**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS
AND THE
SENATE COMMITTEE ON FINANCE
JOINT SUBCOMMITTEE ON PUBLIC SAFETY/NATURAL RESOURCES/TRANSPORTATION**

**Seventy-Third Session
March 30, 2005**

The Assembly Committee on Ways and Means and the Senate Committee on Finance, Joint Subcommittee on Public Safety/Natural Resources/Transportation, was called to order at 7:35 a.m., on Wednesday, March 30, 2005. Chairwoman Kathy McClain presided in Room 2134 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Ms. Kathy McClain, Chairwoman
Mr. Mo Denis
Mrs. Heidi S. Gansert
Mr. Joseph M. Hogan
Mrs. Ellen Koivisto
Ms. Valerie Weber

SENATE COMMITTEE MEMBERS PRESENT:

Senator Bob Beers, Chairman
Senator Dean A. Rhoads
Senator Dina Titus

COMMITTEE MEMBERS ABSENT:

None

STAFF MEMBERS PRESENT:

Mark Stevens, Assembly Fiscal Analyst
Gary Ghiggeri, Senate Fiscal Analyst
Mindy Braun, Education Program Analyst
Leslie Johnstone, Program Analyst
Janet Johnson, Program Analyst
Linda Smith, Committee Secretary
Connie Davis, Committee Secretary

Chairwoman McClain called the meeting to order and said the first testimony would be provided by JFA Associates.

Dr. James Austin, President, JFA Associates, said he would be presenting the most recent prison population projections. Dr. Austin indicated that he had been involved for approximately 20 years with prison population projections and studies for Nevada. When he first started, Nevada's prison population was approximately 2,500 and that number had increased significantly. Dr. Austin said the State projects JFA Associates was involved in included population projections for probation and parole and the prison system, a recidivism study for the Department of Corrections and the Parole Board, review of the Department of Prison's classification system, development of a risk instrument for the Parole Board, and evaluation of the parole guidelines. All the projects were funded through federal grants, which JFA Associates had been able to secure.

Dr. Austin began a PowerPoint presentation and said the correctional system in the United States indicated the prison population had grown exponentially from 1980 to 2003. In 1980, there were 1.8 million individuals under the correctional system in the United States, and that number was approaching 7 million, the largest growing control system of adults in the United States. The growth was a big source of concern. JFA Associates worked closely with many states to determine how to control costs. Dr. Austin noted that some states were successfully reducing their prison populations.

Dr. Austin pointed out that since 1992 crime had dropped rather substantially in the United States, yet the prison population continued to grow. He referred to the data for Nevada versus the United States and said the information was included in the report submitted to members (Exhibit B). Dr. Austin said Nevada was unique since it was growing so rapidly, and as the population increased so did the demand for services. In the last ten years Nevada's population had increased 56 percent, as opposed to the national growth rate of 13 percent. Historically Nevada had a higher crime rate than the rest of the country, in particular, a higher violent crime rate and a higher property crime rate. The crime rate did not tie to the incarceration rate. Normally incarceration rates were associated with crime rates. States with low crime rates had low incarceration rates. The trick was to determine what produced the drop in the crime rates. Unlike the rest of the nation, between 2002 and 2003, Nevada's crime rate, not the number of crimes, dropped 9 percent, way out of line with the rest of the nation. Dr. Austin said something bad happened in Nevada in the last year or two in terms of crime rate. Overall, Nevada's crime rate did go down but not as fast as the rest of the country, largely because of the blip that occurred in 2003. The Department of Justice provided data that indicated Nevada did not have much of an increase in the prison population between 2002 and 2003; however, in 2004 there was a big jump in the population. Over the past eight years, Nevada had grown at a faster rate than the rest of the country; the country grew by 24 percent and Nevada grew by 27 percent and the annual rate of change was greater. Dr. Austin said the incarceration rate for the United States was 422 per 100,000 and for Nevada the rate was 471 per 100,000; not too far off given the crime rate.

Dr. Austin said Nevada's use of probation was extremely low; the rate for the nation was 1,862 adults per 100,000 and Nevada's rate was only 716 adults per 100,000; an area that needed to be explored. Dr. Austin said he thought the low rate of probation occurred at the court level. Nevada's parole rate was also low. He explained that the recidivism rate was measured by the percentage of prisoners released from the prison system who returned to the system within three calendar years. California was one of the states used to compute the national recidivism rate, and because of the state's large population, 120,000 individuals were released each year from their prison system. California had a high recidivism rate of 72 percent. Omitting California from the data dropped the national rate to 40 percent. Nevada's recidivism rate was only 26 percent. Dr. Austin thought the low rate was partially due to the fact that a substantial number of Nevada's prisoners were originally from

California and when released returned to California. In addition, Nevada had a substantial number of illegal immigrants who returned to Mexico upon release. That aside, Nevada's rate was low and might suggest that there were a substantial number of "low risk" prisoners who were unlikely to return to the prison system. Dr. Austin stated that the majority of people released from prison did not return to the prison system; approximately 60 percent in most states did not return to prison.

Dr. Austin referred to the handout (Exhibit B) and said the first chart included data on reported crime and population in Nevada. The Part I Crimes were the most serious crimes reported to the Federal Bureau of Investigation. Around 1995 the number of crimes being reported in Nevada leveled off, declined until 2000, and then increased significantly in 2003. Dr. Austin explained that serious crimes were defined as murder, rape, robbery, assault, burglary, theft, and arson; property crimes constituted the majority of serious crimes.

Senator Beers noted that there were three police departments in Clark County and asked if the chart detailing crime in Las Vegas included all three agencies. Dr. Austin said the chart included only Las Vegas Metropolitan Police Department data.

Dr. Austin continued his presentation and said Nevada's population was projected to grow at an annual rate of 2.5 percent each year. The at-risk population, males ages 20 to 39, was projected to grow at 2.2 percent. Dr. Austin referred to charts 4 and 5 (Exhibit B) that included the accuracy of the November 2004 forecast for males and females. The model used by JFA Associates was a simulation model. The data included in the handout indicated how the system was functioning. Dr. Austin said the vast majority of people entering the prisons were "the new court commitments," people sentenced by courts to prison or who might have had their probation revoked. Compared to other states, Nevada did not have a high proportion of parole violators. The new court commitments were tracking at an increase of approximately 2.5 percent. As long as the admissions and the new court commitments continued to increase, the prison population would continue to increase. Dr. Austin noted there had been an increase in the female admissions in 2004 of 6.6 percent as opposed to the 2.5 percent increase of males.

Chairwoman McClain asked if the model included the types of crimes segregated by male and female. Dr. Austin said the model included separate projections for the women and men by categories B, C, D, and E. For category B, the minimum sentence for males was 27 months in 2002; the number increased to 29.3 months in 2003, and remained at 29 months in 2004. The maximum sentence in 2002 was 86 months, jumped to 94 months in 2003, and remained at 94 months. Dr. Austin said the category B increases between 2002 and 2003 would indicate longer lengths of stay. Except for category B, the minimum and maximum sentence lengths had not changed much over a three-year period for the males. Dr. Austin explained that normally the women received shorter sentences for category B and C felonies.

Senator Rhoads said Clark County was requesting seven new district judges and asked how the new positions would impact the prison population projections. Dr. Austin stated that the addition of the new judges would allow processing of more cases and could result in an increase in the projections. The jail populations could also benefit because there would not be as much delay in sentencing cases. Dr. Austin explained that prisoners usually received credit for time served while in jail and he thought the issue of pretrial credits would need to be addressed. Prisoners entering the prison system faster would spend a greater proportion of the sentence in the Department of Corrections, which would also change the projections upward. Another concern was the addition of more police officers, which would result in more arrests, and more arrests would translate into more court cases. Dr. Austin said, "The more you fuel that front end of the system, it means more activity on the back end of the system."

Dr. Austin reiterated the importance of the state looking at the court sentencing issue because the use of probation appeared to be low. The fact that Nevada had a large number of prisoners who were released and did not return to the prison system suggested there might be some opportunities to divert certain types of offenders to probation or intermediate sanctions, which would be very cost-effective.

Chairwoman McClain said there was also a voter-approved tax initiative to add additional police in Las Vegas. She asked if adding more police would perhaps deter some crime. Dr. Austin replied that it depended on how the additional police positions would be deployed. He referred to New York City, which had an unbelievable drop in crime rate, and said many thought the drop was attributed to the fact that numerous police officers were added to the streets, resulting in a extremely strong force. New York City also experienced a drop in the prison population of approximately 10 percent. Dr. Austin said the areas addressed by Senator Rhoads and Chairwoman McClain needed to be watched. Dr. Austin emphasized the importance of tracking the arrest rates because the rates indicated directly what would be happening in the prison system; an increase in arrests would result in an increase in admissions to the prison system six months down the road. Chairwoman McClain asked if the addition of judges and police were included in the projections. Dr. Austin said they were not included in the projections, but JFA Associates prepared projections for Nevada's prison system three times each year and would be happy to begin incorporating the positions and generating various "what if" scenarios. The impact of the new positions would not occur immediately because the prisoners had to enter prison, spend time in prison, and then be released.

