

**MINUTES OF THE MEETING
OF THE
LEGISLATIVE COMMISSION'S BUDGET SUBCOMMITTEE**

**Seventy-Fourth Session
January 29, 2007**

The Legislative Commission's Budget Subcommittee was called to order by Chair William J. Raggio at 8:39 a.m., on Monday, January 29, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

SUBCOMMITTEE MEMBERS PRESENT IN CARSON CITY:

Assemblywoman Sheila Leslie
Assemblywoman Heidi Gansert
Assemblyman T. Grady
Assemblywoman Ellen Koivisto
Assemblyman John Marvel
Assemblywoman Kathy McClain
Assemblywoman Debbie Smith

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

SUBCOMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Assemblyman Morse Arberry Jr.
Assemblywoman Barbara Buckley
Assemblyman Moises Denis
Assemblyman Joe Hardy
Assemblyman Joseph Hogan
Assemblyman David Parks
Assemblywoman Valerie Weber

Senator Bob Coffin
Senator Dina Titus

STAFF MEMBERS PRESENT IN CARSON CITY:

Gary Ghiggeri, Senate Fiscal Analyst
Steve Abba, Principal Deputy Fiscal Analyst
Larry Peri, Principal Deputy Fiscal Analyst
Bob Atkinson, Senior Program Analyst



Brian Burke, Senior Program Analyst
Sara Coffman, Program Analyst
Rick Combs, Program Analyst
Joi Davis, Program Analyst
Julie Diggins, Program Analyst
Mindy Martini, Program Analyst
Linda Blevins, Committee Secretary
Patti Adams, Committee Assistant

STAFF MEMBERS PRESENT IN LAS VEGAS:

Mark Stevens, Assembly Fiscal Analyst

JUDICIAL BRANCH BUDGET OVERVIEW

Chairman Raggio reviewed the agenda and recognized Chief Justice A. William Maupin of the Supreme Court of Nevada who presented an overview of the budgets of the Judicial Branch. Accompanying Chief Justice Maupin was Mr. Ron Titus, Director and State Court Administrator, Administrative Office of the Courts; Ms. Deanna Bjork, Manager, Budgets and Finance; Vice Chief Justice Mark Gibbons and Justice James W. Hardesty, members of the court's Operational Executive Committee. Chief Justice Maupin stressed that while the budget of the Judicial Branch was routinely less than one percent of total General Fund expenditures, the judiciary provided an enormous array of services to the people of the State. Chief Justice Maupin provided a prepared statement ([Exhibit C](#)) for the Subcommittee. Following are excerpts from his prepared statement:

To begin, we have 11 budgets accounts that can be divided into two major areas: the Supreme Court's operational budget, and the budgets required for administration of the Judiciary as a whole. I would like to first discuss our tasks in the area of Judicial Branch administrative oversight.

Judicial Branch Administration

As we have shared with you many times, the workload of the Judicial Branch is increasing, as with many other areas of state government. Caseloads in our trial courts statewide continue to grow at all levels.

Our district, justice and municipal trial court judges and their staffs are to be commended for working hard to provide our citizens and visitors access to justice. Our District Court judges average almost 2,000 cases filed per judge with a national average somewhere around 1500-1600. And, to demonstrate, traffic charges alone topped three-quarters of a million statewide.

Increasing caseloads provide primary pressure on the court system. So does society's changing expectations. The public no longer sees the court system solely as a place to litigate their disputes before a jury of their peers. People are seeking non-traditional means to resolve their disputes and look to the court system to provide them with meaningful alternatives.

Nevada's specialty courts were established to meet those expectations. On the criminal side, the mental health courts, drug

courts and diversion programs reduce recidivism and continuing pressures on Nevada's overtaxed correctional institutions. Director Wharton [Whorton] was dead serious when he described the current capacities of our prison system. On the civil side of the justice system, the judiciary has developed alternative dispute resolution programs such as court-annexed arbitration and short jury trials as efficient and cost-effective means to avoid the expense of litigation to the average person.

