MINUTES OF THE MEETING
OF THE
LEGISLATIVE COMMISSION'S BUDGET SUBCOMMITTEE

Seventy-Third Session
February 1, 2005

The Legislative Commission's Budget Subcommittee was called to order at 8:30 a.m., on Tuesday, February 1, 2005. Chairman Morse Arberry Jr. presided in Room 4401 of the Grant Sawyer State Office Building, Las Vegas, Nevada. There was simultaneous videoconference of the meeting to Room 4100 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.

ASSEMBLY COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Mr. Morse Arberry Jr., Chairman
Ms. Chris Giunchigliani, Vice Chairwoman
Mrs. Ellen Koivisto
Ms. Kathy McClain
Ms. Valerie Weber

ASSEMBLY COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Mr. Mo Denis
Mrs. Heidi S. Gansert
Mr. Lynn Hettrick
Mr. John Hogan
Ms. Sheila Leslie
Mr. John Marvel
Mr. Bob Seale
Mrs. Debbie Smith

ASSEMBLY COMMITTEE MEMBERS ABSENT:

Mr. Richard Perkins (excused)

SENATE COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Barbara Cegavske
Senator Bob Coffin
Senator Dina Titus

SENATE COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator Bob Beers
Senator Bernice Mathews
Senator Dean Rhoads
Senator William J. Raggio

STAFF MEMBERS PRESENT IN LAS VEGAS:

Mark Stevens, Assembly Fiscal Analyst

STAFF MEMBERS PRESENT IN CARSON CITY:

Gary Ghiggeri, Senate Fiscal Analyst
Steve Abba, Principal Deputy Fiscal Analyst (Assembly)
Bob Guernsey, Principal Deputy Fiscal Analyst (Senate)
Bob Atkinson, Senior Program Analyst
Mindy Braun, Education Program Analyst
Laura Freed, Program Analyst
Michael J. Chapman, Program Analyst
Jeffery A. Ferguson, Program Analyst
Joyce Garrett, Program Analyst
Susan Cherpeski, Committee Secretary
Linda Smith, Committee Secretary

Chairman Arberry recognized Dr. Keith Rheault, Superintendent of Public Instruction, Department of Education.

Dr. Rheault introduced Gloria Dopf, Deputy Superintendent, Instructional, Research, and Evaluative Services, and Douglas C. Thunder, Deputy Superintendent, Administrative and Fiscal Services. Dr. Rheault then referred to the Department's handouts:

- "Nevada Education QuickFacts"; a booklet containing information on educational programs, student enrollments, expenditures, and a summary of the DSA funding formula. (Exhibit B)
- A two-page chart titled "Nevada Department of Education, Governor Recommends Budgets for FY2006 and FY2007" (Exhibit C)
- A two-page spreadsheet titled "Distributive School Account – Summary for 2005-07 Biennium" (Exhibit D)
- Booklet titled "No Child Left Behind Act, School Level Performance and State Improvement Plan" (Exhibit E)
- Booklet titled "Attracting and Retaining High Quality Teachers and Paraprofessionals" (Exhibit F)
- Booklet titled "Remedial Education Programs for Low Performing Schools" (Exhibit G)
- Booklet titled "Class Size Reduction Program" (Exhibit H)
- Booklet titled "Early Childhood Education Program (Exhibit I)
- Two-page spreadsheet, titled "Annual Summary of Financial Resources and Uses, Nevada Department of Education, Year Ended June 30, 2004" (Exhibit J)
- Spreadsheet titled "Index and Summary of Governor Recommends Budget" (Exhibit K)

Dr. Rheault said Mr. Thunder would present an overview of the Distributive School Account (DSA) budget.

DISTRIBUTIVE SCHOOL ACCOUNT BUDGET OVERVIEW
BUDGET PAGES K12 ED 1-6, VOLUME I

Mr. Thunder began his presentation and referenced the colored chart (Exhibit C), a pictorial summary of all the budgets within the Department. The chart included the recommended number of full-time equivalent positions, proposed dollar amounts, and the location of each of the Department's budgets within The Executive Budget.

Mr. Thunder said his presentation would be focused on Budget Account 2610, Distributive School Account (DSA); however, he asked the Subcommittee's approval to include elements of Budget Account 2699 and the new Budget Account 2615, "the Governor's remediation program." Funding from each of the three budget accounts would be a pass-through to local school districts.

Mr. Thunder referred to the projected weighted enrollments included in the DSA:

- FY2006, 405,606; FY2007, 422,453. The enrollment numbers represented increases of 8.6 percent over the base year of FY2004 and 4.7 percent over FY2005. Mr. Thunder said the enrollment number for FY2007 was an increase of 4.2 percent over FY2006, or an increase of 13.1 percent over FY2004. Enrollments continued to increase significantly, specifically in Clark County.

- A 2 percent increase in personnel costs, or roll-up cost, was included in the adjustments to the base budget to cover the annual movement on scale factor. Mr. Thunder said the 2 percent increase was included in the base budget for FY2005 and there was an additional 2 percent included for FY2006 and FY2007.

Mr. Thunder said the other major adjustments were the revenue items. In the past the increase in revenue items and enrollment increases were included in an M-200 Decision Unit, which did not result in a "true picture" of the cost for enrollment growth.

Mr. Thunder continued and said the assessed valuation increased by 10.71 percent in FY2005 over FY2004; 8.416 percent in FY2006 over FY2005; and 9.17 percent in FY2007 over FY2006. He pointed out that many of the numbers being presented were included on the second page of Exhibit D. No adjustments were included in the budget for general inflationary increases.

Mr. Thunder referred to the enrollment increases he addressed earlier in the presentation and said the cost for increased enrollment was projected at $98 million in FY2006 and $180 million in FY2007. The M-200 Decision Unit included the cost of personnel, operating costs, and equipment costs related to growth in enrollment.

In response to a budget question posed by Chairman Arberry, Mr. Thunder confirmed that The Executive Budget did not include inflation costs for utilities. The Chairman requested additional information from the Budget Division on the omission of inflation costs.

Andrew Clinger, Deputy Director, Budget Division, Department of Administration, indicated the exclusion of the inflation costs for utilities had been an oversight by the Budget Division; the Division would be submitting a budget amendment for the DSA to include the costs. Mr. Clinger said statewide inflation was built into the budget for both electricity and natural gas, but the Division had failed to include inflation in the DSA.

Chairman Arberry asked how the addition of inflation costs for utilities would be funded. Mr. Clinger replied, "When we send over the budget amendment for that, we will hopefully have some other offsetting adjustments." Mr. Clinger indicated the Budget Division was aware of some possible offsetting adjustments in group insurance. The Chairman asked when the amendment would be submitted. Mr. Clinger said the amendment would be submitted prior to the beginning of the 2005 Legislative Session.

Mr. Thunder continued his presentation and referred to M-300, the Decision Unit that recommended benefit changes. Mr. Thunder said the Public Employees' Retirement System (PERS) rate would actually decrease during the next biennium from 20.25 percent to 19.75 percent, which resulted in a proportionate reduction from what was expended last year. Mr. Thunder noted that in the past, when there had been an adjustment in the PERS rate, there was an incremental change in the salary costs to reflect the adjustment. He was not certain the adjustment was built into the budget.

Chairman Arberry asked Mr. Clinger to comment. Mr. Clinger asked Mr. Thunder for further clarification.

Mr. Thunder indicated that in the past when the PERS rate changed, either up or down, there had been an incremental change in the salary costs. All the school districts were on employer-paid retirement, and the change in the retirement rate resulted in a slight change in the salary amount for the employees. Mr. Thunder said, "It is that factor that I am not certain was built into the budget."

Mark Stevens, Assembly Fiscal Analyst, provided further explanation and said when the retirement rate was reduced, in this case by 1/2 of 1 percent, the fringe benefit amount was reduced by 1/2 percent, and half of the difference, or 1/4 percent, should have been included as an increase in the salary schedule. Mr. Stevens thought Mr. Thunder's question was, because there was a 1/2 percent reduction in the retirement rate, was there a 1/4 percent increase in the salary schedule.

Mr. Clinger said he had been told there was not an adjustment in the salary scale. It was his understanding, from the perspective of the Budget Division, that school district employees were funded at 100 percent, unlike state employees, who basically contributed to part of their retirement, and there was no deduction for the retirement.

Mr. Stevens agreed with Mr. Clinger's assessment, however, historically, employees on employer-paid retirement were responsible for 50 percent of any increase or decrease, shared 50 percent by the employer, and 50 percent by the employee when there was an increase or a decrease in the retirement contribution. Last legislative session, when the retirement contribution rate was increased, there was a corresponding reduction in the salary schedule for school district employees. If that 50 percent responsibility was followed in the future, then there would be a reduction of 1/2 of 1 percent in the retirement rate and a 1/4 percent increase in the salary schedule.

Chairman Arberry asked that the record reflect that Ms. Giunchigliani was present.

Senator Coffin said he had been out of the room when the retirement contribution was addressed and asked if there had been a general discussion on retirement. He noted that the Interim Retirement and Benefits Committee had discussed the change in the retirement funding method. Senator Coffin asked if the reason for dropping the contribution was because PERS was attempting to depart from the current full funding schedule. Mr. Thunder indicated he did not know any of the details related to the PERS reduction. He explained that the Subcommittee had been discussing the portion of the DSA budget devoted to employee benefits, Decision Unit M-300.

Senator Coffin noted that the proposed change in the method of funding retirement would become an item of discussion during the 2005 Legislative Session, and he was curious what the difference in cost would be to the DSA. Senator Coffin said, "In July, the Retirement Board wanted to change its method of funding. In '83 we set up a stringent schedule for becoming fully funded, and 21 years later we were well on our way, but the Board has made a change in midstream." Senator Coffin recognized that the Board had authority to change the funding method, but he was not certain legislative members would support a change. He wondered what the difference in funding to the schools would have been if the same formula was used that existed prior to July 2005. Mr. Thunder stated that the reduction resulting from the change in the PERS rate was approximately $6.9 million for FY2006 and $7.2 million for FY2007.

Senator Coffin said he would make certain the change in the PERS funding requirement was an area of discussion during the 2005 Legislative Session because he felt the Retirement Board should not have departed from the schedule that was developed in 1983 after a great deal of hard work. For the record, Senator Coffin thanked Mr. Thunder for providing the revenue reduction amounts that the change in the retirement funding requirement would have on the DSA.

Mr. Thunder continued and addressed the group insurance adjustment included in Decision Unit M-300. He said each time there was a 2 percent roll-up cost there was an incremental increase in group insurance. Mr. Thunder referenced the actual increases in the M-300 Decision Unit and said there was 2.2 percent in FY2006 over FY2004 and 3.54 percent in FY2007 over FY2006. The cost of the increases was approximately $3.7 million in FY2006 and $10.2 million in FY2007. Mr. Thunder said if the formula was translated into flat costs per employee, the amount would have been $378 per month in FY2004 and $427 per month in FY2006, a 13 percent increase over FY2004. In FY2007, the amount would be $454.96 per month, a 6.5 percent increase over FY2006. For reference, the amounts included in the state budgets for FY2006 were $570.55 per month and in FY2007 the amount was $590.76 per month.

In response to a question asked by Ms. Giunchigliani related to the one-shot funding provided by the 2003 Legislature for health-care costs, Mr. Thunder indicated those costs would have been included in the base budget.

In response to a question from Ms. Giunchigliani related to the omission of the inflation adjustment for utilities, Mr. Clinger reiterated that the omission had been an oversight on the part of the Budget Division. He said the Division fully intended to include in the DSA the same inflation amounts for electricity and natural gas that were included in The Executive Budget for state agencies.

Mr. Thunder referred to the insurance subsidy for retired employees and explained that a provision in A. B. 286, passed by the 2003 Legislative Session, resulted in an unfunded mandate for the local school districts and county governments. The Department of Education requested a supplemental appropriation from the Contingency Fund to cover approximately $2.8 million in FY2004. The Department projected the cost of the subsidy program would be approximately $9.6 million for FY2005 and had submitted a request for a supplemental appropriation.

Mr. Thunder continued and said the Department projected the insurance subsidy for school district employees to be approximately $10.4 million in FY2006 and $10.6 million in FY2007. The Executive Budget included the subsidy in a separate line item that was not included in the basic support per pupil amount. Including the subsidy would add approximately $25 each year to the average basic support per pupil amount.

Mr. Thunder continued and said he had failed to mention that the 2 percent salary increase funded in FY2005 was included in the base budget. The Executive Budget included a 2 percent cost-of-living adjustment in each of the two years of the biennium, which resulted in additional funding of $41 million in FY2006 and $86 million in FY2007. Funding for replacement equipment was $30.8 million each year of the 2005-07 biennium. An additional $2.6 million in FY2006 and $4 million in FY2007 was included in the budget for equipment based on projected enrollment growth. Projected enrollments also allowed increases in all operating and equipment costs.

Mr. Thunder said the unreserved fund balance was the ending balance of the base year and had not been adjusted, which would prevent the balance from being viewed as a revenue source to be "spent down." The unreserved fund balance represented 4.07 percent of total expenditures in FY2006 and 3.83 percent of total expenditures in FY2007.

Mr. Thunder said a new budget line item, School Lunch Program State Match, included $588,000 in each year of the 2005-07 biennium. In the past, the funding for the match was included in the basic support per pupil amount. However, the federal government recently made a decision that the match must be shown separately to enable the state to demonstrate having met the required match.

Mr. Thunder referred to the guaranteed basic support per pupil amounts included in The Executive Budget, $4,385 for FY2006 and $4,447 for FY2007. Mr. Thunder pointed out that a specific line item to add an additional$50 per student for textbooks, instructional supplies, and computer hardware was not included in The Executive Budget, but the base budget did include the $50 per student expended in FY2004 and that funding would continue. Mr. Thunder said the funding for the three areas was "fenced off" in the 2003-05 biennium and it proved to be difficult to equitably distribute the required expenditures among the districts.

Mr. Thunder said the numbers of special education units were allowed to grow at the same rate as enrollment growth and included roll-ups and salary increases. The Governor recommended:

- 2,835 special education units at a cost of $34,433 each, or $97.6 million for FY2006
- 2,953 special education units at a cost of $35,122 each, or $103.7 million for FY2007.

The Adult High School Diploma Program (AHSDP) was funded at $18.5 million in FY2006 and $19.6 million in FY2007; funding for the program was allowed to grow at the K-12 enrollment increase amounts. Mr. Thunder pointed out that there was not a strict relationship between K-12 enrollments and participation in the AHSDP.

Mr. Thunder said The Executive Budget included $125.2 million in FY2006 and $135 million in FY2007 for the Class-Size Reduction Program. The funding would support 2,107 teachers in FY2006 and 2,197 teachers in FY2007.

Senator Coffin requested additional information on the flexibility for class-size reduction that Governor Guinn referenced in his State of the State Address to the 73rd Session of the Nevada Legislature. Dr. Rheault thought the Governor was requesting the same class-size reduction flexibility that was provided during the 2003-05 biennium to Nevada's rural school districts be extended to all school districts. Each of the districts, with the exception of the Clark County School District and Washoe County School District, were allowed to request, through the Superintendent of Public Instruction, an alternative program for class-size reduction. Districts electing an alternative program in lieu of class-size reduction in grades 1, 2, and 3, had to have a plan that would result in pupil-teacher ratios not to exceed 22:1 in grades 1, 2, and 3. Dr. Rheault said for grades 4, 5, and 6, if grade 6 was located in an elementary school, the class size could not exceed 25 students per teacher. Clark and Washoe County School Districts were each required to conduct a review to determine how an alternative CSR program would impact their district; a report containing the results of each review was due to the Legislature by February 15, 2005.

Dr. Rheault referred to the handout titled "Class Size Reduction Program" (Exhibit H) and said it contained basic information on the program. The first few pages summarized the CSR program for FY2004 and FY2005. Only three districts elected to use the alternative CSR program in FY2005:

- Elko County School District, which had been under a demonstration project for the past four years
- White Pine County School District
- Churchill County School District

Dr. Rheault said many of the other rural districts elected not to participate in the alternative CSR program because the legislation for an alternative program was scheduled to sunset in June 30, 2005. Several districts were reluctant to change their class-size strategy from grades 1, 2, and 3 to grades 1 through 6 because there was no guarantee the program would continue beyond June 30, 2005. Dr. Rheault indicated the Department would be recommending removal of the sunset provision.

Senator Cegavske referred to the area of remedial education and asked if the current or prior remedial programs had been evaluated to determine their effectiveness. She thought the first paragraph on page 3 of the remediation handout (Exhibit G) answered her concerns related to the current remediation programs. Senator Cegavske asked Dr. Rheault if: (1) the Department evaluated the programs, (2) were the programs effective, (3) were there plans to continue the remediation programs.

Dr. Rheault asked if Senator Cegavske was asking specifically if the Department had evaluated the CSR program. Senator Cegavske explained that she was referring to the remediation programs; class-size reduction was another issue, and she apologized for any confusion. She asked if the initial remediation programs were developed based on a perceived need or was a particular system adopted. Dr. Rheault indicated that the Department had not met with the Governor's Office to obtain all the details on the remedial funding included in The Executive Budget; however, in the past, the only remediation funding the Department provided to schools required the schools to use the scientifically research-based programs. Senator Cegavske asked if the Department researched the effectiveness of the existing remedial programs prior to being selected or after.

Gloria Dopf, Deputy Superintendent, Instructional, Research, and Evaluative Services, said in order for programs to be included on the remedial list, the programs were required to have a history of success. In terms of the evaluation of the success of the programs, the application process for the programs required that there be an evaluation strategy that was based on improving performance. The Department had found that keeping focus at just a program perspective was not broad enough to meet the needs identified in the improvement plans. There was no provision for additional training and some of the other factors needed to bring about improvement.

Senator Cegavske indicated that Ms. Dopf's response did not answer the question on the remediation programs. Ms. Dopf apologized for the misunderstanding. Senator Cegavske said she wanted to know if the current remediation programs had been evaluated, if the programs resulted in student improvement, and if the dollars were well spent. Ms. Dopf answered in the affirmative, and said the programs' effectiveness was measured. She said the Department did not have a separate evaluation fund or an evaluation strategy attached to the remediation dollars. The local school districts were required, upon receipt of the dollars, to build-in an evaluation strategy. Staff from the Department, the Legislative Counsel Bureau, and the Budget Division conducted reviews to determine if the implementation of the programs were being fulfilled. Ms. Dopf confirmed that the remediation programs did make a difference and did improve student achievement; however, there was a need to expand the remediation programs. Senator Cegavske asked Ms. Dopf to answer yes or no. Were the students successful in the remediation efforts that they were given, were they successful? Ms. Dopf answered, "Yes."

Ms. McClain requested information on the origin of the assessed valuation amounts included on page 2 of the DSA handout (Exhibit D). She asked if the Department thought any type of property tax relief would impact the DSA, and how soon new numbers could be generated based on various proposals for property tax relief that would be presented during the current legislative session.

Mr. Thunder said the Department was well aware of the implications of any property tax relief provided by the 2005 Legislature. The assessed valuation numbers included in Exhibit D were provided to the Budget Division by the Department of Taxation. Mr. Thunder referred to a possible example of property tax relief and said, "If there were a 6 percent cap, that number could never be above 6 percent, but could be somewhat below 6 percent if applied to individual properties across the state." He noted that Department staff had completed some preliminary projections. Mr. Thunder said a cap would definitely be a factor that would affect the revenues of the local school districts and the state. The state would be affected because one-third, or 25 cents, of the 75 cents per $100 of assessed valuation was a reduction in the amount the state would have to contribute; if the guarantee was set at a certain level and the level did not materialize, then the state would have to make up the difference. The 50-cent portion of the assessed value, as well as the debt service portion of the property tax, would have a direct impact upon the school districts. Mr. Thunder said the Department would have to generate some calculations in order to estimate any impact a cap might have on the districts. He said, "The problem we are having right now is to try and determine if that is applied to individual properties." Mr. Thunder thought the Department of Taxation was also struggling with the possible impact of any property tax relief.

