folks being able to file protests from other parts. In fact, Mr. Goedhart testifies a lot to it in Government Affairs on how it happens, so it's not something that we haven't heard before; it's not an issue that we haven't tried to fix.

So let me ask this: With the proposed draft language of the BDR—because that's all it is, is a proposed draft language—with that you said that there are some affected parties. Does this amendment help that or not? And then I have a couple of questions, if that's okay.

JASON KING:

Ms. Kirkpatrick, yes, the amendment does—I mean, it adds value to the bill because without that amendment, again, those interbasin transfers that have since been permitted and have been finalized, aren't under appeal, would now all of the sudden open them up. So these large interbasin groundwater projects would be in limbo again, whereas, you take those out of the picture, and you're really looking at the ones that have not gone to hearing, we have not acted upon them, so we're still kind of in this pending status, and they would just be reopened again to the public. So yes, there is definitely value added to that amendment.

ASSEMBLYWOMAN KIRKPATRICK:

I'm sorry to belabor this, but contrary to what people believe, water is a very dry situation, but if you don't talk about it and get stuff on the record, it's even more confusing. What I don't want to do is fix one big problem and create five hundred smaller problems. The one thing I've learned in Government Affairs is the northern Nevada water system is very, very unique. The Truckee River has its own little issues, then we have the stuff that we've been working on for years, the local agreement. I just want to make sure we talk about that because if we fix the bigger issue, did we hurt the rest of the state by trying to do that? If you could elaborate a little bit on that, I think it is a very important piece to this puzzle.

ALAN BIAGGI:

Once again, Allen Biaggi, for the record. Madam Chair, to the Assemblywoman. You are correct. This is a trade-off. There are some unintended consequences to some projects, not only in northern Nevada, but really statewide. I had mentioned the Virgin Valley Water District, which is obviously in southern Nevada. The tradeoff that I think we're making here is in my mind, we're preserving the integrity of the 14,500 water rights that we feel may be in jeopardy in the worst case scenario. We are opening up the hearing process for the Southern Nevada Water Authority, which addresses the due process issues from the Supreme Court. We have taken out many of the issues with regard to the Truckee River by adding the groundwater—the modifications that I referenced, which we wouldn't want to ever open up the Truckee River Operating Agreement. But there are these other projects that are going to be impacted, and their protest periods are going to be opened. I'm sure that the proponents of those projects are not particularly happy about this.

ASSEMBLYWOMAN KIRKPATRICK:

Can I—

CHAIR BUCKLEY:

Who are they? What are they?

ALAN BIAGGI:

Madam Chairman, we just did a very quick database search this afternoon, and as I had indicated, there is one located in Churchill County in Dixie Valley; some in Elko County; some in Nye County; the Aquatrac proposal, some of their applications in Washoe County; the Jassick—and I believe those are Washoe and Pershing or just Washoe?

JASON KING:

Washoe.

ALAN BIAGGI:

Just Washoe. And the Virgin Valley Water District. There may be more, but those were the ones that we identified in a quick database query.

CHAIR BUCKLEY:

And did you notify them that you were working on this amendment to give them an opportunity to come here tonight?

ALAN BIAGGI:

To the extent that some of these parties were in the building today, we did, but we have not been able to notify all of those parties.

CHAIR BUCKLEY:

And how would they be affected?

JASON KING:

Madam Chair, again Jason King for the record. Again, they are holders of applications that are pending before us. We have not permitted them. What would happen is even though they've already been through the protest period and they may have had ten protestants to their application or no protestants, we would now be opening up that protest period again, and any number of new protestants could now file their protests and get involved in their application.

CHAIR BUCKLEY:

Because their applications have been pending for more than a year, so it applies to them, so they have to reopen? I'm sorry; I'm just trying to understand this. Marilyn Kirkpatrick will explain it.

ASSEMBLYWOMAN KIRKPATRICK:

I'm sorry, Madam Chair.

CHAIR BUCKLEY:

That's okay. I could tell you knew.

ASSEMBLYWOMAN KIRKPATRICK:

I don't want to speak for the water engineer, because I'm far from one. But my understanding is because some of these projects were permitted after the 2003—and this language here specifically talks about the ones that were before 2003. There are some projects that have been moving forward, and in Government Affairs we have learned about it. Each session we've seen the progress on some of them, so we don't want to penalize someone who in 2005 was going through all of the process, but they're not quite there yet. But then how do you balance the two? There are some that are under appeals and should be, so I'm not sure, you know, what the language is for this. I was going to ask if they thought the Legislative Commission idea was a good idea. I get that it needs to be fixed, but I'm not sure how we fix it in two hours, and the Senate still has to even introduce it.

ALAN BIAGGI:

You wanted a—

CHAIR BUCKLEY:

That's to you.

ALAN BIAGGI:

Okay, thank you. Once again, Allen Biaggi for record. I think that idea does have merit. I'm not sure we're going to see a resolution of this issue in this special session, but I think the faster that we can come to a resolution one way or another is in everyone's best interest, so when that idea was proposed, I thought, yeah, that's something we would participate in and work very hard to reach a solution and compromise with all of the parties.

CHAIR BUCKLEY:

Assemblyman Bobzien.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Chair. Following along with your comments and the comments of my colleague from North Las Vegas, this started off as being portrayed in the press as an issue obviously related to southern Nevada and the Southern Nevada Water Authority, and yet this afternoon and this evening, it's turned into an issue that is very northern Nevada-specific and specific to Washoe County and my district and the districts of my colleagues up here. You know, we're hearing about the possible unintended consequences for the Truckee River Operating Agreement, Honey Lake—making sure that that's not part of this. But then we're also hearing, you just mentioned, your quick database search of Aquatrac and some of the other pending applications. When I heard "quick database search," I immediately thought, "Well, what else is out there?" Could you comment as to where you are in your certainty right now that there may be other issues out there that we need to think of? I would hate to see any of these projects, these applications, put into jeopardy, because that has a direct result on what's going on, the rates that my constituents pay for their water. I'm finding myself—even though this is a state issue with state importance statewide—right now I'm thinking about my folks from my district that might be directly impacted if we do this the wrong way.

ALAN BIAGGI:

You are exactly correct. You know, it has implications not only to northern Nevada, but implications to all of the state, as does the Supreme Court's ruling putting into potential jeopardy the 14,500 applications that I referenced. So there's not a good decision here, or an easy decision, without implication or without ramifications. We were only able to do, as I said, a very quick database search, so there could very well be other projects out there that we have yet to identify, and I think that that's probably very likely.

ASSEMBLYMAN BOBZIEN:

Madam Chair, if I might. Thank you, Allen, for your frankness, and I do concur that we do have to pay attention and we may very well likely have to do something. I just think that we have to—there's a balance there. We have to figure it out, and we're going to have to really do some exploration to make sure that we're doing it right.

CHAIR BUCKLEY:

Thank you Assemblyman Bobzien. Assemblyman Segerblom.

ASSEMBLYMAN SEGERBLOM:

Thank you, Madam Chair. You indicated the attorney had written this amendment—Carl? Was it a Carl someone who had written the amendment?

ALAN BIAGGI:

That's correct, Carl Savely; he's a water rights attorney here in northern Nevada.

ASSEMBLYMAN SEGERBLOM:

Does he have a client he is representing or was that just—he did this out of the kindness of his heart?

ALAN BIAGGI:

I was provided this amendment by Michael Hillerby, and since I was coming down to do it, I told Michael I would present this. I can say that we feel—and I think the individuals that have been working on this language over the last few hours feel—that it's a good amendment, and as Mr. King said, adds value.

CHAIR BUCKLEY:

And Mike Hillerby is here from Wingfield Nevada, Coyote Springs, and would be happy, I'm sure, to comment when we're through here.

ASSEMBLYWOMAN KIRKPATRICK:

Madam Chair, I'd like to clear a few things. I asked for that. I spoke to the water lawyer myself today. I don't know who he is representing because I asked not to have that part of the discussion. I have been talking with him as well as one from Arizona and one from Utah this

week. It's me who asked for it, but quite frankly, it is pretty hard to find any attorneys on Sunday afternoon, and especially since the hockey Olympics was on, so I was really struggling. I just want to take the blame for reaching out and asking him for his thoughts—and that's all I did was ask for his thoughts. Mr. Hillerby, unfortunately, got in the middle of it, but I'm the one who did all the asking.

CHAIR BUCKLEY:

And just for the record, there are some attorneys that work on Sunday. Assemblyman Arberry.

ASSEMBLYMAN ARBERRY:

Thank you, Madam Chair. The question I have for you—this is the part that I do not like about a special session. This is like taking a cake, and everyone is throwing in their mixes and their spices at the last minute. What would have happened if we didn't have a special session? What would you gentlemen be doing if we didn't have a special session?

ALAN BIAGGI:

Assemblyman Arberry, that's a very good question. It was asked of me in the Senate last night. Again, I feel very strongly that this issue has significant implications to water within the state of Nevada. It would have been my recommendation to the Governor to call a special session. We've heard today that that still may be an option. Now whether he would have felt that this was a strong enough issue to call all of you back, I don't know, but that would have been my recommendation to him because of the implications.

CHAIR BUCKLEY:

Assemblywoman Leslie.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Chair. Following up on Mr. Arberry's comment, you would have worked out some language before we came to a special session. I assume you would have held hearings and notified all the interested parties, right?

ALAN BIAGGI:

Assemblywoman Leslie, yes, I think if we'd have had more time, we certainly would have worked on this in a more consensus-based fashion and with all of the affected parties. Unfortunately, the timing of this situation really didn't allow that.

ASSEMBLYWOMAN LESLIE:

Okay. And my question is—back to all those cases in Washoe County, I'm thinking of Honey Lake particularly because you remember how controversial that was in Washoe County. So if we did change this in the next few hours and all those people—we know at least those cases would be affected—wouldn't we be taking away their due process rights to at least testify before us and let us know what opening up those protest periods would mean for their projects? That makes me very uncomfortable knowing that this would affect them and not having them have the opportunity to be heard.

ALAN BIAGGI:

Assemblywoman Leslie, that's a valid perspective. I would like to point out that the amendments that I think we've provided exempts out, or allows the Honey Lake Valley ruling to stand. But I think you make a good point that they are not here—or the protestants are not here to speak their position.

CHAIR BUCKLEY:

And I would note that Mr. Biaggi shared this idea with the Governor's office prior to the special session, which sent the language to Ms. Kirkpatrick. There has been dialogue, but I think part of the problem is we're focusing on the budget, so all of us have been working many, many hours a day, but only on the budget. And because the ruling just came down, it didn't really allow the opportunity for the water engineer to do open hearings. But you know, I'm kind of leaning towards the fact that we're not going to have enough time to do this. So we have

four more members with questions. I guess it will still help to get more of this on the record, to get us more up to speed so we're more prepared for the proper resolution. And the budget bill is not here yet, right, Ms. Smith, but it's coming? Okay, we're supposed to get an estimated time of arrival pretty soon. So let's go through the rest of the questions for these witnesses and then we'll see where we are and see if we want to keep taking testimony, or if people want to talk about how we should handle this, okay?

Assemblyman Carpenter.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Chairman. In regard to your database search, what did you find in Elko?

JASON KING:

Thank you, Madam Chair, to Assemblyman Carpenter. What we found is some time ago, Elko County had filed—I can't give you the exact number of applications—but just for municipal development within the county, and they were to move water from one basin to another basin, but just in support of future economic growth in the county. I would say that that's the same instance for Nye County; they did the same kind of thing. In other words, just try to go in and file applications and plan for the future in the county, so that's what those applications are based upon.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Chairman. I kind of remember that, and I think they're kind of important to Elko County, so they'd probably want to be involved in any conversations. Thank you.

CHAIR BUCKLEY:

Assemblywoman Spiegel.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Chair. Mr. Biaggi, just a quick question. If we took the language that you proposed to amend in, in section 1, subsection 3, line 1 that limited the BDR to apply only to groundwater interbasin transfers, would the rest of the water rights issue, then, from the Supreme Court's decision, then be remanded to district court for adjudication?

ALAN BIAGGI:

Assemblywoman Spiegel, once again, Allen Biaggi for the record. What the amended language does is it references only the protest periods for groundwater interbasin transfers, so everything else—the surface water and other non-interbasin transfers—would be active and valid. It just makes a reference to this section—that it applies only to those groundwater interbasin transfers.

ASSEMBLYWOMAN SPIEGEL:

To follow up, didn't the Supreme Court decision, though, apply to all water rights, or was it only applying to groundwater interbasin transfers?

ALAN BIAGGI:

Very good question. The Supreme Court's decision actually only spoke directly to the protestant period; that's really the basis of the decision. But the implication of the decision is it opens it up to all water rights, whether they are surface water, groundwater, interbasin, or intrabasin.

ASSEMBLYWOMAN SPIEGEL:

So then if we took legislative action only on the groundwater interbasin transfer, then what would happen with the questions that would still remain for all of the remaining water rights?

ALAN BIAGGI:

Let me answer that by saying what would happen if this amendment were not put in, and that is that it would bring in potential surface water interbasin transfers such as the Truckee River Operating Agreement or other projects. So it is important that we narrow and define what the

protestant period applies to, and so what we did here is add it for groundwater interbasin transfers.

ASSEMBLYWOMAN SPIEGEL:

Okay, thank you.

Chair Buckley announced if there were no objections, the Committee of the Whole would recess subject to the call of the Chair.

Committee of the Whole in recess at 9:11 p.m.

COMMITTEE OF THE WHOLE IN SESSION

At 9:12 p.m.

Vice Chair Anderson presiding.

Quorum present.

Issues concerning water rights considered.

VICE CHAIR ANDERSON:

Mr. Stewart.

ASSEMBLYMAN STEWART:

Thank you, Mr. Chairman. Sometime in the far distant future—certainly not tonight when we take this matter up again, of water—would it be prudent to extend the year period to two or three years since we seem to be having a hard time getting things done in that year period?

JASON KING:

Thank you, Mr. Chairman, to Assemblyman Stewart. I apologize—Jason King for the record. Actually, one of the 2003 amendments to this specific section of the statute did say that anything filed after 2003 that was not acted upon within one year remains pending before the State Engineer, so that 2003 language takes care of that issue.

VICE CHAIR ANDERSON:

Mr. Horne.

ASSEMBLYMAN HORNE:

Thank you, Mr. Speaker Pro Tem. I'm curious—and this is aligned on some of the questions that have been asked by the Assemblywoman from Henderson and others. New names have come out like Honey Lake, and I'm sure there are some others that I haven't heard of before, but it begs the question that—I understand you're talking about narrowing it. But any actions that we take on narrowing it, then there are others that may be seeking remedies, through that Supreme Court action or not, will be left out. It seems to me there are a lot more parties or applications at risk that are not on the surface, so to speak, that aren't here today and haven't been here all week, and may not even know that this is being debated during the special session.

ALAN BIAGGI:

For the record, Allen Biaggi. Assemblyman Horne, you are exactly right. There is no doubt you are correct in what you're saying—that there are parties out there who may be affected that have not been identified and did not have an opportunity to participate.

VICE CHAIR ANDERSON:

Mr. Grady.

ASSEMBLYMAN GRADY:

Thank you, Mr. Speaker Pro Tem. For either Allen or Jason, would the new legislation have any effect on the ongoing discussions and legislation on inventories for over-appropriated basins or possibly over-appropriated basins, and will you have time in a year's period to even address the inventory questions?

VICE CHAIR ANDERSON:

I'm sure he's addressing you, Mr. Biaggi, unless you want to pass it off.

JASON KING:

Jason King for the record. Only from the standpoint that, depending on what the decision that's either rendered from the district court or through a passage of this bill, has on our office in terms of manpower. Obviously, if all of a sudden we have a thousand hearings thrown at us, then that certainly will impact what other work we can get done throughout the state, so it clearly is dependent on what the outcome of that Supreme Court decision is.

VICE CHAIR ANDERSON:

Ms. Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Mr. Chairman. So this question, Jason. How long do you think that it would take to do these hearings, do them properly? If the Legislative Commission met in the next couple of weeks?

What do you think the time frame would be, being that we're north and south trying to make sure that we have plenty of testimony. I know water, couple of hours for sure each time, if not five or six. Would we have to go two weeks, three weeks? How many meetings? Kind of an idea of what it would take to do this and resolve it quickly, because I think that everybody wants to resolve it, but I'm just not sure we can do it tonight. I think it has to be fixed, and I know I've committed to start hearing water on the third day of the next session, but we've got to do something in between. What do you think it would take in reality?

ALAN BIAGGI:

Mr. Chair, Assemblywoman Kirkpatrick. So that I understand the question, I think you're asking if we were not to take this action tonight and we were to open up a dialogue—

VICE CHAIR ANDERSON:

Mr. Biaggi, I need you to identify yourself. We have two gentlemen speaking, and the secretary needs to keep that clear.

ALAN BIAGGI:

Yes, I'm sorry, Mr. Chairman. Allen Biaggi, for the record. I think your question is if we were to open that dialogue and try to craft some language for introduction in the regular session in 2011, how long would it take us to get a crafting of that language? I think that's a really hard thing to come up with at this point, but it's not going to be an easy process or a quick process. There are going to be a lot of parties involved and a lot of attorneys involved. I would say it will take a couple of months.

ASSEMBLYWOMAN KIRKPATRICK:

Mr. Chairman, may I follow up?

VICE CHAIR ANDERSON:

Mrs. Kirkpatrick for a follow-up.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you. So let's hypothetically say if we started—I would say March, but I think that's tomorrow—if we started April 1—and what I'm trying to understand, though, is what would be a plan? Would it be two meetings of eight hours a week for five weeks, or would it be one eight-hour meeting? Because realistically, people have got to know how many hours it is going to take and what you perceive. And I understand I'm putting you on the spot here, but quite frankly, we made a lot of headway when we could all actually start talking about this together in three hours. So I know we could move—I don't want to move at a turtle's pace, and I'm not sure that we can wait until February of 2011 to do this. Are we looking by the summer we could have it done?

ALAN BIAGGI:

Once again, Allen Biaggi, for the record. Assemblywoman, the concept was just brought up probably less than an hour ago, and I haven't really had a chance to think it through. I would hope that we could get it done very quickly. If it's going to be an Executive Branch bill, I think our deadline for BDR submission is usually in April, or certainly by the first of May. That's a very quick timeline to try and get something done, but at the same time, I think it takes a deadline like that in order to get everybody working together and to put their noses to the grindstone and to craft the language.

ASSEMBLYWOMAN KIRKPATRICK:

But I guess I'm—and I'm tired, so maybe I'm not making myself clear. If we did as the Speaker suggested—maybe we started working on stuff now and if we saw that it was impacting and we called for a special session, a one-day special session, what would be the time frame? Because I think it's too late to wait until 2011. I get the whole BDR thing, but I'm thinking we're trying to fix it sooner, and I think there are a lot of people in this building that want to hear that we want to fix it sooner. So if we went that direction—humor me, pick a month. I could pick one. I could tell you how fast we could do it.

ALAN BIAGGI:

Once again, Allen Biaggi. Assemblywoman, I really can't answer that at this time. I'd really like a few hours at least to think about it, discuss it with Mr. King, and come up with some time frames in my head. I really haven't had time to think it through at this point.

VICE CHAIR ANDERSON:

Mr. Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Thank you, Mr. Vice Chair. Jason, Allen—I guess as I'm looking at this, I'm thinking realistically—

VICE CHAIR ANDERSON:

If you would call them by their last names, sir, if you would, Mr. Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Yes, I'm sorry, Mr. Chair. I can't remember their last names, how's that? Mr. King and Mr. Biaggi, given that we're looking at a time frame and some legislative hearings—and I do agree with that. I think realistically we could craft and work on some language that would make it a lot easier in the next session. But I think realistically, and I'm just going to question you, we're not going to see the reconsideration by the Supreme Court, especially given the extension requested by Southern Nevada Water Authority and/or a decision by the district court in that remand, before we get into the next session. Do you agree, professionally?

JASON KING:

Thank you, Mr. Chairman, to Mr. Goicoechea. I'm sorry, Jason King, for the record. Mr. Goicoechea, I think it is possible. The Supreme Court tomorrow could say—could deny the motion for reconsideration, could go directly to the district court. Could the district court respond before next session? I think it's possible, but you're correct. A 30-day extension has been requested to file a motion for reconsideration with the Supreme Court. If they accept that, then that motion will be filed 30 days into the future. Then again, they can look at that and take as long as they want or as short as they want. I guess the short answer is we could possibly get a decision before the session, but we may not.

ASSEMBLYMAN GOICOECHEA:

A follow-up if I may, Mr. Chair. Well, I think realistically the courts probably aren't in any bigger hurry than we are to take this issue up. So as long as we can keep passing it back and forth—I think if they think that the Legislative Commission is going to deal with this and we are looking at coming up with some good language, well thought out language, I do believe that the courts probably won't hurry their process along either. Thank you.

VICE CHAIR ANDERSON:

Thank you. Other questions for Mr. King or Mr. Biaggi? I agree, Mr. Goicoechea. It's hard to keep—I'm so used to calling them by their first names, it's hard to imagine otherwise. Thank you, gentlemen. Thank you very much.

KYLE DAVIS, POLICY AND POLITICAL DIRECTOR, NEVADA CONSERVATION LEAGUE:

Thank you, Mr. Chair and members of the Committee of the Whole. For the record, Kyle Davis, Policy and Political Director, Nevada Conservation League. Also, today, I'm somewhat pinch-hitting for the Great Basin Water Network as their representatives are far away in a meeting and could not make it here, so I'm trying to represent their views the best that I can.

Just to be clear, I know that there was a hearing on this issue last night in the Senate. In the Senate, I did testify to the fact that I felt that it was the most appropriate course of action to let the Court make its decision. I think that that's—we've heard the testimony that there are significant constitutional issues that come up, so that was my feeling in the Senate last night. I have been a part of the discussions today—we're talking about the BDR that you have in front of you. There has been significant progress on negotiations in terms of language that may work, language that may not work, and that's ongoing at this time. I feel like we are somewhat close, but there are still some things that need to be hammered out.

Just for the record, our role in this, and the reason that we have an interest in this, is because the Great Basin Water Network took this case to court because they wanted to preserve the rights of the people to be a part of this process. When the application affects them, they felt that they needed to have those rights, and essentially, as it stands right now, the Supreme Court has ruled that they essentially would be able to get in based upon the two remedies that are provided by the Court. So it's our interest to preserve that. It is our interest to preserve the ground that was gained through the Court. We feel that these members of the Great Basin Water Network did act under the law fairly, used the system fairly, and that they ought to be able to have the remedies that have been afforded to them by this court decision. To the extent that we can reach language that will allow for them to be a part of the process and will allow for them to have the same rights that they would have been given under each of the remedies provided by the Supreme Court, I think we may be able to find some agreement. I share some of the concerns that have been brought up by the body, but I am committed to working with all parties to see if we can reach a resolution that will be able to help—I mean, that will make all parties happy at the end of all of this.

Thank you all. If you have any questions.

Chairman Anderson announced if there were no objections, the Committee of the Whole would recess subject to the call of the Chair.

Committee of the Whole in recess at 9:27 p.m.

COMMITTEE OF THE WHOLE IN SESSION

At 9:28 p.m.

Chair Buckley presiding.

Quorum present.

Issues concerning water rights considered.

CHAIR BUCKLEY:

Assemblywoman Leslie.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Chair. Do you think that resolution can happen in the next two and a half hours? And I'm not being facetious, but really, can that happen?

KYLE DAVIS:

Thank you, Mr. Chairman. Again, Kyle Davis, for the record. To Assemblywoman Leslie, I don't know. I feel like we are close. It is possible that it could happen. I know we obviously

have to get a bill redrafted, and we have to take a look at the language and make sure that it works. I am certainly committed to trying to make that happen, but I don't know.

