THE FIFTH DAY

CARSON CITY (Saturday), February 27, 2010

Assembly called to order at 11:28 a.m.
Madam Speaker presiding.
Roll called.
All present.
Prayer by the Chaplain, Chris Kanowitz.

Let us pause for a moment and recognize the presence of God here with us in Spirit and in each of our hearts…

God of Love, we thank You for the gift of this beautiful day and the gift of the rain that brings moisture to our desert land.

We ask You to bless those whom we serve: those women and men who have lost their jobs; those families and single people who have lost their homes; those college students who can no longer afford an education; those sick or elderly who can no longer afford their medication. We ask You to bless our children, especially those who go to bed hungry every night and who sleep in motel rooms, or on couches, or in cars. Protect and comfort all those who every day live in fear.

On this day we especially ask Your blessing and peace upon all of those suffering from natural disasters, especially in Chile. Heal broken bones and broken hearts. Help loved ones reunite and keep those safe who are in the path continued devastation.

And we ask you to bless these legislators. Bless them with discomfort at easy answers, half-truths, and superficial relationships, so that they may live deep within their hearts. Bless them with anger at injustice, oppression, and exploitation of people, so that they may work for justice, freedom, and peace. Bless them with tears to shed for those who suffer from pain, rejection, and hunger, so that they may reach out their hands to comfort them and turn their pain into joy. And bless them with enough foolishness to believe that they *can* make a difference so that they can do what others claim cannot be done. And so may God bless you and us all.

AMEN.

Pledge of allegiance to the Flag.

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

GENERAL FILE AND THIRD READING

Assembly Bill No. 4.
Bill read third time.
Roll call on Assembly Bill No. 4:
YEAS—42.
NAYS—None.

Assembly Bill No. 4 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered immediately transmitted to the Senate.

Assembly Bill No. 5.

Bill read third time.

Potential conflict of interest declared by Assemblywoman Dondero Loop.

Roll call on Assembly Bill No. 5:

YEAS—42.

NAYS—None.

Assembly Bill No. 5 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered immediately transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 2.

Assemblyman Oceguera moved the adoption of the resolution.

Remarks by Assemblyman Oceguera.

Resolution adopted and ordered immediately transmitted to the Senate.

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

Assembly in recess at 11:39 a.m.

ASSEMBLY IN SESSION

At 2:13 p.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Oceguera moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering Senate Bill No. 3.

Motion carried.

IN COMMITTEE OF THE WHOLE

Chair Buckley presiding.

Quorum present.

Senate Bill No. 3 considered.

CHAIR BUCKLEY:

Let’s take up S.B. 3. We have received some amendments that I would like the Committee to consider and you’ll see them before you at your desk. One of the proposed amendments is to not require that state employees take further furlough hours, to keep them at the level they are now. We believe that we will be able to accomplish this with the budget. State employees have taken the largest cuts of any other public employee in the state, 4.6 percent in pay plus benefits plus PERS for a total of 11 percent. We thank them for all their sacrifices. They are about to do more with less with all of the budget reductions. They are also going to go to four-day work weeks, and for some it will be welcome; for some it’ll throw their lives into a little bit of a state of confusion. I personally am very pleased that we able to do this for our state employees. So, the amendments before you are one proposal, and additionally there were some technical clean-up from our Legal Division to carry that out. I certainly would like the Committee to consider it.

ASSEMBLYWOMAN GANSERT:
Thank you, Madam Chair. I agree that our state workforce has been doing overtime. I know that in our proposal, after we had it verified and confirmed the numbers, there was some money to be able to do that. I support restoring those two hours because we all know they are doing more with less, and these are trying times. If we can afford to put it in the budget, I support that restoration. Thank you.

CHAIR BUCKLEY:
We have been considering a lot of add backs as we've done our prioritization. This is another one at the top. Any other comments, questions, or concerns with adding this back in? Is everybody okay with adding this back in? I see some head nods. Is everybody okay?

ASSEMBLYWOMAN GANSERT:
Thank you, Madam Chair. You know we're concerned about the total budget, so I think this is something that I personally would like to do. I am not speaking on behalf of my caucus, but I think that we will have the funding to be able to restore that, but again we're still looking at the big picture, so given that we just received this, I have not run it past everybody; but again, that plan that we produced the other day, once we got the numbers, confirmed there were funds available to be able to do that. I think it's about $6 million.

CHAIR BUCKLEY:
It is $6.8 million, and I think we're pretty fortunate that it's on everybody's list of priorities and has been. I think we're in good shape.

ASSEMBLYWOMAN PARNELL:
Thank you, Madam Chair. I think it's important, too, for all of us who live in communities where we have a lot of state employees. Probably as pleased as state employees would be, would be our small businesses. I have had a number of calls from hairdressers and dry cleaning establishments that have really been concerned, so let's not forget how it's going to help them.

CHAIR BUCKLEY:
You're right. What I would like at this point is the chair would entertain a motion to amend and do pass S.B. 3.

Assemblyman Oceguera moved to amend and do pass Senate Bill No. 3.
Seconded by Assemblyman Conklin.

Potential conflict of interest declared by Assemblymen Denis, Gustavson, and Settelmeyer.

Remarks by Assemblymen Conklin and Carpenter.
Motion carried.

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

ASSEMBLY IN SESSION

At 2:24 p.m.
Madam Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee of the Whole, to which was referred Senate Bill No. 3, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BARBARA E. BUCKLEY, *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 3.

Bill read third time.

The following amendment was proposed by the Committee of the Whole:

Amendment No. 7.

AN ACT relating to governmental administration; **[**~~revising the amount of unpaid furlough leave that certain state employees are required to take during the 2010-2011 Fiscal Year;~~**]** providing for a temporary reduction in salary in lieu of furlough leave for state employees who are exempt from taking unpaid furlough leave; requiring the approval of a plan for additional overtime to be approved before the overtime **is** worked; providing for a temporary reduction in compensation for employees of the Senate and Assembly; providing for the closing of state offices on certain days and the revision of the workweek of state employees with certain exceptions and exemptions; temporarily authorizing school districts to require employees to take unpaid furlough leave; prohibiting certain additional compensation **for** and adjustments to the salaries of newly hired classified state employees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires state employees to take unpaid furlough leave during the 2009-2011 biennium and authorizes exemptions from that requirement. (Sections 3 and 5 of chapter 391, Statutes of Nevada 2009, pp. 2159 and 2161) **Section 1** of this bill **[**~~increases the amount of unpaid furlough leave for full-time state employees from 8 hours per month to 10 hours per month for the 2010-2011 Fiscal Year. Section 1 also~~**]** provides flexibility for employees of the Budget Division of the Department of Administration, Legislature and Legislative Counsel Bureau to use the unpaid furlough leave in increments of less than 1 day in the same manner as classified employees. In addition, **section 1** authorizes school districts to require employees to take unpaid furlough leave unless the requirement would conflict with a collective bargaining agreement. **Section 1** also provides that the furlough requirements do not apply to a board, commission or agency **,** the sole function of which is regulating a profession, occupation or business and which is not subject to the State Budget Act.

Section 3 of this bill provides that certain exemptions from the furlough requirement must be approved by the Interim Finance Committee and that the salary of any employee who is exempt from the furlough requirement must be reduced by ~~[5.75]~~ **4.6** percent in lieu of furlough leave for the 2010-2011 Fiscal Year.

Existing law provides that employees who are subject to the furlough requirement be held harmless in the accumulation of retirement service credit and reported salary for purposes of the Public Employees' Retirement System. (Section 4 of chapter 391, Statutes of Nevada 2009, p. 2160) **Section 2** of this bill provides similar protections for state employees whose salaries are reduced by ~~[5.75]~~ **4.6** percent in lieu of furlough leave but provides school districts with discretion as to whether such protections are provided to its employees.

Existing law sets forth the compensation of employees of the Senate and Assembly. (NRS 218A.605) **Section 4** of this bill requires that such compensation be reduced by ~~[5.75]~~ **4.6** percent in lieu of furlough leave and prohibits certain step increases in that compensation for the 2010-2011 Fiscal Year.

Existing law requires that state offices be open for the transaction of business for at least 8 hours on every day of the year, with the exception of Saturdays, Sundays and legal holidays. (NRS 281.110) Except for certain boards, commissions and agencies, **section 5** of this bill provides for the closing of state offices on Fridays and for the revision of the regular workweek of state employees to four 10-hour days. **Section 5** also authorizes exemptions for state offices that must remain open on Fridays because of the need to provide appropriate services that are necessary to the protection of public health, safety and welfare. **Section 5** further provides an extension of the time for filing any paper with or complying with any deadline involving a state office that is closed on Friday if the last day for filing the paper or complying with the deadline falls on that Friday. **Section 6** of this bill provides additional exceptions to the requirements of **section 5** for the employees of the Nevada System of Higher Education.

Section 7 of this bill provides that certain additional overtime required by state agencies may only be worked pursuant to a plan that is approved before the overtime is worked. **Section 9** of this bill revises the calculation of overtime to account for workweeks consisting of 8-hour or 10-hour days and with respect to corrections officers of the Department of Corrections. **(NRS 284.180)**

Existing law authorizes certain supplemental compensation **for** and adjustments to the base rate of pay of classified employees for various purposes. (NRS 209.183, 284.175, NAC 284.206-284.218) **Sections 7.5 and 8.5** of the bill prohibit such supplemental compensation **for** and adjustments to the salaries of classified employees hired on or after March 1, 2010. **Section 13.5 of this bill ensures the continued payment of such**

supplemental compensation and adjustments as well as uniform allowances to current employees.

Section 13 of this bill declares void all exemptions from furlough leave that were granted on or before June 30, 2010, but authorizes the reapplication for and granting of such exemptions. **Section 14** of this bill sunsets on June 30, 2011, the ~~[requirement:]~~ **requirements:** (1) for unpaid furlough leave or a salary reduction in lieu of such leave; (2) that state agencies are closed on Fridays; and (3) that state employees work 10-hour days.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 3 of chapter 391, Statutes of Nevada 2009, at page 2159, is hereby amended to read as follows:

Sec. 3. 1. Except as otherwise provided in ***subsection 9 and*** section 5 of this act:

(a) For the period beginning on July 1, ~~[2009,]~~ ***2010,*** and ending on June 30, 2011, each employee of the State, other than a classified employee ~~[,]~~ ***or an employee of the Legislature, Legislative Counsel Bureau or Budget Division of the Department of Administration,*** shall take 1 day of unpaid furlough leave each month.

(b) Except as otherwise provided in subsection 5, the furlough requirement applies to all branches of state government and includes the Nevada System of Higher Education, the Public Employees' Retirement System and all other entities of state government.

➥ The requirements of this section do not apply to employees of the Department of Cultural Affairs whose standard workweek was reduced from 40 hours to 32 hours effective July 1, 2009.

2. Except as otherwise provided in this subsection, for the purposes of this section "1 day" consists of the number of hours an employee works in a standard workday, but not more than 8 ~~*[10]*~~ hours. An employee must take 1 day of furlough leave each month and cannot take portions of a day that combine to total the amount of the required monthly furlough leave. A full-time employee whose standard workday is longer than 8 ~~*[10]*~~ hours shall take 8 ~~*[10]*~~ hours of furlough leave on a single workday and may take annual leave for the remainder of the day, work a reduced schedule that day or work a modified schedule approved by his employer. An employee who works less than full time with a fixed schedule shall take as furlough leave the portion of an 8-hour ~~*[a 10-hour]*~~ day that his scheduled workweek or biweekly schedule bears to a full-time workweek or biweekly schedule.

3. For the period beginning on July 1, ~~[2009,]~~ ***2010,*** and ending on June 30, 2011, each employee in the classified service of the State ~~[,]~~ ***and each employee of the Legislature, Legislative Counsel Bureau and Budget Division of the Department of Administration*** shall:

(a) If he is a full-time employee, take 96 ~~*[120]*~~ hours of unpaid furlough leave **.** ~~[each year.]~~

(b) If he is employed less than full time, take a number of hours of unpaid furlough leave ~~[each year]~~ which is equal to the average number of hours worked per working day multiplied by 12.

➥ An employee in the classified service of the State ***or an employee of the Legislature, Legislative Counsel Bureau or Budget Division of the Department of Administration*** may take unpaid furlough leave in portions of a day that combine to total the amount of required yearly leave. To the extent practicable, full-time classified employees ***and full-time employees of the Legislature, Legislative Counsel Bureau and Budget Division of the Department of Administration*** should take 8 *~~[10]~~* hours of unpaid furlough leave per month. To the extent practicable, a classified employee ***or an employee of the Legislature, Legislative Counsel Bureau or Budget Division of the Department of Administration*** who works less than full time with a fixed schedule should take as unpaid furlough leave the portion of an 8-hour *~~[a 10-hour]~~* day his scheduled workweek or biweekly schedule bears to a full-time workweek or biweekly schedule.

