

**THE SECOND DAY**

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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 Ocegüera 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 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 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 then 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 our 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**  
5820 S. Eastern Avenue  
Suite 190  
Las Vegas, NV 89119

T 1-866-389-5652  
F 702-938-3225  
TTY 1-877-434-7598  
[www.aarp.org/nv](http://www.aarp.org/nv)

26<sup>th</sup> 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.

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	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	Fund	Agency Name	BIA	Budget Account Name	Balance As of 4-Feb-10	FY 2010	FY 2011	Total	Governor's Proposal	Difference			
5	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	Sweeps General Fund appropriation available for licensing proceedings related to Yucca Mountain. The agency will continue to be supported with General Fund monies and also state highway funds.		
19	101 741 Insurance Division	3924	Insurance Education and Research	487,000	250,000	-	-	250,000	0	250,000	S&RT (Insurance Recovery) being transferred to this account (NCS 6705.305)		
20	233 745 Dairy Commission	4470	Dairy Commission	587,310	350,000	-	-	350,000	0	350,000	LCB Fiscal has determined could sweep up to \$350,000 of the Dairy Commission account which would still have a 63 day reserve of \$274,000.		
21	State Public Works Board		CIP projects	6,921,414	6,921,414	-	-	6,921,414	6,921,414	-	Fund sweep has been eliminated since no basis was provided for the sweep.		
22	Supreme Court		Supreme Court Reserve Sweeps	1,500,000	-	-	-	-	704,159	(704,159)	Fund sweep amount documented by \$2 million based on testimony provided by Department Director to the IFC, Article II, Section 2 of the Constitution.		
23	615 130 Department of Taxation	6069	Department of Taxation Bonds	52,313,976	15,000,000	15,000,000	15,000,000	30,000,000	30,000,000	(18,000,000)	Sweeps eliminated per direction of leadership.		
24	210 741 Insurance Division	3802	Insurance Involuntary Fund	10,358,342	-	-	-	-	8,000,000	(8,000,000)	Sweeps eliminated per direction of leadership.		
25	235 902 Employment Security Division	4771	Employment Security Special Fund	9,200,655	6,900,000	-	-	6,900,000	6,900,000	(5,800,000)	Sweeps eliminated per direction of leadership.		
26	101 702 Wildlife Department	4457	NDOW Heritage Account	5,262,790	-	-	-	-	5,600,000	(5,600,000)	Sweeps eliminated per direction of leadership.		
27	328 170 Legislative Counsel Bureau	2830	Interim Finance Committee Contingency Fund	43,313,866	5,000,000	-	-	5,000,000	5,000,000	-	Sweeps eliminated per direction of leadership.		
28	601 170 Legislative Counsel Bureau	1335	Disaster Relief	6,846,757	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	17,650,046	-	-	-	-	3,000,000	(3,000,000)	Sweeps eliminated per direction of leadership.		
30	405 350 NSHE	6110	Special Capital Construction Fund For Higher Education	1,425,205	-	-	2,500,000	2,500,000	2,500,000	-	Sweeps eliminated per direction of leadership.		
31	715 030 Attorney General's Office	1348	Tort Claim Fund	6,238,772	-	-	2,000,000	2,000,000	2,000,000	-	Sweeps eliminated per direction of leadership.		
32	101 650 Department of Public Safety	4709	Criminal History Repository	2,822,176	1,000,000	1,000,000	-	1,000,000	1,556,296	(556,296)	Sweeps amount reduced based on funding required to maintain the Sex Offender Registry and potential revenue reductions in FY 2010 which would impact the ending fund balance.		
33	223 741 Insurance Division	3817	Insurance Examiners	880,393	600,000	600,000	700,000	1,300,000	1,300,000	-	Governor originally recommended \$1 million but the Legislature has approved \$1.3 million. The Governor has advised that a \$1 million fund sweep would leave an ending fund balance of \$2.3 million in FY 2010 which is preferable to sufficient.		
34	224 580 Public Utilities Commission	3920	Regulatory Fund	5,550,111	1,000,000	1,000,000	-	1,000,000	800,000	200,000	Sweeps eliminated per direction of leadership.		
35	101 040 Secretary of State's Office	1060	Secretary of State	10,478,845	975,000	-	-	975,000	975,000	-	Sweeps eliminated per direction of leadership.		
36	535 440 Department of Corrections	3728	PI Capital Projects	1,048,974	948,000	-	-	948,000	948,000	-	Sweeps eliminated per direction of leadership.		
37	101 500 Commission on Mineral Resources	4220	Bond Reclamation	4,509,427	427,817	-	-	427,817	427,817	-	Sweeps eliminated per direction of leadership.		
38	101 650 Agriculture	4545	Agric Registration/Enforcement	2,015,059	800,000	-	-	800,000	800,000	-	Sweeps eliminated per direction of leadership.		
39	101 700 Conservation/Natural Resources	4144	AB9021	36,993,986	-	-	-	-	750,000	(750,000)	Sweeps eliminated per direction of leadership.		
40	101 810 Dept. of Motor Vehicles	4722	Motor Vehicle Pollution Control	894,154	-	-	-	-	700,000	(700,000)	Sweeps eliminated per direction of leadership.		