In 2006 the total annual budgets for the Judicial Branch was slightly over \$34 million, with about 33 percent for district judges salaries, 3 percent for the operations of the Supreme Court, and 30 percent for Judicial Branch administration. Of the \$34 million, 55 percent comes from the General Fund and the remaining 45 percent is from administrative assessments (40 percent) and miscellaneous sources such as fees and grants (5 percent).

Our proposed budget over the biennium alters these percentages slightly with 27 percent for district judges' salaries, 33 percent for the operations of the Supreme Court, and 38 percent for Judicial Branch administration. There is an increase in the percentage of General Fund to 60 percent (primarily due to our request for Specialty Court funding) with 36 percent from administrative assessments and 4 percent from miscellaneous sources. Even with these increases the Judicial Branch will still draw upon less than 1 percent of state General Fund expenditures.

Ten of our 11 budget accounts fund activities related to our administration of the judiciary. These include the Administrative Office of the Courts (AOC), Planning and Analysis, Technology, Judicial Education, Specialty Courts, the Senior Justice/Judge program, District Judges' Salaries, the Law Library, Judicial Travel and Support, and Judicial Selection.

As the administrator of the judiciary we set judicial policy using our constitutional authority to set rules (rules of court) and to issue orders concerning a number of matters, including the Uniform System for Judicial Records and minimum accounting standards. Both of these orders in particular ensured that the Court is accountable to the public for its workload and how it handles funds processed through and by the judicial system.

Administrative Office of the Courts

The Supreme Court in its role as the administrator of the judicial branch provides increased direct administrative oversight and support to the courts via the Administrative Office of the Courts (AOC). The AOC is funded entirely by administrative assessments and manages both administrative assessment and general fund budgets.

With currently 70 courts, 145 judges, and several thousand court staff (not including the Supreme Court), the AOC has a significant task in managing its various responsibilities under Nevada Revised Statute 1.360 and as assigned by the Supreme Court.

The AOC works with various executive branch agencies including Public Safety, Motor Vehicles, Family and Child Services, and the

Attorney General's office. They also work closely with various county agencies from child protective services to the integration of technology.

The AOC also provides logistical support for the Judicial Council of the State of Nevada (JCSN) and its standing committees, Rules and Legislation, Technology, Court Administration, Protection of Dependent Children, Court Interpreters, Judicial Education. They also provide support to various ad hoc committees and commissions of the Court.

We are proposing additional AOC staff support funded by both administrative assessments and the general fund. Additional research analysts are required to plan and research proposed policy within the judiciary, expand and improve the Uniform System for Judicial Records, technology support, and support for the various commissions and committees that assist the Court in setting judicial branch policy.

Specialty Courts

Whether defendants are addicted to drugs, alcohol, or suffer from mental problems, Specialty Courts are on the front line to help rehabilitate these individuals.

To efficiently administer these courts and their funding we are requesting an analyst to assist in the coordination of services. Also to assist our specialty courts in negotiating contracts for services to maximize funding, as well as, making sure funding is allocated efficiently to meet respective community needs.

The 2003 Legislature created a \$7 administrative assessment with Assembly Bill (A.B.) No. 29 [of the 72nd Legislative Session] to supplement the funding of specialty courts. This assessment has enabled us to expand our specialty courts, mostly drug courts, into our rural areas where methamphetamine abuse has reached crisis proportions. You should have previously received our 2007 Specialty Court Report, which provides information on each of these specialty courts, their funding, and their successes.

A.B. No. 29 [of the 72nd Legislative Session] was a successful piece of legislation—it did what was intended; it expanded specialty courts statewide. What it cannot do is meet the current increased demand. We have been able to maintain our programs at the 2005 level but we are unable to expand or create new programs. Society benefits greatly from these programs with reduced recidivism, taking these defendants out of the revolving door of the criminal justice system and creating residents who contribute to our state instead of sapping valuable resources from Nevada taxpayers.

