

**MINUTES OF THE  
JOINT SUBCOMMITTEE ON HUMAN RESOURCES/K-12  
OF THE SENATE COMMITTEE ON FINANCE  
AND THE ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-third Session  
March 25, 2005**

The Joint Subcommittee on Human Resources/K-12 of the Senate Committee on Finance and the Assembly Committee on Ways and Means was called to order at 8:03 a.m. on Friday, March 25, 2005. Chair Barbara Cegavske presided in Room 3137 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.

**SENATE COMMITTEE MEMBERS PRESENT:**

Senator Barbara K. Cegavske, Chair  
Senator William J. Raggio  
Senator Dina Titus  
Senator Bernice Mathews

**ASSEMBLY COMMITTEE MEMBERS PRESENT:**

Ms. Sheila Leslie, Chair  
Mr. Mo Denis  
Mrs. Heidi S. Gansert  
Ms. Chris Giunchigliani  
Ms. Valerie E. Weber

**COMMITTEE MEMBERS ABSENT:**

Mrs. Debbie Smith (Excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman David R. Parks, Clark County Assembly District No. 41

**STAFF MEMBERS PRESENT:**

Steven J. Abba, Principal Deputy Fiscal Analyst  
Gary L. Ghiggeri, Senate Fiscal Analyst  
Mark Krmpotic, Senior Program Analyst  
Larry L. Peri, Senior Program Analyst  
Carol Simnad, Committee Secretary

**OTHERS PRESENT:**

Michael Torvinen, CPA, Administrative Services Officer, Director's Office,  
Department of Human Resources  
Steven G. McGuire, State Public Defender, Office of the State Public Defender  
Jamie Rodriguez, Budget Analyst, Budget and Planning, Department of  
Administration  
Michael J. Willden, Director, Department of Human Resources  
Charles Duarte, Administrator, Division of Health Care Financing and Policy,  
Department of Human Resources

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Ms. Liveratti, Deputy Director, Department of Human Resources  
David R. Gamble, District Court Judge, Ninth Judicial District Court, Douglas  
County  
Dan Musgrove, Clark County  
Alexander Haartz, MPH, Administrator, Health Division, Department of Human  
Resources  
Dr. Jerry Cade, M.D., Director, University Medical Center HIV Wellness Program

CHAIR CEGAVSKE:

We will now call the Joint Subcommittee on Human Resources/K-2 meeting to  
order. We would like to open budget account 101-1499, the Public Defender's  
budget account.

HR, Public Defender – Budget Page PUB DEF-1 (Volume II)  
Budget Account 101-1499

MR. TORVINEN, CPA (Administrative Services Officer, Director's Office,  
Department of Human Resources):

With me is Mr. Steven G. McGuire, the State Public Defender. The State Public  
Defender provides legal defense services to indigent people who have been  
accused of crimes. The services are provided to both adults and children in  
seven rural counties throughout the state and to Nevada's prison population.

Those counties with populations under 100,000 provide for their own public  
defender, contract with private counsel to provide the public defense services or  
participate in the State Public Defender's services. A recent audit issued by the  
Division of Internal Audit concluded the state level was the appropriate place to  
provide these services.

The cost of the services, with the exception of post-conviction relief, is split  
between the counties and the state. The current budget is calculated at an  
approximate 49-percent contribution from the state and a 51-percent  
contribution from the counties. The 49- to 51-percent split is a change from the  
last biennium. It is based upon estimates of the time spent by attorneys on case  
work and estimates of the number of state versus county cases.

Per statute, the post-conviction relief services are to be paid 100 percent by  
state General Funds. Again, staff discovered there is a mapping error in the  
budget. To correct that funding error, we need to shift approximately \$400,000  
per year from county fees to General Fund.

CHAIR CEGAVSKE:

Could you tell us about the activities in the office and why those activities  
should be funded by General Funds versus county funds? Can you tell us how  
you determined the 49-percent state contribution?

MR. TORVINEN:

Essentially, it has been a historical estimate. It has not changed much over the years. We changed it this year in the *Executive Budget* phase. It is based on general estimates which Mr. McGuire makes as he looks at assignments by the 12 attorneys in the office. There is a split between the county and state. That estimate generates the 49- to 51-split and has been applied to every category except the post-conviction relief which is to be funded 100 percent by General Funds.

CHAIR CEGAVSKE:

How did we miss this twice?

MR. TORVINEN:

I do not know. I reviewed the fund map in the *Executive Budget*. It was coded 100-percent General Fund. I thought it was fine. When we looked at the budget, when it was sent over for review, I missed it. I reviewed the *Executive Budget* as it stands today. It was obvious to me when I looked at it then. I apologize, but I missed it.

CHAIR LESLIE:

I would like to know more, and maybe this is a question for the public defender, about your method of determining what should be paid by the General Fund and what should be paid by the counties. Mr. Torvinen said there is a historical, general feeling about it. Should we not have received documentation which shows where the attorneys are working and how the funding should be split?

STEVEN G. MCGUIRE (State Public Defender, Office of the Public Defender):

When I came on board, the funding mechanisms were split. We end up with a lot of work out of the cases arising from the Ely State Prison. We currently have two murder cases there, both of which started as death penalty cases. One of the cases is being handled by my chief trial deputy and one by myself.

CHAIR LESLIE:

Can you provide your analysis to the staff? We will look at it to determine how to divide the money. Just because it feels like the 49- to 51-percent split is right, that is not good enough. We need to see the real facts.

MR. TORVINEN:

We would be happy to do that. The budget is essentially the adjusted base with a request for laptop computers for the attorneys which will allow them to take their computers to court and have documentation with them.

SENATOR RAGGIO:

I want to ask staff if the Budget Division submitted an appropriate amendment to the budget? I believe the numbers are for fiscal year (FY) 2006, \$397,053 additional and \$397,510 for FY 2007 which is about \$800,000. Have we received an amendment for this budget?

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JAMIE RODRIGUEZ (Budget Analyst, Budget and Planning, Department of Administration):

We are prepared to submit a budget amendment for this budget account. We are waiting for additional information from the Legislative Counsel Bureau (LCB) on other issues to submit the whole package together.

SENATOR RAGGIO:

As Chair of the Senate Committee on Finance, we need to receive a formal amendment instead of receiving documentation in the form of bits and pieces or in the form of an e-mail. The amendments need to be formalized and we need them as soon as practical. This is an example of a large amendment, almost \$1 million.

MR. RODRIGUEZ:

I understand your frustration. We are waiting for additional information from LCB to finalize this matter so we can put the amendments all in one package.

SENATOR RAGGIO:

Sometimes that is not the best way. This shortfall has been known, so I am just telling you, in this short-term session we need to have the amendments as soon as possible in a formal manner.

CHAIR CEGAVSKE:

You will work with staff on that?

MR. RODRIGUEZ:

I will.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Please clarify what you just said. What about LCB?