Senator Beers referenced Senator Rhoads' earlier concerns and asked Dr. Austin what other states were doing to influence the rate of probation as an alternative sentence at the bench. He recognized it was important for Nevada to look at the rate of probation. Dr. Austin replied that there were some sentencing reforms and he referred to Proposition 36 in California, a voter initiative which mandated treatment in lieu of prison for the first three drug possession convictions. Initially, the proposition had a large impact on California's prison population, which reduced the number of people in prison for drug violations. The drug treatment process did not work as well as thought. He said two-thirds of the prison admissions were people who had failed probation or had failed parole. States were creating intermediate sanctions that required the probation departments and the courts to set up intermediate sanction facilities or intermediate sanction programs. The intermediate sanctions had been relatively successful in restricting violators coming in. It was important to note on the prison side that recidivism rates did not vary by length of stay. There was the same recidivism rate whether an individual was incarcerated for 12 months, 18 months, 24 months, or 36 months. Dr. Austin said JFA Associates conducted a great deal of research on what was keeping people in prison, especially low-risk individuals.

Senator Beers referred to Dr. Austin's earlier statement that indicated Nevada's rate of probation was low compared to the nation. Dr. Austin confirmed that

Nevada's probation rate was extremely low. The Senator asked if intermediate sanctions came into play. Dr. Austin answered affirmatively. He noted that the state of Virginia had conducted a risk assessment as part of the presentencing investigation so a judge would know the risk level of the individual, which helped the courts in determining the appropriate sanction. Courts, especially in Nevada, had tremendous flexibility in determining whether to sentence to prison or grant probation. Senator Beers asked if an individual in Nevada, who was granted probation, then violated probation and went to prison would not be counted in the 716 per 100,000. Dr. Austin said the data was based on a one-day count. In 2003 the federal government reported 10,500 probationers in Nevada. That number was used to compute a rate of probation per 100,000 adults. Dr. Austin said even though Nevada's rate of crime and felony court admissions was increasing, the probation population was not increasing, which indicated that even with more cases going through the court, probation was being used less.

Senator Titus pointed out that Nevada had proposals for different youth facilities and asked if Dr. Austin could provide a breakdown on youths 22 years of age and younger versus the adult population. Dr. Austin answered yes, and pointed out that criminals "burned out with age." He emphasized that youthful offenders were very likely to recidivate and were the individuals "that you want to throw all the treatment at that you can," not the older individuals. Dr. Austin referred to sentencing policy and used the analogy of awarding Roger Clemens, the great pitcher for the Houston Astros, a one-year contract because he would not be pitching in three years due to his age. Dr. Austin said awarding a ten-year $1 million contract would be a waste of a great deal of money. Dr. Austin reiterated that concerns should be directed to the youthful offender. The Nevada Department of Corrections and the Parole Board did have good risk-assessment tools and could select the high-risk and low-risk individuals. Dr. Austin said he was most concerned with the youthful offenders, ages 18 to 25, who were more likely to go out and commit serious crimes.

Assemblyman Hogan asked if Dr. Austin had occasion to note any difference in probation rates and other important statistics between states having judges elected for relatively short terms as opposed to those judges elected for longer terms or appointed. Dr. Austin said he had not looked at the areas addressed by Assemblyman Hogan, but noted that in almost any state there was very strong disparity in the sentencing imposed by county judges and district judges. In other words, it was "justice by geography" and it was not so much what an individual did, but where the individual was being prosecuted and sentenced. Generally, urban centers tended to be less likely to use the prison sanction than the rural areas. The majority of states had sentencing guidelines in place to reduce the disparity. In response to a question posed by the Chair on the disparity in sentencing, Dr. Austin said previous studies indicated there was disparity in sentencing in Nevada. He noted that he had not looked at the disparity issue recently.

Dr. Austin reviewed chart 10 (Exhibit B) and said the grant rates, or parole release rates, were a big issue in all states. The overall grant rate was generally 54 to 52 percent. However, within a year there tended to be swings in the grant rates, which had an enormous influence on the prison population. Dr. Austin stated that the grant rates drove the length of stay. The total discretionary release dates also dropped, but not as much because at the second hearing the Parole Board might be compensating and have a higher grant rate. Dr. Austin said the decisions at the first hearing and the second hearing had to do with length of stay. The percentage of mandatory parole was much higher and included individuals near the end of their sentence and the Board had the authority to release people at a mandatory release date. The net result was a slightly longer length of stay.

Dr. Austin referenced the sharp increase in the prison population and the parole grant rate going down in relation, but he pointed out that the prison population "popped back up." He said the Board was making a good effort to keep the rate as high as possible and still meet the mandate of public safety. The Board had been doing a good job in balancing all the issues. Dr. Austin said he would be working with the Board in reviewing the overall guideline process in order to provide a report back to the Legislature.

Chairwoman McClain asked about the projections, and Dr. Austin said the projections included the 2004 grant rates for the entire year and took into account the new assessment tool. He said the large increase in prison population between 2003 and 2004 took everyone by surprise; there was a big jump in crime, the grant rate went down, there were longer sentences, and that started to take a toll. The prison population increase appeared to have settled down and there was optimism that the large increase was a one-time phenomenon.

Dr. Austin then referred to the projected admissions and stock populations by gender (Exhibit B) and said the male population was projected to increase through 2015 to 14,673 as opposed to the current 10,901, slightly less than a 4,000 bed increase. The female population was expected to grow by approximately 400. The bottom line was that Nevada's prison population would grow largely because the at-risk population was increasing, the crime rate had increased, and there was nothing on the horizon being proposed to change the process.

Dr. Austin said the April projections were based on how well the model projected the prison population from January 2004 to January 2005 and the male and female projections were extremely accurate. Because the projections were generated three times per year, the agency was able to understand what was happening and get the data back on track so the Legislature could budget appropriately. Dr. Austin concluded his presentation and said JFA Associates tried to provide a service that projected the likely consequences of any changes; the process was ongoing.

Chairwoman McClain asked if Dr. Austin had ever been asked to give a presentation to Nevada's judiciary policy committees, who needed to hear the information. Dr. Austin said, "Yes."

Senator Titus said the issues of sentencing, policy, three strikes you are out, and tough on crime legislation were important issues. She said conventional wisdom indicated that an improving economy would result in a reduction in crime and asked if that was a factor in the projections. Dr. Austin verified that the economy had a great deal to do with crime rates and recidivism rates. Former offenders needed jobs. There were three things that predicted recidivism; employment, residency, and positive relationships. Dr. Austin showed members a chart he had prepared for the state of Alabama that included data on crime rates and welfare and said from 1931 to 2003, as people dropped from welfare assistance, crime dropped rather substantially. He thought being employed provided meaning for those formerly receiving welfare. Dr. Austin then referred to a book titled *Social Stress and Violent Crime and*

Suicide Rates that included social stress indicators such as welfare, unemployment rates, abortion rates, teenage dropout rates; the indicators that needed to be addressed to reduce the crime rate, not the prison population. Dr. Austin said his agency had a program with the Council of State Governments and the federal government called "Justice Reinvestment" that pointed out the importance of taking funding spent on the back end and investing those funds in the front end. In the large cities there were certain neighborhoods or communities that were the primary feeders of crime and admissions into the prison system. Dr. Austin said rebuilding those neighborhoods would take time but would have an impact on crime.

Assemblywoman Gansert referred to Nevada's recidivism rate of 27 percent and said the state had extremely low unemployment, which perhaps accounted for the low recidivism rate since individuals could find employment upon release from the prison system. Dr. Austin agreed with Mrs. Gansert's assessment and said another factor was that the available jobs were jobs that ex-offenders could hold. There were a substantial number of people in Nevada's prison system that were low-risk and perhaps should have shorter sentencing times. Reducing the average length of prison time for males from 25 or 26 months to 24 months would result in a drop in the prison population of 10 percent, which was how much the length of stay affected the budget.

Mr. Denis asked the reason for Nevada's jump in reported crime from 2002 to 2003. Dr. Austin said he did not know the reason for the significant increase in reported crime, but he would attempt to have more information on the increase for future hearings. He reiterated that the projections looked at the increase as a one-time blip and noted that reported crime in Nevada had settled down to historic levels. Dr. Austin said the data for 2004 was not yet available from the Federal Bureau of Investigation (FBI) so he did not know the crime rate. He suggested requesting the crime rate information from the Metropolitan Police Department because they were currently tracking the rates. Perhaps the Subcommittee could look at those reports to determine if there was an increase in crime in Nevada. Dr. Austin said an increase in crime ran counter to Mrs. Gansert's reference to the low unemployment.

Chairwoman McClain asked if it was correct that JFA Associates did not collect statistic from North Las Vegas and Henderson Police Departments. Dr. Austin said the Metropolitan Police Department was able to provide the data. The Chair asked how that fed into the district court. Dr. Austin said ideally, the data needed included current arrest data and court data, including filings and dispositions. He noted that court data was difficult to obtain and took a long time, but there might be certain courts that would share the information. The Chair said she thought there were people at the state level who could coordinate reports through the criminal repository.

