

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

**Seventy-Third Session
March 9, 2005**

The Committee on Ways and Means was called to order at 8:01 a.m., on Wednesday, March 9, 2005. Chairman Morse Arberry Jr. presided in Room 3137 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

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

COMMITTEE MEMBERS ABSENT:

Ms. Chris Giunchigliani, Vice Chairwoman

STAFF MEMBERS PRESENT:

Mark Stevens, Assembly Fiscal Analyst
Mindy Braun, Education Program Analyst
Lila Clark, Committee Secretary
Linda Smith, Committee Secretary

Assembly Bill 93: Makes supplemental appropriation to State Distributive School Account for unanticipated expenses for Fiscal Year 2004-2005 for providing health care subsidies to retired school district employees. (BDR S-1187)

Douglas C. Thunder, Deputy Superintendent for Administrative and Fiscal Services, Department of Education, introduced himself. He said A. B. 286 of the 2003 Session of the Nevada State Legislature required school districts and other local governments to participate in the payment of premiums to the Public Employees' Benefits Program (PEBP) for their retired employees. Because the bill was passed near the end of the session the school districts were not able to request an adjustment to the Distributive School Account to cover the additional cost mandated by A.B. 286. He said that in order to address the lack of funding the Department of Education, on behalf of the school districts, requested an appropriation from the Contingency Fund to be disbursed among the school districts based upon their billings by PEBP. Mr. Thunder said the

request was approved by the Board of Examiners and subsequently by the Interim Finance Committee in its June 16, 2004, meeting. The amount of that contingency fund appropriation was \$2,728,835. That amount was intended to cover the billings from the start of the program in October 2003, through the end of the fiscal year June 30, 2004.

Mr. Thunder stated that the number of participants in the program had continued to grow. As of May 2004, there were 1,494 participants. He said the average cost per participant was approaching \$250 per month. Mr. Thunder stated that A.B. 93 requested a supplemental appropriation for those same costs for FY2005 in the amount of \$9,645,678. Mr. Thunder said that according to the latest projections, that amount was high. Based on the information he had received from the PEBP office, which provided actual billings through March 2005, the Department had projected the final three months of 2005. The amount that the Department currently projected was \$7,963,041. He said he anticipated that the projected number would need to be adjusted when the next two months of actual billings were available. Mr. Thunder said there were also some relatively small adjustments necessary to reflect some non-employer costs not included in the billings.

Mr. Thunder referred the Committee to [Exhibit B](#), entitled "Analysis of School District Billings for the Subsidy of Retired Employee Group Insurance Premiums, FY2005." He said the spreadsheet indicated the details of the projection.

Assemblyman Marvel asked how the Department had gotten into the situation to begin with. Mr. Thunder responded that in 2003, when the Legislature was considering the matter, fiscal notes had not been requested of the school districts and the districts were not aware of the bill. He said it was not one that school districts had tracked and after the bill had been passed it was a surprise to the districts that the additional costs existed.

Mr. Marvel asked if the bill was meant to cover a smaller pool of retirees. Mr. Thunder replied that the bill only covered those retirees who were in PEBP. Mr. Thunder said there had been some consideration at the time that it should cover all retired employees, regardless of what program they were in, but the bill only covered those employees who were either in PEBP at the time or had chosen after the fact to be in PEBP. He said there were provisions in that bill for how retired employees could become participants.

Mr. Marvel asked if employees had an option to choose to be in PEBP or not. Mr. Thunder answered that school district employees had been given that option.

Mr. Marvel asked if the employees had chosen salaries instead of insurance coverage. Mr. Thunder said that all the employees had been covered by insurance by their respective school districts' group insurance programs when they were working. He said they might have been members of PEBP or independent groups.

Mr. Marvel said that he thought some of the retirees were not in PEBP at the time the legislation was enacted but were "caught with terrible rise in premiums after they retired." Mr. Thunder said he believed that the 2003 legislation was an attempt by the Legislature to address those issues.

Assemblywoman Gansert asked for clarification on whether the 2003 legislation gave school district retirees a choice of whether to join PEBP. She asked if there had been funds allocated for whatever plans the retirees were originally

members of. Mr. Thunder said that in many cases school districts did not offer retirees insurance benefits. He said he believed one of the attempts of the 2003 legislation was to make the school district employees more like state employees in terms of having insurance benefits for retirees.

Mrs. Gansert asked if there were any school districts that offered retirees insurance benefits. Mr. Thunder responded affirmatively. Mrs. Gansert asked if those were small counties or whether there were any funds that had been spent by the counties that were no longer being spent because of the legislation. Mr. Thunder said he would provide details later to Mrs. Gansert's question. He said he believed one of the larger counties had a retirement program, and when the funds were distributed that county did not participate in the program so it had not received nearly as much funding as the other districts.

Mrs. Gansert said she was attempting to determine whether there was a shift of any of the dollars. Mr. Thunder answered that in most cases it was additional cost. It was not cost that counties were already paying in another way.

Mrs. Gansert asked for clarification on the larger county that was already paying some type of benefit. Mr. Thunder said that he believed that in the county he was aware of that the county continued paying for those benefits even though it was not part of PEBP.

Assemblyman Seale asked what would happen if A.B. 93 was not passed. Mr. Thunder said the net result was that the districts had been meeting the payments, although some of them had been meeting them with the anticipation that they would receive supplemental appropriations to cover those costs. He said the costs were not initially part of their budgets and because they had been meeting the costs the results would show up in their fund balances.

Assemblywoman McClain asked if the majority of retired teachers had paid into Medicare over their work years. Mr. Thunder said that, as far as he was aware, teachers had the same requirements as everyone else regarding Medicare. Ms. McClain added that many retired teachers did not qualify for Medicare but that should change as people who had been paying into Medicare started to retire. Ms. McClain asked if Mr. Thunder had conducted any studies to determine how many people would benefit from the funding requested in A.B. 93 rather than receiving Medicare coverage. Mr. Thunder said he did not have the figures Ms. McClain wanted but he would try to get them. Ms. McClain said she did not anticipate that the funding requested in A.B. 93 would be "ongoing forever."

Mr. Thunder stated that in the Distributive School Account budget there was a separate line item that addressed the issue for FY2006 and FY2007.

Ms. McClain said she was curious to know how many people in two years would need the funding provided in A.B. 93.

Anne Loring, representing the Washoe County School District, introduced herself and said that the Washoe County School District was the large district that had been referred to by Mr. Thunder. She said the Washoe County School District had had a retirement program for its retirees for years, including a health insurance subsidy that was negotiated by employee associations with the district. Ms. Loring said that when A.B. 286 was passed by the 2003 Legislature and the district became aware of it after the session, it had less of an impact on the Washoe County School District proportionately than it did on other districts. She said that was due largely to the fact that Washoe County

already had a program and so proportionately, very few of the Washoe County retirees had chosen to go into the state program. Ms. Loring said she believed that was what Assemblywoman Gansert was alluding to in her earlier comments.

Thomas B. Ciesynski, Certified Public Accountant (CPA), Chief Accountant, Washoe County School District, referred the Committee to [Exhibit C](#), entitled "Washoe County School District, A.B. 93 Supplemental Appropriation to DSA for Unexpected Health Care Costs for Retired School District Employees." Mr. Ciesynski said that A.B. 286 was passed in 2003 and created unexpected costs for the Washoe County School District, as well as other school districts around the state. He said that in looking at costs for FY2003-04, the costs to Washoe County were \$14,416. He said the actual cost had been \$62,361, less the Washoe County insurance program subsidy of \$47,945.

Mr. Ciesynski said for FY2004-05 the cost had grown to \$242,936. He said the actual cost was estimated at \$301,460 less the Washoe County insurance program subsidy of \$58,524. Mr. Ciesynski said that for FY2004-05 there were 116 employees enrolled in the state program that might or might not qualify for the Washoe County School District subsidy. He said that meant those employees might not qualify for health insurance under Washoe County's program but they would qualify under the State's program for health insurance.

Mr. Ciesynski stated that the trends the District had seen reflected a migration of approximately two employees per month joining the state program and that cost Washoe County approximately \$1,000 added cost each month.

Mr. Ciesynski said the state program might provide better premiums for participants than the Washoe County program, but retirees might not qualify at the school district but be eligible for the state program. Mr. Ciesynski said that making the cost a supplemental appropriation to the DSA would help the districts avoid costs they had not been required to pay in the past. He thanked the Committee for its consideration of the bill.

Assemblywoman Gansert asked why a retiree might be eligible for the state program but not the county program. Mr. Tom Marshall, Risk Manager, Risk Management Office, Washoe County School District, said that under the county's subsidy program there were some requirements that an employee would have to meet in order to be eligible for the subsidy. For example, a classified employee would have to have been hired prior to July 1, 1999, have 10 years of service time with the school district, and have to retire from the school district in order to be eligible for the county subsidy. For certified administrators, they would have to have worked 15 years of service time with the school district, and retire from the school district, in order to be eligible.

Assemblywoman Gansert asked what the state requirements were in order to be eligible for the state insurance program. Mr. Marshall said he believed that an employee would be eligible for state insurance as long as the employee was vested with the Public Employees' Retirement System (PERS). He said the amount of subsidy varied based on the amount of service time the employee had.

Assemblywoman Smith asked if the state program provided better coverage or lower cost premiums. Mr. Marshall responded that the state premium was lower. For example, an employee who worked for 13 years as an administrator for the school district would not be eligible for the county's subsidy program so

the premiums would be more attractive with the state plan because the employee would get some subsidy through the state for the state program.

Mrs. Smith asked if spouses were eligible for insurance coverage under the county or the state programs. Mr. Marshall said he believed spouses could be covered under both programs. He said a spouse, or any dependent, could continue with the retiree although the county did not subsidize any portion of the premium, and he did not believe there was a state subsidy for spouses or dependents either.

Assemblyman Denis asked how many employees statewide would be affected by A.B. 93. Mr. Thunder responded that the number was approaching 2,800, although he did not have the exact figures. He said he would provide the exact figures by district to the Committee.

Assemblyman Marvel asked how many school districts had paid the subsidy to PEBP. Mr. Thunder said he believed all the districts had been paying the billings although some of the districts might not have been current. Mr. Marvel asked if the school districts had been reimbursed for the payments with the Interim Finance Committee appropriation. Mr. Thunder said the school districts received the reimbursements at the end of the last fiscal year.

Craig Kadlub, Director, Government Affairs, Clark County School District, said he supported A.B. 93. In the 2004 school year the actual cost of providing the health care subsidy for Clark County retirees was just under \$2 million and that represented care for approximately 450 employees. Dr. Kadlub said with that in mind and understanding that it was difficult to anticipate the number of retirees in any given year, the Clark County School District anticipated expending about \$3.1 million in FY2004-05 to cover the expense. However, there was a dramatic increase in enrollment in the program at the end of the previous year and there were currently 1,341 retirees in PEBP. That was costing approximately \$495,000 per month, which put the actual cost at closer to \$6 million for the entire year. Dr. Kadlub said that while the district attempted to prepare for the expense there would be a \$3 million cost to the district above what had been anticipated. He said for that reason the Clark County School District would like to see the Committee's support for A.B. 93.