4. ***For the period beginning on July 1, 2010, and ending on June 30, 2011, except as otherwise provided in subsection 8 and notwithstanding any other specific statute to the contrary, a school district may require each employee to take unpaid furlough leave in the amount and manner determined by the school district.***

5. Furlough leave pursuant to this section must be scheduled and approved in the same manner as other leave. Notwithstanding any statute or regulation to the contrary and except as otherwise provided by regulation adopted pursuant to this section by the Personnel Commission, an employee ***of the State*** who is on furlough leave is considered to have worked that day or portion of a day, as applicable, for all purposes except payment of salary and determination of overtime, including without limitation:

(a) Accrual of sick and annual leave;

(b) Determining the employee's pay progression date;

(c) Continuity of service and years of service for the purposes of payments pursuant to the plan to encourage continuity of service;

(d) The duration of a probationary period;

(e) Determining eligibility for holiday pay if the shift immediately precedes a holiday;

(f) Seniority for all purposes, including layoffs;

(g) The Public Employees' Benefits Program; and

(h) The Public Employees' Retirement System, including for the purposes of contributions to the System, subject to the requirements of sections 4 and 5 of this act.

~~[5.]~~ ***6.*** The Board of Regents of the University of Nevada shall determine and implement the method by which:

(a) The professional employees of the Nevada System of Higher Education will participate in the furlough requirement pursuant to this section; or

(b) The overall costs for the professional employees of the Nevada System of Higher Education will be reduced in an amount at least equal to the savings which would have otherwise been produced by furlough leave pursuant to this section.

~~[6.]~~ ***7.*** Except as otherwise provided in subsection ~~[5,]~~ ***6,*** the Personnel Commission shall adopt regulations ***which are applicable to employees of the State*** to carry out the provisions of this section.

8. The provisions of subsection 4 do not apply to the extent that those provisions conflict with the provisions of a collective bargaining agreement entered into pursuant to chapter 288 of NRS.

9. The provisions of this section do not apply to a board, commission or agency the sole function of which is the regulation of a profession, occupation or business and which is not subject to the provisions of NRS 353.150 to 353.246, inclusive.

10. As used in this section, "public employer" has the meaning ascribed to it in NRS 286.070.

Sec. 2. Section 4 of chapter 391, Statutes of Nevada 2009, at page 2160, is hereby amended to read as follows:

Sec. 4. 1. It is the intent of the Legislature to establish a program whereby employees of the State and other participating ***public*** employers ~~[who]~~ ***:***

(a) Who take furlough leave due to extreme fiscal need ~~[, including employees required to take furlough leave pursuant to section 3 of this act,]~~ ***; or***

(b) Whose salaries are reduced in lieu of furlough leave,

➥ be held harmless in the accumulation of retirement service credit and reported salary pursuant to chapter 286 of NRS ~~[.]~~ ***, except that, in the case of an employee of a school district, the school district shall determine whether the employee will be so held harmless.***

2. Except as otherwise required as a result of NRS 286.537 and notwithstanding the provisions of NRS 286.481, an employee is entitled to receive full service credit for time taken as furlough leave pursuant to the program established pursuant to section 3 of this act if:

(a) The employee ***, if he is an employee of the State,*** does not take more than 96 ~~*[120]*~~ hours of furlough leave ~~[in a year;]~~ ***for the period beginning on July 1, 2010, and ending on June 30, 2011;*** and

(b) The public employer certifies to the System that the employer is participating in the furlough program established pursuant to section 3 of this act and that the furlough leave which is reported for the employee is taken in accordance with the requirements of section 3 of this act.

3. In any month in which a day of furlough leave is taken, an employee is entitled to receive full-time service credit for the furlough leave in accordance with the normal workday for the employee. An employee who is less than full time is entitled to service credit in the same manner and to the

same extent as though the employee had worked the hours taken as furlough leave.

4. ***If the salary of any member is reduced in lieu of furlough leave, the public employer shall certify to the System that the salary of that member has been so reduced.***

5. When a member is on furlough leave pursuant to the program certified by the public employer in accordance with this section, ***or when the salary of a member is reduced in lieu of furlough leave and certified by the public employer in accordance with this section,*** the public employer must:

(a) Include all information required by the System on the public employer's regular monthly retirement report as provided in NRS 286.460; and

(b) Pay all required employer and employee contributions to the System based on the compensation that would have been paid to the member but for the member's participation in the program. The public employer may recover from the employee the amount of the employee contributions set forth in NRS 286.410.

[~~5.~~**]** ***6.*** Service credit under the program established pursuant to this section must be computed according to the fiscal year.

[~~6.~~**]** ***7.*** As used in this section:

(a) "Member" has the meaning ascribed to it in NRS 286.050.

(b) "Public employer" has the meaning ascribed to it in NRS 286.070.

(c) "System" means the Public Employees' Retirement System.

Sec. 3. Section 5 of chapter 391, Statutes of Nevada 2009, at page 2161, is hereby amended to read as follows:

Sec. 5. 1. It is the intent of the Legislature to limit exceptions to the requirement of furlough leave for employees of the State pursuant to section 3 of this act to identified areas of critical need. If **[**~~an~~**]** ***a state*** employer, **[**~~including the State,~~**]** participating in the program established pursuant to section 3 of this act determines that a position cannot be subject to furlough leave because of the need to provide appropriate services that are necessary to the protection of public health, safety and welfare, the governing body of the agency must make findings on the record in a public meeting that:

(a) The position is necessary to the protection of public health, safety, or welfare;

(b) The public health, safety or welfare will be significantly diminished if mandatory furlough leave is implemented for employees in these positions; ***and***

(c) No alternatives exist to provide for the protection of public health, safety or welfare ***.*** **[**~~; and~~

~~(d) The agency has identified and will implement other methods to reduce overall costs equal to the savings produced by furlough leave under the program or received an allocation of funds as set forth in section 8 of this act.~~**]**

2. For the purposes of subsection 1:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall determine positions within the Executive Branch of State Government that cannot be subject to furlough leave. ***Any such determination is not effective unless approved by the Interim Finance Committee.***

(b) The Board of Regents shall determine positions within the Nevada System of Higher Education that cannot be subject to furlough leave. ***Any such determination is not effective unless approved by the Interim Finance Committee.***

(c) The Public Employees' Retirement Board shall determine positions within the Public Employees' Retirement System that cannot be subject to furlough leave.

(d) The Supreme Court shall determine positions within the Judicial Branch of State Government that cannot be subject to furlough leave.

(e) The Legislative Commission shall determine positions within the Legislative Branch of State Government that cannot be subject to furlough leave.

3. The entities described in subsection 2 shall report to the Interim Finance Committee on a quarterly basis all positions that have been determined not to be subject to furlough leave pursuant to this section and the reasons for such determinations.

4. The salary of any position that has been determined not to be subject to furlough leave pursuant to this section must be reduced by an amount of ~~[5.75]~~ 4.6 percent in lieu of furlough leave, except that the payment of any special or other adjustments to the base rate and any overtime that is worked by an employee who is filling such a position must be calculated based on the employee's unreduced salary.

Sec. 4. ***For the period beginning on July 1, 2010, and ending on June 30, 2011:***

1. The compensation of employees of the Senate and Assembly due pursuant to NRS 218A.605 must be reduced by ~~[5.75]~~ 4.6 percent in lieu of furlough leave;

2. In calculating the amount of compensation due such an employee pursuant to NRS 218A.605, no additional step increase authorized by that section may be applied; and

3. If such an employee is a member of the Public Employees' Retirement System who is contributing to the System, the provisions of section 4 of chapter 391, Statutes of Nevada 2009, at page 2160, as amended by section 2 of this act, apply with respect to the employee.

Sec. 5. ***1. Notwithstanding the provisions of NRS 281.110 or any other statute or regulation to the contrary, except as otherwise provided in this section and section 6 of this act, for the period beginning on July 1, 2010, and ending on June 30, 2011, the offices of all state officers, departments, boards, commissions and agencies must be closed on Fridays and be open for the transaction of business at least from 7 a.m. until 12***

p.m. and from 1 p.m. until 6 p.m. on Monday through Thursday. The workweek of the employees of those offices must consist of four 10-hour days, Monday through Thursday.

2. During any week in which falls one or more legal holidays pursuant to NRS 236.015, all such offices must be open for the transaction of business at least from 8 a.m. until 12 p.m. and from 1 p.m. until 5 p.m. on each day which is not a legal holiday, and the workweek of the employees of those offices during that week must consist of 8-hour days. ~~*[No furlough leave may be taken by an employee on any 8-hour day described in this subsection.]*~~

3. An office and its employees may be exempted from the requirements of this section upon a determination pursuant to subsection 4 that the office must remain open on Fridays because of the need to provide appropriate services that are necessary to the protection of public health, safety and welfare.

4. For the purposes of subsection 3:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall determine exemptions from the requirements of this section for offices within the Executive Branch of State Government.

(b) The Board of Regents shall determine exemptions from the requirements of this section for offices within the Nevada System of Higher Education.

(c) The Public Employees' Retirement Board shall determine exemptions from the requirements of this section for offices within the Public Employees' Retirement System.

(d) The Supreme Court shall determine exemptions from the requirements of this section for offices within the Judicial Branch of State Government.

(e) The Legislative Commission shall determine exemptions from the requirements of this section for offices within the Legislative Branch of State Government.

5. An entity described in subsection 4 shall report to the Interim Finance Committee not later than 60 days after determining that an office is exempt from the requirements of this section concerning the determination and the reasons for the determination.

6. ~~*[Notwithstanding the provisions of section 3 of chapter 391, Statutes of Nevada 2009, at page 2159, as amended by section 1 of this act, to the contrary, an employee of an office that is exempted from the requirements of this section may take portions of a day as furlough leave that combine to total the amount of the furlough leave required by that section, except that any such employee described in NRS 284.148 shall take all required furlough leave each month during the same week.*~~

~~*7.]*~~ ***If the last day limited by a specific statute for filing any paper with or complying with any deadline involving an office that is closed on a***

Friday pursuant to this section falls on that Friday, the period so limited must expire on the following business day at 5 p.m.

~~[8.]~~ ***7. The provisions of this section do not apply to a board, commission or agency , the sole function of which is the regulation of a profession, occupation or business and which is not subject to the provisions of NRS 353.150 to 353.246, inclusive.***

Sec. 6. ***For the period beginning on July 1, 2010, and ending on June 30, 2011, the Board of Regents shall establish a schedule consisting of rolling 10-hour days which is designed to allow staffing by employees of the Nevada System of Higher Education on Monday through Friday, with each employee working on only four of those days.***

Sec. 7. ***For the period beginning on July 1, 2010, and ending on June 30, 2011, if any state agency determines that it will require its employees to work more overtime than the amount of overtime the state agency required of its employees during the preceding fiscal year or, if the overtime requirements of the state agency vary substantially during each year of a biennium, during the corresponding year of the preceding biennium, the additional overtime may only be worked pursuant to a plan that is approved in advance by one of the following entities:***

1. Except as otherwise provided in this section, the State Board of Examiners must approve overtime plans for the Executive Branch of State Government.

2. The Board of Regents must approve overtime plans for the Nevada System of Higher Education.

3. The Public Employees' Retirement Board must approve overtime plans for the Public Employees' Retirement System.

4. The Supreme Court must approve overtime plans for the Judicial Branch of State Government.

5. The Legislative Commission must approve overtime plans for the Legislative Branch of State Government.

Sec. 7.5. NRS 209.183 is hereby amended to read as follows:

209.183 In addition to his or her regular salary, each person employed ***before March 1, 2010,*** by the Department of Corrections or the Division of Forestry of the State Department of Conservation and Natural Resources at the Southern Nevada Correctional Center, the Southern Desert Correctional Center, the Indian Springs Conservation Camp, the correctional institution identified as the Men's Prison No. 7 in chapter 656, Statutes of Nevada 1995, and chapter 478, Statutes of Nevada 1997, or the Jean Conservation Camp is entitled to receive, as compensation for travel expenses, not more than $7.50 for each day he or she reports to work if his or her residence is more than 25 miles from the respective facility. The total cost for compensation for travel expenses authorized by this section must not exceed the amount specially appropriated for this purpose.

~~*Sec. 7.7.*~~ **NRS 227.150 is hereby amended to read as follows:**

~~**227.150**~~ 1. The State Controller shall:

(a) Open and keep an account with each county, charging the counties with the revenue collected, as shown by the auditor's statements, and also with their proportions of the salaries of the district judges, and crediting them with the amounts paid to the State Treasurer.

(b) Keep and state all accounts between the State of Nevada and the United States, or any state or territory, or any person or public officer of this State, indebted to the State or entrusted with the collection, disbursement or management of any money, funds or interests arising therefrom, belonging to the State, of every character and description, if the accounts are derivable from or payable into the State Treasury.