Chairwoman McClain said there had been a request to address the budget hearings out of order and opened the hearing on Budget Account 3650.

OFFICE OF THE MILITARY, MILITARY (101-3650)
BUDGET PAGE: MILITARY-1 – VOLUME III

Major General Giles E. Vanderhoof, The Adjutant General of the State of Nevada, and Commander of the Army and Air National Guard in Nevada, began his presentation and stated that there were approximately 3,000 members of the National Guard in Nevada. Since September 11, 2001, over

1,000 individuals were mobilized, who had since been released; nearly 500 of those served in the war area. The numbers changed daily. The number of servicemen in Southwest Asia would increase soon because some Air National Guardsmen would be mobilized. Some of the Guardsmen had been wounded, but none had been lost. The Guard and Reserves comprised slightly less than 50 percent of servicemen in Southwest Asia.

Miles Celio, Administrative Services Officer II, Office of the Military, said the Office had worked with the Legislative Counsel Bureau (LCB) and Budget Division staffs to address reimbursement of state positions at 75 percent federal funds and 25 percent state General Funds. Mr. Celio said the Office had been working for well over six months with the Federal Funds Manager in an effort to determine how to provide additional maintenance support, specifically in the Las Vegas area. There had been a serious problem with maintaining the heating, ventilating, and air conditioning (HVAC) systems and specific manpower was needed to support the HVAC systems and to supervise the maintenance and custodial staff. Mr. Celio explained that the Federal Funds Manager attempted to find a way to fund some positions in southern Nevada with federal funds but was unable to do so because money for maintenance and custodial support for armories located on state lands had to be supported 100 percent by the state General Fund. The Las Vegas armories were located on state property. Mr. Celio said there were positions in northern Nevada at the Washoe County Armory that were funded 100 percent with state funding that the Office felt could and should be shared with the federal government. The Office had requested that four positions currently funded 100 percent with state funds be supported 75 percent federal and 25 percent state; the agency received approval from the federal government on March 21, 2005. The funding change would save the state approximately $143,450 in each fiscal year of the 2005-2007 biennium. Mr. Celio said the recently approved proposal was not included in The Executive Budget. He asked that the Subcommittee consider approving the changes in the personnel structure which would allow the state-funded positions currently in the budget to be funded at 75 percent federal funding and 25 percent state funding and then allow the addition of the two new positions in Las Vegas.

Chairwoman McClain asked if the agency had requested a budget amendment through the Budget Division to accommodate the requested changes. Mr. Celio explained that the approval had happened so quickly that the agency had not requested an amendment. He said the Budget Division had asked the Office to approach the Subcommittee to see if the changes could be accomplished at the legislative level rather than an amendment. The Chair asked if having a position in Las Vegas would result in a savings in travel funds. Mr. Celio said some funding would be saved because the HVAC position located in Carson provided assistance in Las Vegas on a quarterly basis. The agency had received 100 percent federal money in the amount of $500,000 to rebuild the HVAC system in the Clark County Armory, a rebuild program that normally would have been funded 100 percent with state money, or at a minimum of 50 percent federal funding and 50 percent state funding. There would be some savings in travel, probably between $1,000 and $2,000, which was pretty minimal. Chairwoman McClain asked how often the Carson City position traveled to Las Vegas and who serviced the HVAC system in the meantime. Mr. Celio said there was a maintenance employee located in Las Vegas who did not specialize in HVAC repair but did what he could to repair the system during the interim. Mr. Celio emphasized the importance of having a HVAC position located in Las Vegas. He noted that there would be a new armory located in Las Vegas, which would compound the problem. Mr. Celio pointed out that there would be a slight savings to E-526, which requested a facilities supervisor in February 2007.

Chairwoman McClain asked the agency to work with LCB staff on the requested changes. She asked when the new Las Vegas Armory was expected to open and if the land would be owned by the state or the federal government. Mr. Celio said the land was projected to be owned by the state and noted that General Vanderhoof had been working to obtain land title.

The Chair again asked when the Las Vegas armory was projected to open. General Vanderhoof said he was optimistic and thought the armory would be operational within the next several months. The General said it was important that the land be state owned rather than federally owned since facilities located on state land that were vacated were returned to the state after a certain period of time. The General said the term armory was used because the term was understood, but the facility would actually be a readiness center, an important facility for southern Nevada. Most important was the civil support team for weapons of mass destruction. The Las Vegas area was the agency's greatest concern for homeland security. The civil support team was high tech and would save first responders' lives if there was an event.

Chairwoman McClain said there was no question on the need for the facility, but rather the time frame for completion. She explained that the members did not want to provide funding for staff if the facility would not be completed within the next year. General Vanderhoof emphasized the importance of having the bid go out prior to September 30, 2005, the end of the federal fiscal year. He said the Military Office was graded by the federal government on how federal funds were expended and the time frame within which the funds were used. The readiness center was added by the Congress. The General reiterated that it was important that the funds be committed by the end of the federal fiscal year.

Chairwoman McClain asked about the state/federal split of utility costs at the Army National Guard armories. Mr. Celio indicated that during the 2003 Legislative Session, at the request of the agency, the federal government had agreed to provide 50 percent support for maintenance and utilities for the Nevada armories located on state lands, which would normally be supported 100 percent by state funds. Mr. Celio said Colonel Louis A. Cabrera, United States Property and Fiscal Officer, Nevada National Guard Bureau, Department of the Army and Air Force, had advised the agency that the 50 percent support was not guaranteed and federal support might not be included in the federal 2006 and 2007 budgets. The agency would know if the federal support would continue by September of each year. If the 50/50 split continued for five years, it would fall into the federal cycle of budgeting and continuation of the funding would not be as uncertain. Funding of $120,000 was included for each year of the biennium. Chairwoman McClain suggested that the agency could appear before the Interim Finance Committee when the status of the 50/50 split was known. Mr. Celio agreed with the Chair's suggestion.

Chairwoman McClain referred to the two decision units for deferred maintenance items, one covered projects that needed to be completed within two years and the other covered projects that needed to be completed within two to four years. She asked if the agency would be able to complete all the projects in the first two years, or if some of the projects could be deferred to the two- to four-year time frame. Mr. Celio said Decision Unit E-730 included projects that needed to be completed each year of the biennium and were immediate need items. Decision Unit M-425 included a laundry list of all the projects that had been deferred due to lack of funding and were typically projects that could be put off. A number of the projects were funded 75 percent with federal funds. The agency, when developing the list, had not expected that all the projects would be funded and had recently worked with the Public Works Board to delete some of the requests. The Chair requested that the agency work with LCB staff on the recommended cuts. Mr. Celio agreed with the request and said he had assumed the Public Works Board had been in contact with staff.

The Chair requested information on the new security staff. General Vanderhoof said since the tragedy of September 11, 2001, many of the security requirements for federal and state facilities had increased. The military nature of the work required various force protections, including security guards at appropriate places. The positions continued to be under state control, unlike the individuals mobilized by the President to fight the global war on terrorism. The state expenditures were reimbursed 100 percent by the federal government. The positions would be state positions that would be reimbursed totally by the federal government. The General said the plans were indefinite even though the federal government would not commit beyond the fiscal year. The General said he would be surprised if any of the security positions were eliminated at any time.

Chairwoman McClain asked what type of training the new positions would receive. Mr. Celio said the agency believed there would have to be some level of Peace Officers' Standards and Training (POST). Recent discussion with the Department of Public Safety indicated that the training would have to be category 2 POST, which would protect the state if a guard had to use a weapon. The training included the use of deadly force and other procedures. Mr. Celio said the Adjutant General was in the process of drafting a letter to be forwarded to the Office of the Attorney General requesting an opinion on the level of training that would be required to protect the state from liability. The agency believed the job requirements would have to be patterned after a group such as the Capitol Police, or a similar group, who carried weapons and enforced regulations and laws on a particular compound of land. Upon receipt of the opinion, the agency would meet with the Department of Personnel to determine the appropriate staffing grade levels. The funding included in the budget was an estimate based on the current security guard force. Mr. Celio referred to the time frame and said the federal managers had been advised that the state needed a minimum of three years of funding for the positions. If the funding was not provided, the only other option was the use of contractors. Mr. Celio pointed out that both the Army Guard and Air Guard had used contract security forces in the past and had found the contract process to be unacceptable because of the minimum wages paid. The agency expected a long-term commitment from the federal government, although the funding would only be provided on a fiscal year basis. The managers at the National Guard Bureau of the Army Guard were very well aware that Nevada required a long-term commitment. Mr. Celio said, "It was brought up in both previous committees we spoke to that if the federal dollars go away, these positions and this force goes away."