Mary Pierczynski, Superintendent, Carson City School District, spoke in support of A.B. 93. She said the Carson City School District was one of the smaller school districts that had been "hit very hard" when A.B. 286 was passed in 2003. Ms. Pierczynski said that when a person retired from the Carson City School District that person had the choice of staying with the school district's health plan or going with the state and paying his own premium. She said when A.B. 286 passed the district had 95 people who had left the district's plan and joined the state's plan. Ms. Pierczynski said the district ended up picking up that premium and it cost \$207,000 for FY2003-04. She said the district was reimbursed the cost by the Interim Finance Committee. Ms. Pierczynski said currently there were 139 people who had joined the state plan with an estimated cost of \$518,000. She said that was a "huge hit to our school district" and it came out of the district's general fund. Ms. Pierczynski concluded by urging the passage of A.B. 93.

Randy Robison, Executive Director, Nevada Association of School Boards, reported that he had conducted a poll of the membership of the association he represented and he spoke for 16 of 17 counties. He said most, if not all the districts budgeted for the funds needed for the subsidy but the problem was in estimating the number of retirees who would join the plan after the budgeting

process was completed. He said that was where the gap existed and what A.B. 93 sought to make up. He expressed support for A.B. 93.

Marty Bibb, Retired Public Employees of Nevada, spoke in support of the bill. He said he recognized the challenge of providing health insurance for retirees in the state regardless of whether that was for state retirees or local government retirees.

There being no further testimony on A.B. 93, Chairman Arberry closed the hearing on A.B. 93 and opened the hearing on A.B. 103.

Assembly Bill 103: Makes appropriation to Department of Administration for allocation to Nevada Rural Hospital Partners for establishment of pool for loans and grants for rural health care providers. (BDR S-1216)

Andrew Clinger, Deputy Director, Budget Division, said that A.B. 103 provided for an appropriation of \$1 million to the Nevada Rural Hospital Partners. He said the intent of the funding was to provide a health care revolving loan pool to fund equipment and facilities for rural providers. The funds would be loaned and repaid with interest and then loaned again. He said the pool would be intended to provide relatively easy access to capital for equipment and facilities needed by rural partners. Mr. Clinger said that since the intent of the bill was to establish a revolving loan pool, he requested that the bill be amended to eliminate Section 2 of the bill, which required that the \$1 million be reverted at the end of the biennium.

Chairman Arberry asked for more information on the elimination of Section 2. Mr. Clinger said the intent of the \$1 million was to establish a loan pool that would provide funds to be loaned to rural providers and as the funds were repaid the money would be loaned again.

Assemblyman Seale asked if the state had other revolving funds similar to the one provided for in the bill. Mr. Clinger said there were other revolving loan funds in the state, although he did not know the specifics of those.

Mr. Seale asked if the loans would be made at a favorable interest rate. Mr. Clinger responded that he believed Robin Keith, President, Nevada Rural Hospital Partners, was the appropriate person to respond to the question.

Robin Keith said that in addition to representing the Nevada Rural Hospital Partners, she also served at the Governor's pleasure on the Task Force for the Development of a Rural Strategic Plan. Ms. Keith submitted [Exhibit D](#), entitled "A.B. 103 – Rural Healthcare Loan Pool." She said that the plan was developed as a result of legislation passed during the 2003 Session of the Legislature. She said the plan was completed and the Governor had since appointed an accountability task force and she co-chaired that group along with Caroline Ford. The charge of that task force was to see to the implementation of the plan and try to ensure that all the effort and money that had been invested in that plan was not wasted and that the recommendations were implemented. Ms. Keith said she brought that up because A.B. 103 was the result of one of the recommendations in the plan. She said A.B. 103 would create a permanent revolving loan pool to serve rural providers. The purpose of that pool would be to provide incentive and help to get providers out into rural areas. Ms. Keith said that when she referred to providers that included a wide range of providers who delivered health care services in a rural setting. She said that could be a physician setting up his first practice, a dentist who needed the equipment to

set up his first practice, a physical therapist wanting to set up a practice in rural Nevada, or any range of service that would qualify for the pool.

Ms. Keith said the idea of a permanent revolving pool was not unique to Nevada. She said New Mexico had such a pool that had been started with approximately \$5 million in the pool and that had grown. Ms. Keith explained that there was also a project, sponsored by the Robert Wood Johnson Foundation, called the Southern Rural Access Program and that involved approximately six southern states that were in the process of setting up a pool.

Ms. Keith said an important point to remember was that the establishment of the pool would use public resources in such a way that the resources were not just dissipated and gone, but rather they were cared for and administered thereby creating a perpetual resource. Ms. Keith said the bill allocated the funding to Nevada Rural Hospital Partners (NRHP), which was a consortium of 14 rural hospitals across the state. She said NRHP had a wide range of services and she believed NRHP had been included in the bill because it had demonstrated the ability to manage a pool. Ms. Keith said that with the help of the Robert Wood Johnson Foundation, Senator Raggio, and Speaker Emeritus Dini, NRHP had established a revolving loan pool for hospitals in the early 1990s. She said that pool was established with a \$400,000 appropriation from the Interim Finance Committee and a loan of \$500,000 from the Robert Wood Johnson Foundation. Ms. Keith said that the loan from the Robert Wood Johnson Foundation had been repaid and the \$400,000 that was originally given to the pool was still intact and the pool currently had a net worth of approximately \$1.3 million. The pool had made approximately 20 loans and had never had a default. Ms. Keith said that she saw NRHP's role in that program as being good stewards of a resource that was difficult to acquire.

Ms. Keith stated that Section 2 of A.B. 103 was a problem in terms of setting up the pool as a permanent, revolving resource and she recommended amending the bill to remove Section 2. She said that was critical in accomplishing the goals of the legislation.

Ms. Keith said she believed the bill should also be amended to include a definition of "rural provider." She said it was important to make the pool accessible, not only to the rural counties, but to the rural areas of the larger counties as well. She said language should be created in the bill that would include areas such as Mesquite, Overton, Gerlach, and other outlying areas in the larger counties.

Assemblyman Marvel asked Ms. Keith how much she anticipated the pool to grow over the years, and would it have the same success as the pool for hospitals had.

Ms. Keith said she hoped it would have the same success but the loans would be made at favorable interest rates. She said the hospital pool had been grown by returning all the interest back to the pool. Ms. Keith said the hospital pool also had grown because the Robert Wood Johnson Foundation had forgiven the interest that had been charged on the initial loan to the pool. She said the Robert Wood Johnson Foundation had forgiven approximately \$250,000 in interest and that had given the pool a boost. She did not anticipate seeing the same type of growth with the pool that would be established in A.B. 103.

Mark Stevens, Assembly Fiscal Analyst, Fiscal Division, asked about the grants provided for in Section 1, line 4. He wondered if that part of the bill should be deleted since the intent of the bill was to establish a loan pool. Ms. Keith said

the language regarding grants was included because it had been the consensus of opinion of the Strategic Plan Implementation Task Force to include that language in the request that had been submitted to the Governor's Office to consider the bill. Ms. Keith said she was interested in hearing the Committee's input on the grants language in the bill.

Mr. Stevens said that it seemed logical to him that for grants the reversion language should apply and for loans the reversion language probably should not apply.

Assemblywoman Leslie said one of her questions was whether the bill was for a revolving loan pool or grants because those were two different things. She said she still did not understand whether the bill provided for loans or grants.

Ms. Keith responded that as conceived by the accountability task force, the bill provided a pool of money, the majority of which would go into a permanent, revolving loan pool. Ms. Keith said the amount that would go into the pool had not been determined and the details had not been worked out. She said she would be comfortable with making the full appropriation a loan pool. Ms. Leslie said she believed a loan pool would be "cleaner" and she would like to see the grants language removed from the bill.

Ms. Leslie asked how the requests for loans would be prioritized. Ms. Keith said that was a very good question and one that she was experienced with due to her involvement with the hospital loan pool. Ms. Keith said that for the hospital pool there had initially been a framework established within which the loans could be made. That framework considered geographic distribution and the amounts of the loans. The framework would not allow one entity to consume the entire pool as any applicant could receive only a percentage of the pool. Ms. Keith said that over time there had been less difficulty with the distribution of the loans from the hospital loan pool.

Ms. Leslie asked if NRHP ever was more proactive in attempting to place a caregiver in a certain area, such as recruiting a dentist from Reno to open a practice in Battle Mountain. Ms. Keith said that was an important part of the decision on who received loans. She said that had been done with the hospital pool but that was an easier group to consider. Ms. Keith said NRHP would be working with the state Primary Care Development Center, the Office of Rural Health, and the three Nevada Area Health Education Centers. She said all those groups had rules on the recruitment and retention of health care professionals in rural areas to ensure that the pool was known and used. Ms. Leslie was concerned that the pool might not be used to target some of the special needs in the smaller, rural communities and she wanted to be certain that NRHP was proactive in making loans from the pool.

Assemblyman Marvel asked how the NRHP determined that \$1 million would be adequate for the loan pool. Ms. Keith responded that she had requested \$5 million.

Mr. Hogan asked about the loan rates and conditions anticipated based on Ms. Keith's prior experience with the hospital pool. He also wanted to know what body made the decisions regarding the loans.

Ms. Keith responded that a loan pool committee would be established that would be composed of herself, the regional chief financial officer for NRHP, who was a CPA and quite well-qualified in the area of health care finance. She said she would also expect to have representation from the office of Rural Health,

and the Nevada health care clinics because they had clinics in areas around the state where hospitals were not located. Ms. Keith said there also might be a representative from the Primary Care Development Center and others. She said that the committee would establish the framework taking into account not only geographic distribution, but also shortage of care areas that existed within the state. Ms. Keith said there were federal designations and other very specific criteria for doing that. Ms. Keith said NRHP set its interest rate below the prime rate. She said hospitals who were considering taking out a loan checked with their local banks to ensure that the loan from NRHP was at a better rate than they could get from their local financing options.

Ms. Keith said if A.B. 103 became law, the fund would be established as a separate bank account with a separate set of books. She said NRHP had an outside auditor that came in for an annual audit. She said there was a requirement in the bill that the books be made available to the legislative auditor.

Assemblyman Seale asked if the funds in the pool would “reside” on the books of the state of Nevada. Ms. Keith said they would not.