MR. RODRIGUEZ:

From my understanding, there are a couple of other amendments coming through.

ASSEMBLYWOMAN GIUNCHIGLIANI:

I am not calling them amendments any more. They are change orders as far as I am concerned. What do you mean a couple more? We have already received approximately 50 amendments.

It makes our staff work twice as hard to do the job that the Budget Division should have done before we even came here for session. So, carry that message back as well.

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MR. RODRIGUEZ:

Again, I understand your frustration. We are working as diligently as we can to get you those amendments. We are making sure the budget is as accurate and detailed as possible.

ASSEMBLYWOMAN GIUNCHIGLIANI:

In the last four years, the budgets we have had to deal with have been sloppy and ill prepared. We have had, in the last two sessions, more change orders than I have seen on any construction project for any school district in this state. Our staff has 120 days for us to be able to process this. We cannot make the right decisions without complete information.

SENATOR RAGGIO:

Regarding your post-conviction relief expenditures, staff has sorted this out for us. Can you explain the large increase which occurred in the amount for post-conviction legal services? In FY 1999, it was \$246,000, while in FY 2004, it is almost \$800,000. I know we increased the hourly rate for attorneys which is appropriate. Is there some other explanation for that kind of an increase? Is there that much more activity? What is occurring?

MR. TORVINEN:

We have not performed a sophisticated analysis of this nor do we have the in-house capability to do that. What we are seeing is the impact of the Truth in Sentencing Law which imposes fixed and certain minimum sentences. Prior to that law, you would often have a situation where someone would go through their initial appeal and when that was over, they were released.

Now, we seem to have a lot more people who finish their initial appeal and they are still incarcerated. They start looking around for other means of relief. Of course, the other relief is post-conviction. So, that is our best estimate of what is going on. We are seeing an increase in the number of people who have exhausted their initial appeal. Post-conviction relief is the remedy.

SENATOR RAGGIO:

Is the \$800,000 an anomaly for last year, or can we still expect that level in the next two years?

MR. TORVINEN:

That is hard to predict because it is based upon appointments by judges and certification of the bills received. In the last four years, we have paid almost \$1 million out of the State Claims Fund. That is in addition to the constantly increasing amount we have been putting into the budget.

We have been back to the Interim Finance Committee (IFC) for contingency fund allocations of \$250,000 per year in each of the last two years. We find billings very difficult to predict because attorneys do not bill on a regular basis. They may work a case for quite some time and then submit one large bill at the end of the process.

SENATOR RAGGIO:

What kind of monitoring process do you have regarding the hours the attorneys spend on cases?

MR. TORVINEN:

The judges certify the claim. We do not pay a claim until it is first certified by a judge.

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SENATOR RAGGIO:

As of March 2005, post-conviction relief was only \$285,000. Is that indicative of a major reduction or is it just people have not billed?

MR. TORVINEN:

It could be a little of both. I am not sure. When an attorney presents a claim, it is statutorily required to be paid with General Funds.

E-811 Unclassified Changes – Page PUB-DEF 4

CHAIR CEGAVSKE:

Looking at decision unit E-811, the Public Defender's current salary and the Governor's recommendation for a 17.4-percent increase, we are curious as to why it is so different from the Attorney General's or our LCB staff. Why did that jump so high? What was the rationale?

MR. TORVINEN:

The Public Defender's Office was lower on the scale when compared to the other attorneys in state service. There is no reclassification here. The attorneys are already unclassified, so the positions will remain unclassified. It is a salary adjustment which puts them into the appropriate category.

CHAIR CEGAVSKE:

Why would you jump it so far over the other positions we already have in state service? Why would it be so much higher?

MR. TORVINEN:

I have not taken a look at the state salaries for the Public Defender or the Office of the Attorney General. This was part of a Department of Personnel study and it was subsequently placed into a specific budget.

SENATOR RAGGIO:

I suggest staff look at the salaries of the Offices of the Attorney General, Nevada Attorney for Injured Workers and the Court system to determine whether or not we can achieve parity.

CHAIR CEGAVSKE:

We ask that you work with staff on that.

CHAIR LESLIE:

When you want people to send in the bills, I suggest you tell them they have 30 days to submit them. If the attorneys do not send in their post-conviction relief bills within a certain time frame, the bills will not be paid. I think we need to get a handle on whether or not the attorneys are holding on to the bills. We have always paid the bills but maybe we need to set a time frame and say, "Sorry, do it or else," because we will not be able to budget appropriately otherwise.

MR. TORVINEN:

If we had the authority to do that, we would be happy to give that directive.

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CHAIR LESLIE:

I think it is good management.

CHAIR CEGAVSKE:

Is there no time frame to submit a bill?

MR. TORVINEN:

Not that I can see in the statute. I have not done exhaustive research on the subject. The statute says we have to pay the claim when it is submitted.

CHAIR CEGAVSKE:

That is an amendment we need to review. Our staff is going to be looking at whether or not there needs to be a reduction in the post-conviction relief service budget based on the information you have provided.

We will move to the Medicaid prescription drug plan and the impact of the Medicare Modernization Act (MMA) on the Department of Human Resources.

Healthy Nevada Fund – Budget Page HR Admin-22 (Volume II)  
Budget Account 101-3261

MICHAEL J. WILLDEN (Director, Department of Human Resources):

With me today are Mr. Charles Duarte, Administrator of the Division of Health Care Financing and Policy, and Ms. Liveratti, the Deputy Director of the Department of Human Resources. I think there is a lot of confusion about MMA, Part D, and its impact on the various state divisions and budget decision units.

I will walk you through this four-page sheet we have handed out titled Medicare Prescription Drug Plan ([Exhibit C](#)). You should also have a handout called *MMA Guide for State Legislators* ([Exhibit D](#)).

CHAIR CEGAVSKE:

Are you going to be presenting your plan today?

MR. WILLDEN:

Yes, we intend to present that today. Before I start, let me spend a minute talking about the *MMA Guide for State Legislators*. It is a good tool for you to look at as it has a checklist of questions being asked of state agencies throughout the nation.

On pages 3 and 4 of [Exhibit D](#), you will see a set of questions which legislators are asking state agencies. On page 5 is a national time frame chart regarding what is happening with the rollout of Part D, drug coverage. On pages 6 through 13 are Nevada-specific answers to the questions asked in the guide.

Continuing with [Exhibit D](#), page 1, MMA will provide all Medicare beneficiaries with an opportunity to obtain prescription drugs beginning January 2006. In order to receive Part D, a Medicare beneficiary needs to be eligible for either Part A, which is the hospitalization Medicare offers, or Part B which is doctors and other services. One or the other makes the Medicare beneficiaries eligible for Part D.

Part D enrollment is voluntary. The beneficiaries who choose Part D are, at some point in time, going to have to choose a plan.

