

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-Third Session
February 11, 2005**

The Committee on Ways and Means was called to order at 8:06 a.m., on Friday, February 11, 2005. Chairman Morse Arberry Jr. presided in Room 3137 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. Morse Arberry Jr., Chairman
Ms. Chris Giunchigliani, Vice Chairwoman
Mr. Mo Denis
Mrs. Heidi S. Gansert
Mr. Lynn Hettrick
Mr. Joseph M. Hogan
Mrs. Ellen Koivisto
Ms. Sheila Leslie
Mr. John Marvel
Ms. Kathy McClain
Mr. Richard Perkins
Mr. Bob Seale
Mrs. Debbie Smith

Ms. Valerie Weber

COMMITTEE MEMBERS ABSENT:

Ms. Sheila Leslie

STAFF MEMBERS PRESENT:

Mark Stevens, Assembly Fiscal Analyst
Steve Abba, Principal Deputy Fiscal Analyst
Lila Clark, Committee Secretary
Susan Cherpeski, Committee Secretary

Chairman Arberry called the meeting to order and opened Budget Account 101-4061.

GAMING, GAMING CONTROL BOARD (101-4061) – GCB-1

Dennis K. Neilander, Chairman, State Gaming Control Board, introduced Joe Bertolone, Chief, Administration Division, State Gaming Control Board. Mr. Neilander referred to his presentation entitled, "State of Nevada Gaming Control Board FY 2005-2007, Budget Accounts 4061 & 4067, Biennium Budget Presentation" ([Exhibit B](#)).

Mr. Neilander explained that the third page of the presentation detailed the Board's mission statement and the Board's organizational goals. He said the goals were familiar to most of the Committee and had not changed in the last

biennium. Mr. Neilander next referred the Committee to an organizational chart that outlined the operational functions of the Control Board. He pointed out that on the chart there was a direct line from the Gaming Control Board to all the operating divisions within the Board. He said those divisions reported directly through the State Gaming Control Board. Mr. Neilander said the Gaming Control Commission appeared on the right-hand side of the organizational chart and was a part-time body of lay people who met once a month and considered recommendations from the Gaming Control Board. According to Mr. Neilander, the Board had the responsibility of the day-to-day regulation of gaming. The Board made recommendations on licensing and disciplinary matters to the Commission, and the Commission had the final say on those matters. Mr. Neilander stated that within the operating divisions the organizational structure was the same as it had been for at least the prior two bienniums. Mr. Neilander said that Joe Bertolone, Chief of the Administration Division, handled the budget and provided support for the other operating divisions.

Mr. Neilander explained that the Audit Division did all the audits for the larger, Group 1, casinos. The Investigations Division was in charge of all of the investigations for private corporations and all individual applicants, primarily on a pre-licensing basis. The Corporate Securities Division was in charge of regulating all of the publicly traded companies and doing the pre-licensing investigations for public entities, and those entities were monitored on a "go forward" basis.

Mr. Neilander stated that the Electronic Services Division, which was commonly referred to as the "lab," was where gaming devices and games were tested before being placed in the field. Mr. Neilander said the engineers in the Electronic Services Division also assisted in technical matters in resolving any type of patron/casino disputes over gaming devices.

Mr. Neilander stated that the Enforcement Division was operated on a 24-hour-a-day, 7-days-a-week basis and did dice checks and other checks in the casinos. Those employees were the enforcement arm of the Gaming Control Board and most of those employees were peace officers certified by the Commission on Peace Officers' Standards and Training (POST).

Mr. Neilander said the Tax & License Division collected and accounted for all the taxes and also conducted audits of smaller gaming operators. He said the Audit Division was mainly comprised of certified public accountants (CPAs) and rendered full-scale opinions on all the tax audits for 97 percent of the revenue. The other 3 percent, which came from smaller entities, was reviewed by the Tax & License Division.

Mr. Neilander said the gaming industry in FY2004 was a \$20 billion industry with \$855 million in tax and fee revenue collected for Nevada. He said there were approximately 200,000 people employed within the industry and there were currently 2,923 licensed gaming operators including non-restricted, restricted, manufacturers, and distributors. Mr. Neilander stated that the Gaming Control Board continued to be the premier regulatory model for gaming jurisdictions worldwide. He said in the last two years he and his staff had spent a great deal of time meeting with regulators from other jurisdictions, particularly ones that were emerging jurisdictions, who were trying to determine the best way to regulate gaming in their jurisdictions. Mr. Neilander said he did not propose to say that Nevada's system was the only one, but was a system other jurisdictions might consider. He felt that was to Nevada's benefit because any type of scandal that might occur somewhere else would have a direct impact on gaming in Nevada.

Mr. Neilander stated that he had seen a global economic rebound, including the Asian markets, which had been very depressed when he appeared before the Committee in the Seventy-Second Session of the Legislature. He said in the United States markets, there had been a rebound in the economy and gaming had become more visible in the world. There had been continuous growth and maturation within the industry and he still saw ongoing consolidation issues as the industry began to mature, similar to when other industries reached a point of maturation, and one could begin to see more consolidation.

Mr. Neilander said that maturing gaming technology was driving the next generation of gaming devices, associated equipment, and casino management systems. He said that was an area of emerging growth the Board was currently dealing with and would still be dealing with at the end of the biennium. Mr. Neilander explained that corporate gaming entities were becoming much more complex and were expanding to multiple, international jurisdictions, and as a result, investigative, enforcement, audit, and licensing issues were becoming more complex.

Mr. Neilander discussed the taxes collected in FY2004. He said almost 80 percent of taxes collected came from percentage fees. That was the 6.75 percent on gross gaming win. The next highest percentage of taxes collected was from the entertainment tax, which remained just below 10 percent. The other taxes collected were smaller but still significant.

Mr. Neilander reviewed the challenges facing the Gaming Control Board in the next biennium and said the increased use of technology was the biggest challenge. He said that in the past, gaming devices were separate from associated equipment but now there were cash management systems, cash wagering systems, and slot tracking systems that were all being interfaced together and were beginning to communicate directly with gaming devices. He said that had presented some regulatory problems because in the past the systems were separated for security purposes, but the current trend was to have integrated technology with the systems interfacing with one another. Mr. Neilander said the technology concerns were internal by the Board and external by the industry. He said the Board was attempting to use technology better and improve the way gaming was regulated in Nevada.

Mr. Neilander further described challenges such as the increasing facilities' support costs and the increasing complexity of the gaming operators, manufacturers, and distributors. The licensing process was more complex and the Board was involved in some homeland security issues and multi-jurisdictional issues that involved licensing. Also, recruiting and retaining qualified staff, as well as adequate funding for staff training, remained a challenge, although he felt the Board was doing well in that regard.

Assemblywoman Giunchigliani asked for clarification regarding the collection of the gaming portion of taxes versus the non-gaming portion of taxes.

Mr. Neilander responded that in FY2004 approximately \$4 million less than what had been projected was collected. He said that it was fairly easily explained and had to do with the loss of some venues that were previously taxable, particularly nightclubs. He said that dancing in nightclubs was previously taxed but was not being taxed on a "go forward" basis. In addition, a couple of shows that had been included in the forecast had closed down and were not taxed.

Ms. Giunchigliani asked if Mr. Neilander had any recommendations for additional changes to the entertainment tax.

Mr. Neilander responded that he would defer to the Department of Taxation to answer Ms. Giunchigliani's question, as he had worked closely with the Department of Taxation.

Mr. Neilander said that on the gaming side of the taxes, the Board had identified certain technical items that needed to be reviewed but those items would not have a large impact on the budget.

Ms. Giunchigliani said the Legislature had attempted to "reach constitutional muster" in order to extend taxation to the "strip clubs." She said she had some ideas she wanted to share with staff of the Department of Taxation regarding looking at those individuals as employees. Ms. Giunchigliani said she believed the individuals met the old test for the federal government regarding hours, nail polish, or height of heels worn.

Mr. Neilander explained that the Gaming Control Board had complied with the Governor's request on the adjusted base budget and it was basically a flat budget. He said there were some increases in budgeted revenues caused primarily by a projected increase in the number of work permit applications to be received over the next biennium. He said there was also an increase in investigative fees that would offset the new positions that had been requested in the budget. He said there would be no impact on the General Fund for the new positions. The increased fees were primarily in the area of independent agents who were individuals who brought junkets into Nevada. Mr. Neilander stated that those individuals were currently not paying any fees and a \$750 fee was being proposed.

Mr. Neilander said the budget contained an increase in the application and investigative fee for the restricted gaming licensees as that fee had not been increased for a number of years.

Mr. Neilander said there were some increases in The Executive Budget, such as a 2 percent cost-of-living increase in each year, increases in longevity pay, and costs for additional staff.

Mr. Neilander explained that there had been a change made in the calculation of the rent for the Grant Sawyer Building in Las Vegas that had resulted in increased rental costs. He said there had also been an increase in information technology spending about which he would go into more detail later in his presentation.

Mr. Neilander continued his presentation with a discussion of the Board's revenue sources. The total revenue sources for the biennium were \$79,638,000, of which 74 percent was a General Fund appropriation, 19 percent were pass-through funds that went into the General Fund, and 6 percent were work permit fees. He said that the Board received \$30 of the \$75 work permit fee, and \$45 went to the Federal Bureau of Investigation (FBI) and the Nevada Criminal History Repository for the criminal background check.

Mr. Neilander explained that 86.3 percent of the Board's budget was expended on salaries, 9 percent was expended on operating expenses, 2.3 percent on information technology, 1.5 percent on in-state travel, and a small percentage for training.

Assemblywoman Weber asked if the fingerprinting was done digitally, forwarded to the FBI, and then returned to the state.

Mr. Neilander responded that when an employee applied for an employee registration, the application was filled out and provided to the employer. The employer then could transmit it electronically to the Board. The Board would then require the employee to be fingerprinted either at a private source or the sheriff's department. He said how the fingerprinting was done would depend on the type of equipment used by the agency doing the fingerprinting. The fingerprints would usually be transmitted to the NCIC or the FBI. Mr. Neilander said the Board did not physically fingerprint in its facility; the fingerprinting was all sent out. He said the fingerprint processing cost was a misnomer because the cost was actually for the entire criminal background check.

Joe Bertolone, Chief, Administrative Services Division, explained that he would discuss the Board's budget enhancements. He said enhancement E-710 would allow the Board to replace equipment in the agency that was severely aged. He stated that the first priority would be the replacement of the seven-year-old networking equipment used by the five offices around the state. The requested funding would also allow the Board to replace the computers in the agency. He said the agency was only using second-generation personal computers. They had previously had forfeiture funding to allow the acquisition of equipment in the past, and the agency now wanted to establish a regular replacement cycle for computers similar to what other state agencies had done.

Mr. Bertolone continued by saying the other great advantage to the agency with the enhancement was that it allowed the agency to keep pace with the changing technology within the industry and would allow the agency's investigators and auditors to use the same type of tools that were available to the industry that it regulated.

Mr. Neilander interjected that Decision Unit M-425 allowed for a deep cleaning of the Board's facilities. He said the deep cleaning had been recommended by the Buildings and Grounds Division and he believed it would appear in many of the budgets.

Mr. Neilander continued by explaining the Board's request for new positions. He said the positions were self-funded based on the fees collected and had no impact on the General Fund.