Caroline Ford, M.P.H., Director of the Nevada State Office of Rural Health, and Assistant Dean of the University of Nevada School of Medicine, testified in support of A.B. 103. She said she was cochairwoman of the Governor’s Accountability Committee for the Strategic Plan for Rural Health. Ms. Ford said the loan pool would provide the ability to build and renovate structures or help with recruitment needs to encourage practitioners to work in rural Nevada. She said she had testified in the past about some studies that the office of Rural Health had done in cooperation with the Cooperative Extension Service in looking at the economic impact of health care in rural Nevada. Ms. Ford stated that for every practitioner that had been recruited successfully to the rural communities there were 1.9 additional jobs generated in those communities. She said she had analyzed and could demonstrate the amount of sales tax generated and goods and services that were produced locally that helped the economy. Ms. Ford said A.B. 103 was a good financial move in terms of investing in communities and people that in turn generated other types of economic activity in the community. She said that she would be happy to assist in defining rural areas and participating in any way she could in an advisory capacity.

Assemblyman Marvel asked if “pockets of need” could be defined. Ms. Ford said she had a definition for “pockets of need” in her office and she was very sensitive to the fact that there were rural parts of urban counties and that there were problems with federal definitions that defined areas such as Nye County as an urban area.

Mr. Marvel said that he had found that there were some areas of North Las Vegas that could qualify as “pockets of need.” Ms. Ford agreed and said there was more need than the \$1 million fund could solve. She said the \$1 million fund could be used just for dental providers and be depleted. Ms. Ford said need would have to be ranked as applications came in and the funds distributed according to prioritized needs in the state.

Assemblywoman Leslie said she liked the idea of ranking need and she thought it would be interesting to learn more about where the needs were and how they tied to the loan funds in case the fund was increased in the future. Ms. Leslie asked if mental health providers would qualify for the loan funds. Ms. Ford said

she would love to have mental health providers qualify and she was sure that a variety of needs, including mental health care needs, was envisioned.

Ms. Leslie asked if there was something in writing that defined where the pockets of needs were and what health professions were most needed. Ms. Ford said that in terms of ranking there was nothing in writing although her program served underserved populations and geographic areas by levels of need, so there could be a ranking between 1 and 4 in terms of its priority of need. She said ranking one area against another had not been done. She believed that would be a loan committee decision.

Ms. Leslie said she was not envisioning that type of competition. She did not like phrasing it that way because that was not what she was "getting at." Ms. Leslie said the Committee heard a lot of anecdotal information about where and what the needs were but she wondered if it had been studied and documented. Ms. Leslie said she would like to know if there was a mental health counselor in Battle Mountain, for instance. Ms. Ford said Ms. Leslie's concerns could be addressed in the application process in terms of how people could respond to what resources were available, or not available, in their target service area so that the determining committee could make a judgment about what the level of need was. Ms. Ford said that whether or not an individual practitioner or group practice who applied had access to other capital sources would also be considered.

Ms. Leslie asked Ms. Ford if a report to the Legislature detailing how successful the program was would be prepared if the bill was passed. Ms. Leslie said she thought the fund was a good idea but she wanted to be certain that if the funds were appropriated they would be used wisely.

Ms. Ford said she was speaking for Ms. Keith and was sure a report could be prepared and submitted on the success of the fund. She added that some years before when funds were appropriated to the Office of Rural Health from the tobacco settlement, a report was prepared project by project on who received funding and what the impact was on the community. She said they had done an evaluation study of everyone who had received money under the program to evaluate the impact on the community. Ms. Ford said it was important to acknowledge where the funds were disbursed and since it would be an ongoing fund that would be seen over time.

Assemblyman Denis asked if there would be any limitation on what the monies could be used for. He said some loans were for "bricks and mortar" projects versus other uses. Ms. Keith said that was a good question. She said that NRHP had taken an approach that the resources were difficult to obtain and needed to be carefully conserved. Ms. Keith said that the NRHP loans were collateralized with tangible assets. She said the accountability committee had asked how loans could be made for operations as well. Ms. Keith said she believed that the loan committee that would set up the criteria for the loans made with A.B. 103 funds would look at the possibility of making loans that funded operating capital.

Mr. Denis asked what the current criteria were for NRHP loans. Ms. Keith said the hospital pool did not make loans for operating capital. She said that the A.B. 103 pool would be set up so that no entity would be able to take the entire pool. Ms. Keith said she believed the pool should make loans for basic patient care equipment to help launch a medical practice rather than for the construction of a building.

Chairman Arberry asked Ms. Keith to define "rural." Ms. Keith said that Caroline Ford's office had developed language that allowed the distribution of tobacco funds through a grant program to rural areas that would not traditionally have been included in a federal definition of "rural." She said that language was specifically crafted to enable communities such as Overton, Gerlach, and Mesquite to participate. Ms. Keith said she would expect to do that as well with the funds appropriated in the A.B. 103 pool.

Chairman Arberry asked Ms. Keith to submit a definition of "rural" to the Fiscal Division staff. He said that was important in ensuring clarity in the bill. Ms. Keith said she would be happy to provide the definition to the Fiscal Division.

Assemblyman Seale asked if the administrative costs associated with the program would be paid from the revolving fund. Ms. Keith said she had given that question a great deal of thought because there would definitely be a considerable amount of work involved. She said that at first she thought about asking the committee to allow part of the fund to be used for administrative costs. Ms. Keith stated that she decided against doing that but she did ask the committee to consider the possibility of attaching a loan application fee. She said that would help to offset some of the direct costs and it would also help screen out frivolous applications. Ms. Keith said a fee would cover some of the costs but she did not expect that it would help a great deal. She said that NRHP would be donating a good deal of service as would all the participants on the loan pool committee in order to make the program succeed. Ms. Keith said that some federal grants were allowed as much as 25 percent for administrative expense but she did not feel that taking an administrative expense out of the \$1 million fund would work well. She reiterated that NRHP would "make it work."

Ms. Ford said the funding issues might need to be considered in future sessions of the Legislature. She said Nevada had pockets of rural areas in urban counties that needed to be accommodated and changes in the statutes might need to be made.

Chairman Arberry asked that the definition of "rural" include the rural areas in urban counties.

There being no further testimony on A.B. 103, Chairman Arberry closed the hearing on A.B. 103 and recessed the meeting at 8:55 a.m.

Chairman Arberry called the meeting back to order at 9:05 a.m. and opened Budget Account 327-2626.

LEGISLATIVE BRANCH, NEVADA LEGISLATURE INTERIM (327-2626) – LCB-6

Lorne Malkiewich, Director, Legislative Counsel Bureau, referred the Committee to [Exhibit E](#), entitled "Legislative Counsel Bureau Budget Request for FY2006 and FY2007." He said The Executive Budget contained a very abbreviated form of the budget and [Exhibit E](#) contained much more documentation.

Ms. Nancy Tribble, Chief Clerk of the Nevada Assembly, said she wanted to speak to the Committee regarding three matters that related to the interim budget for the Assembly and Senate. The three matters were:

- An increase in the base salary for the Chief Clerk of the Assembly and Secretary of the Senate.

- To amend NRS 218.195(2), which applied to overtime compensation or the lack thereof for the two positions.
- Reclassification of the position of Technical Assistant for both Houses.

Ms. Tribble said the Nevada Interim Legislature budget was detailed on page 48 of [Exhibit E](#) and details of the three proposals were shown in [Exhibit F](#), entitled, "Senate Committee on Finance, Assembly Committee on Ways and Means, March 9, 2005."

Ms. Tribble said her testimony was made on behalf of the positions of division heads and administrators of both Houses, the Chief Clerk of the Assembly and Secretary of the Senate, as similar tasks and activities were required to fulfill and complete the obligations and duties in each House.

Ms. Tribble said that in the original budget proposal shown on page 48 of [Exhibit E](#), which was brought forward in September 2004 to the "Subcommittee to Review the Legislative Budget," there were some minor increases in operating and training costs prior to the addition of the Governor's recommended 2 percent cost-of-living (COLA) increase. Without the COLA increase, the joint budget for the Assembly and Senate reflected an increase of 2.6 percent the first fiscal year and a .21 percent increase during the second fiscal year.

Ms. Tribble stated that with the 120-day session, more special sessions, technological advances, and the need for workforce planning, training, and systems and staff upgrades, the duties of the Chief Clerk and the Secretary had increased tenfold and required many more skill sets such as research; writing; budget analysis; communications; workforce planning and analysis; software, hardware, and technological applications; adult learning theories; human resources; project management; and collaboration, to mention a few.

Ms. Tribble said that for the Twenty-First Special Session on impeachment, the offices of the Chief Clerk and Secretary played a major role in research and interdepartmental meetings with the Legal Division, the Research Division, and the Director of the Legislative Counsel Bureau (LCB), in order to determine Chamber and Committee of the Whole procedures. Contacts through the American Society of Legislative Clerks and Secretaries proved invaluable in that effort. She said Arizona and Pennsylvania were great sources of information, as they were the two Assembly and Senate Chambers in recent history who conducted impeachment hearings.

Ms. Tribble pointed out that not only was impeachment groundbreaking, but other aspects of the processes were as well. For instance, the question came up about the two Houses convening the special session at different times. Other questions were posed, such as whether the Assembly's role would be that of a grand jury for a quasi-criminal proceeding and would the Senate's function be that of a trial court.

Ms. Tribble said that by putting those questions out to the American Society of Legislative Clerks and Secretaries' (ASLCS) members in the other 49 states, the questions, along with numerous other procedural questions, were answered in a timely manner, and the information was provided to Legal and Research. That information aided both Houses greatly in formulating the procedures for their respective proceedings.

Ms. Tribble said the time between interim and session was diminishing as special sessions were increasingly the norm, and winding up after each session took longer as more and more work was condensed into a shorter time frame.

Ms. Tribble stated that the duties during the interim were also growing as more duties relating to public appearances, mock sessions for various organizations, and updating and revision of existing procedures required a great deal of expertise, training, and time.

Ms. Tribble said that every other year the two Houses went from 6 full-time staff to a combined full-time staff of approximately 220 employees. She pointed out that Nevada was the fastest-growing state in the union, and was limited to a 120-day biennial session. Ms. Tribble said it was imperative that session staff began work on day one of a 120-day session as if they were seasoned, full-time state agency employees, never having missed a day of work in a fiscal biennium. She said the employees did just that; they performed at a high level of competency and with the utmost professionalism. The reasons for that were as follows:

- Because staff were professional and demanded excellence on their behalf.
- Because of the hiring practices employed by the Secretary and the Chief Clerk.
- Because of the in-depth training staff received the month prior to session convening.

Ms. Tribble said she did not know of any other state agency that could train staff for one month and operate at top efficiency from day one.

Ms. Tribble stated that staff from each House produced at a minimum 500 sets of minutes generated from over 750 hours of hearings during a regular 120-day session. She said staff worked diligently for many long hours to keep up with the pace and required thorough and comprehensive training to achieve those objectives and outcomes.

Ms. Tribble said that during the interim the Chief Clerk and the Secretary, among the other activities previously referred to, concentrated on working with staff on proofing, editing, and indexing the final journals, which were generally over 3,000 pages in length and required months to complete and prepare for final printing.