It is, in my view, inappropriate for the full cost of specialty courts to fall to the judiciary and administrative assessments. Make no mistake, specialty courts work, benefiting all levels of society. If these programs are important to the Legislature, and they should be, then funding from the General Fund is appropriate. Certainly administrative assessments from misdemeanor traffic infractions bear virtually no relationship to addressing the growing

methamphetamine addiction in our young people. Thus, we do not support increasing the administrative assessments and are asking you to help share the costs of these vital programs. We are, therefore, seeking General Fund dollars in the amount of \$5.1 million over the biennium, \$1.8 and \$3.3 million respectfully for each year. This would fund approximately 40 percent of the budget for Specialty Courts. With this influx of dollars we will be able to expand these programs to make our best efforts to approach the demand. Much of this demand is due to the current methamphetamine crisis, with 67 percent of clients indicating that methamphetamine is their drug of choice.

We also ask that Specialty Courts be exempted from the normal general fund reversion requirements should the revenue from the specialty court administrative assessments exceed legislatively authorized amounts. It is important that maximum funding be available to meet the needs in our communities. Based upon recent local experience, the proposal to increase general fund appropriations will still not meet the needs we know exist and those that will expand because of the ready availability and highly addictive nature of methamphetamine.

Safety, Permanency and Well-Being for Dependent Children (Court Improvement Project)

Safety, permanency and well-being for our dependent children are issues with which state and federal governments are increasingly concerned. This is particularly true here in Nevada. The myriad of mandates for local courts and state and local agencies to collaborate to improve systems handling children and families in the child welfare arena are critical. Funding to support those initiatives in the form of three grants (general issues, training and data collection) is available to assist the judiciary in coordinating with state and local child and family service agencies to reach Nevada's goals related to safety, permanency and well-being for our children. A full-time position within the AOC is requested to meet these goals that include representation for children, training for judges and attorneys, and a dependency bench book.

As an aside, I attended my first quarter improvement project meeting a couple of months ago. They had sent out a request for attorneys to be trained to represent children in dependency settings. They received two responses. I have asked the State Bar of Nevada to get involved with this with the *pro bono* section and with the family law section and we will be asking the State Bar of Nevada to step forward to assist in this important endeavor.

Judicial Education

In response to enhanced public expectations for accountability and responsiveness from the courts, there is a need for greater professionalism of the judiciary, court administrators and court staff. Judicial education is fully supported by administrative assessments. We have significant plans for the next biennium to provide specific training in business disputes, medical malpractice, construction defect, domestic violence, and child dependency matters. Our training in these areas is calculated to reflect your clearly expressed legislative goals to diversify the economy and to

improve the climate for our families in the areas of family health and interactive safety.

We are also focusing on training our court administrators and will continue to bring in staff from the National Center for State Courts' (NCSC) Institute for Court Management (ICM) to provide training that leads to national certification of court managers. More to the point, we are investigating the National Center's comprehensive initiative to move judicial branch funding away from base budgeting considerations and toward "performance" based budgeting that accounts for service needs and performance evaluations by surveys to constituent users of the court system.

Digressing from his prepared text, Chief Justice Maupin noted that performance-based budgeting had been tried with great success both in the Phoenix area and in the Minneapolis area and that the Court would like to try it here.

As a method of determining satisfaction with the justice system, Chairman Raggio inquired whether the criminal defendants were asked whether they were pleased with the process. Chief Justice Maupin explained the defendants were asked how well they were represented by their lawyer, how well the judge listened, how much time was spent on their case, and how much time was spent preparing for trial. These questions provided substantive performance indicators for judges. In Minnesota, for example, the information gathered was used for construction of the budget.

Chief Justice Maupin continued his prepared text with a discussion of the utilization of administrative assessments as a substitute funding mechanism for the court system:

Administrative Assessments (AAs) fund 40 percent of the State's responsibility for the Judicial Branch. (If you exclude district judges' salaries, AAs fund 60 percent of the Judicial Branch.) In addition, almost \$13 million goes to the Executive Branch to fund Executive Branch responsibilities.