Assemblyman Denis asked Mr. Neilander to explain the type of networking to be done in Decision Unit E-710. Mr. Bertolone responded that the switches, routers, and hubs currently used were Cisco equipment and the funding would allow the Board to acquire the next generation of equipment. He said the equipment currently installed was seven-plus-years old and was being phased out in terms of support. To continue to support the current equipment would be very costly in order to ensure that data communication could be maintained between the offices.

Mr. Denis asked what the cycle for the replacement of computers was and Mr. Bertolone answered that the last time the computers were replaced was approximately four years ago. He said approximately 75 percent of the agency's computers would be four-plus-years old by July 1, 2006. Mr. Bertolone said the agency hoped to go to a four- to five-year replacement cycle for the laptop and desktop computers.

Mr. Denis asked if 75 percent of the computers would be replaced immediately, and Mr. Bertolone responded that the funding in The Executive Budget would allow the agency to begin to replace some of the computers but the priority would be to ensure that the proper networking equipment was in place. Once that was done, any remaining funds would be used for the normal replacement cycle.

Mr. Neilander said the three enforcement positions would be allocated to the Employee Registration Unit. He said the employee registration function had been taken over from the counties because the counties had gotten out of that business, and the determination had been made that the Board should become the central agency for the employee registration function. He said that the unit was funded almost entirely through the \$75 fee that the applicant paid in order to be registered as a gaming employee. Because of an increase in the number of applications the Board expected to receive, the revenue would increase but the Board needed three additional people to handle the increased applications within the statutory time line.

Mr. Neilander continued and said that the four investigative positions would be comprised of two investigative agents and two agents for the "Reg 25" program. He explained that independent agents were required to register with the Board. The independent agents came from all over the world and they brought customers to Nevada, and as Nevada companies had expanded their marketing on a worldwide basis, the Board had seen a huge increase in the number of independent agents required to register. Mr. Neilander said the Board was required to complete a background check on those agents to determine whether they should be required to apply for a gaming license in Nevada. He said that currently the positions that were being used for that function were funded by the General Fund but the proposed \$750 fee would fund the requested new positions.

Chairman Arberry asked Mr. Neilander to clarify the difference between the \$75 fee and the \$750 fee. Mr. Neilander said the \$75 fee was currently in place for employee registration. It was required for anyone who was a gaming employee, such as dealers to key employees. The \$750 fee would be charged to independent agents, people who bring customers to Nevada and are currently paying no fees.

Mr. Neilander said the two auditor positions requested were technology positions that had been approved at a recent Interim Finance Committee meeting, and they were funded by a different set of fees that were related to the inspection of gaming devices and associated equipment and cashless wagering systems. He said those positions had a hiring date of March 1, 2005, so no employees were currently "on board." Mr. Neilander stated that he had brought those positions to the attention of the Committee because they were part of the Board's overall budget.

Assemblyman Seale asked how the Board determined the appropriate number of auditors. Mr. Neilander said the Board had an audit cycle and the goal was to have every casino audited at least once every 2.5 years. He said the audit cycle currently was closer to 3 years due to a variety of reasons. Mr. Neilander pointed out that the cycle did not mean that everyone was audited every 2.5 years because the cycle was based on financial risk. Some casino companies might be audited much more frequently depending upon their financial risk. Mr. Neilander said the Board calculated the number of hours it took to complete an audit, that number was multiplied by the number of audits per year to calculate the number of auditors needed.

Mr. Seale asked what type of opinion was rendered on each audit. Mr. Neilander stated that the majority of the Board's auditors were certified public accountants, and the Board was certified by the Nevada Board of Accountancy so that the hours worked by those auditors who were not CPAs counted toward their certification as CPAs. Mr. Neilander stated that after an audit was completed, the Board would render a "fairness" opinion as to whether taxes had been paid in accordance with all applicable laws.

Mr. Seale asked if the opinion was rendered regarding revenue and taxes rather than on the full financial statement. Mr. Neilander responded affirmatively.

Mr. Neilander continued his presentation by discussing Enhancement Unit E-200 regarding out-of-state travel. He said that had been included as an enhancement because the Board had not had a great deal of out-of-state travel in the current biennium because many of the conferences and seminars attended were in Las Vegas.

Mr. Neilander stated that E-804 was a reimbursement mechanism for cost allocation for dispatch services for the Department of Public Safety. He said E-811 was for unclassified service changes and was not requested by the Board but was included by the Department of Personnel. He said that enhancement unit would be included in other agencies' budgets also.

Mr. Neilander said that the Board had processed over 17,000 applications in the first six months of FY2004, which was approximately what had been predicted in the 73rd Legislative Session. He said the Board's predictions had been fairly accurate, but predicting how many employees would change jobs and how many new employees would be hired was a difficult thing to do. Mr. Neilander said the office was staffed 24 hours a day and the employees working on the graveyard shift also helped out with dispatch services.

Mr. Neilander reported that the application process and criteria had been standardized. In the past all the counties had their own processes and criteria and there were no uniform standards. He said the Board was meeting all statutory requirements, including the timing of the work permits. Mr. Neilander said the Board was predicting 30,000 applications in each year for FY2006 and FY2007. The fee would remain the same at \$75, \$45 of which would be passed to the Repository and the FBI and \$30 would be used for the expenses of the program.

Mr. Neilander commented that the Board had increased the number of engineers in the lab because they had gotten behind in processing gaming devices and gaming device modifications. The Board's goal had always been to process modifications within a 30-day period. Mr. Neilander stated that the agency had fallen behind and in 2003 there was almost a 45-day turnaround, but since that time the turnaround time had been dropped to 30 days, and he was hopeful that time could be dropped to less than 30 days in the future. He stated that the number of modifications had skyrocketed from 1,580 submissions in 2000 to 2,473 in the last year.

GAMING, GAMING COMMISSION (101-4067) – GCB-8

Mr. Neilander reminded the Committee that four years ago the Gaming Commission's budget had been separated from the Gaming Control Board's budget. He said there were no changes proposed for the Commission's budget and the makeup of the Commission remained the same. Mr. Neilander explained

that Chairman Peter C. Bernhard was unable to attend that day's Committee meeting due to a trial, but he would answer any questions the Committee had. Mr. Neilander said the Board and the Commission shared an executive secretary and the Commission had one policy person who did research, especially in the area of adopting new regulations and technology.

Chairman Arberry asked if the Gaming Control Board had been included in the study on salaries of unclassified state employees. Mr. Neilander said he was unsure, but he believed they had not been included in the study. He added that they would like to be included in the study if they were not. Mr. Neilander said that 75 percent of the Gaming Control Board's staff was in the unclassified service. He stated that he was aware of some salary studies that showed the Gaming Control's employees were behind the local governments' employees in salary.

Assemblyman Seale asked Mr. Neilander about Decision Unit M-304, the 2 percent cost-of-living raise for unclassified personnel. He said he was confused as to why the language, "this cost of living adjustment for all K-12, education, and state and university classified employees" had been included in that decision unit.

Andrew Clinger, Deputy Director, Budget Division, responded that it was standardized language that had been included in all of the M-304 decision units. He said the 2 percent cost-of-living adjustment was for all K-12, state, and university employees. The raise for unclassified state employees was contained in Decision Unit M-305.

GAMING, GAMING CONTROL BOARD INVESTIGATION FUND (244-4063) – GCB-12

Mr. Neilander explained that the budget for the Investigation Fund contained the fees collected and passed through to the General Fund. The Investigation Fund had not been changed and continued to function the way it had always functioned.

Assemblyman Marvel asked if it was difficult to recruit personnel for the Electronics Division. Mr. Neilander explained that it was difficult to recruit because the salary offered lagged behind what counties offered and they could not compete with the private sector. He said the agency had recently completed a recruiting trip to southern California and had interviewed a number of people. He said it was almost easier to recruit in southern California than to bring candidates from other areas to be interviewed in Nevada. Mr. Neilander said an advantage the Board had was an excellent reputation as a great place to work. Some people would take a lesser salary in order to be afforded the opportunity to participate in the unique and rewarding work.

Mr. Marvel commented that he was amazed that the Board could keep its employees current on all the new games coming online in the casinos. Mr. Neilander added that the employees worked very hard and it was not easy. He said the Board would publish some technical standards for a new type of gaming of the future, which was central system-based gaming, where the devices would be hooked to a centralized system and instead of changing out a computer chip, the change could be made easily in-house. Mr. Neilander said the Board was very concerned and wanted to be certain they were regulating the industry and at the same time allowing the industry to grow.

Chairman Arberry asked what changes the Board would have to make if the Legislature approved a "big time" lottery. Mr. Neilander recommended that a separate Lottery Commission should be established to regulate a lottery. He said the Gaming Control Board and the Nevada Gaming Commission were in the business of regulating gaming. As part of that, he said they had access to every licensee's marketing plan, they knew exactly how much their whole percentages were on the floor, and that would be a conflict between conducting gaming and regulating gaming. He believed those two functions would be better separated. Mr. Neilander said the Gaming Control Board and the Gaming Commission could be of great benefit in showing how to set up the regulatory mechanism and how it would function. He said the Board had access to all types of competitive information and it might be unfair to allow the agency with that knowledge to also conduct the games.

Assemblyman Seale said the agency had recently undergone an audit that came out very well, and he was not surprised because his observation over the years was that Gaming did an outstanding job. Mr. Seale said the audit contained language about "deposits consisting mostly of checks, which are less vulnerable than cash." He wondered what cash the Board would have.

Mr. Neilander reported that it was very rare that the Board would receive cash, but occasionally a small fee would be paid in cash. Mr. Neilander said that the Board was currently considering a system that would allow them to scan checks on the premises and there would be an account reconciliation taking place with the bank. That would provide a record of the deposit without actually taking the checks to the bank.

Mr. Seale said that a number of years ago there was legislation passed that allowed certain taxpayers to use electronic funds transfer. He asked what the requirements and limits were for that.

Mr. Neilander said that in the past there was a notion that everyone would use electronic funds transfer (EFT). He said that the Board had found that customers wanted to do a debit transaction rather than a credit card transaction because there was a processing fee for credit cards. In the case of the Gaming Control Board, some licensees did use electronic filing and would be given the option of paying electronically. If a credit card was used, the customer would be responsible for the processing fee.

Mr. Seale said he remembered that there were certain limits on e-filing, such as if someone owed more than \$250,000 they would have to file online. Mr. Seale said he could not recall all of the requirements but he remembered that some taxpayers were writing checks on Montana banks, where the clearing patterns were 16 days. He wondered if there was a mechanism to improve the payment of taxes.

Mr. Neilander responded that he could not recall the details on e-filing but he would check and get the information to the Committee. Mr. Seale added that there was substantial interest to be earned by clearing payments faster.

With no further testimony regarding Budget Accounts 101-4061, 101-4067, and 244-4063, Chairman Arberry closed the hearing, and opened the hearing for Budget Account 101-2361.

DEPARTMENT OF TAXATION (101-2361) – TAXATION-1

Charles E. Chinnock, Executive Director, Nevada Department of Taxation, introduced himself and Barbara Smith Campbell, Chair, Nevada Tax Commission. He also introduced Dino DiCianno, Deputy Executive Director; Thomas Summers, Deputy Executive Director; and M. Lynne Knack, Administrative Services Officer. Mr. Chinnock said that Ms. Campbell would provide some introductory remarks before he made the presentation on The Executive Budget.