Ms. Tribble said that during that same period of time, work was done to identify and develop innovative ways to instruct and train session staff. She said the Chief Clerk and Secretary worked closely with the State Personnel Training Division to develop specialized training opportunities for management and for interim and session staff. She said the Chief Clerk and the Secretary also worked closely with the Information Systems Division to develop and write tutorials and online testing programs. Work was also done on research, development, the design of new computer programs and to improve existing programs to drive and facilitate the legislative process.

Ms. Tribble said the Chief Clerk and Secretary interviewed and tested some 200 applicants and made selections based on established criteria for session staff. In a state where unemployment was at record lows and at a time when people must work full time to support their families, available, proficient, and professional session staff was becoming more difficult to find. The hiring

process began in July prior to the commencement of session, with the bulk of session staff being hired in December and continuing throughout session. Staffing decisions were critical to the operations of the Legislature and were made with each legislator's needs in mind.

Ms. Tribble said she had only mentioned a few of the duties and responsibilities the positions entailed, as time was limited. She asked that each and every member of the Committee take time to review and consider the proposal and assign a value that would adequately address and reflect the duties, responsibilities, and complexities of the positions of Chief Clerk of the Assembly and Secretary of the Senate and strike parity with other division heads. Ms. Tribble asked the Committee to keep in mind that the decisions made by the Chief Clerk and Secretary throughout the biennium affected what the Legislature did on a day-to-day basis throughout the interim and, most importantly, during the session.

Ms. Tribble said the recommendations were outlined in [Exhibit F](#), entitled "Senate Committee on Finance, Assembly Committee on Ways and Means, March 9, 2005." She asked the Committee to refer to pages 3 and 4 of [Exhibit F](#) for the current legislative salaries for FY2005 and the proposed salaries for FY2006. She said the salaries went from \$110,000 to \$69,000, with \$69,000 being the salary for the Chief Clerk of the Assembly and for the Secretary of the Senate.

Ms. Tribble said that because of the testimony provided and information submitted, she believed a salary adjustment was in order, a salary that would establish parity with the other division heads in order to achieve equality and fairness for the two very important administrative offices. She said there was a disparity from \$17,000 to \$35,000 in division head salaries.

Ms. Tribble continued her presentation by stating that *Nevada Revised Statutes* (NRS) 218.195(1)(b) stated that the salaries of the Secretary and Clerk "must not include compensation for overtime." She requested that the language be deleted from the statute so that the Secretary and Clerk would be treated the same as other legislative staff. Ms. Tribble said that currently the two positions were the only two legislative staff members who were not compensated for overtime hours.

Ms. Tribble said that session staff accrued overtime prior to and after the convening and adjournment of a regular or special session. Session staff did not, however, accrue overtime during a regular or special session. To compensate for the loss of that overtime pay, session staff salaries increased by approximately 29 percent during that period of time, and full-time staff received overtime. The Secretary and Clerk received no increase in salary during the same period, nor did they receive overtime compensation.

Ms. Tribble pointed out that the table on page 5 of [Exhibit F](#) showed that the Clerk and Secretary earned \$0 for overtime hours worked, yet all other exempt staff received an hourly rate of pay for overtime compensation. She said that meant that for every 40 hours she and the Secretary worked, the salary went down by one-half. In essence, if 80 hours were worked they would receive no compensation at all for that time. Ms. Tribble asked the Committee to consider amending the statute so that the Secretary and the Clerk could avail themselves of overtime pay. Ms. Tribble said she worked an average of approximately 120 hours per two-week pay period and that added up.

Ms. Tribble continued her presentation by requesting that the technical assistant positions in both Houses be reclassified as technical specialists. Those two positions in the Senate and Assembly had evolved over the years to include and require much more computer knowledge, web programming/design, and applications development than had been foreseen when the position was first established in 1997. Ms. Tribble reported that in an attempt to achieve parity with comparable positions within the Information Systems Unit of the Legislative Counsel Bureau, she was requesting that the position be reclassified to a grade 33 to reflect similar salary ranges. That would be a two-grade increase from the current grade 31.

Ms. Tribble submitted [Exhibit G](#), entitled "Technical Assistant, Assembly and Senate, Job Duties, Skills, and Experience, (Technical Specialists)." She asked the Committee to review the handout, which she described as a detailed and comprehensive outline of the duties. Ms. Tribble stated that the positions warranted the reclassification and a change in their title. The upgrade would provide an experienced staff that had the skill sets and the legislative knowledge and incentive to remain as part of the work force. Ms. Tribble emphasized that staff retention was critical to the functioning of the Legislature. She said the Legislature must reward its staff for their dedication, their institutional knowledge, and their hard work. Training new staff was a costly proposition and she asked the Committee to let the staff know they were valued as contributing members of the Legislature.

Ms. Tribble thanked the Committee for its time and consideration of the three important matters she had brought before them. She also thanked the Committee for allowing her the privilege and honor of serving as Chief Clerk of the Assembly.

Assemblyman Denis asked for clarification that overtime could be earned only before or after a legislative session. Ms. Tribble clarified that during the legislative session the session staff received pay for 56 hours of straight time to compensate them for any overtime worked. She said that meant that if the employee was at work for 5 days a week the employee would be paid for 56 hours. Ms. Tribble said that resulted in the 29 percent increase in salary that she had referred to earlier in the meeting. Ms. Tribble reiterated that the Clerk and Secretary positions were not paid for overtime.

Mr. Denis asked if the positions receiving overtime were classified or unclassified positions. Ms. Tribble responded that they were both; the session staff were unclassified employees and exempt staff received overtime compensation. She said she believed every legislative employee received compensation for overtime except the Secretary and Clerk positions.

Assemblywoman Smith said she thought it was a federal standard and the norm for exempt employees not to be paid overtime. She asked how the overtime question was handled for all other state employees.

Lorne J. Malkiewicz, Director, Legislative Counsel Bureau, responded that he could not speak for the Executive Branch. For the Legislative Branch, all staff had an hourly salary set whether they were classified or unclassified. The classified employees had a grade and step system and for unclassified employees it was a fixed amount. For both classified employees and unclassified employees the salary was paid hourly. Mr. Malkiewicz said that employees were paid compensatory time out of session and before September 1 of the year prior to a session. Employees were paid overtime from September 1 prior to a session through the end of the session. Mr. Malkiewicz said pay for

session staff was handled in that same manner before and after session but the statute provided that during session employees were to get a daily amount. All the session hires were paid a daily rate during session. He said the Clerk and the Secretary had a fixed salary but by statute they received no overtime pay.

Mr. Malkiewicz said he believed that Executive Branch employees were covered by the Fair Labor Standards Act (FLSA) and that was completely different. He said an exempt position under the FLSA was not really an hourly position. He reiterated that legislative employees were not covered under the FLSA.

Claire J. Clift, Secretary of the Senate, introduced herself and said she supported the testimony of Ms. Tribble. She said she believed the three proposals that had been brought forward were justified and warranted. Ms. Clift said she would appreciate the Committee's serious consideration of the proposals.

LEGISLATIVE BRANCH, LEGISLATIVE COUNSEL BUREAU (327-2631) – LCB-1

Mr. Malkiewicz said he would give a brief overview of the budget and then discuss the budget for the Legislative Commission and the Administrative Division. He said the division chiefs would present their individual budgets. Mr. Malkiewicz said that overall the appropriations to the Legislative Counsel Bureau (LCB) from FY2005 to FY2006 increased from about \$22 million to about \$25.5 million, and a little over \$26 million in FY2007. Mr. Malkiewicz said [Exhibit E](#) contained 52 pages of detail on the budget but he would focus on where the cost increase had come from.

Mr. Malkiewicz stated that the largest increase in the budget was in the personnel area. He said the total budget of the LCB included 18.5 new positions.

Mr. Malkiewicz said he would first address the budget for the Legislative Commission, Budget Account 327-2631. He said the Legislative Commission budget supported all the travel, and the Legislative Committee on Education and the Committee on High Level Nuclear Waste were included in the budget. Mr. Malkiewicz said the annual dues that were paid to various organizations were listed on page 4 of [Exhibit E](#). He said he had some requests from other agencies to become dues-paying members, such as the Academy for State and Local Government. Mr. Malkiewicz said that if the Legislature chose to join any other organizations the costs would be paid from that budget.

Mr. Malkiewicz stated that the biggest increase in the budget for the Legislative Commission had to do with the Nevada Silver Haired Legislative Forum. Several sessions before, authority for the Forum had been transferred to the Legislative Counsel Bureau, and in the prior biennium rather than trying to get three-quarters of the Research Division working part-time on the project, a person had been hired full time. Mr. Malkiewicz said he would like that position added to the budget of the Legislative Commission so the person hired was not going from session hire to intermittent employee and back again to have the budget funded. Mr. Malkiewicz said the Legislative Commission was responsible for supporting the Silver Haired Legislative Forum and by making the position a full-time employee any of the employee's time not spent on Silver Haired Legislative Forum business could be spent on other projects. Also, the employee would not need to worry about whether the position would be continued. Mr. Malkiewicz indicated that funding that position was the biggest increase in the budget for the Legislative Commission. He said the other changes were made basically to restore funding levels, and there was a small

increase in travel as there had not been a great deal of attendance for the prior two years at the NCSL meetings. He said the meeting in San Francisco was held two days after the 20th Special Session of the Legislature adjourned and the Salt Lake City meeting was not very well attended. Because of that, the travel budget had been increased.

Mr. Malkiewich referred the Committee to page 11 of [Exhibit E](#) for the budget of the Administrative Division. He said 6.5 new positions had been requested for the Administrative Division. He explained that a building maintainer was needed for the facilities that had been added, a help desk specialist was needed, a janitor was needed because of the expansion of the facilities, an audiovisual technician was needed, and two legislative police officers were requested. Mr. Malkiewich also requested that a half-time internet technician be made full time. He said that media services and information systems were the two largest, fastest growing areas. He said the teleconferencing, the Internet, the computers used by the legislators, and the wireless laptop computers were driving the increased needs. Mr. Malkiewich explained that the request for two legislative police officers came from the Security Subcommittee and it would allow for an officer to be posted at the back door of the building during working hours in the interim. Mr. Malkiewich said the increases amounted to over \$370,000 a year and that represented a high percentage of the increase requested in the budget.

Mr. Malkiewich said another increase was budgeted for utilities. He said that when the prior biennium's budget was closed he had made the mistake of believing the amount for utilities had been over-budgeted so the amount was scaled back. Mr. Malkiewich advised the Committee that the utilities budget for FY2004 had been exceeded and for FY2005 the budget would be "destroyed." He said the Legislative Counsel Bureau needed to recover that money in FY2006 and FY2007 and he was expecting increases to continue. There was a \$100,000 increase in FY2006 and a \$200,000 increase in FY2007.

Mr. Malkiewich said another area of interest in the budget was occupational studies. He said eight positions would be reclassified. They were: two building maintainers; the manager of general services; and five staff in Information Systems (IS). He explained that the reclassifications were requested for 8 out of 80 employees in the Administrative Division. He said the IS positions were difficult because the Legislative Counsel Bureau was competing with the private sector. He said almost all the IS work was being done internally and the internally produced programs were being run on the floor of the Senate and Assembly, as well as on the legislators' laptops.