There are going to be somewhere between 2 and 40 prescription drug plans (PDPs) for people in Nevada. There is a minimum of two plans required and there may be many more. We will not know the answer to the number of plans which will be available until September or October 2005. Our seniors and disabled participants are going to have to select the plan which works best for them.

There will be approximately 274,000 Nevadans who have to make the voluntary choice. That breaks down to 237,000 individuals over the age of 65 and 37,000 disabled individuals under age 65. That is the information our office obtained from the Social Security Administration.

About half of those individuals, 141,000 people, are what we call the potential low-income subsidy individuals. Those individuals can have their premiums, deductibles, coinsurances and things of that nature partially offset. Applying for low-income subsidies, is going to be important for those 141,000 individuals.

On page 1 of [Exhibit C](#) under the Basic Benefit, the Basic Benefit for someone who does not qualify for any low-income subsidy will have a \$35 monthly premium. There would be a \$250 deductible, and a co-pay equal to 25 percent of their drug costs. We have talked about the "doughnut hole," which means once a person's drug expenses reaches from \$2,251 to \$5,100, the person will pay 100 percent of their pharmacy costs. They can come out of the doughnut hole once they reach the catastrophic coverage level of \$5,100. They would then go back to the 5-percent co-pay once that amount is reached.

Continuing with page 1 of [Exhibit C](#), people who fall under 150 percent of the poverty level will have a lower monthly premium depending on income. The \$250 deductible drops to a \$50 deductible, the co-pay drops from 25 percent to 15 percent. They do not fall into the doughnut hole. They have continuous coverage. For those under 135 percent of poverty, that is the least out-of-pocket expenses for those individuals. They will not have a premium nor will they have a deductible. They will have small co-pays. They also do not fall into the doughnut hole scenario.

SENATOR RAGGIO:

For clarification, on the very low income, the co-pay of \$1 or \$2 on generic drugs and \$3 to \$5 on brand name drugs, how is that computed? Is it on each prescription or are people limited as to the amount, the dosage and so forth? How is that covered?

MR. WILLDEN:

It is paid per prescription.

SENATOR RAGGIO:

Is there a limit on the amount or is it for one month's supply? Is that how they control it?

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CHARLES DUARTE (Administrator, Division of Health Care Financing and Policy,  
Department of Human Resources):

Each of the prescription drug plans will develop their own criteria for how they manage utilization with this group. For this group, particularly, they are going to implement some type of tiered benefit. It will be harder for this group to get single-source brand drugs which are more expensive. On the prescription drug plan, they will not be receiving any co-pays from this population, just that \$1 or \$2. They will not get any additional, out-of-pocket money from participants.

MR. WILLDEN:

The \$1 co-pay is for the generic level drugs, the \$3 co-pay is for the brand level drugs.

SENATOR RAGGIO:

I know, but it says \$1 or \$2. Have they decided? It is only \$1, but it is important.

MR. WILLDEN:

It is based on a sliding fee scale of their income. Lower-income people will pay \$1 or \$3.

SENATOR RAGGIO:

It is still a sliding scale even at that level.

MR. WILLDEN:

Yes. Another question we have been asked frequently is, "What is Social Security doing?" The Social Security Administration (SSA), as you can see, has a number of goals they are working on. State staff has been working hand-in-hand with the SSA for the last several months trying to develop the rollout plan to determine their respective roles.

The SSA has a number of goals which it is advancing. The real issues I want to talk about are the time lines on page 2 ([Exhibit C](#)). I have another handout I want to e-mail to you which contains a more specific time frame. In March, the test subsidy applications are being mailed for the low-income subsidy population. It is being tested now. There are a couple of thousand people who have been identified in 42 zip codes throughout the nation being tested by the SSA. The SSA is trying to define and simplify that process.

In April 2005, the screening of potential beneficiaries for low-income subsidy will begin.

In May 2005, there will be training for SSA and state agencies on application processing. Also in May, the subsidy packets will be mailed. There will be 10 mailings over a 12-week period. Both nationally and specifically here in Nevada, 141,000 potential low-income subsidy individuals have been identified. There are going to be waves of applications, so many of our mothers and loved ones will be receiving an application packet. Then the questions will start coming forward.

There will be a number of outreach events, also started in May, to identify the roles of the SSA and Welfare Division. The goal is not to have people come into

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either an SSA office or a welfare office. They will be able to use a Web-based application system.

We met with the American Association of Retired Persons (AARP) yesterday. The AARP just surveyed seniors and the survey indicated, if I understand it, 71 percent of Nevada's seniors had computers they could access and do business at that level.

Going down the list, July 1, 2005, begins the actual advanced filing period when applications can be accepted and processed. Those applications can be filed online, using SSA's forms and at community events whenever possible.

CHAIR LESLIE:

Is the application going to be simple enough that it can be filled out and sent back? Is it simple enough for them to do it without going on the Web or meeting with somebody?

MR. WILLDEN:

Yes.

CHAIR LESLIE:

Is the application something they can fill out and mail in?

MR. WILLDEN:

Yes.

CHAIR LESLIE:

The hard part is how to decide, among the 30 to 40 plans, which one to pick. Is that where they are going to need help?

MR. WILLDEN:

They do not have to decide that until the fall.

CHAIR LESLIE:

Are these separate processes?

MR. WILLDEN:

Yes, there are two separate processes. The first process is to determine eligibility for the low-income subsidy. The second process, in the fall, they would have picked a PDP.

CHAIR LESLIE:

Is it your opinion that seniors can just fill out the form to be eligible and then mail it?

MR. WILLDEN:

I have not specifically seen the form, but I know staff is working on it and it is going to be fairly simple. All the people I have asked are nodding their heads that it is pretty simple and we will be able to deal with it. In October 2005, the mass mailing will go out. Every Medicare beneficiary will be receiving a *Medicare and You* handbook.

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CHAIR CEGAUSKE:

How will you determine who receives a handbook? Will you accumulate a mailing list?

MR. WILLDEN:

It is an SSA-driven list which addresses three populations. There is the population of 274,000 people who are now on Part A or Part B Medicare who have to make a decision whether or not to enroll. If they enroll, they have to pick a PDP.

CHAIR CEGAUSKE:

You are sending the handbook to everybody?

MR. WILLDEN:

The SSA is sending it.

CHAIR CEGAUSKE:

That is what I wanted clarified. It is not us, but SSA who is sending it out.

MR. WILLDEN:

Yes.

CHAIR CEGAUSKE:

Then you will be the contact for Nevada?

MR. WILLDEN:

One of the contacts. Primarily, SSA is the contact. The paperwork goes out and clients will be told there are a number of ways to make application, through the Web site, by visiting an SSA office or attending one of the publicized events at either a senior center or elsewhere in the community.

CHAIR CEGAUSKE:

What is the income level which would qualify them?

MR. WILLDEN:

The qualifying level is one-hundred and fifty percent of poverty at an income level of approximately \$15,000 to \$16,000 per year and an income level of \$12,500 per year for those who fall under a 135-percent poverty level.