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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
1	2	3	4	5	6	7	8	9	10	11	12	13	14
	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	9001	Budget Reserve Account	1,223,148	1,223,266	-	1,223,266	643,960	579,308		Amount received by Department of Corrections pursuant to Section 7 of the Appropriations Act.
42	601	000	Controller's Office	6300	Rainy Day	632,516	632,516	-	632,516	632,516	-		
43	101	300	Department of Education	2705	Discretionary Grants-Unrestricted	732,421	300,000	300,000	600,000	600,000	-		
44	201	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	-	218,794	-	218,794	218,794	-		
46	330	030	Attorney General's Office	1038	Consumer Advocate	2,789,861	500,000	-	500,000	500,000	-		
47	601	650	Department of Public Safety	1336	Emergency Assistance Subaccount	697,748	500,000	-	500,000	500,000	-		Advised by Legal Division that insolvency to sweep per Article 9, Section 2 of the Constitution.
48	210	741	Insurance Division	3604	Self-Insured Assoc Insolvency	1,031,890	-	-	-	500,000	(500,000)		
49	101	741	Insurance Division	3918	Captive Insurers	444,121	400,000	100,000	500,000	500,000	-		
50	101	748	Real Estate Division	3620	Common Interest Communities	2,801,792	500,000	-	500,000	500,000	-		
51	101	650	Department of Public Safety	3672	Homes Disaster Asst. Program	479,042	476,000	-	476,000	476,000	-		
52	101	650	Agriculture	4551	Weights & Measures	913,494	450,000	-	450,000	450,000	-		
53	101	709	Environmental Protection	4147	Hazardous Waste Management	14,228,671	382,496	-	382,496	382,496	-		
54	101	500	Commission on Mineral Resources	8201	Cash Pooled Bond Investments	516,557	136,557	-	136,557	136,557	-		
55	101	406	Health Division	4547	Marijuana Health Registry	323,281	267,293	-	267,293	267,293	-		
56	101	650	Agriculture	4537	Gas Pollution Standards	545,695	250,000	-	250,000	250,000	-		
57	101	755	Financial Institutions Division	3635	Financial Institutions	2,702,590	250,000	-	250,000	250,000	-		
58	101	755	Financial Institutions Division	3682	Financial Institutions Audit	989,789	150,000	100,000	250,000	250,000	-		
59	101	130	Department of Taxation	6958	State Financial Emergency	727,864	225,000	-	225,000	225,000	-		Advised by Legal Division that insolvency to sweep per Article 9, Section 2 of the Constitution.
60	101	050	Treasurer's Office	1099	Silicosis & Disabled Pensions	323,225	-	-	-	200,000	(200,000)		
61	216	748	Real Estate Division	3625	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	6,283,676	184,464	-	184,464	184,464	-		
64	101	080	Department of Administration	1009	Construction Education Account	128,647	128,647	-	128,647	128,647	-		
65	201	650	Department of Public Safety	4891	Motorcycle Safety Program	406,472	126,418	-	126,418	126,418	-		
66	101	040	Secretary of State's Office	1057	Notary Training	237,997	100,000	-	100,000	100,000	-		
67	101	741	Insurance Division	3921	Insurance Recovery	167,000	100,000	-	100,000	100,000	-		
68	210	742	Industrial Relations Division	6025	Uninsured Employers Claim Act	13,251,177	-	-	-	100,000	(100,000)		Advised by Legal Division that insolvency to sweep per Article 9, Section 2 of the Constitution.
69	216	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	200	Peace Officers Standards & Trn	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 Repairs & Disaster Relief	50,000	50,000	-	50,000	50,000	-		
74	201	650	Department of Public Safety	4689	Bicycle Safety Program	197,624	46,611	-	46,611	46,611	-		