Mr. Malkiewich continued by stating that another major budget increase was the cost-of-living adjustment (COLA) for unclassified and non-classified employees. He said the 2 percent COLA had been built into the budget by the Governor's Office. He said the cost was approximately \$110,000 in the first year and \$220,000 in the second year for the Administrative Division, and the total for the Legislative Counsel Bureau was \$1.2 million over the biennium.

Mr. Malkiewich discussed the cost for maintenance of buildings and grounds. He said \$100,000 had been built into the budget each year to work on the exterior surface of the building. When the building was constructed a compromise was made in going from the glass fiber reinforced concrete (GFRC) to the exterior insulation and finish systems (EIFUS) exterior. He said the columns and tops needed painting and sealing and continuing that project had been built into the budget. Mr. Malkiewich said the GFRC surface would have lasted forever but the surface that had been used was showing signs of wear.

He said the work needed to be done or the Counsel Bureau would have a much bigger liability in the long run from water seepage and mold issues.

Mr. Malkiewicz then discussed Enhancement Unit E-850. That decision unit budgeted \$100,000 for each year for payment of terminal annual and sick leave. He said the senior staff of the Legislative Counsel Bureau was aging and if some of those people retired near the end of a fiscal year there was no way the budget could absorb the payment of the accrued annual leave, sick leave, and compensatory time payoff. He said the funds would not be spent unless a situation arose where a Legislative Counsel Bureau budget would be overspent because they were not able to accommodate a retirement. Mr. Malkiewicz explained that the Legislative Counsel Bureau had many employees with between 15 and 30 years of service and he expected "major hits" to the budget in the next few sessions.

Mr. Malkiewicz said the budget also included \$100,000 to account for extraordinary services to the Printing Office. He said that office had been moved into the Legal Division of the Legislative Counsel Bureau and the efficiency had been improved by absorbing much of the overhead. He said no staff had been added to the Accounting Unit and the Printing Office had managed to operate with two staff members from the Executive Branch. Mr. Malkiewicz said that had helped the Printing Office but it strained the Administrative Division and the \$100,000 would be used if someone had to be brought into the Accounting Unit part-time or if some extraordinary maintenance needed to be completed under contract.

Mr. Paul Townsend, Legislative Auditor, Audit Division, Legislative Counsel Bureau, referred the Committee to page 19 of [Exhibit E](#) for the Audit Division's budget. Mr. Townsend said the Division had 31 employees and was not requesting any additional positions or upgrades to existing positions in The Executive Budget.

Mr. Townsend said the enhancements were shown on page 22 of [Exhibit E](#). The enhancements were primarily for replacement laptop computers for the auditors. He said the Audit Division maintained a 3-year replacement cycle on the information technology equipment. Mr. Townsend said page 23 of [Exhibit E](#) contained a summary that showed a minor increase in FY2006 and FY2007.

Mr. Malkiewicz introduced Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, and said he would present the budget for the Fiscal Division.

Mr. Stevens stated that the budget for the Fiscal Analysis Division began on page 24 of [Exhibit E](#). He explained that there were 25 employees; 19 professional and 6 support staff, in the Division.

Mr. Stevens said that Maintenance Unit M-200 requested \$79,320 in FY2006 for software maintenance. He said the funds were not spent that had been allocated in FY2004 and the Nevada Executive Budget System (NEBS) was going through a conversion so it had been decided to hold off on the maintenance needed on the Budget Analysis System of Nevada (BASN) until the NEBS conversion was completed. Mr. Stevens said a large portion of that money had been spent in the current fiscal year and there was an additional phase of updating needed in the upcoming biennium.

Mr. Stevens said that M-201 requested additional amounts needed to support the Legislative Bureau of Educational Accountability and Program Evaluation.

There were a number of contracts that were not initiated in FY2004 and the funds were utilized in FY2005. He said the funds needed to be included in a maintenance unit of \$95,349 in FY2006 and \$52,505 in FY2007.

Mr. Stevens said Maintenance Unit M-300 budgeted for the additional fringe benefit changes that had been included in all the Executive Branch budgets. He continued by saying Maintenance Unit M-303 provided an increase of 5 percent for each of the five senior program analyst positions in the office.

Mr. Stevens stated that Maintenance Unit M-305 provided for a 2 percent per year cost-of-living adjustment (COLA) for unclassified and non-classified employees in each year of the biennium.

Mr. Stevens next reported that Enhancement Unit E-710 requested funds to replace aging office and computer equipment. He said that overall the budget had increased 8.5 percent from the General Fund and if the salary increases and fringe benefits were removed it would only increase by 5.5 percent.

There were no questions on the budget for the Fiscal Analysis Division and Brenda Erdoes, Legislative Counsel, explained the budget of the Legal Division.

Ms. Erdoes said the Legal Division budget began on page 29 of [Exhibit E](#). She said the budget request included funding for 6 new positions: 3 Deputy Legislative Counsel positions at the entry level; 1 computer programmer at grade 33; 1 document specialist at grade 29; and 1 administrator at grade 47. Those positions were all workload-driven requests. Ms. Erdoes referred the Committee to [Exhibit H](#), which showed the workload statistics. She said that although the number of bills continued to drop, the number of pages of legislation and number of pages per bill increased each session. Ms. Erdoes said the statistics were a good indicator of the session workload, and the interim workload had also increased fairly dramatically, both in administrative regulations and opinions.

Ms. Erdoes said the Legal Division had also experienced a fair increase in workload based on legislators' use of email and their own computers. She said she believed email was a "quick way to communicate" and the Legal Division attempted to answer questions it received as quickly as possible. She said the entry level attorneys were needed for both the interim as well as during the session because of the increase in regulation workload and opinions. Ms. Erdoes said funding for litigation had not been built into the budget even though there had been a great deal of litigation over the prior three years. She said that had not been built into the budget because it was not the intent for the attorneys to cover litigation, and she still believed the litigation had been an anomaly that would not continue in the years to come. Ms. Erdoes said that if the litigation did not diminish, funding for it would have to start being built-in for a litigation staff. Ms. Erdoes reiterated that the 3 entry level positions were not intended to address the litigation issue.

Ms. Erdoes said the computer programmer was needed to support a compact disc (CD) product that the Legal Division sold in place of printed copies of the *Nevada Revised Statutes*. She said there was approximately \$1 million brought in by the Legal Division from the sale of publications and the CD. Ms. Erdoes said the document specialist position was needed to cover the additional technical services help that was needed. She said the administrator position would help her with the 63 positions in the Legal Division plus the 25 positions in the Printing Office. She said the position of Legislative Counsel had gotten "bogged down" with administrative and personnel matters and she wanted to

split those duties off to an administrator who would be somewhat like a managing law partner in a law firm. She said the administrator would handle most of the personnel and administrative matters so that she could focus more on the legal issues and reduce the amount of overtime she worked, both during the interim and during the legislative session.

Ms. Erdoes said the other additional workload changes that were shown on page 30 of [Exhibit E](#) were for gift shop merchandise. She said the gift shop had been gradually growing and the proceeds from sales were reinvested in inventory. She said the request for funding was reflective of the number of sales anticipated in the future. Ms. Erdoes said the gift shop had turned out to be a popular part of the Legislative Building.

Ms. Erdoes said that Maintenance Unit M-200 included funding for contract services. In the past that funding had been used to pay litigation attorneys and also for clerical services when the Legal Division was called upon to staff committees during the interim. She said session secretaries would be contracted for interim committees as they were already very well-trained and knew what to do.

Ms. Erdoes said Maintenance Unit M-200 included funding for document preservation. Because there was no extra space for storage, documents were processed immediately. For example, she said the BDRs from the 2005 Session would be processed immediately after the legislative session. They would be put on CDs and that was a better storage method as well as being easier to access and search. Ms. Erdoes said the program would be phased out, probably after FY2006-07, because the Division had begun to scan documents and actually make the files as the documents were made. She said the Division was still two years behind in the scanning program.

Ms. Erdoes stated that Maintenance Unit M-200 also included \$20,000 each year for software maintenance. She said the Legal Division had technical computer support staff that was separate from the Information Systems Division because all the bill drafting software and technical software was "in-house driven" and the budgeted funding was for additional maintenance contracts needed.

Ms. Erdoes said M-300 included funding for occupational studies for 15 upgrades and those were all based on workload and reallocation of job duties.

Ms. Erdoes mentioned that Enhancement Unit E-710 included funding to systematically replace its aging computer equipment. She said that the Division had combined the use of machinery in the Printing Office to make a much more efficient operation with the Legal Division and the Legislative Counsel Bureau as a whole but the equipment needed to be maintained. Ms. Erdoes said the bottom line for the budget showed a 34.77 percent increase because the budget had been "flat" for two sessions. She said The Executive Budget was much more realistic than past budgets.

Assemblyman Seale asked if there was any provision in the budget for funding impeachments. Ms. Erdoes responded that no funding for impeachments had been included and she hoped the impeachment conducted in 2004 had been an anomaly.

Assemblyman Marvel asked if there was parity between the salaries paid the legislative attorneys and attorneys in other state agencies. Ms. Erdoes

answered that she thought that was a matter of opinion but she believed the salaries were equitable to the Supreme Court attorneys and the Attorney General's attorneys. She said the budget did not request any increases and she hoped that if the salaries of other agency attorneys were increased that the Legal Division's salaries would be increased as well.

Ms. Erdoes referred the Committee to page 35 of [Exhibit E](#) for the Printing Office budget. She said the budget was decreased by approximately 18 percent from the prior biennium's budget and that the number of employees had been reduced from 28 to 25 through attrition. Ms. Erdoes said the state printer had retired after working one year for the Legislative Counsel Bureau and that position had not been filled, the publications manager was filling in as the state printer as well as working as the publications manager. Ms. Erdoes said there was a productions manager position that had been built from the other positions. She said the bottom line was that two management positions and one administrative assistant position had been eliminated. Ms. Erdoes stated that she believed the current organizational structure was the best it had been for the Printing Office.

Ms. Erdoes explained that when the Printing Office was moved from the Executive Branch to the Legal Division one of the requirements of the bill had been that all state agencies were formerly required to send all their business to the Printing Office when it was in the Executive Branch and that provision was removed when it was moved to the Legislative Branch. The Printing Office currently had to earn the business of the Executive Branch agencies. She said that when the Printing Office was moved to the Legislative Branch the thinking was that the Printing Office might have to be scaled back due to lack of use. Ms. Erdoes said that as it turned out the Office had earned back most of the business from the Executive Branch agencies and was doing very well. She said that she believed the Printing Office could keep going at its current pace with 25 employees, and the Printing Office was asking for the use of \$350,000 in the reserve fund to purchase equipment. She said that all the equipment in the Printing Office was approximately 50 years old and the staff was attempting to use the equipment and rehabilitate it. The staff was paying attention to determining the priority for purchasing printing presses in order to make the operation more efficient. Ms. Erdoes said the Printing Office also had the printing equipment from the LCB reproduction unit combined with the equipment from the Printing Office and that provided some redundancy.