(c) Settle the accounts of all county treasurers, and other collectors and receivers of all state revenues, taxes, tolls and incomes, levied or collected by any act of the Legislature and payable into the State Treasury.

(d) Keep fair, clear, distinct and separate accounts of all the revenues and incomes of the State, and of all the expenditures, disbursements and investments thereof, showing the particulars of every expenditure, disbursement and investment.

2. The State Controller may:

(a) Direct the collection of all accounts or money due the State, except as otherwise provided in chapter 353C of NRS, and if there is no time fixed or stipulated by law for the payment of any such accounts or money, they are payable at the time set by the State Controller.

(b) Upon approval of the Attorney General, direct the cancellation of any accounts or money due the State.

(c) Except as otherwise provided in subsection 3, withhold from the compensation of an employee of the State any amount due the State for the overpayment of the salary of the employee that has not been satisfied pursuant to subsection **~~[8]~~** ***9*** of NRS 284.350 or in any other manner.

3. Before any amounts may be withheld from the compensation of an employee pursuant to paragraph (c) of subsection 2, the State Controller shall:

(a) Give written notice to the employee of the State Controller's intent to withhold such amounts from the compensation of the employee; and

(b) If requested by the employee within 10 working days after receipt of the notice, conduct a hearing and allow the employee the opportunity to contest the State Controller's determination to withhold such amounts from the compensation of the employee.

➥ If the overpayment was not obtained by the employee's fraud or willful misrepresentation, any withholding from the compensation of the employee must be made in a reasonable manner so as not to create an undue hardship to the employee.

4. The State Controller may adopt such regulations as are necessary to carry out the provisions of this section.

Sec. 8. (Deleted by amendment.)

Sec. 8.1. NRS 284.065 is hereby amended to read as follows:

284.065 1. The Commission has only such powers and duties as are authorized by law.

2. In addition to the powers and duties set forth elsewhere in this chapter, the Commission shall:

(a) Advise the Director concerning the organization and administration of the Department.

(b) Report to the Governor biennially on all matters which the Commission may deem pertinent to the Department and concerning any specific matters previously requested by the Governor.

(c) Advise and make recommendations to the Governor or the Legislature relative to the personnel policy of the State.

(d) ~~[Adopt]~~ ***Except as otherwise provided in subsection 4 of NRS 284.175, adopt*** regulations to carry out the provisions of this chapter.

(e) Foster the interest of institutions of learning and of civic, professional and employee organizations in the improvement of personnel standards in the state service.

(f) Review decisions of the Director in contested cases involving the classification or allocation of particular positions.

(g) Exercise any other advisory powers necessary or reasonably implied within the provisions and purposes of this chapter.

Sec. 8.3. NRS 284.155 is hereby amended to read as follows:

284.155 1. ~~[The]~~ ***Except as otherwise provided in subsection 4 of NRS 284.175, the*** Commission shall adopt a code of regulations for the classified service.

2. The code must include regulations concerning certifications and appointments for:

(a) Positions in classes having a maximum salary of $12,500 or less as of December 31, 1980, where the regular procedures for examination and certification are impracticable; and

(b) Classes where applicants for promotion are not normally available.

➥ These regulations may be different from the regulations concerning certifications and appointments for other positions in the classified service.

Sec. 8.5. NRS 284.175 is hereby amended to read as follows:

284.175 1. After consultation with appointing authorities and state fiscal officers, the Director shall prepare a pay plan for all employees in the classified service.

2. The pay plan and its amendments become effective only after approval by the Governor.

3. ~~[The]~~ ***Except as otherwise provided in subsection 4, the*** pay plan must include, without limitation, ranges for each class, grade or group of positions in the classified service. Each employee in the classified service must be paid at one of the rates set forth in the pay plan for the class of position in which the employee is employed and at such time as necessary money is made available for the payment.

4. ***The pay plan may not include any special or other adjustments to the base rates set forth in the pay plan for employees hired on or after March 1, 2010.***

5. The Commission shall adopt regulations to carry out the pay plan.

~~[5.]~~ ***6.*** The Director may make recommendations to the Legislature during regular legislative sessions concerning salaries for the classified service of the State. In making such recommendations, the Director shall consider factors such as:

(a) Surveys of salaries of comparable jobs in government and private industry within the State of Nevada and western states, where appropriate;

(b) Changes in the cost of living;

(c) The rate of turnover and difficulty of recruitment for particular positions; and

(d) Maintaining an equitable relationship among classifications.

Sec. 9. NRS 284.180 is hereby amended to read as follows:

284.180 1. The Legislature declares that since uniform salary and wage rates and classifications are necessary for an effective and efficient personnel system, the pay plan must set the official rates applicable to all positions in the classified service, but the establishment of the pay plan in no way limits the authority of the Legislature relative to budgeted appropriations for salary and wage expenditures.

2. Credit for overtime work directed or approved by the head of an agency or the representative of the head of the agency must be earned at the rate of time and one-half, except for those employees described in NRS 284.148.

3. Except as otherwise provided in subsections 4, 6, 7 and 9 ~~[,]~~ ***:***

(a) During a workweek consisting of 10-hour days, overtime is considered time worked in excess of:

(1) Ten hours in 1 calendar day;

(2) Ten hours in any 18-hour period; or

(3) A 40-hour week.

(b) During a workweek consisting of 8-hour days, overtime is considered time worked in excess of:

~~[(a)]~~ ***(1)*** Eight hours in 1 calendar day;

~~[(b)]~~ ***(2)*** Eight hours in any 16-hour period; or

~~[(c)]~~ ***(3)*** A 40-hour week.

4. Firefighters who choose and are approved for a 24-hour shift shall be deemed to work an average of 56 hours per week and 2,912 hours per year, regardless of the actual number of hours worked or on paid leave during any biweekly pay period. A firefighter so assigned is entitled to receive 1/26 of the firefighter's annual salary for each biweekly pay period. In addition, overtime must be considered time worked in excess of:

(a) Twenty-four hours in one scheduled shift; or

(b) Fifty-three hours average per week during one work period for those hours worked or on paid leave.

➥ The appointing authority shall designate annually the length of the work period to be used in determining the work schedules for such firefighters. In addition to the regular amount paid such a firefighter for the deemed average of 56 hours per week, the firefighter is entitled to payment for the hours which comprise the difference between the 56-hour average and the overtime threshold of 53 hours average at a rate which will result in the equivalent of overtime payment for those hours.

5. The Commission shall adopt regulations to carry out the provisions of subsection 4.

6. **~~[For employees who choose and are approved for a variable workday, overtime will be considered only after working 40 hours in 1 week.]~~** ***Corrections Officers of the Department of Corrections must be scheduled to work not less than three consecutive 12-hour shifts and not less than seven 12-hour shifts during each 14-day pay period. Overtime must be considered time worked in excess of:***

(a) Twelve hours in one shift; or

(b) Eighty-four hours in any 14-day pay period.

7. Employees who are eligible under the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., to work a variable ~~[80-hour]~~ work schedule within a biweekly pay period ~~[and who choose and are approved for such a work schedule]~~ will be considered eligible for overtime ~~[only after working 80 hours biweekly, except those eligible employees who are approved for overtime in excess of one scheduled shift of 8 or more hours per day.]~~ ***in accordance with the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq.***

8. An agency may experiment with innovative workweeks upon the approval of the head of the agency and after majority consent of the affected employees. The affected employees are eligible for overtime only after working 40 hours in a workweek.

9. This section does not supersede or conflict with existing contracts of employment for employees hired to work 24 hours a day in a home setting. Any future classification in which an employee will be required to work 24 hours a day in a home setting must be approved in advance by the Commission.

10. All overtime must be approved in advance by the appointing authority or the designee of the appointing authority. No officer or employee, other than a director of a department or the chair of a board, commission or similar body, may authorize overtime for himself or herself. The chair of a board, commission or similar body must approve in advance all overtime worked by members of the board, commission or similar body.

11. The Budget Division of the Department of Administration shall review all overtime worked by employees of the Executive Department to ensure that overtime is held to a minimum. The Budget Division shall report quarterly to the State Board of Examiners the amount of overtime worked in the quarter within the various agencies of the State.

Sec. 10. NRS 284.350 is hereby amended to read as follows:

284.350 1. Except as otherwise provided in subsections 2, 3 **[**~~and 4,~~**]** ***, 4 and 5,*** an employee in the public service, whether in the classified or unclassified service **[**~~,~~**]** ***:***

(a) Except as otherwise provided in paragraph (b), is entitled to annual leave with pay of **[**~~1 1/4 working days~~**]** ***10 hours*** for each month of continuous public service. The annual leave may be cumulative from year to year not to exceed **[**~~30 working days.~~**]** ***240 hours.***

(b) Who works 24 hours in one scheduled shift is entitled to annual leave with pay of 1 1/4 working days for each month of continuous public service. The annual leave may be cumulative from year to year not to exceed 30 working days.

➥ The Commission may by regulation provide for additional annual leave for long-term employees and for prorated annual leave for part-time employees.

2. Except as otherwise provided in this subsection **[**~~,~~**]** ***and subsection 3,*** any annual leave in excess of **[**~~30 working days~~**]** ***240 hours*** must be used before January 1 of the year following the year in which the annual leave in excess of **[**~~30 working days~~**]** ***240 hours*** is accumulated or the amount of annual leave in excess of **[**~~30 working days~~**]** ***240 hours*** is forfeited on that date. If an employee:

(a) On or before October 15, requests permission to take annual leave; and

(b) The employee's request for leave is denied in writing for any reason,

➥ the employee is entitled to payment for any annual leave in excess of **[**~~30 working days~~**]** ***240 hours*** which the employee requested to take and which the employee would otherwise forfeit as the result of the denial of the employee's request, unless the employee has final authority to approve use of the employee's own accrued leave and the employee received payment pursuant to this subsection for any unused annual leave in excess of **[**~~30 working days~~**]** ***240 hours*** accumulated during the immediately preceding calendar year. The payment for the employee's unused annual leave must be made to the employee not later than January 31.

3. ***Except as otherwise provided in this subsection, any annual leave in excess of 30 working days of an employee who works 24 hours in one scheduled shift must be used before January 1 of the year following the year in which the annual leave in excess of 30 working days is accumulated or the amount of annual leave in excess of 30 working days is forfeited on that date. If such an employee:***

(a) On or before October 15, requests permission to take annual leave; and

(b) The employee's request for leave is denied in writing for any reason,

➥ the employee is entitled to payment for any annual leave in excess of 30 working days which the employee requested to take and which the employee would otherwise forfeit as the result of the denial of the employee's request, unless the employee has final authority to approve use

of the employee's own accrued leave and the employee received payment pursuant to this subsection for any unused annual leave in excess of 30 working days accumulated during the immediately preceding calendar year. The payment for the employee's unused annual leave must be made to the employee not later than January 31.

4. Officers and members of the faculty of the Nevada System of Higher Education are entitled to annual leave as provided by the regulations adopted pursuant to subsection 2 of NRS 284.345.

[~~4.~~**]** ***5.*** The Commission shall establish by regulation a schedule for the accrual of annual leave for employees who regularly work more than 40 hours per week or 80 hours biweekly. The schedule must provide for the accrual of annual leave at the same rate proportionately as employees who work a 40-hour week accrue annual leave.

[~~5.~~**]** ***6.*** No elected state officer may be paid for accumulated annual leave upon termination of the officer's service.

[~~6.~~**]** ***7.*** During the first 6 months of employment of any employee in the public service, annual leave accrues as provided in subsection 1, but no annual leave may be taken during that period.

[~~7.~~**]** ***8.*** No employee in the public service may be paid for accumulated annual leave upon termination of employment unless the employee has been employed for 6 months or more.

[~~8.~~**]** ***9.*** Upon the request of an employee, the appointing authority of the employee may approve the reduction or satisfaction of an overpayment of the salary of the employee that was not obtained by the fraud or willful misrepresentation of the employee with a corresponding amount of the accrued annual leave of the employee.

Sec. 11. NRS 284.355 is hereby amended to read as follows:

284.355 1. Except as otherwise provided in this section, all employees in the public service, whether in the classified or unclassified service, are entitled to sick and disability leave with pay of **[**~~1 1/4 working days~~**]** ***10 hours*** for each month of service, which may be cumulative from year to year. After an employee has accumulated **[**~~90 working days~~**]** ***720 hours*** of sick leave, the amount of additional unused sick leave which the employee is entitled to carry forward from 1 year to the next is limited to one-half of the unused sick leave accrued during that year, but the Commission may by regulation provide for subsequent use of unused sick leave accrued but not carried forward because of this limitation in cases where the employee is suffering from a long-term or chronic illness and has used all sick leave otherwise available to the employee.