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	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								
75	101	081 Budget and Planning Division	1344	Griffith Reward Fund	4-Feb-10	FY 2010	FY 2011	Total	Governor's				
76	101	081 Budget and Planning Division	2366	Controlled Substances Grants	10,908	10,908	-	10,908	Proposal				
77	101	704 Parks Division	6190	Performance Guarantees	3,796	3,796	-	3,796					
					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 26<sup>th</sup> 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, Pahrangats 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
	<b>TOTAL</b>		<b>\$ 631,379.00</b>
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 Quilici)	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](http://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 49<sup>th</sup> 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 Oceguera 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, Ocegüera, Ohrenschaß, 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 SETTELMEYER:

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 impactful 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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CARSON CITY, NEVADA 89701-4786  
(775) 684-5708 • FAX (775) 684-5717

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

-2-

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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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 CARSON CITY, NEVADA 89701-4786  
 (775) 684-5708 • FAX (775) 684-5717

11/10/2009

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>
<b>Total Revenue estimated annually</b>	<b><u>\$2,667,400</u></b>

#### 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**



**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

**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
<b>Securities Exemption Fee</b> Increase from \$300 to \$500	February 17, 2010	\$855,314	\$2,532,193	<b>\$3,387,507</b>	None
<b>Standardization of Expedite Fees</b>	March 1, 2010	\$225,400	\$676,200	<b>\$901,600</b>	None
<b>Securities Broker Dealer Fee</b> from \$300 to \$330	March 1, 2010	**	\$56,600	<b>\$56,600</b>	NRS 90.360
<b>Securities Sales Representative Fee</b> from \$100 to \$125	March 1, 2010	**	\$2,328,000	<b>\$2,328,000</b>	NRS 90.360
<b>Securities Investment Advisers Fee</b> from \$300 to \$330	March 1, 2010	**	\$37,600	<b>\$37,600</b>	NRS 90.360
<b>Securities Investment Advisor Representative Fee</b> from \$110 to \$125	March 1, 2010	**	\$48,200	<b>\$48,200</b>	NRS 90.360
<b>Securities Broker Dealer Branches Fee</b> from \$100 to \$150	March 1, 2010	**	\$62,000	<b>\$62,000</b>	NRS 90.360
<b>Securities Investment Advisor Branch Fee</b> new requirement of \$150	March 1, 2010	**	\$135,000	<b>\$135,000</b>	NRS 90.360
<b>Commercial Recordings UCC Fee</b> from \$20 to \$30 for online and \$40 to \$60 for paper filing	March 1, 2010	\$155,200	\$465,600	<b>\$620,800</b>	NRS 104.9525
<b>Commercial Recordings Trademark Fee</b>	March 1, 2010	\$16,791	\$50,374	<b>\$67,165</b>	NRS Chapter 600
<b>Commercial Recordings Dissolution Fee</b> from \$75 to \$100	March 1, 2010	\$128,942	\$386,827	<b>\$515,769</b>	NRS Chapters 87, 87A, 88, 88A
<b>Apostille &amp; Authentication Fee</b> from \$20 to \$30	March 1, 2010	\$45,000	\$137,500	<b>\$182,500</b>	NRS 240
<b>Notary Training Fee</b> reallocation to GF of 75%	July 1, 2010	--	\$153,600	<b>\$153,600</b>	NRS 240
<b>Domestic Partnership Registry Fee</b> reallocation of remaining balance to GF	July 1, 2010	--	\$50,000	<b>\$50,000</b>	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.				<b>\$8,546,241.00</b>	



Office of the Secretary of State

## Proposed Fee Restructuring

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### 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

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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 Settelmeier'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. Settelmeier, 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 RHEAULT, 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 19<sup>th</sup>, 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 in 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)

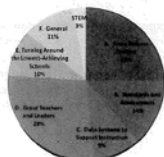
## F. General Selection Criteria (55 points)

- (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,<sup>1</sup> 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

<sup>1</sup> 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)<sup>2</sup> 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;

<sup>2</sup> 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.<sup>3</sup>

<sup>3</sup> 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.<sup>4</sup>

**(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,

<sup>4</sup> 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 (38 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.<sup>5</sup>

**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 systematically 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

<sup>5</sup> 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.mathematica-mpr.com/publications/redirect\\_PubsDB.asp?Site=http://cpa.sagepub.com/cgi/content/abstract/29/4/296](http://www.mathematica-mpr.com/publications/redirect_PubsDB.asp?Site=http://cpa.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(b)(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;

(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.

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**B**

## 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.**

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.

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.

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 ~~[-]~~ *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*