General Vanderhoof referred to the Air Guard Bureau, a group similar to the security staff, which had operated continuously at the Air National Guard for over 30 years with 100 percent federal reimbursement. The contract process had not worked for the Bureau because of the minimum wages paid. The General indicated he had not been comfortable with having minimum wage contractors having responsibility for guarding expensive aircraft and carrying weapons.

Chairwoman McClain asked for comments on the unclassified status recommended for the Adjutant General and Executive Assistant to the Adjutant General. She asked if the recommendation was part of the State personnel study. Mr. Celio said the General's Administrative Assistant was recently reclassified to an Executive Assistant through the personnel study, and those positions were recommended through the personnel study to be unclassified. Mr. Celio said he thought the salary adjustment recommended in The Executive Budget for the Adjutant General was initiated by the Governor.

Chairwoman McClain closed the hearing on Budget Account 3650 and opened the hearing on Budget Account 3653.

NATIONAL GUARD BENEFITS (101-3653)
BUDGET PAGE: MILITARY-12– VOLUME III

Chairwoman McClain asked General Vanderhoof to address S. B. 78, the waiver of registration and laboratory fees for active Nevada National Guard. The General said the agency had provided quite a few statistics on the waivers. He stressed that there was no bill before the Legislature that was more important to him than S.B. 78. Many states were having trouble recruiting and retaining active and reserve forces. Neither the Army National Guard nor the Army met their recruiting goals. The age for an individual to join the service for the first time was increased to 40, which was reflective of the problems; however, Nevada did not have the same problems. The attrition rates in Nevada, even among individuals deployed to Iraq, were extremely low. The General said that the 100 percent waiver was one of the major factors that helped maintain the forces and bring new recruits into the system.

Chairwoman McClain pointed out that the projected numbers included in the budget for National Guard members enrolling in summer school seemed extremely high. Mr. Celio explained that A.B. 9 of the 20th Special Session, which provided for the waivers, would expire in FY2005 and did not include waivers for summer school, which had its own budget. When the Regents approved the waiver two years ago, summer school was not included. A small amount of money from BA 3653 was used to reimburse the students who attended summer school. In the past the agency was allowed to reimburse up to 100 percent, but had not had sufficient funds. Mr. Celio said the agency projected the number of summer school students and acknowledged that the projections might be slightly high. He said the agency would like to have sufficient funds to reimburse the students 100 percent and have the ability to revert any unused funds.

Senator Rhoads asked if enrollment had increased since the creation of the tuition fee waivers. General Vanderhoof indicated there had been a significant increase in enrollment statewide and said he could not overemphasize the importance of the tuition waivers. The General expressed his appreciation for legislative approval of the waivers.

Assemblywoman Weber referenced guardsmen deployed in the middle of a course and asked if there was some type of provision made by the University and Community College System of Nevada (UCCSN) for those individuals. General Vanderhoof said the UCCSN had worked with the agency in resolving the issue.

Senator Rhoads asked for an update on the Elko Armory. The General said the Elko Armory was the next priority after completion of the Las Vegas Readiness Center. The Armory was important to Elko and the National Guard.

Chairwoman McClain closed the hearing on BA 3653.

Virginia Lewis, Director, Department of Motor Vehicles, said the Department administrators would present their respective budgets.

DMV – MANAGEMENT SERVICES (201-4742)
BUDGET PAGE: DMV – 49 - VOLUME III

Russ Benzler, Administrator, Management Services and Programs Division, DMV, said the division was the research, development, and training arm of the DMV and was staffed with 31 dedicated employees, whose primary jobs were to provide the DMV and its operational divisions with the necessary program support to enable them to successfully achieve the strategic goals and objectives set out by the Department's leadership. The staff was divided into four tracks, each designed to support one or more of the major program responsibilities of the Department. There was one training unit that ensured Department employees were fully prepared to assume their roles and responsibilities. Mr. Benzler referred to some of the division's significant achievements during the past biennium:

- Successful implementation of the kiosk program
- A $300,000 grant awarded by the American Association of Motor Vehicle Administrators (AAMVA) for implementation of the National Motor Vehicle Title Information System, intended to standardize titles across the nation
- Design and completion of the Emission Station Registration Renewal Program, phase 1
- Implementation of the Commercial Driver License (CDL) HazMat Endorsement requirements under the USA Patriot Act
- Onboard diagnostics (OB2) testing for the emission program
- Successful completion of 11 eight-week new hire academies, which allowed the Field Services Division of the DMV to meet its 100 percent staffing goal

Mr. Benzler said The Executive Budget recommended continued funding for the division and its programs.

Chairwoman McClain said the Committee did not have any major concerns with BA 4742 but was curious if the existing Carey office training equipment could be transferred to the Decatur office training room. Mr. Benzler replied that the equipment located at the Carey office was deplorable and said in his opinion that equipment could not be used in the Decatur office.

DMV, MOTOR CARRIER (201-4717)
BUDGET PAGE: DMV – 55 – VOLUME III

Ms. Lewis said before the members addressed Budget Account 4717, she wanted to address a decision unit within the Automation budget that directly tied to the Motor Carrier Division. One of the goals of the DMV was to become less reliant on outside contractors. Ms. Lewis said in order to be held accountable for its processes, the Department needed to control its environment. The motor carrier system was currently housed and maintained by the Associated Computer Specialists (ACS), formerly Lockheed. During the past year and one-half the DMV had used in-house programmers to develop the electronic filing and payment system for fuel tax returns to replace the program contracted through ACS. She said the DMV thought they could develop a better program, could meet the needs of the fuel supplier industry, and could save the state $262,000 annually.

Ms. Lewis explained that the base budget for BA 4717 reflected the reduced contract costs to ACS in the International Fuel Tax Agreement (IFTA) and the International Registration Plan (IRP) administration categories, representing a savings to the state of over $500,000 each biennium. The savings were not limited to the 2005-2007 biennium, but all future budgets. The DMV was proud of the accomplishment with credit resting with the Department's information technology staff and knowledgeable motor carrier program staff who had developed clearly defined business rules for the program. The DMV had turned the savings into a corresponding enhancement, reflected in Decision Unit E-278 within the Automation budget, for two new programmers to create a motor carrier track. The decision unit recommended $141,000 in FY2006 and $177,000 in FY2007. The recommended enhancement still represented a net savings to the Highway Fund of over $200,000 over the biennium. If approved, the ultimate goal was to phase the various motor carrier processes off of the ACS system over the next five years and eliminate a contract of over $1 million each biennium.

Chairwoman McClain asked if she understood correctly that the ACS system would be completely phased out. Ms. Lewis answered affirmatively and said the goal was to eliminate the contract over a five-year period, which was contingent upon the approval of the additional programmers in the Automation budget.

Assemblyman Denis asked if Ms. Lewis anticipated that once the program was housed within the DMV that support staff would remain the same. Ms. Lewis deferred to Chuck Conner, Data Processing Manager, DMV, who said the Department was developing the motor carrier application with staff from the alternative services track and anticipated support of the motor carrier application to begin with two positions. The conversion from ACS to the Department would result in four positions to support the application. Mr. Denis asked if common tools were being used in the development of the system. Mr. Conner said the system was being developed on the Internet and .Net.

Senator Beers commended the division on the use of .Net and said he was impressed with the results generated through the use of the new Web services strategy.

Edgar Roberts, Administrator, Motor Carrier Division, DMV, said the division had responsibility for ensuring compliance with Nevada's Fuel Tax laws by special fuel and motor fuel suppliers and motor carriers in order to collect and distribute the maximum amount of fuel tax revenue owed to Nevada. Additionally, the Motor Carrier Division was responsible for licensing all commercial vehicles over 26,000 pounds, licensing all vehicles with apportioned registrations, and conducting audits of motor carrier and fuel suppliers to ensure compliance with Nevada's laws, regulations, the IRP, and the IFTA. The division had 51 full-time positions assigned to offices located in Carson City, Elko, Reno, and two offices in Las Vegas. BA 4717 was funded through an appropriation from the State Highway Fund and fees associated with the collection of county government services taxes, including motor fuel taxes and the State Cleanup fees assessed on the sale of fuel.

Mr. Roberts shared a few of the Department's accomplishments:

- In FY2004 the revenue collected by the Motor Carrier Division exceeded $494 million.
- Division staff developed and implemented a program for the electronic filing of fuel tax returns for Nevada's fuel supplier industry. Testing of the new system began on March 1, 2005. Twenty suppliers would be pilot testing the program for a two-month period prior to the agency "going live" with the system. The Department's new web-based fuel supplier tax reporting system would also establish fuel tracking of all fuels imported into the state. The new system would result in a savings of $262,000 in the FY2006 and FY2007 base budget for the motor fuel tracking system currently contained in the contract with the outside vendor, ACS. Mr. Roberts said the $262,000 savings would be a continual savings to BA 4717.
- Division audit staff completed 449 audits and collected over $1.2 million in FY2004 resulting from fuel tax underreporting on taxable fuel sales, fuel usage, and mileage in Nevada.