CHAIR BUCKLEY:

Assemblyman Horne.

ASSEMBLYMAN HORNE:

Thank you, Madam Chair. This is just a thought. It just seems to me that we're trying, contorting ourselves really hard to try to get something passed. But it seems like when any legislative body, whether it is local, state, federal, tries to ram and jam something through really quickly, it turns out really bad. And water in Nevada seems to be something a little more important than that; it's not something that we would want to ram and jam and make it really bad because it's too important. And I understand people believe that we need to act now or a lot of bad things are going to happen, but I think that if we don't do it right, believe it or not, I think it could be worse. We've heard people talk about unintended consequences. I appreciate all the testimony and everything today, but I have pause.

CHAIR BUCKLEY:

Well, I'm going to let representatives from the Water Authority and the Las Vegas Chamber of Commerce get in some testimony here.

I would be inclined to perhaps suggest that we take a motion and make some statements on the record along the lines that we recognize that this is an urgent Nevada issue, that there appears insufficient time to ensure adequate notice to individuals to testify, that we are committed to examining this issue and making statutory changes and adopting a remedy that is fair and equitable to all concerned, that there is a sense of the Assembly as a body that we want the priority for the applicants preserved, retroactively applied, and that we're still concerned about the remedy and the fairness and the treatment of applications that have been pending for quite some time and adequate notice while at the same time not adversely affecting those from northern Nevada that we heard tonight, and perhaps crafting it a little bit more eloquently than that but to make that type of a motion. Maybe I'll have the chair of Government Affairs draft something up and everybody could look at it, and then I could put that on the record. We could enter it into the journal. We could suggest that the Legislative Commission appoint a special committee to examine it, to have hearings, to suggest language, and that it be readdressed in a subsequent special session if the Commission felt that it rose to the level of urgency and needed to be addressed, something along that line. What are people's feelings about that?

Well, let's hear the testimony from the Water Authority and the Chamber of Commerce. Our bill still isn't here, is it Assemblywoman Smith? Five minutes, they said, and it's being copied. Good news.

We would appreciate and welcome your succinct testimony. You may proceed.

SAM McMULLEN, REPRESENTING LAS VEGAS CHAMBER OF COMMERCE:

Madam Speaker, Chairman of the Committee of the Whole, and members of the Committee of the Whole, my name is Sam McMullen. I'm here tonight representing the Las Vegas Chamber of Commerce. I will be short.

This is a critical issue for the Chamber for a number of reasons, not the least of which is that the Supreme Court case affects a lot of water rights, adjudicated and otherwise, and so consequently we think that there is, at this moment, a lot of turmoil. What's being asked for of you tonight is not any change but actually something that would keep the status quo. I will say that is if, in fact, you choose to go forward with a bill, which we would hope and we would recommend and strongly encourage. On the other hand, if the only acceptable alternative is something like the Speaker just suggested, as long as that was done in an incredibly timely fashion—which I think would probably mean a month and I'll tell you why as we go through this—I think that would be the best because we need this resolved very quickly.

Let me just see if I can say—I'll let you ask me questions, but I'm going to do it very quickly because I know you've got other things to move to when they come in the door. Right now, every development or every bond or every financing aspect of many of the things that are involved in southern Nevada are dependent upon a water resource plan that says that there will

be availability of water. It is generally, usually a bond requirement. And the way that the Supreme Court decision sits right now, it actually is throwing that water resource plan into limbo in the sense that it is based on things that they thought were approved and now may not be.

First and foremost, you need to understand, as it has been discussed here today, that the water rights—but not only of the Las Vegas Southern Nevada Water Authority but the water rights of a lot of people who have adjudicated water rights and have turned those over to your utilities in the state—those are up in the air and could actually be subject to challenge if, in fact, the law of the case in the Supreme Court case, that all permits that were issued after one year after the filing period for protest had closed. So basically what that means is that any adjudicated water right that took longer than that theoretically right now is no longer valid; someone else could file on it, and we could have a problem. So the water resource plan actually is the reason why a lot of banks, lenders, bond companies do actually grant money. It sounds funny, but it's actually very much a case, and we right now are expecting Pat Mulroy of the Water Authority to have to answer these exact questions in front of an editorial board put together by the *Wall Street Journal* about what this decision means for water, growth, development, and the future of Las Vegas. So frankly, what we're worried about is having an answer to this currently today.

Let me tell you also that the—everybody that you're talking about who has either a water right or an interest in a water right—they're all up in the air; they're all affected by the Supreme Court case. What in fact we are suggesting you would do would be to limit that, and I think the easiest way to say it is the right that you had relating to water or protests on January 27 of this year would be after you pass this legislation would be exactly the same right that you have going forward. And that, particularly in the case of interbasin transfers, as you heard Mr. Biaggi suggest, would mean that any of the—actually, it's better for the protestants in those cases that are still pending, because what it does is it clearly resolves the Supreme Court question of whether those people could get notice and could get an opportunity to protest. So consequently, the language in front of you does that. I would say they are already involved. You ought to please understand that a rancher in any county in Nevada who had a water right that was granted after it had been filed for a year could now have that water right thrown up in the air and someone else could file on that water right today. Or worst case, there could be applications stacked on top of that initial application which granted the rancher those water rights, or the business those water rights and under the Supreme Court's ruling, it would say that only the applications that have been filed in the last year are effective. Consequently, we would move in Nevada to a last-in-time situation, not a first-in-time, for an application for the use of water, so I think you really need to fix this.

I will say that we passed out some documents that sort of validate this, and in the interests of time, I'm going to have you read them. In there is a letter from an underwriting specialist who basically does this, and he has given his opinion. We've also included his résumé, so you know it's not my brother-in-law. It is actually someone with some expertise who has talked about the effect on our growth, our development, and our continued economy. And if all of us, as we all know, need revenue, the last thing we want to do is put any obstacle in front of the redevelopment or the revitalization of our economy and its regeneration or getting the construction and other job issues up and running as fast as possible. So this is clearly a bar to that.

I would like to indicate, though, that if you do make a motion, I think you should add two things to it. One is that you specifically request that the Supreme Court defer any action until you've had a chance to clarify legislative intent, and as this legislation would try to do, the effective statutory remedy. And second of all, that the water engineer put the applications that are filed—because there have already been 228 filed since this case was decided—and you put those in a category separate and apart so that if you had to unwind those applications, to the extent that they wouldn't be effective applications, you know exactly which ones those are and what the effect because our hope would be that the action here would be to put, as I said, the status quo together and no changes.

I also did one other thing—and it's only my mock-up so it would not be perfect and it certainly wouldn't be what your bill drafters would do—but there is a hole under the proposal that is in front of you as it relates to applications that were filed before 2003 that took more than one year to act on and yet were acted on after 2003. So the questions that Assemblywoman

Spiegel and Assemblyman Mortenson asked are very cogent questions because there is a big hole in terms of applications that were filed prior to 2003 but ended up being acted on after 2003, and you want something similar to section 2 at the bottom of your BDR that you're looking at, 48-46. You want something similar to that to be incorporated into this bill to cover those cases filed pre-2003 and the new law—new amendment, excuse me, in 2003 that allowed it to last longer than a year if it took a year. And second of all, that they might have been acted upon with final action by the State Engineer after 2003, so that needs to be addressed in the language that you have in front of you. Remember, when you're clarifying legislative intent, which is what you're being asked to do, that this had a full hearing in the Assembly—this issue of a year or longer had a full hearing in the Assembly in 2003 and a full hearing in front of the Senate in 2003. So to the extent that you're worried about parties that aren't here today, first of all, from 2003 on, the law has been very clear, but up until that point—and it was opposed, there was a lot of interaction, there was a lot of legislative process in hearings and discussion that led to the law that you adopted in 2003—you actually put in the bottom of that law a transition section that said it wasn't supposed to apply to pending. Pending was something that the Supreme Court took up—

CHAIR BUCKLEY:

Sam, I'm sorry, I'm going to have to stop you there because our bill has arrived, and I need to give members an opportunity to read through it because that needs to be done. So I'm going to let Mr. Guild have two minutes, and then I'm going to have to wrap up.

JOE GUILD, REPRESENTING SOUTHERN NEVADA WATER AUTHORITY:

Thank you, Madam Chair, Madam Speaker of the House, and the Committee of the Whole for allowing us some time to talk to you about this. I appreciate that very much. My name is Joe Guild. I'm an attorney in Reno, Nevada, representing the Southern Nevada Water Authority. I won't repeat what Mr. McMullen said, but I want to reemphasize that the Supreme Court decision that's been discussed here tonight in so much detail did create a hole in the Southern Nevada Water Authority's resource plan, and that hole in that plan, as Mr. McMullen said, has thrown into doubt the reliability and the sustainability of the southern Nevada water supply on into the future such that financial institutions, bonding companies, potential projects that are contemplated and the people contemplating proposing those projects are asking questions about the reliability of that water supply. This is a very critical thing because we're looking at the possibility, I think, of jobs being lost or not created in southern Nevada and all of the other ramifications that flow from that. With this legislation, we believe that you can solve that, and we would urge you to do that tonight, and particularly the last sentence of the highlighted paragraph on page 2 of the proposed legislation; subsection 3 of section 1 of the proposed bill is the most important thing. This is the retroactivity and retrospectively language that preserves the priority of any existing applications. And then the amendment that was offered up to add to that we would agree to. And just to finally—and we do think that that retroactivity is key to preserving that resource plan and letting lenders understand that we do have a reliable and sustainable supply of water for southern Nevada.

Last point: This would greatly expand the obligation that the Southern Nevada Water Authority has going forward to make sure that due process rights are preserved. And you've read the language so you understand and you heard Mr. Powers talk about that. I just want you to know that it is our position that we believe that the due process implications of this proposed legislation are good and proper and necessary, and whether the fact that they're expanded as to the requirements imposed upon the Southern Nevada Water Authority, we're more than willing to take those obligations on. Those affected parties, as the Speaker said earlier, and successors in interest who do have an affected interest in this situation—the Southern Nevada Water Authority applications—should have protected due process rights, and we agree with that concern that would be addressed if you were to pass this legislation.

Thank you again, Madam Chair, for this opportunity. I saw the big piece of paper come in, and good luck with that, too.

CHAIR BUCKLEY:

Thank you very much for your testimony.

With that, what I'd like to do is take a ten-minute break, allow everybody to have an opportunity to stretch and begin reviewing the bill, and then we'll come back and take up the bill in Committee of the Whole, so we're in recess until 10 o'clock. Chair Buckley announced if there were no objections, the Committee of the Whole would recess subject to the call of the Chair.

Submitted Exhibits

See below.

February 26, 2010

To: Julie Wilcox
From Guy Hobbs

Re: Credit issues associated with water resource reliability

A question has been posed to us regarding the impact that uncertainty in the reliability of water resource delivery to southern Nevada might have within the credit markets. Without question, the impact will ultimately be significant, negative and far-reaching, and can be avoided if the impacts created by the recent Supreme Court decision can be mitigated as quickly as possible through legislative action.

The economy of southern Nevada and the State as a whole is heavily reliant upon growth and development. Roughly 20 percent of the economy in southern Nevada is directly or indirectly tied to construction, as are the fiscal systems of the State and local governments. This sector of our economy has been severely impacted by the recession, as evidenced by the high levels of unemployment in this sector and the degradation of revenues (e.g., sales tax, modified business tax, real property transfer tax, etc.) associated with greatly reduced levels of construction activity. Our ability to recover from the recession and return to a level of normalcy will greatly depend upon the rehabilitation and health of the construction sector.

Central to the recovery of the construction sector will be the confidence on the part of developers and investors in the future of the local economy and the reliability of key factors that either promote or impede investment and development. In this regard, there is nothing more central to these investment decisions than the reliability of water. Likewise, it is a certainty that the credit markets will recognize that an uncertain future with respect to the reliability of water will dim the future hopes for economic recovery in southern Nevada. The concerns of the part of the credit community will be manifested in the form of reduced confidence and credit ratings and, more importantly, a higher cost of capital for necessary public infrastructure projects. Since such a large part of our economy and fiscal system is built to rely upon a healthy and robust construction sector, it is inevitable that the anticipation of reduced private sector investment in residential and commercial development will result in negative credit market implications.

There are two actions that can be taken to avoid the negative credit fallout that may result from the uncertainty surrounding the reliability of water delivery into the future. The first would be to restructure the fiscal system of the State to lessen the reliance upon growth and development. While this is a worthwhile task given the problems inherent within the system, this is far from a quick fix. Fixing the fiscal system, however, would not be a cure for this problem if the uncertainty of future water delivery were to remain in question. The second and more immediate approach would be to mitigate the uncertainty created by the recent Supreme Court ruling, allowing for the concerns regarding reliability to be alleviated.

Peter Miller
Managing Director

Peter W. Miller, a Managing Director, joined Public Financial Management, Inc. in 1991 and is currently the manager of the firm's Western United States Practice.

Mr. Miller has, structured, and managed the sale of over \$20 billion of tax-exempt debt. He has advised clients regarding the issuance of many types of debt including: fixed and variable rate general airport revenue bonds (both senior and subordinate), passenger facility charge revenue bonds, general obligation bonds, sales tax revenue bonds, lease and installment purchase certificates of participation, lease revenue bonds, tax increment bonds, water and sewer revenue bonds, current and advanced refunding bonds, general, special assessment and Mello-Roos special tax bonds, and tax and revenue anticipation notes.

A sample of Mr. Miller's clients include: San Francisco International Airport, McCarran International Airport (Las Vegas, NV), the City and County of San Francisco, the cities of Modesto, Folsom, Roseville, Rancho Cordova, Pittsburg, and Lincoln, Solano County, Clark County (NV), Clark County Regional Transportation Commission, and Contra Costa Transportation Authority, among others.

Mr. Miller was the Director of Public Finance for the City and County of San Francisco from 1986 to 1991. He was responsible for all debt issuance sold by the City. Some of the major financings and accomplishments during Mr. Miller's tenure as Director of Public Finance include: \$137 Million Lease Revenue Bonds for the expansion of the Moscone Convention Center; \$60.5 million Lease Revenue Bonds refunding the 1979 Moscone Lease Revenue bonds; \$145 million sewer revenue bonds used to build secondary treatment facilities; \$316 million in general obligation bonds issued in six series; the creation of San Francisco's land-based financial plan (a series of Mello-Roos districts) to pay for the construction of the public infrastructure in the 300-acre Mission Bay multi-purpose development project; the development of San Francisco's first equipment lease-purchase program using tax exempt bonds; assisting the San Francisco Redevelopment Agency issue its first series of Mello-Roos bonds and several series of tax increment bonds totaling approximately \$70 million, and developing the first strategic plan for the purchase and construction of City office buildings.

Mr. Miller received his Bachelor of Arts degree in American Studies from Syracuse University, his Master's Degree in Economics from Tufts University and his Masters Degree in City and Regional Planning from Harvard University, John F. Kennedy School of Government.

February 27, 2010

To: Members of the Nevada Legislature (via Julie Wilcox)

From: Peter W. Miller, Managing Director
Public Financial Management, Inc.

Re: Credit concerns relating to water resource reliability in southern Nevada

I have been asked to review the briefing paper previously provided to you by Guy Hobbs regarding the concerns arising from the recent Supreme Court decision affecting the Southern Nevada Water Authority's water rights and water resource plan. Following are my observations and comments.

If the Southern Nevada Water Authority's water resource plan, including the water importation component of that plan, is called into question as a result of the Supreme Court decision, it is expected that the credit markets will view this as a noteworthy and negative development for the future of southern Nevada. Clearly, the reliable delivery of water into the future will be a determining factor for future investment in the community and, consequently, the economic growth and development of the area. Without sufficient and reliable water resources, it would be expected that the credit markets would view this as a material weakness in the future prospects of the community. Less than positive feelings on the part of the credit markets will translate into higher costs of borrowing for the community and diminished credit ratings.

I concur with the viewpoint previously noted in Mr. Hobbs' analysis that mitigation of the problems created by the Supreme Court decision should be considered at the earliest possible opportunity. Dealing with this issue now will help avoid the potential of near-term credit implications for Nevada issuers caused by the gap in the Southern Nevada Water Authority's water resource plan.

Peter W. Miller
Managing Director
Public Financial Management, Inc.
50 California Street, 23rd Floor
San Francisco, CA 94111

ADD A NEW SECTION AS STATED BELOW:

Sec. ~~X~~ If an application described in NRS 533.370 ^{FOR OTHER THAN AN INTERSTATE TRANSFER OF CREDENTIAL} was filed with the office of the State Engineer before July 1, 2003, and the State Engineer did not act upon the application within 1 year after the final date for filing a protest, but thereafter the State Engineer ^{OR REJECTOR} ~~approved~~ ^{ON OR AFTER} the application ~~before~~ July 1, 2003, the State Engineer's failure to act upon the application within 1 year after the final date for filing a protest does not affect the validity of the ^{ACTION BY THE STATE} ~~approval granted~~, ^{ENGINEER} and such a failure to act may not be used to challenge, contest or dispute the validity of the ^{ACTION TAKEN.} ~~approval granted.~~

PROPOSED BY THE LAS VEGAS CHAMBER OF COMMERCE



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February 5, 2010

Mr. Steve Holloway
Executive Vice President
Associated General Contractors - Las Vegas Chapter
150 N. Durango Drive, Suite 100
Las Vegas, NV 89145

RE: Potential Impacts of the Nevada Supreme Court's Ruling on Water Rights Applications

Dear Mr. Holloway:

Pursuant to our recent discussion, we have reviewed the Nevada Supreme Court's recent ruling on water rights applications relative to its potential economic and fiscal impacts on the state of Nevada. A summary of our analysis is provided below.

On January 28, 2010, the Nevada Supreme Court issued a ruling that appears to invalidate several water rights applications held by the Southern Nevada Water Authority and other interests across Nevada because of the time it took for the State Water Engineer's Office to review certain applications. The full implications this ruling are unclear at this time; however, it does have the potential to materially delay the timing of Nevada's in-state ground water development program should the 1,851 water rights applications filed between 1947 and 2002 ultimately be found to be invalid and have to be refiled. Assuming *arguendo* that this is the case, this situation would have immediate and long-term impacts on the state's economy and its fiscal system.

A key risk for any southern Nevada investment is availability and sustainability of water. These concerns are heightened by a serious drought and the reality that 90 percent of southern Nevada's water is now sourced to the Colorado River. Water levels in Lake Mead continue to drop; and, if the current drought continues or worsens, the ability to draw water through one of the existing intakes will be put into jeopardy. This, in turn, would limit the ability to get water to the region's 1.9 million residents and businesses that provide jobs for its 982,000-person labor force.

Water-related risk concerns have been mitigated by southern Nevada's water resource development and management history as well as the community's ability to demonstrate a viable plan to sustain water resources into the foreseeable future. This plan includes in part the development of a third water intake in Lake Mead as well as the in-state ground water program. When combined, these projects allow the community to maintain an ability to draw water from its primary existing source, the Colorado River, and to diversify available water resources. This is not only important to the community's ability to grow into the future but also its ability to meet the current water demands of existing residents and businesses.

The implications of a loss of confidence that southern Nevada's water resource plan is viable are compelling and potentially far-reaching. Immediately, southern Nevada could expect a sharp reduction in new capital investment, putting additional pressure on an already ravaged construction industry that currently represents 7.6 percent of the region's employment and more than 25 percent of its unemployed labor force. Southern Nevada businesses facing huge debt loads as a result of nation-leading

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Mr. Steve Holloway
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declines in property values and large increases in long-term debts would also be expected to face even more challenges in refinancing debt or persuading lenders to take a longer view on investment maturities. Already depressed property values, residential and commercial, would be expected to fall further or remain fixed at depressed levels as buyers and bankers manifest their concern by inaction. State and local governments would likely see key ad valorem and sales tax revenues fall as well as their bond ratings reduced as future economic growth would be impaired by the risk of water shortage.

There is neither an industry nor a sector of the economy that would go unaffected; southern Nevada could expect sustained job losses and increasing population outmigration. Simply put, if the Nevada Supreme Court's ruling is ultimately viewed by the market as putting at risk the sustainability of southern Nevada's water resources, this would not only impair southern Nevada ability to rebound from the current recession, but it may very well do severe damage to the state economy into the foreseeable future.

Should you have any questions or should you require any additional information from me, please do not hesitate to call or write.

Respectfully,

A handwritten signature in black ink, appearing to read 'J. Aguero'.

Jeremy A. Aguero
Principal Analyst

Urban Economics
Market Analysis
Financial Advisory Services
Public Policy
Hospitality & Gaming Industry
Information Technology

LEGAL DRAFT

SUMMARY—Amends provisions governing the approval or rejection of certain applications by the State Engineer. (BDR 48-46)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: No.

AN ACT relating to water; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Digest goes here.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 18 of chapter 474, Statutes of Nevada 2003, at page 2989, is hereby amended to read as follows:

Sec. 18. The amendatory provisions of section 2 of this act apply to:

1. Each application described in NRS 533.370 that is made on or after July 1, 2003;

{and}

LEGAL DRAFT

2. Each such application described in NRS 533.370 that is pending with the office of the State Engineer on July 1, 2003 [–] ; and

3. *Except as otherwise provided in this subsection, each application described in NRS 533.370 that was filed with the office of the State Engineer before July 1, 2003, if the State Engineer did not act upon the application within 1 year after the final date for filing a protest and thereafter did not approve or reject the application before July 1, 2003. Notwithstanding any other statute to the contrary, before the State Engineer approves or rejects such an application pursuant to NRS 533.370, the State Engineer and the applicant shall comply with the provisions of NRS 533.360 to 533.369, inclusive, in the same manner as an originally filed application. The provisions of this subsection are intended to require the State Engineer to re-notice each such application and reopen the period during which interested persons may file protests. The provisions of this subsection are intended to apply retrospectively and have a retroactive effect, but they are not intended to change, alter, modify or abrogate the priority of any application.*

Sec. 2. If an application described in NRS 533.370 was filed with the office of the State Engineer before July 1, 2003, and the State Engineer did not act upon the application within 1 year after the final date for filing a protest, but thereafter the State Engineer approved the application before July 1, 2003, the State Engineer's failure to act upon the application within 1 year after the final date for filing a protest does not affect the validity of the approval granted, and such a failure to act may not be used to challenge, contest or dispute the validity of the approval granted.

LEGAL DRAFT

Sec. 3. 1. The provisions of chapter 533 of NRS must not be interpreted or applied in a manner that conflicts with the provisions of this act.

2. If there is a conflict between provisions of chapter 533 of NRS and the provisions of this act, the provisions of this act control.

Sec. 4. 1. This act becomes effective upon passage and approval.

2. This act is intended to apply retrospectively and have a retroactive effect.

Section 1. Section 18 of chapter 474, Statutes of Nevada 2003, at page 2989, is hereby amended to read as follows:]

Sec. 18.....

3...

The provisions of this subsection are intended to apply retrospectively and have a retroactive effect, but they are not intended to change, alter, modify or abrogate the priority of any application[,], or any permit, order, or ruling issued by the State Engineer for which the statutory appeal period under NRS 533.450 has expired.

Committee of the Whole in recess at 9:47 p.m.

COMMITTEE OF THE WHOLE IN SESSION

At 11 p.m.

Chair Buckley presiding.

Quorum present.

BDR 31-43 discussed.

CHAIR BUCKLEY

Let's take up consideration of BDR 31-43. We have asked Assemblywoman Smith to walk us through the measure. Obviously we have been discussing and debating variations of it for four days, so we will probably do a summary review and then open it up for any questions or comments. Then of course, we can do debate on General File. So with that, Assemblywoman Smith, would you like to begin?