Ms. McClain asked for an update on the federally funded Breakfast in the Classroom program. Mr. Thunder said he believed the current program was funded with money from the vitamin settlement and was an effort to provide breakfast in the classrooms. Ms. McClain said the Food Bank of Northern Nevada was working with the Clark County School District to get breakfast in the classrooms. She pointed out that there were two different breakfast programs; one program furnished breakfast in the classroom and the other served breakfast in a location other than a classroom, for example, a cafeteria. Ms. McClain hoped an update on the status of the breakfast programs would assist in coordinating the two programs. She felt it was important that children received food in the classroom first thing in the morning. Mr. Thunder suggested that the breakfast programs be discussed during the review of the Department budgets. He indicated that Ms. Donnell Barton, Director of Nutrition Services, Department of Education, could provide information on the programs at that time.

Dr. Rheault pointed out that the Food Bank of Northern Nevada appeared before the State Board of Education and the Board adopted a resolution in support of the Breakfast in the Classroom program. The program presented by the Food Bank of Northern Nevada was funded through a separate grant. Mr. Rheault commented that the Department would have to determine how the two different breakfast programs could be combined.

Ms. McClain indicated it had been difficult to get the Clark County School District to "push" for the Breakfast in the Classroom program.

Assemblyman Denis informed the Subcommittee that his wife had observed the Breakfast in the Classroom program at the Howard E. Hollingsworth Elementary School in Las Vegas and thought the program was excellent.

Ms. McClain agreed that the Breakfast in the Classroom program was a wonderful program and had been quite successful. She pointed out that the students participating in the program were healthier and were more attentive. Ms. McClain understood that often teachers and administrators did not want to "deal with" the Breakfast in the Classroom program. It was difficult to get the schools to participate in the program, especially in the Clark County School District.

Ms. Giunchigliani pointed out that the Breakfast in the Classroom program appeared to be a good program, but that did not mean the program was easy to administer. Administrators had the responsibility of determining student eligibility, the impact on instructional time, how the program would be funded if the grant funding did not continue, et cetera.

Ms. Giunchigliani referred to the Class-Size Reduction Summary and noted that the statewide average pupil-teacher ratio for kindergarten was 22.8:1 (Exhibit H). She requested that the Department generate data on the requirements to fully implement kindergarten class-size reduction, including classroom requirements. Ms. Giunchigliani thought class-size reduction for kindergarten would be revisited during the current legislative session, and the information provided by the Department would be helpful. She said it was unfortunate that Nevada had waited so long to require mandatory kindergarten and still had not addressed class-size reduction for the youngest, smallest, and most needy students. Ms. Giunchigliani commented that many of the legislators recognized providing sufficient funding early in a child's education eliminated the need for remediation at a later time.

Ms. Giunchigliani continued and requested clarification on the information provided by the Department during the 2003 Legislative Session for kindergarten class-size reduction. Dr. Rheault said the Department's proposal during the 2003 Legislative Session included reducing kindergarten classes to a 16:1 pupil-teacher ratio and requiring full-day kindergarten, a costly proposal that required additional classrooms. Ms. Giunchigliani asked the Department to generate various scenarios for reducing class sizes in kindergarten, including pupil-teacher ratios of 16:1 and 17:1, and the projected fiscal impact on the local school districts. She thought going beyond a pupil-teacher ratio of 19:1 in kindergarten would not be beneficial.

Senator Cegavske asked how many of the school districts requested waivers for the CSR. Dr. Rheault advised the Subcommittee that he had submitted the required report on CSR variances to the Legislative Counsel Bureau (LCB) January 28, 2005. He did not have a copy of the report with him, but recalled that 13 districts requested waivers for the current school year. Dr. Rheault explained that a district exceeding a 15:1 pupil-teacher ratio in kindergarten was required by statute to request a variance, even though only 23.5 full-time equivalent (FTE) kindergarten positions were funded through the CSR program statewide. The majority of school districts requested variances due to the difference between the funding and the number of teachers provided. He said he would provide the members with a copy of the variance report.

Senator Cegavske asked if the districts' variance requests were mainly due to kindergarten ratios or lack of classroom space. Dr. Rheault indicated that normally the space would not be a factor. For example, the chart on page 5 of Exhibit H included classroom configurations, including self-contained and team teaching. Over 30 percent of the classrooms for grades 1 and 2 were team taught. The total number of team taught classrooms did drop from the 2003-2004 school year when over 400 classrooms were team taught. The elimination of team teaching would require many more classrooms.

Senator Cegavske asked if Clark County School District (CCSD) was the only district constructing new schools to eliminate the need for team teaching. Dr. Rheault said Washoe County School District had a building program of three or four new schools, but he did not know if they were similar to the CCSD where smaller classrooms were built with no team teaching.

Senator Coffin referred to the districts changing the size of the rooms to accommodate the CSR. He wondered what kind of signal it would send to the schools if the Legislature began to reverse the position on class-size reduction, and the Senator stressed that he was not in favor of reversing the position. He asked how many schools had purchased or designed schools with smaller classrooms and wondered how the schools could increase class sizes if flexibility was provided for the CSR program. Dr. Rheault said he thought Clark County School District was the only district that had adjusted sizes with smaller classrooms to accommodate more classrooms in a school building. Senator Coffin thought Clark County School District had been responsible and had followed the legislative intent with a will to succeed in the CSR program as opposed to some of the other school districts.

Dr. Rheault continued his presentation and directed the members to handwritten page 12 of Exhibit H. The section titled "Items for Consideration" contained Dr. Rheault's recommendation that the 2005 Legislature extend the alternative class-size reduction program beyond June 30, 2005. Dr. Rheault thought the 2005 Legislature might want to consider allowing all Nevada school districts to participate in the alternative CSR program; under existing statute, Clark and Washoe County School Districts were ineligible. Dr. Rheault pointed out that extending the alternative CSR program was recommended by the Governor in his State of the State Address.

Dr. Rheault said team teaching had dropped since 2003 and appeared to fluctuate every other year, perhaps due to the building cycle in the Clark County

School District. Pages 4 through 7 of Exhibit H included team teaching numbers for each school district. There had always been concern that over 90 percent of the team teaching classrooms in the state in grades 1 and 2 were located in Clark and Washoe County School Districts. Team teaching was eliminated in Elko County School District and all but eliminated in White Pine County School District as a result of the alternative CSR program; however, due to growth in grade 3, one team teaching class had to be added. Dr. Rheault recognized that the alternative CSR program could eliminate teach teaching, but resulted in higher class sizes in grades 1, 2, and 3, which went against the original intent of the CSR legislation.

Mr. Thunder noted that initially the Distributive School Account had only three line items: basic support, adult education, and special education. Over the years, the line items in the DSA had increased significantly. Mr. Thunder referred to the funding included in The Executive Budget for remedial programs: \$6.8 million for FY2006 and \$7.1 million for FY2007. He then asked Dr. Rheault to provide additional information on the remedial programs.

Dr. Rheault referred to Exhibit G, "Remedial Education Programs for Low Performing Schools" and said the funding for the 2005-07 biennium was for remedial programs in low performing schools. In FY2004, approximately \$6.5 million was provided for remediation funding that was divided between low performing schools and supplemental services for non-Title I schools. Overall, the recommended remediation funding was a slight increase over the prior biennium. Dr. Rheault pointed out that the remediation funding recommended in the DSA was included prior to the Governor's recommendation of \$50 million in each year of the 2005-07 biennium for the School Remediation Trust Fund. Dr. Rheault thought there would be discussion during the current legislative session on the need for remediation funding in the DSA if the Governor's request for \$100 million for the 2005-07 biennium was approved.

Ms. Giunchigliani asked if the State Board of Education had requested funding for remediation. Dr. Rheault replied that the Board had adopted the recommendation of the Governor, \$6.8 million in FY2006 and \$7.1 million in FY2007. Ms. Giunchigliani asked if the Department had any indication of how the funding included in the School Remediation Trust Fund would be allocated and used. Dr. Rheault stated he did not have any information on how the funding would be used, but he pointed out that the Governor had requested the Department's input when considering the School Remediation Trust Fund. Dr. Rheault referenced pages 2 and 3 of Exhibit G, which contained the Department's statewide school remediation recommendations to the Governor. The Department had noted some problems with the existing remediation programs; the programs were primarily limited to specific successful programs and, in many cases, a school on the AYP list for a third year in a row had already purchased those programs. Secondly, a separate application based on adequate yearly progress (AYP) status was required but was not released until August, and applications were not received by the Department until November 1, after the school session began, and then the applications had to be approved by staff of the Department, the Budget Division, and the Legislative Counsel Bureau. Finally, the applications were submitted to the Board of Examiners for approval and then to the Interim Finance Committee, which approved the funding in January 2005 for the 2004-2005 school year.

Dr. Rheault said the Department had recommended to the Governor that the remediation approval process be streamlined. Dr. Rheault thought the Governor's creation of the Commission on Educational Excellence was in response to the problems related to the current remediation programs. The

Department had also recommended using the improvement plans required of all schools, whether a Title 1 school or not. Dr. Rheault stressed that the remediation money should be based on the improvement plans; there was no need for another application. Ms. Giunchigliani questioned whether designations were based on not meeting adequate yearly progress (AYP), or on the NERA low-performing school designation, or some continuation of those. Dr. Rheault said, "Reduce the bureaucracy somewhat and then increase the funding."

Ms. Dopf referred to Ms. Giunchigliani's question related to AYP and said the Nevada Education Reform Act of 1997 (NERA) standard for the designation of schools was rolled into S.B. 1 and the needing improvement designation was not necessarily material under S. B. 1 of the 19th Special Legislative Session. Ms. Giunchigliani asked if there was a need for statutory changes. Ms. Dopf said she thought that blending was accomplished with the passage of S.B. 1. Ms. Giunchigliani felt it made better sense to use any remediation dollars based on a plan that a school actually targeted for their students, then every child could benefit. She noted that many of the schools were improving, but not enough to change their designation and she did not feel that those schools should be penalized. Once the schools were working and making strides, the funding should not be eliminated.

Ms. Giunchigliani asked if the proposed remediation funding provided for teacher training. She recognized that a purchased remediation product was not valuable if the staff did not know how to utilize the product and incorporate it into classroom instruction.

Dr. Rheault said professional development programs would be eligible for the remediation funds. He referred to handwritten pages 4 and 5 (Exhibit G), that included a summary of the district remediation plans and action plans. Dr. Rheault said the Governor had also addressed full-day kindergarten as an allowable expense. Clark County School District included full-day kindergarten as a strategy to improve student achievement. Dr. Rheault hoped that the areas identified in the district's improvement plans would be an allowable expense for the remediation funds. Ms. Giunchigliani thought it was good that at least the Clark County School District wanted to address the achievement gap. The achievement gap was an area that was actually widening for African American students. Dr. Rheault pointed out that the nice thing about using the district improvement plans, or the school level plans, was that each school looked at their own population.

Mr. Thunder continued his presentation and referred to the Regional Professional Development Programs (RPDPs). The 2003 Legislature included funding for the NELIP (Nevada Early Literacy Intervention Program) and Project LEAD (Leadership in Educational Administration Development) program in the RPDP budget. The Executive Budget included $10.4 million in FY2006 and $10.6 million in FY2007 for the RPDPs, the amount recommended by the Legislative Committee on Education.

In response to a question posed by Senator Cegavske related to the increased funding for the RPDPs, Dr. Rheault said RPDPs had worked through the state committee to develop their budgets. Dr. Rheault suggested that Mr. Hanlon, who was in attendance in Las Vegas, could provide specific information on the RPDP budgets.

Bill Hanlon, Director, Southern Nevada Regional Development Program, thought a portion of the additional funding included in The Executive Budget for the

RPDPs was due to the increase in the number of services being requested and being directed with permissive language by the Legislature. Initially the RPDPs had been asked to provide professional development for teachers and administrators in math, science, and social studies, and to address special populations. The 2003 Legislature requested that the RPDPs provide suicide prevention training, paraprofessional training, and administrative training to the schools. Mr. Hanlon stressed that the RPDPs were being asked to provide many more services, even though the 2003 Legislature had reduced resources by approximately $1.3 million. With the advent of the No Child Left Behind Act (NCLBA), and the number of schools not meeting adequate yearly progress (AYP), the RPDPs had been asked to provide school-based professional development to teachers and administrators. Mr. Hanlon said the RPDPs simply did not have sufficient resources and, in essence, were asking to recoup some of the funding that had been lost. Mr. Hanlon said the additional funding requested for the RPDPs was mainly to address the needs of schools not meeting AYP.

Dr. Rheault added that funding for the RPDPs budget flowed directly to the four programs; no dollars were retained at the Department. The RPDP programs were evaluated separately by the Legislative Counsel Bureau, which was why the Department had few details and usually accepted the budget recommendations made by the RPDPs.

Mr. Hanlon offered to provide the Subcommittee with a budget for each of the four Regional Development Programs as approved by each governing board so the members could review staff allocations, project allocations, and program activities.

Mr. Thunder continued his presentation:

- Early childhood education funding continued at the same levels as the base year with percentage increases for enrollments.
- Stipends for teachers in at-risk schools: $7.5 million in FY2006 and $8 million in FY2007.
- Stipends for high impact positions: $6.1 million in FY2006 and $6.5 million in FY 2007.
- Special elementary counselors continued at the traditional $850,000 each year of the biennium.

Assemblywoman Smith indicated she had numerous concerns with the high impact and at-risk categories and wondered if the programs were administered fairly. She requested information on the feasibility of including principals in the mix. Mrs. Smith referred to schools designated as needing improvement, or having a percentage of free or reduced lunch, and asked if there was a risk of staff at those schools losing the stipends if the schools were no longer designated as needing improvement.

Dr. Rheault said some of Mrs. Smith's concerns were addressed in the packet titled "Attracting and Retaining High Quality Teachers and Paraprofessionals" (Exhibit F). Dr. Rheault acknowledged there was a risk of staff losing stipends. An example was the 65 percent free and reduced lunch; percentages in many of the schools ranged between 63 percent and 66 percent and might vary a few percentage points in any given year. If the schools were below 65 percent they would not qualify for the stipend the following year. The more stable schools were those in need of improvement because they remained on the needing improvement list a minimum of two years.

Mr. Thunder continued his presentation on the DSA budget:

- Total basic support: $1,778,644,313 in FY2006; $1,891,279,261 in FY2007.
- Total state General Fund: $827,314,002 in FY2006; $881,996,488 in FY2007; the total for biennium $1,709,280,490.

Chairman Arberry referred to the escalating property taxes and asked how any change or cap on property taxes would impact school funding. Mr. Thunder explained that if basic support stayed the same, and the assessed valuation was capped at a certain level and those funds were not received, the state would have to make up the difference. He said the other side, which was probably more significant, would be the effect on the 50-cent portion of the ad valorem that goes directly to the school districts, plus the debt service amount. Mr. Thunder said the Department would provide the members with calculations based on various property tax scenarios. The Chairman asked what rate of growth was built into the property tax estimate. Mr. Thunder said in FY2005, the rate was 10.71 percent over FY2004. In FY2006 the rate was 8.416 percent over FY2005, and in FY2007 the rate was 9.17 percent over FY2006. Chairman Arberry noted that any shortfall in the property tax would have to be made up by the State General Fund. Mr. Thunder pointed out that if the 50-cent portion was reduced, that could create an additional impact and that funding would have to come from somewhere or programs would have to be cut significantly. The Chairman noted any cap on property tax would impact the 25-cent ad valorem inside the DSA formula and the 50 cents outside the formula. Mr. Thunder reiterated that there would be the impact on debt service, which was completely separate.

SCHOOL REMEDIATION TRUST FUND (101-2615)
BUDGET PAGE K-12 ED-13

Mr. Thunder continued and referred to Budget Account 2615, the new budget account that contained the Governor's proposed School Remediation Trust Fund; $50 million for each year of the 2005-07 biennium. Mr. Thunder thought there would be a lot of discussion throughout the session related to the Governor's proposal.

OTHER STATE EDUCATION PROGRAMS (101-2699)
BUDGET PAGES K-12 – ED 7

Mr. Thunder said funding for the $2,000 per new teacher signing bonus was continued in BA 2699, total funding was increased to $5,114,000 in FY2006 and FY2007.The Educational Technology Program was included in a separate Decision Unit, E302, in BA 2699; the recommended funding was slightly under $10 million for the 2005-07 biennium. Mr. Thunder said the "slightly under being an amount to the LCB to evaluate the programs." School library books continued at $346,203 in each year of the biennium. The amount for the counselor certification by the National Board Certification Program continued at $285,460 each year of the biennium. Finally, $100,000 was provided each year of the biennium for vocational student organizations. In response to a question asked by Chairman Arberry, Mr. Thunder said the funding for school library books was held constant from the base year; a growth factor was not built into the budget. The Chairman asked how long the amounts had remained constant. Mr. Thunder said this was at least the third biennium.

Assemblywoman Giunchigliani thought there were 2,353 teachers in FY2002 and 2,400 in FY2003 that received signing bonuses, and she asked

Mr. Thunder to email the local school districts and ask how many of those teachers remained in the districts, and if they moved from district to district.

In response to a question on salary increases requested by the State Board of Education, Dr. Rheault said the board had requested a 3 percent increase each year of the biennium. Ms. Giunchigliani pointed out the 3 percent would not even cover cost-of-living adjustments. Dr. Rheault said the board hoped the increases would at least minimally cover the adjustments.

Chairman Arberry asked if an exit poll was conducted when a teacher left a school. Dr. Rheault stated that Nevada was one of five states involved in a national Governors' Association grant. One of the outcomes resulting from the grant, was a voluntary exit survey of all teachers leaving the Clark County School District. Dr. Rheault indicated all the districts were concerned with teachers leaving. Preliminary information indicated approximately one-third of new hires were hired because of growth, one-third because people left the area, and one-third due to retirement. The reasons for hiring new teachers had remained fairly constant. Chairman Arberry thought in some areas teachers had trouble finding affordable housing. Dr. Rheault indicated finding housing in some locations could be a problem since many new teachers had a starting salary of $28,000.

Senator Cegavske asked if there were any restrictions or requirements for the signing bonuses. Dr. Rheault explained that a teacher had to be a new hire in Nevada, had to be employed for 30 days, and after 30 days the bonus was awarded. A teacher who moved from one school district to another and had previously been employed in the state was not eligible, but a teacher leaving the teaching field for two or three years and then returning would be eligible for the signing bonus. The bonus would be paid even if a teacher was hired during the middle of the school year, as long as he or she was employed as a teacher for 30 days. Senator Cegavske said the Education Commission of the States (ECS) had data on teacher signing bonuses for the various states and indicated she would like to revisit the data. She did not think the 30-day requirement to obtain a bonus was much of a requirement and wanted to address the teacher signing bonuses in future subcommittee meetings.

Ms. Giunchigliani voiced concern that funding for Public Broadcasting was only included the first year of the biennium. Because it was an ongoing program, funding should be provided for both years of the biennium. Ms. Giunchigliani said she did not see a line item in the budget for the Holocaust program. Mr. Thunder explained that the Holocaust program was included in the Department of Administration budget. In the past, the program was included in the Department's budget and then transferred to the Department of Administration to avoid having to assess indirect costs. Mr. Thunder said it just made sense for the program to be included in the Department of Administration. Ms. Giunchigliani then asked about the Peer Mediation funding, and Mr. Thunder said it was funded in the first year of the biennium and "we have asked that it be available in both years." Ms. Giunchigliani said the Subcommittee would have to address the Peer Mediation funding in future meetings.

Dr. Rheault referred to page 2 of the handout "Attracting and Retaining High Quality Teachers and Paraprofessionals" (Exhibit F). Over 2,800 licensed personnel were employed for the first time by Nevada school districts in the fall of 2004. Dr. Rheault said 687 newly hired licensed personnel received degrees in Nevada; approximately 25 percent of the total number hired. The number of licensed personnel continued to increase slightly because of the enrollment growth. One problem encountered with NCLBA was the requirement that every teacher be highly qualified by July 1, 2006. Dr. Rheault thought Nevada's stringent qualification requirements had resulted in penalizing the state because there were states that had never implemented a testing program for core subject knowledge. In order to be designated as highly qualified in Nevada, a teacher was required to have a major in the subject area and pass the subject matter test. In some other states, in order to be designated as highly qualified, a teacher only had to meet one requirement, either a major in the subject area or passing the subject matter test. Dr. Rheault pointed out that until recently, without reciprocity, every teacher hired from out of state was required to take Nevada's specific subject matter test, and a provision was placed on the license. In order to be designated as highly qualified an individual could not have a testing provision on their license. The states that elected not to check the knowledge through testing were better off than Nevada as far as the numbers of highly qualified teachers. The one advantage Nevada did have was within the elementary schools. The only way for a new teacher to become a highly qualified elementary teacher was by passing a state required test, which had been in effect since 1989. Nevada was far ahead of many states because of the required test.