Mr. Roberts continued his presentation and said Decision Unit E-251 recommended the addition of six positions to enhance the Department's audit section's ability to detect and reduce fuel tax underreporting as well as to gain compliance with Nevada's fuel tax laws. The additional staff would allow an increase in the frequency of field audits of the state's 172 fuel suppliers. The division's goal was to increase the audits from once every four years to once every two years by expanding audit staff located in Las Vegas with one Supervising Auditor I, four Auditor II positions, and one Administrative Assistant II. Mr. Roberts said over the four-year period, from FY2001 through FY2004, Nevada's licensed suppliers remitted over $1.8 billion in fuel taxes to Nevada's Highway Fund, counties, and airports. He said auditing each supplier on an average of once every four years placed Nevada's taxpayers at a substantial risk. Increasing the audit staff would give the division the ability to focus additional resources toward the detection of fuel tax underreporting, resulting in an increase in fuel tax as well as an increase in compliance.

In response to a question posed by the Chair, Mr. Roberts said the division anticipated auditing all the suppliers every two years. Chairwoman McClain asked if there was a potential of the audits resulting in the collection of more revenue. Mr. Roberts explained that collections on a per auditor basis were $77,500 in FY2003 and $101,700 in FY2004; current year-to-date collections were $105,600 with three months remaining in the fiscal year. An auditor at the top grade level equated to $69,600, an auditor at the first grade level equated to $55,200. Mr. Roberts said additional audits also would result in compliance, which increased additional tax revenues remitted.

Assemblyman Hogan asked if the audits were conducted on-site, were based on filed reports, or were desk audits based on expanded reporting thereby eliminating the need for travel. Mr. Roberts said the division's audits were conducted on a random basis in the field and through desk audits. He thought the field audits, which included reviewing actual records, were the ones that needed to be expanded.

Assemblywoman Gansert referenced the $1.8 billion remitted in FY2004 for fuel taxes and asked if the roughly $100,000 Mr. Roberts reported for collections on a per auditor basis was actually an amount per auditor. She asked how the division arrived at the dollars per auditor. Mr. Roberts said the assessments were for taxes due and included a 10 percent penalty and interest to date. Mrs. Gansert asked if the division had a method for measuring the time frame for suppliers providing taxes if the entities were audited only once every four years. She said the penalties seemed low given the amount of taxes remitted, which was almost $2 billion, and wondered if the issue needed to be addressed. Mr. Roberts said the division's 12 auditors were not able to audit the 172 suppliers every year, however, the suppliers did submit tax returns. The auditors reviewed the tax returns and scheduled audits for the entities believed to be the highest risk.

Mr. Hogan asked how long the division retained the tax returns and if the division had authority to go back as far as necessary to determine collection amounts and penalties. He also asked if there was anything above and beyond the 10 percent penalty. Mr. Roberts said the division kept the records for four years and did have the ability to go back. He indicated that statutes allowed assessment of a 25 percent penalty if there was proof of intent to evade; however, to date the division had not had to assess the penalty.

Chairwoman McClain asked for information on the document scanner. Mr. Roberts said Decision Unit E-275 recommended funds to purchase a document scanner, software, and equipment to enable the division to provide enhanced customer service and increased internal efficiencies. Motor Carrier documents would be scanned into the DMV Intranet allowing division staff located in the Las Vegas, Reno, Elko, and Carson City offices to easily access supplier and carrier historical documentation. The data would be used in the completion of audits, collection and remitting of fuel taxes, registering commercial vehicles, and processing exempt fuel refund requests. In addition, research and review of historical documentation could be conducted with increased efficiency for customer service and could be provided to other agencies and jurisdictions requesting fuel tax or carrier registration information. Implementing the scanner technology would result in enhanced customer service by reducing customer wait times. Currently, files had to be located in one of the division's 79 filing cabinets and then researched, copied, faxed, or retrieved from archive storage prior to processing registration applications for fuel tax returns. Mr. Roberts said the division retained documents on-site for two years and then the documents were archived.

Chairwoman McClain asked if the first documents to be scanned would be current documents. Mr. Roberts answered in the affirmative. Based on the division's statutory retention schedule, the full benefits of document scanning would not be realized for four years. After that period, staff hours could be used to process tax returns, address refund and registration requests, and bond adjustments; all duties that were frequently backlogged. Mr. Roberts said the division wanted to begin the scanning process on a certain date, go forward, and then, if possible, address the backlog. The Chair said the Subcommittee wondered if the scanner would result in less overtime. Mr. Roberts said he believed overtime costs would be reduced in certain areas. Chairwoman McClain asked if some of the overtime costs would be redirected to the existing backlogs. Mr. Roberts said if the division continued paying the overtime, the backlog could be addressed. He said scanning the current data would help the licensing and tax units immediately due to the use of current year data that the field office would be reviewing. The audit unit would begin to see the benefits of the scanning within two years for some of the audits, including exempt audits. The full benefit would be recognized in four years. The Chair asked why the division would not see benefits of the scanner in two years. Mr. Roberts explained that the division did not realize benefit from a new auditor until completion of a one-year training period.

Chairwoman McClain asked for an explanation of the 25 copies of the ApplicationXtender server connection and support software included in Decision Unit E-275. Mr. Roberts said there were 51 existing division employees and half the staff would have the software loaded on their desktops while the system was evaluated. If the system was successful, the division would request additional software in the next biennium. Mr. Roberts provided a breakdown of the 25 licenses: Las Vegas audit staff, 2; license and tax section, 1; Reno,1; Elko, 1; and Carson City headquarters – licensing, 8; bill users team, 4; field industry, 2; revenue section, 4; audit support 2.

Mr. Denis noted that the request for the scanning system was approximately $93,000 and asked for additional information on the hardware. Mr. Roberts said the main cost was the software and software maintenance. Scanning hardware would be located in the Carson City headquarters and then loaded into the DMV Intranet, which would allow access to each of the branch offices. Mr. Denis asked if $1,900 would be expended for each of the 25 desktops for evaluation software. Ms. Lewis explained that the division would be happy to provide LCB staff with a copy of the quote submitted by the vendor. The proposal included the breakdown of the software, hardware, and the cost per license. Mr. Denis said he was concerned with the costs related to evaluating the software and asked what would happen if the division did not like the product. Ms. Lewis said she would provide a copy of the proposal to LCB staff.

Mr. Denis then asked if, in the future, the information could be submitted electronically. Mr. Roberts said the division was pursuing electronic filing and the new MVIT (Motor Vehicles Information Technology) positions, if approved, would be working on converting motor carrier systems. Mr. Denis thought a great deal of money could be saved through electronic filing and would result in an improved audit process. Mr. Roberts said the new supplier program that was being developed and tested was electronic filing.

Chairwoman McClain asked about the new daily report comparing mileage to fuel use and tax paid. Mr. Roberts said Decision Unit E-276 recommended funds for the development of a daily report for the current vendor, ACS, who housed the data on the IRP and IFTA programs. The plan was to move off of ACS within five years.

Ronald Levine, Assistant Managing Director, Nevada Motor Transport Association, Inc., stated for the record that the Association supported the additional auditing positions and also the scanning equipment and thought both the taxpayer and industry would benefit from the additional taxes collected. Mr. Levine said auditing would provide sufficient funding to pay for the new positions and would hopefully provide additional funding for the Highway Fund.

The Chair closed the hearing on BA 4717 and opened the hearing on BA 4690.

DMV, SALVAGE WRECKERS/BODY SHOPS (101-4690)
BUDGET PAGE: DMV – 62 – VOLUME III

Troy L. Dillard, Administrator, Compliance Enforcement Division, DMV, said he would be presenting BA 4690 and BA 4722. Mr. Dillard said BA 4690 was the account for the regulation of salvage pools, automobile records, body shops, and garages and was a self-funded account. The funding stemmed from business licensing fees and fines, as well as salvage title fees. The division had two positions funded through the account to regulate the 1,817 businesses licensed or registered in the account. The account also supported positions in BA 4741 through a cost allocation. Mr. Dillard said the DMV was not aware of any bills introduced that would significantly impact this budget account.

Mr. Dillard said Decision Unit E-250 recommended the addition of two Compliance Investigators, civilian investigators whose primary responsibilities would be to handle investigations and business inspections related to vehicle repair facilities. In 1997, the account was given the responsibility of registering garages and investigating work order violations, as well as cooperating with the Consumer Affairs Division on business trade practices. At that time, 320 hours of investigation was what the division indicated could be dedicated to the function; 320 hours was the equivalent of 16 percent of the total workload. During the 2003-2005 biennium, cases associated with the businesses accounted for 69 percent of the total workload. A historical review of the budget account since its inception revealed that case activity dedicated to garages exceeded 50 percent of the workload, which resulted in resources normally dedicated to the other businesses in the account not performing their normal functions related to those businesses, other than investigating consumer complaints. In addition, the investigators were primarily reactive in nature, with only enough time to investigate high priority complaints. Without the investigators able to perform business inspections on a regular basis, the potential for fraud being perpetrated against the consumer and the State was high and would go unchecked. Additionally, the projections initially provided in 1997 anticipated garage registrants to be near 3,000 businesses. The division had 1,467 registered garages in the State. Without the resources to enforce the registration requirements, garages were able to operate unregistered and unregulated at the expense of the consumers and the State.

