

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-third Session
March 7, 2005**

The Senate Committee on Finance was called to order by Chair William J. Raggio at 8:03 a.m. on Monday, March 7, 2005, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator William J. Raggio, Chair
Senator Bob Beers, Vice Chair
Senator Dean A. Rhoads
Senator Barbara K. Cegavske
Senator Bob Coffin
Senator Dina Titus
Senator Bernice Mathews

GUEST LEGISLATORS PRESENT:

Senator Mike McGinness, Central Nevada Senatorial District

STAFF MEMBERS PRESENT:

Gary L. Ghiggeri, Senate Fiscal Analyst
Bob Guernsey, Principal Deputy Fiscal Analyst
Cindy Clampitt, Committee Secretary

OTHERS PRESENT:

Morgan Baumgartner, Andre Agassi College Preparatory Academy
Heather Murren, President and CEO, Nevada Cancer Institute
Robert W. McLellan, Deputy Administrator, Division of Child and Family Services, Department of Human Resources
Linda Bowmer, Supervisor, Youth Parole Bureau, Division of Child and Family Services, Department of Human Resources
Robert H. Erickson, City of Fallon
Bjorn (B.J.) Selinder, Churchill County
Dana Bilyeu, Executive Officer, Public Employees' Retirement System
Alexander Haartz, M.P. H., Administrator, Division of Health, Department of Human Resources
Greg Weyland, Health Program Manager, Bureau of Alcohol and Drug Abuse, Health Division, Department of Human Resources
Dave Hosmer, Chief, Nevada Highway Patrol, Department of Public Safety
Dennis Colling, Chief, Administrative Services Division, Department of Motor Vehicles
Jeanne Greene, Director, Department of Personnel
Scott McKenzie, Executive Director, State of Nevada Employees Association, American Federation of State, County and Municipal Employees (AFSCME) Local 4041

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Gloria Dopf, Deputy Superintendent for Instructional, Research and Evaluative
Services, Department of Education
Felicia Archer, Concerned State Employee

CHAIR RAGGIO:

I open the meeting and ask the Committee to consider Bill Draft Request (BDR) 11-1049. The Committee requested a bill draft proposed in a letter from attorney, Mr. Lance R. Van Lydegraf ([Exhibit C](#)). This request will protect the confidentiality of identifying information on parents and children in paternity cases. It would remove information from copies of the order available to the public. I will take a motion for introduction.

BILL DRAFT REQUEST 11-1049: Revises provisions requiring the inclusion of social security numbers and certain other information in court orders establishing paternity. (Later introduced as [Senate Bill 164](#).)

SENATOR COFFIN MOVED FOR COMMITTEE INTRODUCTION OF BDR 11-1049 AND REFERRAL TO THE SENATE COMMITTEE ON JUDICIARY.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

MORGAN BAUMGARTNER (Andre Agassi College Preparatory Academy):

We come before the Committee to request an appropriation of \$900,000 for the construction of a facility to house kindergarten and first grade classes at the Agassi Charter School.

The charter school serves at-risk students in Clark County. Recently the McGraw-Hill Companies approached Mr. Agassi offering a substantial contribution of materials and teacher instructional aids and teacher development materials if the school would consider an all-day kindergarten and first grade. Because of the generosity of the McGraw-Hill Companies, the charter school wishes to construct a facility for kindergarten classes earlier than planned. The BDR proposed in [Exhibit D](#) would go a long way to expedite that project.

CHAIR RAGGIO:

How have the existing buildings been financed?

Ms. BAUMGARTNER:

The facility has been constructed primarily through private donations and certain federal grants. Also, the 70th Legislative Session generously contributed \$600,000 toward the original construction.

CHAIR RAGGIO:

This proposal is a request for a bill draft. The Committee honors BDRs without any guarantee as to the final decision of the Committee. I will accept a motion for a BDR.

SENATOR BEERS MOVED TO REQUEST INTRODUCTION OF A BILL DRAFT TO APPROPRIATE \$900,000 FOR CONSTRUCTION OF A

BUILDING AT THE ANDRE AGASSI COLLEGE PREPARATORY
ACADEMY.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR RAGGIO:

We will make [Exhibit D](#), containing the proposed language, a part of the motion.

HEATHER MURREN (President and CEO, Nevada Cancer Institute):

I am here to discuss an appropriation request for the Nevada Cancer Institute to further our work. The Nevada Cancer Institute is a nonprofit cancer research center, founded in 2002, to meet the state's significant cancer needs.

While Nevada residents are not necessarily diagnosed more frequently with cancer than residents in any other part of our nation, Nevada residents do not survive as often as people who reside in other states.

We find approximately 25 percent of Nevada residents leave the state to seek treatment. By conducting research driven by, and focused on, our community education, outreach and researched-linked care that bring new treatments and equipment to the State of Nevada, we should be able to change the mortality numbers.

Progress has been made in the past three years. We are here to seek the support of the state as a partner in our endeavors. We have secured \$50 million in bond financing and raised \$50 million privately. We will soon open an office in Reno, have a rural health care navigator in the field, and in July 2005 we will open a 140,000 square foot flagship research facility.

We are asking the state for a small amount of financial support. Other research centers around the nation have financial partnerships with their states. Many private donors consider state support as one of the factors when providing major donations. Mr. Sidney Kimmel, who donated \$100,000 to the Johns Hopkins Cancer Center, cited one reason he chose Johns Hopkins Center was because the state had provided substantial support over time, and he felt the state was an integral part of that partnership.

The appropriation will enable the Institute to jump-start educational efforts and the state would generate a great return on their investment.

CHAIR RAGGIO:

There is a need for some clarification. This appropriation request was referenced in the Governor's State of the State message. The \$10 million referenced in the Governor's message was for a capital improvement project at the Center for Excellence at the University of Nevada School of Medicine.

It appears you are requesting operating funds for the Nevada Cancer Institute at \$10 million in each year of the biennium.

MS. MURREN:

That is correct. As we review our list of priorities, our primary focus is on recruiting the best and brightest scientific researchers from around the nation and carrying out education and outreach.

CHAIR RAGGIO:

The fact the Committee may request a bill does not commit the Committee to pass the bill. Further clarification is needed when this bill is heard concerning what connection the request has to the medical school. I will accept a motion.

SENATOR COFFIN MOVED TO REQUEST INTRODUCTION OF A BILL DRAFT FOR AN APPROPRIATION TO THE NEVADA CANCER INSTITUTE FOR \$10 MILLION IN EACH YEAR OF THE BIENNIUM.

SENATOR MATHEWS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

CHAIR RAGGIO:

At this time I will open the hearing on Senate Bill (S.B.) 43.

SENATE BILL 43: Adopts revised Interstate Compact for Juveniles. (BDR 5-81)

ROBERT W. McLELLAN (Deputy Administrator, Division of Child and Family Services, Department of Human Resources):

Senate Bill 43 introduces the new Interstate Compact for Juveniles (ICJ) which, if adopted, would replace the existing interstate compact developed in 1955.

The compact is not functioning effectively in 2005. A survey was conducted in 1999, which resulted in recommendations to develop better enforcement and accountability measures, provide more training to state and local criminal justice officials and improve the speed and quality of communications through the use of technology.

The recommendations made for the new compact were to establish an independent compact operating authority, a Governor-appointed representative to a national governing commission, rule-making authority and provisions for sanctions. It requires a mandatory funding mechanism to support staff, data collection, training and education, the collection of standardized information, sharing coordination and cooperation with the Interstate Compact for Adult Offender Supervision and the Interstate Compact for the Placement of Children (ICPC).