Barbara Smith Campbell, Chair, Nevada Tax Commission, made the following comments:

On behalf of my fellow Commissioners and myself, I would like to take this opportunity to give you an update of the activities of the Department of Taxation. As you know, we have been quite busy since the adjournment of the 20th Special Session. As legislators codified the new tax law, we knew it would be the responsibility of the Tax Commission to respond to those statutory changes with corresponding changes to the *Nevada Administrative Code*.

Members of the Commission were designated to attend specific tax meetings through the regulatory process. Those workshops were scheduled to commence within a month of the adjournment of the Special Session. We implemented a process to have weekly workshops from August through December. The meetings were videoconferenced from the Grant Sawyer Building in Las Vegas and the Legislative Building here in Carson City. Access to the workshops was also available through the Internet by logging onto the legislative website. Interested parties could make comments or ask questions by attending the meetings or by faxing comments or questions into the hearing rooms.

As you might expect, we listened to many opinions that were expressed at those meetings. Commission members debated with great vigor the plain meaning of the law. We had valuable input from industry representatives as well as legal opinions from the Deputy Attorneys General and the Legislative Counsel Bureau. At the end of the day, we were able to bring before the Legislative Commission for ratification the many regulations that were necessary for the Department of Taxation to administer those new tax laws. That success was a direct result of working partnerships with Commission members, all of whom were maintaining their regular jobs in the private sector, legislators, the Department of Taxation, the Gaming Commission, the Gaming Control Board, the Attorney General, Legislative Counsel Bureau, and industry representatives. I thank them all again for their great efforts and assistance during that process.

Since the completion of the regulations governing the new taxes, the Commission has re-opened all regulations dealing with property tax valuations and assessment practices. During six months of debate and deliberation, those regulations have been rewritten and clarified. Additionally, the Nevada Tax Commission has authorized a special study for the valuations in the Lake Tahoe Basin, which will test the valuation methodology for both the Douglas County

and the Washoe County side of Lake Tahoe. That study is in progress and barring any more unforeseen difficulties with weather, Mr. Chinnock is anticipating the completion of the Washoe County segment sometime in May of this year.

As you debate the upcoming issues concerning property tax in this session, the Commission and the Department will be prepared to administer those changes and enter into any new regulatory workshops if necessary.

At the present time, the regulations for the calculation of net proceeds of mines has been reopened, and workshops clarifying the deductions for the calculation of the net proceeds of tax are in progress. All of this activity could not have taken place without the support of our Executive Director, Chuck Chinnock, his deputy directors, and the staff at the Department of Taxation. It has been with great pride and amazement that I watched them react with efficiency and speed to the urgent need to create regulations to administer the new taxes. The State of Nevada is very fortunate to have the dedication and strength of character of Mr. Chinnock. And with those final remarks, Mr. Chairman, I will turn the rest of the presentation over to Mr. Chinnock.

Chuck Chinnock presented the "State of Nevada, Department of Taxation, Assembly Ways & Means Committee, Governor Recommends Budget Overview" ([Exhibit C](#)) to the Committee. Mr. Chinnock pointed out in the exhibit the Department's commitment to its mission of collection and distribution of revenue. Mr. Chinnock said he would discuss the Unified Tax System, which was a new integrated computer system that was being developed and implemented within the Department. He said he would also discuss the performance measures, goals, and accomplishments.

Mr. Chinnock stated that the Department served the taxpayers of the state fairly and efficiently in administering the laws. He said the Department was committed to its goals, although the prior two years had been especially challenging for the Department in implementing and administering the various tax changes, which included new taxes. Also, the ongoing taxes had to be administered and the Department closed out repealed taxes. He said the Department had created new information technology to handle the new taxes and had undertaken the planning, development, and implementation of a new integrated tax system.

Mr. Chinnock said he was proud of the employees of the Department because they never hesitated to step up to the plate to do what was required and to do what was necessary to get the job done of serving the taxpayers. Mr. Chinnock explained that there were teams assigned to each of the new taxes and all of the teams met on an ongoing basis in order to address the changes, requirements, and needs. Their findings and actions were passed on to all other members of the Department. When Las Vegas became overwhelmed with the workload, staff from other offices was sent to help out. He said the employees had steadily worked overtime during the week and on weekends and continued to do so.

Mr. Chinnock reported that some of the challenges were still ongoing and he believed they would continue into the next biennium. He said that in helping with the challenges, he wanted to thank the Committee on Ways and Means

and also the Interim Finance Committee for supporting the funding necessary to succeed and for the guidance and oversight throughout the past two years.

Mr. Chinnock pointed out a revenue collection chart in [Exhibit C](#). He said that for FY2004, \$3.6 billion of revenue was collected and distributed. He said the chart did not show the additional responsibility for the net proceeds of minerals tax, the assessment and taxation of centrally assessed property, and also the valuation of all mining property done and given to the county assessors. Mr. Chinnock said the Department also had the responsibility for oversight over locally assessed property in the counties and oversight over the local government budgets. He said the growth in sales tax revenue from 2002 through 2004 was a result of the implementation of new taxes and of the growth in the economy for existing taxes. Mr. Chinnock said it was probably about a 50-50 split. The numbers shown for fiscal year 2003-04 were prior to the implementation of all the new taxes. He said that as the economy moved forward, and in accordance with the Economic Forum's projections, the Department would exceed \$4 billion in sales and use tax revenue collections in the next biennium.

Mr. Chinnock said The Executive Budget was a continuation of the base budget from FY2004. He said there were some reductions for expenditures that would not continue. Further, the 2004 base budget was also based upon those additional allocations and approvals that came from the Interim Finance Committee both in FY2004 and FY2005. Primarily, that was for additional staffing and also for the Unified Tax System. Mr. Chinnock said The Executive Budget was basically the same in both years of the biennium except there were different amounts recommended for the Unified Tax System in each year and that was shown in Enhancement Unit 275. Mr. Chinnock said that the base budget totaled \$22.9 million, and of that, \$18.4 million was used for personnel. He said other expenses throughout the budget were pretty much the same as they had been, although there was a change in information services and a change in demographic surveys.

Mr. Chinnock continued by discussing enhancements to the budget. He said the primary enhancement in each fiscal year was for the Unified Tax System. Accordingly, the Department had requested \$14.3 million in FY2006 and \$9.3 million in FY2007.

Mr. Chinnock stated that the Department had a total staff of 323, plus 14 intermittent positions. He said pages 7 through 10 of [Exhibit C](#) contained an overview and explanation of the responsibilities of each division within the Department.

Mr. Chinnock referred the Committee to pages 11 and 12 of [Exhibit C](#) for background, events, and actions that led up to the funding of the Unified Tax System. Mr. Chinnock said there was recognition that there was a lack of information technology within the Department that went back to 1999. He said that at the beginning of 1990 a system called Automatic Collection and Enforcement System (ACES) was developed. That system was for business tax, business license, and sales and use tax. The more than 12 remaining taxes were placed on desktop systems using either the Microsoft Access or Excel programs, and there was basically little or no integration between the taxes. Mr. Chinnock stated that all of the taxes in Nevada were being collected through the mail and that the Department had approximately 2.5 million pieces of mail moving through the mailroom. For the tax returns themselves, over 80 percent were stopped at a lockbox before going to the Department of Taxation.

Mr. Chinnock said that page 11 of [Exhibit C](#) delineated various funding actions and attempts at funding since 1999 in order to bring new technology to the Department but finally in 2003, with the Committee's support, the Department was successful in receiving the necessary funding. Mr. Chinnock said the funding was received through Assembly Bill 553 of the Seventy-third Session of the Nevada Legislature, which provided \$27.5 million for implementation of new and changed taxes and also for new information technology for the Department of Taxation, and that was also available for other departments. As a result of that appropriation, the Department went through a series of milestones to select the vendor, Accenture, and the planning, development, and implementation of a new integrated tax system began. Mr. Chinnock explained that the Department was currently in Phase 1 of the four-year project.

Mr. Chinnock referred the Committee to the Unified Tax System (UTS) charts in [Exhibit C](#). He said UTS Chart 1 showed the project time line and it also showed the phases of the project. Phase 1 was scheduled to be completed in March 2005. After careful review and analysis of the entire project and also Phase 1, the Department recently decided it needed to change the date to May 2005. The reason for that change was to permit more widespread user acceptance testing and thereby ensure a better product in Phase 1. Coincidental with the date change from March 2005 to May 2005, the Department also was rescheduling and adjusting the remaining phases. Mr. Chinnock said he did not anticipate that the scheduled completion date for the end of the project would change, nor did he estimate an overall change in the cost of the project.

Mr. Chinnock said UTS Chart 2 in [Exhibit C](#) explained the functional areas of each phase of the project. The highlights of Phase 1 were business license fee processing, online registration for business registration, electronic payment for those taxes that would be part of Phase 1, and modified business tax, general business, and modified business tax for financial institutions. He said that the modified business tax had originally been included in Phase 2 but had been moved up into Phase 1. Mr. Chinnock reported that by the time Phase 3 was completed all taxes would be included in the system and Phase 4 was reserved for some modules that would bring on case management, risk-based auditing, and data mining ability.

Mr. Chinnock continued by referring the Committee to UTS Chart 3. It showed the full and overall cost of the UTS project with the costs of the Accenture contract and other costs broken out. The chart also showed the phasing by fiscal year.

Mr. Chinnock pointed out that UTS Charts 7 and 8 showed the tangible return on investment that was anticipated by the Department. He said the Department anticipated a return of investment in five to seven years as a benefit of the UTS. Mr. Chinnock said that UTS Charts 9 and 10 detailed the intangible benefits and many of those intangible benefits accrued to the taxpayers.

Assemblyman Denis asked if the UTS was an "off-the-shelf" product that had been customized to the Department's needs. Mr. Chinnock replied affirmatively and said that Accenture had implemented the program in several other states and had been leaders in developing taxation programs for local governments.

Mr. Denis asked if the "in-house" staff would be able to make any modifications to the system after it was completed. Mr. Chinnock responded that a major component of the program was the transfer of knowledge to the Department. He said that as each phase was completed the Department's staff would

maintain and modify the programs as needed. Mr. Chinnock stated that it was a requirement in the Request for Proposal (RFP) that the Department could easily change the programs if there was a legislative change in taxes.

Mr. Denis asked if the Department would have the ability to write reports on the data in the system. Mr. Chinnock responded that the Department had identified many reports that would be built now and the system would be flexible enough that staff could develop follow-up reports as needed.

Assemblyman Hogan asked if the Department had received bids from other organizations prior to awarding the contract to Accenture. He also wanted to know if the Department's decision was based primarily on cost, capability, or other factors. Mr. Chinnock responded that with the issuance of the RFP there were approximately six companies that were very much interested in the project. He said the RFP was issued by the Department of Information Technology. When it came to the submission of bids and review of the proposals, the Department found that because of the size of the project and the amount of money that could be involved, vendors partnered. He stated that several vendors would get together and make a proposal so the Department ended up with four major bids on the RFP. Not only was there a comprehensive evaluation process that involved people inside the state and outside of the state, the vendors actually came in and did presentations. He said the process of awarding the bid was quite lengthy and there were a few weeks of hard negotiations with the vendors in an attempt to secure the best product for the price.