Chairwoman McClain requested additional information on Decision Unit E-250 and noted that the workload had increased dramatically and not all the garages were registered. Mr. Dillard said the division did not know for certain how many unregistered garages there were in the state because the division did not have the resources to be proactive and verify that garages were properly registered. The division knew how many garages had followed the law, but did not have the resources to go out and inspect the businesses and did not know which garages were not operating properly unless a consumer complaint was received.

Chairwoman McClain requested additional information on the DMV working with the division of Consumer Affairs. Mr. Dillard said the crossover responsibilities were for trade practices of registered garages and garage men. The Division of Consumer Affairs had primary responsibility for a trade practice issue. There was specific wording within Chapter 598 of the *Nevada Revised Statutes* that the DMV and the Division of Consumer Affairs would cooperate in relation to consumer complaints related to trade practices. The Division of Consumer Affairs determined whether a complaint was related to trade practice or might be in the jurisdiction, or specific jurisdiction, of the DMV. There were times when both agencies conducted a joint investigation for the crossover in responsibilities. The Chair asked if the joint responsibility was working well. Mr. Dillard said the process could certainly "be smoothed over somewhat." He said he could not provide the statistics on what the Division of Consumer Affairs did that the DMV was not aware of. The only information the DMV had resulted from the referrals from the division. Because of the crossover in nature there were things Consumer Affairs had sole responsibility for and the same was true of the DMV. Chairwoman McClain recognized that the Division of Consumer Affairs received all types of complaints and thought it would be best to ask them how many complaints were related to trade practices of registered garages and garage men.

Mr. Hogan asked for additional information on the 1,467 registered garages and said it was alarming to think there were perhaps a large number of operations that were not registered. He wondered if there was a way to cross match garage registrations to business licenses to quickly identify people who were out of compliance with the division's registration requirements. Mr. Dillard said a shop providing repairs on motor vehicles was required to register with the DMV. The cities and/or counties required business licenses for their jurisdictions and to coordinate cross matching of records would require working with every city and every county to audit their records and would still require additional staffing. Mr. Dillard said cross matching the records would be helpful in identifying businesses that perhaps only completed a portion of the licensing requirements. He explained that a repair shop applying for official registration to operate as a garage in the state of Nevada was required to provide the DMV with a certificate from the city or county of operation. Mr. Hogan suggested having businesses located in some of the larger jurisdictions to be required to present proof of registration with the DMV in order to receive a local business license. Mr. Dillard said presently it was exactly the opposite for all the businesses that DMV licensed and regulated—the local license requirement was required prior to the state issuing the official license.

Chairwoman McClain asked Mr. Dillard to address Decision Unit E-251. She also asked Mr. Dillard to keep in mind that the Subcommittee's major concerns were related to the use of the reserves.

Mr. Dillard provided testimony on the remaining decision units:

- E-251 was a cost allocation to Budget Account 4741 for E-250, which had been addressed during the budget hearing by Martha Barnes, Administrator, Central Services and Records Division.
- E-252 requested training funds to train and maintain the knowledge and skills of staff and replace training funds allotted in the past. Because of a vacancy in the account, only $84 dollars were expended in FY2004 for training.
- E-253 was a cost allocation to Budget Account 4740 for supervisory support of personnel and was a correction for a lack of funding for that support in past years.
- E-720 requested a new printer associated with the salvage title program. Due to recent events, a different type of printer was required and needed to be purchased immediately. Therefore, the Department requested Decision Unit E-720 be removed from consideration.

Chairwoman McClain asked Mr. Dillard to address the reserve issue. Mr. Dillard said the addition of the two investigator positions would have the largest impact to the reserve. The DMV projected that the account would remain healthy for at least another five years. The division did anticipate an offset by having additional garage registrations, but those registrations would not cover the entire amount needed to cover the two additional positions. In addition, the DMV intended to come forward during the 2007 Legislative Session with an entire package of issues regarding licensing and funding of the businesses associated with the Compliance Enforcement Division. The garages registered were the largest number of businesses in this account and were clearly eating up the vast majority of the time of the investigators. The registration fee for a garage was only $25, and the fee for the remaining businesses in the account was $300. Mr. Dillard said there were inequities in Budget Account 4690 and some of the other budget accounts. The Chair said LCB staff had concerns that expenditures would exceed revenues by approximately $125,000 by the end of 2007 and she asked Mr. Dillard to work with staff. Mr. Dillard said he did not have staff recommendations.

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said the budget reserve in FY2007 was $226,000 and the division was expending $124,000 more than revenues. It appeared that the division would need a certain amount of reserve just to operate the budget account. Mr. Stevens said he was not certain how the division would make it for five years. Mr. Dillard said there were also projections on the account and he thought there had been some adjustments based upon the actual funds coming in related to the salvage title program. He said the division would be happy to share the information with staff. Chairwoman McClain asked Mr. Dillard to meet with LCB staff "today," and Mr. Dillard agreed.

DMV, MOTOR VEHICLE POLLUTION CONTROL (101-4722)
BUDGET PAGE: DMV – 73 – VOLUME III

Mr. Dillard said Budget Account 4722 was the State's vehicle emissions, or smog program budget; a fee-funded budget with fees coming from a $6 assessment from smog checks conducted in Clark and Washoe Counties. Additional revenues were derived from licensing and regulating smog inspection businesses and inspectors. The Compliance Enforcement Division was designated as the implementation and enforcement component of the State's air quality program, as it related to vehicle emissions. Additional agencies that received funding realized through BA 4722 included the Nevada Division of Environmental Protection, the Nevada Department of Agriculture, the Tahoe Regional Planning Agency, and both Clark and Washoe Counties.

Senator Titus voiced concern that only Clark and Washoe Counties were required to have smog inspections, yet funding was provided to the Tahoe Regional Planning Agency and Lake Tahoe had a huge pollution problem. Senator Titus indicated that Douglas County always fought against having smog inspection requirements. In addition, Carson City had a great deal of commuter traffic and the Senator asked why the Legislature did not look at expanding the smog inspections to at least those urban counties. Mr. Dillard explained that current law requiring the inspections was based on a population of 100,000 or more. Mr. Dillard pointed out that there was the ability for counties to voluntarily opt into the program, which could be made by the legislative body in the form of changing existing state laws. There had been a great deal of discussion related to incorporating other counties or even a tri-county area into the testing program. However, the basis in the past had been set based upon the federal recommendations. Senator Titus said she thought it was because Douglas County refused to have smog inspections. She said she had introduced a smog inspection bill and had Douglas County fight the bill. Mr. Dillard explained that the Environmental Protection Agency (EPA) mandated smog inspections at certain levels and Douglas County did not fall under that mandate. Mr. Denis said there was also a problem between Pahrump and Las Vegas. Pahrump did not require smog checks and many Pahrump residents commuted to work in Las Vegas.

Chairwoman McClain requested additional information on S.B. 26, which would revise the provisions governing the distribution of money in the Pollution Control account. She said counties and other organizations were allowed to apply for funding with IFC approval. S.B. 26 would eliminate the IFC approval requirement and also would increase the reserve level from $500,000 to $1 million in the Pollution Control account. The Chair asked what good there was in having direct access to the funding if the reserve level was doubled and there was no funding available. Mr. Dillard pointed out there were some other bills that might impact BA 4722. He said the revenue numbers that had been collected since the projections were made for the Governor's budget had exceeded expectations. Updated revenue projections had been provided to LCB staff in order to more accurately reflect the status of the account. The most significant change was in the original projections for a decrease in revenue for FY2006, which was now projected for an increase that would continue through FY2007. Changing the reserve level from a $500,000 carry forward balance to a $1 million carry forward balance allowed the account, because it was a fee fund, to pay the first quarter's operating expenses to all the funded agencies. In the past, the $500,000 reserve level had been sufficient, but as the demand for the funds increased, the account dwindled to tens of thousands of dollars. The projections indicated there were still excess funds available for the counties to access through the grant procedures until FY2012. The projections were based on continued growth in the Division of Environmental Protection, the Department of Agriculture, and the TRPA. If for some reason there was a leveling or a reduction, then everything that did not meet the projected expenditure would go to the excess fund availability. The real impact was a $500,000 carry forward over and above the current amount that would not be available through excess grants for one year. The division anticipated a $1 million reserve, which was not included in the Governor's budget. There would still be $428,000 available for FY2005 even after the reserve was increased.