The Court Funding Commission has preliminarily recommended that the Legislature discontinue funding the Judicial Branch through AAs. The constitution prohibits the judiciary from acting as a taxing authority and, at some point, these assessments will come closer and closer to that prohibition. To demonstrate, Nevada Revised Statute 156.059(3) itself refers to AAs as a tax. There is no easy answer to this dilemma given the extent the Legislature relies on AAs to fund the Judicial Branch. Although we are not currently in a position to substantially reduce or eliminate our reliance on this funding source, we suggest developing a working joint effort between the Legislature and the Court over the long term to find a more stable and appropriate funding mechanism for the Judicial Branch.

Due to the difficulty of predicting AAs we generally are conservative in our estimates.

Chairman Raggio questioned whether the process of finding a more substantial revenue source would entail raising taxes. Chief Justice Maupin agreed that was an excellent question and, although he did not have an answer at this time,

the Court wanted to join with the Legislature to review the possibility of developing an appropriate funding mechanism. The Court was recommending a study over the next several years.

In his prepared testimony, Chief Justice Maupin presented the overview of the Supreme Court operations budget:

Supreme Court filings eclipsed 2,000 filings per year for the first time in 2005. Our filings have increased almost 27 percent over the last 5 calendar years and have increased 6 percent this last calendar year, 2006, to 2,171 cases. Our dispositions have actually kept pace, with almost 2,400 cases disposed of in 2006. That is the most cases ever disposed by the Nevada Supreme Court. Pending cases at the end of 2006 were 1,377 only 14 cases more than at the end of 2002.

Chairman Raggio asked the average length of time on appeals for both civil and criminal cases. Chief Justice Maupin stated it would depend upon the category of the case. For example, on the fast-track program most cases were decided within six months of filing. However, *pro per* cases [those where the litigant represents himself] were backlogged with some cases being two years old. The typical civil cases which required full court consideration took ten months to two years to decide. In response to Chairman Raggio's further questioning, Chief Justice Maupin stated one proposal was designed to address the problem. Chief Justice Maupin further acknowledged this was a primary reason for appearing before the Subcommittee, in addition to issues concerning Specialty Courts and the protection of children.

Chairman Raggio inquired what cases received priority other than criminal matters. Chief Justice Maupin informed the Subcommittee the criminal fast-track program had been expanded and applied that type of resource to child custody cases to speed those cases. Also, the terminations of parental rights cases were given priority, according to Chief Justice Maupin. Further, the death penalty cases were given priority as they must be argued within one year of the rendition of the verdict.

Chief Justice Maupin stated that when a ballot question was brought before the Supreme Court, resources were directed toward that issue until resolved.

Chief Justice Maupin continued his prepared testimony as follows:

We cannot, however, maintain the current pace and reduce time to disposition without increasing resources. Predominantly, our changes to date have provided assistance with the more routine appeals. While this has enabled comprehensive reductions in routine "error-correction" appeals, we now come to you with a series of requests to address complex civil and criminal appeals that will reduce the time to disposition for more convoluted matters and will provide greater quality in our attempts to provide direction to the legal community and government.

In terms of optimizing resources, we have added new management tools to our highly successful civil settlement and criminal fast-track programs. This includes an early case assessment component to quickly weed out those cases from the settlement program that have no realistic prospects for settling. In addition, the Court conducts a second assessment of the 50% of the cases

that do not settle. This review is conducted by a panel of three justices and, with the assistance of legal staff, identifies cases raising similar issues and also cases raising important public policy issues. The most complex cases are also directed to the full court instead of a three-justice panel, a process designed to shorten the time such a case is under consideration by the Court. The number of *en banc* [full bench] assignments has significantly increased over the last year.

The Court's decade-old fast track program has now expanded beyond the criminal arena and is used to resolve child custody disputes in half the time. Going further, many litigants, especially in family matters, either choose or are forced to represent themselves in matters before the Supreme Court. Standardized forms are now available to these *pro se* litigants and serve a two-fold purpose. The parties to the appeal have a means to set forth their grievances and the Court saves substantial resources by using the Statements to focus its review.