CHAIR CEGAUSKE:

If there are two elderly people in the household and they are both making \$14,000, would they qualify?

MR. WILLDEN:

I think they would be looked at individually.

MARY LIVERATTI (Deputy Director, Department of Human Resources):

For a couple, it is approximately \$18,700. It depends on the number of people in the household. I do not believe they will be considered individually if they are married.

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CHAIR CEGAVSKE:

If there is a senior who only makes so much, but is living with his or her children who are making a living, the senior would not qualify because he or she lives in a household which is making over that amount?

MS. LIVERATTI:

No. If they are living with children, I do not believe the children's income will be counted. A married couple would be considered a two-member household.

ASSEMBLYWOMAN GIUNCHIGLIANI:

We have individuals in approximately 11 states who do not receive Social Security benefits because they worked under a public employee retirement system. How would those individuals be communicated with?

MS. LIVERATTI:

If they are not eligible for Medicare, they would not be entitled to the Part D benefit.

MR. WILLDEN:

We could cover those people under Senior Rx. We are going to be encouraging people to start applying for the low-income subsidies early so they can be processed through the SSA.

By law, a person can go to a welfare office to complete an application, but our intent is to use the SSA application or the SSA Web site. We can use computers by going online and help them fill out the application. We will have volunteers available. We will have staff available to receive the paperwork and input it into the SSA's system. I think the advertising method will direct them to go to one of the local events or go online.

CHAIR LESLIE:

Or, "Look for your application in the mail." That would probably be the best advertising.

MR. WILLDEN:

Right.

CHAIR LESLIE:

That is the piece which has been missing, the piece of information you have provided that says everybody is going to receive an application in the mail.

ASSEMBLYWOMAN GIUNCHIGLIANI:

On page 8 of [Exhibit D](#), it states the applications will be sent to a unit, centrally located, in the Carson District Office. Will that speed up the process, or slow it down? Is that because that is where your welfare telephone intakes are located?

MS. LIVERATTI:

It is my understanding that the Welfare Division has what are called "specialized caseloads" that arrive at a centralized location. They are considering this process a specialized caseload, so it would be sent to a centralized location. These people are trained specifically to handle those applications.

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ASSEMBLYWOMAN GIUNCHIGLIANI:

They are already staffed, basically, is that what you are saying?

MS. LIVERATTI:

Exactly.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Will these forms also be available at senior centers?

MS. LIVERATTI:

When SSA sends out those applications, they have cautioned us that the applications cannot be copied. They are scannable applications. My understanding from the SSA is they will try to complete sections with information they already know to make it easier. But, it is important that people do not copy the applications. The SSA is going to send us thousands of the scannable forms. The forms will be available at senior centers throughout Nevada.

CHAIR CEGAVSKE:

What is the age group the SSA will be looking at when they send that out? Is it 62?

MS. LIVERATTI:

The SSA will be sending applications to everyone who is eligible which includes the age 65 and older population and those who are disabled and under the age of 65 and eligible for Medicare.

MR. WILLDEN:

That is one of the key triggers, not necessarily their age, but whether they are currently enrolled in Part A or Part B. If they are enrolled in Part A or Part B, they will receive an application, regardless of age or disability.

There is another sub-group which we are dealing with and that we call the dual-eligibles. The dual-eligibles are people who are now receiving Medicare, and are also enrolled in Medicaid, which means they receive their prescription drug coverage through Medicaid. That is another unique population to manage. That population estimate for the dual-eligibles is 16,000 to 17,000.

As of January 1, 2006, federal matching funds will no longer be available to pay for prescription drugs through the Medicaid program for these dual-eligible individuals. They will have to shift to the Medicare payment system. That is a key loss, no longer having Medicaid for the dual-eligibles.

There is an exception that Medicaid will still be able to pay for limited excluded drugs. Medicare will not cover all the drugs Medicaid now covers. If they chose not to cover drugs, federal matching funds will still be available if we, as a state, decide to cover Medicare-excluded drugs.

The dual-eligibles will be randomly assigned to a plan in November. If those individuals do not pick a plan, they will be randomly assigned to one. They will have an opportunity to make an adjustment if they do not like the plan to which

they were assigned. The big time frame for the dual-eligible conversion process will be in November and December.

CHAIR LESLIE:

When is the formulary coming out? How will they know? It sounds like there will be a crunch when the formulary comes out and they will immediately have to pick a plan.

MR. WILLDEN:

Around September or October, the formularies become known and in November and December those individuals have to pick a plan.

CHAIR LESLIE:

How are we going to help them determine which of the 30 or 40 plans best fits their needs?

MR. WILLDEN:

We are working with the State Health Insurance Advisory Program (SHIP) group, volunteers and our staff to provide training in this area to help people select a plan.

We have discussed several times about what was affectionately known as the clawback. I think the federal government is now calling it the phasedown percentage. We still like calling it the clawback. The dual-eligibles that have been on the Medicaid program, with federal matching money, now have to move to the Medicare program. When they move to the Medicare program, the state is still expected to pay for part of their pharmacy costs. How that is done is through this formula that I have listed on the top of page 3 of [Exhibit C](#). The reason it is called a phasedown is because we pay 90 percent of our costs the first year and it phases down until the year 2015 when we pay 75 percent.

In the *Executive Budget*, we estimated savings for the clawback because there is a difference between when we are paying. The 100 percent, which is now 90 percent, is moving its way down to 75 percent of \$17.8 million. I am here to tell you today that was down, based on whatever information we had last spring and summer. States are struggling to quantify this information. Right now, Medicaid is estimating, and working with our contractors at looking at national data, that those savings may only be \$3 million over the biennium.

SENATOR RAGGIO:

Is there a budget amendment for this?

MR. WILLDEN:

We have not sent a budget amendment yet because we are still running our calculations.

SENATOR RAGGIO:

We need these budget amendments right away.

CHAIR LESLIE:

Are we talking about a \$15 million hole in the budget?

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MR. WILLDEN:

We are talking about a \$15 million hole.

CHAIR LESLIE:

Is that going to change as we get more information? You understand that is a huge amount of deficit in the budget. It was \$1.5 million during budget reviews. Now, it is \$15 million a couple of weeks later. What is it going to be April 15?

MR. WILLDEN:

We are not going to have this information until next February or March.

CHAIR LESLIE:

We are going to make our best guess. The difference between \$1.5 million and \$15 million is significant.

MR. WILLDEN:

I understand. But it is a huge moving target. I think if you follow the national scene, this thing started at \$400 billion and is now \$900 billion. It is moving as people further analyze this thing. It is a significant undertaking. We are grinding the numbers as fast as we can get information from CMS.

CHAIR LESLIE:

We have to close a budget soon and that is a significant number. Before we close this budget in the second week of May, do you have any inclination how much this number is going to change between now and the second week of May? Is it likely to change again?