ASSEMBLYWOMAN SMITH:

Thank you, Madam Chair. As you said, we have already been through many of the issues that are on the sheet. You have the legal size sheet that is the corresponding document for this bill draft. I would like to note that we have found a couple of issues in here, so staff is working to correct those issues. There are some Secretary of State fees in here that were not part of the budget resolution, so those are being eliminated and staff is working on correcting the sheet. You have noted as you have gone through the bill that those are scattered throughout the bill.

There is also one issue with the Athletic Commission that an adjustment is being made on, in accordance with the budget agreement, so that is being corrected. It doesn't affect the dollar amount; it is just a language change and a change to the percentage on the fees. So I thought since you have all had a chance to look at the document and some of the language that goes along with it, we would sort of just talk generally about what the document accomplishes and then—our staff is actually out making the budget corrections. If you have any technical questions, we can note those and come back to them, or if you have any general questions that any of the committee members, or people who have worked on these items, can answer, we can do that at the present time.

On the budget sheet, if you just walk through the revenue section on line 10, you see the additional dollars added for the additional mining revenue and the detail of that is on page 80 in section 47. That has been thoroughly checked by the people who have worked on that, and I think the other house has already heard this section of the bill, and we haven't found any issues there. Mr. Ocegüera has worked on that, so if there are any questions, he is here.

I think the revenue issues are pretty self-explanatory. If you go down through the solutions, you can see the total of the budget reductions proposed by the Governor and we have been through those. We have been through the discussions, for example, on Corrections and Education and Health and Human Services, so you have already seen that whole list of the Governor's proposed cuts. If you go down to line 24 and on down, you will be able to see where items have been added back in, in accordance with the agreement that has been negotiated.

I am just going to keep going, Madam Speaker, if you want to stop me, you can do that.

CHAIR BUCKLEY

No, let's go through the whole thing, and then we will open it up.

ASSEMBLYWOMAN SMITH:

So then you can see through line 34, all of the restorations, line 35 is reductions in state purchasing contracts; that line is one that we have requested that all agencies review their contracts and try to negotiate a reduction in those contracts to bring some additional revenue into the budget. Also, it is a bit of a shared sacrifice for the people who we have contracts with—they are reducing their own budgets and salaries, in accordance with what we have already experienced at the state level.

You can go down and see the higher education budget and restoration, reductions in the office of the Secretary of State, Treasurer, Controller, Legislative Counsel Bureau; these are all just on down the line—various reductions and reversions. If you go down to line 55, you start seeing some revenue that is added to the sheet from various funds and transfer of dollars. There is tax amnesty that will be offered in an attempt to recapture some of the tax dollars that are owed, collection of outstanding insurance premium tax; we have all heard about the outstanding amount there that we believe we can collect a portion of. Line 60, the School District Capital Fund, and line 61, the Clean Water Coalition Fund, and then line 64, the fund sweeps, and we have already been through that, so we have already passed that bill for \$197 million.

On line 66, you start with the additional money that is coming from the federal government, with FMAP money and some of the “clawback” money, and some rearranging, if you will, of ARRA funds on line 70 and 71, which is really all about cash flow, to get us through this biennium. On the next page, under Revenues and Fees, we also have the attachment that we have previously discussed on fees. Your further reductions are at the bottom. As I said, we are working on a new sheet for you, just to reflect those few fees in the Secretary of State’s Office that amounts to \$589,065 that will be adjusted on the sheet to take the increases off, so you will have a new bill for that.

Madam Chair, throughout the bill, there are various descriptions of how these changes will take place. There are several statute changes required to transfer money or to direct, for instance, how the contract reductions can take place, and how the various increases are handled, so I think it would probably be easiest if our members asked questions, if they have questions. We have gone through this with staff obviously multiple times, Legal, Fiscal, and Administration. We have had contact from several interest groups who found things like the Athletic Commission, or the Secretary of State; it looks like those are our problems.

So I will stop there and entertain questions if I may answer them, or ask our staff to, Madam Chair.

CHAIR BUCKLEY:

Thank you, Assemblywoman Smith. I think you wore everybody out. Any questions; I don’t see any. Assemblyman Arberry.

ASSEMBLYMAN ARBERRY:

Thank you, Madam Chair. The only question I have is that I was looking for the Casa Grande; where would we find that?

CHAIR BUCKLEY:

Casa Grande was never on the original plan for closure. It was then added. It was then removed. Because it wasn’t put on initially, it didn’t have to be removed. The closure of Casa Grande is not included in the budget reduction recommendations before you. The only reason I know is that I double checked at

2 A.M. last night. Assemblywoman Smith.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Chair. I just wanted to clarify. I misspoke a little bit on the mining claim fee. The fee that I referred to, where you can see the language on page 80, is actually on the second page, on line 76. The mining revenue on page 10 is just additional revenue that is coming in under net proceeds.

CHAIR BUCKLEY:

Okay, other questions? So the Chair would entertain a motion to introduce a bill draft with those suggested changes on the Secretary of State fees and the Athletic Commission’s.

	A	C	E	G
1	State Of Nevada			
2	Projected General Fund Shortfall			
3	With Proposed Solutions			
4	2009 - 2011 Biennium			
5				
6				
7	As of February 27 at 10:00 PM			
8	Shortfall:	FY 2010	FY 2011	Total
9	General Fund Revenue	\$ (234,473,496)	\$ (352,958,806)	\$ (587,432,302)
10	Additional Net Proceeds of Minerals Receipts	\$ 31,700,000	\$ 27,100,000	\$ 58,800,000
11	Additional Unclaimed Property Receipts	\$ 4,081,000	\$ 15,000,000	\$ 19,081,000
12	Additional Secretary of State Fees	\$ 1,080,714	\$ 3,208,393	\$ 4,289,107
13	General Fund Reversions	\$ (7,100,000)	\$ (10,500,000)	\$ (17,600,000)
14	Distributive School Account Shortfall	\$ (84,020,858)	\$ (122,694,466)	\$ (206,715,324)
15	Medicaid Caseload Shortfall	\$ (28,371,212)	\$ (32,507,446)	\$ (60,878,658)
16	Eliminate Line of Credit	\$ (15,000,000)	\$ -	\$ (15,000,000)
17	Move Line of Credit to FY 2011	\$ (15,000,000)	\$ 15,000,000	\$ -
18	Projected Shortfall 2009-11 Biennium	\$ (347,103,852)	\$ (458,352,325)	\$ (805,456,177)
19				
20	Solutions:			
21	Reductions to Operating Appropriations:			
22	Budget reductions proposed by the Governor (February 21st cut list)	\$ 82,516,181	\$ 191,420,860	\$ 273,937,041
23	Less Restoration of Portion of HHS Reductions	\$ -	\$ (25,118,215)	\$ (25,118,215)
24	Less Prevention/Treatment of Problem Gambling (included in fund sweeps)	\$ -	\$ (1,842,082)	\$ (1,842,082)
25	Less Restoration of Portion of K-12 Reductions (decreases K-12 reduction to 6.9%)	\$ (13,604,920)	\$ (2,537,411)	\$ (16,142,331)
26	Less Restoration of Nevada Equal Rights Commission Reductions	\$ -	\$ (660,890)	\$ (660,890)
27	Less Restoration of Nevada State Prison	\$ (487,147)	\$ (12,330,386)	\$ (12,817,533)
28	Less Restoration of Department of Corrections Pay Differentials, Uniform Allowance	\$ (1,320,048)	\$ (5,132,178)	\$ (6,452,226)
29	Less Restoration of Portion of GCB Reductions (positions, credential pay, training)	\$ (183,500)	\$ (2,595,745)	\$ (2,779,245)
30	Less Restoration of Water Resources Reductions (restores 5 positions)	\$ -	\$ (491,737)	\$ (491,737)
31	Less Restoration of Cultural Affairs Reductions (restores 4 positions, bookmobile grants)	\$ -	\$ (423,311)	\$ (423,311)
32	Less Restoration of Judicial Discipline Commission	\$ (51,576)	\$ (43,496)	\$ (95,072)
33	Less Restoration of Ofc. Of Consumer Health Assistance Reductions	\$ -	\$ (60,663)	\$ (60,663)
34	Reductions in State Purchasing Contracts	\$ -	\$ 10,300,000	\$ 10,300,000
35	Reduction - Nevada System of Higher Education	\$ 16,701,712	\$ 50,105,007	\$ 66,806,719
36	Less Restoration of Portion of NSHE Reductions (decreases NSHE reduction to 6.9%)	\$ (5,177,530)	\$ (15,532,553)	\$ (20,710,083)
37	Reduction - Secretary of State (updated per 2-19-10 response)	\$ 63,366	\$ (300,000)	\$ (236,634)
38	Reduction - Office of State Treasurer	\$ 40,964	\$ 122,126	\$ 163,090
39	Reduction - Office of State Controller (updated per 2-17-10 response)	\$ 146,106	\$ 398,758	\$ 544,864
40	Reduction - Legislative Counsel Bureau	\$ 1,003,146	\$ 2,939,661	\$ 3,942,807
41	Legislative Counsel Bureau Session Expenses	\$ -	\$ (734,916)	\$ (734,916)
42	Reduction - Supreme Court	\$ 235,285	\$ 820,355	\$ 1,055,640
43	Nevada Check Up Surplus Due to Lower Than Projected Caseload	\$ 1,611,578	\$ 4,561,940	\$ 6,173,518
44	Additional Savings in the Incentives for Licensed Educational Personnel	\$ -	\$ 1,500,000	\$ 1,500,000
45	Savings in Department of Education Indirect Costs	\$ 56,570	\$ 159,118	\$ 215,688
46	Salary Adjustment Account Reversions	\$ -	\$ 8,089,065	\$ 8,089,065
47	EBO Other Recommended Reductions (less items separately identified and school support teams)	\$ 1,855,053	\$ 4,424,739	\$ 6,279,792
48	EBO Recommended Travel and Training Reductions (adjustment for non-General Fund amount)	\$ 569,491	\$ 748,285	\$ 1,317,776
49	EBO Recommended Vacant Position Eliminations	\$ 1,358,735	\$ 4,619,910	\$ 5,978,645
50	Voluntary Retirements	\$ -	\$ 5,000,000	\$ 5,000,000
51	Clark County Redevelopment Authority Funds Offset to FMWCC Debt Repayment	\$ 2,346,250	\$ -	\$ 2,346,250
52	Total Reductions to Operating Appropriations	\$ 87,679,716	\$ 217,406,241	\$ 305,085,957
53	Revenue Collections, Redirections & Fund Transfers			
54	Public Employees Benefits Program - REGI Investments	\$ 6,900,000	\$ 7,860,000	\$ 14,760,000
55	Suspend Unclaimed Property Transfer to Millennium Scholarship Fund	\$ 3,800,000	\$ 3,800,000	\$ 7,600,000
56	Tax Amnesty	\$ -	\$ 10,000,000	\$ 10,000,000
57	Collect Outstanding Insurance Premium Tax	\$ -	\$ 10,000,000	\$ 10,000,000
58	Clark County School District Capital Projects	\$ -	\$ 25,000,000	\$ 25,000,000
59	Clean Water Coalition Funds	\$ -	\$ 62,000,000	\$ 62,000,000
60	Total Revenue Collections, Redirections & Fund Transfers	\$ 10,700,000	\$ 118,660,000	\$ 129,360,000
61	Fund Sweeps (see attachment)	\$ 123,534,998	\$ 73,868,572	\$ 197,403,570
62	Federal Fund offsets			
63	Additional FMAP Funds	\$ -	\$ 88,488,706	\$ 88,488,706
64	Enhanced FMAP rate - State "Clawback" payments	\$ 4,830,939	\$ 11,705,027	\$ 16,544,966
65	TANF Emergency Contingency Funds Replacing General Funds	\$ -	\$ 9,269,929	\$ 9,269,929
66	Transfer Department of Corrections ARRA funds	\$ 72,178,069	\$ (72,178,069)	\$ -
67	Transfer NSHE ARRA Funds	\$ 92,389,311	\$ (92,389,311)	\$ -
68	Total Federal Fund offsets	\$ 169,407,319	\$ (55,103,718)	\$ 114,303,601

LCB Fiscal

2/28/2011:11 PM

	A	B	C	D	E	F	G
1	State Of Nevada Projected General Fund Shortfall With Proposed Solutions 2009 - 2011 Biennium						
2							
3							
4							
5							
6		As of February 27 at 10:00 PM					
73							
74	Revenues and Fees						
75	Fee Increases in State Agencies (refer to attachment)	\$ -	\$ 26,978,734	\$ 26,978,734			
76	Mining Claim Fee Increase	\$ -	\$ 25,700,000	\$ 25,700,000			
77	Total Revenues and Fees	\$ -	\$ 52,678,734	\$ 52,678,734			
78							
79	Other Reductions:						
80	Spend Down General Fund Ending Balance	\$ -	\$ 4,963,635	\$ 4,963,635			
81	Additional CIP Reversions	\$ 2,141,638	\$ -	\$ 2,141,638			
82	Total Other Reductions	\$ 2,141,638	\$ 4,963,635	\$ 7,105,273			
83							
84	Total Solutions to Projected Shortfall	\$ 393,463,671	\$ 412,473,464	\$ 805,937,135			
85		\$ 46,359,819	\$ (45,878,861)	\$ 480,958			

Assemblywoman Smith moved to introduce BDR 31-43.

Seconded by Assemblywoman Gansert.

Motion carried.

Chair Buckley announced if there were no objections, the Committee of the Whole would recess subject to the call of the Chair.

Committee of the Whole in recess at 11:13 p.m.

COMMITTEE OF THE WHOLE IN SESSION

At 11:18 p.m.

Chair Buckley presiding.

Quorum present.

CHAIR BUCKLEY:

Should I tell everybody about this latest idea or wait to see when you come back? Assemblywoman Kirkpatrick and I were just talking about this idea, and maybe it doesn't work at all, but just throw it out there.

On the water issue, the idea was is there any way to make the issue on the priority clear now in legislation so we don't have to come back in a special session since they're not that special? And then direct the water engineer, through regulations, to come up with ways to deal with the priorities of full hearings with regard to applications so the current folks affected by a project can weigh in without jeopardizing the northern Nevada issues, and then, of course, you'd have the backstop of the Legislative Commission to make sure they don't get it wrong. Don't know if that's even possible, and it might be too late to figure it out, but it was just a suggestion that is going to be discussed with Kevin Powers. It's just a lot to decide in a very little amount of time, but we all recognize the importance of it, but I just thought I'd plant that seed. It may not go anywhere but we need to think of solutions that make sense for everybody.

Assemblyman Mortenson?

ASSEMBLYMAN MORTENSON:

If we do it as a resolution, it won't hold. The courts will probably at least look at it, but it doesn't really hamstring anything if we get it wrong.

CHAIR BUCKLEY:

Also, as one of our lawyers pointed out to me, our own Assembly representative sitting so quietly up there in the corner, the courts probably have already paid a lot of attention to everything we've already said, and so that might be helpful, as well. We'll bring it up and have a debate on it and figure out how we want to process it in a way that makes sense.

But in the meantime, we're going to do a couple other floor businesses while we await the BDR.

On motion of Assemblyman Oceguela, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 11:27 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 28, 2010

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 2.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Senate Bill No. 4.

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 1.

Resolution read.

The following amendment was proposed by the Committee of the Whole:

Amendment No. 9.

SENATE CONCURRENT RESOLUTION—Urging local government employers and local government employee organizations to mutually address the impacts of the budget shortfall.

WHEREAS, The continued downturn in the national economy has had a dramatic negative impact on the economy of the State of Nevada, including creating the highest unemployment rate in the history of the State and one of the highest unemployment rates in the country, causing many people to lose their health insurance benefits, placing a burden on the social services provided in the State and forcing many businesses to close and families to lose their jobs and homes; and

WHEREAS, The 2009 Session of the Nevada Legislature addressed what was then a looming budget gap by making cuts to the State's budget of about \$1 billion, implementing temporary tax increases amounting to an estimated \$781 million and imposing furlough requirements on state employees which amounted to a 4.6 percent temporary reduction in salaries; and

WHEREAS, Because recent projections yield an unprecedented budget shortfall of nearly \$900 million, the Legislature has been called into this Special Session to deal with this dire fiscal emergency; and

WHEREAS, The Legislature has a constitutional duty to balance the State's budget and therefore is making careful but difficult decisions that include consideration of steep reductions in almost every major governmental program, additional furlough hours for state employees and deviation from the required hours of operation for both state and local governments; and

WHEREAS, The support and services provided by local governments in Nevada is critical, and there must be awareness that without consideration of temporary reductions to salaries, massive layoffs will occur through

negotiated agreements and further cuts will have to be made to these vital public services; and

WHEREAS, It is in the best interest collectively for the State and the local governments to recognize the “shared sacrifice” we all must make to ensure further layoffs will not happen, as those layoffs would in turn have a further negative impact on the State’s unemployment rate and mortgage crisis; ~~now, therefore, be it~~ **and**

WHEREAS, In recognition of this “shared sacrifice,” the local government employees have risen to the occasion by making concessions during this difficult time; and

WHEREAS, The process of local government collective bargaining in this State historically has been conducted between employers and employees and does not provide an opportunity for the public to raise meaningful questions and offer input; and

WHEREAS, A collective bargaining process that allows for more transparency would benefit the public for a better understanding of the process and outcome of the negotiated agreement; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislature hereby urges local government employers and local government employee organizations to recognize the difficult task with which this Legislature is faced and to recognize the “shared sacrifice” that is necessary to reduce the impact of the crippling budget shortfall on this State; and be it further

RESOLVED, That these employers and employee organizations are hereby urged to rise to the challenge by recognizing that desperate times call for desperate measures and that now is the time to think outside the box and consider ways to come mutually to the bargaining table outside the clogged bureaucratic process and cooperatively address the budget shortfall in an effort to avoid massive layoffs and cuts to vital public services; and be it further

RESOLVED, That this Special Session of the Legislature hereby urges the 2011 Regular Session of the Legislature to examine the current process of local government collective bargaining and contract negotiations in this State with the goal of increasing the transparency to provide the public with a meaningful opportunity to hold local governments and local government employee organizations accountable; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to local government employers of this State and the local government employee organizations in this State.

Assemblywoman Gansert moved the adoption of the amendment.

Remarks by Assemblywoman Gansert.

Assemblyman Ocegüera requested that her remarks be entered in the Journal.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I believe we all know how important transparency is and, in fact, during the last legislative session, the Majority Leader made great efforts in transparency of collective bargaining agreements, or worked towards that end.

I asked for this amendment because I have realized over time how much money the taxpayers are spending through collective bargaining agreements, and I asked for a little bit of research on that. Just to put it into prospective, if you were to take the 17 school districts in this state and the total expenditures of \$3.4 billion, 83 percent of that is on salary, which comes out to about \$2.9 billion. Now all of that may not be through collective bargaining agreements, but probably the majority of it is.

Also, in the cities of Reno and also Las Vegas, about 72 percent of what they spend is on personnel. Clark County is about 65 percent and Washoe is about 75 percent. It is apparent that we have a great deal of money that is being spent through collective bargaining agreements, and that it is critically important that we open these agreements to the public, so I offer this amendment to urge that the legislative body look into a more open and transparent process for collective bargaining agreements during the next legislative session. I urge your support.

Amendment adopted.

Resolution ordered to the Resolution File.

Senate Concurrent Resolution No. 1.

Assemblyman Ocegüera moved the adoption of the resolution.

Remarks by Assemblyman Ocegüera.

Resolution adopted and ordered transmitted to the Senate.

Assemblyman Ocegüera moved that the February 28, 2010 legal opinion of the Legislative Counsel regarding the length of a special session convened by the Governor pursuant to Article 5, Section 9 of the Nevada Constitution be placed in the journal.

Remarks by Assemblyman Ocegüera.

Motion carried.

February 28, 2010

Lorne J. Malkiewicz
Director of the Legislative Counsel Bureau
Legislative Building
401 S. Carson Street
Carson City, NV 89701

Dear Director Malkiewicz:

You have asked this office a question relating to the length of a special session convened by the Governor pursuant to Article 5, Section 9 of the Nevada Constitution. In particular, you have asked whether the Governor possesses any express or implied constitutional power to establish a binding and enforceable time limit on the length of a special session or to terminate a special session once it has convened.

After reviewing extensive historical evidence and persuasive legal authorities and after applying the fundamental rules of constitutional construction, it is the opinion of this office that the Governor does not possess any express or implied constitutional power to establish a binding and enforceable time limit on the length of a special session or to terminate a special session once it has convened.

Furthermore, because this issue involves the interpretation of a doubtful or uncertain constitutional provision affecting legislative procedure, the Legislature is entitled to follow an opinion of the Legislative Counsel which interprets the doubtful or uncertain constitutional

provision, and the judiciary will typically afford the Legislature deference in its counseled selection of that interpretation.

Finally, we note that the Governor may recommend to the Legislature a time limit on the length of a special session when the Governor issues the proclamation calling the special session. Likewise, once the Legislature has convened in a special session, the Governor may issue a supplemental proclamation or message recommending to the Legislature a date and time for the Legislature to adjourn *sine die*. In either circumstance, the Legislature may voluntarily follow the Governor's recommendation in the spirit of mutual cooperation with a coordinate branch of government. However, given the plenary power of the Legislature to control the length of its legislative sessions, any recommendation from the Governor concerning the length of the special session would not be binding or enforceable on the Legislature, and the Legislature would be free to determine its own date and time to adjourn *sine die* regardless of any recommendation from the Governor.

BACKGROUND

Under Article 5, Section 9 of the Nevada Constitution, the Governor is authorized to convene a special session of the Legislature by proclamation. However, Article 5, Section 9 does not contain any language relating to the length of a special session convened by the Governor.

When the Nevada Constitution was adopted in 1864, Article 4, Section 29 limited the length of both regular sessions and special sessions. In particular, Article 4, Section 29 provided that "[t]he first regular session of the Legislature, under this Constitution, may extend to ninety days, but no subsequent regular session shall exceed sixty days, nor any special session, convened by the Governor, exceed twenty days."

At the general election held in 1958, the voters repealed Article 4, Section 29 and the constitutional limits on the length of regular sessions and special sessions. Forty years later in 1998, the voters adopted another constitutional limit on the length of regular sessions which limits the length of regular sessions to 120 calendar days. Nev. Const. art. 4, § 2. However, the voters have not adopted another constitutional limit on the length of special sessions.

On February 16, 2010, Governor Jim Gibbons issued a proclamation to convene a special session of the Legislature to consider certain matters relating to the state budget. The Governor's proclamation did not contain a time limit on the length of the special session. In accordance with the Governor's proclamation, the Legislature convened the 26th Special Session on February 23, 2010.

After the Legislature convened the special session, the Governor exercised his power under Article 5, Section 9 to call additional legislative business to the attention of the Legislature by issuing a "First Amended Proclamation" on February 24, 2010. In addition to identifying additional legislative business that may be considered by the Legislature at the special session, the Governor's First Amended Proclamation also attempts to place a time limit on the length of the special session as follows: "The Special Session shall end no later than 11:59 P.M. Pacific Standard Time on Sunday, February 28, 2010."

Given that the Governor has attempted to place a time limit on the length of the special session, you have asked whether the Governor possesses any express or implied constitutional power to establish a binding and enforceable time limit on the length of a special session or to terminate a special session once it has convened.

There are no reported cases from the Nevada Supreme Court which address this issue. However, on June 12, 2001, Frankie Sue Del Papa, then Nevada's Attorney General, issued an opinion (AGO 2001-14) which interpreted the provisions of Article 5, Section 9 and opined that the Governor possesses implied constitutional power to establish a binding and enforceable time limit on the length of a special session. Specifically, AGO 2001-14 stated in pertinent part:

[I]t is our opinion that a Nevada Governor's exercise of extraordinary, exclusive and discretionary power to convene a special session and to specify the subjects for consideration at such session necessarily includes the discretionary authority to revoke or amend a proclamation convening such

special session. Included within such power to revoke would be the authority to specify within the proclamation a specific time period during which the proclamation shall remain in force and effect. Accordingly, it is our opinion that the Governor possesses authority to specify a durational time limit for such special session.