2. ***Except as otherwise provided in this section, employees who work 24 hours in one scheduled shift are entitled to sick and disability leave with pay of 1 1/4 working days for each month of service, which may be cumulative from year to year. After an employee has accumulated 90 working days of sick leave, the amount of additional unused sick leave which the employee is entitled to carry forward from 1 year to the next is***

limited to one-half of the unused sick leave accrued during that year, but the Commission may by regulation provide for subsequent use of unused sick leave accrued but not carried forward because of this limitation in cases where the employee is suffering from a long-term or chronic illness and has used all sick leave otherwise available to the employee.

3. Upon the retirement of an employee, the employee's termination through no fault of the employee or the employee's death while in public employment, the employee or the employee's beneficiaries are entitled to payment:

(a) For the employee's unused sick leave in excess of ~~[30 days,]~~ ***240 hours*** ~~[,]~~ ***for employees to which subsection 1 applies and 30 days for employees to whom subsection 2 applies,*** exclusive of any unused sick leave accrued but not carried forward, according to the employee's number of years of public service, except service with a political subdivision of the State, as follows:

(1) For 10 years of service or more but less than 15 years, not more than $2,500.

(2) For 15 years of service or more but less than 20 years, not more than $4,000.

(3) For 20 years of service or more but less than 25 years, not more than $6,000.

(4) For 25 years of service, not more than $8,000.

(b) For the employee's unused sick leave accrued but not carried forward, an amount equal to one-half of the sum of:

(1) The employee's hours of unused sick leave accrued but not carried forward; and

(2) An additional 120 hours.

~~[3.]~~ ***4.*** The Commission may by regulation provide for additional sick and disability leave for long-term employees and for prorated sick and disability leave for part-time employees.

~~[4.]~~ ***5.*** An employee entitled to payment for unused sick leave pursuant to subsection 2 may elect to receive the payment in any one or more of the following forms:

(a) A lump-sum payment.

(b) An advanced payment of the premiums or contributions for insurance coverage for which the employee is otherwise eligible pursuant to chapter 287 of NRS. If the insurance coverage is terminated and the money advanced for premiums or contributions pursuant to this subsection exceeds the amount which is payable for premiums or contributions for the period for which the former employee was actually covered, the unused portion of the advanced payment must be paid promptly to the former employee or, if the employee is deceased, to the employee's beneficiary.

(c) The purchase of additional retirement credit, if the employee is otherwise eligible pursuant to chapter 286 of NRS.

~~[5.]~~ ***6.*** Officers and members of the faculty of the Nevada System of Higher Education are entitled to sick and disability leave as provided by the regulations adopted pursuant to subsection 2 of NRS 284.345.

~~[6.]~~ ***7.*** The Commission may by regulation provide policies concerning employees with mental or emotional disorders which:

(a) Use a liberal approach to the granting of sick leave or leave without pay to such an employee if it is necessary for the employee to be absent for treatment or temporary hospitalization.

(b) Provide for the retention of the job of such an employee for a reasonable period of absence, and if an extended absence necessitates separation or retirement, provide for the reemployment of such an employee if at all possible after recovery.

(c) Protect employee benefits, including, without limitation, retirement, life insurance and health benefits.

~~[7.]~~ ***8.*** The Commission shall establish by regulation a schedule for the accrual of sick leave for employees who regularly work more than 40 hours per week or 80 hours biweekly. The schedule must provide for the accrual of sick leave at the same rate proportionately as employees who work a 40-hour week accrue sick leave.

~~[8.]~~ ***9.*** The Department may investigate any instance in which it believes that an employee has taken sick or disability leave to which the employee was not entitled. If, after notice to the employee and a hearing, the Commission determines that the employee has taken sick or disability leave to which the employee was not entitled, the Commission may order the forfeiture of all or part of the employee's accrued sick leave.

Sec. 12. Any use of the term "working day" in a regulation of the Personnel Commission which concerns the earning, calculation or use of annual leave or sick leave must be interpreted to mean a period of work consisting of 8 hours until that regulation is otherwise amended by the Personnel Commission.

Sec. 13. 1. Each exemption from furlough leave which was granted on or before June 30, 2010, is hereby declared void.

2. The provisions of subsection 1 do not preclude the reapplication for and granting of any exemption that is declared void by subsection 1.

Sec. 13.5. 1. Notwithstanding any contrary order, directive, policy or request made by any other officer or agency of the Executive Department of the State Government, the Department of Personnel or other responsible officer or agency shall administer, carry out and make payments pursuant to NRS 209.183 **and 281.121** and NAC 284.206, 284.208, 284.210, 284.214 and 284.218, as those provisions existed on February 23, 2010, to any employee as defined in this section who:

(a) Was receiving such payments on February 23, 2010, in accordance with the provisions of those statutes and regulations; or

(b) Becomes eligible to receive such payments on or after February 23, 2010, in accordance with the provisions of those statutes and regulations.

2. This section does not:

(a) Make any employee eligible to receive such payments if the employee does not otherwise meet the criteria to receive such payments in accordance with the provisions of those statutes and regulations.

(b) Prohibit the Department of Personnel **or other responsible officer or agency** from stopping such payments to any employee when the employee no longer meets the criteria to receive such payments in accordance with the provisions of those statutes and regulations.

3. As used in this section, "employee" means a person who:

(a) Is employed by the Executive Department of the State Government on February 23, 2010; or

(b) Was employed by the Executive Department of the State Government on or before February 23, 2010, and who returns to employment with the Executive Department of the State Government on or after that date.

4. The term "employee" does not include any person who is employed by the Executive Department of the State Government for the first time after February 23, 2010.

Sec. 14. 1. This section and sections 7.5, 8.1, 8.3, 8.5 and 13.5 of this act become effective upon passage and approval.

2. Sections 1 to 7, inclusive, **7.7,** 8, 9 to 12, inclusive, and 13 of this act become effective on July 1, 2010.

3. Sections 1 to 7, inclusive, **7.7,** 12 and 13 of this act, and sections 3, 4 and 5 of chapter 391, Statutes of Nevada 2009, expire by limitation on June 30, 2011.

Assemblyman Oceguera moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 3.

Bill read third time.

Remarks by Assemblyman Oceguera and Stewart.

Potential conflict of interest declared by Assemblymen Denis, Gustavson, and Settelmeyer.

Roll call on Senate Bill No. 3:

YEAS—41.

NAYS—Goedhart.

Senate Bill No. 3 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblyman Oceguera moved that all rules be suspended and that Senate Bill No. 3 be immediately transmitted to the Senate.

Motion carried.

Assemblyman Oceguera moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering the securitization of the Unclaimed Property Trust Fund.

Motion carried.

COMMITTEE OF THE WHOLE IN SESSION

At 2:47 p.m.

Chair Buckley presiding.

Quorum present.

Securitization of the Unclaimed Property Trust Fund considered.

CHAIR BUCKLEY:

Lieutenant Governor, welcome to the Assembly Committee of the Whole. We look forward to your remarks.

LIEUTENANT GOVERNOR KROLICKI:

Good afternoon everyone. Brian Krolicki, Lieutenant Governor. It's not often that I'm taken off of General File on the Senate side of the building to come over and visit my friends on this side of the building. It is a pleasure to be here, and I suspect this is a conversation about the possibility of monetizing an asset that is a reliable one here in Nevada, and that is unclaimed property. I assume this is a give-and-take format, and I am delighted to take any questions.

You have all heard from me about taking streams of money and packaging them in a present-value sense. Previously, I have suggested this for the tobacco settlement monies about a decade ago, and that conversation was about protecting these future revenues by placing them in a solid trust fund capacity so these tobacco monies could be used for posterity. This moment in Nevada's history fiscally is so serious and literally so dire—we wouldn't be convened here if it wasn't—that unlike previous times, I think it's important that instead of protecting these monies for posterity, I think we need to use this long-term money now to save posterity.

We have difficult decisions, extraordinary decisions, and you all, I think—using the terminology these days—are trying to avoid "the ugliest of cuts." I would submit that we also wish to avoid the ugliest of tax and fee increases. This idea to perhaps monetize a different stream of payment, unclaimed property, is only put forth as a tool to assist in bridging this gap between the revenues that are going to be available to all of you when you make these terrible and difficult decisions and trying to find the revenues to reconcile the sheet so we can all go home and be about our business, and Nevada knows what we've decided here.

So I believe that we can very safely take this stream of monies from unclaimed property. There are different ways to do so, and it all depends really on the desire for the amount to reconcile the difference between revenues and needs. I suspect and submit to you that in a very conservative manner, we could generate up to about $120 million by using this asset, still preserving things like the Millennium Scholarship, still preserving revenues for the General Fund, up to about $120 million, but certainly using far less if that's the need to reconcile these two chambers to *sine die*. Again, I don't know where that number might be, and I have heard it might be $50 million or so. I think if we're looking at the higher end of this amount, and I'll just use $100 million as an example, we could monetize these monies, which is essentially agreeing to enter into the selling of securities not counting against the state debt limit.

That's the beauty of these monies. This would not be considered a debt of the state. It would be an obligation of the trust fund for unclaimed property, abandoned property, so that is not a concern. We would take these monies, and we would pledge them for 20 years, and to get the $100 million amount would be roughly about $7.5 million, similar to the amount that we pledged the Millennium Scholarship out of these funds. To make this an obligation or contract or a security that would be acceptable to those who would be providing these monies up front, we would need to have covenants in the agreement that would ensure that we have certain reserve funds, perhaps parking a year's worth of interest into an escrow account, just to give them comfort. We would need to demonstrate—and there are different ways to do it—but I would submit today, in speaking to different trading desks across the country who would be responsible for helping us in this project, that we would need to pledge that we will always have at least two times coverage of this debt service, which is about $14 million.

I think that is very doable because—I don't know if it was handed out—but if you look at the historical revenues generated from unclaimed properties which were transferred to the State Treasurer's office about a decade ago—and it's been growing steadily because of enforcement techniques and just the size of the state—we generate approximately $50 million today in this fund. So if we're committing that we would have at least $14 million of revenue and the source, there's great comfort for the market which would be essentially buying this asset from us. We're pledging to enter into a contract to provide us monies up front. If we pledge to provide them with this amount of money sufficient to cover their return going forward, a very conservative interest rate that would entice those people in the market to buy these things—the trading desks that I have spoken to, and there have been more than one—would probably be about 5 percent, which I think is a decent price. I think it would probably would be less than that, but if the question is how real is monetizing a stream of monies coming through the unclaimed property trust fund, I think it's exceedingly feasible, probably more feasible than some of the other revenue plans that are out there.

I assure that it can be done. That's what markets do. I don't believe any other state has done this yet, but I'm proud that Nevada can be on the cutting edge on this. I have complete confidence, wearing an old hat from the Treasurer's Office, this can be done, it can be done safely, and it can be done swiftly. I am happy to answer any questions, Madam Chair.

CHAIR BUCKLEY:
Assemblywoman Spiegel.

ASSEMBLYWOMAN SPIEGEL:
Thank you, Madam Chair. Thank you, Lieutenant Governor, for coming down. I appreciate your coming down and taking the time out from the Senate to come and speak with us. I'm in my first term and haven't had the benefit from any of the previous hearings. I was wondering if you could go back a step for me and explain how this would work. How would it be sold? Who would have oversight? How is the income generated? Who administers the program? If you could run through some of the basics, I would really appreciate that.

BRIAN KROLICKI:
Thank you, Assemblywoman Spiegel. The trust fund for abandoned, unclaimed property is administered in the State Treasurer's Office. It's done in the Las Vegas office. An extraordinary amount of money is misplaced, forgotten, or lost on an annual basis, different kinds of monies—travelers' checks, first month's deposits on rents, utility deposits, bank accounts, people pass away and a spouse didn't know that they had that account over at a brokerage firm, contents of safety deposit boxes—those monies all add up. There are different holding periods for different types of industry if there has been no contact with the last known owner or resident, but these monies essentially escheat to the Abandoned Property Trust Fund.

The number one duty of the Treasurer in this—and I have had this discussion before—absolutely the obligation is to return these abandoned monies, lost monies, to the rightful owners or heirs to these monies; absolutely job number one. Despite best attempts—and this is a national figure, not just Nevada—I would submit to you very roughly about a third of the monies generated on an annual basis actually go back out. That may not be from that year; it could be from years past where it is identified, but the batting average is about a third.

So two-thirds of these monies that come in annually—currently you have a statute that says it has been waived for the special session or part of your discussions—$7.6 million is put into the Millennium Trust Fund for preservation of the Millennium Scholarship. The other monies would eventually make their way to the General Fund. These are part of the Economic Forum projections—how much money we will be generating in interest on investments but also how many dollars do we expect to be generated from unclaimed property. I think Fiscal Year—I don't have it in front of me—2010, about to conclude, is about $52 million, and that's kind of the neighborhood that we've seen, and that's what is going to the General Fund, not the totality of the monies brought in.