Dr. Rheault continued his presentation and referred to the 26 percent of highly qualified special education teachers reported on the third page of the handout (Exhibit F.) The reason the percentage was so low was because the Department was waiting for guidance from the federal government as to what the requirements would be for special education teachers to be highly qualified. The Department had recently received the requirements for special education teachers and would be collecting updated data on highly qualified special education teachers.

Dr. Rheault pointed out that 75 percent of Nevada's elementary teachers were highly qualified. However, it might not be possible to reach the NCLBA requirement of 100 percent highly qualified elementary teachers by July 1, 2006, because of testing provisions. The 25 percent reported as "not highly qualified" included teachers hired within the last two years that either had to remove the testing provision from their license or came from another state. Dr. Rheault indicated there was also a problem with highly qualified teachers at the middle school level. When the highly qualified requirement became effective in 2002-2003, over 2,500 teachers with elementary licenses were teaching in middle schools. The NCLBA treated middle schools as secondary schools; teachers were required to have a subject major, or pass a test that demonstrated content knowledge for the appropriate grades. The Commission on Professional Standards recently adopted a middle school test for mathematics, English, science, and social studies, which would help in reducing the number of middle school teachers designated as not highly qualified.

Dr. Rheault referred to the highlighted areas of an article on page 8 of Exhibit F. Nevada and Vermont were the first two states monitored by the U.S. Department of Education for compliance with NCLBA's teacher quality mandates and adherence to the requirements of the Title II teacher training program. The article reported that "the Nevada report was practically spotless." Dr. Rheault said Nevada did not receive any findings or action items. Vermont was not quite as lucky. Dr. Rheault said he advised the USDE that Nevada might not reach the 100 percent requirement because of growth. He pointed out that a substitute teacher could provide instruction for a certain length of time and did not have to be reported as a non-highly qualified teacher. Dr. Rheault said his recommendation would be "to go with the best you've got" and place a licensed teacher in the classroom who met Nevada's licensing requirements prior to the enactment of NCLBA, rather than utilizing a substitute teacher.

Dr. Rheault referred to the concerns raised on the one-fifth year retirement credit incentive listed on page 12 of Exhibit F and said the first concern was the eligibility requirement. The Department had strictly interpreted legislative intent and funded only a licensed teacher that held a licensed teacher endorsement; stipends were not provided to school counselors, school nurses, librarians, or administrative staff. The Legislative Committee on Education had a bill draft that would address the issue of providing stipends to school staff in addition to teachers. Dr. Rheault emphasized that all staff at an at-risk school contributed to improving the school and he thought there should be consideration by the Legislature of possibly expanding the eligibility list. The Department estimated it would cost $2 million each year of the biennium to include the additional staff. Another concern was that the program was not fully funded. The 2003 Legislature funded $2.6 million for the one-fifth year retirement credit incentive and the schools expended approximately $7 million; the school districts had to make up the funding shortfall. Dr. Rheault thought the reason the program was so underfunded had to do with the large number of schools in which at least 65 percent of pupils enrolled in the school were eligible for free or reduced-price lunches.

Dr. Rheault said pages 13 and 14 included information on "hard-to-fill," high impact positions. To date, expenditures for the high impact positions were approximately $9 million and the program was only funded at $5.7 million. Individuals could qualify for an at-risk school stipend or a hard-to-fill position stipend, not both, which was clarified in statutes. Dr. Rheault pointed out that there were concerns related to the amount of time the PERS staff needed to process the additional retirement credits for the 2,400 individuals in FY2004.

Dr. Rheault said there was a suggestion that there be more flexibility in the retirement credit and pointed out that a bigger incentive for teachers coming from out of state would be to provide funding to help repay student loans. The State Board of Education had a bill draft request (BDR) that would allow funding to be applied toward a master's degree, or subject specific coursework, or a cash bonus, in lieu of the one-fifth year retirement credit.

Dr. Rheault said page 15 of Exhibit F included a response from the office of Dr. George Ann Rice related to the Clark County School District's position on the effectiveness of the one-fifth year retirement credit. The district did not have evidence that the program was effective. The $2,000 signing bonus did appear to be successful and was an incentive. Dr. Rheault hoped the one-fifth year retirement credit would be discussed in-depth during the legislative process.

Mrs. Smith asked if it was true that a music teacher would not be included in the at-risk school stipends. Dr. Rheault replied that a music teacher would be included. The only staff members who had not been included were school nurses, librarians, social workers, counselors, administrative staff, and education technology specialists. Mrs. Smith asked if a music teacher could be excluded if she provided instruction at more than one school. Dr. Rheault said he would have to check and would provide the information to Mrs. Smith. He recalled that PERS provided adjusted stipends to individuals who were employed in the middle of a school year or only worked half-time at a school.

Senator Cegavske asked if there was still a shortage of science and math teachers; if so, where were the shortages. She understood that 25 or 26 percent of classroom teachers were teaching outside their field. Senator Cegavske then asked if was still difficult to find special education teachers with proper qualifications. She pointed out that the lack of properly qualified special education teachers resulted in substitutes being placed in the special education classrooms.

Gloria Dopf said that because of the shortage of special education teachers, substitutes continued to be placed in special education classes. Senator Cegavske requested that the Department poll the districts to find out how many qualified special education teachers were needed in each district. Ms. Dopf agreed to provide the data requested by Senator Cegavske. Ms. Dopf continued and noted there was a new standard under NCLBA and Individuals with Disabilities Education Act (IDEA) that required an individual to hold a license and endorsement to teach special education students, and, if providing instruction in the core content area, the individual also had to be considered highly qualified in core content areas. Senator Cegavske said she understood Ms. Dopf's comments and also understood that Dr. Rheault desired to have the best qualified teachers in the classrooms.

In response to Senator Cegavske's question on science and math teachers, Dr. Rheault said, as superintendent, he was authorized to approve critical labor shortage positions within the local school districts that allowed districts to hire retired teachers without penalizing their retirement. Of the 17 local school districts, 6 or 7 had requested math and science as critical labor shortage areas. Dr. Rheault said he had information on the number of teaching vacancies reported for the fall of 2004 and recalled that Clark County School District had reported 50 or 60 vacancies. Washoe County School District was having trouble finding secondary math teachers and was using student teachers who recently completed required course work but had not yet completed the student teaching requirement.

Senator Cegavske asked if the Department was working with the universities and high schools to encourage students to pursue degrees in education in the areas of greatest need. Dr. Rheault said the universities were aware of the "hard to fill" areas, but he did not know if the universities had programs to channel students into the right areas. Senator Cegavske said she was looking forward to advising legislative members at future subcommittee meetings that over half of the UNR students, who had originally enrolled in education programs, had elected to drop out of the education program. Those students would provide reasons why they decided to drop out of the program.

Mr. Denis referred to page 2 of Exhibit F and asked for clarification on the "new" licensed personnel. He wondered if the numbers included residents of those states coming into Nevada or Nevada residents studying out of state and returning to Nevada. Dr. Rheault said it could be both. The states listed were states where the degrees were earned. Dr. Rheault thought there was probably a close correlation between California students who earned degrees in Nevada and Nevada students who earned degrees in California. Mr. Denis asked if the numbers indicated the majority of the teachers hired had been Nevada residents. Dr. Rheault answered in the negative and said, of the 2,800 "new" licensed personnel hired in the fall of 2004, 687, or 25 percent, earned degrees in Nevada. Dr. Rheault said beginning this year, teacher education programs in Nevada, at both public and private schools, required students to complete a basic skills test, a pedagogy test, and a subject matter test prior to graduation. Those graduates would meet the definition of fully qualified. Nevada did have reciprocity on testing with 32 states. Mr. Denis asked how many education graduates received their degrees from Nevada universities. Dr. Rheault thought approximately 1,200 graduates, and said he would provide the Subcommittee with the information on the number of education graduates from the various higher education institutions within the state. Mr. Denis wondered why only 687 of the 1,200 Nevada education graduates were employed in Nevada. Dr. Rheault indicated that the University of Nevada, Reno (UNR) did conduct a follow-up survey on graduates. He pointed out that some individuals received an education degree, but elected not to enter the teaching field after completing student teaching and would provide additional information to the Subcommittee members.

Mr. Hanlon referenced the teacher shortage in math and science and said the Southern Nevada Regional Professional Development Center offered a program for middle school math teachers and another program for middle school science teachers. Approximately 100 participants completed the program in June of 2004. Approximately 60 to 80 people completed the science program and had taken the appropriate Praxis test. Individuals completing the programs would be highly qualified and able to teach math and science at the middle school level. Additionally, some secondary math teachers currently teaching at middle schools would be able to move to the high schools. Mr. Hanlon said one problem was the lack of sufficient funding to allow the Center to provide "high school certificate-type programs." He recalled that University of Nevada, Las Vegas (UNLV) had only one graduate in mathematics last year, which certainly would not fill the needs of the Clark County School District.

Senator Cegavske asked if the Southern Nevada Regional Professional Development Center was working with all the universities. Mr. Hanlon said the Center had worked in conjunction with the UNLV and Southern Utah University. He had also met with Dr. Christine Chairsell, Interim Vice Chancellor, Academic and Student Affairs, UNLV, two weeks ago to address some of the issues related to math and science teachers. Senator Cegavske suggested the teacher shortage in math and science be addressed in future subcommittee meetings.

Dr. Rheault concluded the DSA presentation and said NCLBA would be addressed later in the meeting.

Assemblywoman Giunchigliani disclosed she was on unpaid leave from the Clark County School District. She then asked Dr. Rheault to provide additional information on licensed staff earning degrees from other states. Dr. Rheault said the Department had licensed staff data on number of years of teaching experience prior to coming to Nevada, but the data had not yet been compiled by the Department. Ms. Giunchigliani thought it would be interesting to see the statistics on the number of education graduates from Henderson State College, UNR, and UNLV who actually went to work in the local school districts. She suggested having a dean or advisor capture the statistics; the information was needed by the members. Dr. Rheault said the UNR had specifically asked the Department to provide information on education graduates. He said if the university could provide the list of graduates, the Department could run that list against the new hire list and would be able to generate information on graduates hired in Nevada. Ms. Giunchigliani referred to legislation she had authored six years ago that required the Department of Education to work with the University System to come up with, not only a loan program, but how to recruit students into the education field. She indicated it might be appropriate to consider such legislation again. Ms. Giunchigliani pointed out that there continued to be a need for minority and male teachers in the elementary areas. In conclusion, Ms. Giunchigliani noted that the Governor's budget reduced Higher Education by two-tenths of a percent and reduced K-12 education by 2.3 percent. She thought the reduction in funding needed to be addressed during the 73rd Legislative Session. Because of the large increase in K-12 enrollments, Ms. Giunchigliani thought funding for the public schools should have been increased.

Mrs. Smith asked about the TESL (Teachers of English as a Second Language) endorsement and wondered if a TESL endorsement was ever required for an individual to be designated as a highly qualified teacher. Dr. Rheault explained that the TESL endorsement in Nevada was added to another license. An individual had to hold an elementary or secondary license prior to adding a TESL endorsement. He pointed out that in some other states, an individual could receive a specific TESL license, but might not have a subject specialty area. Teachers did not become non-highly qualified because of being a TESL instructor but were not highly qualified because of not being qualified either as an elementary teacher or a secondary teacher in a subject matter. Mrs. Smith requested that Dr. Rheault provide data to the Subcommittee on the number of TESL endorsements in Nevada. She asked if there was any mechanism to identify through the districts the number of teachers who had gone through the process and actually moved on the salary schedule through the TESL endorsement process, but had not yet placed the TESL endorsement on their license; a new problem she was hearing about. Dr. Rheault said we can easily get up-to-date numbers on the number of teachers employed for the 2004-2005 school year holding TESL licenses. He recalled that graduates of the teacher education program at Henderson State College would have the 12 credits required for the TESL endorsement.

Senator Coffin referred to the dramatic increases in property values and rental costs and did not think the Legislature could possibly provide sufficient funding for pay increases that would enable teachers to keep pace with the increases. Dr. Rheault pointed out that the Clark County School District had been creative in ways to retain teachers, and he would have to obtain a list from the district. The CCSD was also conducting follow-up surveys on teachers who indicated they would be leaving the system. The Department hoped to use the CCSD survey throughout the state.

Senator Coffin asked if a district would have authority to purchase a motel or an apartment building to provide a hostel for new teachers. Dr. Rheault thought it was possible. For example, the Eureka County School District provided doublewide trailers for staff due to the lack of available housing in the county.

Ms. Weber said she had been working with several constituents who were involved in recruiting and there was good news in that they were working with the private sector to do rent reductions. Banks were also working with individuals to waive fees, et cetera, for the nursing folks as well. Some initiatives were emerging out of this new problematic area, especially in Clark County.

Chairman Arberry recessed the meeting until 11:00 a.m.

The Chair called the meeting back to order and asked Dr. Rheault to continue.

DEPARTMENT OF EDUCATION BUDGET OVERVIEW
PAGES K-12 ED 1-101, VOLUME I

Dr. Rheault said Department staff would provide a broad overview of the remainder of the Department's budgets. He referred to a two-page handout titled "Annual Summary of Financial Resources and Uses, Nevada Department of Education, Year Ended June 30, 2004," Exhibit J.

Mr. Thunder referred to the top chart and provided detail on the Department's resources and expenditures for FY2004:

- State General Fund—approximately 68 percent, majority of funds for the Distributive School Account.
- Federal funds—19.72 percent, the federal money that flowed through the Department to the districts.
- License fees, other revenue, and transfers from other agencies were relatively small amount.

Mr. Thunder referred to the pie chart (Exhibit J), which illustrated Department expenditures by category for FY2004:

- Aid-to-schools, 98.38 percent
- Staff travel, .04 percent
- Operating and Equipment, .82 percent
- Personnel costs, .74 percent
- Transfers .02 percent

Mr. Thunder referred to the "Summary of Nevada Department of Education Governor's Budgets for the 2005-2007 Biennium" (Exhibit K). For each budget account, data was provided on the number of existing FTEs, proposed new FTEs, the base budget amount, and decision modules and decision units. The items highlighted in yellow were items adjusted to another expenditure or reserve. Mr. Thunder said, "If you total out that decision unit, it would be zero, but we attempted to show what the amounts that would be expended are, even though they do not show up in terms of revenue." The codes used in the chart were included at the bottom of the second page of the chart. The chart also included The Executive Budget page numbers for each budget account.

Senator Cegavske requested additional information on the Student Incentive Grant (SIG) program. Mr. Thunder said the SIG program was a scholarship program. The Department disseminated federal funding to the universities and other postsecondary institutions and those institutions provided scholarships to needy students. Senator Cegavske asked about state funding for the SIG and Mr. Thunder said a state match was proposed in the budget. The federal money and LEAP (Leveraging Educational Assistance Program) was a one-for-one match and the SLEAP (Special Leveraging Education Assistance Program) was a two-for-one match. Not all the SLEAP funds were used because the 2003 Legislature elected not to increase the match. Senator Cegavske asked if the members would be receiving a report on the SIG program during the current legislative session. Mr. Thunder said, "Yes."

Mr. Thunder continued and referred to the chart titled "Federal Programs Administered by the Nevada Department of Education." Mr. Thunder said Nevada continued to receive less federal funding than the majority of other states, approximately 8 percent of the funding was federal. He said he found it interesting that Nevada was the largest state in the nation in terms of percentage of land owned by the federal government but, for some reason, ranked near the bottom in terms of the support received for education.

Ms. Giunchigliani asked if the funds from the sale of federal land went directly to the Department. Mr. Thunder explained that the funds went into the Permanent School Fund; the interest from that fund was a revenue stream that flowed to the DSA. Mr. Thunder said the State Treasurer's Office generated a monthly report on the Permanent School Fund.

Senator Titus understood several states were no longer participating in the NCLBA and she asked if Nevada was getting its moneys worth. Dr. Rheault said, "I think the federal government played a little sham game with the states." Title I funding was increased from $64 million in FY2005 to $67 million in FY2006, an increase of $3 million. However, the funding for Drug Free Schools was reduced by $300,000; Education Technology was reduced by $900,000, and the Fund for Improvement of Education was reduced by $600,000. FY2005 funding for the NCLBA actually increased 1.2 percent. Senator Titus asked if the funding provided was sufficient to fund the mandates. Dr. Rheault replied that the most underfunded programs were the ones needed for professional development to aid schools in being removed from the AYP designation, which was what he thought the Governor's proposal was intended to address. Senator Titus asked if Nevada would be better off having its own assessment, plans, and goals, rather than meeting the goals set by Washington. Dr. Rheault said he did not believe that would be possible because of the funding provided, approximately $250 million would be lost. The NCLBA was attached to all federal funding provided for education, and if the state elected not to participate in Title I, the state would be out the full $250 million.

Ms. Dopf said although several states had threatened to pull out of the NCLBA, at the present time no state had; every state was participating in the NCLBA. Dr. Rheault thought some of the states had adopted resolutions indicating their disagreement with NCLBA.

Dr. Rheault referred to the areas highlighted in yellow on the chart (Exhibit J). Because of growth, funding for nutrition programs was estimated to increase $10 million in FY2006. The nutrition program was based upon participation and use. Senator Cegavske asked how many schools continued to decline Title I funding due to receiving more money on vending machines or fast food. Dr. Rheault said the Department could provide the members with the numbers. Senator Cegavske asked if the numbers could be broken out by grade level and by school. Dr. Rheault agreed. Senator Cegavske said she understood that Clark County School District came forward and made some of the first decisions to make changes in the nutrition programs. She asked if the Department had begun implementation of any of the recommendations made by the Obesity Committee. Dr. Rheault said he had presented all the recommendations of the Committee to the local school district superintendents and planned to survey any policies related to vending machines, et cetera. The superintendents had requested that the Department not survey until the fall of 2005 because several districts, including the CCSD, were going to voluntarily make policy changes within their districts. Dr. Rheault said he would do a quick survey of the districts so it would be available to the 2005 Legislature.

Dr. Rheault indicated there were new school regulations related to the inspection of school lunch programs; Nevada was in compliance because it already inspected the school lunch programs in the larger counties twice each year; health departments in the rural districts performed the inspections. Senator Cegavske requested a report on how Nevada faired on the inspections on a school-by-school basis. She referenced an NBC Dateline report that indicated 38 percent of the programs in Clark County had noncompliance issues in the health inspections. Dr. Rheault said he was not certain where the information presented on NBC Dateline originated; out of 589 inspections conducted in the Clark County School District in the past year, 588 were graded A, only one school received a grade of B. Senator Cegavske said one of the issues in the Dateline report was the quality of the inspections from school to school and health district to health district; there was a lack of uniformity statewide, and that was an issue.

Ms. Giunchigliani felt requiring physical education in all elementary schools was extremely important, it was important that children participate in physical activity. She pointed out that parents needed to take responsibility. Ms. Giunchigliani said many of her middle school students would come to school inappropriately dressed, without proper food, would eat chips and drink sodas. She recalled that for many years the Washoe County School District had difficulty hiring enough elementary school physical education teachers. Ms. Giunchigliani suggested that the Legislature at least provide funding to make certain that proper physical education classes were made available. She noted that curriculum had been updated to be more focused on health activities. Dr. Rheault said part of the problem could be the way the standards were adopted for physical education (P.E.) and some of the non-core subjects. The standards included certain requirements in P.E. by the end of third grade and other requirements by the end of fifth and eighth grades. Physical education was not required every year; there was no standard for the time spent in P.E. Chairman Arberry asked what happened if a student failed to meet the P.E. requirement. Dr. Rheault said the Department did not have staff that monitored the implementation of the P.E. standards and the districts had aligned their curriculum to the P.E. standards.