If this bill is enacted, Nevada will be required to identify a representative to work on a national commission which would meet at least once each year. It would establish a seven-member state council for interstate juvenile supervision consisting of the compact administrator, gubernatorial appointees, including at least one member of a victim's group, one member of the Senate, one member of the Assembly and one district judge. The council will be responsible for development of new rules and policies concerning the operation of the compact in Nevada. They will conduct training for juvenile justice professionals on the

provisions of the new ICJ and required restructuring of Nevada's compact operations and procedures.

Senate Bill 43 requires expenses arising pursuant to the ICJ be paid from the reserve for the statutory contingency account. If enacted, the bill would have a fiscal note. There would be no fiscal impact for fiscal year (FY) 2006. The projected fiscal note for FY 2007 would be \$114,276. The allocation is listed in my printed testimony found in [Exhibit E](#).

CHAIR RAGGIO:

How many states must pass similar legislation before the compact is enacted? Would this bill replace the old compact?

MR. MCLELLAN:

Senate Bill 43 would replace the old compact. Enactment by 35 states is required for passage, and I am not sure of the current status of enactments. When I last checked, 17 states had passed the legislation and a number of other legislatures had introduced the legislation during their sessions.

CHAIR RAGGIO:

Staff has indicated that as of February 21, 2005, 21 states had enacted the legislation. What is the reason the old compact is being replaced?

MR. MCLELLAN:

The reason the old compact needs replacing is due to the variation in laws from one state to another and some of the enforcement activities when violations of the compact occur. One provision the new compact allows is mediation between the states for resolution of issues, as in the case where one state transfers a youth to another state without strictly following compact provisions.

CHAIR RAGGIO:

What provision of the bill generates the fiscal note? Is it a result of the council created by the bill?

MR. MCLELLAN:

The costs contained in the fiscal note are salary costs for a staff member to manage and be a contact point for the state, as well as the costs for the council itself.

CHAIR RAGGIO:

Is the request for a full-time position?

MR. MCLELLAN:

That is correct.

CHAIR RAGGIO:

You feel a full-time position is necessary?

MR. MCLELLAN:

We believe it is. The present compact administrator is an administrative assistant III functioning within the Reno office of the Division of Parole and Probation. Ms. Linda Bowmer is with me, and she is the unit manager and deputy compact administrator at the office.

CHAIR RAGGIO:

Did Mr. Michael Torvinen prepare the fiscal note on S.B. 43?

MR. MCLELLAN:

That is correct.

LINDA BOWMER (Supervisor, Youth Parole Bureau, Division of Child and Family Services, Department of Human Resources):

I direct the Committee's attention to the letter contained in [Exhibit F](#). It depicts three scenarios highlighting the challenges of the current interstate compact when there is no way to enforce rules between states and the impact this has on Nevada, in terms of fiscal liability and community safety. I will address each case as articulated in the letter.

The first scenario is for a 16-year-old probation youth, named Chris, who was referred to Nevada from Florida. Home placement in Nevada was denied because the youth was already living in Nevada prior to receipt of the interstate paperwork thus violating the current interstate compact. This youth had a sex-offending background and reoffended in Washoe County. Within one week of his arrest for that offense, the state of Florida terminated his case. The youth should have been returned to Florida or had his treatment costs paid for by the state of Florida. Instead, the State of Nevada was required to assume the responsibility. The youth was adjudicated delinquent, placed in an out-of-state residential treatment facility in the state of Texas with the costs paid by Nevada Medicaid. The youth remained in treatment for almost two years. He subsequently failed in treatment, is 18 years old and is being considered for commitment to the State of Nevada for correctional or alternate placement. The cost of care was \$10,600 for detention only. Medicaid costs for Nevada were \$92,000. Total cost to the county and state was \$154,720, and he may still be committed to this state incurring further costs.

The second case is for Jesse, a 16-year-old youth, who was an adjudicated ward from the state of California. Jesse had a serious offense history going back to 1999. He absconded from supervision, left the state of California and fled to Nevada. This is a common occurrence since Nevada and California are border states. Jesse committed further crimes in Nevada including attempted grand larceny and burglary. He was not returned to the state of California because Nevada authorities held discussions with California authorities who indicated if they accepted the youth back, he would be placed in a group home. Nevada authorities felt he would simply run and return to Nevada. A community safety issue was the predominate factor in placing Jesse in a Nevada facility.

SENATOR BEERS:

For this case and the previous case, please explain how the proposed new contract would avoid what actually happened?

MS. BOWMER:

The new compact would be more strict and Nevada could enforce the regulations.

SENATOR BEERS:

Are California and Florida already signatories to the new compact?

Ms. BOWMER:

I do not know the status of Florida, but California is not.

SENATOR BEERS:

Then the new compact would not help Nevada with California cases?

Ms. BOWMER:

It would not assist with California cases until California becomes signatory to the new compact. If they chose not to sign, there would be issues as we are transitioning to the new compact with regard to how to function with states not signing to the new compact. They would not be provided the same services that signatory states would receive in terms of sanctions.

For the states that are signatory, Nevada would have the ability to enter into mediation, conduct conflict resolution and request imposition of sanctions on states that do not follow the rules of the compact. These actions could ultimately result in fines and court proceedings for states not in compliance.

SENATOR BEERS:

Did your testimony indicate services would be withheld for noncompliant and nonsignatory states? What services would be withheld?

Ms. BOWMER:

Perhaps denial of services was incorrect. States that are not signatory to the new ICJ would, perhaps, be required to enter into private contracts with Nevada before sending youth across state lines. There must be some method to address youth on parole and probation when sending them in and out of states. I do not see any states being left with no option to send youth to another state.

SENATOR BEERS:

In the California case you described, did the youth enter Nevada on his own volition?

Ms. BOWMER:

He ran from California. Nevada would probably have returned him to California had California agreed to do more than place him in a group home where the potential for him to commit new crimes was high. With the new compact, we would have the capability to enter into negotiations in terms of requesting something more than placing the youth back on the street.

CHAIR RAGGIO:

Has S.B. 43 been before the Senate Committee on Judiciary for policy decisions?

MR. MCLELLAN:

A hearing has been held before the Judiciary Committee and the bill was referred to this Committee.

CHAIR RAGGIO:

This Committee is primarily concerned with the fiscal impact of the new compact although we do have interest in your testimony.

SENATOR COFFIN:

Did the National Council of Juvenile and Family Court Judges testify on this bill before the Judiciary Committee? I am curious about their position on S.B. 43.

MR. MCLELLAN:

No, sir. The primary testimony was provided by the Division before that Committee.

SENATOR COFFIN:

I do not wish to impede the progress of the bill, but why does the new compact seem to be controversial in some states? I reviewed the history of the new compact and found Kansas passed the necessary legislation, but it failed in Florida in December of 2004. What are the issues creating problems for passage?

MR. MCLELLAN:

My understanding is some of the issues that may cause the compact to be controversial are based on the fact many of the regulations will be developed following passage. Some of the legislatures are hesitant to accept approval of something not hard and fast when it is presented to them. A great amount of development has occurred regarding wording and concepts. However, until the compact is fully accepted, none of the guiding rules and policies between the states can move forward. That is one of the issues.

The other issue is fiscal in nature, tied to what is perceived to occur. Some states may be looking at their level of compliance or noncompliance and how it might impact them when the new language becomes law.

SENATOR COFFIN:

If the Committee looks upon our action as being parallel to the other states, would you see a significant fiscal impact based on your projections?