Chairwoman McClain said she was concerned with the policy issue of allowing the entities to bypass the Interim Finance Committee. She then asked how the increase in reserves would impact the Governor's recommended budget. Mr. Dillard replied that there would be a difference of $500,000; however, the original budget included a projection of $502,000 for excess grants. If the projections held true, then only $2,000 would have been available for excess grants; other dedicated funding would not have been affected. With the increase in emission certificates sold in FY2005, the division anticipated over $400,000 available in the excess grants after everything in the budget was funded. Mr. Dillard referred to the Chair's concern with bypassing the IFC. He explained that IFC approval was based on current law and regulations and bypassing IFC was merely a process. There was a difference between the excess funds available for grants and the dedicated fund. By law, counties received $1 out of the $6 certificate fee, depending on in which county the certificate was sold. Eliminating IFC approval would streamline the process.

Mr. Dillard said he had testimony on a few additional legislative bills that would potentially impact Budget Account 4722. A.B. 225 provided a third-year exemption from smog testing. The bill also provided an exemption for all vehicles with less than 36,000 miles on the odometer, remaining vehicles would be required to be inspected every two years. The changes would have a devastating fiscal impact on the division's budget. Initial discussions with the primary sponsor revealed that she was not opposed to doubling the $6 certificate fee to $12. Additionally, the sponsor was not averse to eliminating the 36,000 mile exemption in relation to the operational difficulties it would create, which would minimize the impact on the account. However, there would still be an impact on the public to the businesses that relied on their business incomes from the smog checks on an annual basis. Chairwoman McClain asked what the fiscal impact would be to the division if the $6 fee was not increased. Mr. Dillard said the fiscal note submitted by the division included a $9 million impact over the biennium.

Mr. Dillard continued and said A.B. 239 was similar to A.B. 225 in nature and provided for vehicles 1996 and newer to be smog tested every two years. The bill also provided for a testing exemption for "ultra low emission vehicles," which would be defined by the Commission. A.B. 239 would also have a significant impact to the revenue stream. The impact of this program would also be minimized by doubling the certification fee; however, no discussions with the sponsor had taken place. In response to a question posed by the Chair, Mr. Dillard said he was not certain the division had completed a fiscal note, but he indicated the revenue would be cut by approximately 50 percent.

Mrs. Gansert asked, from a consumer advocate standpoint, if it was necessary to test 1996 and newer vehicles. She understood the fees were a source of revenue, but wondered if there was truly a need. Mr. Dillard said the answer would have to be provided from the "science end" of the program, the division was just the enforcement arm. He believed the sponsor of A.B. 225 had met with the Division of Environmental Protection and the Environmental Protection Agency and there might be an alternate proposal that would be presented at a future hearing. Mrs. Gansert said she thought it was reasonable to assess the program, not just for the revenue but to determine if the program was justified.

Chairwoman McClain closed the hearing on BA 4722 and opened the hearing on BA 4711.

DMV, RECORDS SEARCH (201-4711)
BUDGET PAGE: DMV – 81 – VOLUME III

Martha Barnes, Administrator, Central Services and Records Division, DMV, said BA 4711 was a self-funded budget generating revenue from the sale of records pursuant to NRS 481.063. There were no major enhancements in the budget. Ms. Barnes said in an attempt to locate alternate resources to fund Department budgets, a change was made to utilize funds generated by the sale of records for Budget Accounts 4715, Information Technology, and 4741, Central Services. Ms. Barnes pointed out that from November 2002 forward there had been a decrease in the amount of revenue generated from the sale of records, which might have resulted from individuals having the ability to obtain copies of their driver history record via the Web. The Department felt some businesses might have accessed the information via the Web because it was faster, rather than paying for the information through normal channels. The Director had contacted the Governor's Office to discuss implementing a charge for an individual obtaining a driver history record. Nevada was one of only two states, the other being New Mexico, that was not charging for the service. With the Governor's approval, on October 11, 2004, the division implemented a $7 fee to obtain a driver history record. Based on the additional revenue generated by the new fee, Ms. Barnes said the Department wanted to increase the projections included in the base budget for the Records Search Charge as follows:

- FY2006, increase to $10,284,040
- FY2007, increase to $10,582,277

Chairwoman McClain asked Ms. Barnes to work with LCB staff on the projected increases. She then closed the hearing on Budget Account 4711 and opened the hearing on Budget Account 4715 and said the members' concerns would be addressed individually.

DMV, AUTOMATION (201-4715)
BUDGET PAGE: DMV – 87 – VOLUME III

Chuck Conner, Data Processing Manager, DMV, said each of the Department's major metropolitan offices had their own technicians. The Carey office had never had a technician and there was a need for a technician in the new Decatur office to address technology problems. Chairwoman McClain asked who addressed the problems at the Carey and Decatur offices. Mr. Conner said Las Vegas staff had responsibility for addressing technology problems outside their own base in any of the southern Nevada DMV locations. The Sahara office, West Flamingo office, and Henderson office each had a technician. Mr. Conner said the new technician would be assigned to the Decatur office.

In response to a question posed by Assemblyman Denis on the number of personal computers that would be housed in the new expanded Decatur office, Mr. Conner replied that there would be 80 PCs.

Senator Beers asked if the technician's responsibilities included more than network support. The Senator thought that over time there would be less and less network support required and said he wanted to make certain the technician positions had additional responsibilities. Mr. Conner said the staff repaired the computers, printers, servers, and the telephone system as needed. Senator Beers indicated he had concern with Department staff repairing the PCs rather than utilizing the warranties, and he pointed out that many times it was more cost-effective to replace a computer. In response to a question asked by Senator Beers related to staff knowledge of the application, Mr. Conner said staff was knowledgeable on how the application functioned but not on the programming. Senator Beers indicated that a 200:1 PC/technician ratio was standard in the large agencies. He said the 80:1 PC/technician ratio seemed ambitious and thought assigning one technician at a large location would result in a lower ratio in other locations. Senator Beers was concerned that the technicians would not have sufficient workload. He pointed out that many businesses of similar size contracted out technician services on an hourly basis.

Ms. Lewis commented that she did not want there to be a perception that each office had a technician. There were 3 technicians located in Las Vegas who supported the metropolitan offices and the rural offices in southern Nevada. In northern Nevada, technicians located in headquarters were not dedicated just to the field operation but to hundreds of employees located in Central Services in Carson City. The network staff supported by the Information Technology budget also supported all the rural offices. Ms. Lewis explained that the northern staff had a great deal of work-related travel. The need for a technician at the Decatur office was to ensure that all the windows were functional. Ms. Lewis said she did not want to shut down a window due to failure of a PC or printer during the middle of a work day. The data that came in to the help desk, as far as the tickets for the network group, was substantial and certainly described the level of activity that the technician group handled.

Chairwoman McClain noted there were 718 entities with fleets in Nevada with 595 located in southern Nevada. The DMV had 590 fleet program change requests from entities registering fleets in Las Vegas. The Chair asked if the companies were requesting changes to the system. Mr. Conner said the DMV users requested changes to the system and, since the inception of the system, there had been 595 requests from the users to help the fleet part of the system function. Chairwoman McClain asked who evaluated the user requests. Mr. Conner said the DMV hoped that the fleet users evaluated the requests and forwarded the requests to their supervisors to forward to the DMV.

Ms. Lewis said the experts in the fleet area, the technicians, identified areas that needed more efficiency. The Department received the request and Management Services, a key division within the DMV, evaluated the requests and also received input from the industry. Ms. Lewis stressed that the Department did not make a decision in a vacuum, there was an evaluation.

Mr. Denis referenced the 590 fleet program change requests and asked how long it normally took for a technician to handle a request. Mr. Conner said there were two different types of requests; one request related to a hardware or program problem and the other request related to enhancements. He pointed out that there were now 680 fleet program changes. Mr. Conner said completing a request could take anywhere from a few days to a month.

Chairwoman McClain asked if the 1 new System Specialist II position could handle all the changes. Mr. Conner answered in the affirmative.

Senator Beers asked if fleet registration was part of the Genesis project and said he thought there was a team of ongoing programmers to handle enhancement requests and bug reports. Mr. Conner confirmed that fleet registration was part of the Genesis project. The Senator then asked if the position being requested by the DMV would be an additional member of the Genesis team. Mr. Conner replied yes and noted there were 25 programmers. Senator Beers said he expected, as time went by, the number of bug reports would be reduced and eventually the number of enhancement reports would also be reduced. Mr. Conner said since the system became operational there had been 30,000 changes to the system. There were now approximately 1,000 change requests per month and about 200 project service requests (PSRs) per month, and those numbers had been constant for the past two or three years. Mr. Conner said a PSR could require a year or two to develop and none of the PSRs were duplicates. Senator Beers asked why, if the numbers had remained constant, there was a need for a new specialist position. Mr. Conner said the DMV perceived the need for the new position to address the fleet issue and did not think the issue could be addressed with existing staff.

Ms. Lewis said the Genesis system had been online for five years and there were users who now understood the program and could make constructive suggestions to improve the system as it related to their jobs at the windows and also the customers. The DMV was now in a proactive role rather than reactive. Enhancing the system would ultimately result in better service. Ms. Lewis said the emphasis had been on the customer. The fleet group addressed businesses and was an area that had been placed on the back burner due to trying to take care of those individuals in the offices registering and obtaining driver's licenses.