Op. Nev. Att’y Gen. No. 2001-14 (June 12, 2001).

As we will explain in more detail below, we believe AGO 2001-14 is flawed because it is not supported by sound legal reasoning or citation to persuasive legal authority and it fails to properly apply the rules of constitutional construction in evaluating the constitutional balance of power between the Legislature and the Governor regarding the length of a special session. Because we disagree with AGO 2001-14, we believe it will be helpful to provide a brief discussion regarding the persuasive weight that courts give to the opinions of the Attorney General and the opinions of the Legislative Counsel.

The Attorney General has been designated by statute as the legal adviser on all matters arising within the Executive Department of the State Government. NRS 228.110. As the legal adviser to the Executive Department, the Attorney General is required by statute to issue an opinion upon any question of law when such an opinion is requested by certain officers and agencies within the Executive Department. NRS 228.150.

Although the Attorney General is authorized to issue opinions upon questions of law, the Nevada Supreme Court has held that an opinion of the Attorney General does not constitute binding legal authority or precedent. Univ. and Cmty. College Sys. of Nev. v. DR Partners, 117 Nev. 195, 203 (2001); Blackjack Bonding v. City of Las Vegas Mun. Ct., 116 Nev. 1213, 1218 (2000); Goldman v. Bryan, 106 Nev. 30, 42 (1990). As a result, an opinion of the Attorney General is entitled only to such persuasive weight as the court thinks proper based on the soundness of its legal reasoning and the citation to authority that supports the opinion. As explained by the United States District Court for the District of Nevada:

In Nevada an opinion of the Attorney General is given whatever weight the Court thinks it deserves when the issue on which the opinion bears is before the Court for determination. . . . It is only in unusual circumstances that an Attorney General’s opinion will control the outcome of a case.

Tahoe Reg’l Planning Agency v. McKay, 590 F. Supp. 1071, 1074 (D. Nev. 1984) (emphasis added), aff’d, 769 F.2d 534 (9th Cir. 1985).

Thus, an opinion of the Attorney General does not have the force or effect of law, and it is not binding on any state officer. See Op. Nev. Att’y Gen. No. 1911-15 (Apr. 27, 1911). Rather, such an opinion is merely advisory, and it is entitled only to such persuasive weight as the court thinks proper based on the soundness of its legal reasoning and the citation to authority that supports the opinion.

The Legislative Counsel has been designated by statute as the legal adviser on all matters arising within the Legislative Department of the State Government. NRS 218.695 & 218.697.¹ As the legal adviser to the Legislative Department, the Legislative Counsel is required by statute to issue an opinion upon any question of law when such an opinion is requested by any member or committee of the Legislature or the Legislative Commission. NRS 218.695. The Attorney General is not statutorily authorized to render an opinion to a member of the Legislature, and the

¹ As part of the 2009 codification and reprint of the Nevada Revised Statutes, the provisions of NRS Chapter 218 (“State Legislature”) have been reorganized into NRS Chapters 218A to 218H, inclusive, and NRS 218.695 and 218.697 have been recodified as NRS 218F.710 and 218F.720.

duty to provide a legal opinion to a member of the Legislature falls upon the Legislative Counsel. See Op. Nev. Att’y Gen. No. 2002-36 (Oct. 4, 2002).

An opinion of the Legislative Counsel is entitled to the same persuasive weight as an opinion of the Attorney General. See Cable v. State ex rel. EICON, 122 Nev. 120, 126-27 (2006); Cal. Ass’n of Psychology Providers v. Rank, 793 P.2d 2, 11 (Cal. 1990). Thus, an opinion of the Legislative Counsel is entitled to such persuasive weight as the court thinks proper based on the soundness of its legal reasoning and the citation to authority that supports the opinion. See Cable, 122 Nev. at 127; Santa Clara County Local Transp. Auth. v. Guardino, 902 P.2d 225, 236 (Cal. 1995); Grupe Dev. Co. v. Superior Ct., 844 P.2d 545, 551 (Cal. 1993). Furthermore, the Nevada Supreme Court has held that when the meaning of a constitutional provision affecting legislative procedure is in doubt or subject to uncertainty, the Legislature is entitled to follow an opinion of the Legislative Counsel which interprets the constitutional provision and “the Legislature is entitled to deference in its counseled selection of this interpretation.” Nev. Mining Ass’n v. Erdoes, 117 Nev. 531, 540 (2001).

In sum, the opinions of the Attorney General and the Legislative Counsel do not constitute binding legal authority or precedent and do not have the force or effect of law. Rather, the persuasive weight to be given to the opinions must be judged by the soundness of the legal reasoning and the citation to authority that supports the opinions. Furthermore, the Legislature is entitled to follow an opinion of the Legislative Counsel which interprets a doubtful or uncertain constitutional provision affecting legislative procedure, and the judiciary will typically afford the Legislature deference in its counseled selection of that interpretation. With this background in mind, we turn now to answering your question.

DISCUSSION

To determine whether a public officer or agency has the power to act under a constitutional or statutory provision, the Nevada Supreme Court typically employs a two-step process. See Clark County Sch. Dist. v. Clark County Classroom Teachers Ass’n, 115 Nev. 98, 101-04 (1999); Andrews v. Nev. State Bd. of Cosmetology, 86 Nev. 207, 208-10 (1970). First, the court examines the plain language of the provision and asks whether the officer or agency has been given the express power to act. Id. If the provision does not provide the officer or agency with the express power to act, the court then asks whether the power to act arises by necessary implication. Id. We believe the court would follow the same approach to determine whether the Governor has any express or implied constitutional power to establish a binding and enforceable time limit on the length of a special session or to terminate a special session once it has convened.

I. The Governor does not possess any express constitutional power to establish a binding and enforceable time limit on the length of a special session or to terminate a special session once it has convened.

Under Article 5, Section 9 of the Nevada Constitution, the Governor has been given the express power to convene a special session of the Legislature by proclamation. Specifically, Article 5, Section 9 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 specially convened, or such other legislative business as the Governor may call to the attention of the Legislature while in Session.

Based on the plain language of Article 5, Section 9, that constitutional provision does not contain any language which expressly authorizes the Governor to establish a binding and enforceable time limit on the length of a special session when the Governor issues the proclamation calling the special session. Similarly, Article 5, Section 9 does not contain any

language which expressly authorizes the Governor to terminate a special session once it has convened. After a careful review of the Nevada Constitution, we have not found any other constitutional provision which contains language expressly authorizing the Governor to exercise such power. In the absence of express constitutional language, it is the opinion of this office that the Governor does not possess any express constitutional power to establish a binding and enforceable time limit on the length of a special session or to terminate a special session once it has convened.

II. The Governor does not possess any implied constitutional power to establish a binding and enforceable time limit on the length of a special session or to terminate a special session once it has convened.

There are no reported cases from the Nevada Supreme Court which address the issue of whether the Governor possesses any implied constitutional power to establish a binding and enforceable time limit on the length of a special session or to terminate a special session once it has convened. Because there is no controlling legal precedent from the Nevada Supreme Court on this issue, we must turn to the rules of constitutional construction and to legal authority from other sources to guide us in answering your question.

When interpreting the provisions of the Nevada Constitution, the Nevada Supreme Court applies the same rules of construction that are used to interpret statutes. Nev. Mining Ass'n v. Erdoes, 117 Nev. 531, 538 (2001). In applying those rules of construction, the court has indicated that its primary task is to ascertain the intent of the Framers and to adopt an interpretation that best captures their objective. Id. As explained by the court, “[t]he intention of those who framed the instrument must govern, and that intention may be gathered from the subject-matter, the effects and consequences, or from the reason and spirit of the law.” State ex rel. Cardwell v. Glenn, 18 Nev. 34, 42 (1883).

The Framers intended for the provisions of the Nevada Constitution to work together as a unified whole. See State ex rel. Herr v. Laxalt, 84 Nev. 382, 385-86 (1968). Consequently, the Nevada Constitution must be interpreted in its entirety, and each provision of the Constitution must be given meaning and effect and harmonized with the other provisions of the Constitution. We the People Nev. v. Miller, 124 Nev. Adv. Op. 75, 192 P.3d 1166, 1171 (2008).

Accordingly, to determine the scope of the Governor’s constitutional power regarding the length of a special session, we must interpret the provisions of Article 5, Section 9 in harmony with all other relevant provisions of the Nevada Constitution. To that end, we must consider the Governor’s power under Article 5, Section 9 in light of the constitutionally mandated separation of powers in Article 3, Section 1 of the Nevada Constitution.

A. Separation of powers.

In Nevada, “[t]he doctrine of separation of powers is fundamental to our system of government.” Dunphy v. Sheehan, 92 Nev. 259, 265 (1976). The constitutional source of this doctrine is Article 3, Section 1 of the Nevada Constitution, which establishes a tripartite system of state government and which firmly fixes the principle of separation of powers in the organic law of this state. Galloway v. Truesdell, 83 Nev. 13, 19 (1967). The separation-of-powers provision in Article 3, Section 1 provides in relevant part:

The powers of the Government of the State of Nevada shall be divided into three separate departments,—the Legislative,—the Executive and the Judicial; and no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions, appertaining to either of the others, except in the cases expressly directed or permitted in this constitution.

(Emphasis added.)

In creating a tripartite system of state government, the Nevada Constitution expressly vests the state’s legislative power in the Legislature. Comm’n on Ethics v. Hardy, 125 Nev. Adv. Op.

27, 212 P.3d 1098, 1103 (2009). Specifically, Article 4, Section 1 of the Nevada Constitution provides that “[t]he Legislative authority of this State shall be vested in a Senate and Assembly which shall be designated ‘The Legislature of the State of Nevada.’”

Because the legislative power of this state is vested in the Legislature, the Governor may not exercise legislative power unless the Governor’s exercise of that power is expressly permitted by the Constitution. See State of Nev. Employees Ass’n v. Daines, 108 Nev. 15, 21 (1992); Galloway v. Truesdell, 83 Nev. 13, 20-21 (1967). Thus, if the Constitution does not expressly permit the Governor to exercise legislative power, the implication is that the Governor is prohibited from exercising that power at all. Stated another way, when the Constitution grants powers to a particular constitutional officer or department, “their exercise and discharge by any other officer or department are forbidden by a necessary and unavoidable implication. Every positive delegation of power to one officer or department implies a negation of its exercise by any other officer, department, or person.” King v. Bd. of Regents, 65 Nev. 533, 556 (1948) (quoting State ex rel. Crawford v. Hastings, 10 Wis. 525, 531 (1860)). Consequently, when the Constitution grants a particular power exclusively to the Legislature, the Governor may not exercise that constitutional power by implication. See Comm’n on Ethics v. Hardy, 125 Nev. Adv. Op. 27, 212 P.3d 1098, 1103-05 (2009).

Furthermore, even if there exists some doubt or ambiguity as to whether the Governor or the Legislature possesses a particular constitutional power, that doubt or ambiguity must be resolved in favor of the Legislature. This rule stems from the fact that the Governor possesses only express and limited powers under the Constitution, while the Legislature possesses almost unlimited powers under the Constitution.

The office of governor did not originate under the common law. The office is primarily a creature of the American system of constitutional government. See Royster v. Brock, 79 S.W.2d 707, 709 (Ky. 1935); 38 Am. Jur. 2d Governor § 1 (1999). As a result, courts have generally found that a governor has little or no inherent power or prerogative power which arises merely by virtue of the office. See Clark v. Boyce, 185 P. 136, 138 (Ariz. 1919); City of Bridgeport v. Agostinelli, 316 A.2d 371, 376 (Conn. 1972); Royster v. Brock, 79 S.W.2d 707, 709 (Ky. 1935); Richardson v. Young, 125 S.W. 664, 669 (Tenn. 1910). Instead, a governor possesses only those express and limited powers that are granted to the office by the state constitution or by statute. *Id.*; Litchfield Elementary Sch. Dist. No. 79 v. Babbitt, 608 P.2d 792, 797 (Ariz. Ct. App. 1980). As explained by one court in the context of special sessions:

[T]he calling of the General Assembly in special session is not inherently an executive function. The exercise of that power or function has been intrusted to the Governor by the Constitution, and that instrument measures the extent and limits of his power and authority. His right to convene the General Assembly in special session is a delegated and limited power, which derives from the Constitution, and he can act only in the specified manner and can exercise only the power granted to him.

Royster v. Brock, 79 S.W.2d 707, 711 (Ky. 1935).

After carefully reviewing the Nevada Constitution, we have not found any constitutional provision that would undermine this well-established body of case law. Thus, we believe the Governor of Nevada, like the governors of other states, possesses only express and limited constitutional powers that are not inherent in the office but are derived solely from the text of the Constitution.

In contrast to the Governor, the Legislature does not derive its constitutional powers from the text of the Constitution. Rather, the Legislature possesses all inherent power of the people unless that power is clearly limited by the Federal Constitution or the State Constitution. Ex parte Boyce, 27 Nev. 299, 332, 334 (1904); Sarkes Tarzian, Inc. v. Legislature, 104 Nev. 672, 675 (1988). Whereas the Governor must be able to point to express provisions of the Constitution to justify the Governor’s exercise of constitutional power, the Legislature does not need express constitutional authorization to justify its exercise of constitutional power because “[t]he constitution allows the legislature every power which it does not positively prohibit.”

City of Las Vegas v. Ackerman, 85 Nev. 493, 502 (1969) (quoting *Sharpless v. Mayor of Phila.*, 21 Pa. 147 (1853)). As often noted by the Nevada Supreme Court, the power of the Legislature is extremely broad and “except where limited by Federal or State Constitutional provisions, that power is practically absolute.” *Galloway v. Truesdell*, 83 Nev. 13, 20 (1967).

Even when the Nevada Constitution imposes limitations upon the Legislature’s power, those limitations “are to be strictly construed, and are not to be given effect as against the general power of the legislature, unless such limitations clearly inhibit the act in question.” *In re Platz*, 60 Nev. 296, 308 (1940) (quoting *Baldwin v. State*, 3 S.W. 109, 111 (Tex. Ct. App. 1886)). Additionally, because the powers of the executive and judicial branches are expressly defined by the Nevada Constitution, any power which is not clearly committed to those branches by the text of the Constitution is completely denied to them and is left exclusively to the legislative branch. See *City of Pawtucket v. Sundlun*, 662 A.2d 40, 44 (R.I. 1995). Therefore, because the provisions of the Nevada Constitution are to be strictly construed in favor of the power of the legislative branch, it is a fundamental rule of constitutional construction that any doubt or ambiguity concerning the constitutional powers of the executive branch must be resolved in favor of the power of the legislative branch.

In light of these well-established principles under the doctrine of separation of powers, we must resolve two issues. First, we must resolve whether the power to control the length of a special session is a legislative power or an executive power. Second, if such a power is a legislative power, we must resolve whether the Governor’s exercise of that power is expressly permitted by the Constitution. For assistance in resolving these two issues, we look first to an abundance of historical evidence which establishes that the power to control the length of legislative sessions is a legislative power.

B. Historical evidence establishes that the power to control the length of legislative sessions is a legislative power.

When a constitutional provision is silent or unclear on a given issue, the Nevada Supreme Court will interpret the provision according to what history, reason and public policy would indicate the Framers intended. *Miller v. Burk*, 124 Nev. Adv. Op. 56, 188 P.3d 1112, 1120 (2008). The court will also interpret the provision by “taking into view the evils that were to be remedied, the dangers sought to be guarded against and the protection to be afforded.” *Evans v. Job*, 8 Nev. 322, 333 (1873). Finally, when a constitutional provision involves legislative procedure, the court will interpret the provision with reference to the historical customs and practices of legislative and parliamentary bodies. *State ex rel. Cardwell v. Glenn*, 18 Nev. 34, 40-46 (1883); *State ex rel. Davis v. Eggers*, 29 Nev. 469, 473-75 (1907).

Based on extensive historical evidence, including grievances lodged by the American colonists in the Declaration of Independence, it is clear that the Founders of our Nation intended to impose severe limits on the power of the executive to control the length of legislative sessions. During colonial times, the royal colonial governors, acting under the authority of the King of England, possessed absolute control over the sessions of the colonial legislatures, and the royal governors could terminate legislative sessions at their pleasure or whim by virtue of their royal prerogative powers. 1 Joseph Story, *Commentaries on the Constitution of the United States* §§ 843-44 (5th ed. 1905) (Story); Luther S. Cushing, *Elements of the Law & Practice of Legislative Assemblies* §§ 495, 509-19 (9th ed. 1907) (Cushing). Inevitably, “the undue exercise of [such] power by the royal governors constituted a great public grievance, and was one of the numerous cases of misrule upon which the Declaration of Independence strenuously relied.” Story at § 844. As expressed by the colonists in the Declaration of Independence:

The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world. . . . He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

Because of the English Crown's historical abuse of power in terminating legislative sessions, the Framers of the United States Constitution and almost every state constitution drafted constitutional provisions to "interpose a constitutional barrier against any such abuse by the prerogative of the executive." Story at § 844. In particular, these constitutional provisions are similar to Article 4, Section 15 of the Nevada Constitution, which provides that "neither [House] shall, without the consent of the other, adjourn for more than three days nor to any other place than that in which they may be holding their sessions." See Story at §§ 843-44; Cushing at §§ 516-18.

Courts and commentators have concluded that such provisions mean that a legislature may be adjourned *sine die* only with the consent of both houses and that a legislature may not be adjourned *sine die* under any other circumstances, unless there is a specific and express constitutional provision to the contrary. See Taylor v. Beckham, 56 S.W. 177, 179 (Ky. 1900); Story at §§ 843-44; Cushing at §§ 448, 495, 516; see also Frame v. Sutherland, 327 A.2d 623, 626-27 (Pa. 1974); In re Opinion of the Justices No. 115, 47 So. 2d 642, 643 (Ala. 1950); In re Opinion to Governor, 85 A. 1056, 1057 (R.I. 1913). Thus, once a legislature has been convened, the general rule is that the legislature is the sole judge of how long it needs to remain in session to complete its legislative business, subject to any time limits expressly set forth in a constitutional provision. See Opinion of the Justices No. 173, 152 So. 2d 427, 428 (Ala. 1963); Wells v. Purcell, 592 S.W.2d 100, 105 (Ark. 1979); Sims v. Weldon, 263 S.W. 42, 45 (Ark. 1924); Richards Furniture Corp. v. Bd. of County Comm'rs, 196 A.2d 621, 625 (Md. 1964); Davis v. Thompson, 721 P.2d 789, 792-93 (Okla. 1986); State ex rel. Distilled Spirits Inst. v. Kinnear, 492 P.2d 1012, 1016-23 (Wash. 1972).

In sum, under the American system of constitutional government, legislatures have plenary power to determine the length of their legislative sessions, and this plenary power is exclusive and unlimited unless there are express constitutional provisions which terminate a legislative session by lapse of time or which grant the power of termination to the executive. Cushing at §§ 495, 509-19. In the absence of an express constitutional provision granting the power of termination to the executive, "the executive has no authority . . . to put an end to the session of a legislative assembly." Cushing at § 495. As explained by distinguished colonial lawyer William Rawle:

The legislative body possesses with us a great advantage over that of those countries where it may be adjourned or dissolved at the pleasure of the executive authority. It is self-moving and self-dependent. Although it may be convened by the executive, it cannot be adjourned or dissolved by it.

William Rawle, A View of the Constitution of the United States 34-35 (2d ed. 1829).

Thus, based on a thorough examination of historical evidence, there is no support in the annals of American history to merit a conclusion that the Governor possesses implied constitutional power to establish a binding and enforceable time limit on the length of a special session or to terminate a special session once it has convened. To the contrary, such a conclusion would be anathema to the Founders of our Nation who disdained the unlimited executive power that royal colonial governors wielded over the length of legislative sessions.

C. Under the Nevada Constitution, the Governor may terminate a legislative session only in the case of a disagreement between the two Houses with respect to the time of adjournment.

As discussed previously, Article 5, Section 9 of the Nevada Constitution does not contain any language expressly authorizing the Governor to establish a binding and enforceable time limit on the length of a special session or to terminate a special session once it has convened. The only power expressly conferred on the Governor with regard to the termination of a legislative session is found in Article 5, Section 11 of the Nevada Constitution, which provides that "[i]n case of a disagreement between the two Houses with respect to the time of adjournment, the Governor

shall have power to adjourn the Legislature to such time as he may think proper; Provided, it be not beyond the time fixed for the meeting of the next Legislature.”

A fundamental rule of constitutional construction is *expressio unius est exclusio alterius*, which provides that the expression of one thing is the exclusion of another. Galloway v. Truesdell, 83 Nev. 13, 26 (1967). Because Article 5, Section 11 of the Nevada Constitution is the only constitutional provision which invests the Governor with the power to terminate a legislative session, it follows that the specific expression of power in Article 5, Section 11 means that the Framers intended to exclude the Governor from having the power to terminate a legislative session under any other circumstances. Stated another way, had the Framers intended to give the Governor the power to limit the length of a special session or to terminate a special session once it has convened, the Framers could have simply expressed that power in the Constitution. They did not. The only reasonable conclusion to be drawn is that the Framers did not intend for the Governor to possess such power. As aptly explained by the Washington Supreme Court:

[T]he framers noted the power of the Governor to call special sessions. This power was not granted in article 2, dealing with the legislature and its powers, but rather in article 3, the executive article. Section 7 of that article provides that the Governor may convene the legislature upon extraordinary occasions. He is required to state the purposes for which the legislature is convened, but we find in this section no limitation placed upon the length of time which the legislature may sit to consider the matters which come before it on these occasions. It would seem safe to surmise that, if the framers had intended to limit the length of the sessions provided for in this article, they would have mentioned that limitation in the section wherein they set forth the power of the Governor to convene the legislature.

State ex rel. Distilled Spirits Inst. v. Kinnear, 492 P.2d 1012, 1022 (Wash. 1972).

This conclusion is supported by United States Supreme Court Justice Joseph Story in his renowned treatise on constitutional law, Commentaries on the Constitution of the United States. Story at §§ 843-44. In that treatise, Justice Story examined several provisions of the Federal Constitution concerning the power of the President to call special sessions and the power of the Congress to terminate its legislative sessions. Those provisions of the Federal Constitution are nearly identical to the provisions of the Nevada Constitution. U.S. Const. art. I, § 5, cl. 4 & art. II, § 3. In interpreting the meaning of the Federal Constitution, Justice Story concluded that the power of the Congress to terminate its legislative sessions is practically absolute, with the only exception being the power of the President to adjourn the Congress in case of disagreement between the Houses as to the time of adjournment:

It is observable that the duration of each session of Congress (subject to the constitutional termination of their official agency) depends solely upon their own will and pleasure, with the single exception, as will be presently seen, of cases in which the two houses disagree in respect to the time of adjournment. In no other case is the President allowed to interfere with the time and extent of their deliberations. And thus their independence is effectually guarded against any encroachment on the part of the executive.

Story at § 843 (footnote omitted and emphasis added); see also Taylor v. Beckham, 56 S.W. 177, 179 (Ky. 1900).

When Justice Story’s constitutional analysis is applied to the Nevada Constitution, it follows that the only source of constitutional power entitling the Governor to terminate a legislative session is found in Article 5, Section 11, which allows the Governor to terminate a legislative session in cases where the two Houses disagree with respect to the time of adjournment. In no other case is the Governor allowed to interfere with the time and extent of the Legislature’s deliberations. Because Justice Story’s constitutional analysis is consistent with the text of the

Nevada Constitution and with the fundamental rules of constitutional construction, we believe Justice Story's analysis supports the conclusion that the Governor does not possess any implied constitutional power to limit the length of a special session or to terminate a special session once it has convened.