MR. WILLDEN:

I do not think it is likely to change between now and May.

CHAIR LESLIE:

Is it going to change a lot between May and November when we are not in session?

MR. WILLDEN:

I think we need to get through the other decision points. This one, I do not think will change significantly.

CHAIR LESLIE:

This is almost an impossible task.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Can we get a list from the Budget Division of all the change orders so we have an idea of where the holes are? I have no idea where we are at this point. Everybody keeps talking about this surplus and I think it is gone. What is in the General Fund versus what could possibly be used for one-shot appropriations? Just to have an idea of what we are looking at would be helpful.

MR. WILLDEN:

There are three more areas of concern in the Medicaid area. We know Medicare is not going to cover certain drugs. There is an excluded drug list. This is going to leave us in the situation where Medicaid has historically covered those drugs.

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The question out there to all states, is "Do you want to cover drugs that are being excluded from the Medicare process and have Medicaid continue to cover them?"

SENATOR TITUS:  
Do we cover hair growth drugs?

MR. WILLDEN:  
No. The issues for Medicaid are the barbiturates, benzodiazepines and over-the-counter drugs. I am just saying is the federal list of what they are not going to cover.

SENATOR TITUS:  
You say these have been historically covered by state Medicaid?

MR. WILLDEN:  
Only the barbiturates and the benzodiazepines.

SENATOR TITUS:  
We have not been paying for hair growth or weight loss?

MR. WILLDEN:  
No. Those are things we have covered and may or may not in the future.

The last one, under the noncovered drugs is the big unknown in September when the PDPs reveal their formularies indicating what drugs they are going to cover. We are going to be faced with drugs within the classes of drugs which they choose not to cover, drugs that Medicaid now covers. The primary concern is the mental health drug issue. What mental health drugs are they going to cover? It will be a big issue for us once we know in October or November. There have been some estimates that this number could be as high as \$11 million if we choose to cover those drugs not covered by Medicare. Again, we will not know until the PDPs post their formularies.

The Medicaid population and the dual-eligible individuals currently have no co-pays. This is a very low-income population who, when they move to the Medicare system, will have co-pays. All states are faced with the decision of whether or not to pay the co-pays for these people. The price tag could be as much as \$1.3 million if we want to pay the co-pays or we just let them pay the co-pays themselves. They will probably be paying in the \$1 to \$3 range.

On the top of page 4 of [Exhibit C](#), the two impacts are: if you choose to cover them, you will have to have a budget to cover them; if you do not cover them, you are likely to have significant impact on your hospital emergency rooms and in-patient psychiatric care. These people who are not on medication are going to become management issues both to the hospitals and our mental health system. This is a significant watch zone for us.

In the Division of Aging services, you do not see budgetary issues, because they are primarily involved in the educational information referral processes. They are working with SHIP. We are working through our two-year transitional grant, in the amount of \$400,000 each year from CMS, to help with transitional

education. The Division of Aging Services and Senior Rx program will be involved.

Senior Rx is going to have to be overhauled to take advantage of the Part D coverage. Basically, the program is going to have to be split into two pieces. Those people who are not on Medicare, Part A or Part B, are not eligible for Part D. They will receive assistance under the traditional Senior Rx program. We estimate out of 9,000 people on Senior Rx, 1,000 will receive the traditional Rx program. The other 8,000 people on Senior Rx may become Part D eligible. We are going to have to wrap around that benefit. If they enroll in Part D, they will fit into the basic program, the low-income subsidy program or the lower-income subsidy program.

The typical senior citizen now enrolled in Senior Rx pays about \$760 per year out of pocket. That is calculated by whether they pay a \$10 co-pay for generic drugs or a \$25 co-pay for non-generic drugs. We want to make sure the seniors do not pay any more out of pocket than they do now. We would be using our dollars that we now pay to buy pharmacy products for those seniors. Instead of buying the pharmacy products directly, we will be either paying for the premium, the deductible, and the coinsurances or covering them when they fall into the doughnut hole. That is the basic plan.

CHAIR LESLIE:

I see you have a bill draft request (BDR) pending for flexibility. We have quite a bit built into the Senior Rx budget for growth. With all these changes, should we look at reserving some of that money until we know more?

MR. WILLDEN:

I would absolutely suggest that money not be taken out of the Senior Rx program, if it is not used for the basic program, until we see how many people are enrolling in the other program.

CHAIR LESLIE:

That might be a cushion we can reserve to give you flexibility. There has also been a suggestion that the Interim Finance Committee (IFC) develop a subcommittee specifically to address the prescription drug issue so that we can continue to work on this after we get out of session.

MR. WILLDEN:

I think that would be great because there are going to be too many unknowns at this point in time.

CHAIR LESLIE:

I do not want our seniors to be worse off because of this wonderful, new program the federal government is putting forth. You know, we were kind of joking up here, "Can we tell the feds no? We like it the way it was and not participate?" I do not think that is an option. I think it is important for the public to understand this is not good for our seniors or for our state. If we are going to make our seniors whole, we are looking at a minimum of \$45 million.

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MR. WILLDEN:

Again, depending upon what type of coverage you want to provide, yes. You have to look at each individual senior's drug expenses and things like that. I can tell you some will be better off than what they are currently.

CHAIR LESLIE:

The bottom line is the state is still going to have to invest \$50 million more just to be where we are today for our senior population as a whole.

MR. WILLDEN:

The state is going to have to invest additional monies if we want to continue covering the types of coverage which Senior Rx and Medicaid now cover.

CHAIR LESLIE:

This is not a good deal. But, I guess we have no option.

CHAIR CEGAVSKE:

What would be the percentage of Senior Rx members who would be left uncovered by Medicare Part D?

MR. WILLDEN:

Our estimate is that there are approximately 9,000 seniors currently in the Senior Rx program. About 1,000 of them will stay in the traditional Senior Rx program, which means they do not have Medicare Part A or B now, so they will not be converting. The other 8,000 will be converting to the Part D coverage.

CHAIR CEGAVSKE:

Do you think that will reconfigure the program? Do you think that information will be ready for the subcommittee's consideration prior to the end of session?

MR. WILLDEN:

I cannot be specific about what we will cover. We do not want our seniors and disabled to lose coverage. The worse thing that could happen is they drop coverage, do not take their medication, and do not have access to medications, hospitalization or mental health systems.

CHAIR CEGAVSKE:

I think this goes along with what Chair Leslie said, that we are going to have to look at whether we hold back some of that money.

MR. WILLDEN:

The department has BDR 40-169 pending, which will give us the flexibility in the Senior Rx program to wrap around the Part D benefit. Assemblywoman Barbara Buckley has BDR 40-1031 pending which allows us to have flexibility in the Disability Rx.

**BILL DRAFT REQUEST 40-169:** Revises provisions governing the Senior Rx Program. (Later introduced as [Assembly Bill 524](#).)