MR. MCLELLAN:

The Division is certain about the limited fiscal impact as shown in the fiscal note. The State of Nevada endeavors to follow the rules as closely as possible and to comply with the existing compact, working closely with other states to mediate any disputes that may arise in terms of receiving or sending youths to other states.

SENATOR COFFIN:

Is your testimony that it has been 50 years since the compact has been revised?

MR. MCLELLAN:

That is correct.

CHAIR RAGGIO:

A similar bill, S.B. No. 242 of the 72nd Legislative Session was presented, but did not pass. At that time, the requested position indicated was for an administrative assistant and now you are requesting a Grade 37 position instead of a Grade 23 position, thus increasing the fiscal impact. The current position is titled a social services program specialist III. Why is the higher grade position necessary?

MR. MCLELLAN:

We are requesting the social services program specialist III because the complexity level of the position continues to expand. The person in this position must have administrative and professional work experience necessary to bring consistency between the ICJ and the ICPC. The incumbent in the position must have the ability to interpret laws and regulations, aid in the development of new policies and procedures related to the new compact and be the primary Nevada contact for dispute resolution between the other states.

CHAIR RAGGIO:

Why was that not true two years ago?

MR. MCLELLAN:

I am not certain why it was not requested in the previous Legislative Session. The analysis at this point suggests it would be prudent to recommend the social services program specialist III due to the complexity and the point of contact duties required.

CHAIR RAGGIO:

Until 35 states approve similar legislation, does the old compact remain in place?

MR. MCLELLAN:

That is correct.

CHAIR RAGGIO:

We are still operating under the old compact then, and if we did not pass S.B. 43, and 35 other states did not adopt similar legislation, would the old compact remain in existence?

MR. MCLELLAN:

That is correct.

SENATOR TITUS:

Why must an entirely new Nevada State Commission for Interstate Juvenile Supervision be created rather than administering the compact under the Division of Child and Family Services? Is it a requirement of the new compact?

MR. MCLELLAN:

It is a requirement of the new compact.

SENATOR TITUS:

Does this create yet another layer of government?

MR. MCLELLAN:

It is my understanding the creation of the Commission is to provide guidance from the different areas within state government for the operation of the compact within the state.

CHAIR RAGGIO:

Seeing no further questions or testimony, I will close the hearing on S.B. 43 and will open the hearing on S.B. 46.

SENATE BILL 46: Increases maximum assumed monthly wage of volunteer firefighters for purpose of contributions to Public Employees' Retirement System. (BDR 23-822)

SENATOR MIKE MCGINNESS (Central Nevada Senatorial District):
I am here in support of S.B. 46. I introduced the bill at the request of the Fallon Volunteer Fire Department.

Page 2, line 26, of S.B. 46 changes the highest amount of the assumed wage for volunteer firefighters from \$750 to \$2,000. That is the deemed wage for volunteer firemen. Local governments that have volunteer fire departments could authorize the deemed wage for their volunteer firemen up to \$2,000.

You have a letter of support from the City of Fallon/Churchill County Fire Board ([Exhibit G](#)). Both the city and county are in support of the bill.

Mr. Fred Rogne, First Assistant Fire Chief, Fallon Volunteer Fire Department, is with me today. Part of the reason for the bill is that the Fallon Volunteer Fire Department, through their dedication, has been rated an Insurance Services Office, Inc (ISO) 1-rated fire department. That is the highest rating possible. The volunteers have trained and the city and county have funded the fire department to obtain the best equipment. Mr. Rogne, when not volunteering as a fireman, is an insurance agent. He has indicated the volunteer fire department has saved the residents of Churchill County hundreds of thousands of dollars in insurance premiums. This is a way for the city and county to reward the volunteer firemen.

Mr. Robert H. Erickson, former city councilman, Mayor of Fallon and currently a lobbyist for the City of Fallon, is present to answer any questions.

ROBERT H. ERICKSON (City of Fallon):
I concur with Senator McGinness' remarks. We are extremely proud of our fire department in Fallon. An ISO-1 rating is difficult for any fire department to receive, especially a volunteer department. The men in the department make tremendous personal sacrifice to perform services to the community. Their families and employers also sacrifice. Many times fires occur while these people are working, and they must take time from work to serve the community.

A community the size of Fallon would not be able to afford expenditures in fire protection that would achieve an ISO-1 rating without the volunteer effort. The Mayor and the Fallon City Council are fully in favor of raising the wage limit and supporting our fire department.

CHAIR RAGGIO:
Would this affect all local entities? What is the fiscal impact on the state and on the Public Employees Retirement System (PERS)?

SENATOR MCGINNESS:
I will be candid with you. I am unsure what the affect would be. If there is an affect, it would be on PERS.

CHAIR RAGGIO:
Does the bill have a fiscal impact on the cities and counties?

MR. ERICKSON:

The bill, S.B. 46, is enabling legislation only, thus the fiscal impact would be the normal PERS premium for a firefighter and it would be enacted up to the \$2,000 limit by local entities.

CHAIR RAGGIO:

Enactment of the bill would be optional and would not be uniform across the state? Would it only be in effect if the local entity voted to enact it? Will they come to the Legislature and indicate the bill caused an unfunded mandate?

MR. ERICKSON:

The bill would not be uniform throughout the state. We have a good relationship with our firemen and they have never been unreasonable in asking for funding for the department.

SENATOR MCGINNESS:

I have never seen the language under the fiscal note on page 1 of S.B. 46 that states, "Contains unfunded mandate (\$1) (Requested by affected Local Government)." I would think, with that caveat, the bill should pose no problem.

BJORN (B.J.) SELINDER (Churchill County):

I too rise in support of S.B. 46. It has been approximately 18 years since the upper limit of the deemed wage has been adjusted. Our volunteers provide an invaluable service and from the standpoint of a grateful community, we need to be cognizant of the fact that everything rises in cost.

DANA BILYEU (Executive Officer, Public Employees' Retirement System):

The Committee has my written testimony ([Exhibit H](#)). The Public Employees' Retirement Board has taken a neutral position on S.B. 46 because it has no actuarial impact on the retirement system. Volunteers, who are covered under our act, are in the regular fund. The contribution is paid by the employer at the full employee/employer contribution rate of 21 percent. That percentage will remain the same in the coming biennium as well. There is no cost to the PERS other than the cost on the deemed wage which is paid by the local governments.

SENATOR BEERS:

I was under the impression there is a slight to moderate underfunding of the PERS actuarially into the future. Would that fact give rise to a fiscal impact to the PERS from S.B. 46?

MS. BILYEU:

The 21-percent contribution rate contains a component for repayment on the unfunded accrued liability of the program. If the deemed wage would rise to \$2,000, the amortization payment would be a percentage of the amount scheduled to be paid off over the course of time.

SENATOR BEERS:

Is it true that for current PERS contributions there is no unfunded liability?

MS. BILYEU:

There is an unfunded liability, but there is a percentage in the contribution rate making a payment on the liability that will be paid off over time. It is unfunded, but payments are being made.

SENATOR BEERS:

Am I correct in assuming, for any current PERS participant, their contributions are all fully funded and the long-term liability we face is from past underfunding?

Ms. BILYEU:

That is correct. The normal costs of the current benefits are paid for on a current basis each year as the significant portion of the contribution rate.

CHAIR RAGGIO:

I want to ensure that all cities, counties and districts that would be enabled under the bill are aware of the legislation and the fact the provision is optional. Please make sure that happens.

Seeing no further testimony I will close the hearing on S.B. 46 and open the hearing on S.B. 71.