Dr. Rheault referred to the loss of federal funding for charter schools. He said the grant request the Department had submitted was not accepted, in part because states that had not previously received a Charter School Grant had submitted requests for the limited funds. Dr. Rheault said a portion of the grant had been used to support new charter school startup costs. Because of that, our charter school consultant was funded fully through the federal grant and that was an agreement we made with the 2003 Legislature. The position was originally funded with state funds on the condition if the federal funds materialized, they would be used. Since federal funding was not available to maintain the position, the Department was requesting state funds to fully support the position. Dr. Rheault continued and said funding for the vocational areas, federal adult education and Carl Perkins' grants, increased slightly. Special education federal funding for FY2005 was $57 million and was estimated to increase to $61 million in FY2006, more than double the $27 million funded in FY2001. Dr. Rheault said the funding was significantly lower than what was promised when the special education funding law was passed.

Senator Cegavske asked if any work had been done in the area of overqualifying children as special education students. Both nationally and in Nevada students were being placed into special education programs because there were no other available options.

Ms. Dopf referred to overidentification of special education students, particularly in minority areas, which was a national perspective. The Department was working with the school districts to disaggregate the data by the minority subgroups; something that was not necessarily done uniformly. The

Department submitted student minority data to the OCR (Office of Civil Rights). The federal collection date differed from the State's child count date. Ms. Dopf said the Department was conducting analyses of the child count by the disaggregated populations. Ms. Dopf said that in general, Nevada would not be seen as a state that over identified special education. She said Nevada had not experienced large peaks and valleys in special education except for the period when the three-year-old early childhood students were integrated into the count; that was a one time spike in the percentage.

Ms. Dopf said the Department had projects on response intervention utilizing pre-intervention strategies and had a consistent model used for training in the school districts. The Department addressed response intervention prior to its inclusion in the IDEA reauthorization. Ms. Dopf said the Department was looking at the prior intervention in a systematic way, utilizing individuals trained in intervention to try to reduce some of the referrals that might be targeted to special education due to not having the necessary instructional behavioral intervention.

Senator Cegavske requested a report providing detail on the steps taken by the Department to alleviate overidentification of special education students, and Ms. Dopf said she would be happy to provide the report. Senator Cegavske also requested additional information on the IDEA reauthorization.

Ms. Dopf referred to the handout titled "No Child Left Behind Act, School Level Performance and State Improvement Plan" (Exhibit E). The first chart was a summary of the adequate yearly progress (AYP) results for the testing cycle, 2003-2004 school year for the AYP identifications completed for the summer of 2004. The chart, the entire accountability report, and district profiles for AYP were all located on the Nevada Department of Education's website. Ms. Dopf said 12 schools were designated as exemplary under the NCLBA standard put in place across the state through S.B. 1 passed by the 19th Special Legislative Session. The standard was more rigorous than what existed under the old NERA (Nevada Education Reform Act) system. The Department was extremely pleased to have 70 high-achieving schools. There were 99 schools on the watch list and 122 schools designated as needing improvement. This was the first year there was a potential of non-Title I schools being identified as needing improvement. Since S.B. 1 started the count for all schools, the non-Title I schools would first have the opportunity under the new standard to be designated. The AYP data included in Exhibit F was the first set to contain all state data on the new NCLBA standard.

Dr. Rheault referred to the two schools on the chart designated as "in need of improvement – hold" and explained that indicated those schools made AYP last year, but in order to be removed from the list a school had to have made AYP two years in a row. There were a total of 11 schools that could be removed from the designation of needing improvement it they continued to meet the AYP.

Ms. Dopf then referred to page 16 of Exhibit E, "State Improvement Plan" and said S.B. 1 required all schools to engage in the school improvement planning process and those plans were deliverable in November 2004. The NCLBA only required schools that were designated as needing improvement to actually engage in an improvement planning process, but when the 2003 Legislature talked about the integration of the NCLBA into state law, and the NERA was already in effect, S.B. 1 created a responsibility for all schools to do school improvement plans. At the same time, districts were required to do district improvement plans, based upon school plans, and that was deliverable

December 15, 2004. The statute required the State Board of Education to develop a state improvement plan, also due by December 15, 2004. Ms. Dopf said the Executive Summary of the State Improvement Plan shown in Exhibit E included a listing of the participants in the development of the plan, a discussion of the goals, and the action plan.

Ms. Dopf then referred to the "District Plans Summary" included in the handout (Exhibit G) titled "Remedial Education Programs for Low Performing Schools." Because both the district and state plans had the same due date, the Department did not have the benefit of the individual district plans, but did have the state data that was used as part of the analysis; the Department had subsequently received all of the district plans. Ms. Dopf said she had generated two analyses, one based on the state plan and another using the district plans. The results of the two analyses were included in the remediation packet.

Ms. Dopf said she would briefly address the Remediation Trust Fund recommended by the Governor. First, the need was identified to have an aligned system of planning so the school plans related to the district plans, and the district plans related to the state plan. Ms. Dopf referred to the SAGE (Student Achievement Gap Elimination) process, a process developed using Title I schools to analyze data, go through a query process, drive a needs statement, and an action plan. The Department had provided training throughout the state of Nevada, originally with Title I schools and Title I districts. Title I schools designated as needing improvement must use the SAGE process; however, the use of the SAGE process in non-Title I schools was advisory. Ms. Dopf said consistency would allow the Department to make some conclusions related to need based upon a uniform information system. The use of data to drive instruction, the use of research-based models, and models that Senator Cegavske referenced, were being evaluated and accepted, not only from a content area, but also as proven models of professional development. Consistent professional development and a specific strategy for improving high school performance were being reviewed. Ms. Dopf said the achievement gap and the focus on improving performance of all students and eliminating the achievement gap was uniformly the focus throughout the district plans, as well as the school and state plans. Ms. Dopf said the Department would be reconvening a work group to review the 17 district plans. Ms. Dopf said one of the recommendations resulting from the work group was to look at the expansion of the remediation funds and create a more flexible funding mechanism attached to the school and district improvement plans. Ms. Dopf thought the Governor had "picked up on that message and has asked, in the remediation funds, for those things to exist."

Dr. Rheault referred to the handout titled "Index and Summary of Governor Recommends Budgets" (Exhibit K), and said the new money included in the Department's budget was mainly tied to six new position requests. The handout included a one-page summary of the assessment and an update of the student accountability information system. The Executive Budget recommended six new positions for the Department: Budget Account 2673, Education State Programs, included a request for a Charter School Education Consultant. Dr. Rheault said this position was a new position and not the charter school position discussed earlier in the meeting. Dr. Rheault indicated he had been corrected by Mr. Thunder; the current charter school consultant was funded 50 percent with state funds and 50 percent with a federal grant. The State Board of Education sponsored four charter schools. The current consultant processed the applications and the regulatory details, which created a conflict in working with the new state-sponsored charter schools because the consultant could not be regulatory and provide technical assistance like the school districts currently provided to the school district sponsored charter schools. The Washoe County School District Board of Trustees indicated they would no longer be sponsoring charter schools. Dr. Rheault pointed out that charter school legislation stated that school districts "may" apply to be a charter school sponsor. Dr. Rheault thought other school districts would also take that same lead and elect not to sponsor charter schools, which then would leave only the State Board of Education. Dr. Rheault hoped there would be discussions in future hearings on charter schools. He emphasized the importance of the Department having a consultant to work with the state-sponsored charter schools.

Dr. Rheault said the other position included in BA 2673 was a state remediation consultant. The position would be "tied in directly" with the Governor's $50 million Remediation Trust Fund. Normally, oversight of any new education commission was assigned to Department staff. It appeared there would be a great deal of work related to the distribution of funds, follow-up, monitoring, collection of evaluations, et cetera. Dr. Rheault said another item in BA 2673 related to the eight classified director positions. A study was conducted over the 2003-05 biennium that recommended all the Department of Education's directors be changed from classified to unclassified. The study also recommended that the secretary to the Superintendent of Public Instruction be changed to unclassified. Dr. Rheault understood the recommendation was intended to standardize all the state agencies. The compromise in the report was that salaries would be increased, but only by a $1,000 difference. The change to unclassified would result in the directors giving up compensatory time. Dr. Rheault said the Department's directors did not support the recommendation. He thought it would be difficult to get a person to commit to being a director knowing they could be fired at will by the Superintendent. Dr. Rheault said he did not think the University System had been included in the study.

Dr. Rheault said a Writing Assessment Education Consultant was recommended in BA 2697. He explained that the Department's writing assessment included writing assignments to be completed by the students. The writing assignments were collected by Department staff and scored by teachers. One consultant now had responsibility for the entire writing assessment process. Dr. Rheault stressed that as enrollments continued to grow, the existing position would not be able to handle all duties required for the writing assessment. The Department had lost three writing consultants in the past six years due to the weekend work and workload. A new position would provide relief and was recommended in The Executive Budget. Currently, the teachers scored hard copies of the writing assessments. The Department hoped to have a scanning system implemented in the spring of 2005. The writing tests would be scanned into the new system on a secure network. Instead of 100 teachers having to come to one site to score the tests, the tests could be scored online. Dr. Rheault said the scorers had been trained and could score the writing tests on a secure network, which hopefully would save time, money, and energy. Chairman Arberry asked how the Writing Assessment Education Consultant would be funded. Dr. Rheault said the position would be supported by state funding.

Senator Coffin asked if handwriting recognition software would be used in the secure network. Dr. Rheault said the Department did not use the handwriting recognition software; however, the large testing companies did use the software and could almost score writing tests mechanically using handwriting software that searched for certain words in a response and then graded the test. The Department's secure network would continue to require the teachers to review the tests; the benefits of the network would be the savings in travel costs and travel time, and the teachers could score the tests on their own time.

Senator Coffin asked what specific skills the teachers looked for in the writing examination. Ms. Dopf explained that the writing program was based upon four traits of writing analysis and said she would be happy to forward additional information to the Subcommittee. Senator Coffin asked if the Department had considered hiring a part-time employee for the writing consultant position. Ms. Dopf said the Department had considered various combinations; the issue was having additional funding to support a position. The one support position for the writing assessment had been funded for many years. Senator Coffin pointed out there were many retired individuals who could critique writing skills. Ms. Dopf said the pool of individuals used to score the writing tests was drawn from the teaching base; the writing assessment consultant had to coordinate the entire writing assessment process. She noted that there had been an added focus on the writing examination because the examination was part of the AYP analysis, which was a federal requirement.

Assemblywoman Smith noted that through her participation on the Academic Standards Council, she had learned that the opportunity to involve teachers in the writing process, the development process, and the scoring process was a valuable professional development tool. The process allowed the teachers involved to use their experience in classrooms and to use the experience as a professional development tool with their teaching colleagues.

Dr. Rheault said the Department could subgrant the writing assessment to the large testing companies, who would gladly score the writing examinations at $6, $5, or $4 dollars for each test, but the Department had elected to continue the writing assessment in-state because of the professional development attained by the teachers through the scoring sessions. The writing assessment was the only assessment operated through the Department.

Dr. Rheault referred to the new federally funded Assessment Education Consultant position requested in BA 2713. During the spring of 2005, the Department would be finalizing the NCLBA requirements and there would be a full field test of grades 3 through 8. The new tests were CRTs in grades 4, 6, and 7. With the addition of all the tests at the elementary level, the Department needed additional staff to work with the local school districts on any test-related problems they might have.

Dr. Rheault said one of the primary responsibilities of the new federally funded Special Education Consultant position would be to work with charter schools' special education needs and various other special education requirements. He said there was also a request for one administrative staff.

Ms. Giunchigliani said it appeared that Clark County School District's basic support per pupil amount was $38 less this year. She asked the Department to provide additional information to the Subcommittee on the decline in per pupil funding.

Senator Coffin referred to a discussion earlier in the meeting suggesting incentives for new teachers by possibly having the school district provide reasonable housing. He said he had received an email from Pat Zamora, Nevada State Bank, that cited NRS 387.205, which gave the districts authority to use school district funds to build, rent, or furnish "teacherages."

Ms. Giunchigliani said having the school districts provide housing would result in a loss of income for the districts. She thought requiring developers to assist with low income or affordable housing for teachers should be looked into.

Mr. Denis asked for clarification on the charter school consultant recommended in BA 2673. He referred to the comments that some of the school districts were starting to indicate they would not sponsor the charter schools. He recognized that the state might have to sponsor the charter schools and asked if that was taken into consideration when the position was requested.

Dr. Rheault said the possibility of the State Board of Education sponsoring additional charter schools was "partially" considered when the new consultant position was requested. Currently the State Board of Education sponsored four charter schools, but did not have a consultant available to work with the schools. The Department hoped the new position could work with a maximum of four to six additional new charter schools during the 2005-07 biennium. Dr. Rheault thought the new position would cover the charter schools needs at least until the 2007-09 biennium. If the number of charter schools sponsored by the state continued to grow, the Department would probably return to the 2007 Legislative Session to request additional charter school staff.

Mr. Denis said he was pleased to see an item included in the Department's budget for educational technology. Mr. Denis indicated he had formerly chaired the Commission on Educational Technology. He said every year it had been a struggle to request funding for technology in education. Dr. Rheault said the State Board of Education made sure information technology was included in the budget prior to approval.

Chairman recessed the meeting until 1:30 p.m.

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
BUDGET OVERVIEW, PAGES 1-184, VOLUME III

Allen Biaggi, Director, Department of Conservation and Natural Resources, said he had been appointed director in August of 2004 and noted that it had been a pleasure and an honor to be able to lead the Department and the professional and dedicated employees.

Mr. Biaggi began a PowerPoint presentation (Exhibit L) and said the mission of the Department of Conservation and Natural Resources (DCNR) was to conserve, protect, manage, and enhance the state's natural resources in order to provide the highest quality of life for Nevada citizens and visitors. He continued and referred to the Department revenues:

- Total revenues for FY2005 would be approximately $112 million
- Budget request for FY2006 included $119 million
- Budget request for FY2007 included $118 million

Mr. Biaggi said the projected increases for the 2005-07 biennium were due primarily to the occurring reorganization and some transfers to the Department from other state agencies. Funding sources included:

- Federal funds, 27 to 28 percent of the overall Department budget
- State General Funds, 22 percent
- Interagency transfers, 5 percent
- Other funds, such as user's fees, and other in-state resources, 32 percent

Mr. Biaggi referenced the Department's position summary and said in FY2005 the Department had 867 positions; for FY2006 the number of positions would increase to 891, and in FY2007 the number would drop to 890 positions. A bill pending before the 2005 Legislature would transfer the Safe Drinking Water Act Program from the Division of Health to the Division of Environmental Protection and would constitute an overall transfer of 17.51 FTEs. Additionally, six new positions were proposed within the Division of Environmental Protection. The positions would be funded by fees or federal grants. There was also one position in the Division of State Lands that was funded through the State General Fund. In FY2007, the Division of Forestry would reorganize the conservation camps, which would result in the loss of two FTEs. There was also a new position within the Division of State Parks, which would be funded through fees.

Mr. Biaggi thought one of the greatest challenges facing the Department over the next six months was the new building. The new building, located on Stewart Street, just north of the NDOT (Nevada Department of Transportation) facility, would provide for consolidation of the majority of the DCNR divisions. Currently, the divisions were located in eight different locations throughout Carson City. The building project was generally on schedule for occupancy in June or July of 2005. There had been some minor delays due to weather conditions. Mr. Biaggi noted that since the time the building was conceived and during construction, there had been a tremendous increase in the cost of steel and concrete, which had a significant impact on the overall cost of the building. Funding provided for high-density filing systems had to be used for building construction costs. Consequently, there would be a bill pending before the 2005 Legislature to cover the purchase costs of the high-density filing systems.

Mr. Biaggi said Question 1 (Q1), which was passed by Nevada voters, was an extremely positive program within the DCNR. Question 1 authorized the state of Nevada to issue general obligation bonds in an amount not to exceed $200 million for natural resource and recreation projects throughout the state. Mr. Biaggi continued his PowerPoint presentation and referred to the chart that provided a Q1 update of the first round of the bond sales:

- There was $200 million in available bonding capacity
- Bond sale amounts to date totaled approximately $92.5 million
- $84.8 million was distributed for approved work plans

Mr. Biaggi said Q1 had funded some outstanding projects throughout the state of Nevada including:

- the Old Mormon Fort Visitor Center in Las Vegas
- the Tahoe Rim Trail
- open space plans for Douglas, Lyon, and White Pine Counties

Mr. Biaggi said it was a real testament to staff of the Division of State Lands, State Parks, and the Department of Wildlife, who had taken the funding and had "put it out into the field and onto the ground where it needed to be." He said the DCNR looked forward to continuing the Q1 program well into the future.

Mr. Biaggi referred to legislative bills having budgetary impacts:

- In order to be functional, the new DCNR building needed high-density filing systems. A bill would be presented to the 2005 Legislature requesting approximately $0.5 million for the filing systems.

- Another bill pending before the 2005 Legislature would increase the litigation fee for BA 4203 by $150,000, in the event mediation failed in the Walker Lake discussions.
- A bill would be introduced for $16.8 million to continue erosion control projects and other efforts within the Lake Tahoe Basin.

Ms. Giunchigliani asked for an update on the status of the water resources litigation for Walker Lake. Mr. Biaggi said mediation was ongoing. Progress had been made within the last 30 days; all parties subject to the mediation had agreed to continue discussion for another one-year period. Mr. Biaggi said the DCNR was confident the litigation would be resolved and the agency would continue to work through the process. In the event negotiations failed, the DCNR would like to have funding to help support litigation activities.

Mr. Biaggi referred to non-Department bill draft requests (BDRs) and said the Department anticipated a very high focus on issues related to water resources during the 73rd Legislative Session. There were 17 bills that addressed water resource issues for the state of Nevada. Mr. Biaggi said the Department would be working hard through the Division of Water Resources on all the issues.

Mr. Biaggi said the Office of the Director provided the full scope of administrative, technical, budgetary, and supervisory support to the various divisions, boards, and commissions within the DCNR. The Divisions within the DCNR included the Director's Office, Environmental Protection, State Parks, Forestry, State Lands, Conservation Districts, Nevada Tahoe Regional Planning Agency, Water Resources, and Natural Heritage Programs. Numerous boards and commissions supported the functions of the various programs. The Office of Director was contained in BA 4150, and there were 13 FTEs—no new positions were being requested. The budget for FY2005 was approximately $1.1 million, and the recommended budgets for FY2006 and FY2007 were approximately the same amount, with some slight downward adjustments. The programs were funded primarily through a General Fund appropriation and through the Director's Office cost allocation agreement between the divisions within the DCNR.

Mr. Biaggi said The Executive Budget included four relatively modest enhancements for the Office of the Director:

- Transfer one-third of a Q1 position to the Director's Office. Since Q1 became operational, a full-time position was no longer needed for support and would be used for fiscal-related areas within the Director's Office.
- Funding in the amount of $13,538 to cover moving costs into the new office building in FY2006.
- Replacement equipment per the 25 percent DoIT replacement schedule: $38,571 in FY2006 and $6,671 in FY2007. The majority of the replacement equipment was included in the first year of the biennium.
- Transfer funding for the Winnemucca facility from the Office of the Director to the Division of State Lands.

Mr. Biaggi concluded his presentation and said he would be happy to answer any questions.

DIVISION OF ENVIRONMENTAL PROTECTION

Leo M. Drozdoff, Administrator, Division of Environmental Protection (DEP), said the mission of the Division of Environmental Protection was to preserve and enhance the environment of the state in order to protect public heath, sustain healthy ecosystems, and contribute to a vibrant economy. The Division consisted of an Office of Administration and nine Bureaus, including air, water, hazardous waste, mining, and corrective action programs. Offices were located in Carson City and Las Vegas. Mr. Drozdoff said BA 3173 was the Division's administration budget and included the Bureau of Environmental Information and Planning, as well as the Office of Fiscal and Personnel Management. The Bureau of Environmental Information and Planning had responsibility for all the Division's technology needs, as well as public information and media events. The Office of Fiscal and Personnel Management handled the day-to-day accounts, as well as personnel-related issues.