D. By repealing the constitutional limit on the length of special sessions in 1958, the people intended to eliminate all constitutional limitations on the length of special sessions.

Another fundamental rule of constitutional construction is that the Constitution must be interpreted in a manner that best carries out the intent of the people. See State ex rel. Summerfield v. Clarke, 21 Nev. 333, 337 (1892); State ex rel. Cardwell v. Glenn, 18 Nev. 34, 42 (1883). When the people repeal a section of the Constitution, it is presumed that the people intended to make a substantial change in the organic law. See State v. Weddell, 117 Nev. 651, 657 (2001).

When the people adopted the Nevada Constitution in 1864, Article 4, Section 29 provided that a regular session of the Legislature could not exceed 60 days and a special session of the Legislature could not exceed 20 days. The people repealed Article 4, Section 29 in 1958. Since then, the people have adopted another constitutional limit on the length of regular sessions that limits the length of regular sessions to 120 calendar days. Nev. Const. art. 4, § 2; Nev. Mining Ass'n v. Erdoes, 117 Nev. 531, 537-39 (2001). However, the people have not adopted another constitutional limit on the length of special sessions.

Because the people repealed the constitutional limit on the length of special sessions in 1958 and because the people have not found it appropriate to adopt another constitutional limit on the length of special sessions, even though they have found it appropriate to adopt another constitutional limit on the length of regular sessions, it is reasonable to conclude that the people intended to make a substantial change in the organic law by eliminating all constitutional limitations on the length of special sessions. Therefore, given that the people clearly expressed their intent to eliminate all constitutional limitations on the length of special sessions, it would be unreasonable to conclude that the Governor has implied power to impose a limit on the length of special sessions.

E. Governor Guinn's and Governor Gibbons' recent attempts to establish purported time limits on the length of special sessions are of no constitutional significance because such attempts conflict with the long-standing interpretation of Article 5, Section 9 by the legislative and executive branches.

When interpreting a doubtful or uncertain constitutional provision, the Nevada Supreme Court will often look to interpretations by the legislative and executive branches which occurred close in time to when the constitutional provision was enacted because such contemporaneous interpretations are "likely reflective of the mindset of the framers." Halverson v. Miller, 124 Nev. Adv. Op. 47, 186 P.3d 893, 897 (2008) (quoting Dir. of Office of State Lands & Invs. v. Merbanco, Inc., 70 P.3d 241, 256 (Wyo. 2003)). Thus, "[a] contemporaneous construction by the legislature of a constitutional provision is a safe guide to its proper interpretation and creates a strong presumption that the interpretation was proper." Id. (internal quotation marks omitted).

Furthermore, when a contemporaneous construction is consistently followed by the legislative and executive branches over a considerable period of time, that construction is treated as a long-standing interpretation of the constitutional provision, and such an interpretation is given great weight and deference by the judiciary. State ex rel. Herr v. Laxalt, 84 Nev. 382, 387 (1968); State ex rel. Torreyson v. Grey, 21 Nev. 378, 387-90 (1893) (Bigelow, J., concurring); State ex rel. Coffin v. Howell, 26 Nev. 93, 104-05 (1901); State ex rel. Cardwell v. Glenn, 18 Nev. 34, 43-46 (1883). As further explained by the Nevada Supreme Court, "[a] long continued and contemporaneous construction placed by the coordinate branch of government upon a matter of procedure in such coordinate branch of government should be given great weight." Howell, 26 Nev. at 104; see also Dayton Gold & Silver Mining Co. v. Seawell, 11 Nev. 394, 400 (1876) ("in

case of a reasonable doubt as to the meaning of the words, the construction given to them by the legislature ought to prevail.”).

From 1864 through the end of 2002, Nevada’s Governors convened 18 special sessions of the Legislature. From a review of the Journals of the Senate and Assembly for that period of 138 years, no Nevada Governor, either in a proclamation convening a special session or in any supplemental proclamation or message issued during a special session, attempted to establish a purported time limit on the length of a special session.

For example, less than three years after the Nevada Constitution was adopted, Governor Blasdel convened the First Special Session of the Legislature on March 15, 1867. The First Special Session lasted for 20 days, the maximum allowed under Article 4, Section 29, which was in effect at that time. The Journals do not contain any evidence that Governor Blasdel attempted to limit the length of the First Special Session or attempted to terminate the First Special Session once it had convened. To the contrary, given that the First Special Session continued to meet until the expiration of the express constitutional limitation of 20 days which was in effect at that time, it is reasonable to conclude that the legislative and executive branches believed the express constitutional limitation of 20 days was the only limitation on the length of a special session.

It was not until 138 years later, after 17 additional special sessions had been held, that a Governor of this state attempted to establish a purported time limit on the length of a special session. On June 3, 2003, Governor Guinn convened the 19th Special Session of the Legislature. In his proclamation convening the special session, Governor Guinn called the special session “to begin at 4:00 p.m., on June 3, 2003, and to end at 5:00 p.m. on June 6, 2003.” However, on June 6, 2003, and again on June 8, 2003, Governor Guinn amended his prior proclamations to extend the purported time limit on the length of the 19th Special Session. Finally, on June 12, 2003, after the Senate Majority Leader and the Speaker of the Assembly informed Governor Guinn that there was disagreement between the two Houses with respect to the time of adjournment, the Governor adjourned the 19th Special Session pursuant to Article 5, Section 11.

A short time thereafter, Governor Guinn convened the 20th Special Session of the Legislature. In his proclamation convening the special session, Governor Guinn did not attempt to establish a purported time limit on the length of the 20th Special Session, which lasted for 28 days from June 25, 2003, to July 22, 2003.

Similarly, in his proclamation convening the 21st Special Session of the Legislature, Governor Guinn did not attempt to establish a purported time limit on the length of the special session, which lasted for 25 days from November 10, 2004, to December 4, 2004.

On June 7, 2005, Governor Guinn convened the 22nd Special Session of the Legislature. In his proclamation convening the special session, Governor Guinn provided that “[t]he special session shall begin at 3:00 a.m. on June 7, 2005, and shall end at 7:00 a.m. on June 7, 2005.” On that same day, Governor Guinn amended his prior proclamations several times to extend the purported time limit on the length of the 22nd Special Session. The Legislature, with the consent of both Houses, voluntarily adjourned *sine die* on June 7, 2005.

On June 5, 2007, Governor Gibbons convened the 23rd Special Session of the Legislature. In his proclamation convening the special session, Governor Gibbons provided that “[t]he Special Session shall begin at 5:00 p.m. on June 5, 2007, and shall end at Midnight, June 5, 2007.” The Legislature, with the consent of both Houses, voluntarily adjourned *sine die* on June 5, 2007.

On June 27, 2008, Governor Gibbons convened the 24th Special Session of the Legislature. In his proclamation convening the special session, Governor Gibbons provided that “[t]he Special Session shall begin at 10:00 a.m. on Friday, June 27, 2008 and shall end not later than midnight on Sunday, June 29, 2008.” The Legislature, with the consent of both Houses, voluntarily adjourned *sine die* on June 27, 2008.

On December 8, 2008, Governor Gibbons convened the 25th Special Session of the Legislature. In his proclamation convening the special session, Governor Gibbons provided that “[t]he Special Session shall begin at 9:00 a.m. (Pacific Standard Time) on Monday, December 8, 2008, and shall end not later than 11:58 p.m. (Pacific Standard Time) on Tuesday, December 9, 2008.” The Legislature, with the consent of both Houses, voluntarily adjourned *sine die* on December 8, 2008.

Based on our examination of the special sessions of the Legislature from 2003 to 2008, the most that can be said is that Governor Guinn and Governor Gibbons both made attempts to establish purported time limits on the length of some of those special sessions. However, the issue of whether those purported time limits were binding and enforceable on the Legislature was never reached because the Governor and the Legislature, through their mutual efforts and cooperation, voluntarily agreed to complete the necessary legislative business within a mutually acceptable time frame. The fact that the legislative and executive branches, in a spirit of comity and cooperation, worked together within a mutually acceptable time frame during these special sessions has no constitutional significance on the issue of whether the Governor has the implied power to establish a binding and enforceable time limit on the length of a special session.

On many occasions, the Nevada Supreme Court has recognized that one branch of government cannot relinquish its constitutional powers by cooperating with another branch of government. For example, when the Legislature enacts a statute relating to court practices and procedures, “the courts may acquiesce out of comity or courtesy.” Blackjack Bonding v. City of Las Vegas Mun. Ct., 116 Nev. 1213, 1220 n.4 (2000). However, when the courts acquiesce out of comity or courtesy to legislatively enacted procedural rules, the courts do not thereby relinquish the constitutional powers of the judicial branch. Furthermore, if the Legislature attempts to control the manner in which the courts exercise their constitutional powers, the Legislature encroaches on the judicial branch and acts unconstitutionally. See Johnson v. Goldman, 94 Nev. 6, 7-9 (1978); Goldberg v. Eighth Jud. Dist. Ct., 93 Nev. 614, 614-18 (1977).

One circumstance where such unconstitutional encroachment occurs is when the Legislature attempts to require judicial action within fixed periods of time. Specifically, the Nevada Supreme Court has held that “any legislation undertaking to require judicial action within fixed periods of time is an unconstitutional interference by the legislature with a judicial function.” Volpert v. Papagna, 85 Nev. 437, 439 (1969); Lindauer v. Allen, 85 Nev. 430, 434 (1969); Waite v. Burgess, 69 Nev. 230, 233 (1952). Similarly, if the Governor attempts to require legislative action within fixed periods of time during a special session, the Governor encroaches on the legislative branch and acts unconstitutionally.

It is also a fundamental rule of constitutional construction that the constitutionally based separation of powers cannot be waived by either the legislative or executive branch. Comm’n on Ethics v. Hardy, 125 Nev. Adv. Op. 27, 212 P.3d 1098, 1108 (2009). Consequently, regardless of the degree of assent or acquiescence by the legislative or executive branch, actions which infringe on the structural protections of separation of powers are unconstitutional. Freytag v. Comm’r of Internal Revenue, 501 U.S. 868, 879-80 (1991); Clinton v. City of New York, 524 U.S. 417, 445-46 (1998). Thus, the Legislature, by either its assent or acquiescence, cannot give the Governor the legislative power to determine the length of a special session.

Finally, even assuming that Governor Guinn’s and Governor Gibbons’ recent attempts to establish purported time limits on the length of special sessions created some doubt regarding this issue, it is a fundamental rule of constitutional construction that such doubt must be resolved in favor of the power of the Legislature, not the power of the Governor. Thus, we believe any claim that the Governor possesses the implied power to limit the length of a special session would be strictly construed against the Governor and in favor of the Legislature and the long-standing interpretation of Article 5, Section 9 which has been followed by the legislative and executive branches for most of Nevada’s history.

F. An interpretation of the Nevada Constitution to give the Governor the power to limit the length of a special session or to terminate a special session once it has convened would produce absurd and unreasonable results.

Another fundamental rule of constitutional construction is that the Constitution should be interpreted to avoid unreasonable or absurd results. Nev. Mining Ass’n v. Erdoes, 117 Nev. 531, 542 (2001). Thus, when a court is faced with two possible constitutional interpretations and one of those interpretations would produce results that are unreasonable or absurd in light of the intent of the Framers, the court will reject the unreasonable or absurd interpretation. *Id.*

If the Constitution were interpreted to allow the Governor to limit the length of a special session or to terminate a special session once it has convened, that interpretation would give the

Governor unbridled discretion to determine the length of a special session. Considering the Founders' great disdain for the unlimited executive power that royal colonial governors wielded over the length of legislative sessions, it would be unreasonable and absurd to conclude that the Framers of the Nevada Constitution intended, by mere implication, to give the Governor unbridled discretion to determine the length of a special session. Such unbridled discretion would offend core constitutional values that have been recognized since colonial times.

Additionally, if the Constitution were interpreted to allow the Governor to limit the length of a special session or to terminate a special session once it has convened, that interpretation would deprive the Legislature of a meaningful opportunity to take public testimony, to investigate disputed issues and to deliberate and debate the merits of legislative proposals during a special session. We believe such a result would be both unreasonable and absurd considering that the Legislature is the people's branch of government and was created to represent and carry out the will of the people.

In our representative democracy, the people have the right "to instruct their representatives and to petition the Legislature for redress of Grievances." Nev. Const. art. 1, § 10; U.S. Const. amend. I. As further explained by the United States Supreme Court, "[i]n a representative democracy such as this, [the] branches of government act on behalf of the people and, to a very large extent, the whole concept of representation depends upon the ability of the people to make their wishes known to their representatives." E. R.R. Presidents Conference v. Noerr Motor Freight, Inc., 365 U.S. 127, 137 (1961). Thus, meaningful public participation during a special session is essential to providing the Legislature with an indispensable source of information concerning the will of the people.

Because ascertaining the will of the people is critical to the success of the legislative process, state legislatures have the inherent power to conduct hearings and investigations to gather the information that is necessary to perform their legislative functions. Gibson v. Fla. Legis. Investigation Comm'n, 372 U.S. 539, 544-45 (1963). Indeed, the United States Supreme Court has stated that "[a] legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change." McGrain v. Daugherty, 273 U.S. 135, 175 (1927). Thus, legislative hearings and investigations provide the Legislature with an indispensable source of information concerning the potential impact of legislation.

Given the importance that meaningful public participation and legislative hearings and investigations play in our representative democracy, it would be unreasonable and absurd to interpret the Constitution to provide the Governor with unbridled discretion to determine the length of a special session when such unbridled discretion could be used to limit public participation and deprive the Legislature of sufficient time to deliberate and debate the merits of proposed legislation. As explained by one court, "[i]nherent in the power to enact laws is the power to deliberate, and deliberation necessarily requires time." State ex rel. Distilled Spirits Inst. v. Kinnear, 492 P.2d 1012, 1016 (Wash. 1972).

Furthermore, because the people have the final say concerning the power of the Legislature, it is undoubtedly appropriate for the people to limit the length of legislative sessions through the adoption of express constitutional provisions. However, it would be unreasonable and absurd to interpret the Constitution to provide the Governor with such power by mere implication when such an interpretation would seriously erode the power of the Legislature to provide for meaningful public participation, to conduct legislative investigations and to engage in deliberation and debate.

Finally, if the Constitution were interpreted to allow the Governor to limit the length of a special session or to terminate a special session once it has convened, that interpretation could be used to deprive the Legislature of an immediate opportunity to override a veto during a special session. Article 4, Section 35 of the Nevada Constitution establishes the Governor's power of veto. That section gives the Governor 5 days in which to exercise a veto and return the vetoed bill to the Legislature if it is in session. The Legislature is then given the immediate opportunity to override the Governor's veto. However, if the Legislature, by its final adjournment, prevents the return of the vetoed bill, the Governor is given 10 days after the Legislature's final adjournment to file the vetoed bill with the Secretary of State. Under such circumstances, the

Legislature is not given an opportunity to override the Governor's veto until its next legislative session. See Jones v. Theall, 3 Nev. 233 (1867).

If the Governor had the power to limit the length of a special session or to terminate a special session once it has convened, the Governor could use that power to establish such a brief period for the special session that the Legislature, by its final adjournment under the direction of the Governor, would be deprived of an immediate opportunity to override a veto during the special session. This would result in a substantial and unusual shift in the constitutional balance of power in favor of the Governor. We believe such a result would be both unreasonable and absurd given the Founders' great disdain for executive control over legislative sessions and the fact that the Nevada Constitution does not contain any express authority that would justify such a substantial and unusual shift in the constitutional balance of power in favor of the Governor.

In sum, we believe an interpretation of the Nevada Constitution to give the Governor the implied power to limit the length of a special session or to terminate a special session once it has convened would produce several absurd and unreasonable results. Therefore, we believe the courts would reject such an interpretation.

G. AGO 2001-14 is not supported by sound legal reasoning or persuasive legal authority.

As noted previously, AGO 2001-14 opined that the Governor possesses implied constitutional power to establish a binding and enforceable time limit on the length of a special session. We believe AGO 2001-14 is flawed because it fails to discuss any of the historical evidence or fundamental rules of constitutional construction that we have discussed in our opinion. Instead, AGO 2001-14 relies primarily on an advisory opinion from the Florida Supreme Court and a case decided by the Nebraska Supreme Court. In re Advisory Opinion to the Governor, 206 So. 2d 212 (Fla. 1968); People ex rel. Tennant v. Parker, 3 Neb. 409 (1873). We believe this legal authority does not provide sufficient support for the conclusions in AGO 2001-14.

The first legal authority cited in AGO 2001-14 is In re Advisory Opinion to the Governor, 206 So. 2d 212 (Fla. 1968). In that advisory opinion, five justices of the Florida Supreme Court concluded that the Governor of Florida had the implied power to establish a binding and enforceable time limit on the length of a special session when the governor issued the proclamation calling the special session. Id. at 213-14. In their advisory opinion, the five justices failed to address any of the historical evidence or fundamental rules of constitutional construction that we have discussed in our opinion. Consequently, we believe the advisory opinion of the Florida Supreme Court is flawed because it suffers from a lack of legal authority to support the advisory opinion.²

The paucity of legal authority to support the advisory opinion of the Florida Supreme Court was highlighted by the two justices who joined in an insightful dissent to the advisory opinion. The dissenting justices noted that there was no provision in the Florida Constitution expressly authorizing the governor to limit the length of a special session and that "one branch of the sovereignty will not be empowered to exercise control over a coordinate branch by implication." Id. at 215 (Drew and Thornal, JJ., dissenting). The dissenting justices also noted that the governor was given specific and precise constitutional powers to call a special session and to state the purposes for the special session and that, by stipulating such specific and precise executive powers, the Constitution excluded the inference that the governor could impose

² We note that an advisory opinion of the Florida Supreme Court is not binding judicial precedent even in the State of Florida. See Lee v. Dowda, 19 So. 2d 570, 572 (Fla. 1944); State ex rel. Williams v. Lee, 164 So. 536, 538 (Fla. 1935); Collins v. Horten, 111 So. 2d 746, 751 (Fla. Dist. Ct. App. 1959). Thus, the advisory opinion of the Florida Supreme Court is weak authority concerning the power of Nevada's Governor to limit the length of a special session or to terminate a special session. We further note that, in a later case, the Florida Supreme Court stated in dicta that it agreed with its earlier advisory opinion. See Florida Senate v. Graham, 412 So. 2d 360, 362 (Fla. 1982). In that later case, though, the court still failed to offer any legal authority to support its earlier advisory opinion.

additional restrictions on the legislative power. Id. at 215-16. The dissenting justices concluded that “once the Governor activates the legislative process by the proclamation for an extra session, then, by the very nature of the legislative power, the Legislature itself controls the matter of its recesses or adjournment within the time limitations stipulated by the Constitution.” Id. at 215.

Unlike the dissenting justices who followed well-established rules of constitutional construction, the five justices in the majority failed to support their advisory opinion with any legal authority, and they completely ignored this country’s constitutional history and the Founders’ great disdain for executive control over legislative sessions. As a result, we believe the advisory opinion of the Florida Supreme Court is flawed and does not provide sound support for the conclusions in AGO 2001-14.

The other legal authority cited in AGO 2001-14 is People ex rel. Tennant v. Parker, 3 Neb. 409 (1873). In that case, the Nebraska Supreme Court held that the Governor of Nebraska had the power to revoke a proclamation calling a special session before the state legislature convened in the special session. Id. at 418-23. Based on this case, AGO 2001-14 employs the following reasoning:

Included within such power to revoke would be the authority to specify within the proclamation a specific time period during which the proclamation shall remain in force and effect. Accordingly, it is our opinion that the Governor possesses authority to specify a durational time limit for such special session.

Op. Nev. Att’y Gen. No. 2001-14 (June 12, 2001). We believe this reasoning is not supported by the Nebraska case or any other case.

First, courts are split on the issue of whether a governor has the power to revoke a proclamation calling a special session. Compare Royster v. Brock, 79 S.W.2d 707, 708-11 (Ky. 1935) (holding that the governor did not have the power to revoke a proclamation calling a special session), with Advisory Opinion to the Governor, 96 So. 2d 413, 416 (Fla. 1957) (opining that the governor had the power to revoke a proclamation calling a special session); In re Opinion of the Justices, 12 A.2d 418, 420 (Me. 1940) (same); People ex rel. Tennant v. Parker, 3 Neb. 409, 418-23 (1873) (same). Given this split in case law, it is debatable whether the Governor possesses the power to revoke a proclamation calling a special session.

Second, even assuming that the Governor possesses such power, courts agree that the power to revoke must be exercised before the Legislature has convened in the special session. See Advisory Opinion to the Governor, 96 So. 2d 413, 416 (Fla. 1957); In re Opinion of the Justices, 12 A.2d 418, 420 (Me. 1940); People ex rel. Tennant v. Parker, 3 Neb. 409, 418-23 (1873); see also Foster v. Graves, 275 S.W. 653, 655 (Ark. 1925) (“[T]he power of the executive over the form of his proclamation . . . is plenary until the Legislature has actually convened pursuant to the call contained in the proclamation.”).

Indeed, in construing the Nebraska case cited in AGO 2001-14, the Nebraska Supreme Court found that the case “has insignificant precedential value” regarding the power of the governor after the legislature has convened in the special session. Jaksha v. State, 385 N.W.2d 922, 925 (Neb. 1986); see also 1 Norman J. Singer, Sutherland Statutory Construction § 5.02 (5th ed. 1994) (commenting that it is questionable whether the governor may withdraw the legislature’s authority to act after the legislature has commenced to consider matters set forth in the governor’s call).

Consequently, there is no legal authority to support the reasoning in AGO 2001-14 that the power to revoke the proclamation before the Legislature has convened in a special session implies that the Governor has the power to revoke the proclamation after the Legislature has convened in the special session. As a result, we believe the Nebraska case does not provide sound support for the conclusions in AGO 2001-14.

In sum, we believe AGO 2001-14 is flawed because it is not supported by sound legal reasoning or persuasive legal authority. Therefore, we believe AGO 2001-14 would be given very little persuasive weight by the judiciary.

H. The Legislative Counsel of the State of California has concluded that the California Constitution does not expressly or implicitly authorize the Governor of that state to limit the length of a special session.

Under Article IV, Section 3(b) of the California Constitution, the Governor of that state may convene a special session of the California Legislature by proclamation:

On extraordinary occasions the Governor by proclamation may cause the Legislature to assemble in special session. When so assembled it has power to legislate only on subjects specified in the proclamation but may provide for expenses and other matters incidental to the session.

In an opinion letter sent to California Governor Arnold Schwarzenegger on November 7, 2008, the Legislative Counsel of the State of California concluded that the Governor's power to convene a special session did not include the power to limit its duration.³ The opinion letter provided in relevant part:

Nothing in the California Constitution limits the duration of a special session called by the Governor or requires the Legislature, once called into special session, to remain in session for any minimum period.

Although only the Governor is authorized to call the Legislature into special session, the Governor has no authority to specify that the session last for a stated period of time. Unlike the federal constitution, which is a grant of power to Congress, the California Constitution is a limitation on the powers of the Legislature. That body may exercise any and all legislative powers that are not expressly, or by necessary implication, denied to it by the California Constitution. Second, if there is any doubt as to the Legislature's power to act, the doubt should be resolved in favor of the exercise of power. Restrictions and limitations imposed by the California Constitution should be construed strictly, and should not be intended to include matters not covered by the language used (*Pacific Legal Foundation v. Brown* (1981) 29 Cal.3d 168, 180; *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1810). Because the California Constitution does not expressly or implicitly authorize the Governor to limit the duration of a special session, we conclude that the Governor may not do so.

Thus, we conclude that it is entirely up to the Legislature to determine how long it will stay in session under a special session called by the Governor.

Op. Cal. Legis. Counsel No. 0828476 (Nov. 7, 2008).