Mr. Malkiewich introduced Donald Williams, Research Director, Research Division, Legislative Counsel Bureau, who would present the budget of the Research Division.

Mr. Williams said the Research Division budget began on page 40 of [Exhibit E](#). He said the adjusted base budget requested funding for 36 full-time positions and their associated costs. The positions included 21 research analysts, including his position and the chief deputy research position, 9 secretarial positions, 4 librarian positions, and 2 technical support staff.

Mr. Williams submitted [Exhibit I](#) entitled, "Research Division Workload Graphs, Legislative Counsel Bureau, Budget Hearing, March 9, 2005," and said the biggest part of the requested increase in the budget was based on workload. The number of research requests processed by the Division increased by 24.5 percent in the 2003 Session over the 2001 Session but no additional positions had been requested in the last biennium. He said the total number of requests was projected to continue to increase between 10 and 24 percent for the current session year and by more than 10 percent for the 2007 Session

year. Mr. Williams said that in addition to the number of individual requests that had been received from legislators and committees, the Division also provided staff for most of the studies completed in the interim. He said the number of studies staffed by the Division had increased from 18 studies in the 2001-2003 interim to 26 studies during the 2003-2005 interim. Mr. Williams projected that the number of meetings and committees would at least continue to be close to the same number, if not more. Mr. Williams stated that based on the workload statistics the division was requesting 4 full-time, permanent positions in The Executive Budget. Those positions were:

- One senior research analyst to assist in the general research requests.
- One research analyst for Constituent Services to assist with the increasing workload.
- One senior research secretary to staff interim study committee meetings and assist policy analysts during session.
- One assistant to assist in Constituent Services.

Mr. Williams said that Maintenance Unit M-200 included funding for a 3-year lease agreement for space used by the Constituent Services Unit. He said that currently there were five permanent Constituent Services Unit employees plus three session staff housed in the off-site space. Mr. Williams said \$25,000 in FY2006 to pay the rent on the property and another \$5,500 for telephone costs had been requested. During a session year the rent on the space and associated telephone services would be charged to the session.

Mr. Williams referred the Committee to page 42 of [Exhibit E](#). He said the 2005-06 agency request was for \$358,917 and \$328,984 in FY2006-07. Mr. Williams said Maintenance Unit M-300 included funding for changes to retirement, group insurance, workers' compensation, personnel assessments, and unemployment compensation.

Mr. Williams said Maintenance Unit M-303 included funding for upgrading and reclassifying 7 positions that would affect 11 positions. He said a part of the request was his restructuring of the Research Division, and as the new Research Director he saw a need to reorganize the Division and to provide a career path for the senior employees and also to assist in providing some positions for employees who actually had been performing as managers. Mr. Williams said they would be designated and paid as managers. Mr. Williams said an occupational study had been completed that compared the positions with comparable positions in other states legislatures and state and local government jurisdictions.

Mr. Williams explained that Maintenance Unit M-303 for occupational studies showed a total cost in FY2005-06 of \$89,322 and \$123,974 for FY2006-07. He continued by stating that M-305 funded the 2 percent cost-of-living adjustment for unclassified and non-classified employees.

Mr. Williams said Enhancement Unit E-710 provided funding for primarily computer equipment. He said the Division had a long-standing policy of purchasing session computer equipment at the end of session. Mr. Williams explained that the Division was able to upgrade all the computer equipment for its staff by using the session employee equipment and had saved a tremendous amount of money doing that.

Mr. Williams pointed out that a summary of the Research Division budget was shown on page 47 of [Exhibit E](#). He reiterated that most of the increase was attributable to the four new positions requested, and two of those positions were Constituent Services positions. Mr. Williams added that many legislators had told him that Constituent Services was an area that was very important and should be supported with the three additional positions.

Assemblyman Marvel asked why there was an increase in travel funds included in the Research Division budget. Mr. Williams said that travel had been significantly reduced in the prior biennium budget and the Division had been unable to send employees to a number of national meetings that legislators had requested that employees attend. Mr. Williams said that the funding proposed in [The Executive Budget](#) would allow the Division to get back to almost where it was four years before.

Mr. Malkiewich pointed out that in closing budgets for the prior biennium travel budgets had been "cut in half" throughout the Legislative Counsel Bureau.

Chairman Arberry closed the Legislative Branch budgets and briefly recessed the meeting. Chairman Arberry called the meeting back to order and opened the Public Employees' Retirement System budget.

PUBLIC EMPLOYEES' RETIREMENT SYSTEM (101-4821) – PERS-1

Dana Bilyeu, Executive Officer, Public Employees' Retirement System of Nevada, introduced herself. Ms. Bilyeu said that before she discussed the agency budget she wanted to review the actuarially determined contribution rates to be implemented in FY2006-2007. Ms. Bilyeu submitted [Exhibit J](#), entitled "PERS' 2004 Actuarial Valuation Results."

Ms. Bilyeu explained that the PERS' contribution rates were adjusted, if necessary, on each odd-numbered year in accordance with the previous year's actuarial valuation. That was why PERS was now looking back to the June 30, 2004, valuation to determine adjustments in rates for the biennium beginning July 1, 2005. She said that retirement statutes stated that anytime rates were adjusted the increase or decrease must be shared equally between the employee and employer.

Ms. Bilyeu continued by saying that the actuarial valuation measured the yearly costs of the plan based upon the demographics, assumptions, and benefit structure of the system. She said the key to the successful financing of the program was the management of those items, as well as predictability in funding for the Legislature, the members, and the employers. Ms. Bilyeu said that to that end, in 2004, at the conclusion of a five-month study with the independent actuary, the Retirement Board adopted a modification to the Board's funding policy which was designed to moderate short-term swings in contribution rates. She said the change in policy affected the amortization of the unfunded accrued liability of the program, moving the system to a method which provided current and future generations of members and employers with the opportunity to fund new gains or losses over rolling thirty-year periods.

Ms. Bilyeu stated that the modified funding policy provided better predictability to members in their take-home pay and to employers in the budgeting process. She said the Board studied the effect of the change in policy, both on the progress toward full funding and the added stability of contribution rates provided, and concluded that approach to be in the best interest of the financial

stability and security of the system, the members, and employers. Ms. Bilyeu said the 2004 valuation was based upon the modified funding policy.

Ms. Bilyeu said page 1 of [Exhibit J](#) showed the actuarially determined contribution rates under the employer pay contribution plan effective July 1, 2005. For regular members, the rate was 19.70 percent, which was more than .5 percent under the present 20.25 percent statutory rate. By law, rates under the employer-pay contribution plan must be changed if the difference between the actuarial rate and the statutory rate was greater than .5 percent. She said the new statutory rate going into effect July 1, 2005, was 19.75 percent.

Ms. Bilyeu stressed that any increases or decreases in contribution rates must be shared equally by employers and employees. The rate reduction for regular employees was due in part to a reduction in the normal cost of the benefit structure given current plan demographics and assumptions.

Ms. Bilyeu said the police and firefighter's rate was 32.12 percent compared to 28.5 percent, which was the current statutory rate. The rate increase for the police/fire fund was due primarily to the recognition of salary experience of that fund and the smaller pool of members in which to spread the amortization payments.

Ms. Bilyeu referred the Committee to page 2 of [Exhibit J](#) for essentially similar results for both funds for members contributing under the after-tax employee/employer contribution plan. For the regular fund, since the spread between the two rates, actuarial and statutory, was less than .25 percent, the rate would remain unchanged at 10.5 percent for the new biennium. She said the police/fire rate would increase to 16.5 percent again reflecting the salary experience of the fund.

Ms. Bilyeu pointed out that the Judicial Retirement System's normal cost contribution rate would be reduced in the upcoming biennium to 22.5 percent.

Assemblywoman McClain disclosed that she was on leave without pay during the legislative session, and while she was on leave without pay she was not receiving health insurance from her employer or contributions to the Public Employees' Retirement System. She said she was employed by a Clark County local government entity as a Principal Management Analyst in Clark County Social Service. She said her duties included research development and analysis of policies and programs for senior citizens in Clark County. Ms. McClain said she was paid from the General Fund and was a member of the Service Employees International Union (S.E.I.U). She said she participated in the Public Employees' Retirement System and all other benefit programs available to public employees generally. Ms. McClain said she would be watchful for bills, resolutions, and amendments regarding Clark County itself, local governments generally, public employee benefits, and the S.E.I.U.

Assemblywoman Leslie disclosed that she was a public employee on leave without pay, not receiving any PERS benefits, and according to Ms. Leslie, it took her about eight months to pay back from her own pocket the PERS benefits that she did not receive while she served in the Legislature. She added that she did not believe she would have a conflict.

Assemblywoman Koivisto disclosed that she was a retiree of PERS.

Chairman Arberry said he believed the entire Committee could disclose because the Committee members all would receive a PERS retirement at some time.

Chairman Arberry disclosed that he was retired from city employment and received a retirement from PERS.

Ms. Bilyeu introduced Mark Balen, Retirement Board Chairman, Public Employees' Retirement System, who would present the Board's proposal for executive pay.

Mr. Balen reviewed the changes to the non-classified pay schedules that were included in The Executive Budget. He said funding for the Board's proposed changes could be found in category E-805 of the PERS budget. The area of compensation for staff had been of great importance to the Retirement Board because the Board believed that the quality of the staff was one of the key elements in the Retirement System's continued success over the long term.

Mr. Balen said that in the Retirement Board's most recent review, the goal of the Board was to make the salaries competitive for professionals and to provide incentives for retention. He said the System had experienced a significant degree of turnover within the non-classified staff, having lost one to retirement and two to other opportunities within the last two years.

Mr. Balen said that in developing the pay scales, the Board had focused primarily on positions at other similarly managed pension plans of a similar size. The Board then reviewed other pension plans in light of the surrounding states, as well as other management positions within the state. He said that after careful consideration, the pay scales were expanded for each position, but in keeping with the very deliberate step method currently used.

Mr. Balen said the System's proposed budget reflected the orderly progression through the steps for each of the non-classified staff members. The additional steps in the pay scale widened the range to approximately a 44 percent differential between the lowest and highest steps for each position. That was in keeping with the nine-step pay scales typically used in the classified service of the state. The pay scales gave the Retirement Board the ability to recognize the significant contributions their officers made to the financial well-being and security of PERS.

Mr. Balen stated that he had been a member of the Retirement Board for about 2.5 years and, prior to that, a member of the police and fire committee of the System for 6 years. He said PERS was charged with significant responsibility and that as a trustee he had significant accountability for the administration of the system. Mr. Balen reinforced that the successful administration of the Retirement System was essential to the future of some 90,000 active members and 29,000 retirees.