Mr. Drozdoff continued his presentation and provided detail on the following budget accounts:

- BA 3185—Bureau of Air Pollution Control had responsibility for permitting and compliance of regulatory sources; the Bureau of Air Quality Planning monitored air quality and developed implementation control programs to ensure compliance with standards.

- BA 3186—Bureau of Water Pollution Control had responsibility for permitting and compliance of discharges to both ground and surface water.

- BA 3193—Bureau of Water Quality Planning had responsibility for revising water quality standards, monitoring surface waters, and implementing non-point source pollution control programs.

- BA 3187—Bureau of Corrective Action had responsibility for the regulation of underground storage tanks, consultant certification, superfund, and other remedial action programs; Bureau of Waste Management regulated hazardous waste, solid waste, and implemented a chemical accident prevention program.

- BA 3188—Bureau of Mining Regulation and Reclamation had responsibility for permitting and compliance of active mines, as well as compliance with reclamation requirements for closed mines.

- BA 3198—Bureau of Federal Facilities had responsibility for regulatory oversight of programs funded by the Department of Energy and Department of Defense.

Mr. Drozdoff concluded his summary of the bureau budget accounts.

Ms. Giunchigliani asked for an explanation regarding the purpose of transferring the set-aside components of the Drinking Water State Revolving Fund to the Water Pollution Control account. Mr. Drozdoff said the transfer was an external transfer and the purpose was to bring all the drinking water programs under one division. The change involved the transfer of a portion of the State Health Division and the Bureau of Health Protection Services. The programs would be moved directly, as a unit and as a budget account, into the Division of Environmental Protection. Both divisions had similar duties such as subdivision review, septic tank review, operator certification programs, et cetera. Mr. Drozdoff thought both programs would function quite well within the Division of Environmental Protection. Existing staff would be moved to the Division of Environmental Protection; the move was revenue neutral.

Mr. Drozdoff referred to the internal transfers within the Division of Environmental Protection:

- 14 FTEs and the Bureau of Federal Facilities would be moved into BA 3187. The move was intended to address significant cash flow problems resulting from the reimbursement processes of the Department of Defense and the Department of Energy. Mr. Drozdoff said, "We need to bill them for the work that we do, and that creates cash flow problems." The recommended change would not affect the regulatory programs.

- 2 technology positions would be moved from BA 3198 to BA 3173 in order to support the technology needs in the Bureau of Environmental Information and Planning.

- 1 technology position would be moved from BA 3187 to BA 3173.

- 5 positions would be moved from BA 3211, Safe Water Drinking Act, to BA 3186, Bureau of Water Pollution Control. Mr. Drozdoff pointed out that the 5 positions were the positions Ms. Giunchigliani had asked about earlier in the meeting.

Mr. Drozdoff said the DEP was requesting six new positions, which would be funded by existing fees assessed by the bureaus. Three of the positions were in BA 3186, Bureau of Water Pollution Control and included:

- An Administrative Assistant III to provide support to the Carson City office
- An Administrative Assistant II to provide support to the Las Vegas office
- An Environmental Specialist III to assist with permits and inspections in the Underground Injection Control Program.

Mr. Drozdoff referred to two new positions requested in BA 3187; an Environmental Specialist IV to supervise the corrective action program in the Las Vegas office and an Environmental Scientist III to serve as an emergency on-scene coordinator. The final position was an Environmental Scientist III in the Mining Reclamation Program. Mr. Drozdoff noted that the Division of Environmental Protection was not a first response agency.

Mr. Drozdoff concluded his presentation and said he would be happy to answer any questions.

DIVISION OF STATE PARKS

David K. Morrow, Administrator, Division of State Parks, said he would provide a brief overview of the agency's goals, the enhancements recommended in The Executive Budget, and would briefly discuss some issues the agency might be facing in the future.

Mr. Morrow indicated that the Division of State Parks could play a significant role in extending the average length of visitor stays in the state of Nevada and in attracting new visitors to the state. Nevada's state parks had slightly more than three million visitors annually, and the Division believed that number could substantially increase due to improvements supported by Q1 funds, better marketing of state parks, and stronger involvement with local and state tourism groups. Mr. Morrow said 95 percent of state park visitors surveyed rated their experience in the parks as excellent to good.

Mr. Morrow said the cost of operating and maintaining states parks had been reduced to $2.76 per visitor, but was slightly above the Division's goal of $2.50 per visitor. Since 2001, the amount of state park user fees increased by approximately 3.6 percent; the total user fees collected by state parks represented about 20 percent of the Division's total budget. The Division was trying to increase the percentage of collections to the total state park operating budget and was focused on improving park facilities that would generate more revenue to the state parks system. Based on preliminary numbers, the Division believed state parks contributed approximately $60 million to the state and local economies through the operation of the parks and visitor expenditures throughout Nevada.

Senator Raggio referred to the performance indicators for State Parks and said his preference would have been a performance indicator on the total number of park visitors, rather than the number of park visitors per full-time equivalent (FTE) employee. He then noted that the State Parks Division had not provided a handout and hoped one would be provided in future meetings. In response to a question posed by Senator Raggio, Mr. Morrow said the two largest parks, by visitation and fee generation, were the Nevada State Park, Lake Tahoe, and the Valley of Fire State Park located in southern Nevada. Senator Raggio then asked for a definition of the performance indicator on the number of park users per arrest. Mr. Morrow said the indicator provided the level of law enforcement required to manage state parks. Senator Raggio commented that the performance indicators were unusual and said he had expected different indicators.

Ms. McClain asked for additional information on the marina development gas fees and user charges. Mr. Morrow responded that the gas tax fee was a federal tax "that goes back to wildlife and boat recreation across the country." The fees were used for all state and federal waters that allowed boating. Ms. McClain asked if fee increases were proposed by the Division. Mr. Morrow replied that the Division had already increased the user fees and did not anticipate any additional increases in the next biennium.

Ms. Giunchigliani referred to the line items included in The Executive Budget for "user charges" and "user charges next fiscal year" and asked for further explanation on the projected amounts.

Kirsten Hettrick, Administrator Officer 1, State Parks, explained that user fees were collected on a calendar year, rather than a fiscal year. The $2.6 million included in the "user charge" line item was the amount of user fees the Division actually estimated it would collect through FY2007; the $1.196 million included in the "user charge next fiscal year" line item was an estimate of user fee collections for a six-month period that would be balanced forward to the next fiscal year, FY2008. Ms. Giunchigliani said user charges would be reviewed in greater detail in future subcommittee hearings.

Ms. Giunchigliani asked if the Division would provide the amount of the new fees. Mr. Morrow agreed to provide the requested information.

Senator Beers asked for an explanation of the projections included in the sixth performance indicator, "Grants obtained for use by Parks"; 9 grants were projected for FY2004 and the actual number was 4 grants at $523,800. Because Mr. Morrow did not have the information currently available, Senator Beers asked him to bring the information to the future subcommittee meeting. Mr. Morrow agreed.

Mr. Morrow reviewed recommendations included in the decision units and enhancements:

- An increase of $1.5 million to cover much needed deferred building maintenance projects, from roof maintenance to utility improvements.
- Position upgrades for 34 state park law enforcement officers; a total of $361,657 over both years of the biennium.
- Nine classification increases that the Division had reviewed and felt were justified and much needed.
- The Division's move to the new DCNR building. There was a conductivity package that was very important that involved being able to connect telephone and computer systems in three state parks in remote areas of the state; Berlin Ichthyosaur, Beaver Dam and Cave Lake. At the present time there was insufficient communication at the three parks.
- An allocation for dispatch services to the Nevada Highway Patrol for $3,276 in FY2006 and FY2007.
- An allocation to pass through to the Nevada Department of Transportation for the Division's share of the 800 MHz radio system.
- An allocation for a new motor pool vehicle for use specifically on Q1 projects, funded with Q1 funds.
- A new park ranger position for Big Bend Park. The position would be funded from increased fees anticipated through park operation. Both day use and camping facilities would be expanded.

Ms. Giunchigliani asked if Mr. Morrow had just indicated a vehicle would be purchased with bond money. Mr. Morrow explained that the funding would be used to rent a new motor pool vehicle and the funding would come from interest earned on the bond money. Ms. Giunchigliani asked if there were any restrictions on the Q1 funding. Mr. Morrow said that when the Q1 list was originally created, all the projects in State Parks were identified and administrative costs that would be involved in operating the program were also discussed. Ms. Giunchigliani asked about the percentage of administrative costs included in the Division's budget. Mr. Morrow said he would have to check and forward the information to the members; he believed the amount was less than 5 percent. Ms. Giunchigliani said the subcommittee would need to review the Q1 funding to make certain the majority of funding went to the appropriate program areas.

Senator Titus said many of the state parks were in bad shape, and she wondered if sufficient funding had been provided for adequate recreational opportunities. She asked how the Division prioritized park maintenance. Senator Titus said Mt. Charleston, which was funded through federal and local funds, was a real problem, and she wondered if there was any room for state involvement.

Mr. Morrow said all the projects that were identified for state parks came from park master plans and the list of project repairs was submitted to the Legislature during the discussion of the Q1 projects. The Division tried to prioritize the projects based on the greatest need. Mt. Charleston was administered by the U.S. Forest Service and Q1 funds could not be used. Mr. Morrow said the budget recommended $1.5 million in deferred maintenance to be used across the state parks system. The $1.5 million allocation was separate from the Q1 allocation.

Senator Titus asked about the process of creating a new state park. Mr. Morrow said any request for the creation of a new state park would have to go through the legislative process. He indicated that the Division was having difficulty managing the existing state parks. Senator Titus asked if the difficulty resulted from lack of staff or lack of funding. Mr. Morrow replied, "It was a little of both." He explained that the Division wanted to raise Nevada's current parks to a standard that would meet legislative approval. In response to a question asked by Senator Titus related to deferred maintenance, Mr. Morrow said deferred maintenance provided funding to bring the parks up to a minimum standard, Q1 funding provided enhancements to improve park facilities. Senator Titus asked if Q1 provided sufficient funding for the improvements. Mr. Morrow said there was never enough money; however, he recognized that the Q1 funding was a substantial allocation. The Division was extremely pleased to have $1.5 million recommended in The Executive Budget for deferred maintenance.

Senator Beers asked how much the Division initially requested for deferred projects. Mr. Morrow said the Q1 funding of $1.5 million basically covered the list of deferred projects the Division had requested. The Division received almost all the items requested on the deferred maintenance list with the exception of a couple of items that were categorized more as operational expenses rather than deferred maintenance. Mr. Beers asked the Division to bring the list of deferred maintenance projects to the next subcommittee meeting.

Senator Coffin said it appeared that Nevada had always been "behind the curve" and he did not blame the Division for not requesting a lot of money. He noted that this year there was more funding available, which was unusual. Senator Coffin recommended allocating more funding than what had been requested for maintenance because of the available surplus funds. Senator Coffin thought the Division needed to provide the Subcommittee with a list of maintenance requests for "what you really would like to do, as opposed to just what you know you need to do to keep it going."

Senator Coffin asked how the Kershaw-Ryan State Park survived the recent heavy rainfall in southern Nevada. He pointed out that a great deal of money had been spent to restore the facility. Mr. Morrow said Kershaw-Ryan survived the heavy rainfall; however, Division staff had been marooned for a few days as the flood waters dissipated. Unfortunately, the Beaver Dam State Park did not fare as well. The water cascaded over the dam at heights of two to three feet and eroded the face and toe of the dam to the point that the Nevada Department of Wildlife, who managed the dam, had to breach the dam. Mr. Morrow said it was unlikely that the Division would be able to retain a dam at Beaver Dam State Park. Senator Coffin recalled that it took 15 years to fix the Kershaw-Ryan State Park after the big floods of 1983. Mr. Morrow said there were things that could be done at Beaver Dam State Park, and the Division of State Parks was working with the Department of Wildlife resources to look at the options. Mr. Morrow said that because of the size of the watershed and the fact that the dam had outlived its useful life, the best alternative might be to return the area to a natural stream. The Division would have to evaluate the alternatives.

Mr. Morrow said staff recruitment was a concern. The Division had a number of senior staff who would be retiring in the next three to four years. Because of housing costs and competition with local communities, it was getting more and more difficult to recruit personnel. Seasonal staff costs, now 52 percent of the Division's staff, exceeded entry-level costs; the funding that was provided supported only entry-level positions. Mr. Morrow said the division thought the increased costs in operating state park facilities needed to be addressed long term.

DIVISION OF FORESTRY

Pete Anderson, State Forester Firewarden, Division of Forestry, said the mission of the Division was to administer, coordinate, and manage all forestry, nursery, endangered plant species, and watershed resource activities on certain public and private lands. The Division provided fire protection of structural and natural resources through fire suppression and prevention programs and provided other emergency services as required. Mr. Anderson referred to the Division's facilities:

- Regional offices located in Washoe Valley, Elko, and Las Vegas
- The State Office of Forestry located in Carson City
- Ten conservation camps
- Two plant material nurseries, one in Las Vegas and one in Washoe Valley

Mr. Anderson said the focus of the Division of Forestry for the 2005-2007 biennium was to improve conservation camp operations and to continue to address budgetary impacts of changes occurring in the county fire districts. The Division had stayed within the "two-times rule," while attempting to meet the growing demand for natural resource services and emergency responses. Mr. Anderson said he would review the enhancements for each of the Division's budget accounts.

BA 4195, Forestry:

- E-525, provided funding for office furniture and equipment that had not been included in the CIP for the new building. Moving costs were also included in the enhancement.
- E-500, requested changing the funding source of the Central Reporting Unit positions. The request would fund five permanent positions and a seasonal position from an increase in the fire billing rate. Four of the five permanent positions were funded through a consolidated federal grant and the other permanent position and seasonal position were funded through the State General Fund. The initiative would free up General Fund support for the addition of two dispatchers, which would bring the dispatch center operations into compliance with staffing and the Fair Labor Standards Act (FLSA) requirements. Funding was also recommended for a half-time dispatcher to meet the staffing needs during wildland fire season.
- E-710, replacement equipment included a variety of tools, service monitors for communications, and vehicles.

BA 4196, Forest Fire Suppression:

- E-500, needed to establish the authority to make the transfer to BA 4195 and, at the end of each year, carry forward a reserve in the event insufficient funding was generated in a single year from fire reimbursements.

Mr. Anderson referred to BA 4198, Forestry Conservation Camps, and said he had great pleasure in reporting the significant accomplishments of the Division's Conservation Camps Program. Thanks to the hard work of the men and women of the program, revenue targets were exceeded by $400,000 in 2004. Given the loss of the crew buses and the economic downturns in Nevada's rural counties, the revenue increase was truly an accomplishment. The light fire season of 2004 also contributed to the success by allowing crews to spend more time on billable projects, rather than working on wildland fire assignments. Mr. Anderson noted that it remained to be seen if the level of revenue generation could be sustained. He referenced two enhancements included in BA 4198:

- E-225, a request to reorganize the conservation camps. Mr. Anderson said his primary initiative for the request was the administrative reorganization of the camp program into four geographic zones. A pilot reorganization was implemented in the spring of 2004 that had been enormously successful in areas such as standardizing policies and procedures, enforcing standards, utilizing staff and vehicles more efficiently, and creating a consistent application of billing procedures, data entry, and reporting. The proposal would utilize ten assistant camp position supervisors who would be transitioned into replacing four zone coordinators and a program officer. The reorganization would begin July 1, 2005. Mr. Anderson said the Division had placed a strong emphasis on employee training, particularly within the Conservation Camp Program. All mandatory training for the conservation camps had been identified, both in rural and urban settings. Mr. Anderson said it was important to note that emergency response training requirements continued to increase.

- E-710, a request for replacement of equipment. The replacement equipment in all camps was critical to meeting the revenue targets. The funding would be used to replace computers, printers, chain saws, vehicles, worn tools, and to begin a conversion to digital radios.

Mr. Anderson said the Division had a CIP (Capital Improvement Program) request for the Indian Springs Conservation Camp to address several public safety projects recommended by the State Public Works Board, including upgrading the fire alarm system, signage, lighting, and pavement resealing.

Mr. Anderson referred to Budget Account 4227 and said the Division had a CIP request for safety improvements and a feasibility study on the functionality of the Kyle Canyon fire station located at Mt. Charleston.

BA 4235, Forestry Nurseries:

Mr. Anderson said the Nevada Division of Forestry's Nursery and Seedbank Programs continued to experience an increasing demand for plant materials, concurrent with Nevada's growth and development. The Seedbank Program played a critical role in rehabilitation and restoration projects across the state. A CIP request was included in BA 4235 for much needed repairs and construction of a replacement greenhouse at the Las Vegas Nursery; all the facilities at the nursery were over 30 years old.

In conclusion, Mr. Anderson said Washoe County continued to work toward consolidation of fire services in the Washoe County portion of the Sierra Forest Fire Protection District. The consolidation could potentially result in 41 permanent firefighter positions being transferred to the City of Reno and would bring all four of the western region county fire protection districts into line regarding "all risk" emergency services. As currently proposed, and continuing to be discussed, the Division would continue to provide comprehensive wildland fire management through 7 permanent and 32 seasonal firefighters, interagency dispatch center operations, and air operations throughout the Sierra front. The Division's highest priority was the need for fuels reduction and comprehensive wildfire management on a statewide basis, particularly in the Lake Tahoe Basin. Individual county capabilities to manage wildland fires varied tremendously, particularly in the areas of training, equipment, and funding. The completion of the county and community statewide wildfire risk assessment by the Nevada Fire Safe Council would position Nevada for grant funding for fuels reduction projects. The interagency approach of local, state, and federal partners had resulted in over $9 million in cost share grants for landowner education, fire safe councils, and fuels reduction projects.

Ms. Giunchigliani asked for clarification on the possible consolidation of fire services in Washoe County.

Mr. Anderson explained that urban development and growth along the Sierra front had resulted in fire districts changing in form and shape. Carson City and Douglas County had, through a contract, allowed local fire districts to provide all risk, 24-7, coverage, focused mainly on wildfires. Washoe County was the largest partner in the fire districts along the front with 41 employees and was also considering consolidation of fire services. Discussions were ongoing, but consolidation did have a potential to reduce the Division's workforce by 41 full-time employees, who would be transitioned to the City of Reno for fire and emergency response. Mr. Anderson said the greatest impact the consolidation would have on the Division would be the Division's ability to manage large wildfires and continue the current level of emergency response.

Ms. Giunchigliani referred to the fire protection districts and asked if any strides had been made with Lincoln County. Mr. Anderson said Lincoln County had indicated they would provide a written response to the Interim Finance Committee, however, to date, he had not seen that response. All indications were that Lincoln County did not want to form a fire district at this point.

Ms. Giunchigliani said,

> The Governor apparently put the two-grade salary increase in quite a few budgets, and I thought the original intent of that was to make our highway patrol officers and correctional officers not keep leaving the state. That is just for the subcommittees to take a look at so we can get a handle on who really is recommended and why they were recommended rather than just finding it all the way throughout.

Ms. Giunchigliani referred to the recommended reorganization of the camp programs and asked if the reorganization would result in any savings. Mr. Anderson said reorganization of the programs into four geographic zones would result in savings, but would be revenue neutral because any savings would be used to address issues in other divisions. Ms. Giunchigliani referred to an area of Mt. Charleston that had been devastated by an avalanche and asked if the Division of Forestry, or the federal government, had jurisdiction over the area. Mr. Anderson explained that the Division's fire district encompassed 1,800 acres of private and non-federal lands in Kyle Canyon; the U. S. Forest Service had jurisdiction for the ski resort and other areas around the community itself. Ms. Giunchigliani said there had been concerns related to children playing in the avalanche area and no one seemed to know what agency had actual jurisdiction.

Senator Beers asked Mr. Anderson to bring a complete list of the deferred maintenance projects requested by the Division to the joint subcommittee meeting. He also requested backup detail for the $859,760 recommended in the budget for deferred facilities maintenance.

In conclusion, Mr. Anderson commented on the Division's aging vehicles and wildfire suppression equipment and said the Division was aggressively pursuing federal excess property. The Division maintained its vehicles in the shops and conservation camps, but could not keep up with the expanding demand.