Assemblywoman Gansert asked when a taxpayer would be able to pay their taxes online. Mr. Chinnock responded that online payment would be available for business registration as the taxes were phased in.

Mrs. Gansert asked if the Department had looked at the effects of the UTS on personnel. She said she was aware there was a huge backlog of applications and she wondered if there would be a reduction in personnel once the taxes were online. Mr. Chinnock responded, "yes and no." He said several things would impact online filing and online registration. An impact would be what the incentives were to file online and how many people would take advantage of filing online. He said if more incentives were provided, more people would file online and fewer staff would be needed for accounting and processing. Mr. Chinnock said one thing not in the equation and still to be determined was the support and effort that would be required for the online portion of the product. Even though the manual portion of mail activity would be reduced the Department would see an increase on the other side, the online portion of it. Mr. Chinnock said one would have to be measured against the other and eventually adjustments could be made with respect to staffing.

Mr. Chinnock referred the Committee to Appendix A1 through A3 of [Exhibit C](#). He said those pages contained detailed goals and accomplishments for the Department. He pointed out the language shown in italics that pertained to the conversion and implementing of new taxes.

Mr. Chinnock informed the Committee that page B1 of [Exhibit C](#) showed a listing of the change in the number of accounts for the Department. In 2002, there were approximately 140,000 accounts and currently there were approximately 400,000 accounts.

Mr. Chinnock said that page C1 of [Exhibit C](#) pointed out the area that had suffered because of the implementation of the UTS. The statistics on the

revenue officer and audit collections showed that the collections were down in the prior two years due to the administration of new taxes. He said that one of the issues was that as soon as the new taxes were enacted, many new regulations were adopted during the prior two years, and the Department had seen a 360 percent increase in telephone calls. The Department had also seen a doubling of walk-in traffic and a doubling of correspondence. As a result of that, the Department had temporarily shifted its revenue officer personnel and audit personnel from their job descriptions so they could respond to taxpayers' concerns.

Mr. Chinnock stated that the statistics for the past year showed that the number of telephone calls and replies to correspondence was down from the prior year and he hoped the pace had dropped back to something normal but it had not. Mr. Chinnock said the increased pace was still going on but he anticipated that in the next biennium the pace would drop back to some semblance of normalcy, whatever that might be.

Mr. Chinnock stated that he wanted to comment regarding the audit billings. He said that prior to the Seventy-Second Session of the Legislature, the Department was required to conduct purely random audits; they could not conduct risk-based audits. Mr. Chinnock said that currently the Department was allowed to use indicators of noncompliance for audit selection. He said that part of Phase 4 of the Unified Tax System would be to implement an automated risk-based auditing program. He said the Department had approximately 150,000 accounts in the past but that had increased to nearly 400,000 accounts. The Department used to have a target penetration rate for audits of 3 percent to 4 percent a year but there was no way the Department could continue at that pace. The Department had now gone into a number of audits per month average for the auditors and that had been achieved in the last three to six months. As a result of that, there had been increased revenue, although statutorily the Department was not allowed to measure the auditor's performance with respect to actual returns in money. He said the Department was interested in audit compliance and audit noncompliance with respect to reports from the auditors.

Assemblywoman Giunchigliani asked for clarification on the number of accounts going from 150,000 to nearly 400,000. Mr. Chinnock responded that the number could be reduced by approximately 85,000 for the business tax because it had been repealed. He said the business tax would remain on the books for another three years, primarily as maintenance.

Ms. Giunchigliani asked if the 160 percent increase was reflective overall and Mr. Chinnock responded affirmatively. Ms. Giunchigliani asked what the total number of staff was that had been dedicated to handle the increase. Mr. Chinnock said that most of the Department's new staffing was allocated to the new taxes, and as each tax was brought onboard the Department identified a series of types of personnel needed for each new tax. He said the staff added in November 2004 was primarily as a result of needs for accounting and processing.

Ms. Giunchigliani asked what the effect would be on the Department's audit capability. Mr. Chinnock said he could not provide a "hard number" because almost the entire prior two years had been spent working taxpayer issues and it had only been in the last quarter that the staff had gotten back to working their normal jobs.

Ms. Giunchigliani asked when the Department would be able to recognize collections. Mr. Chinnock said that had already begun but not enough time had elapsed for the reports to show the increased collections.

Ms. Giunchigliani asked if the number of audits completed had actually been reduced because of the need to use the staffing for customer service. Mr. Chinnock responded affirmatively and said the Department had previously done approximately 2,400 to 3,000 audits yearly, and for FY2004 approximately 1,800 audits had been completed. Mr. Chinnock stated that he expected to see the numbers increase in the next year.

Ms. Giunchigliani asked if Mr. Chinnock could provide audit information so the Committee could compare what had been collected to what the Department anticipated collecting in the upcoming biennium. Mr. Chinnock said he planned to do that although he was cautious in using returns. By statute, the Department would focus on indicators of noncompliance in an effort to enhance voluntary compliance. He said that there no was doubt that when the Department focused on the areas of noncompliance and identified those areas it would result probably in increased revenue.

Ms. Giunchigliani asked if more taxpayers would comply as automation became available because it would be easier. Mr. Chinnock said that with the automated systems the Department would be able to identify and focus on the areas where there were serious problems and then the Department would be able to offer education and information to taxpayers as well as performing audits. He said the Department would use *Tax Notes* as well as new regulations to educate taxpayers.

Mr. Chinnock referred the Committee to page D1 of [Exhibit C](#), which showed a relationship between the Nevada Department of Taxation and the departments of taxation in other states. He said Nevada's future was based on the \$4 billion sales and use tax collection.

Mr. Chinnock stated that chart H1 of [Exhibit C](#) showed a comparison of the workload that the Department had incurred versus the workload per employee and the gross revenue collected.

Mr. Denis asked Mr. Chinnock to explain why the Department's performance indicators showed the Department had responded to such a low percentage of customer written inquiries within 30 days. He asked what type of inquiries those were and why the Department responded to such a low percentage within 30 days. Mr. Chinnock responded that it had increased in the most recent quarter to 35 or 40 percent. He said the written responses were rulings and formal advisory opinions. The rulings were based upon precedence that was familiar to all personnel and regulations were in place to assist the tax examiners who were providers of information by telephone. He said that as a result of all the new taxes and new regulations, the Department had received a doubling of requests for a formal letter as to how new taxes should be interpreted. Mr. Chinnock said the requests for advisory opinions were very specific and unique to a situation. The Department would submit those requests to the Attorney General's office staff of seven attorneys who represented the Department. The attorneys would then write a formal response to the request for an opinion and issue an opinion.

Mr. Denis asked if the Department was getting caught up and anticipating the response time to be improved. Mr. Chinnock said the Department's goal was to respond within 30 days, but the response was probably at 60 days or longer.

Ms. Weber said she had a friend who worked in the Las Vegas office of the Department and she had seen the lobby full of people and was amazed that the staff was able to complete the work that it did. She commended the Department's staff for all the work they had done. Ms. Weber asked if the Department had enough space for employees and asked how the online filing capabilities would affect the need for space. Mr. Chinnock responded that he believed in recognizing the Department's employees at every opportunity. He said the Department had gotten a new office in Reno adjacent to its old building, and in Las Vegas the Department opened a satellite office in Henderson. That had helped with space for employees and had also provided another location. Mr. Chinnock said that the Department's workload would be lessened in May 2005 with online registration and filing. The Department would also set up a kiosk within the Department's offices so that if the lines were long, someone could go to the kiosk and register.

Assemblywoman Smith said she had some complaints from constituents about the process for attaining tax-exempt status for educational or charitable groups. She asked if there was a plan to improve that process. Mr. Chinnock responded that exemptions were the exception in Nevada, and with respect to sales and use tax, the Legislature in the mid-1990s passed some very stringent requirements in order to receive a sales and use tax exemption. Mr. Chinnock said that as a result of those requirements an applicant was required to reapply at least once every five years, so every five years there was a peak of applicants reapplying for sales and use tax exemptions. Mr. Chinnock said he believed that in the last few years the total number of applications, both denials and approvals, totaled approximately 5,500 to 6,000 applications. He said there were approximately 3,200 active sales tax exemptions.

Mr. Chinnock said that the Department had an efficient system to handle the 500 to 700 monthly exemptions at its peak but it would drop off to approximately 100 per month. He said the Department had two experts within the office to review the applications for exemptions on a day-to-day basis in addition to some other responsibilities. Also, at least one attorney from the Attorney General's office would review the applications with respect to the law as well. Mr. Chinnock said the statute was very stringent and very strict as to what the requirements were to receive the sales and use tax exemption, and there were a number of entities that did not receive the exemption. He said the Department worked with the entities very closely; they reviewed financial statements and whether they had a physical location. The Department attempted to review a complete application, although sometimes they were unable to get complete information. He said that if the taxpayer was unsuccessful in getting the exemption he could appeal the decision to the Nevada Tax Commission. Mr. Chinnock said there were no time limits and if the taxpayer was not successful at one time they could restructure or do whatever was necessary prior to reapplying for an exemption.

Mrs. Smith asked if tax-exempt entities were notified when it was time to reapply for a tax exemption. Mr. Chinnock responded that they were notified when their five-year exemption period was ending.

Mrs. Smith asked if the tax-exempt entity was provided a letter by the Department to demonstrate its tax-exempt status. Mr. Chinnock said each tax-exempt entity received a letter signed by him advising that it was now tax exempt.

Assemblyman Marvel asked Mr. Chinnock if the Department, along with the Secretary of State, had been able to identify all of the businesses in the state. Mr. Chinnock responded that the Department had not yet identified all businesses in Nevada but that was on its list of things to accomplish. The Department was working with two lists with respect to the business license tax. One was a list from the U.S. Internal Revenue Service (IRS) and the other was the Secretary of State's list. Mr. Chinnock said there were 220,000 entities filed with the Secretary of State and the Department was able to cross-reference with its existing database approximately 40,000. He said it was an ongoing program.

Mr. Marvel asked how much additional revenue would be brought in by using the lists. Mr. Chinnock said that every taxpayer needing a business license that was identified would bring in \$100 yearly. He said there was more to it than simply revenue; it was the fact that they were registered and the Department could track them, issue a use tax application, and identify whether they had responsibility for one of the other taxes.

Mr. Marvel asked what the Department was studying regarding the tax on the net proceeds of mines. Mr. Chinnock responded that the Department was developing regulations on the net proceeds of mines that further defined allowable expenses so there would be better uniformity and equalization among all the mining companies. The Department was looking at categories of reporting and reclamation expenses as to what should be allowed as a deduction from the gross proceeds.

Mr. Marvel asked if reclamation was included as a part of extraction. Mr. Chinnock said that question was to be considered in the regulation workshop process.

Assemblywoman Giunchigliani asked Mr. Chinnock to comment on the Department's vacancy savings. Mr. Chinnock replied that he had concerns regarding the vacancy savings shown in The Executive Budget but had accepted the figures only because of the Department's ongoing implementation of taxes and doing the job that was necessary. He said that he understood there was flexibility in the budget and if the Department needed to revisit the issue it could.

Ms. Giunchigliani said the figures appeared too high to her and she asked when the Committee could receive some recalculated figures. Mr. Chinnock replied that he would work on those figures and submit information to the Committee within the next week.