On its face, Article IV, Section 3(b) of the California Constitution regarding special sessions is not identical to Article 5, Section 9 of the Nevada Constitution. Nevertheless, because these constitutional provisions are sufficiently similar in substance, we believe the opinion of the Legislative Counsel of the State of California provides further support for our conclusion that the Governor does not possess any express or implied constitutional power to establish a binding and enforceable time limit on the length of a special session or to terminate a special session once it has convened.

CONCLUSION

³ A copy of the opinion letter is available at:
http://media.sacbee.com/smedia/2008/11/12/17/17738.source.prod_affiliate.4.pdf

After reviewing extensive historical evidence and persuasive legal authorities and after applying the fundamental rules of constitutional construction, it is the opinion of this office that the Governor does not possess any express or implied constitutional power to establish a binding and enforceable time limit on the length of a special session or to terminate a special session once it has convened.

Furthermore, because this issue involves the interpretation of a doubtful or uncertain constitutional provision affecting legislative procedure, the Legislature is entitled to follow an opinion of the Legislative Counsel which interprets the doubtful or uncertain constitutional provision, and the judiciary will typically afford the Legislature deference in its counseled selection of that interpretation.

Finally, we note that the Governor may recommend to the Legislature a time limit on the length of a special session when the Governor issues the proclamation calling the special session. Likewise, once the Legislature has convened in a special session, the Governor may issue a supplemental proclamation or message recommending to the Legislature a date and time for the Legislature to adjourn *sine die*. In either circumstance, the Legislature may voluntarily follow the Governor's recommendation in the spirit of mutual cooperation with a coordinate branch of government. However, given the plenary power of the Legislature to control the length of its legislative sessions, any recommendation from the Governor concerning the length of the special session would not be binding or enforceable on the Legislature, and the Legislature would be free to determine its own date and time to adjourn *sine die* regardless of any recommendation from the Governor.

If you have any further questions regarding this matter, please do not hesitate to contact this office.

Very truly yours,

Brenda J. Erdoes
Legislative Counsel

By _____
Kevin C. Powers
Senior Principal Deputy Legislative Counsel

KCP:dtm
Ref No. 1002242159
File No. OP_Malkiewicz10022422427

REMARKS FROM THE FLOOR

Assemblyman Ocegüera moved that the following remarks be entered in the Journal.

ASSEMBLYMAN SETTELMAYER:

Thank you, Madam Speaker. I understand the opinion. I also believe that there is an Attorney General opinion from 2001-14 that seems to contradict that. It has nothing to do with my like, my dislike, of a governor of any type. I would be having this speech whether it was Republican, Democrat or Independent. I believe very much in the separation of powers and based on that Attorney General opinion, I do believe the Governor does have discretionary power and has stayed within it. The Governor's discretionary power to issue the proclamation convening the special session includes the power to revoke, amend or specify the time periods that proclamation shall be in effect.

I would like that also read into the record.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Well, we can ask our legal counsel to come down and talk about it and I will also ask if they want me to put it for a vote, so I want it really clear in the record that the Executive Branch cannot tell the Legislative Branch when to end. I think it is really important for separation of powers.

Our legal counsel does not believe the Attorney General's opinion is correct. I will put my faith in Brenda Erdoes and Kevin Powers any day of the week. They have done a tremendous job in representing us and you know, that is certainly where I come down. So I am going to double check to see if it would be better to have a vote so it is very clear what the majority opinion is on this issue. I won't put it in the record yet; I will ask clarification from Brenda.

I would also note that the good news also is that because of the cooperative relations between the Executive Branch and the Legislative Branch, we do have a proclamation extending the end of the session, so we are not going to go to court; we are not going to fight about it, but it is important to preserve the integrity of the Legislature and separation of powers. I say this not because I am returning to this body, but because it is an important constitutional principle. I think it need to be made very clear what our position is so we are not seen to have acquiesced to the decision on when to end our body's time.

Brenda, I see you sitting up there, is there anything you want to add to this discussion about....No, Brenda wants to go home. Okay, if you will just come to see me for a second, I just had a quick question for you.

COMMUNICATIONS

MESSAGES FROM THE GOVERNOR

OFFICE OF THE GOVERNOR
JIM GIBBONS
GOVERNOR

February 28, 2010

The Honorable Barbara Buckley, *SPEAKER OF THE ASSEMBLY*, NEVADA STATE ASSEMBLY,
401 SOUTH CARSON STREET, CARSON CITY, NEVADA 89701

TO THE HONORABLE MEMBERS OF THE NEVADA STATE ASSEMBLY:

Due to the complex issues involved, I have been requested to amend the time limitation that I have set for concluding the 26th Special Session of the Nevada Legislature. Additionally, I have been requested to bring an additional matter to your attention to be considered during this Special Session.

Accordingly I have amended my First Amended Proclamation to address these two requests.

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

Sincerely,
JIM GIBBONS
Governor

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguela moved that the reading of the amended Proclamation issued by the Governor regarding additional matters be dispensed with and that the Proclamation be entered into the Journal.

Motion carried.

STATE OF NEVADA
OFFICE OF THE GOVERNOR
EXECUTIVE ORDER

SECOND AMENDED PROCLAMATION BY THE GOVERNOR:

The Senate Majority Leader and the Speaker of the Assembly, due to the complex issues involved, have requested I amend the time limitation that I have set for concluding the 26th Special Session of the Nevada Legislature.

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, hereby amend my First Amended Proclamation dated February 24, 2010 and extend the 26th Special Session of the Nevada Legislature until 5:00 p.m. on Monday, March 1, 2010.

Additionally, Legislative Leadership has requested an additional matter to be considered during this Special Session. Section 9 of Article V of the Nevada Constitution provides that the Governor may request the Legislature, when convened in Special Session, to consider matters other than those set forth in the call.

Therefore, I am exercising my constitutional authority to bring the following additional legislative business to your attention:

- An act relating to governmental financial administration; revising provisions governing the Fund for Cleaning Up Discharges of Petroleum; repealing the prospective limitation on the collection of certain gross receipts taxes in Clark County; transitioning certain fees from statute to regulation and providing other matters properly relating thereto.

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 28th day of February, in the year two thousand ten.

Jim Gibbons
Governor

Ross Miller
Secretary of State of Nevada

Nicole Lamboley
Deputy Secretary of State of Nevada

REMARKS FROM THE FLOOR

Assemblyman Ocegüera moved that the following remarks be entered in the Journal.

ASSEMBLYMAN OCEGUERA:

Thank you, Madam Chair. To the question on the Attorney General opinion, in our opinion, I will just state some basics on here, AGO Opinion 2001-14 is not supported by sound legal reasoning or persuasive argument. That doesn't sound good. It says that "we believe the AGO is flawed because it fails to discuss any of the historical evidence or fundamental rules of constitutional construction that we have discussed in this opinion." Then it goes on for awhile, and says, "there is no legal authority to support the reasoning of the AGO that the power to revoke the proclamation before the Legislature is convened in special session implies the Governor has the power to revoke the proclamation after the Legislature has convened into special session.....in sum, we believe it is flawed because it is not supported by sound legal reasoning or persuasive legal authority."

Then, Madam Chair, not to be argumentative, but you accepted the motion that I made and entered the opinion into the record, and it was already voted on, quite frankly, so I think the motion was out of order.

MADAM SPEAKER:

I agree, let's move on.

Assemblyman Ocegüera moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering BDR 31-43.

Motion carried.

IN COMMITTEE OF THE WHOLE

At 11:42 p.m.

Chair Buckley presiding.

Quorum present.

BDR 31-43 discussed.

Assemblywoman Smith moved to introduce a corrected version of BDR 31-43.

Seconded by Assemblywoman Leslie.

Motion carried.

On motion of Assemblyman Ocegüera, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 11:43 p.m.

Madam Speaker presiding.

Quorum present.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:44 p.m.

ASSEMBLY IN SESSION

At 12:19 a.m.

Madam Speaker presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee of the Whole:

Assembly Bill No. 6—AN ACT relating to governmental financial administration; revising certain appropriations from the State General Fund for the support of the civil government of the State of Nevada; authorizing expenditures by certain agencies and entities of the State Government; providing for the transfer of certain appropriated money to the next fiscal year; requiring the Clean Water Coalition to transfer certain money to the State Controller for deposit in the State General Fund; increasing fees imposed for certain filings or registrations made with the Office of the Secretary of State; revising provisions relating to foreclosure of real property; revising provisions relating to the use of money in the Account for Common-

Interest Communities and Condominium Hotels; increasing certain administrative assessments imposed against persons who commit certain crimes; authorizing the Department of Corrections to adopt regulations to allow the Department to deduct money credited to the Offenders' Store Fund for certain purposes and to impose a charge on purchases of electronic devices; providing for the temporary transfer of certain lobbyist registration fees; increasing certain fees charged by the State Registrar; authorizing the Department of Wildlife to use fees collected for processing applications for tags for certain additional purposes; imposing an additional fee for filing certain affidavits relating to mining claims; reducing the basic support guarantees of school districts for purposes of apportionments from the State Distributive School Account; requiring the Department of Taxation to allow for the payment of delinquent taxes, fees or assessments without a penalty for a limited period in certain circumstances; requiring the Division of Insurance of the Department of Business and Industry to carry out a desk audit program to audit insurance premium tax returns; providing for the use of money from an award from the Temporary Assistance for Needy Families Emergency Contingency funds; making appropriations; and providing other matters properly relating thereto.

GENERAL FILE AND THIRD READING

Assembly Bill No. 6.

Bill read third time.

Remarks by Assemblymen Oceguera, Cobb, Smith, Gansert, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN OCEGUERA:

Thank you, Madam Speaker. One of the sections that was worked on a lot down to the last minute here this time was on the sections on the claim fees and the mining industry was one of the businesses that I think sets an example for the next session by stepping up to the plate. The cuts to education, etc. would have been much, much worse if they had not stepped up to the plate, willingly at first, and then pushed a little bit farther down the way. I just wanted to make that part of the record.

ASSEMBLYMAN COBB:

I rise in opposition to Assembly Bill 6. After midnight I bullet point my speeches so I will just get to the point. I think we had some good proposals brought forward and I think there was a lot of cooperation by a lot of different groups. I appreciate the work of everyone in this body, people who have been working on this for weeks. I think that there were some good ideas put forward by the Republicans in this room. I appreciate all of the work that they did and I think that we had a pretty good proposal that did not increase nonuser fees, which are fees that are directly related to individual voluntary programs and taxes. I cannot go along with what I feel is going to be a tax and nonuser fee increase in this recession. I also think that there are some duplicative programs, namely, the NERC (Nevada Equal Rights Commission) program, which according to this DETR memo suggests that 90 percent of their caseload actually involves federal violations and, therefore, could be handled by the federal government. Department of Employment, Training, and Rehabilitation's memo goes on to suggest it could handle the remaining cases at a very low cost and not necessarily keep another office open. So I do believe

that there are some areas we could have cut back. Although, I think that we came forward and many of us on our side of the aisle said that is fine, we will accept some things that perhaps otherwise we would not be willing to accept, but only as a package deal with some of the other things that were our priorities. I think that there was a good spirit of cooperation in this body, and I think that we had some good ideas that we felt we could go along with. Not to speak for anyone else but I just could not go along with this particular package here for the reasons I have stated. Thank you.

MADAM SPEAKER:

Thank you, Assemblyman Cobb. Assemblywoman Smith.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I rise in support of Assembly Bill 6. These are difficult times and we have heard, for the last three weeks sitting through our Interim Finance Committee meetings and town hall meetings, about our budget deficit and what the impacts of the loss of this funding means to the citizens in our state. I am appreciative of all of my colleagues and of the leadership here and who have helped us get to where we are tonight. This bill has a lot of compromise in it, a lot of tough decisions, and really a lot of pain in it. As we leave here and we feel pleased that we were able to mitigate what we have been able to do. We also have to remember that we truly have made \$304 million in cuts and that impact the lives of our citizens every day.

Whether it is a smaller budget item or a huge budget item, these are services and needs that our citizens have every day. I suppose the fact that nobody is happy with all of this probably means that it was pretty equitable because whether it is a fee increase—I would love to pick off a few things that I didn't like—but when you are talking about a \$900 million budget hole, you are going to have things to solve this problem, whether they are cuts or fee increases that you may not like. I just feel like we are fortunate compared to where we were a few weeks ago that we have been able to get where we are tonight and go home with being able to restore some of those education cuts and the worst of the human services.

While we know we have a lot of challenges ahead of us in the coming year and that it is really time for us, as soon as we leave here to begin working on those solutions, and I look forward to doing that with my colleagues. I think we need to feel pretty good about the fact that we put in a lot of work, we have listened to more constituents than I can remember in my several sessions here and in the interim. I have never had so much contact with real stories and real solutions and real offers of help. Please when you leave here remember that we can feel really good about the things we have restored. But we have also made a lot of serious cuts and we are going to be changing lives in a lot of ways. I thank you all for what you have all come together and done and I also urge your support of this bill.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I too rise in support of Assembly Bill 6. I think there was a great effort put forth by this legislative body and also the Governor to come together in agreement. I know when I first heard the numbers after they recalculated it from the Economic Forum, when it rose to \$900 million; it seemed like an insurmountable task. I did not know how we were going to get this done. I think we did a good job of using the Interim Finance Committee hearings to keep the costs down to get a lot of input.

This session we have spent some time rehashing the entire budget in a very short period and in a very efficient manner. Some of the things in this bill we need to recognize is first, there is over \$300 million in cuts which is going to help us as we move towards next session and that it restores funding to education and our most vulnerable populations; that we keep our state parks open, that we keep our museums open, that we keep our Gaming Control Board whole so that we still have the golden ticket in the world when it comes to gaming licenses. It also has very minimal fees and some new revenues. There are a lot of things that we do not necessarily agree on and there are some things that we hate in this but it was a compromise. We have been in a very difficult position given the \$900 million hole and I think this is a bipartisan package with a solid agreement to try and move forward and I urge your support. Thank you.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Just a couple comments: I would like to echo the comments of my colleagues and thank everyone for their incredible work in putting together this measure. Not only did we reduce the proposed reductions to K-12 and Higher Ed, also, as stated by my colleague, we went through department by department to make sure we were not making mistakes. We restored money to the Gaming Control Board. We restored five positions to the Office of Water Engineer. There is a lot of philosophical debate; all fees are bad. Look at what happened by not having appropriate fees in the Office of the Water Engineer. How much more are we going to cost businesses around the state by not funding it properly and not funding it by fees? If you did a cost benefit analysis of that, to be penny-wise and pound-foolish makes no sense.

In addition to restoring those and other critical positions, we made some significant changes to state employees. We previously, as we all know, had cut their salaries by 4.6 percent, and along with other changes in healthcare and pension, it was an 11 percent cut. It was an original proposal to require state employees to take additional furloughs. I met two state employees last night as I left the building and they asked about the furlough. The woman said to me, "I am a single mom with kids and I am barely making it, barely getting by." I told her about reducing the furlough hours and she hugged me and she asked me to "thank all of the legislators tomorrow for me; we really appreciate everything you do for us."

So whether it was the restoration of K-12 or the various adjustments, we worked together side by side to pass a balanced budget in a very short amount of time. I would like to recognize the Governor's Office. It would have been very easy for the Governor to stay over across the complex and not try and work with us, but he did not. I would like to acknowledge Senate Majority Leader Steven Horsford. He has spent the last two weeks, every minute of every day, working on this. I would like to acknowledge our Majority Leader, John Ocegüera, for his tireless work on this bill.

Under Order of Business 15, I think that you all know that John and his wife just had a baby, so every night John listens to his baby cry via his iPhone. We thank you for your sacrifice at a very critical time in your life and for all of your work in making this happen. I would also like to acknowledge Assemblywoman Debbie Smith who, from our Ways and Means perspective, just spent every minute of every day on this. Her husband said when she retired, we got the benefit and he did not. We thank you for all of your service. I would also like to recognize the Minority Leader. We had a big disagreement this week, but the next day it was the Senate versus the Assembly in the core group meeting. It was like that day had not even happened and that is what bipartisanship means. I would like to also thank Senator Raggio; what an incredible public servant. We just put aside partisan differences, came up with the best solution we can for the state and I think we set an example for the public.

Republicans and Democrats are not impressed by Washington D.C. and partisan bickering. The Nevada style of working together that I learned from Speaker Joe Dini, Senator Bill Raggio and the titans of this building are our model and that should not be lost. Thank you for all of your service even when we disagreed; thank you for helping us get to this point. We balanced the budget in time and made it better and did the best we could for the citizens of our state.

Roll call on Assembly Bill No. 6:

YEAS—34.

NAYS—Christensen, Cobb, Goedhart, Goicoechea, Gustavson, McArthur, Settelmeyer, Woodbury—8.

Assembly Bill No. 6 having received a two-thirds majority, Madam Speaker declared it passed.

Assemblyman Ocegüera moved that all rules be suspended and that Assembly Bill No. 6 be immediately transmitted to the Senate.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 1, 2010

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 5.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:38 a.m.

ASSEMBLY IN SESSION

At 12:41 a.m.

Madam Speaker presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 5.

Assemblyman Ocegüera moved that the bill be referred to the Committee of the Whole.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Senate Bill No. 5.

Motion carried.

IN COMMITTEE OF THE WHOLE

At 12:43 a.m.

Chair Buckley presiding.

Quorum present.

Senate Bill No. 5 considered.

ASSEMBLYMAN ATKINSON:

Thank you, Madam Chair. I am going to ask Gary Milliken if he can come to the table with me. While Gary is making his way to the table, I will go ahead and start to go over the important sections of Senate Bill 5 that the Committee should have in front of them at this time. Senate Bill 5 would extend the 1.8 percent of the sales tax that was approved by the voters in Clark County for roads projects, which has been scheduled to sunset once \$1.8 billion in projects were completed. That \$1.7 billion will reach its capacity with the \$300 million that the Department has left to bond, so it will expire with the next set of projects, so we are trying to make sure that we're proposing that cap be lifted so the RTC can continue to bond for additional rural projects with the estimated \$40 million that the 1.8 percent sales tax brings into Clark County annually. The money will flow as it does now, collected by the Nevada Department of Taxation as part of the sales taxes collected in Clark County, and then remitted to the county.

We are also proposing that the DMV be allowed to set fees through regulations. If you note on page 4 of the bill, you will see the fees that we were considering. The Governor's Office asked that we not put the fees in the bill, but instead let the fees be set by regulation from the

DMV, so the DMV will be able to ask. Let me remind you that those fees will also have to come back to this body before they can be changed by the DMV, but they asked that they be outlined in the bill this way, and the Governor's Office does agree with it this way.

We are also proposing to lift the cap on the amount of revenue that can be collected through the \$.75 cent per gallon tax on gasoline and diesel fuel for the cleanup of underground petroleum storage tanks. This would allow about \$2.9 million in the current revenue fund that will go towards jobs.

There is another important section of the bill, if you will look at page 6 of the bill, you will see the fees that were on page 4 were actually added back, but please note that those fees are not taking effect; it's just saying that if those fees are dealt with by the DMV or asked to be increased, these are the only ones that this bill will deal with. That's where we are with this particular piece of legislation. I know that we're all very tired, but we will stand for questions. Just to let you know, this bill is supported by labor and management. It was brought forth by the AGC, Associated General Contractors, who estimate that for every \$500 million spent on roads and highway projects, there will be a result of about 4,250 direct on-site construction jobs, 2,100 jobs in the construction supply industry, and about 7,500 jobs in other sectors that are stimulated by the construction spending, as workers spend their income, based on about \$500 million we anticipate to receive from this. We're talking about 12,000 new jobs in the next 12 months and another 3,000-6,000 jobs in the follow-up months. With that said, we will stand for questions. I have asked some industry people to come to the table, as you see to my left and right, to help get through this bill, and hopefully, we will be in a position where we are creating jobs and having more money for bonding capacities. As you know at this point, the Senate passed this bill out of the Senate 21-0. We will take questions, Madam Chair.

CHAIR BUCKLEY:

Thank you, Assemblyman Atkinson. Assemblyman Christensen.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Madam Chair. As I'm looking through this, I just wanted to make sure that I understood a couple of basic things. Are these funds collected exclusively in Clark County or is it statewide?

ASSEMBLYMAN ATKINSON:

It is statewide.

CHAIR BUCKLEY:

Assemblyman Hardy.

ASSEMBLYMAN HARDY:

Thank you, Madam Chair. I assume that the words, "public roads" include bridges, otherwise known as transportation facilities, allows design, building projects pending and any other funding mechanism, public-private partnership, of any kind would be potentially in the mix? There aren't any preclusions in there?

STEVE HOLLOWAY, EXECUTIVE VICE PRESIDENT, ASSOCIATED GENERAL CONTRACTORS:

There are no preclusions in there for public-private partnerships if you wish to pursue them.

CHAIR BUCKLEY:

Obviously, the other existing provisions of law apply, so whatever we've already enacted with regard to design build would be applicable. Similarly, we haven't allowed toll roads, for example, so they still would not be allowed. The rest of our laws, obviously, are still on the books, and we would be complemented by this. Are there any other questions? Assemblyman Bobzien.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Chair. Just a quick clarification, I think the bill lays out the trigger aspect of how it interacts with the fund pretty clearly, but just to make sure that that fund's integrity is sound in terms of its ability to respond to remediation issues that might come up, it's still able to do what it's intended to do, is that correct?

ASSEMBLYMAN ATKINSON:

We're all debating what your question is. I don't know if it's late, or if it's that you're not speaking well.

ASSEMBLYMAN BOBZIEN:

I'll try again. For the fund for cleaning up discharges of petroleum, the money is still going to be there, and it's still going to be able to clean up petroleum discharges, is that correct?

STEVE HOLLOWAY:

Yes. That is correct. This money that's coming from the \$.25 gas tax goes to the petroleum reserve fund, clean up fund if you will, will only begin to go to the construction account after the \$7.5 million cap is filled each year.

CHAIR BUCKLEY:

Assemblyman Atkinson.

ASSEMBLYMAN ATKINSON:

Assemblyman Bobzien, if you look at page four, lines 34 and 35, I believe that addresses your concern.

CHAIR BUCKLEY:

It does not divert any money away from existing projects. It otherwise would have been capped, and then we couldn't create jobs. Assemblyman Atkinson has taught me well today.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. I don't know if you said this earlier, but where are you relative to the \$1.7 billion cap right now, as far as completed projects?

ASSEMBLYMAN ATKINSON:

We are about a little more than \$300 million away from being capped.

ASSEMBLYWOMAN GANSERT:

So you're at about \$1.4 million. My other question was it looks like this is sort of an evergreen, that this portion of the sales tax continues forever because there is no longer a cap, but there is also not a date of expiration?

STEVE HOLLOWAY:

The cap has been lifted. The cap was imposed by the Clark County Commission and this legislative body. Traditionally, some of these types of measures have had caps, and others have not. This body may at any time come back and impose a cap, if they so choose.

ASSEMBLYWOMAN GANSERT:

Thank you. My other question is it seems like when we do school bonds and things like that we actually have a time certain. We say that you can raise these funds to a certain date; was there a piece of that that also had an expiration date? You came in earlier, and I was thinking that there was a conversation that some of the funds were available to a certain date, and you were looking for an extension of that.

STEVE HOLLOWAY:

When we initially discussed this with you, we had in the proposal a date certain which was 2049, which extended this out 25 years.

ASSEMBLYWOMAN GANSERT:

If I can follow up, so you were going to extend it 25 years, and now you just took the cap off? Is that correct?

STEVE HOLLOWAY:

That is correct.

ASSEMBLYWOMAN GANSERT:

To get the original taxes, that was probably a vote, and I know with the school district funds, you usually have to do a rollover measure, so you get to a certain date and then you have got to the vote of the people to get that to rollover?

