

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

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

The Committee on Ways and Means was called to order at 8:29 a.m., on Monday, April 11, 2005. Chairman Morse Arberry Jr. presided in Room 3137 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

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

STAFF MEMBERS PRESENT:

Mark Stevens, Assembly Fiscal Analyst
Steve Abba, Principal Deputy Fiscal Analyst
Jeff Ferguson, Program Analyst
Mindy Braun, Education Program Analyst
Susan Cherpeski, Committee Attaché
Connie Davis, Committee Attaché

Assembly Bill 3: Requires Legislative Auditor to conduct performance audit of Department of Wildlife. (BDR S-493)

Assemblyman Jerry Claborn, District 19, presented [A.B. 3](#). Mr. Claborn said that [A.B. 3](#) would require the Legislative Auditor to conduct a performance audit of the Nevada Department of Wildlife (NDOW). The NDOW had not been audited since 1998 when it had been the Division of Wildlife. During the previous session the Division had become a Department and with the new designation there had been an allocation of significant amounts of money.

Mr. Claborn stated that the citizens of the state had a right to know how the NDOW was spending its money and if it was using the funds wisely. The NDOW was scheduled to be audited during the last biennium, but the audit had been postponed to allow for audits that were legislatively required. The NDOW was scheduled to be audited in the upcoming biennium, so [A.B. 3](#) would merely guarantee that the audit would not be postponed again.

Mr. Claborn added that the Legislative Auditor had indicated that, because the audit had already been scheduled, A.B. 3 would not require any more funding than had already been allotted for the scheduled audit.

Assemblyman Marvel verified that the NDOW was scheduled for an audit in the upcoming biennium. Paul Townsend, Legislative Auditor, Audit Division, Legislative Counsel Bureau, stated that as legislative staff, he was neutral in regard to the bill; however, the NDOW was currently on the schedule as approved by the Legislative Commission.

Mr. Townsend concurred with Mr. Claborn that the NDOW had been scheduled during the previous biennium, but there had been a number of large audits conducted that had been statutorily required and the NDOW audit had not been performed. He said that with the workload and pending legislation, he did not see anything that would prevent the audit from being performed as scheduled during the biennium. A.B. 3 had created legislative interest in the audit, and Mr. Townsend assured the Committee he planned on making the NDOW audit a priority and starting the audit as soon as possible.

Mr. Marvel asked if the Audit Division had finished the university audits. Mr. Townsend responded affirmatively. Mr. Marvel noted that those audits had been time-consuming, but given the current schedule, it did not appear that the bill was necessary.

Gerald Lent, Nevada Hunters Association, spoke in support of A.B. 3. Mr. Lent said there were several reasons he was in support of the audit. Audits were helpful to an agency, and typically showed the agency a better way to do things that might not have been looked at in the past. There was some discussion regarding money, but Mr. Lent opined that money should not make a difference if an audit was needed. He said he became worried when people were opposed to an audit as it "raised a red flag."

Mr. Lent stated that all state agencies that handled public funds should undergo performance audits, and the NDOW audit was "long overdue." He added that the funding of the NDOW was sportsmen's dollars—97 percent of the budget was user fees, and only 3 percent was from the General Fund. Last session, the Legislature had approved a \$7.5 million fee increase without any accountability, and now the audit needed to be performed to see how that money had been used. He commented that there had been discussion in some of the commission meetings that more money was needed, and the Nevada Hunters Association would support that if necessary, but he wanted to see how the NDOW had used the \$7.5 million.

Mr. Lent remarked that an audit was just "better government," and was not an unfunded mandate because, as the Legislative Auditor had said, the audit required by the bill could be performed with the funding that had been requested by the Audit Division in its budget request for the 2005-07 biennium. He pointed out that the NDOW had not incurred any expenses related to the last audit in 1998; however, that audit had not been a complete performance audit regarding how money was spent.

Mr. Lent added that there had been an audit regarding overtime costs. He said that the agency needed to be directed as to how to efficiently spend the money because it was sportsmen's money. Mr. Lent asserted that the bill would make the NDOW a better state agency, and he hoped that everyone would support A.B. 3.

Terry Crawford, Director, Nevada Department of Wildlife, said he was neither for nor against A.B. 3, but he wanted to provide additional information to the Committee. Mr. Crawford agreed that audits were helpful to agencies, but it was inaccurate to say that the NDOW had not been audited. He provided a list of the audits (Exhibit B) that had been performed, which included more than 20 audits over the past ten years. The single audit of the NDOW had just been completed, and the NDOW was currently engaged in a federal aid audit that had started a few weeks earlier in March.

Mr. Crawford emphasized that the NDOW was often audited and the audits were helpful. He said the Department had completed all previous audits and successfully implemented audit recommendations, and the Department recognized that it was a user-funded agency and had added responsibility to its customers. The NDOW had statutory requirements that the budget be reviewed by the Board of Wildlife Commissioners, and that was done on a regular basis in a public forum. With the sportsmen of the County Wildlife Advisory Boards, the NDOW had developed strategic plans and was working on its third plan. He explained that those plans had been developed by asking sportsmen and wildlife enthusiasts around the state what their expectations of the NDOW were, and the strategic plans had been based solely on those interests. He reiterated that the NDOW regularly reported to the Board of Wildlife Commissioners.

Mr. Crawford concluded his remarks by stating that he had expected the audit discussion and, if it was time for an audit, the NDOW was willing to "step up and have an audit."

Mr. Claborn said that A.B. 3 represented a lot of hard work. He said that when the Division had been changed to a Department, there had been an increased amount of funding, and an audit would protect the investment. He added that he hoped the Department would have a clean audit, and then he could tell his constituents and they would be willing to fund the Department to help the state's wildlife.

Assemblyman Seale noted that Mr. Townsend had indicated the NDOW audit was scheduled and he asked if there was a specific date. Mr. Townsend said it was on the schedule. He added that the Audit Division had a low turnover rate, so there were staff members who had worked on the previous audit, and it was merely a matter of waiting for them to become available to perform the audit, which would eliminate some of the learning curve. Mr. Townsend said he anticipated that the audit would begin in the summer.

Chairman Arberry asked if the passage of the bill would make any difference in the audit. Mr. Townsend said it was his intention to perform the audit in the summer, but the passage of the bill would make the audit a mandate and would guarantee that the audit would go forward regardless of circumstances. He said he did not see any circumstances that would prevent the audit whether the bill was passed or not.

Mr. Claborn interjected that even if the Audit Division performed the audit in 2005, the results of the audit would not be received until 2007, and if the audit was delayed, those results would not be received until 2009. He asserted that the audit needed to be performed as soon as possible, and it needed to be guaranteed or there might be additional delays.

Mr. Marvel clarified that when the audit was completed, the results were released to the Audit Subcommittee for review, and then a recommendation

was given to the Legislative Commission. As soon as the audit was finished and approved by the Audit Subcommittee, it went to the Commission and became public knowledge, and that process would take place before 2007. Mr. Marvel added that the Department of Wildlife had actually been a Department before it became a Division.

Mr. Claborn pointed out that the language in A.B. 3 stated that the results would be received in June 2007.

Chairman Arberry asked if there was any further comment. There being none, Chairman Arberry declared the hearing on A.B. 3 closed and opened the hearing on the Washington Office budget.

ELECTED OFFICIALS

WASHINGTON OFFICE (101-1011) – BUDGET PAGE ELECTED-9

Ashley Carrigan, Director, Washington Office, presented Budget Account 101-1011 and read the following statement ([Exhibit C](#)):

Good morning, Mr. Chairman and distinguished members of the Committee. My name is Ashley Carrigan, and I am the Director of the Nevada Washington Office. With me this morning is my colleague and co-worker, Ryan McGinness.

It has been my pleasure and great honor to represent the state of Nevada in our nation's capital since June of 2000. It has also been a distinct honor to take Mike Pieper's place as Director after working with him for the past four years. As you may know, Mr. Pieper has recently assumed the role of Executive Director of the Republican Governors Association in Washington, D.C. I look forward to continuing to serve the best interests of the state during the next biennium in this new capacity.

The Nevada Washington, D.C., Office has been in operation since 1986 under then Governor Richard Bryan. Our office is located in the Hall of States Building on Capitol Hill along with 37 other state offices. The office currently has two full-time employees, myself and Ryan McGinness.

As Mr. Pieper has testified in previous hearings, the top priority of the office is bringing more federal funding to the state. With this goal in mind, our office provides a daily report to all Nevada state agencies containing funding opportunities from the *Federal Register*. This report is emailed daily to dozens of contacts throughout state government as well as provided in summary form on a weekly basis in both our Nevada/Washington update email and our Internet site.

Our office advocates for Nevada's federal interests, monitoring policy legislation and coordinating efforts among the Governor's Office, state government officials, and Nevada's congressional delegation.

The focus of this office remains on transportation, economic development, and tourism, as those agencies all contribute to the funding of the office. Additionally, we work on a handful of other

issues important to the state such as health care, education, criminal justice, natural resources, and other matters.

Our work in the area of transportation focuses primarily on funding and ensuring that Nevada's share of the federal transportation dollar reflects its status as a high-growth state, as well as its special needs with regard to tourist and freight corridors. In last year's appropriations cycle alone, Nevada took home more than \$322 million in earmarks and formula funding for projects ranging from highway improvements to rural transit.

Of particular focus over the past two years for our office has been the transportation reauthorization bill. The reauthorization bill, if adopted, will drive transportation funding for the nation for the next six years, making it crucial that Nevada's funding needs with respect to our high-growth status be addressed. To that end, our office worked to bring state, regional, county, and city officials statewide to the table to develop a statewide strategy for the reauthorization bill, aggregated our priorities and were able to present one clear voice to the congressional delegation. Thanks in major part to our cooperative efforts, this year's bill—passed by the House last month—includes over \$97 million in transportation project authorizations for Nevada. While the bill is far from complete, we continue to monitor the legislation as it moves through the Congress and will continue to work for sensible funding levels for Nevada.

Over the past three years, we have devoted much time and effort to the reauthorization of the TANF [Temporary Assistance for Needy Families] program. I worked tirelessly with our congressional delegation to develop a proposal that would increase Nevada's high-growth supplemental grant to address caseload growths due to population increases. Although our rolls have declined, it is important to note Nevada's unique situation as the fastest growing state in the country, and the continued flat funding of the TANF block grant. Congress, however, has yet to reauthorize this program and has been working from quarterly extensions for almost three years now. We hope to address Nevada's unique population growth by updating and changing outdated federal formulas, not only for TANF, but for other programs as well.

Even more recently, we worked with the delegation to gain support for three emergency disaster declarations requested by the Governor for the flooding in Clark and Lincoln Counties, and snowfall for multiple affected counties throughout the state. Through our efforts, the White House made the declarations official in February, allowing the state and affected counties to apply for available resources to offset their disaster expenses.

I've outlined just a few of the issues the office has dealt with over the past two years. Ryan and I look forward to continuing this great work for the state of Nevada through the next biennium.