Ms. Giunchigliani stated that she believed the figures in The Executive Budget for equipment replacement were too low and she asked Mr. Chinnock to comment. Mr. Chinnock said that perhaps some of the Department's replacement computer equipment had "slipped through the cracks" and he was working on that. Ms. Giunchigliani asked that more information be submitted to the Committee within the next week.

Assemblyman Hogan said the Legislature would be looking very seriously at property tax issues and he wanted Mr. Chinnock's opinion on whether the standards in the Division of Assessment Standards were acceptable, were there ongoing significant issues regarding local assessment practices, or was it a stable area of the Department. Mr. Chinnock said the Division of Assessment Standards had responsibility for all centrally assessed property in the state. He said that if there was to be property tax relief because of uniform and equal

provisions of the *Nevada Constitution*, it would also have to be considered with respect to centrally assessed property. Mr. Chinnock said that the Department had a Locally Assessed Property Section that worked very closely with and provided oversight of the county assessors. Mr. Chinnock said the third section in the Division of Assessment Standards was the Local Government Finance Section and that staff oversaw all the budgets of the 260-plus local governments in the state. He said if the property tax relief involved property tax rates that section would be involved. Mr. Chinnock said in his opinion the regulations in effect for property tax were sufficient. He said the Department was in court sometimes due to actions taken by boards of equalization over issues but he believed the Nevada Tax Commission had worked very hard and had held 33 meetings and workshops in 2004 to develop new regulations to provide guidance on how to value locally assessed property.

Mr. Hogan asked Mr. Chinnock to explain what was included in interstate and intercounty property. Mr. Chinnock responded that the Department was required to assess any property that was interstate or intercounty. That would include such properties as airlines, railroads, utility companies, power companies, and gas companies. Mr. Chinnock stated that when the Department valued those properties the law required them to be valued on a unitary basis. That meant that the value of the company nationally must be determined and the Nevada portion of value allocated to the applicable county. For instance, AT&T was a \$15 billion company, and the Department would value the company and allocate value down to the state of Nevada. He said the Department accomplished that by reviewing the income and revenue nationwide versus what it was in the state of Nevada and the value was then allocated to various counties. Mr. Chinnock said that for railroads, the value was allocated to the counties based on the number of rail miles in each county to the total number of miles located in the country. Mr. Chinnock said there were approximately 350 centrally assessed companies, there were three staff members who valued the companies, and the total valuation was \$133 billion. When that was allocated to the state of Nevada, it resulted in a little over \$2 billion of valuation to the state of Nevada.

Assemblyman Hettrick said he had received communications of concern from constituents on two issues and he asked Mr. Chinnock to comment on them. The first concern was related to taxpayers who owned four or fewer rentals being charged for a business license when they were currently exempt from being considered commercial under other sections of the law. He said they were being charged even if they only rented out a room in their house. Mr. Chinnock stated that he was aware of the issue and there had been a proposal to use the four or fewer rental criteria, but that had disappeared, although he had heard that criteria was being proposed again. Mr. Chinnock said Mr. Hettrick was correct, that if you had a separate residence and you filed a schedule on your income tax, by statute you would be required to have a business license.

Mr. Hettrick said he had received a letter from a constituent who had hired a nurse or someone to come in and do some home health care for a family member who was ill and stayed at home. He said the constituent had received a notice to pay the \$100 for a business license as an employer. Mr. Hettrick said he hoped the Legislature could fix that problem.

Mr. Chinnock stated that the issue had been discussed in the legislative interim and there had been discussion about proposing corrective action in a bill.

Chairman Arberry called for a brief recess at 9:38 a.m. and resumed the meeting at 9:50 a.m.

VETERANS SERVICES, COMMISSIONER OF VETERANS AFFAIRS (101-2560) – VETERANS-1

Charles W. Fulkerson, Executive Director, Office of Veterans Services, said his office was looking forward to providing assistance and care for those fellow citizens of our country that through personal sacrifice had earned the right, privilege, and honor to be America's heroes: the veterans. Mr. Fulkerson stated that it was the mission of the Office of Veterans Services to provide assistance and services to veterans and residents of Nevada who were serving in the military. He said the agency was established in 1945 with two administrative offices, one in Reno and one in Las Vegas. The agency had grown to five locations throughout the state. There were currently two administrative offices, two state cemeteries, and a 180-bed veterans hospital in Boulder City, Nevada.

Mr. Fulkerson referred the Committee to [Exhibit D](#) and said that in performing its mission, the Nevada Office of Veterans Services (NOVS) provided several programs focused on assisting and serving veterans.

Mr. Fulkerson said the Veteran Services Program assisted veterans, active duty military, and their dependent families in interfacing with the U.S. Department of Veterans Affairs for services and benefits.

Mr. Fulkerson said the NOVS provided the Guardianship Program in which NOVS served as the court-appointed fiduciary for veterans who had been determined incompetent by the U.S. Department of Veterans Affairs.

Mr. Fulkerson stated that the State Veterans Home opened in 2000 and there were currently over 150 residents and he expected the home to be at capacity by the end of 2005.

Mr. Fulkerson said the NOVS provided advice and responded to inquiries from congressional representatives on veterans' issues and interfaced with the State Legislature.

Mr. Fulkerson explained that the Veteran Services Commission was a nine-member panel appointed by the Governor and the State Legislature. The panel met quarterly to discuss veterans' issues and make recommendations on policies and procedures.

Mr. Fulkerson said there were also two cemetery advisory committees with seven members each. The panels were appointed by the Governor and State Legislature.

Mr. Fulkerson said the Nevada Office of Veterans Services was accredited with the United States Department of Veterans Affairs to act with their power of attorney before the Department of Veterans Affairs in preparing and adjudicating claims for benefits.

Mr. Fulkerson explained that a little more than 50 percent of the funding for the budget came from the General Fund and \$300 per burial plot came from the federal government for each veteran burial. Mr. Fulkerson said that the national level of participation of veteran burials in state cemeteries was about 10 percent and Nevada was currently running over 25 percent in its two cemeteries. He

said the NOVS also handled spousal burials and charged \$350 per burial for a veteran's spouse or dependent. Mr. Fulkerson continued his explanation of funding sources by saying that a 5 percent administrative fee was charged for the guardianship program.

Mr. Fulkerson stated that private donations for special cemetery projects were accepted. He said the NOVS also received federal grants for cemetery expansion projects. Mr. Fulkerson said a \$3.5 million expansion program had just been completed in the Fernley cemetery. The expansion increased capacity to over 2,000 pre-burial vaults, and a 2,800 niche columbarium wall. He said cremated burials accounted for over 65 percent of the total. Mr. Fulkerson stated that the NOVS was in the design phase for an expansion program of over \$5 million for the Boulder City cemetery. He said those two programs were totally federally funded. Mr. Fulkerson said that another funding source for the NOVS was the State Treasurer's interest on unrestricted donations made to the cemeteries.

Mr. Fulkerson referred the Committee to a letter from Mr. Stephen C. Simmons, U.S. Department of Veterans Affairs, included as a part of [Exhibit D](#). Mr. Fulkerson read Mr. Simon's letter into the record as follows:

I am writing to you as a veterans' advocate. I currently serve veterans as the Department of Veterans Affairs Regional Office Director. My office, located in Reno, has jurisdiction over VA disability benefit claims for all veterans in this state and four contiguous northern California counties. We administer payments in excess of \$16 million monthly, almost \$200 million a year, in disability compensation to veterans in this state who suffer from service-related disabilities.

I understand the Executive Director of Nevada's Office of Veterans Services, Mr. Chuck Fulkerson, asked for additional staffing. I fully support Mr. Fulkerson's request, and I urge you to favorably consider it, because the veterans in this state need better service than the limited staff he now has can possibly provide. Briefly touching on some pertinent facts, aside from the reality that Nevada continues to be the fastest-growing state:

- Veterans constitute over 16 percent of the State's population. One in six adults in this State is a veteran. Only Alaska, with 17 percent, has a higher percentage.
- Nevada's veteran population has grown by 40 percent since 1990. The national veteran population has dropped by 9 percent since 1990.
- The number of Nevada veterans receiving disability benefits from VA has increased by 33 percent in the last five years. Far surpassing the national increase.

While Mr. Fulkerson's staff handles many issues for the State that impact our veterans, my specific area of concern involves the claims adjudication process. A few members of his staff serve in the capacity of Veterans Service Officer (VSO), a skilled position requiring an in-depth working knowledge of governing VA laws and regulations. These individuals play a crucial role in the claims process, serving as the veteran's representative throughout the

process. We receive about 18,000 claims per year. Almost half involve disability benefit entitlement, a process that requires us to make legal decisions based on medical evidence.

On the surface, the claims process seems simple. A veteran files a claim; we gather the relevant evidence; we make a decision; then we tell the veteran what we decided. In actuality, the process is extremely complex. Our legal notification requirements, coupled with requisite bureaucracy, often frustrate, and sometimes intimidate, veterans. While our letters will satisfy a court regarding our legal obligation to inform and assist veterans, the veteran can get lost in a letter's legalese and length. Accredited VSOs, whether working for the State or a national organization, provide an invaluable service to veterans throughout this process. A trained VSO is an effective advocate who can explain the process in simple lay terms. In short, they comfortably explain to the veteran what we need and why they need it. Mr. Fulkerson's staff is dedicated to providing effective service to the veterans living in the state. Unfortunately, the sheer numbers are against him.

In this state with vast, but sparsely populated space, the role of the VSO becomes even more critical. Through outreach and counseling activities, the Nevada Office of Veterans Services supplements available benefit entitlement information, with detailed discussion on individual claims, and they provide veterans with reasonable expectations about their entitlement.

Through our partnership efforts, we have been able to enrich the lives of many veterans in this state who incurred lifelong disabilities while defending this country. As the data mentioned earlier in this letter shows, there are many more veterans in need of the assistance provided by the Nevada Office of Veterans Services. We are a great country because of our veterans, and we have a responsibility to take care of them when the need arises.

Chairman Arberry asked for clarification on the 14 new positions that had been requested. Mr. Fulkerson said he had requested 14 new positions and they were not included in The Executive Budget. He said 6 of the positions had been restored in the budget.

Andrew Clinger, Deputy Director, Budget Division, said Mr. Fulkerson had appealed to the Governor's Office to restore positions to the budget, and 6 positions would be added back into the budget.

Assemblywoman McClain suggested that all 14 positions that had been requested be reinstated in the budget. Ms. McClain said the NOVS provided a great service and brought a great deal of money into the state by securing benefits for the veterans.

Mr. Clinger stated that the recommendation at that time would be for 6 positions to be included in the budget.

Chairman Arberry added that the issue of number of positions could be considered in joint subcommittee.

Ms. Giunchigliani asked if the Committee had been provided information on what positions were included on the "special consideration list." Mr. Clinger

responded that the information had been provided to the Legislative Counsel Bureau's Fiscal Division.

Ms. Giunchigliani asked when the revision to the budget would occur. Mr. Clinger responded that the revision would be completed the next week. Ms. Giunchigliani said that the Committee could look at the justification provided for the positions and make a decision on whether to include them.