That is the history, and what I'm suggesting to all of you as a possibility, and that has been broached in this building, is that we could enter into an agreement with buyers. Whether we actually sell a security that is not an obligation of the state, but again, just a security from this trust fund only backed by the assets of this trust fund, that these investors would take comfort in the first—if it's $5 million or $10 million, whatever the annual cost of paying off that note would be—we could take that money and put it away immediately. So the first $5 million, first $10 million would be segregated to pay that debt service. We would also have a reserve, and then it's your decision, but I suspect the next $7.6 million would be part of the Millennium Scholarship Program, and then the rest of the monies that come in would go to the General Fund, if that answers your question.

ASSEMBLYWOMAN SPIEGEL:
That answers part of it, so thank you for that. Have you spoken with the people who sell these instruments? Is there a specific proposal that's on the table that you have vetted with people who sell these things? And do we have an estimate? I have started trying to research this; I've been trying to learn about this a little bit and understand it. Someone spoke to me about the concept of coverage, and I was wondering if you had a proposal that talked about the amounts of coverage that would be required, as well as what kinds of discount rate we would have to be giving for this securitization and what the costs associated with that would be.

BRIAN KROLICKI:
Great questions. There are two crucial conversations to have when you're looking at doing something like this. The lawyers who craft these agreements, the bond lawyers if you will—even though this isn't necessarily a bond; it could be a contract—but those who understand municipal finance, understand Nevada's municipal securities laws, and our state issuance procedures, so you need somebody like that. You need essentially what they call in the banking world a capital market desk, the people who actually package different kinds of securities and have the responsibility for selling it, for putting it out to the institutional investors, retail investors, however they wish to do it. But these would be considered tax-exempt investments, so it would a taxable, capital market desk that is responsible. I have spoken to both sides of that equation, to several different parties in each of those disciplines, and there is no question that they believe, and completely and firmly believe, that this is absolutely doable. Even though it has not been done, there is no reason why it can't be done. We should take great comfort in that.

I mentioned a little bit about coverage, but a great question. Let me give you a couple data points just so we're squared away. If we did a ten-year obligation at one and half times coverage, to answer your coverage question, it really does not apply here because we wouldn't sufficiently generate money, but just so you know we're kind of off the radar screen at that point. If we did a two times coverage in the ten-year range, we would be looking to generate probably $60 million at the $10 million level. If we did the 20 year—so delay it out so we're committing an extra 10 years—if we have the one and half times coverage, we would be looking at approximately $75 million. If we looked at the 20 years for the $10 million, we would be looking at approximately $100 million—I'm sorry, how about $120 million. So it's just a matter of, you know, that a—

CHAIR BUCKLEY:
Lieutenant Governor, I am going to try to put a speed on the questions and answers because we would like to s*ine die* sometime soon, but I want to keep the questions going.

ASSEMBLYWOMAN SPIEGEL:
Thank you, Madam Chair. So, then, just coming back, I guess we would be looking at a specific proposal before we would be asked to make a decision. Is that correct?

BRIAN KROLICKI:
There is a model that can work. What you would all need to do would be to pass language allowing that this revenue stream of unclaimed property can, in fact, be monetized or sold as a contract or obligated to bring up these up-front monies. Certainly, if you want to bring the terms of the actual transaction to the Interim Finance Committee, Madam Speaker, or something like

that, that's fine. The s*ine die* maneuver at this point is making sure you have got a statute that allows this to be done.

ASSEMBLYWOMAN SPIEGEL:

A question I have comes from a discussion that I had yesterday with someone about this when I was trying to learn about it. I was told that sometimes in the market that conditions are favorable for securitizing revenue streams, and other times market conditions are not favorable to them and that depending on the conditions of the market and the specifics of the proposal would really answer the question about whether or not it makes sense to do that. One of the concerns that I have, or a question that I have is that not knowing enough about the market conditions, I'm not sure if I have the information or will have the information to make a decision.

BRIAN KROLICKI:

The tone of the market is certainly still troubled from the fiscal situation, but I promise you that if you have a $50 million regular revenue source and you're only obligating 5 to 10 million dollars of $50 million, that's pretty good credit. The market is not going to penalize you, regardless of the tone of the market. It can be done at a very reasonable cost, and as I submit to you very conservatively. I think the most it would be is a 5 percent coupon.

ASSEMBLYWOMAN SPIEGEL:

Okay, thank you.

CHAIR BUCKLEY:

Assemblyman Conklin.

ASSEMBLYMAN CONKLIN:

Thank you, Madam Chair. Mr. Lieutenant Governor, the Center on Budget and Policy Research talks about securitization, and here's what they have to say. They say when a state balances its budget using one-time resources or surpluses, it requires faster than normal growth the following year to maintain existing programs. This is because the state must replace the one-time revenue in the budget and also find funds to cover the normal growth and cost of services. States that have gone down this road are likely to find revenue slowdown like the current one doubly difficult to deal with. So the question becomes, and you're showing it right in here, we have transferred year after year after year the excess money from the unclaimed property into the General Fund, and we've used it to balance our budget. Now we're taking the money out of the General Fund and projecting it out into the future for a one-time payment. I guess I am curious why you would think that this would be a good and prudent use of our money. Given the fact that we already have a shortfall, wouldn't we be simply adding to the next biennium's shortfall by taking away that revenue stream?

BRIAN KROLICKI:

Thank you for the question. I might quote someone who just walked into the chamber, Treasurer Marshall. This just might be the best of a bunch of bad options you have. You're already using monies that aren't going to be available next biennium. You're probably $3.5 billion, if not greater, in the hole when you just show up for work come January of 2011. As I said, you have got some ugly cuts to make or you have got some ugly fees and taxes to put in place. This is just an option that can be $50 to $120 million to help bring those together. If you wish to do it the other way, God bless you and be about your business. This is just an option that is available to you and that I'm submitting to you is available.

CHAIR BUCKLEY:

Lieutenant Governor, I think this is an ugly option, but these are ugly times. Have you analyzed all of the ugly options, and how do you rank them in terms of their relative ugliness? Here are some examples that states are looking at, and you know them all: the sale of buildings, the sale of assets, the lease of assets, securitization. You know, they have a lot of downside. You pay more in the long run, and you're doing it to finance operating costs. Yet you have to balance that. States are in incredible fiscal difficulties, and we're not going to get stimulus money next time. We're going to rebound behind the national economy, so it may be two years, it may be three years, and when you're funded forty-ninth in the nation in terms of education and you don't want to decimate education further, these are really weighty, difficult decisions. I found myself in the ironic position in my caucus yesterday saying, "I don't think you should take anything off the table. I don't think probably you should do it yet. I don't know that we have to do it yet, but it may have to be looked at in 2011." These are tough choices, so how do you rank the worst of the worst, in terms of everything you have heard being considered nationally?

BRIAN KROLICKI:

Thank you, Madam Chair. I think the worst of the worst is what you didn't mention, and that would essentially be delaying debt service. You can essentially refinance your most ripe debt service payments, and you all, through legislative action, could appropriate that into the General Fund. I think that's not prudent. It's just a debt relief plan for a short term. The only attraction for the lease leaseback, which is better than a sale leaseback or even the tobacco securitization, is they can generate much more money than what we are talking about right here. I agree these are horrible times, and we are considering things that we wouldn't normally do.

Again, I have heard my own quote come back to me: "You don't sully a long-term asset for a short-term need. You match assets and liabilities on the balance sheet." This is not doing that. You're all going cold turkey. The things that you are talking about cutting or the fees that you are talking about raising are going to jolt the system and perhaps harm our recovery even greater. So this short-term injection, if you will, that you would never consider under ordinary times, I think is a compelling story and one that I am grateful that you're even willing to consider. I appreciate, Madam Speaker, you having an open mind. I know we haven't always agreed on the concept of this, but this is the first time we have talked about unclaimed property, and I think lost treasure can now become Nevada's short-term treasure. It's something I think we need to look at. Of all your options out there, again, this is probably the most desirable of a bad set of choices.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Chair. I want to thank the Lieutenant Governor for coming over here on no notice. We basically pulled you off the floor to explain this. I thought at one point I was going to have to do it, and you did a much more thorough and expert job than I could have ever possibly covered. A couple things that you said stood out to me. One was that it is not an obligation of the state; it's an obligation of the trust itself. To confirm, that is correct?

BRIAN KROLICKI:

That is correct. And because the state is not standing behind it, that's why you have to have the coverage ratios and a reserve fund, but again, that gives comfort to the market that doesn't penalize you on the pricing side up front. It's not an obligation of the state.

ASSEMBLYWOMAN GANSERT:

Of the choices of the worst of the worst, I think we're digging pretty deep here, but I think the number that we're looking toward now is small. The thought that I had is first, it takes awhile to package this, put it together, but this could be something that would be the very last resort that we go to because we do have cash flow. We are trying to solve this budget crisis that was $900 million—it's a little bit smaller now because of some other things that are coming in—but if these were the last dollars, if we had the tool in place and we didn't pull the trigger until the last minute, if we needed to do it, I think this is something that could be an option. We would be looking in the first half of 2011 if we needed it. My question, I guess, is the time frame and then also what your thoughts are on making it sort of the last resort as a plug in this budget today to be used as needed, if at all needed, at the very end of the biennium.

BRIAN KROLICKI:

If the question is how quickly can this be done, I think the Treasurer's Office is quite capable of doing it swiftly. I mean, this could probably be done in the next 60 to 90 days. You don't need to do it that quickly, but I think the cure could be done, and thoughtfully done and approved by the Board of Finance, and if again, a wish or desire to go to the Interim Finance

Committee with the actual details once you have a sizing—an actual transaction on the table—I think you could do it all pretty quickly.

ASSEMBLYWOMAN GANSERT:
Thank you very much.

CHAIR BUCKLEY:
Thank you very much; appreciate it. We also thank the Treasurer for coming, getting a phone call, and flying down on the highway from Reno to join us with also no notice, but that's what special sessions are all about: no notice. Thank you.

KATE MARSHALL, NEVADA STATE TREASURER:
Thank you, Madam Speaker, and thank you members of the House. My name is Kate Marshall; I'm the State Treasurer. You have some questions, I take it.

CHAIR BUCKLEY:
Kate, just first an overview. How ugly is this? How does it work? What would the time frame be? What are your thoughts? What are the pros? What are the cons? What do people who have never heard of this concept before have to know about it?

KATE MARSHALL:
Okay, Madam Chair. This is a "not good" option. There are other states in the country currently facing not good options and using them—states like California; states like Arizona. If you take this path, you are taking the path of not good options, but perhaps you are at a "come to Jesus" moment, and that's what you are faced with.

Can it be done? I believe so. Can it be done quickly? No. Why not? Because there is currently a legal dispute as to how it ought to be structured, and you want to work those things through to make sure that you can get the best legal structure, also a sound legal structure, and you want to make sure that you can price it and put it in the market when it serves you best. If the market knows that you're desperate, you will pay for that desperation. So I would highly recommend that if you are to try to do this, and that decision is up to you, that you try to do it in Fiscal Year 2011 and that you put some triggers in place so that if, by chance, your revenues come in greater than they are currently projected to be, you might find that you don't have to do the not good option. Give yourselves some breathing room, if you can, and give me the ability to structure this in the best way possible, which means not yesterday.

What do we have? Unclaimed property—we bring in money every year. I try to find the owners of that money. Where I don't find the owners, I turn the money over to the General Fund, but the owner can always come back and get their money. It is theirs; it is not ours. So if you look at the statistics, you will see that so far in Fiscal Year 2009, I brought in a little over $77 million. We gave back to people in Nevada $27 million, which meant we transferred to the General Fund $50 million; that was a record year. Since I have been in office, the percentage retained by the state has been a little bit over 50 percent. That's because I significantly increased the amount of money we gave back to the people of Nevada, but I've increased the amount of money we have brought in, so in Fiscal Year 2007, $23 million; Fiscal Year 2008, $49 million; and last fiscal year, $50 million. That's the kind of money we gave to the state.

Is there a revenue stream there, then, going forward that you could basically borrow from the future to pay for today, which is what you're trying to do? This is a payday loan. You give the guy your check with the date written out for a future date, and you take your money up front today and it costs you interest. That's what you're doing. Yes, you can do that—short answer. Will it affect the state's credit rating? There is a strong possibility it will affect the state's credit rating. What happens when it does that? That means you pay more on your bonds every time you issue a bond, any bond. How much will it cost to securitize this? Let's talk a little bit of numbers. I don't know what the market will give you today, and nobody else knows until we go into the market, so this is an educated guess. If you wanted about approximately $125 million and you were to securitize $10 million over 20 years, then it would cost $74 million to do that, meaning you would spend $199 million and you would collect $125 million. Does that make sense? You would have to have some money in reserve for coverage. I assumed when I had my staff do that analysis—by the way, sitting to my left is Mark Winebarger; he is my deputy treasurer. I assumed when I did that analysis that the state would back the securitization. I assumed it would back the securitization. If the state does not back it—I think there was some mention that the trust fund would do it by itself and the state would not be found—if the state does not back it, increase your costs because the people buying your bond would feel that that was a little riskier, and the more risk, the higher the cost.