I have provided the Committee with a sample copy of the federal grant notices provided by our office, as well as a document outlining our office accomplishments over the past two years

([Exhibit D](#)). I have also included a support letter signed by the members of the Nevada congressional delegation ([Exhibit E](#)).

We thank you for your continued support for the Nevada Washington Office and appreciate the opportunity to testify today.

Mr. Marvel remarked that he was a member of the Legislative Committee on Public Lands and said that the Washington Office had been very helpful in apprising the Committee of rules, regulations, and federal legislation. Additionally, when the Committee had been in Washington, D.C., the Washington Office had helped by setting agendas, meeting with the congressional delegation, and dealing with the Washington, D.C., bureaucracy.

Chairman Arberry questioned why Ms. Carrigan had not included performance indicators in her presentation. Ms. Carrigan pointed out that she had provided [Exhibit D](#), a list of office accomplishments.

Chairman Arberry advised Ms. Carrigan to work with LCB staff because there had been a movement in the past to eliminate the Washington Office due to criticism regarding the office's performance. Performance indicators would show what the office was accomplishing.

Ryan McGinness, Policy Director, Washington Office, explained that it was difficult to provide performance indicators since the office acted as the state's chief lobbyist, and it was difficult to quantify the office's influence or the services it provided to the state. Mr. McGinness said they had done their best to show how the office worked as a "coordinating arm" for the state. He emphasized the importance of transportation funds from the federal government, and said that during the reauthorization, the Washington Office had worked to bring all the transportation actors to the table from the south, the north, the rurals, and the state, in order to reach a consensus and ensure the state moved forward with a unified voice.

Mr. McGinness said that was one of the examples of how the Washington Office ensured that Nevada was well-represented, maximizing the amount of federal money that was received and minimizing any negative effects of changing funding formulas. He said it was a team effort, and the Washington Office worked to inform the congressional delegation of any potential effects of funding formula changes or other legislation. It was difficult to assign a dollar figure, but [Exhibit E](#) had been provided, and Mr. McGinness offered to provide any other information the Committee felt was necessary.

Chairman Arberry encouraged him to work with staff to formulate performance indicators. He noted that there was a 29 percent increase in payroll from \$11,000 in FY2004 to \$144,000 and asked what had caused the increase.

Mr. McGinness explained that there was not an increase in the amount of the contract that Michael Pieper and Associates had with the state of Nevada, but the change reflected a shifting of funds within the budget. The amount in the budget requested for taxes had decreased significantly, and the payroll taxes had been included in the payroll amount rather than in the taxes portion of the budget. He said that was the reason for the discrepancy, and offered to provide more information. Mr. McGinness emphasized that the bottom line for the office had not changed. Chairman Arberry requested that additional information be provided to staff.

Chairman Arberry questioned the contract held with Michael Pieper. Ms. Carrigan explained that the contract was in his name, but he had taken a leave of absence. Mr. McGinness interjected that Michael Pieper and Associates held a contract with Nevada to run the Washington Office. Michael Pieper and Associates was a three-person lobbying firm, Michael Pieper had taken a leave of absence from the firm, but as his associates, Ms. Carrigan and Mr. McGinness had assumed primary responsibility for the contract.

Mr. Seale clarified that Mr. McGinness and Ms. Carrigan were not state employees, and it was an outside corporation that contracted with the state to provide lobbying services.

Assemblywoman Leslie stated that it was her fourth session on the Assembly Committee on Ways and Means and every single session, the Committee requested performance indicators and the Washington Office had failed to comply. She asserted that she was "tired of excuses" and the Legislature needed to have those performance indicators, which were expected from all state agencies.

Ms. Leslie pointed out that the information contained in [Exhibit D](#) regarding the federal grants and rules notification was "all over the Web" and that was not an added value that the office performed because that information was readily available to anyone looking for grants. She said she wanted to see performance indicators that demonstrated what the "added value" of the Washington Office was to the state, in order to assure the Legislature that the money was being spent wisely.

Mr. McGinness indicated that he understood and said he would work with staff to provide performance indicators. He added that since Michael Pieper and Associates was not a state agency, it was difficult. Ms. Leslie reiterated that it was the fourth time this had been discussed with the Washington Office, and Mr. McGinness apologized and said he would work with staff. Ms. Leslie stated that she would not vote to approve the budget until she had seen performance indicators.

Assemblyman Denis noted that the Washington Office represented the City of Corona and San Bernardino, and he asked what other entities were represented by the Washington Office. Mr. McGinness indicated that the office no longer represented San Bernardino County, but did represent the City of Corona. He added that there was also a coalition project for the Blue Cross/Blue Shield Association in Washington, D.C.

Assemblywoman Weber questioned the termination date of the contract, which was in June, and asked if there would be a Request for Proposal (RFP) process for a new contract.

Mary Keating, Administrator, Administrative Services Division, Department of Administration, responded to Ms. Weber's question and said that the Department had no intention of doing an RFP, but it was the intention to amend the contract by the amounts included in the budget, assuming the budget would be approved. The contract would then go through June 30, 2007.

Chairman Arberry closed the hearing on Budget Account 101-1011 and opened the hearing on [A.B. 521](#).

Assembly Bill 521: Revises provisions governing allocation of money from Fund for a Healthy Nevada. (BDR 40-713)

Laura Hale, Social Services Chief III, Grants Management Unit, Department of Human Resources, introduced Carol Aiello-Sala, Administrator, Division of Aging Services, and provided [Exhibit F](#). Ms. Hale added that she had worked with the Task Force for the Fund for a Healthy Nevada, which had proposed the legislation, and she was present to support [A.B. 521](#).

Ms. Hale directed attention to page 4, line 23 of [A.B. 521](#), and said the language would change for both paragraphs 5 and 6, which affected both the Grants Management Unit and grants under the Division of Aging Services.

Ms. Hale said that [A.B. 521](#) would clarify language in *Nevada Revised Statutes* (NRS) 439.635 to exclude continuation grants from the requirement to submit proposed allocations to the Interim Finance Committee (IFC) for approval before the grants were awarded.

Ms. Hale explained that the current language in the statute had been interpreted differently by Legal and Fiscal staff from the Legislative Counsel Bureau, resulting in conflicting direction to the Department with regard to whether or not IFC approval was required for certain grants. Because the language referred to proposed allocations that would expand or augment existing state programs, it was not clear if the intent was to include programs that were created by the Fund for a Healthy Nevada or not. For example, the Fund for a Healthy Nevada began allocating grants to the Miles for Smiles program in 2001. At that time, it was under the fiscal sponsorship of the Community College of Southern Nevada. If the statute was interpreted to include that type of grant, then the Department would have to get IFC approval for each 2-year grant cycle that the Department continued to fund the grant, despite the fact that it was not an existing state program prior to receiving Healthy Nevada funds.

Ms. Hale added that the continuation grants to state entities had been presented to the IFC in previous cycles, and were reviewed by the Task Force for the Fund for a Healthy Nevada to evaluate whether or not they should receive continued funding. From the perspective of grants administration, the requirement was redundant because it had already been demonstrated that the Healthy Nevada-funded services provided under such a grant did not supplant preexisting state-funded services ([Exhibit F](#)).

Ms. Leslie expressed confusion and asked if the problem was that the agency did not want to come to IFC and provide that information. Ms. Hale said the agency was happy to provide the information with new grants, but her understanding of the paragraphs, as originally written, was that the IFC wanted to know if the new grants were supplanting existing state programs. She pointed out that if there was a grant program created strictly because the Fund for a Healthy Nevada had funded it in the past, then it should not be considered to be supplanting an existing program.

Ms. Leslie asked if the problem was one of redundancy, and Ms. Hale agreed with that assessment. Ms. Hale explained that the programs would have been brought forth in the previous cycle to demonstrate that they were not preexisting state programs, so returning each time was redundant.

Ms. Leslie remarked that the Task Force had decided not to fund any of the substance abuse agencies in the previous cycle, which had been a concern.

She emphasized that she did not want to give up IFC's ability to review those decisions. Ms. Hale noted that, in that specific situation, none of those grants would be covered under the statute because those were not state entities. She reiterated that her understanding of the two paragraphs indicated that the language only referred to augmentation or expansion of existing state programs.

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, noted that the bold language on page 4 of the bill read "other than a state program which was established with money allocated from the Fund for a Healthy Nevada." Mr. Stevens said that could be interpreted to mean existing programs that were previously funded would not come to the IFC, or it could be interpreted to mean that any program that was established with money from the fund, including new programs, would not require the approval of the IFC. He asked what the intent of A.B. 521 was.

Ms. Hale said the phrase "other than a state program which was established with money allocated from the Fund for a Healthy Nevada" meant that if it was established with those funds, it would be considered a continuation grant rather than a new program.

Mr. Stevens asked whether the change in language would exempt from IFC approval only those grants that had previously utilized tobacco settlement funds and were approved by the Healthy Nevada Task Force, or if it would also exempt new grants or new state programs that were going to be established by the Healthy Nevada Task Force. He questioned the distinction between grants, and asked if a program that had never been funded, but was established by the Task Force, would require IFC approval. Ms. Hale indicated that a new grant would require IFC approval.

Assemblywoman McClain commented that in the Task Force for the Fund for a Healthy Nevada much time had been spent trying to understand the issue Ms. Hale was discussing, but it was not as difficult as it appeared. Ms. McClain opined that the changes needed to be made because it was redundant and complicated the funding of grants.

Assemblywoman Gansert suggested that the language be made more specific so the different interpretations would not be possible.

Chairman Arberry closed the hearing on A.B. 521 and opened the hearing on A.B. 532.

Assembly Bill 532: Extends date for reversion of portion of appropriation made by 2003 Legislature for digital microwave project. (BDR S-1039)

Mark Blomstrom, Deputy Director, Department of Information Technology, introduced Dave McTeer, Division Chief, Information Technology Division, Department of Administration, and presented A.B. 532.

Mr. Blomstrom said that A.B. 532 requested the roll forward of funds from the previous session's A.B. 553; there were no additional funds required. He explained that it was "Phase III" of the four-phase ten-year project for digital microwave and rebuilding and replacing the aging 32-year-old analog system with digital technology. He said that Phase III was approximately 59 percent completed. The original funding was for \$5.4 million, currently there was approximately \$2.4 million remaining, and part of that would be used before the end of the current fiscal year.

Mr. Blomstrom indicated that the bill was requesting that the date be moved forward to the next biennium. There would not be any problem in completing the project by the new date; the problems that had been encountered in the current biennium included a weather delay of approximately 1 month, which had not allowed the project to progress on the higher elevation mountaintops. There had also been issues with the permitting process, but there was only one outstanding permit currently.

Chairman Arberry asked when the work on the mountaintops would be completed. Mr. Blomstrom indicated that the Phase III construction on the mountaintops would begin between April and June, which would be the next construction season. The lower elevation sites were being worked on currently.