Chairman Arberry asked Mr. Fulkerson to discuss the request for paving at the cemeteries. Mr. Fulkerson said the request was for a small amount of asphalt at the Fernley cemetery. Chairman Arberry asked if Mr. Fulkerson was working with the Public Works Board on the project and Mr. Fulkerson said he had discussed it with Public Works but it was not a life-safety issue and should therefore be financed from the General Fund.

Chairman Arberry asked who determined the amount needed for the paving. Mr. Fulkerson introduced Mr. Ace Tan, CPA, Administrative Services Officer, NOVS, and asked him to respond.

Mr. Tan stated that the expenditure in question involved the portion of paved roadway within the boundaries of both cemeteries. He said the roadways were very light-duty roads and not designed for normal traffic. Mr. Tan said the work to be done did not rise to the Public Works Board level of concern because it was not safety related.

Chairman Arberry said the Public Works Board might need to be involved because there was a capital improvement program for repaving. Mr. Tan said it would be beneficial to the agency if the Public Works Board was involved in the project. Chairman Arberry asked who determined that the roads in the cemeteries were in need of repair. Mr. Tan stated that there was no objective measure of the condition of the road.

Chairman Arberry asked who owned the roads and Mr. Fulkerson replied that the State of Nevada owned the roads. Mr. Fulkerson added that the roads had large cracks and potholes in them.

Chairman Arberry asked Mr. Fulkerson to comment on his request for new computer hardware. Mr. Fulkerson said the copy machine in the Las Vegas office had broken down in the preceding year and he had determined the copier was 17 years old. At that time, he met with the information technology staff member at the State home and developed a four-year rotating replacement plan, one office location at a time. The request for funds in the budget was the first increment of the plan. Mr. Fulkerson said that the Department of Information Technology recommended replacement every three years. He said the request included the purchase of five flat-screen monitors for the Las Vegas office because their monitors were part of the VA system.

Mr. Tan added that the additional computer equipment was reviewed and approved by DoIT. He said the total expenditure in Category 26, which was the information system cost, approached \$100,000. Of that, approximately 60 percent was interagency transfer between the agency and DoIT. Those were charges by DoIT to provide the agency with computer system support, email, or DSL service. Mr. Tan said that because NOVS was a small agency it had to rely on DoIT, and the agency was charged approximately \$60,000 for the service. Mr. Tan said the actual expenditure by the agency was \$22,000 for FY2006 and \$12,000 for FY2007. Those charges were for computer hardware. He said that in FY2006 the agency planned on replacing the computer equipment in

the Reno office and in FY2007 it would replace the equipment in the Las Vegas office. In FY2008 and 2009, the equipment would be replaced in the two cemeteries and then the agency would be on a four-year rotation of computer equipment.

Chairman Arberry asked Mr. Tan to provide a schedule to staff of what new computer hardware was being requested and Mr. Tan said that he would.

Mr. Denis asked what types of services were provided by DoIT for the \$60,000 being charged. Mr. Tan said the agency was charged for voice system administration, DoIT assessment, DoIT PC local area network technician, DoIT email service, DoIT dial-up access, DoIT DSL link, DoIT VPN secure link, and DoIT microwave VSI circuit. The total for both years of the biennium was over \$60,000.

Mr. Denis asked if all the agency's offices were connected. Mr. Jeff Fuhler, Office of Veterans' Services, responded that three of the four offices were connected by Sprint, and the connection in the main office was provided by DoIT. He said only one office was connected directly to the State but all of the offices could communicate with one another. Mr. Tan added that the three offices were not connected to one another due to the remote locations of the offices.

Mr. Fulkerson said there were veterans in the audience who wanted to address the Committee and introduced Mr. Tim Tetz.

Mr. Tetz said he was testifying before the Committee on behalf of the American Legion and the 270,000 veterans of Nevada. Like many comrades behind him, he had worn the uniform of the United States and now volunteered to make certain Nevada's veterans and veterans of tomorrow received the care they deserved. He presented [Exhibit E](#), "Statement of Tim Tetz, the American Legion, Before the Nevada Assembly Ways and Means Committee."

Mr. Tetz said that almost a year ago, the veterans organizations had met with the Nevada Office of Veterans Services Director, Chuck Fulkerson, to outline their agenda before the 2005 Legislature. He said that collectively they agreed their number one priority was to increase the staff of the Office of Veterans Services by 13 people.

Mr. Tetz continued that due to the oversight by many, they had found themselves with a budget that did not include any of those positions. He said the veterans did not solely blame Governor Guinn, the Budget Office, or the Office of Veterans Services. The data to support the positions had never been sufficiently summarized to anyone. He stated that the past could not be changed but the future should be corrected. He said that he wanted to make certain that with the Committee's help the amended budget would adequately staff the Office of Veterans Services.

Mr. Tetz said that for the preceding year, the findings of the audit of the Office of Veterans Services included the following issues:

- Failing to deposit checks for as long as 118 days after their receipt.
- Frequently not complying with state laws and regulations on financial and administrative practices.

- Supervision was not sufficient to ensure employees complied with established policies and procedures.
- Management set the tone for internal control in an organization; when excessive turnover occurred, the controls of an organization were weakened.

Mr. Tetz said he had observed that most of the issues were not deliberate actions of the staff. In most cases it was an issue where there were simply not enough qualified staff to carry out the necessary tasks associated with the day-to-day operation of the organization.

Mr. Tetz stated that in 1996, 24 employees worked in the newly named Office of Veterans Services. There were a little more than 200,000 veterans in Nevada. Presently, the number of veterans had increased by nearly 35 percent, yet they still had only 25 staff members. Mr. Tetz said that clearly much needed assistance should be provided and he requested that the additions be made with service officers, cemetery staff, administrative, and accounting assistants.

Mr. Tetz said the service officers provided a very important role. Nevada was currently served by four dedicated service officers for an estimated veteran population of 270,000. He said that was a ratio of 1 to 65,000 veterans. Mr. Tetz said that was in stark contrast to the estimated national average of 1 service officer for 6,500 veterans. Despite that situation, in the 2004 fiscal year, Nevada's veterans received nearly \$23 million in federal compensation and disability claims. That supplemented the \$225 million Nevada veterans were already receiving. That was disposable income used to purchase homes, cars, and pay for life's necessities. Even when being extremely conservative and estimating only 1 percent came back to the State General Fund in the form of sales, luxury, or gasoline taxes, that still brought over \$2.5 million dollars to the General Fund each year. Furthermore, filtered through the economy, the economic impact of the actions of the service officers brought an additional \$70 million to Nevada's economy each year. It was easy to calculate that the service officers not only funded themselves, but the entire Office of Veterans Services.

Mr. Tetz said the numbers continued to increase not only due to the great population growth of Nevada but also by today's sailors, soldiers, and marines returning from Iraq and Afghanistan. Those heroes were different from every other conflict. In the Persian Gulf War, about three troops were wounded in action for every fatality. Today, about seven were being wounded for every one killed. Colonel Jaffin, commander of the Walter Reed Health Care System in Washington, D.C., stated, "Soldiers that might have died in a previous war have survived and come back as amputees." This was the generation of veterans for which we had yet to prepare.

Mr. Tetz asked the Committee to imagine telling a Nevada National Guard member who just returned from a year-long deployment in Iraq she must wait three to four months to meet with her State service officer. That three or four month waiting period, coupled with the six-month review period, which was the norm today, was time where she might not receive adequate compensation for food, rent, or life's basic necessities. As the song went, "Some gave all, all gave some." He said we could not afford to forget any one of those heroes.

Mr. Tetz reported that in his amended budget, Governor Guinn had proposed an additional six staff for the Office of Veterans Services. That would include two

service officers, two ground equipment operators, and two administrative assistants. Mr. Tetz thanked the Governor's Office for the increase and hoped the Committee would support it. However, today the veterans' organizations of Nevada were asking for an additional four service officers. Mr. Tetz said there would be many more people standing before the Committee requesting funding for staffing needs and ideas for the surplus. He asked the Committee to remember that the four staff not only paid for themselves many times over, but helped contribute to the future budget surpluses. And most importantly, they helped every needy veteran in Nevada.

Mr. Tetz said that during fiscal year 2004, Nevada's service officers were successful in obtaining an additional \$5 million each. He thought that everyone understood the value of the current service officers, but he quantified the impact of an additional six service officers. It was justifiable to extend \$4 million to an additional six service officers. Therefore, with ten service officers, there could be an annual increase of \$40 million each year in federal disability and compensation claims and that was a growing money source. With every deployment or enlistment, Nevada gained a veteran. And those veterans were choosing to relocate, retire, or return to Nevada due to its wonderful economy. With the 270,000 veterans in Nevada today, Nevada had a potential annual revenue source of \$307 million. That would only continue to grow as the state and the number of veterans grew.

Mr. Tetz said that last year, Sharon Wagner, a service officer working out of Las Vegas, visited Pahrump 18 times. During those trips she was successful in writing claims in excess of \$1 million for Pahrump's veterans. He asked the Committee to imagine the local impact in other rural communities such as Winnemucca, Minden, or Elko. Clearly, Nevada's population outside of Las Vegas and Reno could significantly benefit from increased staffing.

Mr. Tetz said the service officers brought in the most money but the impact of the other staff, including those in the cemeteries, should not be forgotten. Nothing was more sacred to a veteran and his family than his memorial. Currently, services at the Southern Nevada Veterans Cemetery were required to be less than 20 minutes. He asked the Committee to imagine being rushed through the memorial service of any family member. It was not just unsuitable for America's heroes but it was unsuitable for anyone.

Mr. Tetz told the Committee that during the last session of the Legislature it was mandated to include additional staff at both Veterans cemeteries in Fernley and Boulder. Unfortunately, they remained unfunded. He said the U.S. Department of Veterans Affairs had established workload standards that neither Fernley nor Boulder had achieved. Mr. Tetz said that even if the Committee was generous enough to fund two additional groundskeeping staff, they would remain staffed at a level less than 50 percent of those standards. He said he did not want to get greedy and two additional people would help improve conditions at both cemeteries.

Mr. Tetz said that in the military there was a saying that you should befriend the clerks and the paymasters so that you would always get paid and always have connections to get things done in the boss's office. He said that clearly an office could not run efficiently without proper administrative staff.

Mr. Tetz reported that the week prior to the Committee's meeting the Reno office had lost its administrative assistant as she was "poached" by another state agency. Her replacement was nice and well-qualified, but she could not replace the two years' worth of institutional knowledge of someone who clearly

understood the intricacies of veterans services. Mr. Tetz said that he was not a director or even a state employee but as a simple shoe salesman he knew the importance of good help, and it was important that the agency had the best help.

Mr. Tetz continued that the Nevada Office of Veterans Services was in dire need of help. The 10 positions, 6 proposed by Governor Guinn and 4 proposed by the veterans organizations, would go a long way in supporting that cause. Mr. Tetz said he was not present at the meeting to dictate where the staff should be placed or even to discuss the impact on physical resources such as desks, computers, and office space. He said that he knew with the addition of 10 personnel to an existing 24, there would need to be a reorganization of some kind. He said that what the Office needed was a desk audit of current positions and a determination of how best to reorganize the Office. Mr. Tetz asked that if the Committee was generous enough to add even 1 staff member, that the Committee would strongly suggest such an audit. Mr. Tetz said he was sure that the staff would enjoy such an audit much more than the previous audit performed on the Office.