**BILL DRAFT REQUEST 40-1031:** Makes various changes relating to the disability prescription drug program. (Later introduced as [Assembly Bill 495](#).)

You passed legislation in 2003 allowing us to run a disability Rx waiver. We have not been able to do that because of the MMA. We now need to be able to run it. It is basically a mirror image of the Senior Rx program. There is funding set aside, in the tobacco settlement money, for this program. That legislation will let us mirror the Senior Rx program for the disability population. The same issues apply as in the Senior Rx program. There will be some we will be able to wraparound benefit and some we will not.

CHAIR CEGAVSKE:

On behalf of the Committee, we really appreciate this. Unfortunately, it did not get to us before, so we had to have this second meeting. I understand that you received the information you needed to start this process during one of the last weeks in January. I understand you still have information, you will not know about until the fall which will help you finish the plan. I have heard comments up here that what you have provided today has been beneficial and helpful.

ASSEMBLYWOMAN GIUNCHIGLIANI:

As we talk about all these shortfalls that we may have, we actually are looking at restructuring the Fund to Stabilize Operation of State Government commonly referred to as the rainy day fund. We will have a hearing on Assembly Bill (A.B.) 313 on Monday.

**ASSEMBLY BILL 313**: Makes various changes relating to expenditures required by disasters or financial emergencies. (BDR 31-1145)

ASSEMBLYWOMAN GIUNCHIGLIANI:

Included in that bill, I have added language which states, "... it may also be used for unanticipated federal impacts ... " so that we may be able to spend some money. We may need to add some of that one-shot money, we have about \$121 million. But there may be another area where you have the interim to monitor shortfalls with the drug program and whatever else we have hitting us out there. I am going to say, for the record, that we may want to take that \$45 million or \$50 million and add it into that fund so we have some additional fallback positions.

CHAIR CEGAVSKE:

Keep staff updated as you receive the information, and give it to them as soon as you can. It helps to receive information and have an opportunity to review it before IFC or before a Committee hearing.

I was telling Chair Leslie this has been Senator Ray Rawson's area and we always looked to him to facilitate this meeting. Without him here, we appreciate you coming forward with what you did today because that was really helpful.

MR. WILLDEN:

One other comment I would make to the Committee is that Ms. Liveratti is one of 23 people on the national planning group. She receives the information first hand on a regular basis and is an excellent resource.

CHAIR CEGAVSKE:

Any information you can share with our staff on a regular basis, to keep them updated, would be much appreciated.

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We will close the work session on the budget issues concerning the Department of Human Resources and open budget account 101-1499.

Youth Alternative Placement – Budget Page DCFS-84 (Volume II).  
Budget Account 101-3147

DAVID R. GAMBLE (District Court Judge, Ninth Judicial District Court, Douglas County):

One of my responsibilities is to supervise China Spring Youth Camp and Aurora Pines Girls Facility. I want to thank you for giving me this extra time to come back before you with comments about the Governor's proposed budget and our proposed budget. I apologize for not being here at the last hearing.

Historically, we have had a lot of problems with the budgeting process for the China Spring Youth Camp because we are neither fish nor fowl. We are an outfit which is operated by the courts and funded, in part by the counties and in part by the state. It has always been a complicated project to get the camp funded.

We have failed, in the past, in a couple of areas. One has been in having an opportunity to convince the Executive Branch that the state should continue to fund the China Spring Youth Camp at any given level. The second issue has been that we have continually sandbagged the counties. That was apparent last session when we informed the counties, that because of our own actions, their expenses were going to be larger than usual.

We have tried to remedy that in a couple ways. We created a statewide advisory board or 16-county advisory board. From this point forward, we will have budget input from all the people we serve and will have more input with the Division of Child and Family Services (DCFS) from the representatives, the county fiscal officers and the county juvenile officers who are on our advisory board.

I have distributed a one-page sheet titled China Spring Youth Camp/Aurora Pines Girls Facility Request to Approve Budget Increase ([Exhibit E](#)) detailing the differences between our proposed budget and the Governor's recommended budget.

Basically, it falls into three categories. The first two categories are simply what we call rollups. That amounts to about \$25,000 for each year of the biennium. Merit increases, retirement and inevitable county employee funds total \$126,473 in the first year and approximately \$180,000 in the second year. The third category is an increase in staffing levels which reflects slightly worse staffing levels than are being recommended for the Nevada Youth Training Center (NYTC) and Caliente Youth Center. It increases our staffing ratio to 1:10 during the service hours and 1:20 during the sleeping hours. As you can see, those increases from what the Governor is recommending total \$461,502 for the first year and \$527,563 for the second year. The second portion of this handout describes a change in funding, reflecting the increases we have requested and an increase from last session's state allocation of 29 percent back to the 36.8 percent which the state has funded.

The first two requests are necessary. If we do not have those monies, we have to pay that money out anyway and it will have to come out of someplace else. The second category, the staff change, reflects an attempt to begin to address the national standards for staffing levels for places like China Spring Youth Camp and Aurora Pines Girls Facility.

Last spring, when we submitted our budget, we felt like this was going to be the same as the state's recommendation for NYTC and Caliente. Staffing levels are slightly lower from what is being proposed for those two facilities. The Legislature has been kind to us for many years, both in capital expenditures and funding the camp. We would ask you to help us with the first two categories. If you deem it appropriate to increase staffing levels to begin to reflect the national standard as you are attempting to do with NYTC and Caliente, address the second one and give us that budget increase also.

CHAIR LESLIE:

I like the idea of an advisory committee, so the other counties have input into the budget.

JUDGE GAMBLE:

That has been a shortcoming of ours in the past.

CHAIR LESLIE:

That is a great step forward. I am willing to ask our staff to come up with the numbers of what it would take to go back to the traditional formula and take a look at those numbers. I do not want to get into staffing ratios. I think we have to do it one way or the other. I think the formula, if we got back to the way it was before we went with the county, extra money might be a way to do that.

JUDGE GAMBLE:

I am not sure what you mean by it is either one or the other. Because you have the budget oversight concerning staffing increase levels as part of your tasks, because you approve our budget, I am not sure what you mean.

CHAIR LESLIE:

What I mean is I think we should use the funding formula and not get into extra money for this and extra money for that. It is a partnership.

JUDGE GAMBLE:

Sure. That is what we are seeking to do.

CHAIR LESLIE:

I think we are on the same page. That is what I am willing to explore.

JUDGE GAMBLE:

You know there may be a BDR which reflects a proposed 50-50 share. We want to let you know that we are more than willing to go back to the more recent formula of a 60-40 split.

DAN MUSGROVE (Clark County):

The Spring Mountain Youth Camp (SMYC) feels there are inequities in funding and the programmatic elements we provide to the state are significant. For

example, last year in Clark County the SMYC received \$341,000 from the state while providing 112 daily beds. Basically, the numbers have increased dramatically in terms of those who are in the juvenile system and the impact which programs like SMYC have on keeping them being state prison placements.