Senate Bill 71 is legislation requested by the Interim Retirement and Benefits Committee. The Committee deemed the approval of the salary for the executive staff of the Public Employees Benefits Program to be redundant.

SENATE BILL 71: Removes requirement for approval of salaries of executive staff of Public Employees' Benefits Program by Interim Retirement and Benefits Committee. (BDR 23-86)

GARY L. GHIGGERI (Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

Senate Bill 71 is legislation that was requested by the Interim Retirement and Benefits Committee. The committee deemed the approval of the salary for the executive staff of the Public Employees Benefits Program to be redundant and not required because the salaries of that staff are included in the unclassified pay bill. Approval of this legislation would remove the requirement for the Interim Retirement and Benefits Committee to take action on salary of the executive staff.

CHAIR RAGGIO:

Those of us who have served, or are serving, on that Committee understand the requirement is redundant. The memo from the Fiscal Analysis Division ([Exhibit I](#)) explains the discussions before the Interim Committee and the reasons for the bill.

I will close the hearing on S.B. 71 and open the hearing on S.B. 89. This is a supplemental appropriation request by the Department of Human Resources.

SENATE BILL 89: 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)

ALEXANDER HAARTZ, M.P.H. (Administrator, Division of Health, Department of Human Resources):

I have provided my written testimony to the Committee ([Exhibit J](#)). The purpose of S.B. 89 is to provide a supplemental appropriation of \$521,620, to the

Department of Human Resources for maintenance of effort (MOE) under the federal Substance Abuse Prevention and Treatment block grant.

During the 72nd Legislative Session, the Legislature issued a Letter of Intent to the Health Division indicating action in the event the federal agency responsible for the block grant issued a negative ruling regarding how Maximus funds would be treated for the purposes of calculating the MOE requirement.

Fiscal Year 2004 was funded by Maximus through an Interim Finance Committee appropriation. There are no Maximus funds available currently. The Health Division is seeking a General Fund appropriation to meet the block grant requirement. All funding serves adolescent treatment with no portion reserved for administration of the program.

GREG WEYLAND (Health Program Manager, Bureau of Alcohol and Drug Abuse, Health Division, Department of Human Resources):
I am here to support my administrator and S.B. 89.

CHAIR RAGGIO:

Our staff research indicates the shortfall in the MOE was to be funded via Maximus funds from the director's office. Is that correct?

MR. HAARTZ:

That is correct, if Maximus funds were available.

CHAIR RAGGIO:

The research further indicated approximately \$260,000 of Maximus funds are still available and uncommitted. Have you discussed that with the director and made a request for appropriation for at least a portion of the amount needed from Maximus funds?

MR. HAARTZ:

I made a request on March 4, 2005; however, the Legislature has historically prioritized that funding. If the Committee chose to reallocate those funds to meet the needs of the MOE, that would be acceptable.

CHAIR RAGGIO:

Please provide the Committee with a recommendation concerning the appropriate funding source before we take action on S.B. 89.

MR. HAARTZ:

I will provide a recommendation at this time. Based on the conversation with the director's office, we would support moving the \$261,000 in currently unobligated Maximus funds to offset the General Fund request.

CHAIR RAGGIO:

Will that action cause consternation with the director's office?

MR. HAARTZ:

No, sir. Based on my conversation with him on March 4, 2005, he would be in support of that action.

CHAIR RAGGIO:

Would you be in support if the Committee amended S.B. 89 to provide for \$260,000 in revenue from Maximus funds and the remainder from the General Fund?

MR. HAARTZ:

Yes, sir. That is my understanding of what would occur.

CHAIR RAGGIO:

I hereby close the hearing on S.B. 89 and open the hearing on S.B. 92. This is a request for supplemental appropriation by the Department of Public Safety.

SENATE BILL 92: Makes supplemental appropriations to Department of Public Safety for unanticipated operating expenses of Nevada Highway Patrol and for dignitary protection. (BDR S-1193)

PUBLIC SAFETY

Public Safety, Highway Patrol – Budget Page PS-72 (Volume III)
Budget Account 201-4713

DAVE HOSMER (Chief, Nevada Highway Patrol, Department of Public Safety):

I am told by fiscal staff the first item of business on this bill is to enter into the record the correct amounts that are being requested. The amounts should be changed from \$755,414 to \$690,016 and from \$28,710 to \$38,000.

In budget account (B/A) 4713, our major area of concern is for fuel costs. We are requesting approximately \$375,000 to fund higher fuel costs. The price of fuel is much higher than the budgeted amount of \$1.20 per gallon. Had fuel been available for \$1.20 per gallon, the Nevada Highway Patrol (NHP) would have been within budget.

Maintenance costs are approximately \$137,000, above what was expected. It is our belief the reason is the NHP fleet is older and maintenance is higher than expected. The Chevrolet Impalas that were purchased approximately three years ago are experiencing a higher than normal occurrence of transmission failures. The Ford Crown Victorias have not had similar problems.

SENATOR MATHEWS:

What is the make and model of the unmarked car here in Carson City?

MR. HOSMER:

The vehicle you have seen may have been driven by one of the administrative staff.

SENATOR MATHEWS:

My concern is the public would be fearful of stopping for an unmarked car until they reached a police station. The windows are blacked out. The driver cannot be seen.

MR. HOSMER:

Unmarked vehicles are used primarily for commanders and administrative staff. If the vehicle is a Crown Victoria, the driver may be one of the majors. We try

not to take enforcement action from those vehicles, but we do try to slow people down to close to the speed limit.

We are projected to experience an overage in our telephone bills. In the current fiscal year, recruiting efforts have been enhanced and whenever recruitments are conducted, especially out-of-state, long-distance charges are incurred. Also, more two-way paging and use of cell phones between commanders, the sergeants, the troopers and dispatch have been used in an effort to reduce the amount of radio traffic. This process is used for lengthy transmissions.

The Supreme Court decision concerning evidence is projected to increase the toxicology costs involved with driving under the influence cases. We are requesting \$53,000 for those additional costs.

Another request is for an appropriation to cover the cost allocation of \$32,000. This request is part of the Motor Carrier Safety Assistance Program (MCSAP) federal grant. Until Nevada has a certified cost allocation plan, the Program will not cover certain costs. The appropriation request funds those costs not covered in the MCSAP grant.

Public Safety, Dignitary Protection – Budget Page PS-61 (Volume III)
Budget Account 101-4738

Budget account 101-4738 requests approximately \$5,000 for fuel and telephone costs. An additional \$5,000 is needed for in-state travel and approximately \$28,000 is needed for out-of-state travel.

MR. GHIGGERI:

Staff has reviewed the request and concurs with the requested increase of \$38,000 for dignitary protection. However, staff believes there are sufficient salary savings within the salary category to offset the other costs from the NHP budget. Our information indicated the agency does not require any salary adjustment funding and has approximately \$1.4 million in salary savings that could be used to offset the over \$600,000 operating shortfall.

MR. HOSMER:

The \$1.4 million only represents approximately 3.3 percent of salary costs. We are spending approximately \$800,000 on salaries and overtime each month.

CHAIR RAGGIO:

Mr. Mark Krompotic is the program analyst of the Fiscal Analysis Division for this budget. Please meet with him and reconcile the appropriation requests.

SENATOR MATHEWS:

Does the NHP pay the amount for fuel that is paid by the public or do you qualify for a bulk rate?

MR. HOSMER:

The NHP uses three or four different sources for fuel. The primary source is the NDOT, and even through that agency, we are paying approximately \$1.89 per gallon.

CHAIR RAGGIO:

I hereby close the hearing on S.B. 92 and open the hearing on S.B. 93.