Mr. Tetz stated that the budget for the Nevada Office of Veterans Services was less than \$1.6 million. In comparison to other agencies, that was a "drop in the bucket," but the work performed by 10 service officers would bring an additional \$40 million annually to Nevada. It was a "win-win situation." Nevada's veterans would be provided service in a professional and timely manner by service officers and administrative staff. In return, Nevada's veterans received more than \$251 million in federal funding each year.

In closing, Mr. Tetz said that Lincoln said we should strive to "care for him who shall have borne the battle." Proper care must occur when yesterday's and today's heroes returned home, and we could not accomplish that adequately without increasing the staff of the Nevada Office of Veterans Services.

Ms. Giunchigliani thanked Mr. Tetz for his testimony and said she did not understand how the service officers obtained an additional \$5 million each. Mr. Tetz said the money was not received in a blank check to veterans but it was received by individual veterans. Mr. Tetz referred the question to Jeanette Rae.

Jeanette Rae, Veterans Service Officer, Nevada State Office of Veterans Services, introduced herself. She said the benefits were for veterans who might have become disabled in the service or they were non-service-connected disability pension benefits.

Ms. Giunchigliani asked if the veterans benefits were in addition to other types of benefits and Ms. Rae answered that it depended upon the type of benefits received.

Mr. Fulkerson added that the benefits, compensation, and pensions for veterans had been developing since the Civil War. He said a veteran had to actively seek out the benefits; there was no automatic coverage. Mr. Fulkerson said the only way a veteran would receive automatic benefits was if he was injured on duty and he accepted a military discharge from the active service. All other veterans who received a disability payment would have to go through the process of applying to the Department of Veterans Affairs and provide proof that the disability occurred or could be connected to something that happened when he was on active duty. Mr. Fulkerson stated that of the more than 25 million veterans in the United States, only 8 million of them were connected with the

VA. Those 8 million veterans had requested some type of service from the VA. He added that it was a long, arduous process. Mr. Fulkerson said there were veterans from Iraq and Afghanistan on the street, homeless, because they had come back with injuries and they were going through the VA process to get benefits established. Mr. Fulkerson added that post-traumatic stress disorder was a large component because of the stigma and the length of time it sometimes took for it to manifest itself. Mr. Fulkerson stated that the VA was as underfunded as his agency was.

Ms. Rae presented her written testimony, [Exhibit F](#). Ms. Rae said she was the only State Veterans Services Officer for all of the veterans north of Tonopah, home to approximately 80,000 Nevada veterans. She said she provided service to five bordering California counties. As a Veterans Service Officer (VSO) she said she provided a variety of services to Nevada veterans and their dependents with the primary focus on advocacy for veterans and dependents in obtaining their federal and state veterans benefits. Those services included outreach programs, filing claims for disability, compensation, and pension through the VA and representing the veteran throughout the appeals process. Ms. Rae said her presentation described the challenges faced by a Veterans Service Officer in providing services to the veterans of Nevada.

Ms. Rae said the number of veterans in Nevada continued to grow as the general population grew. Because of the effectiveness of outreach programs, more veterans were seeking assistance in obtaining benefits they deserved and needed. The Nevada Office of Veterans Services had become a clearinghouse for veteran referrals from other agencies. She said veterans were referred to her from a number of other agencies and organizations because the Nevada Office of Veterans Services provided services other agencies did not. As routine services incumbent with her position she provided assistance to veterans in completing complicated medical expense forms; assistance to veterans who were homeless, indigent, and were seeking financial help; assistance to veterans seeking employment, and to veterans who needed assistance in upgrading their category of military discharges to obtain benefits and services not provided by other agencies.

Ms. Rae said a veteran's case was never "done." She said it might take brief periods of rest every few years, only to be reopened as the veteran's health or disability picture changed. Once designated as the representative for the veteran, the agency would remain their representative forever, unless or until that veteran revoked that representation in writing. She also said the representation did not stop with the veteran's death. The agency remained in place to assist the immediate surviving dependents for as long as they lived. Ms. Rae said that a couple of years ago she asked her supervisor what the maximum caseload for a VSO was. She said she was feeling extreme pressure as she believed she surely had far exceeded whatever that number could be. Ms. Rae said that she was told that no one had ever asked that question before and then it was implied that the agency could not turn anyone away because the Nevada Office of Veterans Services was a state agency. Ms. Rae said the agency could not say there was no more "room," it just had to continue on.

Ms. Rae stated that with the current volume of veterans seeking assistance, it was impossible to schedule an appointment any sooner than 9 to 12 weeks from the date of the initial request for assistance. She said that as the veteran population in Nevada continued to grow, those scheduling times would become even longer. Making scheduling more difficult was the fact that VSOs and veterans were forced to comply with the federal mandates of the VA. The VSO and the veteran were required to respond within 10, 30, 60, or 90 days,

depending upon the type of VA action. The VA did not provide notice of upcoming action, and the VSO and veteran could not anticipate or schedule responses in advance. Because of the length of time for scheduling, and in view of the short notice to respond to VA actions, scheduling of appointments could not meet the time schedules dictated by the VA. Ms. Rae stated that further compounding the difficulty in timely scheduling for veterans was the VA practice of scheduling hearings at its own convenience. Notification of scheduled hearings had occurred in as little as 3 days to the normal of approximately 45 days. Frequently that required rescheduling of hearings for those veterans whose previously scheduled appointments conflicted with hearings scheduled by the VA. She said that each month-long delay in scheduling appointments and hearings resulted in a delay in adjudication of the veteran's claim and might result in a loss of monetary benefit by the veteran.

Ms. Rae went on to explain that in calendar year 2004 she accrued a total of 285 hours of compensatory time, the equivalent of 35 additional work days. Prior to the end of 2004, she was required to take four weeks' annual leave in order not to lose accrued annual leave. She said compensatory time must be taken prior to utilizing annual leave. Taking 35.5 days of compensatory time and four weeks' annual leave resulted in her required absence from the office for 55 days, a time during which she was unavailable to provide service to veterans. Ms. Rae said that the workload volume and scheduling requirements made even taking required breaks and lunch periods extremely difficult. She said that as the only VSO in northern Nevada, there was no alternate staff to provide service when she took vacation or compensatory time or if she became ill. During any absences, and without alternate staff, the workload continued to accrue and further delayed the scheduling of services to veterans.

Ms. Rae explained that the volume of telephone calls from veterans seeking assistance also created delays in scheduling. During the six-month period from June through December 2004, she made or received a total of 2,109 phone calls in providing service to veterans. She said the duration of phone calls might be brief to receive a voice mail or might take as long as 2.5 hours to provide information and guidance, with an approximate average of 12 minutes per phone call, the equivalent of 421 hours, or 52.7 work days.

Ms. Rae said that other responsibilities were incumbent with her position and required time away from the office. At a minimum, those responsibilities included representing veterans at hearings required by the VA, representing NOVS at a variety of meetings such as meetings regarding the Veterans Cemeteries, Veterans Services Commission, Veterans Medical Center, Veterans Service Officers, Veterans Advisory Council, monthly regional office meetings, annual continuing education conferences, and providing transition briefings. In 2004 those additional responsibilities totaled 174 hours, or 22 days, in which she was away from the office and unavailable to provide direct service to veterans.

Ms. Rae stated that as the only accredited VSO at the location where the VA made its decisions, she was required to review and sign the decisions for claims generated by all the VSOs of the Nevada Office of Veterans Services. That process could take anywhere from one to four hours per day and could only be done as the claims were received, without prior notice, from the VA regional office. In order that veterans got prompt adjudication of their claims and received their monetary benefits in a timely manner, review and signing of claims must take precedence over all other scheduled work duties.

Ms. Rae concluded by saying that the challenges that faced a Veterans Service Officer of the Nevada Office of Veterans Services posed a hurdle to the timely receipt of benefits by veterans in Nevada. The increasing referrals of veterans and the increasing veteran population in Nevada were placing additional demands for service on the Veterans Service Officers. Delays in scheduling, time constraints, and increasing demand for service all combined to lengthen the time required to schedule appointments and provide needed service to veterans. She said that without additional staffing to decrease the time delay in scheduling appointments, the result would be loss of monetary benefits by the veterans of the State of Nevada.

Assemblywoman McClain stated that Ms. Rae had made a very compelling argument for the approval of more VSO positions and she hoped the Committee would support the request.

Assemblyman Hogan said that he was a Navy veteran and a veteran of many years of service in federal agencies in Washington and elsewhere, and many of the things Ms. Rae stated had "rung true" with him, both the underserved situation that veterans faced and the difficulty in dealing with federal agencies that tended to be bureaucratic. Mr. Hogan also said that Mr. Tetz had made a marvelous case as well, and he had no doubt that the Committee would be interested in doing all that it could to help. Mr. Hogan asked how the new staff would be trained if the positions were approved.

Ms. Rae said there was a variety of training available although the VA did not provide the training. She said training was available; however, there was a cost involved. Ms. Rae said there had been years when the cost for required continuing education was not available. Ms. Rae said 23 states had veterans service officer associations, and many of them provided quarterly training. She said the Nevada office sometimes attended California's training conferences.

Assemblywoman Weber asked how many new veterans would be coming into the system as a result of the wars in Afghanistan and Iraq in the next biennium. Mr. Fulkerson responded that there were approximately seven soldiers wounded for every one soldier being killed in Afghanistan and Iraq. In the past, about 9 percent of those wounded soldiers suffered amputation of an extremity or damage to the head. He said that with the advent of body armor, the amputee rate had increased to over 30 percent, and caring for amputees was one of the most expensive lifelong disabilities. He said that while the numbers deployed were not nearly what they were in World War II, Korea, or Vietnam, there would be a far greater number of living veterans that would need support because of the disabilities for a much longer period of time. Currently, there were over 150,000 veteran returnees from Afghanistan and Iraq. Ms. Weber thanked Mr. Fulkerson and all those who served.

Mr. Fulkerson introduced Teresa M. Sacks. She did not testify, however, she submitted her statement, ""Veterans' Services, Committee on Ways and Means," [Exhibit G](#).

VETERANS SERVICES, VETERANS HOME ACCOUNT (101-2560) – VETERANS-7

Mr. Fulkerson introduced Gary Bermeosolo, Administrator, Nevada State Veterans Home. Mr. Fulkerson said Mr. Bermeosolo had been the Administrator of the Home for over two years and he had provided much needed stability. Mr. Fulkerson said many of the Home's senior staff had also been there for at least two years, although two senior staff members had retired.

Mr. Bermeosolo submitted his written testimony, [Exhibit H](#), to the Committee. He said that as he completed his second full year as Administrator he was happy to report that the Home was on sound financial ground, the leadership team remained in place, and the resident census continued to grow.

Mr. Bermeosolo stated that the Home's typical resident was over 80 years old, male, and had served in one of the five military branches during World War II or Korea. Mr. Bermeosolo said the typical resident knew that he would not be returning home and that his final days would likely be spent at the Nevada State Veterans Home. Because the Home would probably be the last home for the residents, the Home was responsible for enhancing the quality of the veteran's life during his time in the Home. Mr. Bermeosolo said that if they succeeded they would have realized their mission of caring for America's heroes.