Mr. Balen stated that the Retirement Board was united in its desire and responsibility to maintain a superior staff and compensate them accordingly, thus enhancing retention and effective recruitment. He said the Board's proposal for executive pay accomplished both of those goals in a fiscally responsible manner.

Tina Leiss, Operations Officer, Public Employees' Retirement System of Nevada, introduced herself and said that the System's overall proposed budget was essentially flat from the prior biennium. The proposed budget contained no new programs, positions, or large projects.

Ms. Leiss said she would briefly review each category of the budget and highlight areas of significant variations in the System's requests between FY2006 and FY2007.

Ms. Leiss stated that Maintenance Unit M-100 for inflation showed a reduction as a result of lower costs for purchasing and tort claim fund assessments and the Attorney General's cost allocation plan.

Ms. Leiss described Maintenance Unit M-150 as adjustments to base. She said included in that unit were adjustments to base for longevity pay for staff, Board member fees, and travel. That unit included adjustments for contract increases for the annual independent financial audit, actuarial services, benchmarking services, and a contract reduction for fiduciary training/system governance consulting services. She said that maintenance unit also included an adjustment, for FY2006 only, for an internal controls audit which, by Retirement Board policy, was conducted once every five years. The internal controls audit was an independent examination of management's assertion about the effectiveness of the System's internal controls performed by a certified public accountant.

Ms. Leiss informed the Committee that removed from the base in that category was the amount for a new telephone system which was installed in the Carson City office during the base year. Costs for one-time information technology hardware and software maintenance and purchases were also removed from that category.

Ms. Leiss said that included in the base was an amount for overtime work necessary to complete special projects. The amount for overtime had not been removed from the base because the System had certain peak periods of heavy workload that would continue in the next biennium. The nature of that work, the majority of which was the processing of the one-fifth of a year purchase agreements, provided in NRS 391.165, and the benefits program service credit audits were cyclical and must be completed in a short period of time. Ms. Leiss said that in the last biennium PERS had performed approximately 2,500 one-fifth of the year purchases and in a normal year it would perform approximately 400. She said that had been a significant increase and each purchase took approximately one-half hour to accomplish. She said those purchases needed to be accomplished during the summer months after the school year ended and before the school year began in the fall. She said the System had determined that the best manner in which to complete the work was on an overtime basis rather than asking for a new position.

Ms. Leiss said Maintenance Unit M-300 contained assessments for personnel services. She said M-305 consisted of the Governor's recommended 2 percent cost-of-living adjustments for each year in the biennium for all members of the staff.

Ms. Leiss went on to say that Enhancement Unit E-200 contained costs for registration and instructional materials to enable the staff to maintain proper and current knowledge levels in retirement administration, investment administration, and business administration. She said education and continuing professional training for staff improved the overall performance of the agency and helped reduce employee turnover. That category included additional money for training so that the retirement counselors could become certified by the International Foundation for Retirement Education and allowed the staff to take courses in areas that would improve job performance.

Ms. Leiss said that Enhancement Unit E-275 included maintenance on newly installed or upgraded hardware and software and the necessary hardware and software purchases. She said the information technology enhancements were significantly lower than the amounts for information technology removed from category M-150. She said that included in that unit were necessary maintenance and software purchases for required upgrades to the workflow, database, and imaging systems. She said the unit also included the replacement of servers based on the lifecycle of those servers. The purchase of the servers was included in each year of the biennium because PERS had three environments that required the servers: production, testing, and disaster recovery. She said the newest servers were used in the production environment, then moved to the testing environment, and finally were used at the disaster recovery site.

Ms. Leiss described Enhancement Unit E-325 as consisting of a publication, the *Popular Annual Financial Report* (PAFR), that PERS would like to begin publishing to inform its members regarding the finances of the System. She described the PAFR as an easy-to-read summary of the PERS Comprehensive Annual Financial Report (CAFR) and it would be designed for readers who did not have a financial background.

Ms. Leiss said Enhancement Unit E-710 was for replacement equipment and E-720 was for new equipment. Each of those categories contained a small amount for items such as replacement headsets for telephones, replacements for broken chairs, and new financial calculators.

Ms. Leiss said the final category was Enhancement Unit E-805. That category consisted of the salary adjustments for the executive staff that had been discussed earlier in the meeting.

Chairman Arberry asked how many states were currently using a year-by-year closed amortization method and the number of those states that had retirement systems that were fully funded.

Ms. Bilyeu responded that PERS had done a survey of approximately 65 pension funds, looked at the annual financial reports or the actuarial valuations for those funds, and determined there were approximately eight other statewide public pension plans that used a year-by-year closed amortization approach similar to the one that had been adopted by the Retirement Board.

Chairman Arberry asked Ms. Bilyeu to highlight some of the changes and asked when the system would be fully funded. Ms. Bilyeu said of the eight statewide systems that used the year-by-year amortization, other than the state of Nevada, two were fully funded. She said she believed one was funded at 102 percent and one was 104 percent funded. Ms. Bilyeu said four were above 90 percent funding and the rest were in the category similar to Nevada at approximately 80 percent funded.

Ms. Bilyeu said the year-by-year funding approach allowed intergenerational equity for the payment stream on new gains or new losses that were created due to an event that happened in a particular year. For instance, in the year 2001 there was a very significant downturn in the investment markets and that caused an unfunded liability to be created for the pension fund. That liability was currently being lumped into the current unfunded liability. She said the Retirement Board adopted a 30-year closed approach to pay off the current unfunded liability of the program. The new gains and losses that occurred in

the most recent periods because of those down markets were wrapped into a new 30-year funding period that would be counted down. She said, for example, in the year 2018 if there was a new loss that was significant, similar to what occurred in 2001, that new loss would be allowed to have its own 30-year amortization period. She said it would be similar to refinancing a home and adding additional debt to add on an extra room. Ms. Bilyeu explained that was what had happened for the current unfunded liability. She said new unfunded liabilities would be given their own amortization period.

Chairman Arberry asked what year the PERS fund would be fully funded. Ms. Bilyeu responded that the current unfunded liability would be paid off in the year 2034. She said that if there was a significant period of gains prior to that it could be fully funded prior to that date. Ms. Bilyeu said it would depend on what happened in the future. Ms. Bilyeu said she had provided to the Fiscal Division staff two hypothetical scenarios that showed what potentially could happen in the future regarding payment on the unfunded accrued liability. She said the future experience of the fund could not be predicted and the System could only manage the fund based on past experience. Ms. Bilyeu said it was possible the unfunded liability could be paid off earlier than 2034 but it also showed the potential to pay off after the year 2034.

Chairman Arberry said he believed it was originally scheduled to be paid off in the year 2024 and that had been advanced to the year 2034.

Assemblyman Seale asked what the ratio of assets to liabilities was in 1984 when the amortization began. Ms. Bilyeu responded that the ratio of assets to liabilities in 1984 was 55 percent. Mr. Seale asked if that percentage had been moved from 55 percent to approximately 80 or 82 percent. Ms. Bilyeu said the regular fund was funded at 80 percent.

Mr. Seale asked how PERS invested its money. Ms. Bilyeu explained that the Retirement Board set the asset allocation for the System based upon the recommendations of staff and a consultant. Ms. Bilyeu said PERS invested in five very broad asset classes. She said the Retirement Board retained the services of institutional investment firms to manage money to particular mandates. For instance, the U.S. stock allocation funds were managed to the Standard & Poor's 500 Index. She said the Board also did passive investment through indexing and there was also an actively managed side to the business as well. Ms. Bilyeu said for the actively managed funds there was a slight premium above the Standard & Poor's 500 Index that was expected of those particular managers. Ms. Bilyeu added that the Board hired fully discretionary institutional investors that managed to the "prudent person rule" and could invest in all investments that a prudent person would in their own investment portfolio.

Mr. Seale asked what the PERS employees in the Investment Section did if all the investment decisions were made by outside investment firms. Ms. Bilyeu responded that the PERS employees monitored portfolio performance and institutional manager performance. She said the employees reviewed the performance that had been generated by the money managers and they also did portfolio allocation analysis. Ms. Bilyeu said the employees analyzed whether PERS was assuming the appropriate amounts of risk for the return being received.

Mr. Seale asked whether PERS also had investment advisors and Ms. Bilyeu answered affirmatively.

Mr. Seale asked if PERS was a defined benefit program. Ms. Bilyeu said it was. Mr. Seale asked how many states were using a defined contribution. Ms. Bilyeu said she believed the state of Michigan was the only state where a mandatory defined contribution program existed. She said she could be wrong and there might be one additional state with a mandatory defined contribution program. Ms. Bilyeu said there were six or seven voluntary defined contribution programs across the country, including Florida and Colorado. She said at least 90 percent of all public workers in the United States participated in defined benefit programs.

Assemblyman Denis said he understood the need for servers but he would like to have more detail of what PERS was requesting in Enhancement Unit E-275. He said he believed the request probably included equipment other than servers and he needed more detail on the request. Ms. Bilyeu said she would be happy to provide a more detailed breakdown of the equipment requested.

Mr. Denis said that the number of members receiving counseling had been projected to be 8,000 in the performance indicators but was actually 8,300. He asked what was driving the increase in the number of members receiving counseling.

Ms. Bilyeu said the trends in counseling were reflecting the trends in the aging population and because of that fact a new program for group counseling had been instituted. She said general information was provided to groups and specific information could then be provided to individuals. Ms. Bilyeu mentioned that PERS had a full counseling office in Las Vegas that had been expanded in the prior biennium and that helped PERS move additional people through the counseling process.

Chairman Arberry asked the agency to comment on why the Retirement Board was not seeking legislation to extend the critical labor shortage designation established in A.B. 555 of the 2001 Legislature.

Ms. Bilyeu said the critical labor shortage designation provided an exemption from PERS' normal re-employment restrictions for positions deemed by the governing body of a public employer to be suffering from a critical labor shortage for any employer as long as the employer certified that was the nature of the particular position. Ms. Bilyeu said the original bill in 2001 required PERS to perform an experience review of the use of that benefit and that for it to continue past the sunset date of June 30, 2005, the costs associated with the program must be recognized in the contribution rates. She said the experience study was performed by the Segal Company for PERS and there was a very slight actuarial cost associated with the program but it was significant enough to bring the regular contribution rate within the statutory trigger mechanism. Ms. Bilyeu said that, as she had reported to the Committee earlier in the meeting, the rate was scheduled to be reduced from 20.25 percent to 19.75 percent. She said that if the critical labor shortage was extended that very minimal cost associated with the program would actually bring the valuation rate to within the statutory trigger amount and the contribution rate would remain at 20.25 percent. Ms. Bilyeu summarized by saying that the .50 percent reduction in the cost associated with the total contribution plan for the system would not occur if the critical labor shortage program was continued.

Ms. Bilyeu said that for the police and fire fund, employer paid, the cost was very insignificant, however, because the valuation rate was 32.12 percent even a single basis point in costs associated with the benefit triggered an additional rate increase in the police and fire fund. She said it was currently scheduled to

go to 32 percent and if critical labor shortage was extended that rate would go to 32.25 percent.