SENATE BILL 93: Makes supplemental appropriation to Department of Motor Vehicles for unanticipated operating costs for Fiscal Year 2004-2005 in administrative services. (BDR S-1196)

DENNIS COLLING (Chief, Administrative Services Division, Department of Motor Vehicles):

MOTOR VEHICLES

DMV, Administrative Services – Budget Page DMV-8 (Volume III)
Budget Account 201-4745

Senate Bill 93 requests \$1,770,000 for unanticipated operating costs during FY 2005 in the Administrative Services Division of the Department of Motor Vehicles (DMV). The costs spurring the request for appropriation are directly related to the DMV's credit card costs. The DMV requests augmentation of B/A 4745 in category 12. These funds are used to pay fees associated with the use of credit cards and other electronic transactions throughout the Department. We allow and encourage use of credit cards in the mail-in processing, in over-the-counter transactions, transactions on the Internet, the Interactive Voice Response terminals, for users of the kiosks and renewals done through the emissions stations.

Our alternative methods of customer service continue to grow. We are serving larger segments of the public without their having to go to one of the offices and stand in line. We will continue to incur these kinds of costs whenever we use these types of payments. Just the number of those customers who use the DMV Internet services are the equivalent of having another fully-staffed and operational metropolitan office.

The use of credit cards exceeds any projections we have used to forecast expenses in the past. The growth rate in the current year is approximately 35 percent over comparable months in the previous year. Based on service during the first seven months of this fiscal year and continued usage, we estimate we will need approximately \$1,335,000 in this category. Using prudent fiscal management, I request the \$1,770,000 be reduced by \$300,000 to \$1,470,000.

CHAIR RAGGIO:

Do you have other resources to cover the difference if the appropriation request is reduced?

MR. COLLING:

I am projecting current growth will incur less than \$1,470,000 in credit card and electronic charges. If additional funding is available, we will consider using that funding.

CHAIR RAGGIO:

Your printing category is budgeted at \$678,000 and actual expenses are reflected as \$461,000. If the \$1,470,000 is insufficient, some of the other categories might be available. This service is a great accommodation to the public and speeds up transactions. The question is whether the state should have a \$1.5 million expense because the public is using credit cards for payment of governmental services.

Does the \$1,470,000 cover credit card costs for a one-year period? Will these funds only cover the budgeted shortfall?

MR. COLLING:

The DMV will spend almost \$3.8 million in FY 2005.

CHAIR RAGGIO:

The Department is requesting a budget of \$5 million in FY 2006 and \$6.2 million in FY 2007. Does that reflect the cost of the public making credit card payments?

MR. COLLING:

That is correct.

CHAIR RAGGIO:

Why is that a good practice?

MR. COLLING:

The policy is good for a number of reasons. The credit card access keeps a significant number of individuals from going to a DMV office to conduct their business. If brick and mortar buildings are built to accommodate the number of people represented by the credit card transactions, the costs are much greater. When property costs are approximately \$5 million to \$7 million in Las Vegas, add at least \$10 million to build a building, and operating costs of \$6,000 each year in today's financial situation, the credit card is a good deal.

In a subcommittee meeting, an alternative method of payment was discussed. There are other options than a direct appropriation. We discussed taking the actual costs off the top of funds collected and have every entity collected from pay a portion of the costs. This option needs a policy decision because other agencies will likely move to electronic methods in the future. Forms of electronic payment include credit card, e-check and debit card, some of which are significantly less expensive.

SENATOR COFFIN:

What contract rate is the state currently paying for credit card services?

MR. COLLING:

The state is paying 1.82 percent, plus miscellaneous charges at approximately 0.1 percent, for MasterCard and Visa. For Discover, we are paying 1.60 percent and for American Express we are paying 2.35 percent.

The DMV is currently in a request for proposal (RFP) process through the Purchasing Division for MasterCard and Visa. Those two cards represent approximately 85 percent of the DMV credit card usage.

SENATOR COFFIN:

An element of risk for the credit card company is built into credit card rates. At times credit card companies experience uncollectible debts. That is likely a lower risk when used for payment of an automobile registration fee compared to charges incurred at a retailer for consumable items.

The first step appears to be canceling the contract with American Express. Only a few retailers use their services. Any person who carries an American Express

card will likely also carry one of the other three major credit cards, so the public should not be inconvenienced.

Have you considered adding 2 percent to the cost of a transaction for the customer who wants to use credit card payment? The state is not a retailer. We provide a service for which the customer can pay cash or make a debit payment. Is there a charge for debit card transactions?

MR. COLLING:

A small amount of approximately 20 cents for each debit card transaction is charged.

SENATOR COFFIN:

Perhaps the state should encourage the use of debit cards for transaction payments.

SENATOR BEERS:

In the subcommittee hearing, you spoke about rewriting a clause in the contract that prohibits the state from charging a premium amount on credit card usage to the consumer. Could you update the Committee on the progress of that change?

MR. COLLING:

In the RFP, a specific question addresses the contractual language that does not allow the state to charge for use of a credit card. Other language in the proposal attempts to address a number of issues raised by the DMV.

Specifically, we have asked language to be included about the low-risk rating experienced in state transactions. We have asked for the standard rate credit card that companies provide. We noted, of the tens of thousands of transactions done at DMV offices weekly, only one or two instances of true fraud occur. There are probably less than one dozen transactions each year of actual fraud.

SENATOR BEERS:

Your subcommittee testimony also addressed the fact that credit card companies are just beginning to understanding that conducting business with government is different than conducting business with a retail operation.

MR. COLLING:

That is correct. The idea of governments accepting credit cards as payment for taxes, fees and penalties is relatively new. The concept has been spreading slowly throughout the country over the last decade. As an example, we conducted a survey to try to determine the cost benefit to the state when individuals switched from credit cards to an e-check. We could only find two other DMV's in the country that had been accepting credit cards and later allowed the use of e-checks.

The average transaction cost for use of a credit card is \$4, or 2 percent on a \$200 transaction, but if an e-check or debit card were used, the cost to the state would be 20 cents. The difference is significant. On March 13, 2005, the DMV will allow use of the e-check format incrementally on the Internet platform. We will start the transfer from the use of credit cards within the

month. It will be transitioned to the kiosks and we envision e-checks being used at service counters in the future.

CHAIR RAGGIO:

Is the requested appropriation used exclusively for costs involved with electronic payments?

MR. COLLING:

Yes, sir.

CHAIR RAGGIO:

Would you have any objection if S.B. 93 were amended to specifically state the funds could only be used for electronic payment costs?

MR. COLLING:

No, sir.

CHAIR RAGGIO:

Hearing no further testimony or questions, I will close the hearing on S.B. 93 and open the presentation from the Department of Personnel (DOP).

Let me indicate to the Committee, the reason for this presentation. As we have been hearing the various budgets, we have noticed the amount of change requested in almost all budgets concerning positions in the unclassified service and others that are being recommended for transfer from classified service to unclassified service.

Preliminary comments have been heard, but the Committee needs a full understanding of the process, reasoning and the effect of the proposed unclassified service change. In the course of this query, there have been comments from individuals and Committee members concerning the impact on those individuals who would be transferred from classified service to unclassified service.

For the Committee to make a value judgment on the proposal, it is essential that members have a full understanding of how the proposal was generated. In the past, the system has been less than perfect concerning unclassified salaries. The Legislature has not had a perfect method on this issue. We have looked at the unclassified salary list, over many years, and tried to make appropriate adjustments.