STEVE HOLLOWAY:

This was the result of Proposition 10. There was no date specific set in Proposition 10. It was just the sales tax that the people voted for. They did not in the Proposition say that it would end at any specific date. They did talk about certain amounts that they needed immediately, and the initial amount that they discussed as needing immediately was \$2.9 billion, as opposed to the cap of \$1.75 billion that this Legislature imposed.

ASSEMBLYMAN ATKINSON:

Madam Chair, if I could follow up just a second. If you remember, Proposition 10 was actually an advisory question, and so it was advisory in nature only and the Clark County Commission acted on it, and then it came back to this body for approval. This body put the cap on of \$1.7 million just because they felt they didn't want to do a blank check, but that's why this body put it on, but it was really advisory only, so it did not have a cap, nor did it have a date.

ASSEMBLYWOMAN GANSERT:

But, it did have sort of a check on it in that there was a vote, and then it came to the Legislature and you could do it either way. Okay, thank you.

CHAIR BUCKLEY:

Assemblyman Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Chair. To the Chairman of Transportation: I'm looking at the seven fees that you're proposing that DMV has the ability to raise by regulation, and of course, I'm not real keen on turning DMV loose with the fee process. What kind of funding are you going to cap the funding coming out of those? I could just see as we see more and more demands placed on it for this program that maybe we end up with a \$50 title fee or whatever.

ASSEMBLYMAN ATKINSON:

Actually, we didn't have a cap, but as I said earlier, while they're being proposed here, they actually won't be dealt with in the bill, which means they won't be creating anything at this point, but if the DMV so chooses, for example, the first one for titles—increasing that for titles—they would actually have to come back to this body and explain why they want to do it, and the amount that they want to do it for. It would be dealt with at the time.

ASSEMBLYMAN GOICOECHEA:

I apologize then; I didn't realize they would be coming back to this body. I thought they would go to the Legislative Commission as the normal regulations do, is that not correct?

ASSEMBLYMAN ATKINSON:

I'm sorry if I misspoke, but that is what I meant, to the Legislative Commission.

ASSEMBLYMAN GOICOECHEA:

Thank you.

CHAIR BUCKLEY:

Mr. Holloway, do you have anything else to add?

STEVE HOLLOWAY:

Madam Chair, just one sentence on the statistics that Chairman Atkinson relied upon. For each \$1 billion in construction, we're adding \$3.4 billion to the gross net domestic product with about one-third of that total showing up as personal earnings. As I've spoken to many of you, we've laid off about 70,000 people in the last two years. Without this bill, we will be laying

thousands more off over the next year. We encourage you to pass this with the gratitude of those people. They would like to go back to work. Thank you.

CHAIR BUCKLEY:

Thank you, Mr. Holloway. Mr. Milliken? No. Okay, thank you gentlemen very much. Is there anyone else that would like to provide testimony on this measure?

Assemblywoman Koivisto.

ASSEMBLYWOMAN KOIVISTO:

Thank you, Madam Chair. Is there any way that we can make sure that we put Nevada people to work on these roads, and not Utah and Arizona and California, and so on and so forth?

ASSEMBLYMAN ATKINSON:

That's an excellent question. It came up on the Senate side, and we allowed Mr. Holloway to explain it over there, and we'll do the same here.

STEVE HOLLOWAY:

We had discussed requiring the contractor to use 80 percent of his workforce be local residents. We decided not to go away with this because in the highway industry, anywhere from 30 to 60 percent of that work is self-performed. Also, almost all of the RTC jobs in southern Nevada have gone to local contractors, and we feel that they will continue to be. Furthermore, many of these jobs are now being let construction-manager risk, which is a method of contracting that this Legislature approved two sessions ago. These are engineering jobs that require not only that there be a five percent bidder's preference for local contractors, but also that at least 25 percent of the work on those projects be self-performed, so a company coming in from state cannot self-perform that work. They do not have the workforce here to do that.

CHAIR BUCKLEY:

That was your last question. Thank you very much. Is there anyone else who would like to provide testimony on this measure?

BRYAN GRESH, REGIONAL TRANSPORTATION COMMISSION OF SOUTHERN NEVADA:

Thank you very much for the opportunity to appear before this body this evening. I am here to say that the RTC, right now as we sit here this evening, has approximately \$1 billion in shovel-ready projects, which represent approximately between two and three dozen separate jobs, full scale jobs sitting there waiting for able-bodied men and women in southern Nevada to be able to get there and get to work. Unfortunately, we do not have the money. We do not have the green to give them the green light, so as has been already eloquently stated; we are standing by ready, willing, and able. If the funds were available, we'd be there to be able to provide these skilled men and women who right now are unemployed with the opportunity to get back to work. We would certainly welcome that opportunity, and I would stand for any questions.

Thank you.

VERONICA METER, VICE PRESIDENT OF GOVERNMENT AFFAIRS, LAS VEGAS CHAMBER OF COMMERCE:

We're here to provide support for this bill, and I would like to echo some of the positive aspects of the bill that have been expressed so far. We believe this bill will not only preserve private sector jobs but also help create jobs and put our state back on the road to recovery. It will also help provide some of the much needed infrastructure for our businesses and communities. In short, this will be a positive step to get our economy moving again and put Nevadans back to work. I appreciate the opportunity to address you. Thank you.

CHRIS FERRARI, NEVADA CONTRACTORS ASSOCIATION:

On behalf of our more than 200 members who provide more than 10,000 jobs in southern Nevada, who have built much of the infrastructure we rely on there. We are in strong support of this bill and would echo the comments of the previous speakers. Thank you.

CHAIR BUCKLEY:

Questions of the Committee? Assemblyman Manendo.

ASSEMBLYMAN MANENDO:

Mr. Gresh, I was just wondering if you have a few, you said there were about three dozen shovel ready projects, do you have some of those in mind? I know there are people who are listening right now, and I had an actual email asking what projects are they? I don't know if you could just name a few that could be ready and could also get me a list later on, but they are listening.

BRIAN GRESH:

I appreciate that. The hour is late. The list is long, and it's sitting in the hotel room. I'd be more than happy to provide you with that at a later time.

CHAIR BUCKLEY:

Assemblyman Hogan.

ASSEMBLYMAN HOGAN:

Thank you, Madam Chair. There's been a great deal of interest in the Legislature and in the public of late in ensuring that the job opportunities that are created by these projects and other public spending for construction, that these opportunities are available to women and minorities who have not always been able to fully participate in this. Would there be a willingness on the part of RTC to include provisions in the contracts and subcontracts, similar to what NDOT is doing, to encourage, or in fact require the contractors to participate in efforts to ensure the diversity of the workforce that's going to benefit from this public money?

BRIAN GRESH:

We certainly appreciate the question and have always enjoyed having this dialogue with you, sir. As you know, the RTC has always been on the forefront in these opportunities, as they come up, to be an equal partner with those who have sought opportunities to work with the RTC. We will continue to work with you in seeking out these chances to provide opportunities to those who are looking to work with us.

CHAIR BUCKLEY:

Further questions? Assemblyman Hardy.

ASSEMBLYMAN HARDY:

Thank you, Madam Chair. How long will it take for these shovel ready jobs to have somebody actually on the ground working?

BRIAN GRESH:

There is a continual timeline that is in progress from conception through to completion, or I should say, the first turn of the shovel full of dirt, so there are projects that are at different phases of completion or different phases of design, and these dollars would simply go to plug in to those projects. So, could I give you a specific answer for a specific dollar, no sir, not this evening, but once those dollars were to be freed up, and the bonding of those projects could begin, then we could go forward and provide you with that list. We would be more than happy to provide the Legislature with that list.

ASSEMBLYMAN HARDY:

Is that a six month process?

CHAIR BUCKLEY:

Yes, it is.

BRIAN GRESH:

I think that's a very fair statement. I think that's probably in the ballpark.

CHAIR BUCKLEY:

I was reflecting the nodding head from Steve Holloway, for the record, and not my own opinion. Any other questions of the Committee? Assemblyman Munford.

ASSEMBLYMAN MUNFORD:

Thank you, Madam Chair. I just want to put on record that I support and echo the comments that were made by Assemblyman Hogan. Thank you.

CHAIR BUCKLEY:

Any further questions of this panel? There doesn't seem to be. Thank you very much for your testimony. Is there anyone else that would like to provide testimony on this measure?

PETER KRUEGER, NEVADA PETROLEUM MARKETERS ASSOCIATION:

The Nevada Petroleum Marketers Association wants to assure this body that regarding the petroleum fund that's been in business since 1990, cleaning up the soil and water in Nevada, that fund under the provisions of this bill continues unfettered, and those clean ups will continue at the pace that they have for that length of time. We are supporting this jobs bill and then also on behalf of the Nevada Subcontractors Association, our labor management group and coalition, obviously we are supporting this as a jobs bill to get our members back to work. Thank you.

RANDY SALTERO, SHEET METAL WORKERS UNION LOCAL 88 IN SOUTHERN NEVADA:

I don't have to tell you how many jobs we've lost in the last year or so. This bill, we believe, will create many jobs that will not only employ our members, but members of other organizations, and we do encourage you to support this legislation and pass this quickly. Thank you so much.

CHAIR BUCKLEY:

Assemblyman Grady.

ASSEMBLYMAN GRADY:

Thank you, Madam Chair. Mr. Krueger, in the past on the petroleum fund there was quite a delay for people collecting the monies from that. Has that been straightened out and are people up to date in collecting what is due them through this petroleum fund?

PETER KRUEGER:

Early on, that is correct. Because the fund was new, we had difficulty getting the money out, but it was never a problem of funding. It was just a case of working through the process. Right now, the fund meets quarterly and distributes money on a quarterly basis so that funding is prompt and, of course, it's given its due process so that only the right people get the right amount of money.

CHAIR BUCKLEY:

Further questions. I don't see any, thank you very much. Is there anyone else who would like to provide testimony on this measure? Seeing none, I will close the public hearing and bring it back to Committee.

Assemblyman Atkinson moved to do pass Senate Bill No. 5.

Seconded by Assemblyman Conklin.

Motion carried.

On motion of Assemblyman Oceguela, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 1:15 a.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee of the Whole, to which was referred Senate Bill No. 5, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BARBARA E. BUCKLEY, *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 5.

Bill read third time.

Remarks by Assemblymen Atkinson, Carpenter, Goicoechea, and Gansert.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 5:

YEAS—37.

NAYS—Christensen, Cobb, Gansert, Goedhart, Gustavson—5.

Senate Bill No. 5 having received a two-thirds majority, Madam Speaker declared it passed.

Assemblyman Ocegüera moved that all rules be suspended and that Senate Bill No. 5 be immediately transmitted to the Senate.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 1, 2010

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 9 to Senate Concurrent Resolution No. 1.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering water rights issues.

Motion carried.

IN COMMITTEE OF THE WHOLE

At 1:23 a.m.

Chair Buckley presiding.

Quorum present.

CHAIR BUCKLEY:

We had a very good discussion, a very good elucidation of all the issues, and I think put a lot of our questions and our intent on the record. The chairman of Government Affairs has prepared some language to be entered into the *Journal*. I would accept a motion to do so, but before I do so, I would just like to get a sense of the committee about whether this language accurately reflects our previous discussion. Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. I just want to put on the record that I think that there is a desire within this body to fix the issue at hand. I think that it is unfortunate that we were so engaged in the budget issues that we did not have the time, and I believe in my heart of hearts that we all

realize that it is a problem that definitely needs to be addressed. I think that this is the best way to allow for the dialogue to continue. I would ask all of you to please support this motion because I think that it is a big issue and something that we need to spend time on because it's very important for the future of our state.

CHAIR BUCKLEY:

Thank Assemblywoman Kirkpatrick. Assemblyman Hardy.

ASSEMBLYMAN HARDY:

Thank you, Madam Chair. I concur with the chair of Government Affairs and this will help the Virgin Valley Water District, which I represent.

CHAIR BUCKLEY:

Any other questions or comments? Seeing none, the chair will entertain a motion from Assemblywoman Kirkpatrick to move this out of the Committee, and under Order of Business 8 Assemblyman Ocegüera will put it in the record.

Assemblywoman Kirkpatrick moved that the legislative intent regarding water issues be placed in the Journal.

Seconded by Assemblyman Goicoechea.

Motion carried.

On motion of Assemblyman Ocegüera, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 1:29 a.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Ocegüera moved that the legislative intent regarding water rights issues be entered in the Journal.

Motion carried.

In January 2010, the Nevada Supreme Court issued its decision in *Great Basin Water Network v. Taylor* regarding the interpretation and application of Nevada Revised Statutes 533.370; specifically the effect of the requirement that the State Engineer act upon applications within one year unless certain criteria are met. At this time, the decision of the Nevada Supreme Court is to remand the matter to the District Court for consideration of the proper remedy for the failure of the State Engineer to act on applications within one year.

After calling the 26th Special Session, the Governor amended the original proclamation to include the subject of water law as it relates to the Great Basin Water Network decision. Two bill draft requests have been heard; one by the Senate on February 27th and one by the Assembly on February 28th.

After several hours of testimony, it is the sense of the Legislature that resolution of the issues raised by the Great Basin Water Network decision is of critical importance and that the Legislature should attempt to resolve these complex policy issues. However, the testimony has made clear that many of the parties potentially affected by the resolution of these issues will not be able to be heard in the remaining hours of the 26th Special Session.

It is essential that the Legislature's resolution of these issues strikes a fair and equitable balance between the rights of applicants and the rights of protestants. The Legislature recognizes that voiding the Southern Nevada Water Authority's applications and taking away its priorities because of the State Engineer's failure to act would be inequitable to the Water Authority and all other similarly situated applicants. At the same time, the Legislature recognizes that it would be

inequitable to the protestants to deny them due process and a meaningful opportunity to be heard.

In order to strike the proper balance between these equally important interests, the Legislature must provide a forum where the affected parties can thoroughly discuss the impact of the case and craft the most constitutionally defensible remedies that take into account due process, fundamental fairness and the separation of powers. Hastily passing legislation during the waning hours of this special session, without sufficient deliberation, will only raise more issues than it solves and will likely cause unintended and potentially harmful consequences.

Therefore, in order to provide for public input, adequate notice, and due consideration of the complex questions presented, the Legislature hereby strongly urges the State Engineer to hold hearings on potential resolutions of the issues presented by the Great Basin Water Network decision. The State Engineer is urged to work with the interested parties who testified before the Legislature and to provide an opportunity for input from other parties who may be affected, directly and indirectly, by resolution of the issues presented.

The Legislature urges the State Engineer to consider, at a minimum, the following issues: protection of existing water rights, the status of pending applications, preservation of priorities, and application of the protest period provisions. Because time is of the essence due to the pendency of the litigation, the State Engineer is urged to commence such hearings immediately, and make every reasonable effort to conclude his work as quickly as possible.

Finally, the Legislature urges the State Engineer to take all appropriate steps to implement recommendations arising out of such hearings which may include but not be limited to: requesting the Governor to convene a special session or requesting a bill draft for consideration in the 2011 Legislative Session.

Remarks by Assemblymen Ocegüera, Gansert, and Madam Speaker.

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN OCEGUERA:

I rise under Order of Business 15 to talk about the legislators who will be leaving...oh, that was another time....

Madam Speaker, in all seriousness, Minority Leader Gansert and my esteemed colleagues, I want to thank every member of the Assembly for your hard work and your dedication and the service that you performed here. Thank you everyone.

We differed on issues, but we united as Nevadans to produce a balanced budget for our state. We have different priorities and we come from different parts of Nevada, but in the end we did the best we could under the circumstances. We protected the most vulnerable and frail Nevadans. We avoided many lay-offs and shared sacrifice, and by doing that, prevented the unemployment rate from rising even higher. We pushed back against the deep cuts in education and gave schools more flexibility. We made our government more efficient. We created opportunities to get federal money. We looked at large industries, and not the middle class, to shoulder some of that burden. Mining, gaming, banking, all will pay a little bit higher fees and unpaid taxes will be paid through amnesty.

Like many of you, I wanted to do more for our school children, but I know these decisions require more than a majority vote and that super majority just wasn't there. For me, our actions address some of our immediate problems, but we have a long way to go to define our priorities. Does government reflect the values of our people? Can we be more transparent and accountable and how do we pay for these critical services?

This is home to me. I was born in Reno; raised in Fallon; live in Las Vegas and I work in North Las Vegas. That is where my wife, Janie, and I have chosen to make our home and raise our family. We love Nevada as you do, so I am going to ask some questions to Nevadans. How will we educate our children? How will we create more jobs, good paying jobs? How will we care for the most frail and needy? How will we compete in a world-wide economy? How will we eliminate waste in government? Will we all share the cost of making Nevada better and will we all benefit from those improvements?

In the past several days, we have taken a stand for Nevada. We said the weakest and most vulnerable among us are not forgotten. We said that our economic expansion depends on better schools, not poorer ones. We said that in hard times, we all must accept cuts and shoulder part of the burden, but what about the future? In 11 months, 42 members will assemble in this chamber to meet the most daunting challenges Nevada has ever faced. Let's listen to Nevadans. Let's level with them. Let's not speak with the sharp voices of partisanship, but with a calm understanding that we are all in this together. Let's prepare to come together and move Nevada forward.

Thank you, Madam Speaker.

MADAM SPEAKER:

Thank you, Assemblyman Ocegüera. Assemblywoman Gansert.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I just wanted to thank everyone in this body, but I also to thank our staff. They had to really do an incredible job. Some of them have recently stepped into leadership positions, whether it is Mark Krmpotic on the other side or Tracy Raxter here. It has been a very intense couple of weeks and I appreciate all the work they have done; also Andrew Clinger over in the Governor's Office and of course, Robin Reedy and Lynn Hettrick, and the Governor himself. It seemed like an impossible task at one point in time and we did bring this together. It took a lot of hard work and I appreciate all the support that this body gave during this period. Also, our staff and the Sergeant at Arms who work here and cook for us our wonderful meals and made sure that everybody had everything that they needed, so I appreciate all that, as well as the Front Desk staff.

I was also stopped by several state employees last night and the day before. I think our being able to hold their furlough to the eight hours versus the ten hours made a huge difference to them. I think that was a sign of the great support that we all have for them. They are working very hard and I so appreciate that. I also appreciated the feedback from them because we know we make a difference when we actually get to hear it from them. So thank you everybody, from the Front Desk to Audiovisual—we appreciate all the hard work.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I too would like to thank our amazing staff, whether it is Front Desk, Sergeant at Arms, Research, Fiscal, Legal, Buildings and Grounds, Audit, Administration, Police and countless more, the session staff who came in and helped us. They just did an amazing job and I often wonder why they stay, and why they come back. I think that many of these employees, you know left at midnight and were back at 5 A.M. All you have to do is look at their weary eyes.

I also would like to compliment the Budget Division and Andrew Clinger, who worked side by side with our staff and the Governor's Office. This morning, we called the Governor's Office and asked him to add the jobs bill to the proclamation and we actually were rather shocked; he said "yes." So there is a lesson in there. Never stop trying to communicate. I didn't think the Governor would sign the Race to the Top bill—of course, I am not sure he did yet—but I was honored that he agreed to meet with me and let me give him my pitch on what schools are really like today in Las Vegas.

So as we leave, we can learn some lessons. Never stop communicating. There is no such thing as a bad idea, just ones you don't agree with, and we need to work together as Nevadans, and boy, do you need to do that in the next 14 months. This week's challenges will seem like a picnic compared to next session. We will not have half of our revenue and you have the most important job of all governmental officials—you fund schools. Schools in our state have the worst funding system of any other system in government, and you are going to have to examine this and probably take it apart, from top to bottom.

You know, the average Nevadan does not know where their tax money goes. They don't know if it is the state or the county. I can't tell you how many times I get, "you know, if you would just cut your workers' salaries in the state..." and I say, wow, they really have no idea what is going on, because it is not the state workers that are overpaid. And so you are going to

have to solve those challenges and the interim committee that is looking at our financial structure follow it. Look for solutions. Maybe you should just tear down everything as it exists and reprioritize. Who gets sales tax? Who gets property tax? Who is doing more with less? Who is most efficient? Should you have consolidation? Draft every plan; put it side by side so you don't start the discussion in February.

People are afraid of the unknown. Draft it before, through this interim committee, so you have options, because if you don't, when you come back and still don't have an education plan after taking this time, it will be like Groundhog Day, and you will just do the same thing again, except without the Sonny and Cher music to start you off. The definition of insanity is doing the same thing over and over again and expecting a different result. You have to do it. It is our constitutional duty and it is not working right now. So, diversifying the economy, broadening the economy, taking what we are doing and reexamining it and recreating it—you can do it. We have some fabulous leaders in here and I feel so comfortable with the people who will be following in my footsteps. You are ready. You will return and you will come up with solutions that make sense for our great state.

I have been proud to be your Speaker, again, I thought I was off the hook, but like the Godfather, they don't let you go, but I am proud to have been able to serve this past week and I thank you all so much for your incredible hard work.

As soon as the Senate is done debating, I will be appointing the committees to notify the Senate and the Governor that we are prepared to adjourn *sine die*, so I will take any further remarks, and if there are none, we will just recess and call you back in a few minutes. I can't imagine the Senate will be too much longer. You noted that irony in my voice, didn't you?

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 1:44 a.m.

ASSEMBLY IN SESSION

At 1:48 a.m.

Madam Speaker presiding.

Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 2 and 6; Senate Bill No. 5; Senate Concurrent Resolution No. 1

Madam Speaker appointed Assemblymen Ocegüera, Anderson, and Gansert as a committee to wait upon His Excellency, Governor Jim Gibbons, Governor of the State of Nevada, and to inform him that the Assembly was ready to adjourn *sine die*.

Madam Speaker appointed Assemblymen Bobzien, Smith, and Goicoechea as a committee to wait upon the Senate and to inform that honorable body that the Assembly was ready to adjourn *sine die*.

A committee from the Senate, consisting of Senators Copening, Parks, and Amodei appeared before the bar of the Assembly and announced that the Senate was ready to adjourn *sine die*.

Assemblyman Bobzien reported that his committee had informed the Senate that the Assembly was ready to adjourn *sine die*.

Assemblyman Ocegüera reported that his committee had informed the Governor that the Assembly was ready to adjourn *sine die*.

Assemblyman Ocegüera moved that the Twenty-Sixth Special Session of the Assembly of the Legislature of the State of Nevada adjourn *sine die*.

Motion carried.

Assembly adjourned at 2:13 a.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

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AND THE
JOINT STANDING RULES OF THE
SENATE AND ASSEMBLY
OF THE
TWENTY-SIXTH SPECIAL SESSION
OF THE
LEGISLATURE OF THE STATE OF NEVADA

2010

ASSEMBLY STANDING RULES

26TH SPECIAL SESSION, 2010

I. APPLICABILITY

Rule No. 1. Generally.

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

[Statutes of Nevada 2010, 26th Special Session, 106]

II. OFFICERS AND EMPLOYEES

Rule No. 2. Speaker of the Assembly.

1. All officers of the Assembly are subordinate to the Speaker in all that relates to the prompt, efficient and correct discharge of their official duties under the Speaker's supervision.

2. Possessing the powers and performing the duties described in this rule, the Speaker shall:

(a) Take the chair at the hour to which the Assembly will be meeting, call the members to order and, upon the appearance of a quorum, proceed to business.

(b) Preserve order and decorum and have general direction of the Chamber of the Assembly and the approaches thereto. In the event of any disturbance or disorderly conduct therein, order the same to be cleared.

(c) Decide all questions of order, subject to a member's right to appeal to the Assembly. On appeal from such decisions, the Speaker has the right, in the Speaker's place, to assign the reason for the decision.

(d) Have the right to name any member to perform the duties of the chair, but such substitution must not extend beyond one legislative day.

(e) Have the power to accredit the persons who act as representatives of the news media and assign them seats.