ASSEMBLYWOMAN MASTROLUCA:
Thank you, Madam Chair. Kate, can you explain a little bit more about how this would affect the bond rating for the state and what the consequences of that would be?

KATE MARSHALL:
Thank you very much. Madam Speaker, through you to Assemblywoman Mastroluca. Anytime you engage in not so good options like deficit financing, borrowing from tomorrow to pay for today's operating costs, the credit rating agencies look at that and say, "Well, that's not very good." They don't like that so much. It is not fiscally as responsible as they would like, and so they start to say, "These guys are facing not so good options. I'm not sure they are as secure as they were before when times were good, so I'm going to lower their credit rating." Then the market says, "Okay, they're not worth as much; you're going to pay a higher interest rate." It's just like your credit rating yourself. If you go to buy a home and you've paid all your bills and you pay off your credit cards and your car is paid for when you buy the home, the guy says, "Hey, 30-year fixed, 4.5 percent." But if you go to buy the home and the guy says, "Wow, you've maxed out this credit card. You owe on this car. How many credit cards do you have, actually?" Then he says, "Hey, for you, 6.5 percent." And it works just like that.

CHAIR BUCKLEY:
Kate, have you seen any other states analyze ugly options, like do a side-by-side comparison like an RFP and see what securitization does, what sale would do, what lease lease would do, and all the other options that you really don't want to go to, and then kind of put it out to bid to then see which one makes more sense? Or do you automatically have all that data when you begin to undertake it?

KATE MARSHALL:
Madam Chair, thank you very much. We had a sense you guys were facing not so good options, and so we have a bevy of underwriters, and they came in Friday morning and they gave us a kind of overview of what some of those not so good options are. I haven't had time to digest it. There are others; I can digest them and come back to you with that. I'm sure you're thinking, "Yeah, like I have that time." I can digest those. I have not seen states analyze them side-by-side in the way in which you're asking. The best I can tell you is that the states I know that have taken this path, like California and Arizona, have been downgraded. It is not good to be treasurer in those states. It's costly for them to issue debt, and it's costly for them. You know, the hole gets a little bigger.

CHAIR BUCKLEY:
Assemblyman Hambrick.

ASSEMBLYMAN HAMBRICK:
Thank you, Madam Chair. We seem to be having some mixed metaphors here, if I may use the term. The document that was passed out for us to look at has "securitization" at the top. I'm not sure if I heard the Lieutenant Governor mention that word in his presentation. On this document we have, then, we see the term "monetizing." Is there not a difference in the philosophy or in the financial world? Are they not two separate and distinct methods in dealing with situations?

KATE MARSHALL:
Through you, Madam Chair, to Assemblyman Hambrick. What I understand, to put it in layman's terms, that you are talking about doing is taking 20 years of revenues from unclaimed property, $10 million a year, and bringing it home today. That is the structure that you are talking about; I call that securitization.

CHAIR BUCKLEY:
Assemblyman Goicoechea.

ASSEMBLYMAN GOICOECHEA:
Thank you, Madam Chair. Kate, I guess I want you to separate for me how this differs from the money we borrowed from the LGIP [Local Government Investment Pool]. We didn't dedicate a revenue stream to cover that $145 million that we clearly will be using in the next—we assume 2011 budget year. All we did there is take $145 million. I realize local governments probably aren't going to foreclose on the state, but it is still borrowed money, at a favorable rate—I understand that. But the bottom line is we don't have the money to cover that, either, other than a totally General Fund appropriation. So tell me why this is so much worse to take a dedicated revenue stream and borrow some money and project how far we're going to use it and pay it back.

KATE MARSHALL:
Thank you, Madam Chair, to Assemblyman Goicoechea. First off, you haven't borrowed any money from the line of credit. The line of credit is set up so that you do not borrow any money unless and until your General Fund cash balances are below $200 million. They are not there. They are not close to being there, I'm happy to say, and so you haven't borrowed anything. That's a big difference right off the bat. The second thing is that the line of credit was set up to kind of bridge you through these tough times and to meet your 5 percent reserve requirement. That does not require actually using the money. The third thing is that there is, in fact, money set aside to pay back the line of credit as soon as you borrow it. There was $15 million in the Bond Interest and Redemption Fund for Fiscal Year 2010 and $15 million in the Bond Interest and Redemption Fund for Fiscal Year 2011, and I believe there was also some General Fund money set aside. The statutory requirements that the Legislature passed are pretty stringent on how quickly you must pay that back—within four years. So there was money set aside to begin paying it back, yes. It's built into your debt affordability report for 2010 and 2011.

ASSEMBLYMAN GOICOECHEA:
A follow up if I may, Madam Chair. Yes, I realize that, but unfortunately, the way we originally structured it when we were talking about using it—and again, we were going to take $30 million and then it became due and payable the following year, and we would pay it back in increments. I think given this shortfall, we've kind of blown that out of the water, and we're looking at maybe $145 million that we anticipate we will use a year from now, again depending on how the numbers come in and if we don't recover adequately.

I guess I'm still struggling with—it's a line of credit. I understand that, but the bottom line is we are anticipating using it. We've got it plugged in the budget, and usually when we budget things, we don't leave them there. I do believe that we are creating a hole. At some point down the road, we're going to have to pay that money back. I don't think we have the money in place today to pay the $145 million that we are looking at using next March of 2011. We will have to appropriate it or dig a little bigger hole in the upcoming biennial budget. I hope you would agree.

KATE MARSHALL:
Through you, Madam Chair, to Assemblyman Goicoechea. As far as I know, you currently have in your budget built in to begin paying $15 million next year on the line of credit. It is in the Bond Interest and Redemption debt affordability. It's built in there. I think it would be difficult for you to purchase money without having a way to pay it back. I'm sorry; I don't believe you are able to do that. You will have to have an appropriation in order to borrow that money.

ASSEMBLYMAN GOICOECHEA:
Thank you, Madam Chair, and thank you, Kate. I think it's kind of apples and oranges to this body. No matter how we look at it, we're borrowing $145 million, or anticipating borrowing $145 million, from the LGIP. Now we're talking about a little different scenario, but I think we all agree: borrowing is borrowing. In these tough times when you're broke, you don't want to borrow money. Again, I think what we're looking at—this monetization program—is again, only another bridge to try and get us out of this.

KATE MARSHALL:
That is correct.

CHAIR BUCKLEY:
Assemblyman Hardy.

ASSEMBLYMAN HARDY:
Thank you, Madam Chair. Three questions along that same line and it has to do with interest. If we look at the interest from the local government trust fund versus the interest we would get on unclaimed property for monetizing, is there a feel for that inasmuch as we would have to pay more to get the interest with the local government option? Then along—

CHAIR BUCKLEY:
Why don't we do one question at a time.

KATE MARSHALL:
Through you, Madam Chair, to Assemblyman Hardy. At this current moment, you would pay a lot less to borrow from the Local Government Investment Pool than you would to sell your future revenues of the unclaimed property. That is because the way it is currently structured, you will pay a half a percentage point over what the Local Government Investment Pool is currently making. It is conservatively invested. It's not making much money because of that. Also, the one thing you should know, there is a second restriction. The members of the Local Government Investment Pool have their money in there, and they expect it to be quite liquid. They expect to be able to call our office and get their money by the next day. We oblige; we certainly do that for them. Because of those liquidity requirements, you are only allowed under the current statutory structure to borrow 25 percent of what is in the LGIP, which is currently $150 million. That can change up or down depending on what the Local Government Investment Pool participants have in there at any given time.

ASSEMBLYMAN HARDY:
Second question: If the state bond rating is reduced because it stands behind the monetization—and we know that California and Arizona have had a decrease in their bond rating—what is the intersecting line for the state? Seems to me if they backed up the monetization that we're talking about, we would risk the whole state bond rating going down, which would seem to me to be worse than allowing the reserve in the monetization fund on the unclaimed property than we would affecting the whole state.

KATE MARSHALL:
If you borrow money to fund operating costs, it is that action which puts your bond rating at risk. It doesn't really matter how you do it.

ASSEMBLYMAN HARDY:
So the bond rating of the state would be adversely affected either way—counting towards the monetization only affected by the unclaimed property as well as if we did the state standing behind it?

KATE MARSHALL:
Yes.

ASSEMBLYMAN HARDY:
Thank you. In this monetization concept, is there—when other people do it in other ways—can there not be prepayment penalties waived if we get to the point where we pay it back or redeem it sooner?

KATE MARSHALL:
Just a minute please. It all comes down to the interest rate that you're going to pay. So if you want to be able to pay it back early, then you pay a higher interest rate for that.

ASSEMBLYMAN HARDY:
In that payment of the higher interest, you save money because of the concept of how long you're still paying it, based on your $199 million to get $120 million?

KATE MARSHALL:
That's a calculation, right. That's a calculation, so if I pay my mortgage off today but I have a penalty for paying it off today, is the penalty less than the interest if I paid it off over time? Since I don't know what interest you're paying and I don't know what the penalty would be because we haven't done this—you know, it's not out in the market—I can't tell you where the crossover is.

ASSEMBLYMAN HARDY:
But it's feasible to put that in the contract, as it were?

KATE MARSHALL:
Yes.

ASSEMBLYMAN HARDY:
Thank you. Thank you, Madam Chair.

CHAIR BUCKLEY:
Thank you, Dr. Hardy. Assemblywoman Gansert.

ASSEMBLYWOMAN GANSERT:
Thank you, Madam Chair. I have a few questions. First of all, right now we have pledged—and we've been doing it fairly consistently until recently—$7.6 million of the unclaimed property to go to the Millennium Scholarship?

KATE MARSHALL
Yes.

ASSEMBLYWOMAN GANSERT:
And then the unclaimed property fund—that's very stable, and it looks like it is growing. We had talked this morning, and you said you had a new program, the voluntary disclosure. Can you tell us about that a little bit?

KATE MARSHALL:
Through you, Madam Chair, to Assemblywoman Gansert. First off, I don't know what you refer to when you say "stable." What I can tell you is that every year, companies have unclaimed property. They give that unclaimed property to the Treasurer's Office. I try to find the owner, first and foremost. When I can't find the owner, you take the money until such time as we can find the owner. I don't know what you mean by stable. I have had people come from 20 years ago. They'll come and get two, three million dollars, and at any time they can come, and we will give them their money. I have also had times when companies have come. They have registered to do business in Nevada, like Citibank did, and all of the sudden I have a huge amount of money coming in, or a company could leave that provides unclaimed property, and then I would not have that money coming in. So I think stable is a relative term.

The voluntary disclosure program that I have is a fund program that I am very happy with. My staff put together a form. We don't have the staff to really conduct a serious audit program, so we have said to companies instead of getting audited, if you wanted to come in voluntarily and tell us that you owed us unclaimed property, I waive the fees and penalties because then I don't have to go out and audit you. We put that up on our website. We have had no ability to advertise it because I don't have advertising money outside of the newspaper stuff, which is required by statute. So far, we've gotten $8 million, so I think it is a great program. I believe it can grow; I hope to grow it. My goal is to get the unclaimed property and give it to the people of Nevada, so yes, I hope the program grows.

ASSEMBLYWOMAN GANSERT:
You talked about the Local Government Investment Pool. Now, we have sort of set aside—or we are expecting that we may need to borrow as much as $145 million of that, so a couple of questions. First of all, did our doing that affect our bond rating at all? Because again, we're looking at borrowing some money in the near term. We are going to be using it for operating costs if we need to use it, and that is quite a bit of money, that's $145 million. That's the first question. And then—

CHAIR BUCKLEY:
Why don't we do one at a time?

ASSEMBLYWOMAN GANSERT:
Okay, go ahead.

KATE MARSHALL:
Through you, Madam Chair, to Assemblywoman Gansert. Every single one of the rating agencies noted it, and I believe a number of them noted it in the actual documentation—that they were concerned that we had set up the line of credit. I assured them that we had not used it. So yes, they acknowledged it. We have not used it, so we have not borrowed for operating costs, so it has not affected our credit rating. We get calls on it probably quarterly, I want to say.

ASSEMBLYWOMAN GANSERT:
So it hasn't affected our rating, even though—

KATE MARSHALL:
Because we haven't used it.

ASSEMBLYWOMAN GANSERT:
Exactly. And the thought was on this is this would be kind of the end game at the end of the biennium—a trigger, as you suggested, that we may need to use as a last resort, so maybe it would be like that. Also, it sounded like it didn't have to be an obligation of the state, so I think there was a question there. So it could be an obligation, but it doesn't necessarily have to be an obligation of the state?

KATE MARSHALL:
Through you, Madam Chair, to Assemblywoman Gansert. Are you talking about the line of credit now?

ASSEMBLYWOMAN GANSERT:
Now I am talking back to the monetization of the unclaimed property does not have to be an obligation of the state. It can be one, but it doesn't necessarily have to be one was my understanding.