Mr. Bermeosolo stated that efforts to open the final wing of the Veterans Home were slowed by a lack of revenue and the inability to attract qualified long-term-care professionals. However, in the fall of 2004, the Home was finally able to open its third and final nursing care wing. Mr. Bermeosolo said that admissions to the Home were slow during the holidays, as might be expected, and January and February were traditionally high-loss months for the nursing home industry primarily due to post-holiday and winter depression. He said that the Home had seen an increase in resident admissions and the census had grown to 150. That left just 27 available beds and Mr. Bermeosolo said he expected to see those occupied by year's end. Mr. Bermeosolo pointed out that although the Home had not reached the census levels that had been originally projected, financially the Home was "staying in the black" and expected to return funds to the General Fund in 2005. Mr. Bermeosolo said the Home was staying solvent primarily due to the price increase implemented in April 2004 and the fact that staff was being hired incrementally as the resident census was built.

Mr. Bermeosolo said that two other good things had happened recently. He said the VA had increased its per diem payments to state homes from \$57.78 per day to \$59.36 per day. Also, the National Association of State Veterans Homes, of which Nevada was a member, was successful in promoting federal legislation that exempted VA per diem payments from offsetting Medicaid payments. He said Public Law 108-422 became effective on December 1, 2004, and would result in additional savings for Nevada. The Home was able to reduce its request for General Funds by nearly \$1 million over the next biennium.

Mr. Bermeosolo reported that in April 2004, he had the unpleasant task of announcing a substantial increase in nursing care charges. He said that during that process he made a commitment to residents and family members that the Home would try not to increase rates again until the spring of 2006. Mr. Bermeosolo said that with the Home's improved financial condition and with the Committee's support, it appeared that the Home would be able to honor that commitment. Mr. Bermeosolo informed the Committee that the *Las Vegas Review-Journal* recently reported that the average daily cost of nursing care in Clark County had reached \$180 per day. The Veterans Home was charging veterans nearly half of that amount, \$101 per day.

Chairman Arberry asked why Mr. Bermeosolo had proposed the reclassification of a nurse to an administrative services officer in the budget. Mr. Bermeosolo responded that he actually needed both of the positions. He said the position was a nurse supervisor position, not a "hands-on" position. Each of the three

wings had a nurse supervisor and the VA required that a nurse supervisor be present 24 hours a day. Mr. Bermeosolo said that some time ago he approached the Director of Nursing Services with a question as to whether that position could be reclassified to an assistant administrator. Mr. Bermeosolo said that Mr. Fulkerson wanted to see a licensed assistant administrator at the 184-bed facility so that if Mr. Bermeosolo left or was injured there would be someone to fill the position. Mr. Bermeosolo said that the last time the facility lost an administrator there was no one available to take over the management. Mr. Bermeosolo said that since he had to place the positions in order of priority, he chose to seek the assistant administrator position. Mr. Bermeosolo said that two weeks prior to the meeting, the Director of Nursing Services came to him and said that she wished the position had not been taken because she needed it for rotation since the resident census was up to 150. Mr. Bermeosolo described his position as a "catch-22" and he said if he were making the request again he would have asked for a new position of assistant administrator and left the registered nurse position in place. Mr. Bermeosolo stated that the cost of funding the full position was \$96,000 in the first year of the biennium and \$98,000 the second year.

Chairman Arberry asked Mr. Bermeosolo about the Home's need to use contract nursing services and overtime. Mr. Bermeosolo said the Home had difficulty attracting qualified nursing care personnel to Boulder City. He said that when a nurse was sick the first action taken was to try to get another nurse to work the overtime. He said he would prefer to have someone work overtime and pay time and one-half because that was less costly than using a contract nurse. That nurse working overtime knew the resident, knew the policies and procedures, and would ultimately provide better care. Mr. Bermeosolo said if he could not get a staff nurse to work the overtime then he would hire a contract nurse. He said that would continue to be a problem until the Home could attract quality nurses to the facility.

Chairman Arberry said that at the June 16, 2004, meeting of the Interim Finance Committee, the Committee authorized the Home to add 14 new positions, including four additional nurses, to allow for the adequate staffing of the Home.

Mr. Bermeosolo agreed with Chairman Arberry and said those positions would be filled eventually. He said there were 146 positions filled currently and there were 181 total positions that would eventually be filled. Mr. Bermeosolo restated that the problem was in attracting quality nurses to the facility who knew long-term care. He said that on February 10, 2005, there had been a job fair and two additional nurses had been hired. Mr. Bermeosolo said that would help in reducing the overtime figures. He said everything possible was being done to manage the overtime expenses and that was why money had been returned to the General Fund.

Chairman Arberry asked Mr. Bermeosolo to provide information on the number of new nurses that had been added to the staff. Mr. Bermeosolo said he would provide the information on the certified nursing assistants, licensed practical nurses, and registered nurses. He said that registered nurses were the hardest to recruit, followed by licensed practical nurses, and then by certified nursing assistants.

Chairman Arberry asked Mr. Bermeosolo to explain the request for \$50,000 for contract services. Mr. Bermeosolo asked Darrel L. Hansen, Administrative Services Officer/Chief Financial Officer, Nevada State Veterans Home, to respond.

Mr. Hansen explained that the Home was still growing and learning what was needed to function and operate the Home. He said that request was added to the budget for unanticipated contracts that were not known at the time. He said some of those would be for maintenance or service agreements. He said he was working on a contract for a general contractor who could oversee the contracts. He said the Home's maintenance department could handle a certain number of issues in the Home, but outside contractors had to be retained to handle other issues. Mr. Hansen said he would provide additional information that had been gathered since the budget had been prepared.

Mr. Bermeosolo continued his presentation with a discussion of staff education and training. He said that if the Home was to provide excellent care to residents the staff must keep up with the ever-changing health-care field. The nursing home industry was perhaps the most regulated service industry in the United States. Mr. Bermeosolo said he believed nursing homes had more people looking over their shoulders than the nuclear industry. He said there was Medicaid, Medicare, Veterans Affairs (VA), Occupational Safety and Health Administration (OSHA), Governmental Accounting Office (GAO), Department of Labor (DOL), Office on Aging, and many others constantly inspecting, analyzing, surveying, and monitoring the Home. He said that each of those regulatory agencies had a set of regulations that "would choke a horse." Medicare alone had over 160 care standards that must be met for every patient, every day of the year, and they were constantly changing or adding new standards. Mr. Bermeosolo said it was essential that every one of the team members became familiar with the plethora of regulations used to regulate the industry. He said that meant training the staff in an ongoing and unrelenting fashion. Mr. Bermeosolo said staff should be sent to seminars, videos and books should be purchased, conferencing tools should be developed, and consultants should be brought to the facility to "teach, teach, teach." He said that would take an investment of money but the dividends would be substantially better patient care. Mr. Bermeosolo said that in The Executive Budget an education and training line item had been included that was approximately 0.5 percent of the total budget. He said he thought that was a small investment in an attempt to avoid non-compliance with regulations that could cost the Home as much as 50 percent of its budgeted revenue.

Chairman Arberry asked Mr. Bermeosolo to comment on the request for approximately \$18,000 to construct concrete pads at each emergency room door. He said he thought that would have been part of the construction of the building. Mr. Bermeosolo said the Home continued in litigation and the Public Works Board would be conducting a litigation walk-through of the building in the near future. He said there were things that should have been done during the construction of the building that were not. He said if it rained, wheelchairs could not be pushed through the doors as they sank in the mud. Mr. Bermeosolo said they tried a gunite solution that did not work and the correct way to repair the problem was to pave the areas.

Assemblywoman Giunchigliani commented to the Committee that she had just received an email from a senator on the Senate Finance Committee who reported that the State Treasurer had appeared before them that day and a question was posed to the Treasurer regarding the issue of securitizing Nevada's tobacco settlement proceeds. Ms. Giunchigliani said that once again the Treasurer had stated that the Assembly Ways and Means Committee left "\$200 million on the table." She indicated she was tired of the "gamesmanship" that had gone on and the accusations that had been made. Ms. Giunchigliani said that for the benefit of the new Committee members she

wanted to clarify what had happened. In 2001 there had been a bill introduced in late May. The Committee had given it consideration regarding the issue of securitization, and it had been dismissed. Ms. Giunchigliani said that the firm Global Insight had recently reported that in reviewing the analysis provided by the State Treasurer the state would have lost \$8.6 million. She said that Global Insight indicated that Treasurer Krolicki's estimates of the opportunity costs of the decision in 2001 not to securitize were not substantiated and said that the Treasurer's quantification of almost \$200 million in opportunity costs by not securitizing in 2001 could not be supported by their analysis. Ms. Giunchigliani indicated that in the Treasurer's own backup information in his response to Chairman Arberry if the state's tobacco settlement payments had been securitized there would have been an ending fund balance of \$202 million in the year 2025. If Nevada did not securitize, which it did not, it was projected that \$210 million would be available in the year 2025. She said Nevada did the correct thing by choosing not to securitize.

Ms. Giunchigliani said the Committee was again faced with what to do with the Millennium Scholarship and a proposal had been made to bond the State's unclaimed property proceeds. She said Nevada could not afford to "mortgage the kids." She said Nevada had the money and it needed to be sure it was doing what was best for the children, and it was time for the Treasurer and anyone else to stop playing politics with the future of Nevada's children.

Ms. Giunchigliani said the outside analyses showed clearly that the Treasurer's figures were wrong. Taking a substantially reduced amount of money from the tobacco companies and investing it in Wall Street, especially during the months after September 11, 2001, would have been a gamble that would definitely not have paid off. She said she believed it was a very dangerous proposal and she was tired of "playing games with kids." Ms. Giunchigliani said the state had one-shot money and it should be put where it needed to go. She said she was frustrated because sometimes things were said in one committee and not in another. Ms. Giunchigliani said if accusations were going to be made about how the Committee handled something, the parties should come forward and make the statement to the Committee face to face.

Assemblyman Seale said he was not privy to those numbers provided by Ms. Giunchigliani, but he had reviewed the Treasurer's numbers and he would like to review Ms. Giunchigliani's analysis so he could make an adequate comparison. Ms. Giunchigliani said she would provide Mr. Seale with the numbers.

There being no further business, Chairman Arberry adjourned the meeting at 11:01 a.m.

RESPECTFULLY SUBMITTED:

Lila Clark
Committee Attaché

APPROVED BY:

Assemblyman Morse Arberry Jr., Chairman

DATE:_____

<u>EXHIBITS</u>				
Committee Name: <u>Assembly Committee on Ways and Means</u>				
Date: <u>February 11, 2005</u> Time _____ of _____ Meeting: 8a.m.				
Bill #	Exhibit ID	Witness	Dept.	Description
	B	Dennis K. Neilander	Gaming Control Board	State of Nevada Gaming Control Board, FY2005-2007, Budget Accounts 4061 & 4067, Biennium Budget Presentation
	C	Charles E. Chinnock	Department of Taxation	State of Nevada Department of Taxation, Assembly Ways & Means Committee, Governor Recommends Budget Overview
	D	Charles W. Fulkerson	Office of Veterans Services	Written testimony
	E	Tim Tetz	American Legion	Statement of Tim Tetz, the American Legion, before the Nevada Assembly Ways and means Committee
	F	Jeanette Rae	Office of Veterans Services	Written testimony.
	G	Teresa M. Sacks		Written testimony
	H	Gary Bermeosolo	Nevada State Veterans Home	2005 Budget Preparation, Nevada Legislature