Chairman Arberry asked if the higher elevation sites would be completed in the current year. Mr. Blomstrom said that the higher elevation sites would not be completed in the current fiscal year. He said it was anticipated that the entire project would be completed by the end of the construction season, which was late fall, September or October. He reiterated that it would not be completed by the end of the fiscal year.

Assemblyman Marvel noted that there had been heavy snowfall and he asked when the snow would melt enough to allow for the mountaintop work. Mr. Blomstrom said they had been "chased off" the project a month early due to heavy snowfall. It was anticipated that they would be unable to reach the higher elevation sites until the end of May or the beginning of June.

Mr. Marvel asked if the project was funded through the Highway Fund. Mr. Blomstrom indicated that was correct for Phase III.

Chairman Arberry said he had been under the impression that there would be 11 mountaintop sites, but it appeared that there would be only 8 sites. Mr. Blomstrom explained that A.B. 532 was in regard to Phase III of the microwave system. The sites referred to related to A.B. 533, which addressed Senate Bill 499 of the 72nd Legislative Session, which were the radio system mountaintops. He said that the mountaintops were different.

Chairman Arberry asked if there would be 11 mountaintop sites total over the 3 phases. Mr. Blomstrom said he would be happy to provide additional information because there were more than 11 sites for the 4 phases of the digital microwave project.

Mr. McTeer offered additional clarification and explained that the 11 mountaintop sites involved the radio system, which was part of A.B. 533. That was a different issue than the microwave sites that Mr. Blomstrom was discussing. Mr. McTeer added that there would be 8 sites rather than 11 for the radio system.

Robert D. Chisel, Assistant Director, Department of Transportation (NDOT), addressed Chairman Arberry's question and explained that the issue was in regard to the Highway Patrol's transition to the NDOT radio system. The NDOT had identified 11 mountaintops to be built throughout the state, which would provide the needed coverage. Mr. Chisel directed attention to [Exhibit G](#) and said there had been 3 sites that were dropped due to cost and environmental issues. Alternate sites were being considered, although there were some difficulties as the sites could not be mapped until the snow melted.

Mr. Chisel pointed out that the dropped sites included Timber Mountain in Lincoln County, which was an environmentally sensitive area for which the NDOT had been unable to obtain permits; Big Bald Mountain in the Ruby Mountains, which had been dropped due to increased costs, and the NDOT deciding that a communications site closer to U.S. 50 would provide better coverage for less cost; and the Shoshone/Spanish Peak near Tonopah, which had been dropped as the cost estimates had doubled and the NDOT had been unable to obtain permits. Mr. Chisel indicated that alternate sites were being considered, including Carvers and Manhattan, to try and fill in those coverage areas that the NDOT had hoped to get from Shoshone/Spanish Peak.

Mr. Marvel asked if those sites would satisfy the needs of the Highway Patrol. Mr. Chisel said that the Highway Patrol did not have sites or coverage in those areas on their existing system, and the project would fill in those gaps. He pointed out that the Timber Mountain site and the Shoshone/Spanish Peak site were originally going to be Highway Patrol sites.

Mr. Marvel asked if there would still be "dead spots" in the state where the Highway Patrol did not have coverage. Mr. Chisel replied that the NDOT had hoped to have 95 percent coverage on the state routes throughout the state and the NDOT still anticipated that would occur. He explained that the three mountaintops that had been "dropped" were sites to fill in holes of about 30 to 50 miles. The NDOT still hoped to build in those areas, but the Department could not afford to build them or the environmental issues prevented building. He said the Department was attempting to fill those holes using FutureCom technology, which was an extender on an existing site, and could be built at a lower cost than the cost estimates that had been received.

Mr. Marvel inquired as to what the environmental problems were. Mr. Chisel explained that the site identified at Timber Mountain was in a wilderness area. The Shoshone/Spanish Peak area was near a Forest Service site. The Shoshone site would require additional construction to the existing site, while the sister mountain, Spanish Peak, would be a new site. The Forest Service had expressed displeasure at the creation of a new site that would require road development.

Mr. Marvel asked if the Forest Service would be able to use the same band during fire emergencies. Mr. Chisel said yes, and explained that the Forest Service also occasionally used NDOT sites, but there seemed to be different arms within the Forest Service of the Bureau of Land Management that issued the permits. Mr. Marvel agreed and noted that was why there was a lack of coordination.

Chairman Arberry indicated that the Committee would return to the discussion of A.B. 532.

Mr. Blomstrom concluded his remarks regarding A.B. 532 and said that the bill was simply a request to roll the existing funds forward into the upcoming biennium. It was not a request for additional funds. He emphasized that the project would be completed in the upcoming biennium, and the delays had been due to weather, permit processing, high task loading in the DoIT, and staff turnover.

As no one else wished to testify on A.B. 532, Chairman Arberry closed the hearing on A.B. 532 and opened the hearing on A.B. 533.

Assembly Bill 533: Extends date for reversion of appropriation made by 2003 Legislature for state radio systems. (BDR S-1037)

Mr. Chisel presented [A.B. 533](#) and said that the NDOT was requesting that the funding of the Department of Public Safety radio transition project be extended from June 30, 2005, to June 30, 2007. He said the project was on schedule with the exception of the mountaintop repeaters and user equipment installation in the rural areas. The installation of the user equipment in the rural areas was pending completion of the mountaintop repeats by the Department of Information Technology. Due to difficulties in obtaining the permits for the construction of the sites, the sites were unable to be completed the previous summer, creating the need to extend the dates of the appropriation.

Mr. Chisel pointed out that [Exhibit G](#) contained a list of the 11 sites as originally requested, with a brief status of those sites and the costs that had been expended for the construction.

Mr. Chisel said that 8 of the 11 sites would be built, and the NDOT was examining other possibilities for the 3 that could not be built. There had also been difficulties with the Rachel/Coyote Summit. The NDOT was working with the Nevada National Guard to request the Test Site allow the installation of the NDOT equipment at one of the existing mountaintop sites. He was optimistic that would occur and everything else would be built as requested.

Chairman Arberry asked if the 3 alternate sites were included in the potential costs. Mr. Chisel said there should not be any increase in costs or any requests for additional funds. Instead of spending the money to build the Big Bald Mountain site, there would be a FutureCom site along U.S. 50. He added that [Exhibit G](#) included a summary showing what money was spent to date from the Highway Fund, the Forfeiture Fund, and the General Fund, and it showed that the project was still anticipated to be under budget, even with the potential costs for developing the sites.

Mr. Marvel asked if the NDOT had obtained all the necessary permits for the project. Mr. Chisel said that he did not believe all the permits were "in hand," and that depended on the site. He said the Department did have some permits. There was a permit to build the Trident/Maggie site as a solar site; there was a permit to build the Penn Hill site, but there was not a permit for the commercial power to the site; there was a permit to build the New Pass site, but there was not a permit for the power line; there was a permit for the Caliente site, and the NDOT was working with Lincoln County to develop the site; there was a permit for the Bob Scott/Hickison site; there was a permit for the Secret Pass site, which should be done in June; and there was a permit for the Brockway site, which was an existing site, and the Department was working with Washoe County to develop that site.

Mr. Marvel asked if there had been difficulties with the U.S. Forest Service or the BLM. Mr. Chisel said that the Department of Information Technology had been in charge of building those mountaintops.

Mr. Blomstrom addressed the question and indicated that there had been problems. He explained that there had been problems in the sense that everything had taken longer than anticipated, and in some cases there had been questions and obstacles revealed that were not initially obvious from the BLM and the Forest Service. To understate the circumstances, the biggest single problem with the project had been permitting delay.

Mr. Marvel asked whether Environmental Impact Statements (EIS) and Environmental Assessments (EA) had been a problem. Mr. Blomstrom indicated that both an EIS and an EA had been necessary in certain cases. Mr. Marvel noted that those assessments could be expensive, and asked if that had been included in the costs. Mr. Blomstrom said those costs had been included in the cost as estimates up front, more money had been spent inside the budget than had been anticipated in Environmental Assessments and Environmental Impact Statements and those had not all been completed.

Assemblyman Hettrick asked if the radio frequency licenses had been obtained. Mr. Chisel responded affirmatively and said the NDOT held the licenses for the 800 MHz radio system and for the 150 MHz system for the Highway Patrol, they were all in compliance with Federal Communications Commission (FCC) regulations. The Reno area and the Las Vegas area were using the 800 MHz system; those had been the primary areas where there had not been enough 150 MHz frequencies for the Highway Patrol system. In the rurals, they had been able to use the 150 MHz frequencies, and they were on a conventional load on their radio system in the rurals.

Mr. Stevens remarked that the funding should be expended by the end of the next biennium, September 2007. Mr. Chisel said that the delay in the project was due to the inaccessibility of the mountaintops, and once those mountaintops could be completed, all that would be left was a contract with the radio vendor to complete the installation of dispatch equipment in Elko. He indicated that the vendor would not be paid until the system was complete.

Mr. Stevens said the reversion date in September 2007 would not be a problem. Mr. Chisel agreed.

As there was no further testimony, Chairman Arberry declared the hearing on A.B. 533 closed and opened the hearing on A.B. 534.

Assembly Bill 534: Expands authority of Board of Regents of University of Nevada to issue revenue bonds. (BDR S-162)

Daniel Klaich, Vice Chancellor, University and Community College System of Nevada (UCCSN), explained that A.B. 534 increased the bonding capacity to handle projects. Mr. Klaich indicated that representatives of the State Bond Counsel and representatives of the campus were present to answer any questions with respect to bonding and projects.

Chairman Arberry inquired as to how the funds would be used. Dan Miles, consultant to the Chancellor's Office at UCCSN, responded to Chairman Arberry and directed attention to a handout ([Exhibit H](#)) of the list of projects that were used to develop the numbers that were being requested.

Mr. Miles pointed out that the first change in A.B. 534 was in Section 4 and Section 5 where revenue bonding authority was being added for Western Nevada Community College (WNCC) and Community College of Southern Nevada (CCSN). He remarked that the Committee might recall that in 2001, UCCSN had requested, and the Legislature had approved, some bonding authority for Great Basin College for some dormitory acquisitions. The situation with WNCC was similar; WNCC was requesting \$10 million in bonding authority should an opportunity arise where residences could be added to the campus. CCSN was requesting \$20 million in authority to bond for parking facilities, which had become a critical issue at several of the CCSN campuses.

Chairman Arberry requested more detail as to how the parking problems would be addressed. Patricia Charlton, Vice President, Finance and Administration, CCSN, explained that CCSN was planning to build multiple structures at both the Charleston and the Cheyenne campuses. The parking lots were filled to capacity, and more were needed. Ms. Charlton said the planning process needed to go forward because CCSN would need to work with the students to impose student fees to assist with the projects.

Chairman Arberry asked if there would be one contractor working on both campuses at the same time or if the projects would be phased in. Ms. Charlton indicated that the project would be phased in and the Charleston campus project would most likely be started first, followed closely by the Cheyenne campus. She noted that there was a little more land space available for parking at the Cheyenne campus.