There were always enhancements, and Ms. Lewis thought the DMV had demonstrated over the past few years that the public was being better served and that could not stop. The DMV could never become stagnant in the area of technology. The current computer programmers were the ones working on alternative technologies. There was a breakdown in the programming area between the different tracks, whether the driver's license track or registration track. The fleets needed some attention. If the agency used existing resources then some of the projects and future enhancements would be placed on the back burner. Ms. Lewis said the addition of the specialist position was a resource issue.

Senator Beers said he was concerned that the Department was making enhancements and spending hundreds of thousands of dollars accomplishing an enhancement that might shave five seconds off a clerk's day. He noted that there was a finite point of conclusion in the development of an application. The bug reports and enhancements should decrease over time. Senator Beers said he would expect to see the agency coming forth and asking to reduce the development team from 25 to 20 and use the savings to perhaps stay open another hour in the summer, or something similar. The Chair said she tended to agree with the Senator.

Chairwoman McClain requested information on the funding included in the Governor's budget for training. Mr. Conner said over the last two years the Department had spent a great deal of time and money to train the programmers in the Internet and .Net and had started converting a lot of functions to the Internet and had begun to put applications on the Intranet. The Department had provided much flexibility to the users in Nevada and had developed an Intranet-first mind-set. Mr. Conner said training had not been provided in the other technology areas over the last few years, and it was time to bring staff up to speed.

Senator Beers said it appeared that staff having responsibility for handling bugs and fine-tuning Genesis would be moved to converting Genesis into .Net, which probably should have had some legislative approval. The Senator contended that the conversion was a gray area between an entirely new application development project and ongoing maintenance, and would tend to explain why there had not been a reduction in the maintenance staff and why there was a request to increase the number of staff. The Chair agreed with Senator Beer's assessment.

Chairwoman McClain asked if both positions requested for second shift operations support needed to be full-time positions. Mr. Conner pointed out that there was a swing shift that worked in Central Services and Intranet and Internet applications that ran throughout the day, two different test systems, and a production system. There was no support on the second shift and the Department continued to use people who worked on laptops from home or were called in to work to support the second shift operations. Second shift operators needed to be available when the servers went down or to assist people in Central Services. The second position was funded by the Motor Vehicle Information Technology Unit. Chairwoman McClain asked if there would be a savings in overtime costs. Mr. Conner replied, "Yes, we would hope so." The Chair asked Mr. Conner to work with staff on the projected amount of overtime savings.

Mr. Denis asked if the DMV used in-state training for areas such as essential time management and similar classes. Mr. Conner said the Department used in-state training as often as possible and tried to bring teachers in-house to train multi-staff as often as possible.

Chairwoman McClain asked if the Department would be able to use all the 14 terabytes of space requested in Decision Unit E-711. Mr. Conner said the decision unit requested a capacity upgrade for the Storage Area Network (SAN) to support ongoing and new document imaging projects. The request tied to the Motor Carrier Division's request for imaging equipment. Mr. Conner said the Department envisioned that anyone using a DMV machine could retrieve any piece of data at any time without using other sources of information. The process would be profile-driven and would be electronic.

Mr. Conner referenced Decision Unit E-710, and said the Cisco Catalyst 6500 Series switches were put in place five years ago. The Department of Information Technology (DoIT) had advised the DMV that the switches were at an "end of life" for the series and would not be supported. Mr. Conner said E-710 was a request to change out all the Cisco equipment, which should minimize downtime and provide better services to customers. Mr. Denis asked if E-710 was more than just the Cisco switches, and Mr. Conner indicated that the Department had worked with the DoIT to develop an inventory list which had been provided to staff. The Chairwoman asked how long the switches normally lasted and if there would be a replacement cycle. Mr. Conner said the switches lasted for a period of four to five years and there would be a replacement cycle.

Mr. Conner said E-720 requested a mainframe laser printer to be located in-house. Over the past few years the Department had slowly pulled laser printing back from the DoIT and now was at a point of pulling the large printouts back to the Department. The DMV had a logistics problem with the DoIT, and having the printer at DMV would result in better control. Mr. Conner said the savings were projected to be about $5,000 in FY2006 and $50,000 every year thereafter.

Senator Beers said the information the members had was that the Department was replacing an existing impact band printer with a high speed continuous form laser printer, which indicated the work would be comparable but the machine would be quieter. Mr. Conner said he thought the savings would be in supplies and DoIT costs. He said it cost the DMV approximately $70,000 annually to have DoIT generate the printouts. Senator Beers asked if there was a line item included in the budget for the reduced costs and Mr. Conner answered affirmatively. The Senator noted that the DoIT costs of $70,000 included people and time and he indicated that people and time and supplies would also be required to operate the new machine housed in the DMV. Mr. Conner said the DMV already had the staff and time. The Senator noted that new staff was being added to the Department and Mr. Conner said the operators were mainly for support of Central Services and the second shift operation and would be able to do printing operations at the same time. Senator Beers asked how soon the DMV could provide detail on the DoIT charges showing the reduction. Mr. Conner said he thought the information was readily available. The Senator emphasized that staff needed the information. Chairwoman McClain asked Mr. Conner to provide the information to LCB staff.

Mr. Denis asked if the impact printer was being used at the DoIT and Mr. Conner said a laser printer was being used at the DoIT and the new request was for a laser printer to be housed at the DMV. Mr. Denis said the information the members had was apparently incorrect, that it was an impact printer, and the ribbon for an impact printer was cheaper than for laser costs. Senator Beers asked if the narrative included for the Enhancement Unit was incorrect. Ms. Lewis explained that the narrative probably should have said replacing a process at DoIT of an impact printer with a laser printer at the DMV. Mr. Denis said when the Department calculated the savings they needed to take into account that it would cost a great deal more to operate a laser printer than an impact printer because of supply costs. He requested a breakdown of the expected savings with the laser printer. The Chair indicated that the problem resulted from the wording included in the request.

Mr. Conner said E-721 included multiservers for applications so that if one server failed there would be a backup system and service to users would not be lost. He said the servers failed occasionally, but the Department's main focus was the Web front end, Web home page, the credit card server, the application server—the ones critical to the system. Mr. Conner said the Web activity was equivalent to one of the Department's major offices and was expanding.

Ms. Lewis said future plans were for the Web, the Department wanted to take as many of the transactions as possible to the Web. Chairwoman McClain asked if the kiosks were part of the system and Mr. Conner replied, "Yes." The Chair noted that the kiosks were serving a purpose and said that her daughter had tried to use a kiosk which was down and a DMV technician fixed the problem quickly, resulting in a fast transaction.

Mr. Denis asked if the servers had backup and Mr. Conner said the servers were stand-alone. The data was backed up each night. Mr. Conner said the backup would be a switchover.

Mr. Conner said E-722 requested a redundancy system for T-1 lines linking the Department's statewide offices to the Carson City headquarters office. If one line failed there could be a switch to the other line and the system would continue to run. The ability to switch to another T-1 line would result in less downtime, consistent revenue, and consistent customer service.

Mr. Conner said E-723 was a request for an email and spam control system. The system was getting more inundated with email and spam. In response to a question posed by Senator Beers related to email, Mr. Conner said the DMV did not use the DoIT email services. The Senator pointed out that the DoIT included email and spam control in their services.

Mr. Denis asked if the DMV went through the DoIT transport for the network infrastructure and Mr. Conner said the DMV used the "backbone" of the DoIT and was inside the firewall for some things. Mr. Denis said he thought that 1,200 PCs required more than one T-1 line.

Ray Watley, Network Manager, DMV, said there were several T-1 lines that went to the majority of offices. The redundancy system for T-1 lines requested in E-722 would link the DMV statewide offices to Carson City headquarters. Mr. Watley said, "If we drop one line, there is no communication between the DoIT mainframe and that particular office." Mr. Denis asked if the E-722 would complete the redundancy as far as the T-1 connections and if the line was a second line to the backbone. Mr. Watley said that was correct and stated it was rare that the backbone failed.

Chairwoman McClain referred to E-254 and asked how the travel funds requested for the 2005-2007 biennium would be used. Mr. Conner said the requested funding was for staff attendance at meetings of the American Association of Motor Vehicle Administrators (AAMVA) and the National Automated Clearing House Association (NACHA). The staff needed to attend the meetings to keep abreast of recent issues related to e-checks, e-payments, and the online Internet system. Mr. Conner said the remaining travel related to security issues.

Chairwoman McClain adjourned the meeting at 10:54 a.m.

RESPECTFULLY SUBMITTED:

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Linda Smith
Committee Secretary

APPROVED BY:

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Assemblywoman Kathy McClain, Chairwoman

DATE:_______________________________________

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Senator Bob Beers, Chairman

DATE:_______________________________________

EXHIBITS

Committee Name: Assembly Committee on Ways and Means/Senate Committee on Finance Joint Subcommittee on Public Safety/Natural Resources/Transportation

Date: March 30, 2005 **Time of Meeting: 7:30 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B	James Austin, JFA Associates	Report