To illustrate, in 1997 there were 119,000 male juveniles in the state population and 612 total male commitments to the state. That number is now 164,000 male juveniles with only 415 commitments. That reflects the impact of SMYC. We are asking to have some parity in our funding.

CHAIR CEGAUSKE:

Our staff is willing to work on this. Would both of you get with the staff and continue to work on this outside of this hearing?

MR. MUSGROVE:

Absolutely, Madam Chair. We appreciate that.

JUDGE GAMBLE:

We have always felt SMYC is doing the same kind of great work which China Spring is doing. Up to this point, there has been no oversight of their budget while there has been oversight of our budget. We want to continue in partnership with reducing the number of kids who go to state facilities. Which, as Mr. Musgrove has said, is absolutely a given that there have been many beds saved at NYTC and Caliente by virtue of SMYC, Aurora Pines and China Spring.

CHAIR LESLIE:

The statutory authority is different between the two camps. I do not want to mislead you. I am going back to the formula for them, I am not going in that direction for China Spring. I wanted to get that on the record.

HR, Sexually Transmitted Disease Control – Budget Page HEALTH CONTROL-70  
(Volume II).

Budget Account 101-3215, E999

ALEX HAARTZ (Administrator, Health Division, Department of Human Resources):  
We have provided you with a handout titled Nevada Aids Drug Assistance Program (ADAP) ([Exhibit F](#)) which updates information based on our recent Ryan White Care Grant award with regard to the ADAP waiting list and some of the key information you previously requested.

DR. CADE, M.D. (Director, University Medical Center (UMC) HIV Wellness Program):

I am the director of the HIV program at UMC. As you can see from our handout, we did a good job in Nevada until 1997. We came to the Legislature at that time and you approved the first state funding to go to ADAP. That was eight years ago and we have not increased that amount since then. We have been able, with a number of different strategies, to ensure that no one has gone without AIDS drugs. We have not had a waiting list since that time. That will change this year if we do not receive a funding increase. Obviously, as a physician, the most important issue for me is the fact that, in this day and age

of HIV disease, the whole game is giving people medications and keeping them healthy.

We will mark the 20th anniversary of UMC's program in August 2005. Twenty years ago we had no drugs. Everybody died. The average life expectancy was 16 months and we tried to get people to their next holiday or birthday. As somebody who has watched this change dramatically since that time, it has been incredibly wonderful, but this is the difficult part. People need their medications. The most important thing is making sure they have access to their medication.

I have shared this statistic, and I will share it again. In Clark County, we have not had a pediatric case of HIV disease in eight years because we have access to medications. We get mothers on medications and have prenatal care. The cost savings is important to you and it should be. But that fact has to be incredible and significant in and of itself. To show you how far pediatric HIV has come, this year the National Institute of Health stopped all pediatric HIV trials.

Internationally, the situation is dramatically worse. In our country, if you can get somebody on AIDS drugs and get them prenatal care, they are not going to transmit the HIV disease. Not only do you have the kids living, you now have moms and dads alive to take care of the kids.

We have done fine until this year. We are going to have a waiting list if we do not receive an increase in funding.

CHAIR CEGAVSKE:

We do not have a waiting list?

DR. CADE:

We do not at this moment. We have been close. Last year, we had a shortfall and somehow, my staff located additional sources of revenue. We would have had a waiting list last year based on the dollars we were budgeted at UMC and the number of new clients we had. But, that did not happen.

CHAIR CEGAVSKE:

How much funding is projected?

DR. CADE:

The increase in dollars, as you can see from the Health Resources and Services Administration (HRSA), would fund 29 clients. We anticipate at least 77 clients this year. This figure does not include next year. This is for a 9-percent annual growth rate. I think our growth rate in Clark County has been higher than 9 percent over the past 6 months.

CHAIR CEGAVSKE:

Is there anyone else who wishes to testify on this budget?

ASSEMBLYMAN DAVID R. PARKS (Assembly District No. 41):

I will testify from prepared text ([Exhibit G](#)). I support the statements which have been made previously to restore the funding that was initially requested by the Health Division for its AIDS Drug Assistance Program. If funding falls short, we

will end up having to go into cost-containment measures. I see that as being a worst-case scenario which we would certainly want to avoid. That would also mean closing enrollment for potential clients and reducing formularies for these patients. Other possibilities would be putting a monetary level on what each client or patient could receive. Then, of course, being put on a waiting list to even get started.

My experience has been lengthy and I have known people for 25 years who have had and have died from AIDS. I have seen how the treatment has brought individuals back from near death to living healthy and productive lives. I hope you consider funding to the level that the Division initially requested.

ASSEMBLYWOMAN GIUNCHIGLIANI:

I want to point out I think U.S. Congresswoman Shelley Berkley last night mentioned some potential cuts in the federal budget of \$1.3 million which might impact Nevada.

I thought she made a comment that in the federal budget there are potential cuts to the AIDS program. To me, if we create a waiting list, we are basically imposing a death sentence on these individuals. We cannot afford to do that. We have worked too hard to not let that happen.

MR. HAARTZ:

It seems to me that the Ryan White program, as a whole, was insulated from proposed cuts. In fact, it was slated for a slight increase. However, you will have to grant me a lapse of memory at this moment if that is incorrect.

CHAIR CEGAVSKE:

I was also advised of that fact.

MR. HAARTZ:

The current caseload is 852 individuals. If we had not received additional funding from the federal government of approximately \$300,000, we would not have been able to treat an additional 29 individuals per year in addition to our current patient load. Again, we are projecting to serve approximately 77 new clients; that figure includes the 48 clients who could not be served without the additional federal funding.

CHAIR LESLIE:

You do not have anything estimated for additional funding from the federal government in FY 2007. Is that because it is too far out and you have no idea?

MR. HAARTZ:

We are anticipating receiving \$300,000 in both FY 2006 and FY 2007.

CHAIR LESLIE:

I would concur with Assemblywoman Giunchigliani. I have said this before, we cannot have a waiting list. We need to have you work with our staff and Dr. Cade. I make the same request of you, to provide us with the best possible data so we can project this accurately.

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CHAIR CEGAUSKE:

Has the cost of the drug gone down? Have we seen the price go down or is it remaining static?

DR. CADE:

It has not dramatically decreased. All the pharmaceutical companies price their new drugs in line with similar drugs, sometimes higher depending upon the drug. There are some drugs that are becoming generic. That is the plus for our side on trying to save costs over the years ahead.

CHAIR CEGAUSKE:

Have you noticed a difference between the generic and name brand drugs?

DR. CADE:

We now use the generic drug, the DDI, which is the didanosine that has become generic.

ASSEMBLYWOMAN WEBER:

I want to add my support to drive the waiting list down. I spent many years on the blood donation side in dealing with HIV, working with primarily first-time blood donors and getting them matriculated into your system. Early intervention is the key. I am supportive of what you have done to provide individuals with information that they have HIV and having them interface with a health system. You have a great staff and thank you so much for what you do.

CHAIR CEGAUSKE:

We will close the hearing on the Sexually Transmitted Disease Control budget and open the hearing on the Child and Family Services Administration budget.

HR, Child and Family Services Administration – Budget Page DCFS-6  
(Volume II)

Budget Account 101- 3145

MR. WILLDEN:

I would remind the Committee members there is a bill, A.B. 46, which came out of the Interim Legislative Committee on Children, Youth and Families which has a recommendation for the DCFS to move patients with higher levels of care to the counties.

ASSEMBLY BILL 46: Makes various changes concerning provision of child welfare services. (BDR S-666)

Many of you will recall we attempted to end bifurcation of the child welfare system over the last four years. We moved all the child protective services components, the child welfare and adoption, to Clark and Washoe Counties with DCFS managing the balance for the state. One of the pieces which was left out is what we call higher levels of care, children who need to access therapeutic foster care, higher levels of care because of medical and behavioral needs. What A.B. 46 says, in its current form, is we are to have a plan to move that to the counties by August 2006 and to report that plan to the next Legislature. There has been some concern that we might have to accelerate that plan.

CHAIR LESLIE:

What we want today is for you to educate the subcommittee, and the rest of us as well, as to what the potential plan might be.

We would like the Subcommittee to understand the proposal, because it has budget implications in terms of moving money around and how it fits into the integration plans.

MR. WILLDEN:

I have provided the Joint Subcommittee with a handout titled Higher Levels of Care ([Exhibit H](#)). Page 1 of [Exhibit H](#) outlines what is included in the *Executive Budget* related to higher levels of care. There is caseload growth and provider rate increases in the budget for higher levels of care. There is some additional staffing for full-time employees to redesign our treatment provider contracts. We had discussions over the interim about performance-based contracting so there is some staff effort in the budget for that. There are improved staffing ratios in the budget for all child welfare agencies in Clark and Washoe Counties and DCFS. Again, that is not directly related to higher levels of care, but staffing ratios and giving staff an ability to better manage their cases helps keeps children out of higher levels of care. There are some staffing resources to improve what we call utilization management, primarily related to accessing Medicaid dollars.

There is the continuation of the Wraparound in Nevada for Children and Families (WIN) program which has been piloted over the years. In the *Executive Budget*, that program is continued into 2006 and 2007 using existing contractors, not state employees.

We have a concern that the child welfare agencies are not necessarily developing treatment services plans in a universally understood functional behavioral assessment. The agencies have agreed that we need to use some of our state infrastructure grant funding to provide assessment training.

Our mid-range plan deals with our provider agreements and does not necessarily support appropriate treatment and care planning. These provider agreements are set to expire at the end of December. We have an ambitious plan we are working on between the two county agencies, DCFS and Medicaid to redo these plans from a five- or six-tiered system, to a system which is basically a base payment, plus some service units depending on the functional assessment of the children.

We recommend the funding streams be split. Providers are paid with two pots of money. We are trying to coin terms to make it easier to understand. Part of the money is for what we call environmental needs which is basically room and board for which Medicaid does not reimburse. The other funding stream pays for treatment needs for the children. We have talked about splitting those funding streams and putting those funds into different budget accounts. The counties would then control some of the funds and be able to move funds to the Medicaid program.

As outlined on page 2 of [Exhibit H](#), there are new roles. If you look at bullet point F, there are some new roles and budget revisions if we choose to go this

way. If we chose not to follow the August 2006 deadline in A.B. 46, if we are accelerating, and we are working on accelerating, budget revisions may be required.

Flexibility may need to be provided where we can come back to IFC and move money between budget accounts. We are not asking for more money, we are asking for flexibility to move it from one department budget to another.

Currently, both DCFS and Medicaid contract with the providers. The provider bills DCFS. The DCFS pays the provider and then receives reimbursement from Medicaid. We are trying to design a direct-connect system. The new roles would be Medicaid would directly contract with the providers.

We obviously want to do the right thing, which is to ensure children receive the appropriate levels of care, providers are paid a fair price and are reimbursed in a timely manner. If we are not authorized to use Medicaid dollars, we will not. We will use another source of funding. We are still having discussions about that. One of the goals would be having the counties, through the bifurcation issues, assume more of the contracting roles for the environmental need payments.

We are trying to leverage federal dollars for the higher levels as indicated on page 2, item 2, Exhibit H. We are moving forward in engaging with Omni Behavioral Health and Bazelon Mental health Law Center who are providing some national technical assistance with experts in this area.

During the biennium, we will move toward performance-based contracting which was a goal throughout the interim through the Legislative Committee on Children, Youth and Families. That will be a long-term process and not a December 31 issue. We need to work out getting the staff on board, working with the providers, working out bonus systems and further unifying the overall system for treatment of the children, particularly those children with serious emotional disturbances.

Another consideration, which has been talked about in the group, is foster care rates. We have a dilemma in that Washoe County pays a higher rate for foster care than that paid by the balance of the state. We have the environmental piece of higher levels of care, which pays \$14.50 daily, where regular foster care pays \$21 and Washoe County pays \$30. We have another bifurcation issue there to tackle.

We have a particular concern about focusing on sibling cases. We have talked about that as it has received a lot of attention in the press and through the courts, particularly, about splitting apart siblings groups. We want to focus on that in an early pilot project.

We have some money, which is not necessarily in the right place in the budget, and we may need to move or not move it, depending on the wishes of the Subcommittee and how fast we want to accelerate the process.

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CHAIR CEGAVSKE:

Please work with staff on the needs of what we are still looking for from this area. We are going to be closing budgets soon and we need that information as soon as possible.

MR. WILLDEN:

We are happy to do that. Again, we need to balance that against A.B. 46.

CHAIR LESLIE:

Thank you for all the hard work. I know we have been pressuring you. I think this will be much better for children in the long run. In terms of A.B. 46, I would be happy to work with you on that. I think the majority leader's intent is to replace that bill with this plan. That bill would be rereferred to the Assembly Committee on Ways and Means. We can use that for a vehicle to bring needed statutory changes. Then, as Chair Cegavske said, we just need to know which budget revisions will be necessary.

CHAIR CEGAVSKE:

We will try to reschedule, if we can, the other two areas which we did not cover today.

There being no further business to come before the Subcommittee, we are adjourned at 9:54 a.m.

RESPECTFULLY SUBMITTED:

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Lee-Ann Keever,  
Committee Secretary

APPROVED BY:

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Senator Barbara K. Cegavske, Chair

DATE: \_\_\_\_\_

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Assemblywoman Sheila Leslie, Chair

DATE: \_\_\_\_\_