JEANNE GREENE (Director, Department of Personnel):

To provide the Committee with background on the study, the Governor established a Personnel task force in 2001. The members of the task force are listed on page 1 of [Exhibit K](#), titled Development of the Proposed Unclassified Service. The task force meets on a periodic basis and discusses the personnel system, what problems the agencies are experiencing with the system and what is helpful to the agencies.

One of the recommendations by the task force was to establish consistency in unclassified positions. There is inconsistency under the current system. The task force felt certain salary criteria should be developed allowing comparable positions to be paid an equitable salary across department lines.

Page 3 of [Exhibit K](#) begins a chart of position titles the task force felt should be included in the unclassified service. The chart indicates there are currently 21 department directors who are all in the unclassified service. The proposal would have no effect on that classification.

As one moves down the chart to the position of deputy director, division administrators and others, it is evident there is no consistency in whether the position is classified or unclassified.

As an example, in the division administrator classification within the Department of Administration there are five division administrators. Three are classified and two are unclassified. That illustrates the departments are experiencing inequities within their own staff.

Pages 4 and 5 of [Exhibit K](#) contain additional position classifications the task force felt should be in the unclassified service.

CHAIR RAGGIO:

Under the classification of bureau chief, nearly all of the current positions would need to be changed.

MS. GREENE:

There are 12 positions currently unclassified and 68 are in the classified service. We are recommending all 80 be placed in the unclassified service.

CHAIR RAGGIO:

Is that true of the executive assistant classification as well?

MS. GREENE:

Yes, the executive assistants represent a major change. The executive assistants are confidential secretaries to the department directors, otherwise known as cabinet members. The justification for that change was that when a department director is appointed, they should have the option of appointing their assistant without going through the civil service process of recruitment, testing and hiring from the top five candidates.

CHAIR RAGGIO:

Can we look further down the list? Please explain the public information officer positions. Are all but one position currently in the classified service?

MS. GREENE:

That is correct.

CHAIR RAGGIO:

Are all the positions, listed on the chart, recommended for transfer to the unclassified service?

MS. GREENE:

Yes, sir.

CHAIR RAGGIO:

Please explain the classification of doctoral professional.

MS. GREENE:

Doctoral professionals are classified, but their salaries are included in the medical pay bill. The Legislature already establishes their salaries. These are medical doctors such as psychiatrists. The classification does not go down to the doctor of philosophy or psychologist level.

CHAIR RAGGIO:

What about the classification of highly-skilled professionals?

MS. GREENE:

Approximately one-half of the current positions are classified and the other half are unclassified. Those are positions that do not fit in the classified system and are difficult to recruit. They need to be identified and paid a higher salary.

CHAIR RAGGIO:

Perhaps the biggest issue with the individuals affected by the proposed changes is that of the capability of being terminated. How has that been addressed and what has been the reaction from the various classifications impacted?

MS. GREENE:

If these individuals are transferred into the unclassified system, they would be considered at-will employees. They would not have the right to appeal a termination. I have met with the State of Nevada Employees Association (SNEA) and the Teamsters and other employee organizations. They indicated no problems with the concept of what is proposed. They have asked that currently classified employees be given the choice of remaining classified or transferring to the unclassified service. When the position is vacated, it would then be converted from classified to unclassified service.

CHAIR RAGGIO:

There appears to be salary increases included with many of the requests to transfer positions from the classified to the unclassified service.

MS. GREENE:

We established a tier system. Salaries were assigned to a tier where the majority of classifications fell into to avoid a significant fiscal impact. There are certain positions that are receiving an increase because the task force felt their job duties had changed substantially. There are a few positions for which the salary will be reduced. Those individuals' salaries will be frozen as long as they are in the position. That has been built into the budget.

CHAIR RAGGIO:

The suggestion has been made that those individuals who are affected and are concerned about the "at will" situation would retain their classified status until they left that position.

MS. GREENE:

Those individuals would be given the option of transferring to the unclassified service or remaining in the classified service. That option is currently being considered by the Governor.

SENATOR MATHEWS:

Is there ever a time when a salary is reduced?

MS. GREENE:

There are a few positions where salaries will be adjusted downward. In those cases the salaries will be frozen, but individuals will still receive cost-of-living increases. The individuals will not be harmed in any way as long as they stay in the position.

SENATOR MATHEWS:

What is the average percentage rate of salary reductions?

MS. GREENE:

There is one position that would be reduced 20 percent. Most of the positions would be slightly reduced by 1 or 2 percent.

SENATOR MATHEWS:

During the recent impeachment hearings in the 21st Special Session, those people testified they had no protection through appeal rights. Before a number of positions are transferred to the unclassified service, there needs to be legislation to provide individuals protection through appeal rights. In the case of the Controller's Office, those people were ignored by the DOP. I am concerned because the task force proposal asks for a total of 512 positions to be transferred to the unclassified service.

MS. GREENE:

I know what was said in testimony, but the DOP did not ignore those individuals. The individuals would not have formal appeal rights. If they felt they had been discriminated against, there is a discrimination investigation unit that looks at those situations, whether they are in the classified service or not. The unit also investigates discrimination complaints by private citizens against a state employee. Whistleblower rights are also available to unclassified employees. There is proposed legislation that may extend their rights.

SENATOR MATHEWS:

At this point, those people have no rights.

MS. GREENE:

They have whistleblower rights.

SENATOR MATHEWS:

The testimony I heard was they did not even have those rights. No one paid them any attention. I am concerned about the employees' protection, and at this point they only have minimal protection.

MS. GREENE:

For those employees falling under the Governor's jurisdiction, approximately 99 percent of the state employees may appeal to the Governor's Office to request intervention in addition to the whistleblower rights found in legislation.

SENATOR MATHEWS:

It appears you ask the employer if they are treating their employee unfairly. There is no intervention. As an employer, I sign the paycheck and I do the interviewing. If the employee comes to me to tell me they are being mistreated, I will review the situation, but I may decide the situation is minor. Employees should not have to go to the person against whom they are making a complaint to receive their rights. An outside body needs to make that determination.

MS. GREENE:

Page 6 of [Exhibit K](#) begins a chart of the salary tiers proposed by the task force for the unclassified service recommendations. These tier levels are based on size, complexity, diversity of their programs and the impact to the state and its citizens. Salary tier 1 includes the directors of the largest and most complex departments such as the Department of Human Resources, the Department of Motor Vehicles and the Department of Corrections. Salary tier 5 would include my position because it is a small program in comparison to the others.

The tier system will reflect certain salary increases. We looked at the positions and determined their level, based on like positions, across the Executive Branch.

SENATOR MATHEWS:

I agree with the increases, but I would like to see a comparison of when other employees are being asked to take a 2-percent decrease. Is there a way to determine that in writing? What would the increase be for your position?

MS. GREENE:

My position will receive a 1- or 2-percent increase.

SENATOR MATHEWS:

Please provide the requested information on all the classifications.

CHAIR RAGGIO:

Staff has indicated that the memo and attachments dated March 7, 2005, ([Exhibit L](#)) provides the comparison and percentage rates for all positions.

Do you have an exhibit to show which departments are in each tier?

MS. GREENE:

The chart beginning on page 1 of [Exhibit K](#) provides that information by salary tier, and the departments are indicated under the various director salary tiers.

CHAIR RAGGIO:

Tier 1 indicates departments with many divisions and large staff. Are others shown under tier 2 or tier 3?

MS. GREENE:

That is correct.

CHAIR RAGGIO:

Please provide a list, by departments, indicating the salary tier in which that director would be classified.