KATE MARSHALL:
When we did the analysis, we assumed it was one. I have not done the analysis under conditions where it would not be one. At a minimum, I can tell you that your costs would increase to do it in that structure.

ASSEMBLYWOMAN GANSERT:
The last thing is when we were looking at this monetization, we were looking at paying it back—a much smaller amount of money, maybe $50 million over maybe a ten-year period. My concern with the LGIP that I think we talked about before is that we have to pay that back in about two years, so we really have to be able to put tens of millions of dollars back in a very near-term period, and that would be General Fund money. So that was the only other thing, I

guess—as I am looking at the General Fund, and if we do use the LGIP—having to put back money quickly versus having a little bit longer time for a smaller amount, if you wanted to comment on that.

KATE MARSHALL:
Through you, Madam Chair, to Assemblywoman Gansert. The differences are as follows. Under the LGIP, you do not borrow it until your cash fund hits below $200 million on average. You are not there now. The way it is structured, you would have to pay it back in four years; it is a very aggressive repayment—four years. The interest rate is half a percentage point over what the participants are currently getting, and that is reassessed every month, so your interest rate is a fluctuating interest rate, and it will change. Whatever they would get in the market, you will pay half a percentage more. Today and since the time that that line of credit was established, you would pay very little—you would pay three-quarters of a percent today.

CHAIR BUCKLEY:
Three-quarters of 1 percent?

KATE MARSHALL:
Three-quarters of 1 percent today. If you are to take the option of securitizing unclaimed property, then you would pay a higher interest rate. You would pay over however long you structured that bond for. It looked to me like you were considering structuring it for 20 years, so you would take 20 years' revenue stream and you would pull it in today and then you would pay it back over 20 years. Although, Assemblyman Hardy asked about these call features. Could I pay it back early? The answer is yes; that increases your costs because the person buying it probably wanted to hold on to it for 20 years. If you pay it back early, it's going to cost you more.

ASSEMBLYWOMAN GANSERT:
I just wanted to thank you. I think this is something that maybe we could—if we ended up plugging a number in or something, that that would go to the Interim Finance Committee meeting so we could work out all the details. But again, it is sort of the last dollars to be used if we needed to set up a tool like this to bridge a gap during these very difficult times. So I want to thank you for your research, I want to thank you for your work on the unclaimed property because it's obvious the numbers are up, and it sounded like your voluntary disclosure program has been successful, so maybe they will be even greater. Thank you.

CHAIR BUCKLEY:
Assemblyman Cobb.

ASSEMBLYMAN COBB:
Thank you, Madam Chair. I'm sensing from what you're saying is that you're very apprehensive about the idea of setting up this monetization program with the unclaimed property. But I am also sensing that you have a little bit of the same apprehension about that line of credit if we do pull the trigger and go ahead and borrow against the LGIP. Is it your recommendation, then, that in terms of not 100 percent one way or 100 percent the other—because I know you're just saying, "Hey, it's a bad idea; I'm just giving you my professional opinion"—are you saying that it's just as bad to go ahead and use that line of credit from the LGIP as it is to go ahead and do the monetization program?

KATE MARSHALL:
Through you, Madam Chair, to Assemblyman Cobb. They are not good options. The line of credit was a great option to bridge you until your legislative session because I knew I would not use it. So I was able to get you from the special session to the regular session by setting up a structure that we would never use. It was an absolutely perfect vehicle. It was great, quite frankly. I got you there, and then you had 120 days to deliberate, which I think these things are hard. As an option that you would actually use, it is a not so good option. You pay less interest on that one. I have more control over it because it's pegged to the cash flow, so it's perhaps easier for me to control.

CHAIR BUCKLEY:
Did the ending fund balance affect any of the weighing of any of these decisions?

KATE MARSHALL:
Madam Chair, really the way the line of credit was set up originally was for the 5 percent reserve. I think where the ending fund balance comes in with respect to the unclaimed property securitization is that one of the items that bond counsel is trying to decipher is if you bond for operating costs with unclaimed property, the question is whether then, if you had excess money at the end of the fiscal year, whether you would be obliged to pay that back or whether you could put it into your Rainy Day Fund or something like that. That is a legal question, and I don't know the answer to that. They are still trying to sort through that. There appears to be a difference of opinion between the underwriters and bond counsel.

ASSEMBLYMAN COBB:
Madam Chairman, I just have a follow up, thank you. So just to be clear, your recommendation is not to actually follow through with the line of credit or the monetization?

KATE MARSHALL:
Through you, Madam Chair, to Assemblyman Cobb. I am not the policy maker here. In order for you to trust my numbers, I am not going to give you a policy recommendation. I think that's your job. I will tell you what those numbers are, regardless of what policy you take.

CHAIR BUCKLEY:
How much typically do you pay? With a line of credit, we are not paying any transaction costs. We know what the interest rate is, three-quarters of 1 percent, compared to what is it—4 or 5 percent for the securitization?

KATE MARSHALL:
Madam Chair, the underwriters believe right about now it would be about 5 percent.

CHAIR BUCKLEY:
And then what costs do you have and who makes money off of these deals? Is it brokers or who does these things? Banks?

KATE MARSHALL:
Madam Chair, the line of credit was something that we set up. In order for us to execute on the line of credit, bond counsel would have to be paid to structure it so that it was legally correct, so that it was a bond that we could actually sell in the market at some future date, a true, viable debt of the state. The LGIP would make half a percentage point more than they're making now. Nobody else makes any money that I am aware of. When you securitize your unclaimed property, then you're going to have bond counsel, a financial advisor, and an underwriter involved, and all of them will have fees. Those fees are done in an RFP. I do the RFP every couple of years. I don't have with me what those fees are, but that's where those fees are set.

CHAIR BUCKLEY:
Thank you. Assemblyman Bobzien.

ASSEMBLYMAN BOBZIEN:
Thank you, Madam Chair. I appreciate the discussion about the LGIP, and I think it is an important point to point out that they're getting a better interest rate over here. I have two questions. Madam Chair, my first one would be: Knowing the volatility of the fund and your successes in bringing more money in, but then knowing that those claims could come in at any time and you don't know how much it is, could you foresee a scenario in which we've gone down this path with this ugly option and we're making the payments, and at some point in the future for whatever scenario, we find ourselves not able to make a payment at a given time? Is that a likely scenario? What would be the penalty under that? Could you comment on that scenario?

KATE MARSHALL:
Through you, Madam Chair, to Assemblyman Bobzien. It is possible; it is not probable.

ASSEMBLYMAN BOBZIEN:
Madam Chair, thank you. My second question is a little more general. Returning to this idea of the impact of the bond rating to the state, I know that we've done well in trying to hold the line on having a good rating, but again, looking ahead and thinking about recovery and thinking about future spending throughout the state, could you talk a little bit about the impacts, not just to the state bond rating but to local governments, to projects that we're looking at in the future in terms of roads and schools and infrastructure that we're going to need going forward?

KATE MARSHALL:
Through you, Madam Chair, to Assemblyman Bobzien. So if it affects the state's credit rating—if the state's credit rating is downgraded, then what happens is when you go out to build roads or when you do any of your capital improvement projects, those will cost you more. So this year you issued about $300 million and it cost you 4.5 percent, and it would cost you—no, actually it would cost you less because they'll use Build America Bonds—it costs like 3.9 percent. But it would cost you more, okay? So you will pay more, and we're not talking chump change here, so you pay a lot more on $300 million—it's like a decent amount of money.

In terms of counties and municipalities, many of them do not have—outside of Clark County—do not have a credit rating that allows them to borrow as cheaply as this state. They try very much to use state programs to get the state's backing to increase their credit rating. For example, schools often use our permanent school guarantee fund. I have a reserve in there, so they get a AAA credit rating, and that would not be affected if they want to do construction on schools. It kind of depends. It's not across-the-board perfect.

ASSEMBLYMAN BOBZIEN:
Madam Chair, just a quick comment. I appreciate that answer. I think it's important that as we are discussing all these options, we are trying to pay attention to the impacts to local government. We are trying to pay attention to future possibilities that may not be seen right now. Thank you.

CHAIR BUCKLEY:
Assemblyman Grady.

ASSEMBLYMAN GRADY:
Thank you, Madam Speaker. In comparing the two programs, on the Local Government Investment Pool, we are basically at their mercy. We could only borrow a certain amount of that, and as they draw their money out, it would drop the amount that would be available to us. On the other program, we borrow the money, we know what we're borrowing, we know what the terms are, we know what the amortization is. So the two programs really can't even be compared because one of them, I hope you will agree, we can borrow a percentage of the money that is deposited and on the other one, we know how much money because we control that by how much money we put in there. Would you agree to that?

KATE MARSHALL:
Through you, Madam Chair, to Assemblyman Grady. It is correct that on the day that you would seek to access the line of credit from the LGIP, on that day you will only be able to borrow 25 percent of the total amount that is in there, and that amount can fluctuate. Now, it has fluctuated some but not drastically, so is it possible that there could be zero in there and you could not borrow? Yes; that has not occurred to date.

CHAIR BUCKLEY:
I think that part of the difference, too, is there is no more to borrow in that local government fund. I mean, we took all there was, so we can't go there anymore. I think that's another important point for those members who didn't follow this. The terms are a lot better, but there's no more to borrow from there. I think the other thing to keep in mind is this would be the second time that we borrow, and this body has to determine, both now and next session, when do

you think the recovery is and how long do you think it makes sense to borrow. I mean, those are all policy discussions that have to be addressed. Would you agree?

ASSEMBLYMAN GRADY:
Yes, I would, and I guess that is my point, Madam Chair, that we have borrowed what we can there. And again, they are the ones—the local governments—by the amount they have invested there, is we can borrow 25 percent of that. That has already been negotiated. We have that set up, and as you just said, there is no more there. So unfortunately, we have to look for other avenues that we can look at to get us through these times.

CHAIR BUCKLEY:
Assemblywoman Spiegel.

ASSEMBLYWOMAN SPIEGEL:
Thank you, Madam Chair. Kate, thanks for coming in today and thank you for taking the time to give us all these explanations. I do have a practical kind of operations question, which is that if we were to pursue securitizing these funds, would you have the staff employees to perform oversight and administer the program or would you need additional head count?

KATE MARSHALL:
Through you, Madam Speaker, to Assemblywoman Spiegel. You're asking the head of the Treasurer's Office if I would like more staff?

ASSEMBLYWOMAN SPIEGEL:
Well, no, I'm asking—

CHAIR BUCKLEY:
I'm cutting this off right now because I know what the answer is.

ASSEMBLYWOMAN SPIEGEL:
Well, no, I'm asking from a practical standpoint. Do you have the capacity to take something like this on?

KATE MARSHALL:
I'll move a little away from my staff. Yes, I believe my staff has the ability to handle that. Would it be extra work? Yes. Can they handle it? My debt person is not here today; yes.

ASSEMBLYWOMAN SPIEGEL:
Okay, thank you.

CHAIR BUCKLEY:
Assemblyman Stewart.

ASSEMBLYMAN STEWART:
Thank you, Madam Chair. Thank you again for coming, Ms. Marshall. It looks to me from the information that we've been given since Fiscal Year 1997 that this is a very stable source of revenue, the unclaimed property, and even in these troubled times, the amount of money we've transferred to the General Fund has increased every year. So it seems to me that compared to sales tax, compared to gaming tax, which have been going steadily down in the last three years, that this is a—would you agree that this appears to be a very, very stable source and therefore a good security for this type of monetary investment?

KATE MARSHALL:
Through you, Madam Chair, to Assemblyman Stewart. It's kind of like what I told Assemblywoman Gansert and what I told Assemblyman Bobzien—that I think stable is a relative term. This money belongs to the people of Nevada, and I try very hard to find them, and they can always come back and get their money. It is theirs. At the same time, is it—Assemblyman Bobzien asked me would it be possible that all of the sudden there would be no money there. It is possible, but not probable. You can see that in those statistics.

CHAIR BUCKLEY:

Kate, I have a question. All we do right now is look at sheets of the state's finances and say, "Hey, can we take $5 million from there and here?" as we do our final sheet towards *sine die*. So let me ask you this: Can we take any of the principal? You have told us what we can take so far, but just as we ask the administration, "Hey, can we take $5 million from the salary adjustment account?" and negotiated that this morning to put on the sheets, we're so close that I hate to borrow. You know, I wonder if you do a side-by-side or something in the interim of all these ugly options rather than to say, "Hey, it's 24 hours; let's borrow," and explore it. I don't know, but we still have a gap. So can we just directly and safely transfer any to the General Fund? In full disclosure, I did not tell her that I was going to ask her this question, so it's probably no, but if we're weighing the ugly options, you have a lot more revenue in this fund than you did in 1997, as pointed out by Mr. Stewart. Now we've transferred accordingly more money into the General Fund, as well, but just curious.