Mrs. Smith was concerned that the performance indicators in many of the budgets did not seem to change from year to year and suggested the indicators be addressed in joint subcommittee.

In response to a question asked by Mr. Marvel related to replacement buses, Mr. Anderson said all the Division's 15 passenger vans were received in August 2004, the tool trailers were being manufactured and assembled in the industrial shop in the Ely camp, and approximately half of the tool trailers were in the field. The Division hoped to have the crew carriers in the next few months. Mr. Marvel asked if the price increase had an impact on the Division's ability to purchase buses. Mr. Anderson said the Division had a "locked-in price" with Ford Motor Company for the vans. However, the price increase did have an impact on the crew carriers.

Senator Raggio said he needed clarification on the recommended reorganization of the ten conservation camps. He noted that the assistant supervisor positions were recommended for elimination and would be replaced with four zone directors or supervisors. Senator Raggio asked Mr. Anderson to provide an explanation of the current role of an assistant supervisor in each of the camps.

Mr. Anderson explained that an assistant supervisor was charged with the supervision of 12 inmates, worked on projects around the camp, conducted administrative functions, and contacted co-operators to set up future projects. The camp supervisor was typically "out on the ground." Mr. Anderson said camp oversight had been one of the biggest problems due to the three regions and the geographical space in between the camps. It was difficult for a regional manager in Elko to supervise a camp supervisor in Ely or Wells or Winnemucca. The four geographic zones would enable "to shrink" the span of control. More oversight could be provided with the zone coordinator who would also help with project recruitment and marketing. Senator Raggio asked if the zone coordinator positions would be filled from the ranks of the existing assistant supervisors. Mr. Anderson answered, "Yes." Mr. Anderson said none of the existing assistant supervisors would lose their jobs since vacant positions had been held open since July 2004 and, with attrition, retirement, and such, the transition should be "fairly seamless." Mr. Anderson acknowledged that the four zone coordinators would be higher paid than the camp supervisors. An assistant camp supervisor was the same grade level as a crew supervisor. Mr. Anderson said the four zone supervisors would be strategically located in Ely, Pioche, western Nevada, and Las Vegas.

Mr. Denis asked the purpose of the 15 passenger vans referred to earlier in the meeting. Mr. Anderson said the vans were mainly used for project work in the communities. The vans were not equipped with four-wheel drive. Crew carriers were used for fire crews. Mr. Denis asked if the Division had ever researched the safety of the 15 passenger vans. He said he knew of one organization that had discontinued use of the vans due to safety issues. Mr. Anderson said the vans utilized by the Division were diesels and were quite heavy—the department had not had any stability issue with the vans. To date, the Division had not had any problems with the vans.

In response to a question posed by Senator Beers on the status of the Humboldt camp, Mr. Anderson said the Division had no plans to relocate the camp.

Pam Wilcox, Administrator of the Division of State Lands, the Division of Conservation Districts, and Executive Officer of the Nevada Tahoe Regional Planning Agency, began her presentation.

DIVISION OF CONSERVATION DISTRICTS

Ms. Wilcox said the Division of Conservation Districts was a small agency with three full-time positions that provided services to the state's 28 locally elected conservation districts. Conservation districts worked on a broad variety of local resource conservation issues including soil, water conservation, water quality, flood control, and provided public information and education programs focused at youth and the general public.

Ms. Wilcox said Budget Account 4151 was recommended to be held at the current level and included continuation of the $5,000 grant program for each conservation district, no new programs were included. There were two enhancement units; one for agency relocation to the new state office building in Carson City, and the other included funding for replacement computer equipment in conformance with the State Technical Standards replacement schedule. The Division did not receive any funding for replacement equipment during the 2003-05 biennium. Ms. Wilcox advised the Subcommittee that the Division would be requesting a supplemental appropriation in the amount of $35,686 to cover tort insurance premiums to the Attorney General's Office for the districts during the current biennium.

DIVISION OF STATE LANDS

Ms. Wilcox continued and referred to BA 4173, State Lands, which had four basic programs. The first program held title to all the State lands and was the State's general land agency, with the exception of lands held by the Department of Transportation, the University and Community College System, and by the Legislature. The State Land Office bought land, sold land, negotiated easements, leases, et cetera. The second major program was the State Land Use Planning Agency, which provided technical planning assistance to local governments, particularly in rural areas, and also handled federal issues for the State. The third program was the Tahoe Environmental Improvement Program, an interagency program coordinated by the Division of State Lands to implement the State's environmental improvement program at Lake Tahoe. The fourth, and newest program was the Question 1 (Q1) program with the administration of $65.5 million in grants to local governments and others around the state for a variety of conservation projects. All the programs were doing well. The budget included a number of enhancement units:

- E-350, would provide additional funds for two self-funded agency land use planning programs. The Division requested increased authority of approximately $16,000 in each year of the 2005-07 biennium for publications and conferences or workshops.

- E-351, funding was recommended for an additional $402 in each year of the 2005-07 biennium to enhance a TRPA-funded program for Tahoe land banks, sometimes called the "excess coverage mitigation program."

- E-353, requested funding for a new Land Agent I position. The Division had four land agents and had a backlog of 250 items. Ms. Wilcox said the Division was very grateful to have a new land agent position recommended in The Executive Budget.

- E-525, covered expenses associated with the office relocation.

- E-710, provided funding for replacement computer hardware and software in accordance with the approved replacement schedule.

- E-805, position reclassification. The Division's planner series was subject to a reclassification study during the 2003-05 biennium. One of the existing positions would be upgraded and the Division was requesting approximately $8,000 each year of the biennium to accomplish the upgrade.

- E-811, included funding to cover expenses for the recommended changes to the unclassified service to provide equity between similar positions.

- E-840, included additional funds for "Question 1" that was funded with interest on the Q1 bonds; no General Fund impact.

- E-860 included additional expenses associated with Nevada's Tahoe Environmental Improvement Program (EIP).

Ms. McClain requested additional information on the use of bond money and asked if additional bond proceeds were anticipated during the 2005-07 biennium. Ms. Wilcox said bonds were sold from time to time on a schedule approved by the State Treasurer's Office. Each of the agencies having authority to expend Question 1 dollars developed a projection for needed funding and had to justify the projection to the State Treasurer, who approved the schedule on which the bonds were sold. Ms. Wilcox said her agency also needed the approval of the Interim Finance Committee and did have approval to sell additional bonds in the spring of 2005. The spring bond sale was expected to generate $11.5 million for additional Question 1 expenses. All the bond proceeds were pledged to the purposes of the bond; the proceeds go to actual "on the ground projects" such as park projects, wildlife projects, and grants to local governments for conservation purposes. Ms. McClain asked if the projects had to be "set in stone" prior to the bond sale. Ms. Wilcox said the projects did not have to be set in stone, particularly the grant program, but the amounts would be good estimates of the needs for an estimated group of projects. Ms. Wilcox said the confusion about the expenses was due to the program being set up so that the interest on the bonds that had been sold returned to the funds that were available to agencies, and that interest was available to the agencies for expenses in actually running the program. There was no General Fund impact of going ahead with the Question 1 program, which was why agencies presented to the Legislature that certain positions were dedicated to Question 1; those positions were funded with interest.

Ms. Wilcox said Senator Raggio had requested information on the Winnemucca facility. She said E-901 was a deferred maintenance request that resulted from a State Public Works facility analysis report. The report recommended approximately $800,000 for deferred maintenance for the facility. Ms. Wilcox said the facility was old and in poor condition, and the Division had inherited responsibility for the facility from the Bureau of Land Management (BLM). She said the enhancement would accomplish the list of deferred maintenance items.

Senator Raggio wanted to know how the facility would ultimately be used. Ms. Wilcox said the facility was assigned to the DCNR and the major user would be the Department of Wildlife. The buildings not in use were made available to public groups. The largest office building was used by Job Opportunities in Nevada (JOIN). Senator Raggio asked for a breakdown of the revenues generated by the Winnemucca facility, and Ms. Wilcox said she would be happy to provide the information.

NEVADA TAHOE REGIONAL PLANNING AGENCY

Ms. Wilcox said the final budget she would present was the Nevada Tahoe Regional Planning Agency (NTRPA), BA 4166. The Division provided staff support to the agency. The NTRPA was Nevada's member of the Tahoe Regional Planning Agency (TRPA) and had a particular statutory job to ensure that all structures in the Lake Tahoe Basin were in compliance with the provisions of the Tahoe Regional Compact. The recommended budget was small; during the current biennium the amount was $474 each year; during the base year the Division expended only $103 and that amount had become the recommended budget for each year of the 2005-07 biennium.

DIVISION OF WATER RESOURCES

Mr. Hugh Ricci, P.E., State Engineer, Division of Water Resources, said the Division's mission was to conserve, protect, manage, and enhance the state's water resources for the citizens of Nevada through the appropriation and reallocation of public waters. The Division had responsibility for the appropriation, adjudication, and the distribution of all the waters in the state, with some limited jurisdiction on federal stream systems, but had no jurisdiction on the Colorado River. The Division also had responsibility for reviewing water availability of new subdivisions, dam safety, licensing well drillers and water right surveyors. The Division also was responsible for collecting and monitoring water resource data and providing technical assistance to the public and to other governmental agencies. The authority was included under NRS Chapters 532, 533, 534, 534A, 535, 536, 538, 540, and 543. The Division had 62.5 FTEs, funded 90 percent through the State General Fund. No new positions were recommended in The Executive Budget. Mr. Ricci referred to Decision Unit M-425, Deferred Facilities Maintenance, which included $8,000 in FY2006 to provide needed repairs at the South Fork Dam on the Humboldt River. The Division was also requesting one new vehicle and some computer replacement equipment under E-710.

Mr. Ricci said one large issue facing the Division was how to fit the existing water resources into an ever-increasing population. There would either need to be changes of existing water rights or inter-basin transfers dealing with central and eastern Nevada's basins under the Instate Water Resource Program of the Southern Nevada Water Authority. Mr. Ricci concluded his presentation and asked if the members had any questions.

Ms. Leslie asked if the budget included a water planning office. She noted that the water planning office was eliminated a few years ago. Mr. Ricci indicated the planning office was not recommended in The Executive Budget. The Division had one full-time employee having responsibility for water planning. The Division was looking at the recommendations made by the Planning Advisory Committee and trying to incorporate the recommendations, or at least fulfill those obligations.

Mr. Hettrick said he had received comments related to the length of time it was taking to receive permits. He emphasized that the comments were not complaints, but rather were concerns related to the need for additional staff to work in the permitting areas within the Division. He asked if there was a need to increase personnel to be able to move some of the permits more rapidly. Mr. Ricci referred to the performance indicators and pointed out that the number of actions taken on backlogged applications increased 160 more than the projected number, a real step forward. He recognized a great number of applications needed to be processed. Mr. Ricci said he did not necessarily think additional staff was the solution to the problem. The Division's ultimate goal was to become more automated and perform all the tasks in a timely fashion.

Mr. Hettrick noted it often took several months to complete a transfer for a developer, who was required to have water rights to develop a piece of property and had paid for the water rights. He thought the transfer should have been a simple process. Mr. Hettrick suggested issuing temporary approval in advance and then completing the paperwork when there was verification that the water rights had been purchased and would be transferred. Mr. Ricci said there were two things happening in the transfer of water rights; one was the transfer of the title and the other was the actual transfer of the water rights "from whatever use it was to whatever use it is proposed to be. Those two things should go on almost simultaneously, sometimes they do and sometimes they don't." Often the issues were out of the Division's control. We cannot transfer an individual's water right to another individual who had filed an application without proof of transfer of ownership. The Division had eight positions devoted strictly to the transfer of title for water rights. Mr. Ricci referred to the performance indicator on the changes of title: number of Report of Conveyances processed and said it appeared the Division failed to reach projections. However, the Division changed the method of counting "in mid-stream"; the 3,840 reports projected for the change of title were based on the number of deeds transferred. The 2,658 reports were actual reports of conveyance and actual title transfers, which probably encompassed over 10,000 deeds. Mr. Ricci explained that the Division had probably processed approximately two and one-half times more than projected.

Senator Titus asked how Mr. Ricci felt about reinstating the Office of Water Planning. Mr. Ricci said he had nothing to do with the dissolution of water planning and had assumed the role of water planning about the same time that he assumed the role of State Engineer. He referred to his earlier testimony, in response to a question asked by Ms. Leslie, and said the Division was looking at the recommendations that were made by the Planning Advisory Committee and trying to incorporate those recommendations, or at least fulfill those obligations. He said he would be happy to discuss the issue of water planning with Senator Titus at her convenience.

Senator Cegavske asked about the amount of funding included in the Channel Clearance account. Mr. Ricci replied there was approximately $30,000 in the Channel Clearance account that was not committed. He said he would check on the amount that was committed and get back to Senator Cegavske. She said she had other questions that she would discuss with Mr. Ricci when he provided the information she had requested.

NATURAL HERITAGE PROGRAM

Glenn Clemmer, Program Manager, Nevada Natural Heritage Program, said the Program was responsible for systematically collecting information on the occurrences, distribution, and populations of sensitive species statewide. The

Program maintained computerized databases on approximately 600 species of animals and plants. The data was made available to other agencies and the general public. Mr. Clemmer referred to E-356, the Decision Unit that supported the wetlands planner position. The planner position was originally funded through an Environment Protection Agency (EPA) grant which was not renewed. Funding for half of the wetlands planner position was from the State General Fund and the other half from a matching grant from the Fish and Wildlife Service. The budget also included enhancement units dealing with training, transportation, office relocation, and replacement equipment.

Senator Beers said it appeared from the performance indicators that the demand for the Program's services was below expectations in 2004. Mr. Clemmer said a great deal of information was located on the Program's website, and because information could be obtained through the website there had been fewer formal data requests.

HEIL WILD HORSE BEQUEST

Catherine Barcomb, Administrator, Commission for the Preservation of Wild Horses, said the primary duties of the Commission were to preserve viable herds of wild horses on public lands and actively promote the adoption program through the Expo prison programs and other promotional options to help the BLM. The Commission's budget was funded 100 percent by the Heil Wild Horse Bequest. The budget request was basically status quo with minor maintenance and enhancements item.

Senator Raggio asked about the status of the Wild Horse and Burro Foundation. Ms. Barcomb replied that during the past few months the Commission had worked directly with the Foundation and the BLM. Because the Foundation was a private, nonprofit organization, the Commission did not receive information on the amount of funding that had been raised. In response to a request made by Senator Raggio, Ms. Barcomb agreed to provide additional information on the Foundation at the future subcommittee meeting.

Mr. Marvel asked if the work program in the prisons had been successful. Ms. Barcomb replied that the program, which held quarterly adoptions, had been extremely successful. Ms. Barcomb stated that at the summer 2004 Expo a mustang trained at the prison for 90 days sold for $4,200. She indicated there was quite a demand across the West for well-trained mustangs. Ms. Barcomb said 16 inmates were involved in the training program.

In the interest of time, Vice Chairwoman Giunchigliani requested the next presenter, Mr. Crawforth, highlight the Wildlife budget.

NEVADA DEPARTMENT OF WILDLIFE BUDGET OVERVIEW
BUDGET PAGES WILDLIFE 1 – 28

Terry R. Crawforth, Director, Nevada Department of Wildlife, said that nearly a decade ago, the Department began preparations to enter into a new era of wildlife management. The historic model of wildlife management in North America was one of user-pay management and enhancement of wildlife resources. In the past century, hunters and anglers willingly paid billions to fund State wildlife agencies. However, now the demands on wildlife, as well as the demands on wildlife agencies, had outpaced the support system. In 1997 the Department enacted a comprehensive, strategic plan. The unprecedented solicitation of public perceptions and desires in that planning process revealed Nevadans with strong opinions, desires, and demands of the wildlife resources of the State of Nevada and the Department. The Department's initial plan and revised plan documented that the future of wildlife in the nation had moved from a limited interest of declining numbers of hunters and fishermen to a significant increase in interest by the general public. Mr. Crawforth emphasized that wildlife was important to all Nevadans. People pursuing wildlife-related activities in Nevada spent in excess of $600 million annually; $350 million attributed to hunting and fishing and the remaining $250 million to wildlife viewing and photography. More demands had been placed on the Department without a significant increase in the financial support base. Unfunded mandates from state and federal government had taken a severe toll on the Department's operating resources.

Ms. Giunchigliani asked Mr. Crawforth to review: (1) the ending reserve balances recommended in the main account, (2) how the reduced reserve levels would impact the Department's cash flow, (3) unfunded mandates from local governments, and (4) how eliminating the five positions would affect the operations of the Department. Ms. Giunchigliani referred to a bill passed by the 2003 Legislature that authorized substantial increases in license and permit fees. She said many of the members assumed the Department would not be returning to the 2005 Legislature to request additional funding.

Mr. Crawforth referred to the increases in license and permit fees approved by the 2003 Legislature and pointed out that the fee increases did not become effective until March 2005. In addition, funds had not been received at the levels projected. Mr. Crawforth said the Department had authority within the Wildlife account to borrow from the State General Fund as long as the dollars were repaid to the General Fund the same year. The Department had borrowed $5 million during the current biennium. Mr. Crawforth indicated the Department had hoped to begin the next biennium with a small reserve but would not because of having to repay the General Fund.

Ms. Giunchigliani asked why the Department had to request an additional $5 million. Mr. Crawforth explained that the majority of the Department's revenue was generated in the spring of the year. In the past, the Department's revenue would be low by February of each year, but the reserve amount had been large enough to sustain the agency until additional funds were received. The cash flow problem was getting more severe earlier in the fiscal year.

Ms. Giunchigliani noted that the reserves in the NDOW budget account and the Boating Program account were small and asked Mr. Crawforth for the optimal reserve balance for the two accounts. Mr. Crawforth said there should be approximately $3 million in the NDOW account and $1 million in the Boat Program. Ms. Giunchigliani asked what Mr. Crawforth expected to have at the end of the 2003-05 biennium. Mr. Crawforth estimated the ending balance would be $53,000 in NDOW and $45 in the Boat Program at the end of FY2007. Ms. Giunchigliani asked if the Department had a plan to address the small ending balances. Mr. Crawforth said The Executive Budget did not recommend an increase in the reserve. He said, "We have already cut some program activities in the last fiscal year and had made some significant cuts this year. We are not filling vacant positions; three positions were eliminated during the 2003-05 biennium and five positions were recommended for elimination in the 2005-07 biennium." Ms. Giunchigliani asked how the reduction in staff would impact the operation of the Department. Mr. Crawforth said one of the positions was a customer service position at one of the boat offices, four positions were game wardens in Las Vegas. The Department would be unable to respond as well to activities on the Colorado River. Response to urban wildlife issues in the Reno and Las Vegas metropolitan areas would be diminished to emergencies such as "human life threat" situations.

Ms. Giunchigliani asked Mr. Crawforth to discuss the fees that were increased by the 2003 Legislative Session. She also asked if any fee increases were included in the Department's original budget request that were not recommended in The Executive Budget. Mr. Crawforth noted that the Department had presented broad-based fee increases to the 2003 Legislature and a Consumer Price Index (CPI) trigger; the fee increase request was approved. Mr. Crawforth said, "The hunters and anglers were about at an end of what they were willing to pay for the opportunity." While the Department had fairly broad-based support for the fee increases last session, that support did not exist this session, therefore, no proposed fee increases were included in the budget. Ms. Giunchigliani referred to the CPI trigger and asked how much revenue would have been generated if the trigger had been included in the 2003-2005 budget. Mr. Crawforth said the Department would probably have ended with reserves in the hundreds of thousands of dollars.

Senator Raggio asked if the fee increases resulted in fewer individuals purchasing licenses. Mr. Crawforth explained there was always a small percentage of "buyer resistance" the first year of a fee increase. He said other problems were the loss of habitat and five years of drought; there were not enough areas to hunt and fish and fewer tags were issued. Senator Raggio asked for detail on the areas that did not meet projected revenue. Mr. Crawforth said actual sales were flat and indicated he would compile the specific data and provide a report to the Senator.