MS. GREENE:

I will provide that information to the Committee. As an example, tier 1 includes: the Department of Administration, Department of Business and Industry, Department of Conservation and Natural Resources, Department of Corrections, Department of Employment, Training and Rehabilitation, Department of Human Resources, Department of Public Safety, Department of Taxation and the Department of Transportation.

CHAIR RAGGIO:

Was size of the department and the number of divisions used as the criteria for determining tier levels?

Ms. GREENE:

That was part of the equation. We also looked at the complexity. The Department of Taxation is included, although they are not a large department. When we looked at the impact to the citizens of the state, we felt it was significant enough to qualify for the tier 1 salary range.

CHAIR RAGGIO:

There are some departments where the necessary qualifications for director would be much different than a director of a comparable-size department. How did you accommodate those situations?

Ms. GREENE:

We considered qualifications with regard to whether the position required licensure, if the position was an engineer, architect, doctor or similar fields.

CHAIR RAGGIO:

Did the task force consider experience levels?

Ms. GREENE:

Experience was also considered, but the primary focus was on the responsibilities and complexities required of the position.

CHAIR RAGGIO:

A situation comes to mind where recruitment was from a private sector position in a highly-qualified position and would not have the incentives to attract that individual. That has been an ongoing problem in state service.

There has also been discussion about a new Governor being elected and changing all the department directors. In my observations, attracting qualified applicants is one of the toughest challenges for a new Governor.

Ms. GREENE:

Most desirable candidates from private industry can earn larger salaries outside of the state system because of our established salary ranges.

The salary for a tier 1 director is proposed at \$113,500. It is not competitive when recruiting from private industry. The task force tried to keep positions within a 95-percent range of the Governor's salary, but \$113,500 is slightly above the 95-percent level. The tier 2 salary level of \$111,000 reflects compaction. That range is proposed for two positions within the Department of Transportation. Their subordinates received a 10-percent salary increase during the last Legislative Session causing the subordinates to earn more than the unclassified deputy directors. The tier 2 range attempts to correct that situation.

CHAIR RAGGIO:

What methodology was used to determine the salary tiers?

MS. GREENE:

The task force attempted to group like positions. The salaries attached to the tiers reflect the current salary range of a majority of individuals in those positions.

CHAIR RAGGIO:

Are the salaries reflected in [Exhibit K](#) the maximum salary levels for each tier? Are these the salary levels requested in the *Executive Budget*?

MS. GREENE:

Those are the salaries shown in the budget.

CHAIR RAGGIO:

These are not necessarily the current salaries of individuals holding certain positions?

MS. GREENE:

That is correct.

Initially, the constitutional officers, or some of the larger boards and commissions, were not included in the salary survey. At the request of the Assembly Committee on Ways and Means, we have questioned those groups. Some have opted to become a part of the salary survey and that information is being provided to the Budget Division today.

SENATOR BEERS:

I see two components within the survey. One is the component of individuals within state service who have like duties. If that were the case, why did you not use a salary structure that was revenue neutral and adjust the components within which result would be no fiscal effect?

MS. GREENE:

We attempted to use that method, but in the study we found many positions that were comparable with regard to job responsibilities, but salaries were varied. We felt it was necessary to bring all salaries into the same levels.

SENATOR BEERS:

Why not adjust the salary you equalized the positions to, to a figure that would make the request revenue neutral?

MS. GREENE:

More positions would require a reduction in salary and a few would still require an increase in salary. Our state salaries are not competitive with private industry and local government salary ranges. If salaries were decreased, recruitment efforts would be hampered.

SENATOR BEERS:

Salaries are comparable with the private sector, particularly when benefits are included.

MS. GREENE:

Even in comparison to the private sector within Nevada, Executive Branch salaries are lower. It is difficult to compare benefits to the private sector because the private sector has different benefits like 401Ks and others. State

employees have the option of deferred compensation, but the state makes no contribution to that benefit. It is totally by employee contributions.

SENATOR BEERS:

Do you know what percentage of private sector employers contribute to deferred compensation?

MS. GREENE:

I do not have that information. I do know the contribution rate for certain industries.

CHAIR RAGGIO:

In past years, surveys have been done comparing state salaries to other public sector salaries. What is the date of the most recent survey?

MS. GREENE:

The DOP completed a survey in the fall of 2004. State employees, in that survey, were compensated 20 percent less.

CHAIR RAGGIO:

Was that survey against public sector salaries within Nevada?

MS. GREENE:

The survey looked at both public and private sectors.

CHAIR RAGGIO:

Where can that survey be found?

MR. GHIGGERI:

Staff will provide additional copies of the survey for the Committee.

SENATOR MATHEWS:

Please provide a list showing how many individuals in tiers 1 through 5, of the proposal in [Exhibit K](#) are minorities.

MS. GREENE:

I will provide the information to you.

SCOTT MCKENZIE (Executive Director, State of Nevada Employees Association, American Federation of State, County and Municipal Employees [AFSCME] Local 4041):

Our union is mostly neutral on the unclassified pay proposal. We are concerned that individuals in the listed positions should have the option to be grandfathered in as classified employees at their request. This proposal represents a substantial change in their employment conditions.

Three individuals have contacted our office in opposition to the transformation on both personal and professional levels. Those individuals are in the positions of archivist, an education and information officer and the Public Health Division epidemiologist, who have all expressed individual opposition to transfer into the unclassified service. They also oppose having their classifications generally moved to the unclassified service. That is a small number in opposition considering the number of classifications being considered for change.

CHAIR RAGGIO:

Do they still feel it is inappropriate if they are given the option to remain in classified service?

MR. MCKENZIE:

The option increased their comfort level, but those individuals were adamant the position classifications should remain classified. The archivist felt the information he is responsible for could become political and felt the individual responsible for those functions should be in classified service.

The epidemiologist felt there could be pressures from the private sector regarding information he would be required to report to the public. His example was if a hotel restaurant had a food problem that required reporting, there could be pressures to silence him. Overall, considering the number of classifications involved in the proposal, those would be minor adjustments.

SENATOR TITUS:

In the past, when the unclassified pay bill was heard, there seemed to be considerable debate with regard to personalities of individuals. Is there a fear that feeling might increase when so many positions are placed in the unclassified service?

MR. MCKENZIE:

I have heard similar comments. We have not had that feedback up to this point.

CHAIR RAGGIO:

The proposal is designed to avoid that situation as much as possible and the Legislature helped to create an imperfect approach to the unclassified service.

SENATOR COFFIN:

I am surprised to see the SNEA/AFSCME testify neutrally on this issue. This situation seems to break down the protections of civil service from political pressure even further. Using the option to remain in classified service in individual cases seems self-serving to me. The classification changes will extend to future employees. The classified service was created in response to political corruption during the early Twentieth Century. I am concerned about expansion of the unclassified service. The human condition has not changed in the past 100 years.

MR. MCKENZIE:

I agree with your comments. I will illustrate our position with an example. Wardens are in the classified service. Our organization represents many individuals who work for the wardens. Often we represent individuals in discussions with their supervising warden and we find ourselves in the situation where we represent management and the employee at the same time. That is an awkward position. We understand there is a need to change the current situation, although we have the same concerns expressed by Senator Coffin.

GLORIA DOPF (Deputy Superintendent for Instructional, Research and Evaluative Services, Department of Education):

I am appearing on behalf of Dr. Keith Rheault, Superintendent of Public Instruction, Department of Education. Dr. Rheault has gone on record, with the Executive Branch, that the Department of Education does not support our inclusion in the unclassified expansion.