Mr. Marvel asked how long it would take to amortize the bonds. Mr. Miles said the pledge revenue would be parking fees.

Scott Nash, Johnson Consulting Group, financial advisor to UCCSN, explained that the term of the funds was up to 30 years, but could be less depending on the revenue streams.

Assemblyman Seale asked if the revenue bonds would be issued through the Treasurer's Office. John O. Swendseid, Swendseid & Stern, Bond Counsel to UCCSN, responded to Mr. Seale and said the revenue bonds would be issued by the Regents and payable from Regent monies, the monies of the parking facility or student fees.

Mr. Seale asked why revenue bonds were not issued through the Treasurer's Office. Mr. Swendseid commented that that was the way the Legislature had chosen to authorize the bonding. He pointed out that the Treasurer's Office did issue the Highway revenue bonds.

Chairman Arberry requested that Mr. Miles outline the projects. Mr. Miles said the two community college projects had been discussed and indicated that the projects at the University of Nevada, Las Vegas (UNLV), and the University of Nevada, Reno (UNR), which had been using revenue bond authority for several years, started in Section 10 of A.B. 534. The UCCSN was requesting an increase in the amounts currently authorized; the amount for UNR would increase from \$176,000,000 to \$276,855,000, and the amount for UNLV would increase from \$199,000,000 to \$339,055,000.

Mr. Miles referred the Committee to [Exhibit H](#), which showed how the UCCSN proposed to move from the current authority to the requested authority. He explained that each of the campuses had listed the costs of potential projects and subtracted the current authority to arrive at the amount that needed to be added. In the case of UNLV, it was computed that \$140,055,000 needed to be added to the bonding authority; UNR needed to add \$100,855,000.

Mr. Miles said that each of the projects listed in [Exhibit H](#) was a separate entity, meaning that each project was reviewed by the Board of Regents and by the campus or institution involved, and they had to demonstrate that there were revenue streams available to retire any of those bonds. There was a very important due diligence process that was gone through in advance of the sale of any one of those bonds. He said that normally those would be taken on a project-by-project basis.

Chairman Arberry noted that Mr. Miles had said the universities wanted to increase the amounts to \$276 million and \$339 million, but [Exhibit H](#) did not show those amounts and was unclear.

Mr. Miles explained that UNLV's current authority was \$199 million. The list ([Exhibit H](#)) indicated that they needed \$140 million more. If those numbers were added together the total was \$339 million. He pointed out that the UNR schedule on the second page of [Exhibit H](#) showed that there was potentially \$181 million in new projects with a current bonding authorization of \$80 million, which meant \$100 million needed to be added. With the \$176 million on page 5 of [A.B. 534](#) as the current authority, and the added \$100 million, the total would be the \$276 million referred to earlier. Mr. Miles said the computation had been done to determine the additional authority necessary and those amounts had been added to the existing authority to arrive at those numbers. He offered to review the information with LCB Fiscal staff.

Mr. Stevens requested that Mr. Miles explain the pledge funding stream for the projects. In the past there had been projects, such as the UNR Knowledge Center, that had future increases in student fees allocated to Capital Improvement Projects (CIP) as a funding source for the projects. He asked if any of the listed projects would require additional student fee increases in the capital improvement area to finance the projects. Mr. Stevens stated that it might be helpful for the Committee to understand the revenue streams for each of the projects.

Ronald M. Zurek, Vice President, Administration and Finance, UNR, addressed Mr. Stevens' question and said that the projects did not anticipate any additional increases in the student CIP fee.

Mr. Stevens asked that Mr. Zurek explain the funding streams for the UNR projects ([Exhibit H](#)). Mr. Zurek explained that the Knowledge Center funding streams came from three different areas—the student CIP funding, private gifts, and state funds. With regard to the cooperative extension building, the funding was a redirection of some of the current rental rates to amortize the bonds. The Student Union building was paid for with a special fee that the students voted to assess themselves beginning in the fall of 2006 and would amortize those bonds. One of the potential funding streams for the biotechnology building would be the legislative approval of 100 percent retention of the indirect cost recovery. There was also some private money that might be used in that project. There was an allowance for the Las Vegas Academic Medical Center, and those payments would come from redirected rental payments of current facilities as well as an increase in the clinical income associated with the practice plans in southern Nevada. The final project, the Science and Math Center, would use a combination of public and private funding.

Mr. Stevens questioned the institutional funds identified in the Science and Math Center project. Mr. Zurek answered that there would be \$18 million in private gifts.

Mr. Klaich interjected and indicated that information had been provided, but he would provide it to the LCB Fiscal staff. He said the funding stream for that project would be a comprehensive fund-raising effort.

Mr. Marvel asked if the money was already "in hand." Mr. Klaich responded negatively and said the appropriation model was the same as the appropriation model for the Knowledge Center, and that was "deliver the funds or lose the state appropriation." He said that the Legislature had given a period of time for

the funds to be raised and "in hand," and if those funds could not be delivered, then the state appropriation was not provided. He expected the same model to be used for the project.

Mr. Marvel referred to the biotechnology building project and questioned the indirect cost revenues. He asked if that came from the 25 percent that was requested to be returned by the UCCSN. Mr. Klaich indicated that was correct and that should be enough money to cover the costs. Mr. Marvel asked if the other 75 percent would continue to be returned by the UCCSN, and Mr. Klaich agreed.

Chairman Arberry requested that the UNLV projects be explained.

Mr. Seale noted that on the cooperative extension program it appeared that the bonds would be paid by a redirect from an existing lease. He asked if those funds were already pledged to something else. Mr. Klaich assured Mr. Seale that those funds were not already pledged and would be redirected. The leases would end in December 2005, which was when the opening of the new building was anticipated.

Thomas M. Hagge, P.E., Associate Vice President, Facilities Management and Planning, UNLV, addressed Chairman Arberry's request regarding the UNLV projects and said that the Student Union and student recreation center were being funded by revenues of student fees that the students had voted on and approved. Mr. Hagge indicated that the other projects would be funded through revenues that the university managed, but he did not handle that area. He apologized for being unable to answer the question, but said he would work with LCB Fiscal staff to provide the necessary information.

Chairman Arberry asked if Mr. Hagge had any information on any of the other projects. Mr. Hagge said he could get that information, but did not have it at his disposal.

Chairman Arberry asked if there was any further testimony on A.B. 534. There being none, he declared the hearing on A.B. 534 closed and opened the hearing on A.B. 548.

**Assembly Bill 548: Provides funding for Nevada Commission on Sports.
(BDR S-1412)**

Assemblyman John Oceguera, District No. 16, presented A.B. 548. Mr. Oceguera read the following statement:

The Nevada Commission on Sports is concerned with attracting athletic events to our state, particularly amateur sports. The Commission is currently developing a plan to entice Olympic athletes to come to Nevada and train as well as compete in Olympic qualifying events. The construction of new training facilities and competition venues will give Nevada an edge in attracting these athletes. The Commission is asking for \$400,000 so they can effectively coordinate with Nevada business in developing new competitive facilities and developing bids for international and national events.

To reach these goals, the Commission needs our help with funding. The availability of funds has been scarce in this state since the creation of the Commission in 1989 and, as a result, they have

been largely ineffective in reaching their goals. The funding that we can provide can substantially increase the impact they have on making Nevada a premier sports destination.

The economic returns to our state will be enormous. Utah is a great example of what a successful Sports Commission can accomplish. Through their lobbying efforts, they were awarded the 2002 Winter Olympics. Other states that have adequately funded their Sports Commissions have experienced similar results that have greatly impacted their business and tourism industries.

Due to the existence of the casino resorts in our state, we are already particularly suited to accommodate any increase in tourism that sports competitions will bring in. Also, our state is well-suited to host any outdoor competitions due to our expansive open areas and the outdoor areas of northern Nevada.

With all these things in our favor, there's no reason why Nevada cannot become the premier sports destination in our country.

Thank you for allowing me to testify in front of your committee, Mr. Chairman; I will be available to answer any questions.

Leland Hernandez, Chairman, Nevada Commission on Sports, addressed the Committee and explained that the Commission was composed of the following members: Juanita Paul, David Youngberg, Brent Chamberlain, Charles Bullock, Bruce Bayne, Michael Benjamin, and Thomas Tate, as well as Assemblyman John Ocegüera, and Senator Maurice Washington. Mr. Hernandez said he and the other members of the Commission were proud to serve the state in that capacity.

Mr. Hernandez said the funds were being requested to enable the Commission to more fully execute their mandated duties, including the proliferation of amateur sports and the acquisition of land and construction. He offered to answer any questions.

Chairman Arberry remarked that the language in A.B. 548 was very vague, and he requested details as to how the money would be spent if an appropriation was approved. Mr. Hernandez indicated that he had a complete budget breakdown to provide to the Committee, and he said that someone else would provide additional detail.

Jim Vanden Heuvel, consultant for the Nevada Commission on Sports, and Chief Executive Officer, Reno Tahoe Winter Games Coalition, addressed the Committee and mentioned that the Reno Tahoe Winter Games Coalition was pursuing the possibility of a bid for the 2014 or the 2018 Olympic Winter Games.

Mr. Vanden Heuvel explained that he had assisted the Nevada Commission on Sports in putting together the package for the potential budget. The idea behind the budget was to provide the level of support necessary to "drive" business into the state of Nevada. The model from the Utah Sports Commission in the Salt Lake City Olympic Games had been used to create the budget.

Mr. Vanden Heuvel said the items included in the \$400,000 budget breakdown were salaries, out-of-state travel, out-of-country travel, host funding, promotion and advertising, training, operating expenses, information services, and some

reserves to be generated. The idea of hosting staff and bringing staff "on board" would be specifically to generate additional fund revenues to make the Commission self-sustaining over time. He emphasized that the "seed funding" in the bill was necessary to allow the Commission to move forward.

Chairman Arberry requested that Mr. Vanden Heuvel "highlight" how the funds would be used. He questioned the Commission's status. Mr. Vanden Heuvel explained that the Commission was a state agency, with appointment to the Commission made by the Governor, along with two legislative appointees as ex officio members.

Mr. Vanden Heuvel said that the staffing costs were for 5 staff members to allow the Commission to move forward with developing bid processes and seeking outstanding domestic and international funding for amateur events. The Commission was requesting \$20,000 in domestic travel and \$40,000 for international travel, specifically to work with international federations that hosted international games programs. He pointed out that the Commission was following a model that had been used by the Utah Sports Commission and had positively impacted the economy of Utah in the amount of \$1 billion prior to the Olympic Games and \$6 billion following the Olympic Games. He emphasized that the requested funds could be leveraged by the Commission's efforts. The staffing component was significant and would account for the use of approximately half of the requested funds; the remaining funds would be used for host funding. The Commission would have to pay host right's fees for a number of the events to be held throughout Nevada. Mr. Vanden Heuvel added that the idea of providing information services through the state and working toward the possible construction of an Olympic training center in the state was also included.