Senator Raggio referred to a recent court decision in Arizona that prohibited charging higher hunting fees for out-of-state residents. Mr. Crawforth said throughout the nation there was litigation in five areas related to non-residents hunting in states and having equal privileges based on the Commerce Clause of the *United States Constitution*. Senator Raggio recognized that the court decision could have an additional impact on Nevada's fees. Mr. Crawforth explained that the court decision was not really a fee issue but rather an access issue. The litigants had been successful in the state of Arizona. The court decision allowed fee differentials for out-of-state residents but did not limit access. Mr. Crawforth pointed out that Nevada was on the frontline of the litigation. Mr. Crawforth said, "If we end up with a restraining order to stop us from moving ahead with this year's hunts, we would probably just about be able to pay back the loan to the General Fund and turn out the lights and lock the doors about the first of July."

Mr. Marvel asked if the harsh winter of 2004-2005 would have an impact on the number of deer tags that would be issued next year. Mr. Crawforth said the impact of the winter would not be known for another few months. He hoped for more moderate weather. He indicated that Nevada's deer population was stressed and acknowledged there would be losses due to the severe winter. The Department would conduct deer counts in March 2005 and would input the data into the system in April 2005. He emphasized that the Department certainly would not be issuing more deer tags than the number issued for 2004. Mr. Crawforth said the antelope herds would be affected by the severe weather, but the elk herds should not be affected.

Mr. Crawforth referred to the Trout Management Account and said the Department was continuing with the hatchery refurbishment project using bonds and trout stamp revenue. The Lake Mead Hatchery should be reopened in July of 2005. Reconstruction would begin after the spring thaw at the hatchery located in Ruby Valley.

Mr. Crawforth referenced the Boat Safety Account and said revenues had not reached projections, which resulted in diminished law enforcement efforts, some of the boat registration efforts, and boating facilities activities. The account had a budget of approximately $8 million and the Department anticipated having a $2 million reserve.

In closing, Mr. Crawforth referred to the pie charts provided to LCB staff that displayed the revenues and expenditures for each of the Department's budget accounts (Exhibit M). There were over 20 revenue sources going into the Department's account. Mr. Crawforth said it was pretty difficult for the Department to do much trimming to the budget based on the significance of personnel costs. The Department had trimmed expenditures about as much as possible.

Mr. Marvel indicated the Subcommittee did not have copies of the pie charts. Mr. Crawforth apologized and said the charts had just been given to staff. He anticipated there would be an opportunity to review the charts in future subcommittee hearings. In response to a request made by the Chairman, Mr. Crawforth agreed to provide the charts to the Assembly Ways and Means Committee and the Subcommittee members prior to the beginning of the 2005-2007 Legislative Session.

Mr. Marvel commended Terry Crawforth and the Department of Wildlife for the great work related to the sage grouse not receiving protection under the Endangered Species Act. Mr. Crawforth said listing the sage grouse under the Endangered Species Act would have had significant cultural and economic impact on Nevada and the West.

DEPARTMENT OF BUSINESS AND INDUSTRY BUDGET OVERVIEW
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Sydney H. Wickliffe, CPA, Director, Department of Business and Industry (B&I), said B&I had 16 agencies. She said the agencies had vastly different purposes, functions, and missions. The agencies did have consumer or constituent protection in common. One or more of the agencies touched virtually every citizen in the state of Nevada. The purpose of B&I was to regulate business enterprises, promote worker safety, educate the public and businesses regarding legal rights and responsibilities, and to promote the legal operation of businesses within the State. The Department emphasized personal responsibility, integrity, and a desire for excellence. The Department had 665 employees, approximately 10 percent were unclassified and the remaining employees fell under 86 different job classifications. The annual budget, included in 33 separate budget accounts, was slightly more than $100 million each year. The Department differed from other state agencies in that only 8 percent of the revenue came from the General Fund. About 2 percent came from the Highway Fund, and the balance was funded through services provided and the businesses.

Ms. Wickliffe referred to the Department's accomplishments during the 2003-05 biennium. She said the Department had provided better service and direction to employees through updating and expansion of the agency's policies and procedures. Training had been expanded. Some of the agency's administrators had provided training directly to other administrators and the employees. A cooperative approach was promoted among the agencies to address common problems, such as the establishment of the internal human resources management committee of agency administrators to provide advice on personnel and training needs. The Department's Intranet had been expanded and included a user-friendly legislative tracking system which included the fiscal impact, a summary of all testimony, tracking progress, and legislative intent for each of the bills related to the Department. The data was archived for later research. The system had been replicated for use in tracking constituent correspondence.

Ms. Wickliffe referred to the LCB audits of six of the B&I agencies in the past two years. There had also been Executive Branch audits of three additional agencies. The Department had made improvements based on the audits. In the last two years the agency had issued approximately $125 million in bonds for construction of a cancer research and treatment facility in Las Vegas, construction of a continuing care retirement community, equipment for the Carson Tahoe Hospital, and a few other business operations. The Housing Division had financed millions of dollars in single and multi-family loans to first-time home buyers, senior citizens, and handicapped individuals. The Dairy Commission licensed two new or expanded dairy facilities and approved the first organic certified milk produced in the Amargosa Valley. The Division of Industrial Relations, the OSHA (Occupational Safety and Health Administration), and the SCATS (Safety Consultation and Training Section) response teams continued to lead the state in training first responders. The Division of Industrial Relations had also established a Safety Recognition Program for employers. The Insurance Division, along with three partners, had launched a public awareness campaign to combat unauthorized insurance fraud. The Commissioner was named Chairman of a national committee charged with the responsibility to develop a national unauthorized insurance campaign while continuing to manage the "now calmed crisis" of medical malpractice. The Commissioner also developed a program to attract captive insurers to the state of Nevada, a clean industry providing more jobs. The Office of the Labor Commissioner had received from the Nevada Taxpayers Association the Good Government Award for the efficient use of taxpayer dollars in fulfilling their responsibilities. During 2004 the Office had collected over $2.5 million in back wages for workers. Ms. Wickliffe said a significant accomplishment of the Taxicab Authority was the signing of an interlocal agreement with the Las Vegas Metropolitan Police Department to assign the lead to the Taxicab Authority for investigation of any and all crimes that involved a taxicab.

Ms. Wickliffe said all the B&I agencies had engaged in active public awareness campaigns to better educate and to acquaint customers and consumers with the services available to them and had actively initiated or improved business processes to provide more efficient services to constituents. Ms. Wickliffe said the 72nd Session of the Legislature created the Division of Mortgage Lending. The Real Estate Division continued to be busy. The Division's new database was a huge project that had been very successful and was in the last stages of testing. Full implementation of the program was expected in the spring of 2005. The Department planned to expand the database into other agencies.

Ms. Wickliffe referred to the recommendations included in The Executive Budget and said through almost all the agency's budgets a line item was included for an unclassified salary increase or increases. As always, at the beginning of a legislative session, she had requested from the Governor's Office modest salary increases for the unclassified employees. For the 2005-07 biennium, Ms. Wickliffe had requested 3 percent, although there were some exceptions. She said the Director of Personnel, Jeanne Greene, would be presenting a plan for a tiered pay system for unclassified employees. Ms. Wickliffe said she and Ms. Greene had agreed on the requested categories and requested salary levels.

Ms. Wickliffe said an extremely important project for the Department as a whole, which would reside in the Director's Office, was the consolidation of the Department's personnel function. The consolidation would be accomplished by transferring five vacant positions and one employee from B&I agencies into the Director's Office. Moving the positions into the Director's Office would provide for more efficient and consistent service to the agencies, relieving them of the administrative burden. The Department was requesting 16 additional positions:

- A medical records technician for the Athletic Commission, who would evaluate, study, and translate the medical records for the doctors contracted by the Commission.
- Two legal researchers for the Nevada Attorney for Injured Workers to accommodate the increasing caseload.
- Five examiners for the Financial Institutions Division, based upon statutory obligation to examine licensees at specified intervals.
- The Insurance Division requested one compliance auditor, one network technician to manage the computer system that was tied to a national insurance database, and a file clerk to assist in managing the records.
- The Mortgage Lending Division requested one examiner and two assistants, based upon statutory obligation, to examine licensees at specified intervals and to handle the licensing burden. The Division also requested a certified public accountant (CPA) to develop risk-based criteria for the timing of examinations and to better assess licensees' financial conditions.
- The Real Estate Division requested one training office for the common interest community program, an assistant for the front desk and telephones in the Las Vegas office, a publications writer to maintain the agency's website and to provide information to the public and large constituent base, and an assistant to serve the course audit program and act as backup for telephone and provide other clerical support.

Ms. Wickliffe said two of the agencies needed to update their databases with something different from the Real Estate Division's Integrated Licensing Database System. The Nevada Attorney for Injured Workers' requirement for continuing improvements had been studied for many years and the agency "had settled upon their needs, funded from the Workmen's Compensation Fund." The workload of the Taxicab Authority doubled every five years and the agency also required a new computer system. Ms. Wickliffe said the Department was investigating the expansion of the Real Estate database model into three or four of the agencies, at no cost to the agencies.

Ms. Wickliffe said the Department had implemented a videoconference system, which was housed in the Director's office in Carson City and in the Bradley Building in Las Vegas. The system proved to be quite successful and paid for itself in the first five months of operation. In order to reduce staff travel between Las Vegas and Carson City, the Department desired to expand the videoconference system to the new building in Carson City and to the Grant Sawyer Building in Las Vegas.

Ms. Wickliffe said the DIR budget included a request for a billing system for the legislatively-required fee implemented for elevator and boiler inspections. The fees would generate approximately $1.5 million each year of the biennium and when fully implemented, the fees would offset the worker's comp assessment.

Finally, the Department was requesting minimum funding for the routine replacement of equipment, computers, vehicles, filing cabinets, and chairs. The only fee modification requested by the Department was the ability to perhaps raise fees for the Financial Institutions Division, if necessary, and to increase the penalties to be commensurate with the penalties within the Mortgage Lending Division. Fees at the present time were capped at either $500 or $1,000, neither of which served as much of a deterrent to a large financial institution; the Department sought to "max the fees out" at $10,000. Ms. Wickliffe said no new programs were proposed.

Senator Beers pointed out that the Department's centralization of personnel functions had an impact on the State General Fund. Ms. Wickliffe said, if she recalled correctly, there would not be an impact on the General Fund. Senator Beers said that, based on the information provided by the Department to date, there was an impact on the General Fund. Positions were being moved from agencies not supported by General Fund dollars and moved into the Director's office. Senator Beers asked if the Department had a cost allocation plan for the reorganization, and Ms. Wickliffe answered in the affirmative. Senator Beers asked that the cost allocation plan referenced by Ms. Wickliffe be presented at the next subcommittee hearing.

Barbara Braaten, Program Officer, Manufactured Housing Division, said she was representing Renee Diamond, Administrator of the Division, who was out of the country. Ms. Braaten read from a prepared statement:

> The Division has seen increased performance from our projections for FY2004 on titling conversions, although installation inspections are down slightly from projected figures. We think that the major cuts in personnel undertaken by the Division and the fee increases implemented have returned the Division to a steady, responsible path towards repair of the reserve. The reserve for the Division has increased from $115,798 actual in 2003 to a current $484,064, which was balanced forward in 2005. We project, based on current trends, that the 2006 and 2007 reserve will be $784,502.
>
> Nevada sales of new manufactured homes have increased slowly over the lows of the past three years. Although this month did not show any growth over past year performance, we think that Nevada has shown small, steady increases over the low we endured. We also see that there is some increased activity in other western states. Nationally the industry reports show a 12.8 percent gain over last year for November, although much of this is attributed to FEMA purchases for the interim housing during disaster relief. As home and land costs increase in Nevada, the manufactured modular home should show an increased consumer value. Other good news is that the industry reports that repossessed and new home inventory has declined and this ultimately leads to increased production. Although there is no way to accurately anticipate sales changes, the Division feels that the way to manage this uncertainty is to continue to monitor its expenses and manage its resources in a careful and ongoing basis.
>
> The Nevada Manufactured Housing Association supported our past fee increase and continues that support. To earn this support, the Division works diligently to provide fair and efficient service to the industry and to Nevada consumers.

Ms. Braaten said she would be happy to answer any questions.

In response to a question related to the inspections asked by Mrs. Smith, Ms. Braaten said the Division currently provided all the inspections statewide. Mrs. Smith asked if there were sufficient positions to cover the inspections. Ms. Braaten referred to the downturn in the industry and said currently the staff was sufficient, but additional staff might be required in the future, particularly in northern Nevada. Mrs. Smith asked why the inspection process was moved from local governments to the state level. Ms. Braaten recalled that the industry supported the move in order for the regulations to be uniform throughout the state as far as inspections for safety installations. There had been concern that individual counties had different requirements than those from the State. In order to make the requirements uniform, the process supported by the industry was implemented at the state level.

Mr. Hettrick commented that it appeared the State was saving the industry money and would ultimately cost the Nevada taxpayer money. He asked if the industry was willing to provide funding to have a uniform process. Ultimately new staff might be required and taxpayer money would have to fund the new positions. Ms. Braaten said she could not answer Mr. Hettrick's question on having the industry provide funding for new positions, but she could have that information forwarded to Mr. Hettrick. She pointed out that no new positions had been added since the inspection process was moved to the state level.

Ms. Giunchigliani asked if the inspection process that was moved to the state was solely for safety installations. Ms. Braaten answered affirmatively. Ms. Giunchigliani thought there were too many groups conducting inspections and not communicating. She said at some point there needed to be discussion to determine the financial impact.

Alice Molasky-Arman, Commissioner, Division of Insurance, said she administered the Division which, in no small part due to the support of the Legislature, became fully accredited in December 2004 by the National Association of Insurance Commissioners. The accreditation would remain for a full five-year term. With the legislators' support of the Division's bill and the budget request, she was certain the accreditation would be continued during the next review. Ms. Molasky-Arman said she administered ten budget accounts, eight of which were included in The Executive Budget. The accounts not included in the budget were the Self-Insured Workers' Compensation Trust Funds, which guaranteed claims in the event of employer insolvencies. The chief defining characteristic of the remaining eight budget requests was the Division's effort to maintain a strong regulatory environment, while respecting the public's demand for efficient and effective government services. The ultimate purpose of the Division was to protect Nevada's insurance consumers.

Ms. Molasky-Arman referred to Budget Account 3813, the Division's chief operating account. BA 3813 was the only Division account containing General Fund dollars and was the budget that was most directly affected by the budget reductions of the 2003-05 biennium. The request before the members asked to repair the information infrastructure, which had become dangerously fragile due to three years of postponed attention. The budget requested replacement of all computer hardware and an upgrade to the operating system software. Ms. Molasky-Arman said, "Last October you approved a new attorney position and a supporting legal secretary, and I thank you again." The additional legal resources had relieved the legal section of an overwhelming workload. The budget request asked to retain those positions and also included a request for three additional positions: (1) an investigator devoted to detecting and stopping insurance fraud, particularly on the Internet, (2) a computer technician to keep the information systems operating, and (3) a file clerk to maintain records until, and while, an imaging solution was developed.

Ms. Molasky-Arman said the Division's other budget accounts reflected the general health of the insurance industry in Nevada. Since the accounts were funded by a variety of fees and assessments paid by the industry, funding levels were sound. The budget request was based upon maintaining the expenditure levels incurred in previous years. Two positions, the manager in BA 3818, Captive Insurers, and the research actuary in BA 3824, Insurance Education and Research, were requested for continuation. Ms. Molasky-Arman said the manager position was approved by the Interim Finance Committee in September 2004. The position was necessary to help develop and regulate the growing captive industry. The research actuary was approved during the 2003 Legislative Session and was needed to help study emerging problems in a complex industry and to identify solutions.

Ms. Molasky-Arman indicated the Subcommittee had requested additional information on captive insurers, medical malpractice, construction liability, and tort reform, as related to medical malpractice and construction liability. She said all the issues were discussed in detail in the "2005 Report on the Nevada Insurance Market." She indicated that the report should have been delivered to members prior to the meeting and then began a brief overview of the report.

The 1999 Legislature enacted a bill authorizing captive insurers to be licensed in Nevada. Ms. Molasky-Arman informed the members that Nevada's captive industry had been growing beyond expectations. In 2004, 23 captive insurers paid over $300,000 in premium taxes. To date, an additional 15 new companies had been authorized in 2005 and there were 4 pending applications. The growth was anticipated to continue through the biennium, with an accompanying growth in premium tax collections. It was expected that captive insurers would pay approximately $1 million in premium taxes in 2005. A recent study indicated that each captive insurer domiciled in a state was worth as much as $250,000 annually to the economy of that state. Ms. Molasky-Arman said the economic benefit of the captive insurer also provided: (1) employment opportunities, both with the captive and the infrastructure supporting captives, such as attorneys, accountants, and risk managers; (2) capital investments; (3) real estate development; and (4) tourism. Recognizing the link between the captive industry and economic development, the Commission on Economic Development and the Commission on Tourism had eagerly partnered with the Division of Insurance to develop informational brochures and marketing materials touting Nevada as a domicile state for captives. The regulatory responsibilities of the Division continued to increase. Ms. Molasky-Arman said she fully expected to return to future legislatures to request additional staff to be supported by program income. Since the current level of income would not sustain additional staff, a request for additional staff was not included in the budget for the 2005-07 biennium.

Senator Titus referred to the passage of Question 3, and asked if the Commissioner knew if the medical malpractice rates would be reduced. Ms. Molasky-Arman said the Division had obtained the industries' evaluation of ballot Question 3. There was one medical malpractice insurer that was strongly considering a rate decrease, but the decrease probably would not be significant. Others had indicated the need for some certainty that the provisions of Question 3 would be upheld, because of the almost certain challenge to the constitutionality of the ballot question.

Ms. Molasky-Arman said the initial problem occurred when St. Paul Companies notified the Division of their intent to withdraw. Other insurers expressed little interest in filling the void, which created an enormous availability problem. At the Governor's direction, Ms. Molasky-Arman established the Medical Liability Association of Nevada (MLAN) to ensure that essential coverage was available to Nevada physicians. The introduction of the MLAN had solved the availability problem and stabilized the availability in the marketplace. Less than three years after being created, MLAN now insured almost 900 Nevada physicians.

At the same time MLAN was created, the doctors themselves addressed the availability problem by forming Nevada Mutual Insurance Company, a physician-owned domestic mutual insurer, the largest provider of medical and professional liability in the State. Medical liability insurance in the voluntary market was available to every Nevada doctor if the doctor was relatively claims free, or in the secondary market, if the doctor represented a significant risk or had a claims history. Ms. Molasky-Arman recognized that obtaining insurance was only half the problem; affordability remained the other half of the problem. The reforms made by the 2003 Legislature were designed to make insurance coverage for physicians less costly by containing claims expense. Ms. Molasky-Arman reiterated that the market had not yet significantly responded to the legislative reforms or Question 3 in terms of rate reductions. She referred to future claims and the need for predictability of claims expense. There was an expectation that carriers that left Nevada after the 2003 Legislature, such as the Americans Physicians Insurance Company and the Medical Insurance Exchange of California, would reconsider and reenter the Nevada market. If the six existing major carriers faced competition, and if the claims expense was less volatile, rates would become more affordable.

Ms. Molasky-Arman said that on the heels of the medical malpractice problem came complaints from contractors regarding the cost and availability of construction defect coverage. In 2002 a task force was convened by the Commissioner to study problems in the market and report their findings and recommended solutions to the Division and the Governor. Many of the recommendations were enacted in S.B. 241, passed by the 2003 Legislature, including extending the noticing requirements and right to repair for cases involving more than four homeowners. Other recommendations, such as reducing the statutes of repose and limitations, and opting election requirements for class actions, and a cap on both attorney's fees and expert witness fees and costs, were not included in the final version of S.B. 241. Despite the passage of S.B. 241, the fact remains that insurers had paid millions of dollars more in claims than they collected in premiums. Therefore, very few insurers offered coverage. Insurance was only available on a renewable basis and at a much higher cost.