At the current time, there are three unclassified positions: the superintendent of public instruction and the two deputies, including my position. The next level within our Department is the directors, and then the professional staff known as consultants. The final level is the support staff. The directors are currently in the classified system and the Department feels it is critical for those positions to remain in that classification as well as the executive administrator. Because of the flat structure within the Department, the director level is essentially the major level of promotion for the professional staff consultants. Consultants aspire to those positions and provide them with longevity of service. Their other option would be to seek employment outside the Department in the school districts. If the positions are transferred to the unclassified service, the serendipity and the ability for them to be removed if and when the superintendent and two deputies are removed would create a disincentive for consultants to seek employment at the director level.

The amount of proposed salary increase is 3 percent, but that does not offset the loss of overtime and other accrual of time available within the classified service. This also becomes a disincentive.

The structure of the Department is somewhat unique, in that we are under the jurisdiction of an elected board – the Board of Education. Technically, we are not akin to other agencies under the jurisdiction of Department of Administration or the Governor's Office. Our closest counterpart is the University and Community College System of Nevada that serves under the elected Board of Regents. They were not included under the unclassified service recommendations.

We respectfully request the Committee to consider our concerns. Dr. Rheault has sent correspondence to the Department of Administration and the Governor's Office addressing these concerns.

CHAIR RAGGIO:

How many positions within the Department of Education are designated to transfer from the classified to the unclassified service?

Ms. DOPF:

Nine additional staff members would be affected.

CHAIR RAGGIO:

Please provide the Committee with an analysis of what the difference would be if the salary was increased, but the benefit was offset by loss of overtime benefits based on historical records.

Ms. DOPF:

We would be happy to provide that information. Another major concern is the impact on the program and continuity.

SENATOR TITUS:

Your point concerning job advancement in state service, I am sure, applies to many other agencies as well. If those options are taken away by the proposal, it would create major disincentives for state service.

Ms. DOPF:

I can speak from personal experience. I have worked for the Department of Education for 27 years and have only recently considered and accepted an unclassified deputy position. I am raising four children and I could not afford, during that period, to be at the serendipity of a new administration that would suddenly decide they wanted someone else in the position. I stayed at the director level until recently, although I could have been considered for a deputy position earlier in my career. Although my salary has increased, I have lost the ability to accrue compensatory time, so the advancement has not been a financial benefit. I made the choice for other reasons.

FELICIA ARCHER (Concerned State Employee):

I am not appearing on behalf of the Nevada Department of Transportation (NDOT). I am an unclassified employee. I have tried to find information on the unclassified pay proposal and while certain individuals have been helpful, the process has been difficult. I read about the proposal in the newspaper. I made calls to find out if it would impact my position and learned it would.

My concern is that I only know what I read in the newspaper which indicated part of the reason for the proposal was to improve performance. Performance measures are a valid tool in employment. I have heard no testimony today to indicate performance measures were a part of the considerations by the task force.

Many individuals will be transferred to the unclassified service under the proposal. My concern is whether there will be accountability once the positions are transferred. Will employees be assured they will be judged by performance measures and not political agendas? I have heard political agendas brought forward in testimony today.

I have many other concerns which I will e-mail to the Committee in the interest of time. As an unclassified employee for three years, I made my choice with the risks addressed by Ms. Dopf; it appears to me that my position is one of the positions having a potential for a decreased salary under the proposal. I understand and appreciate the option that I may have for salary retention.

I have not been given an employee appraisal in the last three years. There is no job description for my position. There are no work performance standards; therefore, I may personally be in an acceptable position under the changes.

My concern is to echo some of the testimony today. Is it in the best interest of the State of Nevada? I hope in your discussions you consider whether we are moving toward something that is best for the citizens, the employees and the employer.

CHAIR RAGGIO:

I am particularly interested in Ms. Archer's comments that she has had no job description, work performance standards or employee appraisals in three years of service. Is that an unusual situation?

Ms. GREENE:

The DOP regulations do not apply to the unclassified service. There are particular regulations for the classified service that require all employees to have

work performance standards and to be evaluated. Those regulations do not extend to the unclassified service.

CHAIR RAGGIO:

Are there no job descriptions in the State of Nevada for employees in the unclassified service?

Ms. GREENE:

Most of the departments have job descriptions for their positions. The DOP does not retain those descriptions, but the departments establish and retain them.

CHAIR RAGGIO:

Please assist the Committee to determine what departments have job descriptions for their unclassified employees and what they contain.

Ms. GREENE:

What specific information would the Committee like to see?

CHAIR RAGGIO:

It is my opinion, whether you are in the classified or unclassified service, a job description should be provided.

Ms. GREENE:

I am aware there are job descriptions for most unclassified positions. When the task force was drafting the proposal, we visited the departments to obtain information concerning their positions and some types of job descriptions were provided.

CHAIR RAGGIO:

I am not chiding the DOP, but based on Ms. Archer's testimony, I would like the Committee to be aware to what extent there are applicable and adequate job descriptions for the unclassified service. I understand this is not a function of the DOP.

Ms. GREENE:

I would be happy to contact the agencies for the Committee.

Some of the testimony today indicated a fear of being at-will employees. When the task force reviewed the 2004 turnover rate for classified employees, the rate was approximately 8 percent. For unclassified employees, the rate was 6.8 percent which would seem to indicate the turnover rate for unclassified employees is lower than that for the classified service.

CHAIR RAGGIO:

I do not personally recall any egregious termination of an unclassified employee, but that is the concern.

SENATOR TITUS:

The turnover was studied in a year when there was no change in Governor. That is not a valid comparison. There is typically a big sweep when a new Governor is elected or the political party of the Governor is changed.

MS. GREENE:

The task force looked at the year in which Governor Guinn took office. There were not many changes. The DOP did not capture turnover rates at that time for the classified and unclassified services.

CHAIR RAGGIO:

I hereby close the hearing on the DOP presentation.

Senate Bill 46 was heard this morning. It is a bill to change the deemed wage for local volunteer firefighters. Testimony indicated the impact to cities, counties or districts is optional. I will entertain a motion on this bill.

SENATOR MATHEWS MOVED TO DO PASS S.B. 46.

SENATOR COFFIN SECONDED THE MOTION.

SENATOR COFFIN:

We have not heard from certain counties, particularly Douglas County, which might be affected by the bill according to the fiscal note. The pressure will be for those counties to move to the new rate. If the bill is truly enabling legislation, it should not pose a problem.

CHAIR RAGGIO:

Testimony indicated S.B. 46 was only enabling legislation and would only pose a fiscal impact if a county or other group chose to enable the provisions of the bill.

THE MOTION PASSED UNANIMOUSLY.

CHAIR RAGGIO:

Senate Bill 71 is recommended by the Interim Retirement and Benefits Committee.

SENATOR COFFIN MOVED TO DO PASS S.B. 71.

SENATOR TITUS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

CHAIR RAGGIO:

Senate Bill 93 is requesting a supplemental appropriation for electronic payment costs within the DMV. The appropriation requested has changed, so this bill must be amended.

MR. GHIGGERI:

Staff would recommend the amount be \$1,400,000 and that the language in the legislation be changed to reflect the funding would be used for electronic payments.

SENATOR BEERS MOVED TO AMEND AND DO PASS S.B. 93 WITH THE AMENDMENT LANGUAGE SUGGESTED BY STAFF.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR RAGGIO:
There being no further business to discuss at this time, I will now adjourn the meeting at 10:05 a.m.

RESPECTFULLY SUBMITTED:

Cindy Clampitt,
Committee Secretary

APPROVED BY:

Senator William J. Raggio, Chair

DATE: _____