(f) Sign all bills and resolutions passed by the Legislature as provided by law.

(g) Sign all subpoenas issued by the Assembly.

(h) Receive all messages and communications from other departments of the government and announce them to the Assembly.

(i) Represent the Assembly, declare its will and in all things obey its commands.

(j) Vote on final passage of a bill or resolution, but the Speaker shall not be required to vote in ordinary legislative proceedings except where the Speaker's vote would be decisive. In all yea and nay votes, the Speaker's name must be called last.

3. If a vacancy occurs in the Office of Speaker, through death, resignation or disability of the Speaker, the Speaker pro Tempore shall temporarily and for the period of vacancy or disability conduct the necessary business of the Assembly.

4. If a permanent vacancy occurs in the Office of Speaker, the Assembly shall select a new Speaker.

[Statutes of Nevada 2010, 26th Special Session, 106]

Rule No. 3. Chief Clerk.

1. The Chief Clerk is elected by the Assembly and is responsible to the Speaker.

2. The Chief Clerk shall recruit, select, train and supervise all attaches employed to assist with the work of the Assembly.

3. The Chief Clerk shall administer the daily business of the Assembly.

4. The Chief Clerk shall adopt such administrative policies as she deems necessary to carry out the business of the Assembly.

[Statutes of Nevada 2010, 26th Special Session, 107]

Rule No. 4. Reserved.

Rule No. 5. Reserved.

Rule No. 6. Reserved.

The next rule is 10.

III. MEETINGS

Rule No. 10. Reserved.

Rule No. 11. Open Meetings.

All meetings of the Assembly and its committees must be open to the public.

[Statutes of Nevada 2010, 26th Special Session, 107]

Rule No. 12. Reserved.

The next rule is 20.

IV. DECORUM AND DEBATE

Rule No. 20. Points of Order.

If any member, in speaking or otherwise, transgresses the rules of the Assembly, the Speaker shall, or any member may, call to order, in which case the member so called to order shall immediately sit down, unless permitted to explain; and if called to order by a member, such member shall immediately state the point of order. If the point of order be sustained by the presiding officer, the member shall not be allowed to proceed; but if it be not sustained, then he shall be permitted to go on. Every such decision from the presiding officer shall be subject to an appeal to the House; but no discussion of the question of order shall be allowed unless an appeal be taken from the decision of the presiding officer.

[Statutes of Nevada 2010, 26th Special Session, 108]

Rule No. 21. Portable electronic communication devices.

1. A person who is within the Assembly Chambers shall not engage in a telephone conversation via the use of a portable telephone.

2. Before entering the Assembly Chambers, any person who possesses a portable electronic communication device, such as a pager or telephone, that emits an audible alert, such as a ringing or beeping sound, to signal an incoming message or call shall turn the audible alert off. A device that contains a nonaudible alert, such as a silent vibration, may be operated in a nonaudible manner within the Assembly Chambers.

[Statutes of Nevada 2010, 26th Special Session, 108]

Rule No. 22. Reserved.**Rule No. 23. 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 Assembly, 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 Assembly, 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 Assembly, 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 member of the Assembly 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 member has a conflict of interest pursuant to subsection 1:

(a) Are exclusive and are the only standards and procedures that apply to members of the Assembly with regard to such matters; and

(b) Supersede and preempt all other standards and procedures with regard to such matters.

[Statutes of Nevada 2010, 26th Special Session, 108]

The next rule is 30.

V. QUORUM, VOTING, ELECTIONS

Rule No. 30. Manner of Voting.

1. The presiding officer shall declare all votes, but the yeas and nays must be taken when called for by three members present, and the names of those calling for the yeas and nays must be entered in the Journal by the Chief Clerk.

2. The presiding officer shall call for yeas and nays by a division or by a roll call, either electronic or oral.

3. When taking the yeas and nays on any question, the electronic roll call system may be used, and when so used shall have the force and effect of any roll call under these rules.

4. When taking the yeas and nays by oral roll call, the Chief Clerk shall take the names of members alphabetically, except that the Speaker's name must be called last.

5. The electronic roll call system may be used to determine the presence of a quorum.

6. The yeas and nays must not be taken with the electronic roll call system until all members present are at their desks. The presiding officer may vote at the rostrum.

7. Only a member who is physically present within the Assembly Chambers may cast a vote in the Assembly.

8. A member shall not vote for another member on any roll call, either electronic or oral. Any member who votes for another member may be punished in any manner deemed appropriate by the Assembly.

[Statutes of Nevada 2010, 26th Special Session, 109]

Rule No. 31. Reserved.

Rule No. 32. Announcement of the Vote.

1. A member may change his vote at any time before the announcement of the vote if the voting is by voice, or at any time before the votes are electronically recorded if the voting is conducted electronically.

2. The announcement of the result of any vote shall not be postponed.

[Statutes of Nevada 2010, 26th Special Session, 110]

Rule No. 33. Voting by Division.

Upon a division and count of the Assembly on any question, no person without the bar shall be counted.

[Statutes of Nevada 2010, 26th Special Session, 110]

The next rule is 40.

VI. LEGISLATIVE BODIES

Rule No. 40. Committee of the Whole.

1. All bills and resolutions may be referred only to the Committee of the Whole or to such committees as may be appointed by the Speaker pursuant to Rule 41.

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

3. A member of the Committee of the Whole may speak not more than twice during the consideration of any one question, on the same day, and at the same stage of proceedings, without leave. Members who have once spoken shall not again be entitled to the floor (except for explanation) to the exclusion of others who have not spoken.

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

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

(a) Must first be approved by the Committee of the Whole.

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

6. The minutes of the meetings of the Committee of the Whole must be entered in the Assembly's final journal.

[Statutes of Nevada 2010, 26th Special Session, 110]

Rule No. 40.5. Committees.

In addition to the Committee of the Whole, the Speaker may appoint such other committees of the Assembly as she determines is necessary.

[Statutes of Nevada 2010, 26th Special Session, 110]

Rule No. 41. Appointment of Committees.

All committees must be appointed by the Speaker, unless otherwise directed by the Assembly. The Speaker shall determine the appropriate number of members for each committee and shall designate the chair and vice chair of each committee.

[Statutes of Nevada 2010, 26th Special Session, 111]

Rule No. 42. Committee Action.

1. A committee shall have meetings in accordance with the direction of the Assembly leadership. A quorum of the committee is a majority of its appointed members and may transact business except as limited by this rule.

2. Except as limited by this rule, a simple majority of those present may move, second and pass a motion by voice vote.

3. Definite action on a bill or resolution will require a majority of the entire committee.

4. A motion to reconsider action on a bill or resolution is not in order.
5. Committee introduction of legislative measures requires concurrence of a majority of the members of the entire committee and requires a commitment from each such concurring member to support final passage. A decision by a committee to request the drafting of an amendment for a bill requires concurrence of a majority of the members of the entire committee and requires a commitment from each such concurring member to support the amendment when it is considered on the floor of the Assembly.
6. The chair must be present when the committee votes to take any final action regarding bills or resolutions, but the chair is not required to vote.
7. No member of the committee may vote by proxy under any circumstances.
8. A committee shall not take a vote on the question of whether to exercise its statutory authority to issue a legislative subpoena unless the chair has informed the Speaker of the intention of the committee to consider such a question.

[Statutes of Nevada 2010, 26th Special Session, 111]

Rule No. 43. Subcommittees.

Subcommittees made up of committee members may be appointed by the chair to consider and report back on specific subjects or bills.

[Statutes of Nevada 2010, 26th Special Session, 111]

Rule No. 44. Reserved.

Rule No. 45. Request for Drafting of Bill, Resolution or Amendment.

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 Assembly, unless it is submitted by the Committee of the Whole, such other committees as the Speaker may appoint or a conference committee. The Speaker 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 the Speaker may appoint.

[Statutes of Nevada 2010, 26th Special Session, 111]

Rule No. 46. Committee Action.

Every committee vote on a matter pertaining to a bill or resolution must be recorded. The vote may be taken by roll call at the discretion of the chair.

[Statutes of Nevada 2010, 26th Special Session, 112]

Rule No. 47. Committee Records.

The chair of each committee shall keep, or cause to be kept, a complete record of the committee proceedings in which there must be entered:

1. The time and place of each meeting;
 2. The attendance and absence of members;
 3. The names of all persons appearing before the committee, with the names of persons, firms, corporations or associations in whose behalf such appearance is made; and
 4. The subjects or measures considered and action taken.
- [Statutes of Nevada 2010, 26th Special Session, 112]

Rule No. 48. Disposition of Committee Records.

All minutes, records and documents in the possession of committees and their chairmen must be filed in the offices of the Legislative Counsel Bureau upon their completion.

[Statutes of Nevada 2010, 26th Special Session, 112]

Rule No. 49. Committee Hearings.

1. The presence of a quorum of the committee is desirable but not required to conduct a public hearing. At the discretion of the chair, members of the committee may attend, participate in and, if applicable, vote during the hearing via simultaneous telephone or video conference.

2. Public hearings are opened by the chair, who announces the subject under consideration and provides for those wishing to address the committee to be heard. These persons shall rise in an order determined by the chair, address the chair and furnish their names, addresses and firms or other organizations represented. Committee members may address the chair for permission to question the witness.

[Statutes of Nevada 2010, 26th Special Session, 112]

Rule No. 50. Reserved.

Rule No. 51. Reserved.

Rule No. 52. Reserved.

The next rule is 60.

VII. RULES GOVERNING MOTIONS

A. PROCEDURE

Rule No. 60. Entertaining.

No motion may be debated until it is distinctly announced by the presiding officer. The presiding officer upon his own motion, or at the request of any member, may direct that the motion be reduced to writing and be read by the Chief Clerk before the motion is debated. A motion may be withdrawn by the maker at any time before amendment or before the motion is put to vote.

[Statutes of Nevada 2010, 26th Special Session, 112]

Rule No. 61. Reserved.

Rule No. 62. Reserved.

B. PARTICULAR MOTIONS

Rule No. 63. Reserved.

Rule No. 64. Reserved.

Rule No. 65. Indefinite Postponement.

When a question is postponed indefinitely, the same question must not be considered again during the 26th Special Session of the Legislature and the question is not subject to a motion for reconsideration.

[Statutes of Nevada 2010, 26th Special Session, 113]

Rule No. 66. To Strike Enacting Clause.

A motion to strike out the enacting clause of a bill or resolution does not take precedence over any other subsidiary motion. If the motion is carried, it shall be considered equivalent to the rejection of such bill or resolution.

[Statutes of Nevada 2010, 26th Special Session, 113]

Rule No. 67. Division of Question.

Any member may call for a division of the question, which shall be divided, if it comprehends propositions in substance so distinct that, one being taken away, a substantive proposition shall remain for the decision of the Assembly. A motion to strike out being lost shall preclude neither amendment nor a motion to strike out and insert. A motion to strike out and insert shall be deemed indivisible.

[Statutes of Nevada 2010, 26th Special Session, 113]

Rule No. 68. To Reconsider.

No motion to reconsider a vote is in order.

[Statutes of Nevada 2010, 26th Special Session, 113]

The next rule is 80.

VIII. DEBATE**Rule No. 80. Speaking on Question.**

No member shall speak more than twice during the consideration of any one question, on the same day, and at the same stage of proceedings, without leave. Members who have once spoken shall not again be entitled to the floor (except for explanation) to the exclusion of others who have not spoken.

[Statutes of Nevada 2010, 26th Special Session, 113]

Rule No. 81. Previous Question.

The previous question shall be put only when demanded by three members. The previous question shall not be moved by the member last speaking on the question.

[Statutes of Nevada 2010, 26th Special Session, 113]

Rule No. 82. Privilege of Closing Debate.

The author of a bill, a resolution or a main question shall have the privilege of closing the debate, unless the previous question has been sustained.

[Statutes of Nevada 2010, 26th Special Session, 113]

The next rule is 91.

IX. CONDUCT OF BUSINESS**A. RULES AND PROCEDURE****Rule No. 91. Rescission, Change or Suspension of Rule.**

No rule or order of the Assembly for the 26th Special Session of the Legislature may be rescinded or changed without a majority vote of the members elected; but a rule or order may be suspended temporarily by a majority vote of the members present.

[Statutes of Nevada 2010, 26th Special Session, 114]

Rule No. 92. Notices of Bills, Topics and Public Hearings.

1. Except as otherwise provided in subsection 3, all committees shall provide adequate notice of public hearings on bills, resolutions or other topics which are to come before the committees. The notice must include the date, time, place and agenda to be covered. The notice must be posted conspicuously in the legislative building, appear in the daily history and be made available to the news media. The daily history must include the most current version of the notice that is available at the time the daily history is created and an informational statement informing the public where more current information, if any, regarding such notices may be found.

2. The noticing requirements of this rule may be suspended for emergency situations but only after approval by a majority vote of a committee.

3. Subsection 1 does not apply to:

(a) Meetings of the Committee of the Whole held on the floor of the Assembly;

(b) Other committee meetings held on the floor of the Assembly during a recess; or

(c) Conference committee meetings.

[Statutes of Nevada 2010, 26th Special Session, 114]

Rule No. 93. Reserved.**Rule No. 94. Privilege of the Floor and Lobbying.**

No person, except Senators, former Assemblymen and state officers, may be admitted at the bar of the Assembly, except by special invitation on the part of some member; but a majority may authorize the Speaker to have the Assembly cleared of all such persons. No person may do any lobbying upon the floor of the Assembly at any time, and it is the duty of the Sergeant at Arms to remove any person violating any of the provisions of this rule.

[Statutes of Nevada 2010, 26th Special Session, 114]

Rule No. 95. Material Placed on Legislators' Desks.

All papers, letters, notes, pamphlets and other written material placed upon an Assemblyman's desk shall contain the signature of the Legislator requesting the placement of such material on the desk or shall contain a designation of the origin of such material. This rule does not apply to books containing the legislative bills and resolutions, the legislative daily histories, the legislative daily journals or Legislative Counsel Bureau material.

[Statutes of Nevada 2010, 26th Special Session, 114]

Rule No. 96. Peddling, Begging and Soliciting.

1. Peddling, begging and soliciting are strictly forbidden in the Assembly Chamber, and in the lobby, gallery and halls adjacent thereto.

2. No part of the Assembly Chamber may be used for or occupied by signs or other devices for any kind of advertising.

3. No part of the hallways adjacent to the Assembly Chambers may be used for or occupied by signs or other devices for any kind of advertising for commercial or personal gain. Notices for nonprofit, nonpartisan, civic or special legislative events may be posted in a designated area of the hallways adjacent to the Assembly Chambers with the approval of the Chief Clerk.

[Statutes of Nevada 2010, 26th Special Session, 115]

Rule No. 97. Petitions and Memorials.

Petitions, memorials and other papers addressed to the Assembly shall be presented by the Speaker, or by a member in the Speaker's place. A brief statement of the contents thereof shall be made by the introducer. They shall not be debated on the day of their being presented, but shall be on the table, or be referred, as the Assembly shall determine.

[Statutes of Nevada 2010, 26th Special Session, 115]

Rule No. 98. Request of Purpose.

A member may request the purpose of a bill or joint resolution upon its introduction.

[Statutes of Nevada 2010, 26th Special Session, 115]

Rule No. 99. Remarks.

It shall be in order for members to make remarks and, subject to the approval of the majority of members present, request that such remarks be entered in the Journal.

[Statutes of Nevada 2010, 26th Special Session, 115]

Rule No. 100. Precedence of Parliamentary Authority.

The precedence of parliamentary authority in the Assembly is:

1. The Constitution of the State of Nevada and judicial decisions thereon.

2. The Rules of the Assembly 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.

3. Custom, usage and precedence.

4. The Statutes of the State of Nevada.

5. *Mason's Manual of Legislative Procedure.*

[Statutes of Nevada 2010, 26th Special Session, 115]

Rule No. 101. Reserved.**Rule No. 102. Privileged Questions.**

Privileged questions have precedence of all others in the following order:

1. A call of the House.
2. Motions to adjourn.
3. Recess.
4. Questions relating to the rights and privileges of the Assembly or any of its members.

[Statutes of Nevada 2010, 26th Special Session, 115]

Rule No. 103. Reserved.**B. BILLS****Rule No. 104. Reserved.**

The next rule is 106.

Rule No. 106. Skeleton Bills.

The introduction of skeleton bills is not authorized.

[Statutes of Nevada 2010, 26th Special Session, 116]

Rule No. 107. Reserved.**Rule No. 108. Reserved.****Rule No. 109. Reading of Bills.**

The presiding officer shall announce at each reading of a bill whether it be the first, second or third reading. The first reading of a bill shall be for information. If there is objection, the question shall be, "Shall the bill be rejected?" If the question to reject fails to receive a majority vote by the members present, or if there is no objection, the bill shall take the proper course. No bill shall be referred to a committee until after the first reading, nor amended until after the second reading.

[Statutes of Nevada 2010, 26th Special Session, 116]

Rule No. 110. Second Reading and Amendment of Bills.

1. All bills must be read the second time after which they are reported by committee. Upon second reading, Assembly bills reported without amendments shall be placed on the General File and Senate bills reported without amendments shall be placed on the General File. Committee

amendments reported with bills shall be considered upon their second reading or third reading, as appropriate, and such amendments may be adopted by a majority vote of the members present. Any amendment which is numbered, copied and made available to all members must be moved and voted upon by number. Assembly bills so amended must be reprinted, engrossed and placed on the General File. Senate bills so amended must be reprinted, then engrossed or reengrossed, as applicable, and placed on the General File.

2. Only amendments proposed by the Committee of the Whole, such committee as the Speaker may appoint or a conference committee may be considered on the floor of the Assembly. Such a motion to amend may be adopted on the floor of the Assembly by a majority vote of the members present. Any bill so amended upon the General File must be reprinted and then engrossed or reengrossed, as applicable.

3. The reprinting of amended bills may be dispensed with by a majority vote of the members present.

[Statutes of Nevada 2010, 26th Special Session, 116]

Rule No. 111. Consent Calendar.

1. A committee may by unanimous vote of the members present report a bill with the recommendation that it be placed on the consent calendar. The question of recommending a bill for the consent calendar may be voted upon in committee only after the bill has been recommended for passage and only if no amendment is recommended.

2. The Chief Clerk shall maintain a list of bills recommended for the consent calendar. The list must be printed in the daily history and must include the summary of each bill and the date the bill is scheduled for consideration on final passage.

3. At any time before the presiding officer calls for a vote on the passage of the consent calendar, a member may give written notice to the Chief Clerk or state orally from the floor of the Assembly in session that he requests the removal of a particular bill from the consent calendar. If a member so requests, the Chief Clerk shall remove the bill from the consent calendar and transfer it to the second reading file. A bill removed from the consent calendar may not be restored to that calendar.

4. During floor consideration of the consent calendar, members may ask questions and offer explanations relating to the respective bills.

5. When the consent calendar is brought to a vote, the bills remaining on the consent calendar must be read by number and title and the vote must be taken on their final passage as a group.

[Statutes of Nevada 2010, 26th Special Session, 116]

Rule No. 112. Reserved.**Rule No. 113. General File.**

All bills reported to the Assembly, by either the Committee of the Whole, conference committee or other committee appointed by the Speaker, after receiving their second readings, must be placed upon a General File, to be kept by the Chief Clerk. The Chief Clerk shall post a daily statement of the bills on General File. The Chief Clerk shall likewise post notices of special orders as made.

[Statutes of Nevada 2010, 26th Special Session, 117]

Rule No. 114. Reserved.**Rule No. 115. Reserved.****Rule No. 116. Vetoed Bills.**

1. Bills that have passed both Houses of the Legislature and are transmitted to the Assembly accompanied by a message or statement of the Governor's disapproval or veto of the same must:

(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 is called, the said message or statement must be read together with the bill or bills so disapproved or vetoed. The message and bill must be read by the Chief Clerk without interruption, consecutively, one following the other, and not upon separate occasions. No such bill or message may 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 may be put by the Speaker is, "Shall the bill pass, notwithstanding the objections of the Governor?" It shall not be in order, at any time, to vote upon such a vetoed bill unless the same shall first have been read. No motion may be entertained after the Speaker has stated the question, save a motion to adjourn or a motion for the previous question, but the merits of the bill itself may be debated. The message or statement containing the objections of the Governor to the bill must be entered in the Journal of the Assembly. The consideration of a vetoed bill, and the objections of the Governor thereto, shall be a privileged question, and shall take precedence over all others.

[Statutes of Nevada 2010, 26th Special Session, 117]

Rule No. 117. Reserved.

C. RESOLUTIONS

Rule No. 118. Treated as Bills—Joint Resolutions.

The procedure of enacting joint resolutions must be identical to that of enacting bills, except that:

1. Joint resolutions, upon enrollment, must be delivered to the Secretary of State; and
2. Joint resolutions proposing amendments to the Constitution must be entered in the Journal in their entirety.

[Statutes of Nevada 2010, 26th Special Session, 118]

Rule No. 119. Return from the Secretary of State.

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

[Statutes of Nevada 2010, 26th Special Session, 118]

D. ORDER OF BUSINESS

Rule No. 120. Order of Business.

The Order of Business must be as follows:

1. Call to Order.
2. Reading and Approval of Journal.
3. Presentation of Petitions.
4. Reports of Committees.
5. Reports of Select Committees.
6. Communications.
7. Messages from the Senate.
8. Motions, Resolutions and Notices.
9. Introduction, First Reading and Reference.
10. Consent Calendar.
11. Second Reading and Amendment.
12. General File and Third Reading.
13. Unfinished Business of Preceding Day.
14. Special Orders of the Day.
15. Remarks from the Floor, limited to 10 minutes.

[Statutes of Nevada 2010, 26th Special Session, 118]

Rule No. 121. Reserved.**Rule No. 122. Reserved.**

Rule No. 123. Reserved.

Rule No. 124. Reserved.

Rule No. 125. Reserved.

Rule No. 126. Reserved.

Rule No. 127. Reserved.

Rule No. 128. Reserved.

The next rule is 140.

X. MISCELLANEOUS

Rule No. 140. Reserved.

Rule No. 141. Use of the Assembly Chamber.

The Assembly Chamber shall not be used for any public or private business other than legislative, except by permission of the Assembly.

[Statutes of Nevada 2010, 26th Special Session, 119]

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JOINT STANDING RULES OF THE SENATE AND ASSEMBLY

26TH SPECIAL SESSION, 2010

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.

[Statutes of Nevada 2010, 26th Special Session, 99]

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.

[Statutes of Nevada 2010, 26th Special Session, 99]

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.

[Statutes of Nevada 2010, 26th Special Session, 100]

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.

[Statutes of Nevada 2010, 26th Special Session, 100]

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.

[Statutes of Nevada 2010, 26th Special Session, 100]

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.

[Statutes of Nevada 2010, 26th Special Session, 100]

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.

[Statutes of Nevada 2010, 26th Special Session, 101]

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.

[Statutes of Nevada 2010, 26th Special Session, 101]

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.

[Statutes of Nevada 2010, 26th Special Session, 102]

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.

[Statutes of Nevada 2010, 26th Special Session, 102]

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.

[Statutes of Nevada 2010, 26th Special Session, 103]

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.

[Statutes of Nevada 2010, 26th Special Session, 103]

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.

[Statutes of Nevada 2010, 26th Special Session, 103]

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.

[Statutes of Nevada 2010, 26th Special Session, 103]

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.

[Statutes of Nevada 2010, 26th Special Session, 104]

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STATE OF NEVADA

ASSEMBLY CHAMBER

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SS.

This is to certify that the foregoing Journal of the Assembly, published in this volume, is a true, full, and correct copy of the original Journal of the Assembly of the Twenty-Sixth Special Session of the Legislature of the State of Nevada, held in 2010.

Barbara Buckley

Speaker of the Assembly

Paul Long

Chief Clerk of the Assembly