Ms. Molasky-Arman recognized many single and multi-family dwellings were being built in Nevada with serious construction problems. She did not know if the contractors had been slow, or had been reluctant to make satisfactory repairs. While the traditional insurance market was slow to offer coverage, there was greater reliance upon alternative markets, such as captive insurers and risk retention groups. The Division had authorized eight captives in risk retention groups that offered construction liability coverage to contractors in other states, however, none had stepped forward in the Nevada market. The Division continued to encourage the development of alternatives and would be more than happy to work with Nevada's construction industry to assess the viability of this approach.

In conclusion, Ms. Molasky-Arman referred to an issue that had an important consequence of turmoil within the marketplace. She said a doctor squeezed between fixed provider payments and rising insurance rates, a contractor unable to obtain financing without liability insurance, an employer faced with terminating employees to pay for rising employee health benefits, were all likely targets for unscrupulous schemers dealing in fraudulent insurance. A quick and easy policy at half the cost was a temptation too attractive for many to avoid. Nevadans had lost $10 million to fraudulent insurance schemes during the 2000-2002 time frame. Because of fraudulent insurance schemes, the Division had ongoing radio and television spots, a website, and a toll free telephone number allowing consumers to verify that the people offering insurance were legitimate. Ms. Molasky-Arman said the Division had made significant recent progress in "choking these scams" from both the supply and demand side, but more needed to be done. BA 3824, the educational budget, contained a request to continue funding public information campaigns. Ms. Molasky-Arman said she would appreciate the support of the legislators.

Ms. McClain said the members had not received a copy of the Nevada Insurance Market report. Ms. Molasky-Arman stated that the reports had been delivered to the Sergeant at Arms for distribution to the members.

Ms. Wickliffe introduced Carol J. Tidd, Commissioner, Department of Business and Industry, Financial Institutions Division. Ms. Wickliffe said Ms. Tidd had a background of 19 years with Nationwide Insurance managing multi-billion dollar budgets and had succeeded in learning all areas of the Financial Institutions Division.

Ms. Tidd referred to her handout (Exhibit N) and said her comments would be very brief. The handout included the Division's goals and supporting documentation for the six new positions included in the Division's budget request. The data would provide members with the number of licensees and hours spent in giving licensee examinations. The Division had a broad range of licensees; banks, credit unions, payday lenders, installment loan companies, and debt adjusters. The Division was very diverse and that required education programs for the examiners because of the breadth and width of the work performed by the licensees. On the depository side, the banks, thrifts, and credit unions had many similarities, but the similarities ended with the payday lenders and installment loan companies. Ms. Tidd referred to the questions posed by members earlier in the meeting and reported that there had been growth, particularly in the payday industry. Collection agencies grew by 6 percent and installment loan companies grew by 12 percent. The largest growth occurred in the money transmission industry, and there was a fair amount of growth in the thrifts, or the industrial loan charters. Ms. Tidd said the Division was working on two bank applications and there was much more interest in banking institutions opening a bank in Nevada. The Division had a mandate under a statutory requirement to examine licensees. Ms. Tidd said one of the reasons the budget included a request for additional positions was to meet the statutory requirement. The other items included in the budget provided funding for new computers for the Division. She said the Division would work with the existing databases and would be looking at an imaging solution in the future, but that was not included in the budget.

Ms. Tidd referenced a question posed earlier in the meeting related to the conversion of the agency from General Fund support to self-funded. Because the conversion was made prior to Ms. Tidd's arrival, she indicated she would forward that information to the members. She said the Division had not received any feedback from the depository institutions related to the change in the assessment process. Ms. Tidd indicated that statutes gave the Division the ability to charge a fee back to licensees to help cover the costs of the Division's

CPA; the process was put in place in the fall of 2004. The annual fee for a payday lender was approximately $125.

Mr. Hettrick noted that only one of the Division's performance indicators changed, the others remained the same. Ms. Tidd said she really wanted to address the performance indicator area and said she thought she knew a great deal about budgeting, until she came into State service.

Senator Beers asked about the financial institution fees that fluctuated in the second year of the biennium; the fees appeared to increase 50 percent compared to the first year of the biennium. Ms. Tidd said she believed the fluctuation was due to when the fees were received, and said she would provide more information in future subcommittee meetings.

Scott E. Bice, Commissioner, Division of Mortgage Lending, said he had served as Commissioner for slightly over one year and was formerly with the Federal Housing and Urban Development Department and had been a mortgage broker for many years. Mr. Bice said he had been active in educating the industry in the regulatory expectations of the Division.

Mr. Bice said the Division of Mortgage Lending was created through A.B. 490 passed by the 73rd Legislative Session. A.B. 490 created the Division as a self-funded agency, with the intent to better separate the specific licensee status of mortgage brokers, mortgage bankers, and stand-alone escrow agencies. It was important to note that the Division conducted many education programs, approximately four each month. The Division was also very active in enforcement and consumer complaints; 62 administrative actions were issued in 2004. Prior to creation of the new Division, it took approximately five to six months to approve new applications for mortgage brokers and mortgage bankers, and that had been reduced to two to three months. The division licensed mortgage brokers upon receipt of various documents and then background checks were conducted after the fact. Mr. Bice said there were approximately 7,100 mortgage agents currently licensed with a backlog of 4,000. The Division had an interlocal agreement with the Gaming Division to conduct investigative background checks. Fingerprint cards were run through the Federal Bureau of Investigation (FBI). Mr. Bice estimated the cost of each application to be $80. He said there was a mismatch of revenue recognition versus expenses and anticipated that a work program would be required in FY2005 in order to fund the backlog of expenses, resulting in a reduction to the reserve. Mr. Bice felt that the Division's first year of operation had been consistent with enforcement and regulation and that the industry knew what to expect. He did not think there had been many complaints about what the Division was doing, but thought the majority of the industry was happy that consistent enforcement was in place.

Mr. Bice said the Division, through potential work programs, might also encumber more funds to adequately train new staff. The budget did not include any funding for out-of-state travel. The Division would have to address out-of-state licensees and national training programs. Mr. Bice thought there might be other categories where the Division would be adjusting the reserve through work programs for operational expenses. He said the Division had, with the pending applications, approximately 13,000 licensed mortgage bankers, brokers, escrow companies, and 7,100 agents. Mr. Bice said, "It's about as good as it gets in the lending business with regards to numbers of people." New applications were received all the time. Interest rates continued to be at historical lows, even though the short-term rates continued to increase, which would have an effect, long-term mortgage rates were driven off of the ten-year treasury, which was still around 4.15 percent, close to all-time lows. Mr. Bice anticipated that as short-term rates increased, the number of interest-only fixed payment type term loans would be reduced, which would not be in the best interest of the consumer. Mr. Bice referenced the fee projections included in The Executive Budget and said he was not certain, because the Division was a new agency, what the total fee amounts would be for FY2006, the number would be a function of rates and a function of the real estate markets.

Mr. Bice pointed out that statutes required the Division to bill out the agency's Attorney General (AG) and certified public accountant (CPA) expenses. The Division did bill the industry. The AG expense was approximately $225,000 in FY2004; the expense to the industry had been reduced by stipulated agreements to recover the attorney fees and the industry was charged a nominal amount of approximately $60 per licensee. Mr. Bice said, "We don't ever want to take our fees and disguise them as a backdoor tax, but I think right now it is simply early in the process." There would be a better understanding of the overall licensee base over the long-term.

Ms. Giunchigliani asked Mr. Bice what he would project as a proper reserve based on his past experience. Mr. Bice said he had been in private industry for approximately 18 years, 5 years at the federal level and now at the State. Federal budgeting was fairly simplistic in that the HUD budget was a multi-million dollar budget and allocated funds had to be expended or the funds would be reverted. The number of licensees included in the budget was very conservative. Mr. Bice pointed out that the number of individuals who wanted to be licensed as mortgage brokers, mortgage bankers, or agents was extremely high. However, based on the educational requirements that would be included in the Division's bill draft request, Mr. Bice said he expected perhaps as many as 50 percent of the 7,100 applicants for mortgage agents might not be able to pass the licensing test, which would have significant fiscal impact.

Ms. Giunchigliani asked if the information provided earlier in the meeting on the real estate market reflected the statewide market. Mr. Bice said his earlier comments were based on the health of the industry. Nevada led the nation in construction and had for quite some time. Mr. Bice recognized that there were always peaks and valleys in the real estate market and characterized Nevada's real estate market as excellent. He noted that if the market stabilized and interest rates increased, the number of licensees would certainly be reduced. Ms. Giunchigliani asked if Mr. Bice had any idea of when there would be a leveling of the real estate market. Mr. Bice said he did not have enough information at the current time and thought the Division would have a better idea at the end of the 2006 calendar year. Ms. Giunchigliani pointed out that the Legislature met every two years and noted that Mr. Bice would have to work with the subcommittee on the proper reserve for the Division.

Senator Beers voiced concern about the 31 percent increase in staffing. Because the Division was so new, Senator Beers said he was not certain everyone had the learning curve down yet. The perception that the Division could not handle the workload was one that would go away just by the experience that Division staff gained on a daily basis. Mr. Bice said the four positions requested would be located in the licensing and examination areas in the northern Nevada office and would be in addition to a supervisory examiner and one senior examiner. The positions requested included another senior examiner, a CPA, and two support positions. The Division had utilized four or five temporary positions and proposed making two of the positions permanent. Mr. Bice emphasized that the Division was not trying to be over aggressive in hiring new staff, rather was attempting to obtain a good, qualified, and permanent group of core staff.

Mr. Hettrick emphasized that the Division needed to review the performance indicators included in The Executive Budget. Indicators 1 through 4 referenced "examinations 60 percent" and there was no indication of what that meant. Mr. Hettrick asked Mr. Bice to please address the performance indicators.

Mr. Hettrick continued and said he had received multiple complaints from brokers operating out of their homes who feared they would be forced out of business because of the new regulations, or would be forced to rent a building and increase rates. Mr. Hettrick did not think the intent of the new Division of Mortgage Lending was to drive mortgage brokers out of business. He said he had the same concerns Senator Beers had expressed related to the request for a 31 percent increase in Division staff. Mr. Hettrick wondered why additional staff was needed if the Division anticipated that 50 percent of the applicants would fail the new examination. In addition, Mr. Hettrick did not think individuals operating a business in the state of Nevada and not doing something inappropriate should be put out of business based on a technical examination. Mr. Hettrick said he hoped the issues just discussed could be addressed during the upcoming budget process.

Mr. Bice concurred with Mr. Hettrick's assessment of the performance indicators and indicated the Division would be revisiting the indicators and generating more realistic numbers "as we go forward." He referred to some of the other concerns addressed by the members and said,

> To put a requirement which we currently have to require agents to have continuing education without any specific upfront education seems to be a little bit off kilter. I do believe, being in this industry for 24 years, that people do need to have a basis of understanding of various things about the industry before they are licensed. It is not uncommon in other states, or other industries, where there are specific core educational requirements, testing, licensing, then continuing education—that would be part of my goal that revolves around that side of the aspect.

Mr. Bice said the Division received approximately 40 telephone calls each day related to complaints and approximately 40 written complaints in any given week. The Division responded to all complaints, but there was a significant backlog. The majority of complaints were not related to individuals working out of the home, but that was an industry issue that the Division would continue to explore and address through the legislative process. Mr. Bice then referenced his earlier statement related to the number of individuals who might not pass an examination and said,

> That's based on, not just dealing with my licensees, but opening up numerous education events for the education providers and seeing what the skill levels and the newness of some of the agents in the business have been. Even if that number holds to be that, adding these two positions in that clerical function of that, I do not believe would be overkill to the budget or to the staff level or level of work that is done.

Mr. Hettrick recognized that the majority of complaints mentioned by Mr. Bice were probably consumer complaints. Mr. Hettrick thought there had been one or two complaints from brokers working out of their homes and he heard a lawsuit had been filed. Mr. Hettrick hoped there would not be legislation that would ban brokers from working out of their homes. Mr. Hettrick reiterated that he did not want to see the State putting people out of business on technical issues. Mr. Hettrick said,

> I think it's inappropriate to put them out of business. I think that any legislation you bring before this Body should include something that allows people like that to be grandfathered in.

Mr. Bice thanked Mr. Hettrick for his comments.

Senator Beers said it might be an unintended consequence that the retail marketing section of the mortgage lending industry was included in the legislation. He pointed out that A.B. 490 resulted from individuals who defrauded investors "by taking their money and spending it rather than taking their money and investing it." Senator Beers said he thought the retail brokers simply marketed, located homeowners seeking mortgages, and then referred the individuals to mortgage bankers; the inclusion of the retail marketing industry should be considered by members serving on the legislative Commerce and Finance Committees. Senator Beers asked Mr. Bice to bring "hard numbers" for caseloads, complaints, and backlogs to the subcommittee meeting. Senator Beers said, "We will be happy to work with you in developing appropriate performance indicators."

Gail J. Anderson, Administrator, Business and Industry, Real Estate Division, said the Division had regulatory authority over six chapters of law. Ms. Anderson said the Division had four budget accounts included in The Executive Budget; three of the accounts were self-funded, special accounts, and one account, the administrative budget, was funded through the General Fund.

Ms. Anderson referred to BA 3820, Common-Interest Communities, which supported the Office of the Ombudsman for Common-Interest Communities and the Commission for Common-Interest Communities. The Commission had been meeting since November 2003 and on January 27, 2005, adopted regulations. The reserve in BA 3820 at the end of FY2004 was $2.17 million. Ms. Anderson said the program was not fully staffed until May of 2004, resulting in lower personnel costs than projected. The Commission had not yet met to hold disciplinary hearings. The regulations adopted in January of 2005 were going through the filing process. The Commission hoped to hold the first disciplinary hearings in the spring of 2005. The Alternative Dispute Resolution Subsidy program, $300,000 in the biennium, had not been implemented because the criteria for the program were included in the newly adopted regulations which were awaiting filing. Over $500,000 in costs were allocated that were not expended in the base budget year of 2004 in this program, which would have had some impact on the carry forward and would have brought it down to under $1.7 million. Ms. Anderson recognized that $1.7 million was a significant reserve amount. Program staff had analyzed revenue and expenditures based upon the Governor's recommended budget for the 2005-07 biennium, setting aside the reserve account, and it came out to a cost of $3.76 per unit required to fund the program. To date, 314,811 units were registered in Nevada and "that just is divided by the Governor's recommended budget for this." Alternative dispute resolution filing fees of approximately $10,000, and the interest on the account of approximately $40,000, were not factored into the per-unit costs. Ms. Anderson said she had presented a plan to the Commission to purge the reserve in BA 3820, and the response had been unanimous. The Commission desired to utilize the reserve for programs and subsidies to assist homeowners' associations and board members. Ms. Anderson said the state of California was considering implementing a similar program and was proposing a $10 unit fee to fund the California program.

Ms. Anderson continued and said the Commission for Common Interest Communities wished to explore several enhancements to the program; one enhancement would be to commission a study regarding the effectiveness of the alternative dispute resolution (ADR) process. The Commission also desired to develop and produce, at a fairly professional level, a videotaped education series for Board members of homeowners' associations. The tapes would be provided to the associations at no cost and would advise board members on their duties and responsibilities. The Board also wanted to consider an increase to the ADR Subsidy Program and to discuss the possibility of establishing a homeowners' association protection recovery fund, similar to the real estate recovery fund. The Commission would review staffing levels, caseloads, effectiveness of the intervention program, and the effect of the Commission's impact once disciplinary hearings began.

Ms. Anderson referred to BA 3823, Real Estate Administration, which was partially funded through the State General Fund. The strength and growth of Nevada's economy had a significant impact on the Division. "Original" real estate licenses issued from FY2003 to FY2004 increased 59 percent. Ms. Anderson said she would provide information on the Division's performance indicators at the subcommittee hearings.

The Division was in the "third trimester" of the implementation of the Division's integrated data system. Ms. Anderson noted no additional components had been requested for the 2005-07 biennium, but she anticipated requesting additional funds for the 2007-09 biennium. Ms. Anderson explained that she wanted to get the data system fully operational before embarking on the next phase, a major project to implement electronic records storage. She thanked the legislative body for the allocation that allowed the Division to implement the data system. The system could not have been implemented without the information technology position and all the Division staff.

Assemblywoman McClain said for future subcommittee meetings she would like the Division to investigate and report on other ways of lowering the reserve by actually helping homeowners' associations. She recognized there were many associations, especially in the older part of Las Vegas, that were struggling trying maintain the facilities. Ms. McCLain suggested perhaps some type of rebate. She said she would also like more information during subcommittee hearings on the implementation of S.B. 100 of the 2003 Legislative Session.

Senator Beers asked if the Division's computer system would be up and running and on the Internet by the end of the 2005 Legislative Session. Ms. Anderson said the system would be operational and on the Internet by the end of FY2005, and hopefully, by the middle of April 2005.

Ms. Giunchigliani asked how many homeowners' associations were in Nevada. Ms. Anderson said there were 2,067 registered homeowners' associations as of February 1, 2005. There had been some positive impact as a result of the Secretary of State's bill in the last legislative session that required any homeowner association to register and prove registration with the Office of the Secretary of State. The registration rate of homeowner associations had increased significantly. Ms. Giunchigliani asked if the associations filed Covenants, Codes and Restrictions (CC&Rs) with the Division. Ms. Anderson said the Division did not collect the CC&Rs, which were normally very significant documents in terms of size.

Kimberly Rushton, Commissioner, Transportation Services Authority (TSA), said she would be addressing any major changes included in The Executive Budget resulting from the recommendations made by the legislative audit concluded in November of 2004. Ms. Rushton reported there were no changes as a result of the audit and indicated the agency had submitted a flat budget with no enhancements, additional staff, or additional programs. The budget did include a request to replace existing equipment. No additional funds were requested, in large part because of the additional funding provided to the TSA pursuant to passage of A.B. 518 passed by the 2003 Legislature. A.B. 518 included an imposition of a $100 limousine fee. Ms. Rushton said the funding received by the TSA from the fee was used to hire two additional compliance auditors who had the responsibility of ensuring 100 percent verification of the required annual vehicle inspections for safety purposes.

Senator Beers pointed out that the legislative audit found that the agency's performance indicators were problematic and needed to be addressed in future, subcommittee hearings.

Ms. Rushton apologized if she misspoke about the audit findings. The legislative audit had resulted in a large number of findings that caused the agency to revisit policies and procedures. Many of the deficiencies identified in the audit had been identified by the Commissioners, and many of the deficiencies had been addressed through reorganization. She acknowledged that the TSA was working on the performance indicators and would address the indicators at future subcommittee hearings.

PUBLIC TESTIMONY

A. R. Fairman, representing the Nevada Transportation Coalition, said he was happy to see that the Transportation Services Administration budget had been brought to the attention of the Subcommittee. He hoped all the issues presented would be addressed. Mr. Fairman said he looked forward to future presentations of the TSA budget.

Chairman Arberry adjourned the meeting at 5:05 p m.

RESPECTFULLY SUBMITTED:

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Linda Smith
Committee Secretary

APPROVED BY:

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Assemblyman Morse Arberry Jr., Chairman

DATE:____________________________________

EXHIBITS

Committee Name: Legislative Commission's Budget Subcommittee
Date: 02/01/2005 Time of Meeting: 8:30 a.m.

Bill #	Exhibit ID	Witness	Dept.	Description
	A			Agenda
	B	Dr. Keith Rheault	NDE	Education facts (booklet)
	C	Dr. Keith Rheault	NDE	Budget information (chart)
	D	Dr. Keith Rheault	NDE	DSA information (spreadsheet)
	E	Dr. Keith Rheault	NDE	NCLBA information (booklet)
	F	Dr. Keith Rheault	NDE	Attracting and retaining quality teachers (booklet)
	G	Dr. Keith Rheault	NDE	Remedial education programs (booklet)
	H	Dr. Keith Rheault	NDE	Class-size reduction program (booklet)
	I	Dr. Keith Rheault	NDE	Early childhood education (booklet)
	J	Dr. Keith Rheault	NDE	Financial Resources and Uses (spreadsheet)
	K	Dr. Keith Rheault	NDE	Summary Executive Budget (spreadsheet)
	L	Allen Biaggi	CNR	PowerPoint presentation
	M	Terry Crawforth	NDOW	Pie charts
	N	Carol Tidd	B&I	Handout