Ms. Bilyeu said the Retirement Board, based upon the way the valuations came in and the fact that there would be no rate savings in the regular fund and an additional rate in the police and fire fund, declined to offer any legislation to extend the critical labor shortage exemption.

Assemblywoman Smith asked what would drive the rate to remain the same if only teachers were considered. Ms. Bilyeu said the actuary valued benefits by conducting a performance review of people who used the critical labor shortage exemption and what the usage was expected to be in the future. Ms. Bilyeu said that 90 percent of those positions that were currently utilizing the critical labor shortage exemption were being used in the education field. She said the bulk of the experience of the program was for teachers although it was available to all employers. Ms. Bilyeu said the actuary considered the aging population and the fact that there would be more retirees and that meant that usage of the statute would probably increase. She said there were fewer people to take positions that were available and that also increased the possible usage of the statute in the future. Ms. Bilyeu said those considerations were associated with a cost and even if the statute was limited only to educators in the regular fund the rate trigger would still go away for the rate reduction because the bulk of the experience had been in the educational fields in the past.

Mrs. Smith asked if a cap on the number of participants would make a difference in the rates. Ms. Bilyeu said she could not respond to the question with any authority. She said she would have to know the type of cap put in place in order for the actuary to value it. Ms. Bilyeu added that any time a benefit was included in the Retirement Act it became a contract right and she would be concerned about a benefit put into place even with a cap on it because it would become a right of the employment contract. Ms. Bilyeu said PERS would have to be very careful about looking at adding a benefit, even with a cap in it, because those benefits could not be reduced for those people who were currently employed in the public sector.

Mrs. Smith clarified that when she referred to a cap she meant the number of people participating. Ms. Bilyeu said she understood. Ms. Bilyeu said the usage of the exemption had been fairly minimal; only 141 participants over a four-year period, but it still generated an actuarial impact to PERS. She said that if the number of participants was severely limited it might not be a good tool in the recruitment of personnel.

Assemblyman Seale said that Nevada was one of the few states that did not include the State Treasurer on its retirement board. Mr. Seale said he had introduced legislation in 1995 to do so which was not successful. He said it was now a different time and a different place and he wondered what the Board's feelings were about that.

Ms. Bilyeu said the Retirement Board had not reviewed that issue so she was unable to comment on their position on the issue.

Mr. Denis said he was concerned that if the critical labor shortage exemption was allowed to sunset that it would affect such positions as math teachers. He said he happened to know one who might retire if the exemption was not continued and that could happen with other positions as well.

Ms. Bilyeu said those individuals who were currently employed in positions already designated as critical labor shortage would be grandfathered in and would be able to remain in those positions even after the sunset date of the legislation. She said the System would not require those individuals to forego their benefit as long as they remained in those positions that were originally designated as critical labor shortage.

Assemblyman Hogan asked about the salary increases for non-classified employees. He said they were apparently based on a study of comparable salaries in Nevada cities and counties and compared to salaries of the executive staff of the State Pharmacy and Medical Boards. He asked whether the study included any comparable positions in other western states.

Ms. Bilyeu responded that the Retirement Board looked at all western states and pension plans that were administered in a similar fashion to PERS with similar asset size. She said comparisons were made with positions nationally, in the west, and then compared to positions of comparable responsibility within the state. She said there were no positions in the state with the exact same job descriptions as those in PERS.

Mr. Hogan asked if there was any particular relevance to the Pharmacy and Medical Boards. Ms. Bilyeu said the Board was attempting to look at other boards at the state level that had similar responsibility levels for the administration of particularly large programs that affected people. She said PERS administered a program for 120,000 people.

JUDICIAL BRANCH, JUDICIAL DISCIPLINE (101-1497) – COURTS-48

David Sarnowski, General Counsel and Executive Director, Commission on Judicial Discipline, said he also served as the Executive Director to the Standing Committee on Judicial Ethics and Election Practices. He said the budget presented covered both of those agencies. Mr. Sarnowski stated that both agencies were part of the Judicial Branch. The Commission was formed by constitutional provision, supplemented by statutes in *Nevada Revised Statutes* (NRS), Chapter 1, and also operated under a set of rules passed by the Commission. Mr. Sarnowski explained that the Standing Committee was created by rule of the Supreme Court and had only existed since 1998. He said the Commission was the judicial arm and performed investigatory and adjudicatory functions regarding judicial officers from all of Nevada's courts including municipal, justice, district, and the Supreme Court. He said approximately 150 full-time judges and a like number of pro-tem or part-time judges were covered. He said many in the latter category were lawyer pro-tem judges, although there were some that were not lawyers.

Mr. Sarnowski stated that staffing for the agency included him, Kathy Schultz, Management Analyst, and one other position. He said the office was located in Carson City. Mr. Sarnowski said the Commission had a chairman appointed by the Governor as well as two other lay members, two district judges, and two lawyers appointed by the State Bar of Nevada. The Commission determined whether judges violated ethical provisions, the *Nevada Code of Judicial Conduct* was promulgated by the Nevada Supreme Court, and the Commission looked to those rules when someone filed a written complaint about a judge. Mr. Sarnowski said the Commission decided whether to investigate, what to investigate, and how far to investigate.

Mr. Sarnowski said if the Commission determined an investigation should be performed, the Commission would execute a contract with a private

investigative agency. He said the Attorney General's Office was "taken out of the mix back in the wake of what is known now as the Whitehead case." That agency had performed those services since before Mr. Sarnowski arrived nearly three years before and, according to Mr. Sarnowski, the agency had done an excellent job. He said sometimes the investigator would interview witnesses, and sometimes the judge was interviewed. The investigator would then return to the Commission with a report and the Commission would then decide what to do, if anything. Mr. Sarnowski said that many complaints were dismissed without an investigation. He said that in a year the Commission averaged approximately 130 complaints from all areas including litigants, relatives of litigants, other judges, lawyers, people reading the newspaper, and others. Mr. Sarnowski said it was not necessary for the person complaining to have an interest in the litigation even if it was a complaint about a judge involved in litigation. Mr. Sarnowski said the Commission sometimes received complaints about "off the bench" conduct of judges. He said that the prior year the Commission had removed a judge once he had accrued three misdemeanor citations for driving under the influence in approximately 2 months. Mr. Sarnowski said that most of the business done by the Commission was done in private and governed by rules of confidentiality that were set by the *Nevada Revised Statutes*.

Mr. Sarnowski said that in the three years he had been with the agency there had been six matters that reached the public's eye and another matter was already pending and was currently concluding. He said that had involved a major challenge to the fact that the Commission could both investigate and then adjudicate violations. He said the judge in question felt that it was an unconstitutional law and the Nevada Supreme Court said otherwise. He said Nevada's system was called a "one-tiered system" and was held to be constitutional. Mr. Sarnowski added that some states had two tiers where a small group conducted the investigation and another group did the adjudication. Mr. Sarnowski stated that at any given time the Commission had between 65 and 80 cases open. He said that in the next week there would be a closed session with approximately 80 matters on the agenda.

Mr. Sarnowski reported that the sanctions administered by the Commission ranged from removal to requiring judges to get more education. He said judges could be suspended from the bench or required to undergo monitoring. Mr. Sarnowski said there had been a recent discipline of a judge who had one citation for driving under the influence and that judge had been censured publicly. He said the judge was currently under medical monitoring which had to be reviewed by the Commission.

Chairman Arberry asked why out-of-state travel expenditures were only \$192 in FY2005-2006 when the Legislature had approved expenditures totaling \$2,168.

Mr. Sarnowski said that out-of-state travel covered his position and the Commission members. He said that normally the travel was completed in even numbered years when he attended a once yearly annual training with his counterparts in the Association of Judicial Disciplinary Council (AJDC). He went on to say that some of the members of the Commission and the Committee attended a college called the College of Judicial Conduct and Ethics in Chicago, Illinois. Mr. Sarnowski said a great deal of the travel funds were expended during the investigatory phase and that was shown as operating expense.

Chairman Arberry asked Mr. Sarnowski to comment on why the base budget out-of-state travel for FY2006-2007 had been increased to \$9,610.

Mr. Sarnowski said he was anticipating new members would be added as the terms of some of the members were expiring and those new members would have to travel out of state for training. Mr. Sarnowski said he had reduced his out-of-state travel due to budget issues in prior years. Mr. Sarnowski said the agency tried to "husband its resources" and he pointed out that the agency had returned approximately \$95,000 to the General Fund for the past three years.

Chairman Arberry asked Mr. Sarnowski to provide additional information on the out-of-state travel budget to staff of the Legislative Counsel Bureau.

Chairman Arberry asked Mr. Sarnowski to explain the benefits of attending the AJDC annual meetings and the American Judicature Society (AJS) College on Judicial Conduct and Ethics. He asked Mr. Sarnowski to explain why seven members needed to attend those meetings.

Mr. Sarnowski said the agency tried to send a combination of members of the Commission, members of the Standing Committee, and himself to the college every other year. He said he had attended two sessions since he had been with the agency. He also said that on a prior occasion fewer members had been sent to the college but he attempted to have judges utilize funding from the Administrative Office of the Court. He said that had been successful and the agency had not ended up paying all the expenses.

Mr. Stevens informed the Committee of upcoming agendas.

There being no further business, Chairman Arberry adjourned the meeting at 10:52 a.m.

RESPECTFULLY SUBMITTED:

Lila Clark
Committee Attaché

APPROVED BY:

Assemblyman Morse Arberry Jr., Chairman

DATE: _____

<u>EXHIBITS</u>				
Committee Name: <u>Committee on Ways and Means</u>				
Date: <u>March 9, 2005</u> Time of Meeting: <u>8:00 a.m.</u>				
Bill #	Exhibit ID	Witness	Dept.	Description
	B	Douglas Thunder	Educational	Analysis of School District Billings for the Subsidy of Retired Employee Group Insurance Premiums, FY2005
	C	Thomas Ciesynski B.	Washoe County School District	Washoe County School District, A.B. 93 Supplemental Appropriation to DSA for Unexpected Health Care Costs for Retired School District Employees
	D	Robin Keith	NV Rural Hospital Partners	A.B. 103 – Rural Healthcare Loan Pool
	E	Lorne Malkiewich	LCB	Legislative Counsel Bureau, Budget Request for FY2006 and FY2007
	F	Nancy Tribble	LCB	Senate Committee on Finance, Assembly Committee on Ways and Means, March 9, 2005
	G	Nancy Tribble	LCB	Technical Assistant, Assembly and Senate, Job Duties, Skills, and Experience, (Technical Specialists)
	H	Brenda Erdoes	LCB	Untitled graphs.
	I	Don Williams	LCB	Research Division Workload Graphs, Budget Hearing, March 9, 2005
	J	Dana Bilyeu	PERS	PERS' 2004 Actuarial Valuation Results