Chairman Arberry inquired whether the convention authority would be providing funds. Mr. Vanden Heuvel said the idea within the resources component was to develop sponsored membership fees and to incorporate the Reno-Sparks Convention & Visitors Authority (RSCVA) and the Las Vegas Convention & Visitors Authority (LVCVA) and others around the state on a cooperative basis to help leverage those dollars. Chairman Arberry asked if that meant the RSCVA and the LVCVA would be approached for funding. Mr. Vanden Heuvel indicated that was the case. Chairman Arberry asked that Mr. Vanden Heuvel provide the rest of the information in writing to the LCB Fiscal staff.

Assemblywoman Leslie asked why the request had not been included in The Executive Budget. Mr. Hernandez replied that he had been told to proceed through the Legislature. Ms. Leslie remarked that in her district the Olympic bid was fairly unpopular; it was popular with businesses, but not with private citizens. She said she would like to see more of a commitment from the private sector before the Legislature committed any public funds.

Mr. Marvel asked if the Commission on Tourism was apprised of the situation. Mr. Hernandez said the Commission on Tourism was aware of the Commission on Sports' activities, but he had not heard of any specific reaction from the Commission on Tourism as to whether or not they were in support of the proposal.

Mr. Hernandez responded to Ms. Leslie's comment regarding private funds, and explained that the Nevada Commission on Sports was a mandated state agency. Consequently, any money that came from the private sector would have to be volunteered. He added that although there was a state mandate, the Commission had never been funded.

Mr. Hernandez said the Commission had decided that now was the time to promote amateur sports in the state. He pointed out that Nevada used to be more gambling-oriented than it was currently, due to the proliferation of gambling in other places. Amateur sports offered an alternative and the Commission on Sports was trying to positively impact the state's economy.

Ms. Leslie said she understood that mission and she was not opposed to the overall concept, but she was not in favor of the Olympic bid. She commented that the last time there had been an Olympic effort in the Reno/Sparks area, there had been a private entity collecting the money and working on the bid. The issue was contentious because there were many people in the community who did not want the Olympic Games and were not convinced there was any economic benefit.

Ms. Leslie added that usually a state agency, such as the Commission on Sports, would submit a budget through the Governor's Office, which he could then recommend for funding in The Executive Budget. She expressed concern that as the Commission had never been funded, it did not appear to be a priority.

Mr. Hernandez clarified that A.B. 548 was not a request for funding of the Reno Tahoe Winter Games Coalition. He apologized for not clarifying that issue earlier and said that the Coalition was receiving money through the Governor's Office. He pointed out that the Commission and the coalition shared two members, but other than managing the fees, that was the only connection between the two entities.

Mr. Vanden Heuvel reiterated that the Nevada Commission on Sports and the Reno Tahoe Winter Games Coalition were separate entities. The Reno Tahoe Winter Games Coalition was a nonprofit 501(c)(3) that had been started by the Nevada Commission on Sports in 2000. In 2001, the Coalition had become a nonprofit entity specifically for the reasons Ms. Leslie had mentioned. He agreed that the Olympic bid effort should be an effort on the part of the citizenry and that was what the Coalition was working toward. Mr. Vanden Heuvel stressed that the Reno Tahoe Winter Games Coalition had been designed to work to bring an Olympic Winter Games to the area, while the Nevada Commission on Sports was proposing legislation specifically designed to market Nevada as an amateur international and domestic final destination and positively impact the economy of the state.

Assemblyman Denis asked if there would be opportunities for amateur sports throughout the state. Mr. Vanden Heuvel indicated that was correct and said the Commission on Sports hoped to develop amateur domestic and international final destination sports programming statewide, not just in Reno or Las Vegas. It would be spread out and there would be events, such as adventure racing, in the rural areas.

Chairman Arberry asked if the Commission on Tourism was in support of the bill. Mr. Hernandez said he had not been told if a position had been taken.

Chairman Arberry asked if there was any further testimony on A.B. 548. There being none, he declared the hearing on A.B. 548 closed and called for a brief recess at 9:57 a.m.

Chairman Arberry called the meeting back to order at 10:08 a.m. and opened the hearing on S.B. 89.

Senate Bill 89 (1st Reprint): Makes supplemental appropriation to Department of Human Resources for unanticipated shortfall in money for Fiscal Year 2004-2005 resulting from increased cost of maintenance of effort requirement for Substance Abuse Prevention and Treatment Block Grant. (BDR S-1190)

Alex Haartz, MPH, Administrator, State Health Division, Department of Human Resources (DHR), provided [Exhibit I](#) and made the following statement:

Senate Bill 89 makes a supplemental appropriation to the Health Division for the Bureau of Alcohol and Drug Abuse [BADA] to meet its required maintenance of effort for the Substance Abuse Prevention and Treatment Block Grant. There is a maintenance of effort [MOE] requirement that is based upon the average of the two prior years that General Fund or state obligations have been paid.

S.B. 89, as originally introduced, was for \$521,620. In the Senate it was amended down to \$261,620. I would note for the record that was not the amount of the maintenance of effort. The maintenance of effort remains at \$521,620. It is my understanding that the Senate's action was to reduce the General Fund and make up the balance of \$260,000 through the use of available MAXIMUS funds at the Department of Human Resource's level. The Legislature has created a priority list of how those MAXIMUS funds were to be expended, and neither the Health Division nor the Department of Human Resources necessarily have a position on whether they should be used for this or not.

I might point out that if \$261,620 is the final amount provided to the Health Division then we will be short in our maintenance of effort. All of these funds have been obligated by direction from the Budget Division, and they fund adolescent treatment services currently here in Nevada, so we would have to reduce adolescent treatment centers if the full \$521,620 is not provided.

As many of you are aware, the reason that we are in this position, as captured in the Letter of Intent issued by the prior Legislature, is that the federal agency ruled that the Health Division in the state could not exclude the MAXIMUS funds from the MOE calculation. They came back with, what I would term, an adverse ruling, and determined that those had to be recalculated as if it was state General Fund.

Ms. Leslie said the Joint Subcommittee on Human Resources had not determined yet how the MAXIMUS funds would be expended, and she felt like it was an "end run" by the Senate around the budget subcommittee process. She pointed out that the previous session there had been a list of items on which the MAXIMUS money would be spent; however, the money had not been received and had not been expended. The subcommittee was still discussing the funding, and Ms. Leslie asked that if the request in the bill was urgent, that the Committee consider S.B. 89 in its original form without the amendments made by the Senate. She emphasized that the subcommittee had not yet made that decision.

Assemblyman Hettrick agreed with Ms. Leslie and said that some of the funding approved in the previous session had been for a suicide prevention program in

Douglas County, but the MAXIMUS money had never been received. It appeared that now the agency wished to spend the money differently than had originally been intended.

Mr. Hettrick pointed out that the Legislature had made commitments, in particular, to a suicide prevention group headquartered in Douglas County. That group had been traveling around the state providing training, and had done that with the assumption that they would be receiving \$100,000 that the Legislature had authorized in the previous session. The group had received none of that money and was effectively shut down. Mr. Hettrick asserted that the Legislature "needed to do what [they] promised to do" when the money had been appropriated. He added that if the funds were available now, they should be used to honor those commitments.

Chairman Arberry asked whether the bill needed to be passed immediately. Mr. Haartz replied that the funds had been obligated and the \$521,620 needed to be received by June 30, 2005, to pay the bills of the subgrantees who were providing treatment services.

Mr. Marvel inquired if the bill was exempt from the deadlines. Mr. Stevens said it was a Senate bill and had passed out of the House of origin, which meant the deadline did not apply.

Mr. Stevens added that, if the money was needed by June 30, there would be plenty of time to complete the budget closing process, and whatever decision was made, the bill and the budgets could be adjusted accordingly.

Mr. Marvel asked if any of the money in the bill would be allocated to the drug courts. Mr. Haartz said the money was used to provide adolescent treatment services and was not used for the drug courts.

Chairman Arberry asked if there was any further testimony on S.B. 89. There being none, he declared the hearing on S.B. 89 closed and opened the hearing on S.B. 93.

Senate Bill 93 (1st Reprint): Makes supplemental appropriation to Department of Motor Vehicles for unanticipated costs related to electronic payments in Fiscal Year 2004-2005 in administrative services. (BDR S-1196)

Dennis Colling, Chief, Administrative Services Division, Nevada Department of Motor Vehicles (DMV), spoke on S.B. 93, which was a request for \$1,400,000 for unanticipated operating costs for FY2005 in the Administrative Services Division. Mr. Colling said the Department was requesting to augment Budget Account 4745 in category 12. Those funds were used to pay the fees associated with use of credit cards and other electronic transactions throughout the Department.

Mr. Colling stated that the DMV allowed and encouraged the use of credit cards in mail-in processes, over-the-counter transactions, Internet transactions, Interactive Voice Response (IVR) system processing, kiosk transactions, and renewals through the emissions stations program. He said the good news was that the alternative methods of customer service continued to grow and the DMV was servicing more and more of the public without the public having to come into the offices and stand in line. Unfortunately, as the DMV continued to approach customer service with ideas and projects that involved keeping a customer from standing in line, the DMV would continue to incur credit card and other electronic transaction costs.

Mr. Colling reminded the Committee to keep the request in perspective, noting that the Internet service alone, not including the kiosk or other methods, was the equivalent of having a major metropolitan office fully staffed and operational. He added that the use of credit cards continued to exceed any estimates used to forecast expenses in that area. The growth rate in the current year represented approximately 35 percent growth over comparable months in previous years.

Mr. Seale noted that a Request for Proposal (RFP) had been issued by the Department of Taxation, the Department of Motor Vehicles, and the Treasurer's Office, that addressed the issue of credit cards and electronic payments. He asked if those charges would be eliminated in the future.

Mr. Colling said the cost of transactions would decrease, but as people continued to use credit cards, charges would still exist because they were the merchant service costs. As additional services, such as electronic check and debit card transactions were added, and the public switched from using credit cards to using either debit cards or electronic checks, there would be a significant difference in costs. He explained that the charge for an electronic check was \$.20. The average credit card transaction charge for the DMV was approximately \$4. Even if the DMV used a new process for a debit card transaction that would not require a personal identification number (PIN), there would be a \$.70 charge, which was significantly less than \$4.

Mr. Colling said he was optimistic that the DMV would be able to use alternate methods, and noted that the DMV was in the process of testing the e-payment engine using credit cards because that was a familiar process. Once the process was stable, the DMV would add e-checks to the Internet and kiosk usage.

Mr. Seale said he understood that the costs of the credit card transactions could not be passed along, but he asked why the costs of an e-check could not be passed along, particularly as it was such a minimal charge.

Mr. Colling agreed that was an option and that it was possible under the contract the DMV had for e-payment. He pointed out that the DMV was in the process of developing an RFP that would be bid at the end of the month for new merchant services for Mastercard and Visa, which constituted approximately 85 percent of the DMV's business. He said the DMV was asking a number of different questions in the bidding process, including whether or not the DMV could charge for the use of a credit card. Contractually, the DMV was unable to do that with some of the credit card companies. The DMV was asking for a more competitive rate based upon the low default issue; very few people paid with credit cards that were not valid, there had been only one invalid card in the past month.

Assemblywoman Koivisto noted that Mr. Colling had said the number of credit card transactions processed, if processed by hand, would require the opening of a new office. Mr. Colling said that the number of transactions that were transacted over the Internet represented the equivalent of the work done in a major metropolitan office. There would be approximately 1,200 transactions per day over the Internet and one of the major metropolitan offices in Las Vegas performed the same number of transactions.

Mrs. Koivisto asked how much it cost to run a major metropolitan office. Mr. Colling said that it would cost approximately \$6 million to buy a piece of

property, it would cost \$9 million to \$10 million to build a building, and it cost approximately \$6 million per year to run the building. Mrs. Koivisto commented that \$1.4 million was a "small price to pay for doing business."

Assemblywoman Gansert indicated that there was a bill to use state General Fund monies to cover credit card expenses, and she asked if it would be precedent-setting if the funds were approved. Mr. Stevens said it had been done a number of times previously and the amounts had been augmented several times during the fiscal year at the Interim Finance Committee meetings because of the increase in volume of credit card transactions.

Assemblyman Denis asked if the use of the transaction technologies was creating savings. Mr. Colling said there was a significant amount of savings in that the DMV did not have to staff an additional office. He pointed out that it had been almost ten years since the DMV had built an additional office, which was a significant accomplishment with the growth throughout the state. He conceded that additional employees had been hired to deal with the growth, but the true savings was in a reduction to "potential future expenses."

Assemblywoman Giunchigliani said that, in the past, there had been discussions about trying to offset some of the impact on the General Fund by having a different assessment on those who did not use or take advantage of the technology that was available. She said that the fee could be minimal, but it could be charged to those who wanted to wait in line rather than taking advantage of another method, such as the cash kiosks, which had eliminated the concern that those without a checking account or without credit cards would be penalized. Ms. Giunchigliani pointed out that the point was to try and provide options that did not require people to visit the offices, which would eliminate the need to build more buildings. She repeated that options should be explored to offset a portion of the General Fund.

Mr. Colling said that the funds that were currently being used to pay the costs were from the Highway Fund, not the General Fund. He indicated that the proposal that Ms. Giunchigliani had referred to was in A.B. 435. The DMV had proposed a method of funding the costs associated with all electronic payment by taking the money "off the top," which meant that if there was a \$200 transaction with a \$4 credit card cost, the \$4 would be subtracted from the \$200 and the remaining funds would then be distributed to all the departments and divisions and entities for which the DMV collected. Mr. Colling conceded that there would be some General Fund cost associated with that, and it would affect the government services tax, which went into the Distributive School Account. He indicated that he had provided documentation to the LCB staff that listed the projected costs through the upcoming biennium on each of the entities affected.

Ms. Giunchigliani said that the issues in A.B. 435 would be considered, but that bill did not anticipate a disincentive for using services, but that could be addressed when the bill was heard. She reiterated that there should be some offset of the costs with service fees.

Chairman Arberry closed the hearing on S.B. 93 and indicated that the Committee would begin budget closings.

BUDGET CLOSINGS

ELECTED OFFICIALS

OFFICE OF THE GOVERNOR (101-1000)—BUDGET PAGE ELECTED-1

Mr. Stevens indicated that the first budget account to discuss was the Office of the Governor. There were three issues to bring to the Committee's attention:

- The first issue was Decision Unit E-250, which provided for \$25,000 each year for additional personnel expenses. The Committee had questioned how the money would be used, and the Governor's Office had responded that the \$25,000 would be used to allow the Governor to hire interns, intermittent, and part-time staff.
- The second issue concerned the Energy Advisor. The Energy Advisor was a position within the Governor's Office, and the state General Fund supported the salary, travel, and operating costs of the position. The Budget Division had provided a response related to Committee questions which indicated that the Energy Advisor position could not be fully or partially funded with federal dollars. The Energy Office budget had not yet been closed, and there were a number of questions in that particular area related to the funding of positions within the energy assistance budget, which would be discussed at a later time.
- The third issue was the increase in square footage for the Governor's Office. The Capitol Annex was currently being renovated and 7,087 square feet of the annex would be utilized by the Governor when that space was fully renovated.

Mr. Stevens noted that the other closing items that the Committee should be aware of were the transfer of two positions to the Office of Homeland Security within the Department of Public Safety, and that the funding for the Advisor on Wildlife, which was currently housed in the budget of the Department of Conservation and Natural Resources (DCNR), would end June 30, 2005. He said that position was planned to be continued within the staff complement of the Governor's Office.

Ms. Giunchigliani said she had been under the impression that when the funding ended, the position would be eliminated. Mr. Stevens explained that the position was currently being funded through the DCNR budget and that funding would no longer be available effective July 1, 2005. However, it was understood that the position would continue with the Governor's staff complement and would be supported through the General Fund.

Andrew Clinger, Deputy Director, Budget Division, said that the Office of the Governor had a vacant position within the office, so when the federal funds expired for that position, the Governor's Office would absorb that position within the funding allocation the Office already received.

Ms. Giunchigliani repeated that the intent had been to eliminate the position once the funding stopped. Mr. Clinger explained that the position within the DCNR would be eliminated, but the Governor's Office would absorb that position. He reiterated that the Governor's Office had a vacant position, and the money from the vacant position would be used to fund that position.

Ms. Giunchigliani remarked that there had also been discussion about removing the grant writing position from the Governor's Office and moving it to the Department of Education. She asked if the budget discussion would be an appropriate place to address that issue because the Governor's Office was not utilizing the grant writing position, and there was funding that was not being captured.

Mr. Stevens said that the Committee could decide that issue or could leave that issue to be reviewed by the K-12 subcommittee. The subcommittee could then submit a recommendation to modify the budget closing, depending on how the Committee chose to close the budget account and what authority the Committee provided to the LCB Fiscal staff of the subcommittee.

Chairman Arberry questioned Decision Unit E-250, which would allow for the hiring of interns and intermittent and part-time staff. He asked if the approval of that decision unit would cause other agencies to make similar requests. Mr. Clinger opined that it would not be a problem as there were already several agencies that had a separate line item within their budgets for intermittent and seasonal positions. He cited the example of the Department of Taxation, which funded intermittent positions within the agency's budget.

Mr. Stevens noted that the Committee had questioned the dues required by the Western Governors' Association and the National Governors' Association. He explained that the Western Governors' Association dues had remained flat, but there had been an increase in the National Governors' Association dues, which was reflected in the operating category.

Mr. Stevens pointed out that there were some technical adjustments made to the Administrative Services Charge as a result of changes in the Statewide Cost Allocation.

Chairman Arberry asked Mr. Clinger for comment on the increase in the National Governors' Association dues. Mr. Clinger responded that he did not know why there was an increase as that would be the choice of the National Governors' Association.

ASSEMBLYMAN MARVEL MOVED TO CLOSE BUDGET ACCOUNT
101-1000 AS RECOMMENDED BY STAFF WITH TECHNICAL
ADJUSTMENTS.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

Ms. Giunchigliani noted that the issue of the transfer of the grant writer would be discussed in the Joint Subcommittee on K-12/Human Resources. Chairman Arberry called for the vote.

THE MOTION CARRIED. (Mr. Perkins and Mrs. Koivisto were not
present for the vote.)

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ELECTED OFFICIALS

AG SPECIAL FUND (101-1031) – BUDGET PAGE ELECTED-43

Mr. Stevens indicated that the main closing issue was the recommendation that Yucca Mountain legal costs be approved at \$1 million in the first year of the biennium. There was a recommendation that the appropriation be authorized for

either year of the biennium, so if funds were not expended completely in FY2006, they could be balanced forward to FY2007 and then reverted at the end of the biennium.

Mr. Stevens explained that the funds would be used to pay Yucca Mountain litigation expenses. There was also funding within the High-level Nuclear Waste Budget Account for technical study costs.

Mr. Marvel asked if the state was receiving any federal funds. Mr. Stevens said the state would receive federal funds for the technical studies related to the Yucca Mountain site, but those federal funds could only be used for that purpose.

Mr. Marvel asked how much money could be expected. Mr. Stevens indicated that, although the funding had not yet been received, the High-level Nuclear Waste Office was anticipating \$2.5 million from the federal government.

Mr. Marvel questioned whether that money had once funded a special committee, and Mr. Stevens indicated that it had, but the federal government had since restricted the use of the funds to technical studies only.

Chairman Arberry asked for a motion on the budget account.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO CLOSE BUDGET ACCOUNT 101-1031 AS RECOMMENDED BY THE GOVERNOR WITH APPROVAL OF AUTHORITY FOR STAFF TO MAKE ANY ADJUSTMENTS TO ASSESSMENTS AND COST ALLOCATIONS NECESSITATED BY BUDGET CLOSINGS IN OTHER ACCOUNTS.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

Mr. Stevens added that A.B. 426 was related to the budget account. The bill was not exempt and would be discussed in the next meeting. He explained that the bill contained clean-up language involving the special litigation account and the issue of litigation expenses paid through certain fraud unit accounts within the Attorney General's Office. The technical clean-up language would allow some litigation costs to be expended from those fraud unit budgets.

As there were no further questions or comments, Chairman Arberry called for a vote on the motion.

THE MOTION CARRIED. (Mr. Perkins and Mrs. Koivisto were not present for the vote.)

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ELECTED OFFICIALS

AG INSURANCE FRAUD UNIT (101-3806)—BUDGET PAGE ELECTED-46

Mr. Stevens commented that the Committee might wish to review the budget account further before making a decision. He explained that when the budget had been submitted there had been testimony that A.B. 135, which would allow an increase in the assessments on insurers, would be needed to continue financing the account based on the Governor's recommended amounts. That bill had been vetoed, and an alternate budget had been submitted to the LCB staff by the Budget Division in the previous week that would reflect that the fee increase was not required to fund the budget in the upcoming biennium.

Mr. Stevens stated that Statewide Cost Allocation and the Attorney General Cost Allocation amounts had been reduced. The information obtained from the Budget Division on the overall Statewide Cost Allocation and the Attorney General Cost Allocation plans reduced the amounts for the Insurance Fraud Unit.

Mr. Stevens expressed a desire to review those amounts further to understand why the amounts in the Insurance Fraud Unit were being reduced while the amounts in the other fraud units were not. He said that the budget submitted by the Budget Division the previous week indicated that the budget could operate at the Governor's recommended level without the fee increase in the 2005-07 biennium. Mr. Stevens offered to review the other issues in the budget account.

Chairman Arberry indicated that he would like to allow staff to review the budget account before proceeding with the closing of the budget.

ELECTED OFFICIALS

AG MEDICAID FRAUD UNIT (101-1037)—BUDGET PAGE ELECTED-52

Jeff Ferguson, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, presented BA 101-1037. Mr. Ferguson noted that the AG Medicaid Fraud Unit was primarily funded through federal funds and recoveries; however, in the past it had contained a nominal General Fund appropriation of \$1,000 in each year of the biennium to provide access to the Interim Finance Committee (IFC) Contingency Fund.

Mr. Ferguson indicated that the major issue in the budget was Decision Unit E-125, which would increase the General Fund appropriation to \$30,572 in FY2006 and \$287,290 in FY2007. He said that, through an agreement with the federal government, the budget was funded 75 percent through federal Title XIX funds and 25 percent through a state match. The federal government had authorized the state to use any recoveries obtained for the state match monies.

Mr. Ferguson explained that, in 1997, the Legislature approved funding 15 percent of the state match with recoveries and 10 percent through a General Fund appropriation. In 1999, the Legislature approved the Governor's recommendation to reduce the General Fund appropriation to less than 3 percent. In 2001, the Governor recommended reducing the General Fund appropriation even further to \$1,000, which was also done in 2003. However, for the upcoming biennium, the Governor was requesting additional General Fund monies because the recoveries in the fraud unit had decreased over time. Mr. Ferguson noted that the Attorney General had testified that one of the reasons for the decrease was that the unit had been heavily involved in pharmacy-related litigation, which did not typically provide for large recoveries. In order to meet the 25 percent state match, General Fund monies would need to be infused into the account to meet the requirement.

Chairman Arberry requested clarification of the amount of General Fund monies needed. Mr. Ferguson said the amount was \$30,572 in FY2006 and \$287,290 in FY2007. Those amounts were based on current projections of the recoveries being collected. He added that the amount in FY2006 was substantially less than the amount in FY2007 because the reserve would be utilized in FY2006.

Mr. Marvel asked how the recoveries were redistributed. Mr. Ferguson replied that those monies had been used to pay the state match. The state was

required to pay 25 percent of the costs of the unit, the federal government paid 75 percent, and the state was allowed to use recoveries to pay a portion of the 25 percent state match.

Mr. Marvel inquired as to the amount recovered. Mr. Ferguson said the actual recoveries in FY2004 totaled approximately \$94,000, and \$227,000 was budgeted to be received in FY2005. He noted that, while the recovery amounts were not that large, those monies were used to offset the state's match.

Chairman Arberry noted that the Attorney General had testified that there was a decrease in the collection of recoveries because they had been involved in pharmacy-related litigation. He asked what was happening with the pharmacy litigation.

Tim Terry, Chief Deputy Attorney General, Medicaid Fraud Control Unit, Office of the Attorney General, responded to Chairman Arberry's question. Mr. Terry said he had been head of the fraud unit since 1991 and since that time the unit had recovered sufficient funds to cover the state share of the federal grant each year. There was some concern raised with respect to recoveries in the past two years, and the Attorney General had indicated that a number of resources had been committed to a couple of large cases that had been in litigation for more than four years, which might not result in recoveries for several more years. He indicated that was the reason for a decrease in the recoveries, but even with that decrease, the unit had still recovered the amount necessary to cover the state share of the grant.

Chairman Arberry remarked that the Attorney General had indicated in his testimony that once the pharmacy litigation was finished that there would be enough funds to pay back the state's appropriation. Mr. Terry said that historically the unit had always recovered enough money to pay for the grant, and he anticipated that would continue. However, given the amount of resources that were being devoted to the pharmacy litigation, the request was a precautionary measure.

Ms. Giunchigliani questioned whether the fraud unit was being affected by the activities of the State Board of Pharmacy. Mr. Terry opined that the issues were unrelated. The fraud unit was involved with litigation concerning average wholesale pricing by pharmaceutical companies that took advantage of the Medicaid reimbursement formula. Currently, the fraud unit was litigating against several dozen major pharmaceutical manufacturers. He stressed that it was not related to the issues addressed by the State Board of Pharmacy.

Ms. Giunchigliani said it was her understanding that the State Board of Pharmacy had some budgetary issues due to actions taken on a lawsuit regarding wholesalers. Mr. Terry explained that there was no connection between the fraud unit and the Board of Pharmacy.

Mr. Marvel asked whether Mr. Terry thought the Attorney General's Office would prevail in the lawsuits. Mr. Terry expressed confidence and said that a number of the early motions to dismiss filed by the defendants had been denied, and the unit was in the process of pre-trial discovery. He opined that there would most likely be a settlement before the cases were tried, but if the cases did proceed to trial, he was confident in the outcome.

Mr. Marvel asked how much money was involved. Mr. Terry explained that in one particular case, the Attorney General's Office was using the same firm that assisted the state with the tobacco litigation, and the firm was working on a

contingent fee agreement and advancing the pre-trial costs. He said there had as yet been no expenditures from BA 1037.

Mr. Marvel questioned how much money would be involved in the settlement. Mr. Terry indicated that the potential recovery was in the tens, if not hundreds of millions of dollars, which would be placed primarily in the state Medicaid account.

Ms. Giunchigliani asked if there was a payback provision. Mr. Terry said he was unaware of a provision, but he opined that the Attorney General's Office would be willing to repay the funds.

Mr. Stevens interjected that he had a note indicating that the Attorney General agreed that the General Fund appropriation could be repaid once the current pharmacy case could be completed. Chairman Arberry indicated that he would accept a motion.

ASSEMBLYMAN MARVEL MOVED TO CLOSE BUDGET ACCOUNT
101-1037 AS RECOMMENDED BY STAFF WITH THE PAYBACK
PROVISION AND TECHNICAL ADJUSTMENTS.

ASSEMBLYWOMAN GIUNCHIGLIANI SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Perkins and Mrs. Koivisto were not
present for the vote.)

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ELECTED OFFICIALS

AG WORKERS COMP FRAUD UNIT (101-1033)—BUDGET PAGE ELECTED-57

Mr. Ferguson presented BA 101-1033 and indicated that the major issue was the Governor's recommendation to transfer the Insurance Fraud Unit into the Workers Comp Fraud Unit, including 10 positions. Mr. Ferguson pointed out that the Committee had not made a decision on the Insurance Fraud Unit and asked if the Committee would like to wait to make a decision on BA 1033 as well. Chairman Arberry agreed and indicated that the Committee would hold BA 1033.

ELECTED OFFICIALS

AG CONSUMER PROTECTION (330-1038)—BUDGET PAGE ELECTED-64

Mr. Ferguson pointed out that in BA 1038 there was a Utility Consumer Advocate's Unit, funded through utility mil assessments, and a Telemarketing and Consumer Fraud Unit and Criminal Securities Unit, which were both funded through the General Fund. He noted that there were 31 positions in the budget, 17 funded through mil assessments, and 14 funded through General Fund appropriation.

Mr. Ferguson explained that one of the major issues in the budget was the Governor's recommendation of 3 new positions, 2 of which would be funded through General Fund appropriation at a cost of \$227,518 over the biennium. Those positions consisted of one new consumer fraud investigator in northern Nevada, and one program assistant to support consumer fraud staff in southern Nevada. The Attorney General had testified that the ideal ratio of investigators to attorneys was one to one, which was the reasoning behind the request for northern Nevada. In southern Nevada, there had been an increasing number of

consumer complaints necessitating the request for that position. Mr. Ferguson reiterated that those two positions would be funded through General Fund appropriation. The third position would be a new legal secretary position to work with utility attorneys in Las Vegas, and that position would be funded through utility mil assessments or reserves. The biennial cost for that position would be \$92,755.

Mr. Ferguson concluded that based on the testimony the Attorney General had offered previously, it appeared that those three new positions were reasonable requests.

Mr. Marvel questioned the mil assessment. Mr. Ferguson indicated that the current budget request reduced the amount to 70 mils from 75 mils. He noted that 75 mils was the statutory maximum.

Chairman Arberry stated that the Committee would hold BA 1038 and asked Mr. Ferguson to present the next budget account for consideration.

ELECTED OFFICIALS

CONTROLLER'S OFFICE (101-1130) – BUDGET PAGE ELECTED-99

Mr. Ferguson presented the budget for the Controller's Office and said that the main issue was the Governor's recommendation of \$120,456 to reclassify 10 existing positions. He indicated that he had provided a chart to the Committee outlining the positions with the current grade and the proposed grade salary differences.

Mr. Ferguson noted that the Controller had testified that the Chief Accountant and 7 Account III positions had broad responsibilities for overseeing and developing policies for statewide use of the Integrated Financial System (IFS) by all agencies and for ensuring compliance with Generally Accepted Accounting Principles (GAAP) and Government Accounting Standards Board (GASB). In addition, those accounting positions had responsibilities dealing with the Comprehensive Annual Financial Report (CAFR) that was published by the Controller's Office.

Mr. Ferguson added that the Controller had testified that the accounting and financial reporting responsibilities within the Office were greater than those of other accountant positions within the state's classified service, based on the fact that their duties were statewide and they were required to deal with GAAP and GASB standards. The Controller did submit information comparing those positions to other positions of the same classification within the state, and Mr. Ferguson offered to provide that information to the Committee ([Exhibit J](#)).

Mr. Stevens repeated that LCB Fiscal staff did have the Controller's response to questions that had been asked regarding the reclassification of positions. He explained that it had not been added to the closing documents provided to the Committee as it was lengthy. The information ([Exhibit J](#)) was provided to the Committee.

Mr. Seale questioned which agencies the comparisons had included. Mr. Ferguson said the Controller's Office had compared the responsibilities of Chief Accountant positions and Accountant III positions in numerous other budgets.

Kim Huys, Chief Deputy Controller, Office of the State Controller, offered further explanation of the comparison and said that the Controller's Office had

reviewed all the Accountant III positions in the state classified pay system. Ms. Huys indicated that there were only 12 non-CAFR Accountant III positions in the state, and there was a particular classification in the classified pay system for those positions. She noted that 2 of those 12 positions were in the Controller's Office, which meant there were another 10 throughout the state.

Ms. Giunchigliani asked if the reclassified positions were suggested based on the personnel plan regarding classified and unclassified positions. Mr. Ferguson responded and said the Controller's Office positions were completely separate from the personnel plan.

Mr. Ferguson continued outlining the budget and clarified that the proposed classification for the positions had yet to be determined. The Department of Personnel had indicated a willingness to proceed, with the Legislature's approval, to create some job classifications for those two positions, and they would do so if that decision unit was approved.

Mr. Ferguson noted that there were also two Management Analyst positions that would be reclassified to Agency Information Specialists. The NPD-19 forms for those positions had already been approved by the Department of Personnel; however, funding for those positions was still contained within Decision Unit E-805.

Mr. Ferguson said that another issue was the Governor's recommendation to use General Fund monies in the amount of \$39,969 to increase the salary for two positions. The Assistant Controller's annual salary was recommended to increase from \$66,812 to \$79,885, and the Executive Assistant's annual salary was recommended to increase from \$40,489 to \$44,870. He pointed out that the Controller had testified that the recommendation would establish parity for the Assistant Controller relative to the Assistant Treasurer and for the Executive Assistant with the Secretary of State's Executive Assistant.

Mr. Stevens explained that, as Ms. Giunchigliani had noted earlier, decisions on unclassified salaries would not be made during budget closings, but would be taken care of globally for all agencies at a later date. Regardless of how the budgets were closed, that particular decision unit, and decisions in other budgets on unclassified salaries, would be made at a later date. He pointed out that the reclassified positions were a separate issue, but a decision would not be made on Decision Unit E-806, or similar decision units in other budgets, until later.

Ms. Giunchigliani commented that if the Committee chose to approve the Governor's recommendations there would be other agencies making similar requests regarding reclassification, and that might "open the door" and have a "domino effect."

Mr. Ferguson said that he had spoken with the Department of Personnel and the Department had indicated that if they were to create a classification for the position, that classification would be very specific and would require work with the CAFR, responsibilities with the GASB and the GAAP, and other similar duties. He remarked that it might create an opening, but it would not be a very wide opening.

Mr. Seale agreed with Ms. Giunchigliani and said he, too, was concerned that approval, as recommended by the Governor, would cause other agencies to make similar requests.

Mr. Ferguson outlined the minor closing items and noted that there was a decrease in total General Fund monies in the amount of \$21,108 for computing capacity that needed to be used by the Department of Personnel. There were also changes to the computer hardware costs based on the updated information. There was \$37,468 in FY2006 for computer hardware and software relative to the Data Warehouse of Nevada, and \$12,000 for 50 additional licenses for Vista Plus users reporting.

Mr. Ferguson pointed out that Decision Unit E-250 recommended \$6,004 over the biennium for additional rent and moving costs associated with the acquisition of 224 square feet of office space in the Grant Sawyer Office Building in Las Vegas. He explained that the actual allocation of all the space in that building was yet to be determined. If there was not room for the Controller's Office expansion, those funds would not be needed and would revert to the General Fund. He recommended that item be left in the budget with the disclaimer that the funds would revert to the General Fund if the move did not take place.

Ms. Giunchigliani suggested that the Committee should choose a position on the reclassification so that decisions could be made. She requested further clarification of the reclassification. Mr. Ferguson explained that there was 1 Chief Accountant and 7 Account III positions for a total of 8 positions, but there would be only 2 classifications.

Ms. Giunchigliani said she did not recall what justification the Office had provided for the reclassification of the 7 positions. Mr. Ferguson explained that [Exhibit J](#) outlined the reasons for the reclassification. Essentially, the reason was that the responsibilities and duties of those positions were statewide, and were associated with the CAFR, and had to meet other criteria associated with the GASB and the GAAP. Similar positions at other state agencies had much less responsibility and did not have to meet the same requirements.

Ms. Giunchigliani noted that the position at grade 38 was recommended to move to a grade 40. The current salary was approximately \$63,000 and the proposed salary would be approximately \$69,000. She pointed out that the 2 percent COLA would be added in each year of the biennium. She asked if the 2 percent in each year could be eliminated to reach the proposed salaries. Mr. Ferguson indicated that the Committee could choose how to handle the salary question.

Mr. Stevens recommended that the Committee choose a grade level because without a grade level, the salary could not be placed on the pay schedule. He said that if the Committee did not wish to raise the grade by two levels, the grade could be raised by one, so the grade 38 position would become a grade 39. He stressed that the pay schedule was based on grades and steps and if the Committee wished to reclassify the position, a specific grade would need to be chosen.

Ms. Giunchigliani questioned the possibility of moving the position up one grade to a grade 39 and then allowing the 2 percent COLA in each year of the biennium. Mr. Stevens said that each grade level was a raise of approximately 4.5 percent.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO CLOSE BUDGET ACCOUNT 101-1130 AS RECOMMENDED BY STAFF WITH APPROVAL OF RECLASSIFICATIONS MOVING THE POSITIONS UP ONE GRADE LEVEL AND ALLOWING FOR THE 2 PERCENT COLA INCREASE EACH YEAR OF THE BIENNIUM, APPROVAL OF THE HARDWARE COMPUTER COSTS, BUT WITHOUT APPROVAL OF THE COSTS FOR THE EXPANSION OF THE OFFICE AND WITH APPROVAL OF OTHER ADJUSTMENTS AS NEEDED.

Mr. Stevens clarified that the reclassifications would be a one grade increase for each classification.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Perkins and Mr. Hettrick were not present for the vote.)

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SPECIAL PURPOSE AGENCIES

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

Mindy Braun, Education Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, presented BA 101-4821 and distributed [Exhibit K](#) to the Committee. Ms. Braun said there were three major closing issues for the account. The first issue concerned staff salaries. The Executive Budget included \$57,475 in FY2006 and \$93,098 in FY2007 for the increase in salaries for non-classified positions in the PERS. She explained that in July 2004, the Retirement Board had voted to adopt a 9-step pay schedule for all non-classified staff in the PERS. Previously, there had been a 6-step scale. The Board also adopted new scales for the Manager of Information Services, the Administrative Assistant, and the Administrative Analyst positions.

Ms. Braun said that some of the recommended salaries did appear to be higher than provided to the state classified system. In particular, it was noted that the salary schedule for the Administrative Assistant in the PERS was recommended to range from approximately \$40,000 to \$56,000, while the salary range for an Administrative Assistant IV in the state classification system was \$28,627 to \$40,111 in the Employer Pay plan. Ms. Braun indicated that in discussions with the agency, the agency had provided additional information ([Exhibit K](#)), which supported that the duties of the position, which included legislative analysis, management research budgeting, and so on, appeared to be more similar to the Management Analyst series in state classified service. In that case, the salary range would be approximately in the middle of the range for the Management Analyst series under the state classified system.

Ms. Braun continued and said that during the previous hearing, the Committee also had questioned why the agency used salaries from the State Pharmacy and Medical Boards in determining the recommended salary increases for other staff in the PERS. The agency had indicated that the Executive Secretaries of those boards were the positions that were most similar to the positions in the PERS.

Ms. Braun said that the Committee had also requested that the agency provide salary information for comparable positions in the western public pension systems. Information provided indicated that the PERS was most similar to the

program in Utah. She said the first question for the consideration of the Committee was whether the Committee wished to approve the salaries of the executive staff of the PERS as recommended by The Executive Budget with the 2 percent salary increase.

Ms. Braun explained that the second major closing issue concerned overtime payment. The Executive Budget included approximately \$73,000 in each year of the biennium in the base budget for overtime pay. Normally, overtime pay was removed from the base budget; however, PERS had indicated that the approval of overtime pay was requested due to the large increase in workload of staff to complete the paperwork associated with the one-fifth retirement credit for certain K-12 personnel. In response to questions from the Committee concerning the potential need for a position in lieu of overtime, the agency indicated that they would reconsider a new position if the purchases increased to 4,000 purchases; currently, there were 2,500 and the agency continued to support overtime pay.

The third major closing issue concerned professional training for the PERS staff. Decision Unit E-200 requested approximately \$18,000 in FY2006 and \$12,000 in FY2007 for the cost of registration and instructional materials for the Retirement Counselors and other staff training. Ms. Braun said the third question for the Committee's consideration would be whether funding for training and certification of staff should be approved.

Ms. Braun indicated that she had completed the presentation of the major closing issues for the account, but there were two other closing issues. The first issue concerned the agency's technology upgrade. The Governor recommended \$714,713 in FY2006 and \$709,000 in FY2007 for the maintenance of hardware and software in the Carson City and Las Vegas offices. She noted that during the previous budget hearing, the agency had been asked to work with staff to determine if those expenditures were realistic, the agency had complied, and staff recommended that decision unit with adjustments. The adjustments as made would decrease the amount recommended by \$38,858 in FY2006 and increase the amount by \$25,796 in FY2007.

Ms. Braun noted that there were also some technical adjustments for Decision Unit M-305 for the non-classified 2 percent COLA.

Ms. Giunchigliani suggested that the Committee wait to make a decision on the issue of the salaries because of the controversy over moving to a 9-step scale. She asked if the budget could be approved without making a decision on that issue.

Chairman Arberry agreed and said the Committee needed to make a decision regarding the salaries at a later time, so that portion of the budget could be held pending a decision.

Assemblywoman Smith commented that A.B. 110 addressed the issue of retirement credits and the issue of reemployment of retirees. She noted that if the bill was approved, there would be a fiscal impact due to overtime costs.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO APPROVE BUDGET ACCOUNT 101-4821 AS RECOMMENDED BY STAFF WITH APPROVAL OF THE OVERTIME ASSOCIATED WITH THE ONE-FIFTH RETIREMENT CREDIT AS RECOMMENDED IN THE EXECUTIVE BUDGET, APPROVAL OF FUNDING AND TRAINING FOR STAFF, AND WITHOUT A DECISION REGARDING THE SALARY PORTION.

ASSEMBLYMAN MARVEL SECONDED THE MOTION.

Ms. Giunchigliani inquired as to whether the reemployment issue needed to be addressed in the motion. Mr. Stevens indicated that A.B. 555 would address that issue. Ms. Giunchigliani noted that there were two bills, and S.B. 485 would repeal the expiration date, with which she disagreed because that had not aided in teacher shortage areas, and there were other options to explore. She added that if the expiration date was repealed, there would be a direct impact on all the PERS contributions that were made. Chairman Arberry called for the vote.

THE MOTION CARRIED. (Mrs. Gansert was not present for the vote.)

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Mr. Stevens indicated that the Committee would be meeting later in the week to vote on bills that were not exempt, in order to meet the deadline. Chairman Arberry adjourned the meeting at 11:20 a.m.

RESPECTFULLY SUBMITTED:

Susan Cherpeski
Committee Attaché

APPROVED BY:

Assemblyman Morse Arberry Jr., Chairman

DATE: _____

<u>EXHIBITS</u>			
Committee Name: <u>Committee on Ways and Means</u>			
Date: <u>April 11, 2005</u>		Time of Meeting: <u>8:30 a.m.</u>	
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
AB 3	B	Crawforth/Division of Wildlife	Audits list (1 page)
	C	Ashley Carrigan/Washington Office	Testimony (3 pages)
	D	Ashley Carrigan/Washington Office	Accomplishments (8 pages)
	E	Ashley Carrigan/Washington Office	Letter (2 pages)
AB 521	F	Laura Hale/DHR	Testimony (2 pages)
AB 533	G	Robert Chisel/NDOT	Status Report (4 pages)
AB 534	H	Dan Miles/UCCSN	Proposed projects (2 pages)
SB 89	I	Alex Haartz/Health Division	Testimony (3 pages)
	J	Controller's Office	Statewide Position Comparison (6 pages)
	K	Mindy Braun/LCB Fiscal	PERS Response (11 pages)