KATE MARSHALL:

Madam Chair, what happens—basically I told you for this fiscal year that we could give you $52 million, and so the question is "Well, if you look here, you'll see that last fiscal year I had $77 million, so how did I get to $52 million?" What my staff tries to do is they try to figure out how much are we likely to return to people. What is our rate of return? How is it coming in? It is that analysis which brings me to $52 million. Is there more in the fund currently? Yes. How much more? You can see here that last time, we gave $27 million back, so we're close to the end of this fiscal year, so I'm getting closer and closer to how much I think is going to be given back and how much I have left over to transfer to the General Fund.

CHAIR BUCKLEY:

How about Fiscal Year 2011's money?

KATE MARSHALL:

For Fiscal Year 2011, we said we would give you $48 million, so that's the same calculation where I sit there and think how much am I going to bring in and how much am I going to give out. So we feel comfortable telling you $48 million. In other words, I believe I can—43? Did I just up it by $5 million—no $43 million.

CHAIR BUCKLEY:

I'm booking that. I heard five.

KATE MARSHALL:

Anyway, so that's what we feel comfortable with right now.

Going back to Assemblywoman Gansert's questions on stability, part of that is assessing, "Well, we have Citibank here, and they give us this much money. We have these people here, and they tend to turn over this." And this is kind of how this is working. Are we going to bring in more than $43 million? You bet your bottom dollar. Do I hope to give back more than $27 million? You bet your bottom dollar. So it's that assessment. I don't know what your gap is right now. If you were to take these not so good options and you were to say, "Let's hope we don't get there, but if we have to get there in Fiscal Year 2011, we'll set it up so that we have the flexibility to do that or not do that," that gives you some breathing room to say, "This is how much I need. That makes this a better path. I don't really need this much. I can squeak by over here." That's kind of a very nebulous answer, but it's the answer.

CHAIR BUCKLEY:

So did I hear a number in there?

KATE MARSHALL:

Well I think—my staff was cringing at the 48.

CHAIR BUCKLEY:

I'll meet you after the hearing, thank you. Okay, there doesn't appear to be any more questions. We thank you very much for coming on short notice. It was a good debate and a good discussion, and for all those members who weren't familiar with it, I think it helps flesh out the issues. Thank you very much for coming.

KATE MARSHALL:

Thank you, and thank you, everyone here. I know you guys are working really, really hard. I envy none of you, and I admire all of you. Thank you very much.

CHAIR BUCKLEY:

I had also just asked our staff if they had any thoughts, comments. Obviously, our nonpartisan staff do not take positions on bills for or against, but sometimes they have kind of a quicker, crisper way of looking at these things. Thank you, Russell.

RUSSELL GUINDON, SENIOR DEPUTY FISCAL ANALYST:

Thank you, Madam Chair. For the record, Russell Guindon, Senior Deputy Fiscal Analyst with the Fiscal Analysis Division. I know you're on a tight schedule, so I'll try to keep my comments sort of short and to the point with regards to the testimony that has been provided by Lieutenant Governor Krolicki and State Treasurer Marshall. First I'd like to point out, as all of you know, that as your Fiscal Analysis Division staff, I am nonpartisan and neutral with regards to this proposal.

As the Lieutenant Governor pointed out, is it a possible proposal for this body to consider? Yes. Securitization is not a new concept. It's been proposed and considered by this body. I have been with the Legislature since 1999, and I think almost every session, there is discussion about the possibility of securitization. So it's not new to this body. It's not new. I think, as the Lieutenant Governor pointed out, with regards to your Fiscal staff, the devil really would be in the details in terms of how much money are you trying to get from this. What's the market in terms of what's the interest rate you would have to give? What are the coverage ratios that you would have to give? What is the horizon that you're going to make the payments back? Obviously, the shorter the horizon, the less interest that you would have to pay to pay back the loan because as it's been testified here that it is a borrowing because you're going to have to borrow and get an amount and pay more than that amount back; thus, that's a borrowing and no different than a car loan or a mortgage loan. Obviously, then, the longer the time horizon, the more interest that will be paid.

With regards to the comments, there has been some discussion about the line of credit versus the securitization. The only point that I would make there as your Fiscal Analysis Division staff is that the line of credit is sitting out there on the books as an amount that is available, as was testified, that's equal to 25 percent of the balance that is in the fund, but we don't have to take all that. If the Treasurer notices that they are below the average balance, and they only need to take $20 million and that's what gets us through, then that's all we have to borrow. It's really no different than sort of a home equity loan line of credit; just here, rather than taking the equity out of your house, the local government is sitting there as sort of the line of equity. So we don't have to go to the line of credit for the full amount. We could go for whatever amount the Treasurer deems necessary to keep the state's fund balance position where it needs to be, and then we would have to pay that amount back over four years. I think the reasoning for that was to try to keep the horizon relatively short to reduce the amount of interest that the state would have to pay for that borrowing, so that was the only point I wanted to try to make with regards to the line of credit.

With regards to the securitization, once you issue the bonds and take the money, now you're obligated to make those payments, then, for whatever the horizon is—if its 10 years, 15, 20 years. As most of you know and as was testified here, this body and the body on the other side of the building have made the decision to transfer $7.6 million from this unclaimed property fund, which then reduced the amount that went to the General Fund to fund the Millennium Scholarship Program. Those transfers were made in FYs 2006, 2007, and 2008, but because of the financial difficulties that the state has had and we're all very well aware of, then those transfers were eliminated, and thus the $7.6 million stayed in the General Fund. So I think when you look at the sheet, you need to keep in mind—when you're looking at the amounts and what went into the General Fund—that the difference of the $7.6 million going out and then coming back in; also, that if this body sometime in the future would like to be able to start putting that $7.6 million back in the Millennium Scholarship Fund to keep that program solvent, depending on the financial circumstances and the analysis that's done at a point in time—I would need to see the details—but it would be my understanding that if you did the securitization and then you also had to try and transfer the money from this unclaimed property fund to the Millennium Fund, you would first have to make sure you made your payment for the securitization. Then if there's enough money to make the payment to the Millennium Scholarship, you would make that. And then if there is anything left, then that money would go to the General Fund. That's my understanding of how the proposal would have to work.

I then I just started to think—the last statement, when you do look at the sheets, this does look like a fairly stable revenue source. When you see the big bump in sort of FY 2002 that it sort of looks like it started doubling, there was legislation approved during the 2001 Session that accelerated the timeline for when properties were deemed to be unclaimed, and thus we get that. Obviously, you continue to get the flow from shortening the time period for when things are deemed to be unclaimed. As the State Treasurer has testified, there were some potentially one-time things that happened there that we got up into this mid—or $50 million range, and as your staff, we don't know that that's sustainable.

I guess my final comment is that as was testified to, this is a borrowing, and thus there would be potentially the reduction, then, in the amount of General Fund money that comes from this. In this, it would be no difference than if we would be securitizing the state sales tax, the cigarette tax, or the liquor tax—any of the state's other General Fund revenue sources—because it is a General Fund revenue source that would be securitized, and we would have to commit, then, to make the payments. With that, Speaker, I think those are the statements, from my listening to the testimony and as your staff, I wanted to provide to the body.

CHAIR BUCKLEY:
Thank you, Russell. Assemblyman Goicoechea.

ASSEMBLYMAN GOICOECHEA:
Thank you, Madam Chair. Russ, I was just curious. There is a basic difference here, at least that's our understanding—the fact that if it were a loan or we were borrowing against the General Fund, then that truly does encumber the state and our bond rating and the budget, whereas if we were using the unclaimed property side, it does not truly impact it the same way. Would you agree?

RUSSELL GUINDON:
You may be quickly getting outside of my area of expertise, but I think that would depend, as was testified, on the structure of it so that if you don't make it a general obligation of the state, then if there's not enough money to make the payment for the securitization from the unclaimed property receipts, you can't fall back on the state, then, to have to make that commitment to make the payment. But if, then, you did make it a general obligation commitment, then the state would have to be sort of the borrower of last resort. Again, I don't know from the detail, but I think from the Lieutenant Governor's testimony, I think he made those statements about it would depend on the structure. So if you made it so it's not a general obligation, then the state wouldn't be harmed if the unclaimed property receipts did not come in to make the payment.

ASSEMBLYMAN GOICOECHEA:
Thank you, Russell. Thank you, Madam Chair.

CHAIR BUCKLEY:
Thank you, Russell, for providing that additional perspective.

With that, I am going to close the hearing. Again, I appreciate individuals coming in on such short notice to give us some more perspective on these ideas. We will be in recess until 6 o'clock.

Submitted Exhibits

See below.

Unclaimed Property

Summary of Historical Transactions

	Gross Receipts	Disbursements to Owners and Expenditures	**Transfer to GF**	**Transfer to Millennium**	Percentage Retained by State	
FY97	7,867,454	2,497,750	**5,369,704**		68.25%	
FY98	10,624,264	3,738,516	**6,885,748**		64.81%	
FY99	9,059,979	3,225,579	**5,834,400**		64.40%	
FY00	11,895,953	4,165,380	**7,730,573**		64.98%	
FY01	14,510,336	4,432,017	**10,078,319**		69.46%	
FY02	25,688,510	6,359,577	**19,328,933**		75.24%	Holding period changed
FY03	25,207,864	9,195,478	**16,012,386**		63.52%	
FY04	28,002,980	8,391,375	**19,611,605**		70.03%	
FY05	29,688,109	9,876,450	19,811,660		66.73%	
FY06	38,783,209	8,913,611	22,269,598	7,600,000	57.42%	
FY07	45,180,756	14,116,229	23,464,527	7,600,000	51.93%	
FY08	83,530,132	26,750,598	49,179,534	7,600,000	58.88%	
FY09	77,265,401	27,173,351	50,092,050	0	64.83%	

Assemblywoman Gansert

Securitization of Unclaimed Property Funding
Information/scenarios provided by Treasurer's Office Underwriters
February 2010

The following information was presented to the Nevada State Treasurer's Office by one of its underwriters in response to a request for information about the impact of monetizing the state's annual net unclaimed property payment made to the General Fund, including the associated costs to taxpayers.

"*We note that for the benefit of generating up-front cash for use in 2010, each financing solution allocates the burden of paying that benefit to future taxpayers.*"

Underwriter presentation
February 2010

Securitization Scenarios (based on 20-year repayment at a 5% interest rate)

Annual Sec. Amount	Upfront Proceeds	Ttl. Interest	Total Cost
$10 M	$125 M	$74 M	$199 M
$15 M	$187 M	$111 M	$298 M
$20 M	$250 M	$148 M	$398 M

Advantages

- An upfront amount could be monetized based on expected future transfers from the Unclaimed Property Division to the state General Fund (see attached chart for a historical summary of such transactions between FY 1997 and FY 2009).

Disadvantages

- Considered deficit financing and would most likely have a negative impact on current and future bond ratings.
  - Millions of dollars in additional interest expense will be paid by taxpayers due to the downgrade.
  - May take years to raise the state's bond rating if lowered by such an action.
  - Underwriter Presentation, February 2010: "*…given the States somewhat fragile ratings, we would caution the State to balance carefully the rating implications that might be associated with a budget deficit financing solution.*"
- Loss of future revenue stream of transfer from Unclaimed Property Division to the state General Fund.
  - Could directly impact the longevity of the Gov. Guinn Millennium Scholarship program.
  - All state agencies who receive an appropriation from the state General Fund may be adversely affected as well, as less money would be available.

Kate Marshall/State Treasurer

- Le Templar, communications director for the conservative Goldwater Institute, "*...mortgaging your future makes no sense. In essence, it's a tax increase, you just pay for it over time.*"
- Nicholas Johnson, liberal-leaning Center on Budget and Policy Priorities, "*Borrowing has gotten too many states in too much trouble.*"

Other Considerations
- Nevada Bond Counsel believes it may impact the state's ability to maintain a Rainy Day Fund.
- When tax-exempt debt is issued, IRS rules dictate that if revenue in the future outpaces General Fund expenditures, the state may be required to dedicate that difference to buying back the bonds issued in relation to the securitization.

NOTE: The Nevada State Treasurer's Office cannot support any kind of deficit financing for operating costs using future General Fund revenue streams as it is not fiscally prudent and risks the state's credit rating.

Chair Buckley announced if there were no objections, the Committee of the Whole would recess subject to the call of the Chair.

Committee of the Whole in recess at 4:07 p.m.

COMMITTEE OF THE WHOLE IN SESSION

At 8:38 p.m.
Chair Buckley presiding.
Quorum present.

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

ASSEMBLY IN SESSION

At 8:38 p.m.
Madam Speaker presiding.
Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 27, 2010

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 4, 5; Senate Bill No. 4.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 2.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

Assemblyman Oceguera moved that the Assembly adjourn until Sunday, February 28, 2010, at 11 a.m.

Motion carried.

Assembly adjourned at 8:40 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly