

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-third Session
April 18, 2005**

The Senate Committee on Finance was called to order by Chair William J. Raggio at 8:00 a.m. on Monday, April 18, 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

STAFF MEMBERS PRESENT:

Mindy Braun, Education Program Analyst
Jeffrey A. Ferguson, Program Analyst
Gary L. Ghiggeri, Senate Fiscal Analyst
Bob Guernsey, Principal Deputy Fiscal Analyst
Anne Vorderbruggen, Committee Secretary

OTHERS PRESENT:

Lisa Foster, Deputy Chief of Staff, Office of the Governor
Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of Education
Carlos Garcia, Ph.D., Superintendent, Clark County School District
Paul Dugan, M.Ed., Superintendent, Washoe County School District
Randall C. Robison, Nevada Association of School Boards
Ken Lange, Executive Director, Nevada State Education Association
Judith Winzeler, Executive Director, Nevada Humanities
Howard Goldbaum, Professor of Multimedia, Reynolds School of Journalism, University of Nevada, Reno
Helen Foley, Former State Senator
Allen Biaggi, Director, State Department of Conservation and Natural Resources
John P. Comeaux, Director, Department of Administration
Pamela B. Wilcox, Administrator and State Land Registrar, Division of State Lands, State Department of Conservation and Natural Resources:
Randal Munn, Special Assistant Attorney General, Office of the Attorney General
Tim Terry, Chief Deputy Attorney General, Medicaid Fraud Control Unit, Office of the Attorney General
Marilyn Skibinski, Regulatory Manager, Bureau of Consumer Protection, Office of the Attorney General
Kim Huys, Acting Chief Deputy Controller, Office of the State Controller
Tina Leiss, Operations Officer, Public Employees Retirement System

CHAIR RAGGIO:

We will open the hearing on Senate Bill (S.B.) 404. The Committee has previously heard S.B. 214, which contains a similar concept, so we will weigh the testimony on both bills.

SENATE BILL 404: Creates Commission on Educational Excellence.
(BDR 34-1365)

SENATE BILL 214: Revises provisions governing statewide system of accountability and revises other provisions governing education.
(BDR 34-459)

LISA FOSTER (Deputy Chief of Staff, Office of the Governor):

At last count, Nevada had 221 schools listed as either failing or on the watch list because they were close to failing. Nevada must do more to help these failing schools. The current programs are not working. The Legislature currently requires schools to analyze their unique issues related to performance and report them on a school improvement plan (SIP). This can be an excellent tool for determining the root cause of a school's performance problems. However, no matter how well the principal and the people the principal has brought in have analyzed how performance could be improved, if there is no money to carry out the activities in the SIP, it simply sits on the shelf. Funding is needed to achieve the goals they have outlined. The Governor has included \$100 million in his budget as a source of ongoing funding to bring these plans to life and fix the problems that are putting the schools on these lists.

As proposed in S.B. 404, schools would apply to obtain funding to carry out the activities outlined in their SIPs. The funding decision would be made by a commission comprised primarily of educators experienced in improving troubled schools. The commission will review the application for consistency with the SIP and decide if it is a viable method for improving school performance. They will then evaluate the school's need and these factors would determine funding decisions.

Most grant awards would be for two years. The commission would be empowered to create an evaluation process. The school must show some improvement the first year. The fund would be reproduced each budget cycle. Money remaining after the grants have been awarded would stay in the fund for use in the subsequent biennium.

CHAIR RAGGIO:

Is the idea to keep a \$100 million revolving fund with that level of funding in future years?

Ms. FOSTER:

Yes. In the next biennium, another \$100 million would go into the fund. It is hoped that applications for grants would come in for about \$100 million and \$100 million would be granted to poor-performing schools in each biennium.

CHAIR RAGGIO:

The bill does not specify the schools eligible to make application. How would that be determined?

MS. FOSTER:

All schools would be able to apply including charter schools. Districts could apply for district-wide programs. That may be most suitable in the small districts. Title I schools should not be precluded from funding. Once a school receives funding, it could get funding again if the commission thinks it is important. Some schools may need funding to stay off the list after they have improved.

CHAIR RAGGIO:

Are all schools eligible to apply or only the schools that are on the list of schools needing improvement?

MS. FOSTER:

All schools would be able to apply. The funding determination would be based on the activities outlined in the SIP and the financial need of the school. The first priority is to the failing schools and the schools on the watch list, but we are not precluding other schools from applying.

Eligible activities that may be funded are limited only by the SIP and the commission's belief that the SIP would be successful in improving performance. Some examples have been hiring bilingual teachers, staff development, establishing new reading programs and all-day kindergarten. The exciting thing about S.B. 404 is it recognizes that not all schools and school populations are created equal. What works for one school could be a waste of money in another school. In order for schools to receive the funds in a timely manner, the application process must be easy and the decision process must be quick. We intend to have top educators included on the decision-making body and empower them to do their job.

There have been two major problems with the current program. One, there are many groups that have to be a part of the funding decision so funds do not get to the school until the school year is half over. Second, the programs allowed for funding are so narrow many schools do not want to be a part of the program. Even if it were working, the amount of money in the current program is insufficient.

I have been asked why we cannot fix the current program instead of creating a new one. We do not have an issue with that if it meets the objectives of S.B. 404 which are a decision-making process that is fast and includes the brightest and best in education; a clear tie to the No Child Left Behind Act (NCLBA) and the lists it creates; an evaluation process that ties applicants to the goals and activities listed in the SIPs; and an ongoing fund.

We have been asked why it is only for Grades kindergarten through 6 (K-6). When there are hundreds of schools with a rapidly-growing number of schools on the failure and watch lists, \$100 million does not go far enough to reach all grades. We want this money to make a significant difference. Kindergarten through 6th grade was chosen because we feel the students in these grades will benefit most from a school's redirection and the major changes they could implement with this money.

KEITH RHEAULT, Ph.D. (Superintendent of Public Instruction, Department of Education):

I have provided copies of my testimony ([Exhibit C](#), original is on file at the Research Library). We are supportive of any bill that will help provide structure and oversight for a school improvement process particularly with additional funding. Prior to the budgets being developed, the Governor asked for our input and we provided three recommendations. One was that the schools not be required to rewrite applications when we have just spent six months working on an SIP. The second was to streamline the application, allocation and approval process. The third recommendation was to increase the amount of funding. All three of our recommendations are in the bill.

Included in [Exhibit C](#) is a comparison of S.B. 404 with S.B. 214. Both bills have commissions that oversee the approval of the applications and provide a structure to send out the funding. In S.B. 404, applications from the districts or the schools would go to the commission which would oversee the application and make allocations. In S.B. 214, the commission would make recommendations for award to the Interim Legislative Committee on Education.

Also included in [Exhibit C](#) are portions of the Washoe County School District's District Improvement Plan for 2004-2005. The district plan is more general than individual school plans because the school plans are built off of the district plans. There is a section in every district plan called "measurable criteria and goals." This breaks down all the measurements that will be used to show improvement within the district. The first objective in the Washoe County School District's District Improvement Plan is that all students in Grades K-8 will achieve at proficiency or above in reading. The plan has two measurements that will be used to determine whether the objective has been met. It also identifies grade levels, baseline data and targets by grade. The Washoe County School District's plan has almost four pages of measurements which go from kindergarten through Grade 12.

CHAIR RAGGIO:

Will the funding be limited to kindergarten through the sixth grade?

DR. RHEAULT:

The funding would be limited to K-6 because that is what the bill would fund. All schools need an SIP if they are Title I schools. Following the four pages of measurement criteria in [Exhibit C](#) is the Washoe County School District's Action Plan. The action plan covers leadership, alignment and assessment, best practices and interventions, and professional development. The time line on some of the District strategies in the action plan goes to 2006, and some end earlier. These plans will be reviewed and revised annually. Available funding sources are identified in the action plan. Most of the funding is General Funds, Title I or II grants and private donations. The action plan also identifies the person responsible for each item.

The district plans are more general than the school plans. There are 560 schools which will use the format identified at the district level to be specific about how they will improve their school.

CHAIR RAGGIO:

Senate Bill 404 does not have a lot of specifics. For example, the composition of the commission would be two teachers, two principals, one administrator and

a member of the general public. What types of individuals does the Governor have in mind to carry out what seem to be high goals for the commission to achieve? What is the Governor's proposal?

MS. FOSTER:

The Governor looked at several schools around the state and at principals who have been successful in getting their schools off the lists and whose schools have shown significant improvement. The Governor is of the opinion that the people who should be included on the commission would be teachers who know how to improve school performance and principals who are able to lead in getting schools off the lists and improving performance.

CHAIR RAGGIO:

Should the bill be more specific and identify principals and teachers who have demonstrated achievement?

MS. FOSTER:

I think that is an excellent idea. We would be willing to amend the bill to include that.

CHAIR RAGGIO:

The reason for S.B. 214 is to recognize we already have the Legislative Committee on Education. We may have to discuss some compromise on the makeup of the bill that achieves these goals.

MS. FOSTER:

That is a great idea. We can work together on that.

CHAIR RAGGIO:

The Governor indicated, in his State of the State message, there should be some sanctions if the money is utilized and there is no demonstrated achievement. What happens if there is no improvement? There is nothing in the bill regarding that.

MS. FOSTER:

In the Governor's State of the State address, he made a statement that if a school gets these funds and does not improve, a change in administration needs to be considered. The school should probably not get additional funding. That is why, after the first year, we want to review the school's performance indicators.

CHAIR RAGGIO:

That is not in the bill. At the present time, I assume only a school district could remove a principal. This is not going to work unless there is some kind of sanction. How would this be handled?

DR. RHEAULT:

In the No child Left Behind Act, there are school improvement teams in place, and about the fourth year there is a process whereby those teams or the department can recommend a leadership change.

CHAIR RAGGIO:

That is only with Title I schools.

DR. RHEAULT:

Those are Title I schools. What we are talking about would be something similar, but it would be based on only a year of funding. The bill provides for funding for more than one year or up to two years. I would be cautious on taking it too far. There should be some specifics in the bill that spell out we are looking for growth improvement in the objectives they have outlined, and that progress is being made to get all students to meet NCLB achievement requirements.

CHAIR RAGGIO:

There is a reluctance to change. We went through this when we were compelled to put provisions in to follow the requirements of NCLB. Everyone wants \$100 million, but no one wants any of the other side of it where there is some mechanism to make sure the money is being utilized appropriately and determine if somebody is failing in leadership. I do not like to point to principals, but they run the schools. What is your suggestion if they are not doing the job and not realizing improvement?

DR. RHEAULT:

I will work with Ms. Foster and develop an amendment to this bill to address consequences or sanctions. That will be a big job for a seven-member commission because, after the first year, they may have to look at 200 schools if they fund that many.

CHAIR RAGGIO:

Unless it is spelled out in the bill with some specificity, there will be a reluctance to process the measure. Too often, there is no way to ensure there is a mechanism to achieve the goal after the money is provided.

MS. FOSTER:

I understand your concern and I look forward to working with Dr. Rheault on that. It needs to be worded carefully. We do not want to create a disincentive to apply for this money. We need to make sure the money is used properly. We will work on finding good language for that.

CHAIR RAGGIO:

Is the \$100 million fund to be spread over two years?

MS. FOSTER:

Yes.

CHAIR RAGGIO:

One large district could use the entire \$100 million for all-day kindergarten. How do you control the allocation? The larger school districts will have more schools eligible for this kind of funding. Is this in addition to the remedial funding now available for Title I schools?

MS. FOSTER:

Yes, that is another source of funding. I agree that \$100 million could be used quickly for a large district. The intent was to first look at the larger schools and then at the smaller school districts that may want to do a district-wide program. If it makes the Committee more comfortable, we could get more specific in the bill about which districts would be able to apply for the funds.

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SENATOR MATHEWS:
What is the dollar amount in S.B. 214?

CHAIR RAGGIO:
The dollar amount is the same in the two bills. The difference is the makeup of the commission.

SENATOR MATHEWS:
Would we pass only one of the two bills?

CHAIR RAGGIO:
That is right. That is the reason for the comparison of S.B. 214 and S.B. 404.

SENATOR RHOADS:
I do not see any money in the bill. It refers to a trust fund.

CHAIR RAGGIO:
The money is in the Governor's budget.

SENATOR RHOADS:
How much money is in the Governor's budget?

CHAIR RAGGIO:
There is \$100 million in the Governor's budget.

DR. RHEAULT:
There is \$50 million each year of the biennium in the Governor's recommended budget. They have set up a separate budget account in the Department of Education's budget to receive and distribute funding.

CARLOS GARCIA, PH.D. (Superintendent, Clark County School District):
We support S.B. 404 because it provides flexibility to many school districts in the state. Four years ago, Clark County School District started an A+ in Action Accountability Plan. This plan includes a provision that a school be reconstituted if it does not show improvement. This would include everyone from principals and teachers to custodians and cafeteria workers. People could reapply for the positions, but it would be opened up and the school would be recreated.

CHAIR RAGGIO:
If a school goes through this process and does not improve in the first year, what would Clark County School District have to do to change the principal?

DR. GARCIA:
Principals do not work for a school; they work for the school district. School districts have the ability to transfer principals out of a school at any time.

CHAIR RAGGIO:
Can that be done the following year, or are contracts in place that prevent that from happening?

DR. GARCIA:
That could be done. It is not realistic to ask anyone to make these changes in one year. You will see the program, what is planned and the implementation, but it cannot be resolved instantly.

CHAIR RAGGIO:

How many years does it take? What is the situation if a school does not show improvement the first year, you do not change the principal and there is still no improvement the second year?

DR. GARCIA:

If there is no improvement after the first year, principals should be required to submit a plan that addresses the areas of weakness and how they are going to change their plan to improve the standards that are lacking proficiency in their school. You asked how many years it takes. Most research shows it takes three to five years to effectively bring about massive change in student achievement. I am talking about bringing student achievement up to grade level.

CHAIR RAGGIO:

It did not take Anderson Elementary School in Reno three to five years to go from a low-achieving school to one that was considered outstanding. If you are telling me it is going to take three to five years to change the administration of a school that is not performing, you have lost me on this bill.

DR. GARCIA:

I have been a principal of a national-exemplary school. It took me three years to take the school from one of the lowest-performing schools in San Francisco to a national-exemplary school. We made significant progress along the way, but it took three years.

CHAIR RAGGIO:

Most of the principals I know are competent people. I am picking up on what the Governor told us in his State of the State message that if a school does not perform within a realistic period of time, the principal would be changed. I hope that does not mean a principal who is not performing would be moved to another school so that school can flounder. We would like to know how this is going to work if we provide additional funding.

PAUL DUGAN, M.Ed. (Superintendent, Washoe County School District):

Whether or not this money becomes available, we should be doing what you are describing. The challenge is what to use to determine the definition of improvement. If the only system used to determine improvement is whether they make adequate yearly progress (AYP), I do not believe that is fair. The school may not make its AYP, but it may have made significant improvement. You should not remove the principal from a school like that. I have been an elementary principal, counselor and teacher. When I was in those positions, if I had the funding in order to provide additional interventions, it would have been well used and served students well. The Governor's proposal and S.B. 214 both address that. Whether or not this bill passes, the districts need to address the issue of low-performing schools. You have to look at the leadership of the school to effect the change.

CHAIR RAGGIO:

I did not use the term AYP, but you are compelled to do that for the schools under NCLB, are you not?

DR. DUGAN:

Yes, but it should not be the determining factor as to whether or not a school has improved.

CHAIR RAGGIO:

I agree, but some significant improvement should be made. All students are capable of improvement. As I understood the Governor's proposal, there has to be some improvement even in the first year to remain eligible for this funding.

SENATOR MATHEWS:

What happens to a principal who is moved from one school to another?

DR. GARCIA:

In Clark County, we sometimes open up many schools and principals are moved. If a principal does not show significant gains, we document that and follow due process, the same as any other employee in the district.

The majority of schools placed on the watch list and needs improvement list are there because of three criteria. The first is that 95 percent of the students have to be in school when the tests are given. The second one is special education and the third is the English language learner (ELL). One out of five students in Clark County is a non-English or limited-English-speaking student. Last year, 18.2 percent of our students did not pass the high school proficiency exam. Out of 12,591 students who were tested last year, 2,286 students did not pass the test. Of the 2,286 that did not pass, 958 were special education students and almost 500 were ELL. When you take out the special education students and those who did not have enough mastery of the language to be able to pass an all-English exam, the percentage of students who did not pass the high school proficiency exam drops to 6.8 percent. I agree that we have to break down the data because the data can tell us which schools are making progress but not enough to make the AYP. We have to use multiple criteria, but we have to judge the schools and hold districts, schools, principals and teachers accountable.

CHAIR RAGGIO:

One of the issues that must be addressed is the ELL students who are pushed ahead when they are having difficulty with the English language. Once they get past fourth grade and cannot read or are having difficulty with English, it is almost a lost cause.

DR. GARCIA:

I agree with you. The ELL students who get into our system, and stay with the program, actually out perform other students in our district. Our problem is the influx of students coming in at the 10th or 11th grade. It is difficult to get them to learn enough English to pass the tests.

CHAIR RAGGIO:

Do the principals in your two major urban districts have the authority to make the necessary changes in things like curriculum and parental contact?

DR. GARCIA:

They may have the authority, but they do not have the resources.

CHAIR RAGGIO:

The Washoe County School District's action plan refers to a principals' academy. Is that something which is common in most of the school districts?

DR. DUGAN:

It is in many of the large districts. It is relatively new for Washoe County. One of its purposes is to attract new people into the administration field by offering pre-administrative classes for people who may be interested in being an administrator. It also offers classes for current administrators. This administrative leadership program is beginning to develop an executive doctorate program. It primarily provides ongoing training for the principals to give them the tools to make the necessary achievements.

CHAIR RAGGIO:

Who evaluates the principals?

DR. DUGAN:

In our district they are evaluated by senior directors, who were principals at one time, and assistant superintendents.

CHAIR RAGGIO:

Is it really an evaluation process? Are they going to find fault with each other?

DR. DUGAN:

Yes, the evaluators are part of the leadership team.

CHAIR RAGGIO:

What do you do about principals who are not performing?

DR. DUGAN:

There are some principals that need to go, but they are rare. As leadership, we have to be willing to carry out what we have the capability of doing which is to be honest with people and tell them what is required of them. If they do not succeed, we need to go through the process of terminating them. We have not done that job well. We have the capability to get rid of nonperforming principals and teachers, but we have not taken the time to do it. We have to be willing to fight because it is not easy.

RANDALL C. ROBISON (Nevada Association of School Boards):

I would like to talk about this from the perspective of the Nevada Association of School Boards. We are in support of this bill. It meshes with one of the attachments in our iNVEST program, which we call "Adequate Yearly Progress for all Students." I would like to read a couple of statements from that information to illustrate why we are supportive of this concept beginning with a description of why this attachment was included in our plan:

In accordance with the goals of the No Child Left Behind Act (NCLB), it is imperative that additional time and opportunity to learn be provided for students who do not achieve Adequate Yearly Progress (AYP).

Time and opportunity to learn is a key phrase. Another statement from our program is as follows:

The Nevada State Legislature led the way for educational reform with the Nevada Education Reform Act, passed in 1997, which required students to demonstrate knowledge of specified curriculum standards Prior to that time, the high school

diploma for most Nevadans was earned primarily by fulfilling the required amount of 'seat time' and earning the number of high school credits needed to graduate. For those students, time was the constant and achievement the variable. ... In the age of standards and accountability, achievement is the constant and time is the variable. ... With the addition of NCLB, the stakes for our students and schools are even higher. ... Educators and parents agree that it is important to be aware of every child in every school, and recognize that not all students learn in the same way or at the same speed.

The change in focus, from time to achievement, has caused us to rethink our methods. Students do not all learn in the same way or at the same speed. We have to be creative and find ways to give them more time and opportunity to learn. A program such as this helps us do that. Section 6 of S.B. 404 outlines the kind of accountability we are seeking. An application to the commission for funding is based on the state plan for improvement for student achievement, the district plans for student achievement and each individual school's plan. Subsection 4, on page 3 of the bill, provides that as part of the plan we must prescribe accountability measures to be carried out by a school or charter school that participated in the program if that school district or charter school does not meet the annual measurable objectives.

CHAIR RAGGIO:

Would the commission prescribe the accountability measures?

MR. ROBISON:

Yes. When we submit the plans to allocate funding, part of the criteria by which they will evaluate whether or not we are to receive additional funding would be that accountability measure. In subsection 7, subparagraph (a), it says the criteria for receiving the allocation must be based on the achievement of pupils based upon measurable criteria identified in the plan. In our reading of this bill, it puts the obligation upon our shoulders to submit a plan that not only says here is precisely what we are going to do to improve student achievement, but also, if that does not occur, here is what we propose as an accountability and here is how we are going to measure that. If the commission does not agree, we do not receive that money. We believe there are strong accountability measures contained within the bill and it lines up with one of our main principles in iNVest.

CHAIR RAGGIO:

It is true that all students do not learn at the same level and you have to make some accommodations. Accommodation does not mean an excuse. It means achievement, in some manner, that is appropriate for the particular student's capability. Our concern is that when a student gets out of high school, that student is going to compete with people all over the world. We need to do everything we can to make sure we give them the opportunity to meet that challenge.

Having heard what you said, I am going to suggest you get together with the Governor and our staff and develop some specificity for this bill. Within a short time, come back to us with suggestions for specificity about the issues we have been discussing.

KEN LANGE (Executive Director, Nevada State Education Association):

We are testifying today to highlight some of the portions of this bill we think are absolutely correct and on target, and to raise a number of concerns which I think would lead to more specificity. The element we like best about the bill, and which relates directly to the school environment and the needs of teachers and students in the school, is the focus on the school improvement plan as the vehicle for determining the goals of the school. We also believe the goal-setting process and movement toward those goals by the infusion of resources is the best way to measure that. In this process, the school improvement plans will need to be checked carefully to make sure the goals are set high enough but are not set to the point they are not attainable. The expectations of the students and schools sometimes exceed the available resources.

CHAIR RAGGIO:

This does not change what is currently in the law about school improvement plans or district improvement plans. It is my understanding budgets are not submitted with many of the school improvement plans.

MR. LANGE:

As the commission evaluates the plans, they need to make sure the goals are meaningful and the process makes sense to the people who are involved. The initial funding will be awarded by virtue of the fact that the goals are meaningful, attainable and meet acceptable program standards. Subsequent funding would be measured by whether or not the goals were met.

CHAIR RAGGIO:

Do you support the flexibility in the bill for the use of the money?

MR. LANGE:

Yes. We would caution that as soon as a sum of money is put on the table, there will be pressures from vendors. There are established programs that work. We will have to have some criteria that will allow us to avoid the sales pitches and look at what works for each school. With this bill and S.B. 214, we create a direct connection between a commission and an individual school. The accountability for school boards to be responsible for student achievement is somewhat removed since the school applies directly to a commission. Where is the school board in that mix and their responsibility for delivering student achievement?

CHAIR RAGGIO:

Are you saying the school district has to have veto power over the commission?

MR. LANGE:

No. I am just pointing out that we are creating a different mechanism for the delivery of resources. We have long supported direct resources for improving academic achievement in those schools where it is needed and, with the demands of NCLB, it is even more important.

CHAIR RAGGIO:

Some of the problem can be with teachers. If reconstituting a school is necessary and teachers are also the problem, what can be done that does not take five to six years?

MR. LANGE:

It takes a strong team with a strong leader to deliver results in our high-needs schools. We support a strong system of evaluation and support for all the teachers in the school and especially for those teachers who may need extra help or assistance in remediating whatever difficulties they are having. Once you go through that process, you must evaluate what to do with a teacher who cannot perform over a period of time. That does not mean three to five years. It can be done in a relatively short period of time, but it takes focus and it takes an effort.

CHAIR RAGGIO:

What is a relatively short period of time?

MR. LANGE:

The evaluation process allows for a yearly evaluation or more if necessary. The time is individual to each situation.

SENATOR CEGAVSKE:

I have a concern about creating another fund for remediation. We would have two different remediation funds with two different criteria. Are we going to address that?

MS. FOSTER:

Earlier in this meeting, I talked about the problems with the current source of funding. If we want to get schools off the list, the program needs to be designed around that goal which this bill accomplishes. The current program has only \$13 million in it, and that is not enough money. We are open to either changing the current program or creating a new program, but we wanted to make sure four things were included. Those four things are a decision-making process that is fast, a tie to NCLB and the lists it creates, an evaluation process that ties applicants to the goals listed in the SIPs and a fund that is ongoing each biennium.

CHAIR RAGGIO:

The testimony also was that there are presently 221 schools listed as either failing or on the watch list because they were close to failing. This is more than what was originally involved in this process, and that number is likely to go much higher.

SENATOR CEGAVSKE:

What is your recommendation about what should be done with the other remediation fund?

MS. FOSTER:

We had originally discussed getting rid of the old program. It would be a policy decision of the Legislature if you want to add the two funds together or eliminate the funding in the old program.

SENATOR BEERS:

It sounds like it is the intent of this program to hire people using grant funds. Do you anticipate this would become part of the Base for the next budget?

MS. FOSTER:

The intent is not specifically to hire people. Some of the SIPs suggest people be hired to teach English as a second language or as math tutors. The intent was to keep those as grant-funded positions. If the SIPs are done correctly and the school believes it will make a significant difference, they can hire a math tutor for two years. After that period they can apply again, but the intent was not to make those permanent positions.

SENATOR CEGAVSKE:

We already do that in most of the school districts. We have the math program that Mr. Bill Hanlon has been working with. We already have some of the services you are talking about, so I am concerned that it would be a duplication.

DR. RHEAULT:

I see the two working hand-in-hand. The school improvement plans and the district-wide plans all have a piece that is called professional development. I do not see it as a duplication. I see it as working together. They would have to explain in their application what they intend to do for professional development.

SENATOR CEGAVSKE:

Would these positions be in the Department of Education?

DR. RHEAULT:

We would have a representative on the commission and we would be the fiscal agents to pass sub-grants. At this point, I would say no.

SENATOR CEGAVSKE:

Are you going to need more staff with this bill?

DR. RHEAULT:

No.

CHAIR RAGGIO:

Is there any reason why they could not contract for these positions? Is there anything in the collective bargaining agreement that would prevent that?

MR. LANGE:

We would look at this bill as an opportunity to expand the length of the day for current employees. Districts have a certain amount of latitude in terms of hiring people for specific short-term assignments.

CHAIR RAGGIO:

Would it be a problem if schools had to contract with someone for ELL or something of that kind?

MR. LANGE:

I believe they can do that.

CHAIR RAGGIO:

We need more specificity in this bill. Let us all try to see if we can make this work rather than indicate roadblocks why it will not work.

SENATOR BEERS:

This is an innovative approach to funding although it is only partial funding. Is there some scenario you can envision where this might draw attention as not achieving the equality we realize with the Nevada plan? If so, can we get around it by a clause that says no county can access more of this than their percentage of the Distributive School Account (DSA)?

DR. RHEAULT:

Our plan is equal to all districts. The \$100 million that would be provided would go a long way toward providing adequacy to districts that need it and particularly schools that need improvement. They might argue that middle schools and high schools do not have access to the money.

CHAIR RAGGIO:

We will close the hearing on S.B. 404. I am requesting that, within ten days, we receive the suggestions that have been made on the more specific issues in the bill. Anyone who wants to have input should contact Dr. Rheault who is in charge of the unofficial subcommittee.

I will now open the hearing on S.B. 495.

SENATE BILL 495: Makes appropriation to Department of Cultural Affairs for expenses relating to creation of Nevada Online Encyclopedia. (BDR S-1410)

JUDITH WINZELER (Executive Director, Nevada Humanities):

With me are Professor Emeritus Jerome Edwards, Emeritus Professor of History at the University of Nevada, Reno, and an editor on the Nevada Online Encyclopedia and Professor Howard Goldbaum who is Professor of Multimedia at the Reynolds School of Journalism at the University of Nevada, Reno. Professor Goldbaum is the graphics editor for this project. This bill would provide support for the Nevada Online Encyclopedia. The Nevada Online Encyclopedia would be a comprehensive reference work on Nevada dealing with history, geography, economics and a wide range of topics that show what makes Nevada unique. You have received a handout titled "Senate Finance Hearing on SB 495, Appropriation for Expenses Related to the Creation of the Nevada Online Encyclopedia, April 18, 2005" ([Exhibit D](#)). When we were before you on March 21, 2005, I provided a 2-page summary and an 11-page description of the project that gave details on the scope of the project, the history of the project, the audiences we expect to serve, time lines and project personnel. I will not go into any detail unless you have questions about those things.

HOWARD GOLDBAUM (Professor of Multimedia, Reynolds School of Journalism, University of Nevada, Reno):

The Nevada Online Encyclopedia will have unique features that will distinguish this encyclopedia from efforts being presented by other states. We are trying to encapsulate what makes Nevada unique. What you see displayed on the screen now is a template. It is not a functioning site. I would like to show you, on the screen, the Chollar Mine in the Comstock where one could explore the mine in all its detail. You could also explore the architectural details of buildings such as the Washoe Club Saloon in Virginia City, and archaeological objects that were discovered during excavations in the Comstock. We plan to use the nineteenth century photographs that exist from Nevada's first pioneer

photographers in different museum collections. By scanning them, at high resolution, we will be able to present them in a way most people never would be able to see. The Encyclopedia will also include elements of video and audio historical interviews and audio tapes taken from the oral history project at the University of Nevada, Reno.

CHAIR RAGGIO:

How inclusive will the Nevada Online Encyclopedia be?

MS. WINZELER:

The table of contents will include land and water, pathways, early exploration, aviation, trains, society, culture, education, museums, the arts, people of Nevada, Native Americans, various ethnic groups and mining. What we have demonstrated today is from the section on nineteenth century mining history, but it would also deal with the minerals that are mined today, how mining has changed, the technology of mining, gaming and tourism, nuclear Nevada and the federal presence, politics and government and business and technology.

MS. WINZELER:

The Nevada Online Encyclopedia is meant to be comprehensive. We have an extensive group of editors. The three main editors are Professor Jerome Edwards, Ms. Joanne Goodwin of University of Nevada, Las Vegas, and Mr. Michael Green of the Community College of Southern Nevada. There is also a group of section editors.

SENATOR BEERS:

How far will you get with \$700,000 including the match?

MS. WINZELER:

I think we would have it half finished.

SENATOR BEERS:

How far is it now?

MS. WINZELER:

It is in the initial stages. In the graphic work we have concentrated on the Comstock because we have a lot of text from that period. We hope to move rapidly in the next two years.

SENATOR BEERS:

Would you anticipate putting this Online as you create the content?

MS. WINZELER:

I would like to do that. We have been working with the software developer. There is a chance we might have the section on the Comstock, perhaps the whole section on nineteenth century mining, up by summer or fall.

SENATOR BEERS:

How is the \$700,000 going to be spent?

MS. WINZELER:

The money would be spent almost entirely for contract work for contributors and editors. I just put together a budget for \$350,000 of which \$300,000 would go for contract work. This money is a grant to the Department of

Education. The only paid position would be the project manager or the managing editor. We have already signed the licensing agreement for the software. That was about \$30,000. There will be some costs to get it put on a local server. The hardware costs are probably \$15,000 or \$20,000.

SENATOR BEERS:
Would the hardware be scanners?

MS. WINZELER:
No, it would be computers.

SENATOR BEERS:
Your contractors should have the hardware to create the content.

MS. WINZELER:
Other than the project manager, the funds would be used for modest payments to the editors. Professor Goldbaum is doing his work pro bono, but there are some funds budgeted for section editors, contributors, data entry people and copy editors.

SENATOR BEERS:
What equipment are you going to buy?

MS. WINZELER:
The servers would be housed with the University System. They have agreed to maintain and support them.

SENATOR BEERS:
Did you indicate you already have \$350,000?

MS. WINZELER:
Those are federal-earmarked funds. The grant proposal is in process and we should be hearing within a couple of weeks. I do not anticipate any problems and U.S. Senator John Ensign's office supports this grant.

SENATOR BEERS:
Is this the criteria used in developing the amount of this bill request?

MS. WINZELER:
Yes.

CHAIR RAGGIO:
Are you looking at a project that would probably take three to five years and cost between \$1 million and \$1.5 million?

MS. WINZELER:
Yes, based on the work of other states, that is what we are anticipating. We will not know for certain until we get further into the project.

CHAIR RAGGIO:
How long do you think the federal funding will be available?

MS. WINZELER:

The \$350,000 is one-shot funding. Once we can start demonstrating some of the work, our chances of securing the rest of the funding are good.

CHAIR RAGGIO:

This request is for the second year of the biennium. Will a similar request be coming in the next biennium?

MS. WINZELER:

I do not know.

CHAIR RAGGIO:

Do you have other funding sources?

MS. WINZELER:

There are foundations in the state that could pick up the funding for this entire project. We will approach the Nell J. Redfield Foundation, Donald W. Reynolds Foundation and E. L. Weigand Foundation. There may be some restrictions about mixing public and private funding, but we will be making the case to them.

CHAIR RAGGIO:

Since you mentioned the E. L. Weigand Foundation, I should disclose that I am a member of the E. L. Weigand Foundation Advisory Committee.

SENATOR TITUS:

This is a great project and it has come a long way on a shoestring. I believe, when people see how much has been accomplished, you will find additional support for it.

MS. WINZELER:

The location of our Web site is included in [Exhibit D](#). This is a work in progress, but you can log on to the Web site at www.jour.unr.edu/goldbaum/nvhum/ and view some of the illustrations shown to you today.

CHAIR RAGGIO:

We want to compliment you on what you have achieved. We will close the hearing on S.B. 495 and open the hearing on S.B. 498.

SENATE BILL 498: Makes appropriation for expenses relating to operation and maintenance of Elgin Schoolhouse as historic site for visitation by public.
(BDR S-1422)

SENATOR RHOADS (Northern Nevada Senatorial District):

Earlier in the session, former State Senator Helen Foley discussed with me the possibility of donating the Elgin Schoolhouse to the Division of State Parks. You have received a handout titled "The Elgin Schoolhouse" which includes a budget and pictures of the Elgin Schoolhouse ([Exhibit E](#)). The Elgin Schoolhouse is 25 miles south and east of the Kershaw-Ryan Park in Lincoln County. The building is in excellent condition. It is one of the few one-room schoolhouses left in the west. The cost to the Division of State Parks would be \$24,304 in fiscal year (FY) 2006 and \$17,469 in FY 2007. I think it is an excellent project.

HELEN FOLEY (Former State Senator):

I would like to thank Senator Rhoads, who represents Lincoln County, for proposing this legislation. Although many people know of my rich history in Nevada, primarily because of the Foley family, I am equally proud of the Bradshaw side of my family. My mother's family settled at the end of Rainbow Canyon in Lincoln County in 1875. They were squatters at the time and they came with many other pioneer ranching families because of the availability of water and rich grasslands. When my great-grandfather, James W. Bradshaw, and his wife, Jane, began their family, it was difficult to educate children. Different ranchers in the area would gather together and educate their children. The family at the Carson ranch and the Bradshaws would trade off, and every other year the school would be at their location. The mothers of those children would have to develop tent communities to stay during the school year because ten miles was a long way to travel in those days. When the San Pedro, Los Angeles and Salt Lake Railroad came through Rainbow Canyon in 1905, they created the town of Caliente. They built a big railroad station there and, about every five or so miles down Rainbow Canyon, they would have railroad sidings. Elgin was one of the larger railroad sidings. There were many people who worked for the railroad and ranching areas in that community. At that time, they had makeshift schools. In 1921, my grandfather built the Elgin Schoolhouse that you see in the photographs included with [Exhibit E](#). The schoolhouse was in operation until about 1968, and then it went into a state of disrepair.

People, from up and down the canyon, took desks and furnishings because they had fond memories of going to school in that one-room schoolhouse. In about 1997, my uncle contacted my cousin because the roof was caving in. He donated a couple thousand dollars and my brother helped set up a foundation which is the Elgin One-Room Schoolhouse Living Museum. They were able to put that school back together. My cousin, Mr. Lynn Wood, went up and down the canyon, and in Lincoln County he found the original school desks and books. Many of the books were from when the school was first built in 1921. They have an old phonograph player and the original piano is still there.

The reason the schoolhouse looks as good as it does is because of the Division of Forestry. My cousin was in charge of the conservation crew and received permission to tear it apart piece-by-piece, sand it down, paint it and make it look like new. We had the grand opening in May 2000. Since then, it has been open on weekends through a voluntary docent program. Mr. Phares Woods, who runs the Kershaw-Ryan Park, has worked with my cousin on the park and has committed that he will prepare a history of the schoolhouse.

We contacted Mr. Allen Biaggi, Director of the State Department of Conservation and Natural Resources, and Ms. Kay Scherer, Assistant Director. They put together a budget for the Elgin Schoolhouse. There are no construction costs. It is all continued maintenance, insurance and putting a pad on the site for a trailer for someone to be available for tours. Every weekend, at least ten families come up and want to tour the site. Elgin, Nevada, is 150 miles north of Las Vegas. It is about 25 miles south of Caliente.

CHAIR RAGGIO:

That is an interesting and commendable undertaking and your families are to be commended for their efforts.

ALLEN BIAGGI (Director, State Department of Conservation and Natural Resources):

I think Ms. Foley has done an outstanding job. I would like to point out that this bill is not included in the *Executive Budget*. However, if this Legislature feels it is appropriate to pass this bill and pursue acquisition through the Division of State Parks, we would be pleased and honored to have this as another asset within the State Park system.

CHAIR RAGGIO:

Does the administration have any problems with this request?

JOHN P. COMEAUX (Director, Department of Administration):
No.

CHAIR RAGGIO:

Are the numbers, included in the budget in [Exhibit E](#), realistic?

MR. BIAGGI:

They are realistic. We have gone through these numbers carefully. The facility is in excellent condition and we believe these numbers represent not only the takeover costs, and some slight amenities, but also the long-term costs.

CHAIR RAGGIO:

What is the status of the acquisition by the Division of State Parks?

MR. BIAGGI:

We have not pursued any activities pending the decision of the Legislature.

CHAIR RAGGIO:

What would be required? Would there have to be an appraisal?

PAMELA B. WILCOX (Administrator and State Land Registrar, Division of State Lands, State Department of Conservation and Natural Resources):

We are planning to have an appraisal so the family will know the value of the donation. The Office of the State Controller needs to know the value of land added to the state system. We have contacted our title company, which is under contract, and ordered a preliminary title report. It will be a standard donation of land which means you will see it at the Interim Finance Committee (IFC) when the work is done.

CHAIR RAGGIO:

How much is this process costing in addition to what is in this bill?

MS. WILCOX:

An appraisal in this area may be as much as \$4,000 or \$5,000. We have not yet requested an appraisal. Because it would become part of the State Park system, the Division of State Parks would cover that expense through their Question 1 funds which are available for new acquisitions.

SENATOR BEERS:

Yesterday, I visited Monte Cristo's castle. It is about three acres at the end of a three-mile dirt road. There may be some interest on the part of the federal government to give us this land in FY 2007. Would it be appropriate for us to

have a resolution agreeing to accept this land should the federal government wish to give it to us? Has this been done before?

Ms. WILCOX:

There is an existing federal law called the Recreation and Public Purposes Act under which we have accepted land from the federal government for park and recreation purposes many times. With respect to the Monte Cristo proposal, the problem is budgeting for maintaining and operating the property afterwards. As a land transaction, it is possible.

SENATOR BEERS:

Do you need any legislative authority to do that?

Ms. WILCOX:

No.

SENATOR BEERS:

If they get ready at their end, would we be automatically ready?

Ms. WILCOX:

If the Division of State Parks is ready to add another unit to the State Park system in that location, the land transaction would not need Legislative approval.

SENATOR BEERS:

Is there a down side to having a land transaction with nothing more than a vague, some-day plan to put a park there?

Ms. WILCOX:

The federal government does not like conducting business that way. They have time frames. They require us to submit proposals and plans for how we would use the land and stay within the time frame. Also, the state becomes responsible and liable for any land to which we hold title. Unless we have a plan to protect that resource, it may not be a good move. I would be happy to discuss that with you at your convenience.

CHAIR RAGGIO:

We will close the hearing on S.B. 498. At this time I will open the hearing on Assembly Bill (A.B.) 97 which is an appropriation for the Governor's portrait.

ASSEMBLY BILL 97: Makes appropriation to Account for the Governor's Portrait to provide money for preparation and framing of portrait of Governor Kenny C. Guinn. (BDR S-1207)

MR. COMEAUX:

Assembly Bill 97 makes an appropriation in the amount of \$20,000 from the General Fund to the account for the Governor's portrait. Eight years ago, the amount appropriated was \$10,000. That amount was barely adequate so we are recommending \$20,000.

CHAIR RAGGIO:

The policy has been that when a Governor is about to leave office, the appropriation is made for a portrait. Those are the portraits hanging in the State Capitol Building. Does the Governor select the artist?

MR. COMEAUX:

The Legislative Commission controls this fund. They have allowed the Governor to select the artist in the past.

CHAIR RAGGIO:

This is addressed in *Nevada Revised Statutes* 223.121 which states that the Legislative Commission may enter into a contract with an artist for the purpose of procuring a portrait. The portrait must be painted in oil colors and appropriately framed. It must be done in the same manner, style and size as portraits of former governors and the portrait and frame are subject to the approval of the Governor.

SENATOR RHOADS MOVED TO DO PASS A.B. 97.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR MATHEWS WAS ABSENT FOR THE VOTE.)

CHAIR RAGGIO:

There are three more bills the Committee may wish to process. Please look at S.B. 4.

SENATE BILL 4: Makes various changes relating to Commission for Cultural Affairs. (BDR 18-398)

This bill deals with the Commission for Cultural Affairs. It was heard on February 28, 2005. The maximum amount of financial assistance that can be granted to the Commission would be increased from \$2 million to \$3 million and the maximum amount of such assistance that may be granted by the Commission in any ten-year period would increase from \$20 million to \$30 million. The bill provides for per diem and travel expenses of the Commission from the interest that is earned on the money. The Legislation would be effective upon passage and approval.

SENATOR BEERS MOVED TO DO PASS S.B. 4.

SENATOR TITUS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR RAGGIO:

The Legislative Counsel has advised that the Chair has the authority to allow a vote to be added to the record by a member who is absent when a vote is taken, as long as there are no objections from the Committee. Senator Titus has requested that her vote be added for three bills that were heard at the meeting of April 15, 2005.

Please look at S.B. 43. This is a measure dealing with the Interstate Compact for Juveniles. It retains the cooperation in tracking and supervising juveniles but

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had to be changed to accommodate some revision. It also creates the Nevada State Council for Interstate Juvenile Supervision. This was heard on March 7, 2005.

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

SENATOR RHOADS:
Is there a fiscal impact?

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

Staff recommends that a Letter of Intent be provided to the Division of Child and Family Services that they seek funding once 35 states have approved this compact. This is similar to when the Legislature approved S.B. No. 194 of the 71st Session which was the interstate compact for adult offenders. The compact does not become effective until it is approved by 35 states. There would be no funding recommended at this time, but once the 35th state adopts the compact, it would become effective.

SENATOR CEGAVSKE MOVED TO DO PASS S.B. 43 WITH A LETTER OF INTENT TO THE DIVISION OF CHILD AND FAMILY SERVICES THAT THEY SEEK FUNDING ONCE 35 STATES HAVE APPROVED THE INTERSTATE COMPACT FOR JUVENILES.

SENATOR MATHEWS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Senate Bill 98 is an appropriation to provide necessary assistance to the Task Force on Prostate Cancer. The Department of Human Resources has proposed an amendment to this bill ([Exhibit F](#)).

SENATE BILL 98: Makes appropriation to Department of Administration to provide necessary assistance to Task Force on Prostate Cancer. (BDR 40-1210)

MR. GHIGGERI:
The amendment would provide for the payment of per diem and travel allowance.

SENATOR BEERS MOVED TO AMEND AND DO PASS S.B. 98.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR RAGGIO:
Please refer to the "Senate Committee on Finance Closing List #2" ([Exhibit G](#), original is on file at the Research Library).

ELECTED OFFICIALS

Office of the Governor — Budget Page ELECTED-1 (Volume I)
Budget Account 101-1000

BOB GUERNSEY (Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

The only recommended changes from staff in this budget account are updated prices for the costs of the computers and software from the Department of Information Technology.

E-250 Working Environment and Wage — Page ELECTED-3

In decision unit E-250, the Governor has recommended \$25,000 each year for personnel expenses. The Committee had a question about how that was going to be used. On page 4, of [Exhibit G](#), is a memorandum from Mr. Andrew Clinger, Deputy Director of the Budget Division, responding to a number of questions raised by the Committee. The Governor's Office indicates the additional \$25,000 will be used to allow staff to hire interns, intermittent and part-time staff.

The Committee questioned whether a portion of the energy advisor position could be funded from other sources. The Budget Division replied they have looked into that and there is no additional funding to support the position other than General Funds. The salary is used as a match for other funds that come into the separate energy budget account.

Closing issue No. 3 is the rent increase. The Committee questioned what is going to happen with the Capitol annex. The Budget Division indicated the first floor of the Capitol annex will provide additional office space to the Governor's staff to alleviate crowded conditions, and the second floor will be used as a media room for the Governor's press briefings and other official announcements.

CHAIR RAGGIO:

Where did that portion of the Office of the State Controller go? Did they take part of the State Controller's Office?

MR. GUERNSEY:

The State Controller's Office has moved. The Controller is still in the State Capitol.

MR. GHIGGERI:

The staff of the Office of the State Controller have been relocated to the former Employers Insurance Company of Nevada (EICON) building that was remodeled.

MR. GUERNSEY:

Under other closing items, two positions supporting the Office of Homeland Security are recommended to be transferred to the Department of Public Safety. The position of the advisor on wildlife conservation and rural Nevada issues is being funded through a grant in the Division of State Forestry. The Committee questioned what was going to happen to that position because the grant will be ending on July 1, 2005. The reply from Mr. Clinger indicates that position will be moved into the Governor's Office as one of the 19 existing positions.

CHAIR RAGGIO:

Is that a nonclassified position?

MR. GUERNSEY:

That is correct.

CHAIR RAGGIO:

Will additional funding be requested or required for the advisor on wildlife conservation and rural Nevada issues?

MR. COMEAUX:

No additional funding will be requested or required.

CHAIR RAGGIO:

With respect to the energy advisor position, apparently there is no alternative for the funding other than what has been recommended?

MR. COMEAUX:

There is no other available source of funding for that position. That is why we recommended the General Fund.

SENATOR CEGAVSKE:

What is the purpose of the two positions supporting the Office of Homeland Security? Why is the advisor on wildlife, conservation and rural Nevada issues in the Governor's Office?

MR. GUERNSEY:

The position on Homeland Security is the leadership function of Homeland Security. It is currently filled by The Adjutant General of Nevada. When he retires from the Nevada National Guard, he will be filling the position on a permanent basis. The Governor felt the appropriate place for that function would be in the Department of Public Safety. With respect to the advisor on wildlife conservation and rural Nevada issues, that function provides ongoing daily information to the Governor on these important issues.

CHAIR RAGGIO:

Will the position of advisor on wildlife conservation and rural Nevada issues no longer be funded by federal funds?

MR. COMEAUX:

That is correct. With all of the issues that face the state on wildlife and conservation, having that position in his office has been helpful to the Governor. That is why he wants to utilize one of the available slots in his office to continue that position even though the federal grant has been eliminated.

SENATOR CEGAVSKE:

Is there space in the Governor's Office for that position?

MR. COMEAUX:

The Governor's Office is at capacity which is one reason we are going to utilize the first floor of the annex when the renovation is completed. This position has physically been housed in the Governor's Office for the last year and a half.

SENATOR CEGAVSKE MOVED TO CLOSE BUDGET ACCOUNT 101-1000 AS RECOMMENDED BY THE GOVERNOR AND AS PRESENTED ON PAGES 2 AND 3 OF [EXHIBIT G](#).

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR RAGGIO:

We are now going to review the Attorney General's budget.

Special Fund — Budget Page ELECTED-43 (Volume I)
Budget Account 101-1031

JEFFREY A. FERGUSON (Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

The primary issue in this budget is the addition of \$1 million in General Funds for FY 2005-2006. This is to be used for Yucca Mountain litigation costs. The Governor recommends the appropriation be authorized for use in both years of the biennium.

CHAIR RAGGIO:

Is the recommendation that the \$1 million can be used in either year over the biennium?

MR. FERGUSON:

That is correct.

E-350 Environmental Policies and Programs — Page ELECTED-44

MR. FERGUSON:

Decision unit E-350 recommends adding \$7,294 in General Funds to bring funding for legal and court costs related to nuclear waste to the historic average of \$8,728 not including the \$1 million appropriation.

SENATOR RHOADS:

Does the IFC have to approve the money that is spent for legal purposes?

MR. FERGUSON:

It does require IFC approval. That was included in the Appropriations Act.

MR. GHIGGERI:

Approval by the IFC is required to transfer money between the fiscal years. In a previous session, there was a Letter of Intent requesting that the Attorney General (AG) report these expenditures to the IFC.

SENATOR BEERS:

Is this in addition to additional funds elsewhere in the budget for Yucca Mountain?

MR. FERGUSON:

There is an appropriation in the amount of \$2 million for nuclear projects which is not in this budget account. Those funds are used for things like scientific studies. Some of it could be used for litigation costs, but they keep track of those costs separately.

SENATOR RHOADS MOVED TO CLOSE BUDGET ACCOUNT 101-1031 AS RECOMMENDED BY THE GOVERNOR AND AS PRESENTED ON PAGES 8 AND 9 OF [EXHIBIT G](#), WITH STAFF AUTHORITY TO MAKE ADJUSTMENTS TO ASSESSMENTS AND COST ALLOCATIONS THAT MAY BE NECESSITATED BY BUDGET CLOSINGS IN OTHER ACCOUNTS.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Attorney General Insurance Fraud — Budget Page ELECTED-46 (Volume I)
Budget Account 101-3806

MR. FERGUSON:

The Governor recommends eliminating the Insurance Fraud Control Unit and combining its revenues and expenditures which include ten full-time equivalent (FTE) positions within the Fraud Control Unit for Industrial Insurance, commonly referred to as the Workers' Compensation Fraud Unit. The Attorney General testified, during the budget hearing, that this recommendation is part of the reorganization plan and will result in improved efficiency and effectiveness for both fraud unit operations. The AG also indicated to the Committee that proper accounting procedures will be established to make certain activities of the combined fraud units will be cost allocated so that workers' compensation funds are used for workers' compensation activities and insurance fraud funds are used for insurance fraud activities.

CHAIR RAGGIO:

How effective has the fraud unit been?

RANDAL MUNN (Special Assistant Attorney General, Office of the Attorney General):

In the 2003 Legislative Session, the Workers' Comp Fraud Unit came under quite a bit of scrutiny. Their effectiveness has improved. They have worked hard with the industry to get more referrals and the industry has been happy with their performance.

CHAIR RAGGIO:

Did we get that report?

MR. GHIGGERI:

We received revised performance indicators from the Office of the Attorney General for both the Insurance Fraud Control Unit and the Workers' Comp Fraud Unit. That was included in the last meeting packet of the IFC.

MR. FERGUSON:

The Governor is recommending the addition of two investigator positions with associated equipment, operating and travel costs. Both positions would be located in Las Vegas. This would be funded with reserve reductions of \$293,360 for the biennium. The ratio of investigators to prosecutors is two-to-one in the northern Nevada Insurance Fraud Control Unit and three-to-two in southern Nevada. This reduced ratio has left the southern Nevada Insurance Fraud Control Unit shorthanded in investigative resources. As a result, the AG testified that approximately 10 percent of the cases referred to the Insurance Fraud Control Unit have been denied due to insufficient resources. This recommendation would bring the southern Nevada ratio up to the same ratio as in northern Nevada. If the Committee approves this decision unit, these two positions would be transferred to the Workers' Compensation Fraud Unit.

During the budget hearing, there was testimony there would not be sufficient revenues in this budget to support these two positions given the current state of assessments received from insurers. As a result, A.B. 135 was passed by both the Assembly and the Senate. However, the Governor vetoed that bill. Some information came to light after A.B. 135 was proposed.

ASSEMBLY BILL 135: Increases maximum annual amounts that may be assessed against certain insurers for purposes relating to investigation of insurance fraud. (BDR 57-1071)

The Budget Division has provided staff with revised expenditures that are different from those contained in the *Executive Budget*. On page 11 of Exhibit G, there is a comparison. The AG cost allocations have been removed from this budget. That was \$61,235 in each year of the biennium. The statewide cost allocation was reduced by \$2,823 in each year of the biennium. As a result, reserves would increase by \$64,058 in each year of the biennium and revenues would be reduced by \$87,971 in each year of the biennium. There would be a reserve of \$333,481 at the end of FY 2007. Because the AG cost allocations have been removed and the statewide cost allocation reduced, there is no need for increasing the assessments on insurers.

CHAIR RAGGIO:

Are you still pursuing A.B. 135?

MR. MUNN:

We are not pursuing A.B. 135. Our staff did an excellent job recommending the need for A.B. 135. Since the tools available to the Budget Division to fill this need in the budget were not available to us, we did not propose it that way.

E-807 Position Upgrades – Senate Committee on Finance Closing List #2, Page 12, paragraph 3

E-903 Transfer IFU to Workers Compensation Fraud Unit – Senate Committee on Finance Closing List #2, Page 12, paragraph 3

MR. FERGUSON:

The next issue is a decision unit that was not in the *Executive Budget*. As the Committee may recall, the AG testified that an upgrade for a deputy attorney general was inadvertently omitted from the *Executive Budget* and asked that it be included. The Governor supports upgrading this position. The "Senate Committee on Finance Closing List #2" reflects the addition of decision units

E-807, which upgrades that position to a senior deputy attorney general, and E-903, which would transfer that upgrade to the workers' compensation budget. The salary of that position would increase from \$72,020 annually to \$84,360. This includes the 2-percent cost-of-living adjustment (COLA). Funding would come from reserve reductions. This position manages all northern Nevada insurance fraud activities.

CHAIR RAGGIO:
How many senior deputy attorneys general are there?

MR. MUNN:
There is one in the northern Nevada area and about 15 or 20 statewide.

E-710 Replacement Equipment — Page ELECTED-49 (Volume I)

MR. FERGUSON:
Decision unit E-710 recommends \$12,320 in FY 2007 to purchase replacement computer hardware equipment. Based on newer information, staff has made some reductions to this.

CHAIR RAGGIO:
What is the recommendation for everything going to the Workers' Compensation Fraud Unit budget?

MR. FERGUSON:
The entire budget account would be transferred to the Workers' Compensation Fraud Unit. This budget account would cease to exist.

CHAIR RAGGIO:
Is it cost effective to do that? Will you still have the accountability and allocation of the funding for each purpose?

MR. FERGUSON:
Yes.

SENATOR COFFIN:
I would like to discuss A.B. 135, the enabling legislation to help fund positions in this budget. That was the only veto by the Governor so far in this session. What was the reason for the veto? What was said publicly was that it contained fees or the equivalent of a tax, not that it was not needed. This would have been a small increase. It would be helpful to know what an acceptable fee or tax would be.

MR. FERGUSON:
When A.B. 135 was drafted, it appeared they were going to be short of revenues in this budget. The AG's cost allocation plan and the statewide cost allocation plan are not finalized at the time the budget is prepared. In looking at the final version of those cost allocation plans, it was noted that the AG cost allocation expenditure in this budget would be removed for this biennium. The reason for this is that they used less AG services than budgeted in previous years, and they had a credit that is being applied in this biennium.

SENATOR COFFIN:

My impression, given by the veto, was that the bill contained fees or taxes which sent a signal to us that we have to watch carefully on everything with fees or taxes.

MR. COMEAUX:

The AG's office requested that we submit this bill for them since their deadline had passed, and they needed the money to balance their budget. After the bill had passed, we received the two cost allocation plans that freed up reserves in their budget. The Governor's position has been consistent. In the face of the large tax increases that he recommended and the Legislature approved in the last session, he is not willing to support anything this session that increases fees, taxes or licenses unless there is a specific compelling need for it. In this case, there was not, and that is why he vetoed the bill.

SENATOR COFFIN:

It seems there was a compelling need. I am trying to find some firm ground on which we could all be.

MR. COMEAUX:

The timing of those two cost allocation plans is generally sometime in March. We did not realize the effect they would have on the reserves of this budget. The budget ends up with everything they want to do with an adequate reserve at the end of the biennium. There was not a need for that fee increase.

CHAIR RAGGIO:

I will entertain a motion to close this budget as indicated.

SENATOR COFFIN MOVED TO CLOSE BUDGET ACCOUNT 101-3806 AS PRESENTED ON PAGES 10, 11 AND 12 OF [EXHIBIT G](#); COMBINE THE INSURANCE FRAUD CONTROL UNIT WITH THE WORKERS' COMPENSATION FRAUD UNIT; ADD TWO NEW INVESTIGATOR POSITIONS WITH THE UNDERSTANDING THEY ARE TO BE TRANSFERRED TO THE WORKERS' COMPENSATION FRAUD UNIT AND THE FUNDING IS AVAILABLE, AND THERE IS NO NEED TO PROCESS [A.B. 135](#); UPGRADE THE EXISTING DEPUTY ATTORNEY GENERAL POSITION; THE REDUCTION IN COMPUTER HARDWARE COSTS; AND WITH STAFF AUTHORITY TO MAKE ADJUSTMENTS TO ASSESSMENTS AND COST ALLOCATIONS THAT MAY BE NECESSITATED BY BUDGET CLOSINGS IN OTHER ACCOUNTS.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

AG Medicaid Fraud — Budget Page ELECTED-52 (Volume I)
Budget Account 101-1037

MR. FERGUSON:

The Medicaid Fraud Control Unit is funded 75 percent through Title XIX funds and 25 percent through a state match. The federal government allows the state

to use all or a portion of the money it recovers for the cost of its investigations and litigation to comply with the match requirement. In 1997, the Legislature approved funding this budget with 15-percent recovery funds and 10-percent General Funds. In 1999, the Legislature approved the Governor's recommendation to reduce the General Fund appropriation to less than 3 percent of expenditures. In the 2001 Legislative Session, the Governor's recommendation to reduce the General Fund appropriation to \$1,000 was approved. In the current budget proposal, the Governor is recommending additional General Funds for the Medicaid Fraud Unit totaling \$30,572 for FY 2006 and \$287,290 in FY 2007. Medicaid fraud collections have decreased over the past few years. The Medicaid Fraud Control Unit has been heavily involved in some pharmacy-related litigation which does not provide for some of the large recoveries.

CHAIR RAGGIO:

Are we mandated to provide 25 percent?

MR. FERGUSON:

Yes. The funds that have been recovered have been used for the state match.

TIM TERRY (Chief Deputy Attorney General, Medicaid Fraud Control Unit, Office of the Attorney General):

The recoveries of the unit for FY 2003 and FY 2004 were below our average annual recoveries of about \$1 million. In 2001, we initiated complex litigation against all the pharmaceutical manufacturers in the country. Because of our litigation, we did not participate in recoveries through settlements with those manufacturers that several other states did in 2003 and 2004. We anticipate we will have those recoveries back through the litigation. Our recoveries for FY 2005 are already up over \$1 million. We had a temporary decrease in FY 2003 and FY 2004 which can be attributed to the fact that we did not settle some cases, but we have ongoing litigation and will eventually recover those sums.

CHAIR RAGGIO:

Other than pharmacy-related recoveries, what kind of recoveries are we getting and from where?

MR. TERRY:

The Medicaid Fraud Control Unit is charged with investigating allegations of provider fraud in the Nevada Medicaid program and allegations of patient abuse and neglect in long-term care facilities.

CHAIR RAGGIO:

What type of providers seem to be the offenders?

MR. TERRY:

We have cases open with doctors, hospitals, nursing homes, dentists and podiatrists. Fraud is not specific to any one category of providers.

SENATOR BEERS:

Do you look into any fraudulent patient activity?

MR. TERRY:

Our grant only allows us to look into allegations of provider fraud. Recipient fraud is handled by the Medicaid agency itself. It is not within our purview.

SENATOR BEERS:

Would you have an objection to us recording this as a loan that would come back out of your future proceeds?

MR. TERRY:

Historically, we have had recoveries every year that have been more than sufficient to pay for the state's share of the federal grant. Even during the dips in FY 2003 and FY 2004, we just used some of our reserve. The request for the money in FY 2006 is precautionary. Recoveries in FY 2005 are already over \$1.25 million, so the money will be there. The Assembly Committee on Ways Means asked for a promise to pay it back. We would pay the money back.

SENATOR BEERS:

If your collections are already that high, should we amend your budget and not have the General Funds in there now? We can fix it now and not have to worry about it later.

MR. TERRY:

My preference has been that this should be a budgeted item that would be paid back through recoveries. It is probably not correct from an accounting principle to leave it off the books and not recognize the state's obligation for the 25-percent grant. That is a policy decision.

SENATOR BEERS:

It sounds like, financially, we could do that based on your recent collections report.

MR. TERRY:

Yes.

SENATOR BEERS MOVED TO CLOSE BUDGET ACCOUNT 101-1037 AS PRESENTED ON PAGES 13 AND 14 OF [EXHIBIT G](#); ELIMINATE THE GENERAL FUND APPROPRIATIONS OF \$30,752 FOR FY 2005-2006 AND \$287,290 FOR FY 2006-2007 AS MATCHING FUNDS; RETAIN THE GENERAL FUND APPROPRIATION OF \$1,000 TO PROVIDE ACCESS TO THE IFC CONTINGENCY FUND; AND GIVE STAFF AUTHORITY TO MAKE ANY ADJUSTMENTS TO ASSESSMENTS AND COST ALLOCATIONS THAT MAY BE NECESSITATED BY BUDGET CLOSINGS IN OTHER ACCOUNTS.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

MR. FERGUSON:

We have already discussed and approved one of the main issues in this budget. That is, bringing the Insurance Fraud Control Unit into this budget.

The Governor recommends eliminating two positions and reclassifying two positions in this budget. One regional chief deputy would be reclassified to a chief deputy attorney general. There would be a salary decrease of \$4,355 over the biennium. A senior workers' compensation fraud investigator would be reclassified to a chief workers' compensation fraud investigator. That would have a salary decrease of \$5,742 over the biennium. The total decrease in expenditures with the reclassifications and the removal of the two positions is \$318,344 over the biennium. The two positions that were approved in the Insurance Fraud Control Unit budget would be transferred to this budget, so there would be no net increase or decrease in the number of positions.

E-807 Position Upgrades — Page ELECTED-60

MR. FERGUSON:

In decision unit E-807, the Governor recommends \$26,870 over the biennium to upgrade an existing deputy attorney general, which has an annual salary of \$79,132, to a senior deputy attorney general which would have an annual salary of \$90,874. The AG testified that this position's responsibilities are equal to those of other senior deputy attorneys general.

CHAIR RAGGIO:

Are we raising everybody to a senior deputy attorney general to get pay raises or is there a valid reason for it?

MR. MUNN:

The person in this position is the sole attorney in northern Nevada for the Workers' Comp Fraud Unit. His position has considerable responsibility and the upgrade is related to the function.

CHAIR RAGGIO:

We are going to be looking at unclassified salaries later. If we approve these requests, it should be with a reservation that it may be reexamined when we look at the issue of unclassified salaries.

MR. FERGUSON:

Staff has made some adjustments for reduced computer hardware costs.

SENATOR MATHEWS MOVED TO CLOSE BUDGET ACCOUNT 101-1033 AS PRESENTED ON PAGES 15 AND 16 OF [EXHIBIT G](#) WITH STAFF TECHNICAL ADJUSTMENTS; GIVE STAFF AUTHORITY TO MAKE ANY ADJUSTMENTS TO ASSESSMENTS AND COST ALLOCATIONS THAT MAY BE NECESSITATED BY BUDGET CLOSINGS IN OTHER ACCOUNTS; AND WITH THE UNDERSTANDING THAT THE UNCLASSIFIED SALARIES MAY BE REEXAMINED.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

AG Office of Consumer Protection — Budget Page ELECTED-64
Budget Account 330-1038

MR. FERGUSON:

This budget contains two different functions. One is the Utility Consumers' Advocate Unit. That unit is funded through the annual assessment on public utilities (mill assessment). There are also the Telemarketing and Consumer Fraud Unit and the Antitrust and Securities Fraud Unit. These functions are funded with General Fund appropriations. There are 31 FTEs, 17 of which are funded through mill assessments and 14 are funded through General Fund appropriations.

E-250 Working Environment and Wage — Page ELECTED-67

E-251 Working Environment and Wage — Page ELECTED-67

E-252 Working Environment and Wage — Page ELECTED-68

The first major closing issue is three new positions. The Governor recommends \$227,518 over the biennium for one new consumer fraud investigator in northern Nevada and one program assistant to support consumer fraud staff in southern Nevada. The AG testified that the investigator in northern Nevada is needed to provide the ideal one-to-one attorney and investigator ratio. The program assistant in southern Nevada is needed to assist with the increasing number of consumer complaints. Those positions would be funded with General Funds because they are in the Telemarketing and Consumer Fraud Unit and the Antitrust and Securities Fraud Unit. The third position is a new legal secretary to work with utility attorneys in Las Vegas. This position would be funded with mill assessments or reserves. The AG indicated that the Bureau of Consumer Protection requires an additional clerical person to keep up with the increasing workload.

CHAIR RAGGIO:

Are we reducing the reserve and not increasing the mill assessment?

MR. FERGUSON:

That is correct. In this budget, the mill assessment goes down to 70 mills from 75 mills.

E-807 Position Upgrades — Page ELECTED-69

E-808 Position Upgrades — Page ELECTED-70

The Governor recommends \$61,394 over the biennium to provide upgrades for three unclassified positions. A senior deputy attorney general would be reclassified to a supervising senior deputy attorney general. The AG indicated this position's responsibilities are equal to those of other supervising deputy attorneys general in the agency. In decision unit E-808, the Governor recommends upgrading two deputy attorneys general to senior deputy attorneys general. The duties and responsibilities of these two positions are commensurate with the senior deputy attorney general classification. This will also improve the retention and advancement opportunities for existing staff.

E-253 Working Environment and Wage – Senate Committee on Finance Closing
List #2, Page 18, paragraph 3

The third major closing issue was not in the *Executive Budget*. During the budget hearing, the AG testified that a new consumer advocate had been hired after the budget was prepared. The consumer advocate reviewed the responsibilities and duties of the office and found the need for a consumer counsel position. This position is not in the *Executive Budget*. The position would be involved in the analysis, supervision and coordination of all aspects of regulatory matters before the Public Utilities Commission, Federal Energy Regulatory Commission, Nevada district courts and the Nevada Supreme Court. The recommended position would encompass responsibilities that are currently performed by both general counsel and staff counsel at the Public Utilities Commission.

CHAIR RAGGIO:

Would the funding for this position come out of the mill assessment and not the General Fund?

MR. FERGUSON:

The Governor supports this position. It would not begin until October 1, 2005. Staff added decision unit E-235 to [Exhibit G](#) to reflect this new position.

CHAIR RAGGIO:

Is there a fixed term for the consumer advocate?

MR. MUNN:

A four-year term is established by the *Nevada Revised Statutes*.

SENATOR BEERS:

Can we avoid increasing the mill assessment on utilities until the next biennium by funding this unanticipated position out of the reserve?

MR. FERGUSON:

After this position, there would still be ample reserves. They would not have to increase the mill assessment.

SENATOR BEERS:

How much of the reserves are we using on this position?

MR. FERGUSON:

The cost is \$214,607 over the biennium. This includes equipment, travel and operating costs. There would still be reserves in this account of \$584,000 in FY 2006 and \$396,000 at the end of FY 2007. There would be ample reserves.

SENATOR BEERS:

The reserves would be ample, but they would be decreasing.

MR. FERGUSON:

That is correct. In the budget hearing there was discussion that the reserves were a little higher than they typically have been. Even though they reduced the mill assessment, if this decision unit is approved, the reserves would be brought down to their historic levels.

SENATOR TITUS:

Is it true if we fund this, it will not raise anyone's power bill?

MARILYN SKIBINSKI (Regulatory Manager, Bureau of Consumer Protection, Office of the Attorney General):

That is a fair statement. We do not intend to raise the mill assessment. When we prepared this budget, we reduced it from the statutory ceiling of 0.75 to 0.70. There will be ample reserves, based on the 0.70, even with flat revenues. There is no need to raise the mill assessment rate we are charging.

SENATOR COFFIN:

It is important to remember that funding this office and keeping it sufficiently staffed has helped keep the rates low. They have been able to find expenses that should not have been charged to ratepayers. On balance, this has saved money for the ratepayers.

CHAIR RAGGIO:

This position would not be filled until October 2005. Is the funding based on that hire date?

MR. FERGUSON:

That is correct.

E-275 Maximize Internet and Technology — Page ELECTED-68

MR. FERGUSON:

Decision unit E-275 recommends \$25,308 over the biennium for document scanning, file conversion and document destruction services. [Exhibit G](#) reflects some decreases in computer hardware costs.

SENATOR RHOADS MOVED TO CLOSE BUDGET ACCOUNT 330-1038 AS PRESENTED ON PAGES 17, 18 AND 19 OF [EXHIBIT G](#), AUTHORIZE THREE NEW POSITIONS TO BE FUNDED WITH RESERVE REDUCTIONS; AUTHORIZE POSITION UPGRADES FOR THREE UNCLASSIFIED POSITIONS WITH THE UNDERSTANDING THAT THE UNCLASSIFIED POSITIONS MAY BE REEXAMINED; AUTHORIZE A NEW CONSUMER COUNSEL POSITION, EFFECTIVE OCTOBER 1, 2005, TO BE FUNDED OUT OF MILL ASSESSMENT RESERVES; AUTHORIZE STAFF TECHNICAL ADJUSTMENTS; AND GIVE STAFF AUTHORITY TO MAKE ANY ADJUSTMENTS TO ASSESSMENTS AND COST ALLOCATIONS THAT MAY BE NECESSITATED BY BUDGET CLOSINGS IN OTHER ACCOUNTS;

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Controller's Office — Budget Page ELECTED-99 (Volume I)
Budget Account 101-1130

MR. FERGUSON:

The *Executive Budget* recommends General Funds totaling \$120,456 over the biennium to reclassify ten existing positions in the Controller's Office. On page 21, of [Exhibit G](#), there is a table showing the positions, their current grade, the proposed grade, current and proposed salaries and the difference. The Controller testified that the chief accountant and seven accountant III

positions in the office have broad responsibilities for overseeing and developing policies for statewide use of the Integrated Financial System (IFS) by all agencies and for ensuring compliance with Generally Accepted Accounting Principles (GAAP) and the Government Accounting Standards Board (GASB). These positions also have responsibilities related to the Comprehensive Annual Financial Report (CAFR). The Controller testified that the accounting and financial reporting responsibilities within the office are greater than other accountant positions within the state's classified service. The Controller also indicated the upgrades would address some retention issues they have had. The titles for the reclassified positions have yet to be determined.

The Department of Personnel has indicated they are willing to create and develop the appropriate work performance standards for these proposed new positions if the Legislature approves them.

CHAIR RAGGIO:
Will this set a precedent for other agencies?

MR. FERGUSON:
It is my understanding the new work performance standards would be specific to the requirements needed for this office, such as familiarity with GAAP and GASB.

MR. COMEAUX:
The Governor recommended the reclassifications because the Controller made a strong case for it. Their justification for the accounting-related positions is unique in that they emphasized their participation in putting CAFR together and the necessity for familiarity with GAAP and GASB. Other agencies would have to use different justification.

SENATOR MATHEWS:
Is longevity the reason for the difference in salaries in the table on page 21 of [Exhibit G](#)?

MR. FERGUSON:
Those are the actual salaries for the positions. They may have slightly different salaries depending on how long they have been with the agency. The Controller also provided information on the differences between the positions in the Controller's Office and the same positions in other agencies.

E-805 Classified Position Reclassifications — Page ELECTED-103

In decision unit E-805, two management analyst positions were recommended to be reclassified to agency information specialists. These upgrades have already taken place; however, the funding for the positions is still contained in this decision unit.

E-806 Unclassified Position Salary Increases — Page ELECTED-103

The Governor recommends General Funds totaling \$39,969 during the biennium for salary and benefit increases for two unclassified positions. The assistant controller's annual salary is recommended to increase from \$66,812 to \$79,885 and the executive assistant's annual salary is recommended to increase from \$40,489 to \$44,870. The Controller testified that this recommendation will

establish parity with the assistant controller relative to the assistant treasurer and for the executive assistant with the Secretary of State's executive assistant.

CHAIR RAGGIO:

We are not going to give final approval to the unclassified salary increases in any of these budgets until we look at the unclassified salary bill. Staff is keeping a record of the requests for unclassified salary increases.

E-901 Transfer to Budget Account 1363 — Page ELECTED-103

MR. FERGUSON:

Decision unit E-901 reduces the IFS computing costs paid by the Office of the State Controller by \$21,108. The Department of Personnel needs additional computing capacity and the Controller's Office is giving up a portion of their capacity.

E-710 Replacement Equipment — Page ELECTED-102

Decision unit E-710 recommends \$56,679 in FY 2006 and \$52,764 in FY 2007 for the purchase of replacement computer equipment and software. [Exhibit G](#) reflects the adjustments staff has made due to lower costs.

E-276 Maximize Internet and Technology — Page ELECTED-102

Decision unit E-276 recommends \$12,000 for additional Vista Plus licenses.

E-250 Working Environment and Wage — Page ELECTED-101

Decision unit E-250 recommends \$6,004 over the biennium for additional rent and moving costs associated with the acquisition of 224 square feet of office space in the Grant Sawyer State Office Building. The actual arrangement of office space within the Grant Sawyer building has not been finalized. There may or may not be room for the Controller to take over this 224-square-foot-facility. Staff has left this in the budget with the understanding that if they do not make the move, they would revert the \$6,004 back to the General Fund.

CHAIR RAGGIO:

That can be done through a Letter of Intent.

SENATOR BEERS:

What is the purpose of the 224 square feet of office space in Las Vegas?

KIM HUYS (Acting Chief Deputy Controller, Office of the State Controller):

We currently have three full-time staff located in the Grant Sawyer Building. They are on opposite ends of one floor. This would give us contiguous space and the opportunity to do some training. It would be a better arrangement for work flow and efficiency.

SENATOR COFFIN:

Congratulations to the Controller and staff for another clean audit. This is the seventh in a row. Is the chief accountant certified?

Ms. Huys:

Yes, she is a CPA. We have about seven CPAs in the office. There are approximately 19 accountant IIIs in the classified pay plan. Ten of those positions are in the Office of the State Controller. We are proposing that three of the ten positions not be reclassified because, even within our own work group, we recognize there is a distinction between the work of many accountant IIIs and the broader-based positions that work with CAFR and GAAP.

SENATOR COFFIN:

I am glad you brought that up. The certification process is a tough and expensive one. I want to make sure the salaries are not unreasonable. The proposed salaries are somewhat inadequate for certified personnel. We want to keep them working for us.

Ms. Huys:

We recently lost our most senior accountant III to the University of Nevada, Reno. She got a 20-percent pay increase. She had ten years' experience working with CAFR at the state. We have two or three accountants who currently have applications in, some within the state, for higher paying positions.

CHAIR RAGGIO:

The Chair will accept a motion to close the budget with the items indicated with the reservation on the unclassified salary increases and the Letter of Intent.

SENATOR COFFIN MOVED TO CLOSE BUDGET ACCOUNT 101-1130 AS PRESENTED ON PAGES 20, 21 AND 22 OF [EXHIBIT G](#), WITH A LETTER OF INTENT THAT THE FUNDING FOR THE OFFICE SPACE IN THE GRANT SAWYER BUILDING REVERT BACK TO GENERAL FUNDS IF THE SPACE DOES NOT BECOME AVAILABLE; AFFIRM THAT THE UNCLASSIFIED POSITIONS MAY BE REEXAMINED; AND GIVE STAFF AUTHORITY TO MAKE ANY ADJUSTMENTS TO ASSESSMENTS AND COST ALLOCATIONS THAT MAY BE NECESSITATED BY BUDGET CLOSINGS IN OTHER ACCOUNTS.

SENATOR BEERS SECONDED THE MOTION

THE MOTION CARRIED UNANIMOUSLY.

CHAIR RAGGIO:

The last budget we are going to discuss today is the Public Employees Retirement System.

SPECIAL PURPOSE AGENCIES

Public Employees' Retirement System — Budget Page PERS-1 (Volume III)
Budget Account 101-4821

MINDY BRAUN (Education Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

There are three major closing issues in this budget account. The first concerns salaries. The *Executive Budget* includes \$57,475 in FY 2006 and \$93,098 in FY 2007 for an increase in salaries for unclassified positions in the Public Employees' Retirement System (PERS). Historically, the executive officer, operations officer, investment officer and assistant investment officer have been paid according to a six-step salary schedule. All other unclassified PERS staff have been paid on a nine-step salary schedule. In July 2004, the Public Employees' Retirement Board voted to adopt a nine-step pay schedule for all unclassified staff in PERS. The Board also adopted new pay scales for the manager of information services, administrative assistant and administrative analyst positions. The proposed salaries are included on pages 27 and 28 of [Exhibit G](#). This does not include the 2-percent salary increase. You have a separate handout ([Exhibit H](#)) that includes the 2-percent salary increase.

CHAIR RAGGIO:

Would that be the actual salary including the cost-of-living adjustment?

Ms. BRAUN:

Yes.

CHAIR RAGGIO:

At which step is the executive officer?

TINA LEISS (Operations Officer, Public Employees Retirement System):

The executive officer currently is at step 5 on the pay scale. The proposal would be for the executive officer to move to step 6 in FY 2006 and the newly-created step 7 in FY 2007.

CHAIR RAGGIO:

At which step are the operations officer and investment officer?

Ms. LEISS:

The investment officer currently is at step 6 and has been for some time. The investment officer would move to the newly-created step 7 in FY 2006 and step 8 in FY 2007. The operations officer is currently at step 3 and would move to the currently-existing step 4 in FY 2006 and the currently-existing step 5 in FY 2007.

CHAIR RAGGIO:

Do they increase by one step each year? Do they jump steps?

Ms. LEISS:

They have historically increased by one step each year. I am not aware that they would jump steps.

Ms. BRAUN:

As noted in the previous hearing for this budget account, some of the recommended salaries appeared to be higher than provided through the state classified system. In particular, it was noted that the salary schedule for the administrative assistant in PERS is recommended to range from \$39,529 up to \$56,929. For an administrative assistant IV, in the state classification system, the salary range is from about \$28,000 up to \$40,000 in the employer-paid

plan. In response to Committee questions and concerns regarding this recommended salary level, the agency provided additional information which supported the duties of this position were closer to a management analyst series. If this were the case, and it appeared to be, the salary range would be about the middle of the management analyst series in the state classification service. During the previous hearing, the Committee also questioned why the agency was using the salaries from the state pharmacy and medical boards in determining the recommended salary increases for other PERS staff. The agency indicated that the executive secretaries of the state pharmacy and medical boards were the positions in state government that were most similar to executive staff positions at PERS. This was because of the number of licenses administered, the independence of those agencies, the degree of public trust involved in the administration of those agencies and because the executive secretaries report to the boards.

The Committee requested the agency provide salary information for comparable positions in the western public pension systems. This comparison is included on page 24 of [Exhibit G](#).

The first question for the Committee's consideration is whether it wishes to approve the salaries for the executive staff of PERS as recommended by the Public Employees' Retirement Board.

The second major closing issue concerns overtime payment. The *Executive Budget* includes \$73,819 for each year of the biennium in the Base Budget for overtime pay. Overtime pay is normally removed from the Base Budget; however, the agency indicated that approval of overtime is requested due to the large increase in the workload of staff to complete the paperwork required for the provision of the one-fifth retirement credit for certain K-12 teachers. In response to questions from the Committee concerning the potential need to hire an additional person instead of paying overtime to existing staff, the agency indicated they would reconsider whether additional staffing would be the most efficient method when the purchases went up to about 4,000 purchases of retirement credit. It is currently about 2,500. The second question is whether the Committee wishes to approve overtime pay as recommended in the *Executive Budget*.

CHAIR RAGGIO:

Are they estimating that \$74,000 each fiscal year would be necessary for overtime pay and that most of the reason is because they are having to compute the one-fifth retirement credit for K-12?

MS. BRAUN:

That is correct.

CHAIR RAGGIO:

Do they anticipate the retirement credit is going to be expanded? Are they currently paying overtime?

MS. BRAUN:

Yes. Our understanding is they performed 2,500 retirement credit purchases over the past biennium so there was some overtime pay. This amount is higher than the amount they used for the one-fifth retirement credit, but they are

looking at the one-fifth retirement credit as possibly being expanded. This was included in A.B. 60; however, the retirement credit has been removed from that bill and they are looking at a variety of options. This amount is what the agency felt they needed.

ASSEMBLY BILL 60 (1st Reprint): Requires Department of Education to transfer money from State Distributive School Account to provide signing bonuses to newly hired licensed employees of school districts. (BDR 34-477)

MS. LEISS:

It is our understanding from the superintendent of public instruction that the number of schools that will meet the requirements for the one-fifth retirement credit will increase in the coming biennium without further legislation.

E-200 Reward More Efficient Operations — Page PERS-3

MS. BRAUN:

The third major closing issue concerns professional training for PERS staff. Decision unit E-200 requests \$17,984 in FY 2006 and \$11,777 in FY 2007 for the cost of registration and instructional materials for retirement counselors. The Committee asked for additional detail and that is included on page 25 of Exhibit G. The third question for the Committee's consideration is whether you wish to approve the funding for training and certification of staff.

E-275 Maximize Internet and Technology — Page PERS-3

In decision unit E-275, the Governor recommends \$714,713 in FY 2006 and \$709,428 in FY 2007 for the maintenance of hardware and software in the Carson City and Las Vegas offices as well as the PERS Web site. During the previous budget hearing, the Committee asked that the agency work with Senator Beers and staff to determine if the expenditures seemed appropriate. The agency complied with this request and recommends approval of this decision unit with recommended adjustments based upon the new cost of computer equipment.

E-200 Reward More Efficient Operations — Page PERS-3

MS. BRAUN:

The funding in decision unit E-200 would provide certification of certain PERS retirement counselors.

CHAIR RAGGIO:

Is this continuing education or a onetime certification?

MS. LEISS:

We currently have two certified counselors and six who will be seeking certification. There will be six new certifications, two recertifications and each year there will be continuing education for each of the certified counselors.

CHAIR RAGGIO:

What is the need for the certification?

Ms. LEISS:

The certification is to improve our counseling in order to get the information out to our members in the most efficient manner possible.

CHAIR RAGGIO:

There has been concern expressed, throughout these budget hearings, about whether the state should be paying for continuing education or professional dues. There has to be consistency.

Ms. LEISS:

Our concern is that, through court cases, we are found to be insurers of our advice to our members and retirees. If our counselors give inaccurate advice to our members, we will be liable for that disservice. The training will reduce errors and eventually save our agency money.

CHAIR RAGGIO:

What have you done in the past?

Ms. LEISS:

We currently have two counselors who would lead the counseling division. Two of the supervisors have already been certified. Otherwise, we have in-house training.

CHAIR RAGGIO:

Is the continuing education funding request included in the budget amount of \$29,761?

Ms. LEISS:

Yes.

CHAIR RAGGIO:

What portion of that amount is for continuing education?

Ms. BRAUN:

According to the information provided by the agency, \$800 in each fiscal year is for the eight members to maintain membership in the International Foundation for Retirement Education. The cost for training classes to meet education requirements for seven newly-certified staff and two recertified staff is \$5,252 in FY 2006. In FY 2007, they have included \$900 for nine staff to maintain the certification. The remainder is for ongoing training needs of staff.

CHAIR RAGGIO:

Would staff please provide information to the Committee on how we are handling similar matters in other budgets so we can be consistent? We need staff to reaffirm our policy on this.

SENATOR MATHEWS:

I have always advocated not paying for continuing education. Professionals should pay for their own continuing education.

MS. BRAUN:

In decision unit M-305 there were some technical adjustments that had to be made for the 2-percent COLA. These adjustments were an increase of \$3,264 in FY 2006 and \$7,735 in FY 2007.

CHAIR RAGGIO:

Page 25, of [Exhibit G](#), refers to the retiree reemployment under the critical labor shortage. For some reason, PERS is objecting to the continuation of that policy. There is a sunset date on the critical labor shortage designation, and PERS has suggested the sunset not be repealed.

MS. LEISS:

The Public Employees' Retirement Board took a position not to seek legislation to extend the critical labor shortage, solely based on cost, because it would trigger a contribution increase.

CHAIR RAGGIO:

If we repeal the sunset, would we have to add to the budget of PERS?

MR. GHIGGERI:

Additional funding would be required for all agencies covered under PERS. It is around \$3.5 million each year for state agencies and approximately \$15 or \$16 million for other agencies covered by PERS.

CHAIR RAGGIO:

As I recall, the primary use of the authorization was for the schools. That is where the need is. What was the result of the utilization of the critical labor shortage by schools?

MS. BRAUN:

The most recent information I have is that 79 percent of all the positions designated are with the school district, 9 percent are with the state and judicial system and 6 percent work for the university system.

CHAIR RAGGIO:

The Department of Education surveyed all the major school districts regarding the teacher signing bonus program. The survey indicated that 90 percent of the teachers were being retained.

Do we need to discuss the effect on the contribution rates at this point?

MR. GHIGGERI:

That is not an issue that needs to be discussed. As far as reemployment, that decision has to be made relatively soon. If the decision is made to continue the reemployment, there will be a lot of work to recalculate all the budgets based on the change in the retirement rate.

SENATOR COFFIN:

How far are we down the road on the funding policy change? That is No. 3 under "Other Closing Issues" on page 3 of [Exhibit G](#).

MS. BRAUN:

The funding policy change was approved by the Public Employees' Retirement Board. That is not an issue for closing their budget account.

SENATOR COFFIN:

It would affect every agency if we did not go along with this funding policy change. I realize, statutorily, the Board can make its own decision, but without consulting us and without giving notice to the retirement committee, they went to a new system last June. I realize there is a cost to go back to the old method, but it is the long-term price I worry about. Could we enact a statute in this session saying this was not the right time to make that move?

SENATOR BEERS:

Does GASB prescribe a method for quantifying and funding unfunded retirement liabilities?

Ms. LEISS:

Yes, it is my understanding that a closed, an open or a year-by-year closed, which is what the current funding policy is, are acceptable under GASB. There are certain duration limits under GASB.

SENATOR BEERS:

Are we currently in compliance with GASB?

Ms. LEISS:

Yes.

SENATOR BEERS:

Is the motive simply to reduce the volatility?

Ms. LEISS:

That was the driving force.

SENATOR BEERS:

The volatility is going to get worse as we get half-way through the 40-year period that was set up.

Ms. LEISS:

That is correct.

SENATOR COFFIN:

When you make a move like this, you have a number of groups moving forward in cohort and each group has a different funding period. You may have had some volatility with the old system, but you knew where you were headed. Employees may like this new system because they have more money in their paychecks, but I am worried about it.

SENATOR BEERS:

Would a rolling 20-year average provide a reduced volatility going forward? Would that be allowed under GASB?

Ms. LEISS:

I believe a rolling 20 would be allowable under GASB; however, I do not know how that would affect our rates. An actuary would have to look at that.

SENATOR BEERS:

In the first year of a conversion, if you have 20 years left, moving from a fixed 20 to a rolling 20 would be no change at all. It would only be a difference

in the result of those two calculations going forward. I do not think there would be a change in rate for the first year.

CHAIR RAGGIO:

I have concerns about this funding-policy change as well.

What is the justification for the increases between the steps going from 6 to 9? Does this include the 2-percent COLA?

MS. LEISS:

We kept the same percentage that is in the existing 6-step schedule to go to steps 7 through 9. It is in keeping with the percent step change for the classified service.

CHAIR RAGGIO:

Is that the policy used in the state system?

MS. BRAUN:

Yes.

CHAIR RAGGIO:

On page 24, of [Exhibit G](#), we have been furnished comparisons with other retirement systems, particularly the neighboring states. The executive director's salary seems high compared to other states.

MS. LEISS:

We not only looked at other western states, we looked at similarly-sized and managed pension systems across the country. We were also looking at succession planning. We have had problems with turnover and succession planning. When we have turnover at the top of the executive staff, we would like to be able to promote from the inside since this is a business that takes time to learn. That is another justification for where these salary ranges were set by the Public Employees' Retirement Board.

CHAIR RAGGIO:

What is the status of [A.B. 60](#) regarding the one-fifth retirement credit?

MS. LEISS:

The Assembly Education Committee removed everything concerning the one-fifth retirement credit from that bill and maintained the \$5 million for signing bonuses. The amended bill passed. The one-fifth retirement credit issue is still being discussed with that committee and they are coming up with a menu where a teacher could choose a variety of options. That has been pulled out of the bill, at this time, and they are looking at putting it in another bill.

CHAIR RAGGIO:

What are the options other than retirement credit? Would that include items such as housing allowance?

MS. LEISS:

I believe so. That is under consideration.

CHAIR RAGGIO:

The Chair is going to hold budget account 101-4821 for further discussion.

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There being no further business to discuss at this time, I will adjourn the meeting at 1:31 p.m.

RESPECTFULLY SUBMITTED:

Anne Vorderbruggen,
Committee Secretary

APPROVED BY:

Senator William J. Raggio, Chair

DATE: _____