Of major concern to the Court today is that the quality of justice not be sacrificed under the pressures of a growing caseload. Nevada's increase in population and its diversity, and the expansion of our economy beyond gaming and mining, have also resulted in increasingly complex cases coming before the Court. The Court is faced with deciding many issues that have never come before it in the past. Decisions in these cases affect not only the parties involved in the litigation but have broad ramifications for all Nevadans. It is in these cases that the Nevada Supreme Court interprets the laws and implements the policies adopted by the Legislative Branch. For justice to prevail in these cases, the Court needs the resources to craft well-reasoned and thoroughly researched legal opinions. With the staff increases proposed in the Supreme Court's budget, the Court intends to form a complex civil litigation team similar to that formed to deal with death penalty and other complex criminal cases. This division will be dedicated to handling medical malpractice, construction defect, business, products liability, class actions and other highly complex matters as they are presented. The Court's most experienced staff lawyers will be able to focus exclusively on these cases and not be side-tracked by the processing of more routine appeals. Better use of the Court's staff attorneys' time can be made by using trained and skilled para-professionals to assist in processing routine procedural matters and having them perform the cite checking and fact checking critical to accurate decisions. In this way, the paralegals included in the Court's proposed budget will free up the attorneys' time to work on substantive issues raised on appeal. This new construct, like our education programs, reflects important legislative priorities, including economic diversification. Again, we are placing case management priorities in harmony with legislative imperatives concerning complex business litigation, construction defect claims, medical malpractice actions and complex issues arising from premier businesses such as gaming and mining. These new resources will also help us deal with more sensitive personal issues such as domestic violence and dependency issues with children.

It is critical, if Nevada is going to continue to diversify its economy, to grow and attract business and industry to this state, that the decisions of our courts are viewed as fair, impartial and well-reasoned on every level. The Nevada Supreme Court is committed to meeting those goals.

Chairman Raggio questioned whether the establishment of a business court required an amendment to the constitution. Chief Justice Maupin replied an amendment was not necessary. In fact, Chief Justice Maupin pointed out, several years ago when the Legislature had inquired whether legislation was necessary, he and Justice Rose asked for the opportunity to create the court themselves. The request was granted by the Legislature. An example of the success of the court was in Reno with Judge Brent T. Adams. Chief Justice Maupin clarified, from episodic reports received, it was clear the business court was extremely busy and beneficial. It had resolved business disputes quickly without disruption of the ongoing operations of the business. Chief Justice Maupin explained previous problems with the Eighth Judicial District were resolved by the addition of two new judges. According to Chief Justice Maupin, the importance of this legacy left behind by Justice Rose could not be over-emphasized. Chairman Raggio suggested an outline showing implementation plans would be extremely helpful to the Subcommittee.

Chief Justice Maupin remarked the Clerk's Office worked diligently to post opinions on the internet within hours after filing. The Court schedule, argument calendar, new rules, and events within the Court system were also available on the Web site according to Chief Justice Maupin. However, the case management system is out-of-date and will not interface well. The new e-filing project was going to be tested for the first time in the spring.

Some of the most important issues this session, according to Chief Justice Maupin, were court security and a new courthouse for Ely, Nevada. Chairman Raggio commented the case for the new courthouse was made during the previous legislative session but it did not receive approval.

Chairman Raggio reminded the Subcommittee the Judicial Branch budget was submitted by the Judicial Branch and it was not modified or changed by the Governor in The Executive Budget. Governor Guinn created a task force to study and make recommendations for the salaries. In the budget, the salary for District Court Judge was to rise from \$130,000 to \$169,000 on January 1, 2009. The Administrative Office of the Court (AOC) also recommended a study of the salaries for the lower court justices and judicial officers. To Chairman Raggio's knowledge the report had not come forward as yet. Chief Justice Maupin advised he had the report and would submit it to the Subcommittee.

According to Chairman Raggio, as of January 2006 Nevada ranked seventeenth when comparing actual salaries of the Supreme Court justices and the highest court nationally. When comparing the actual salaries of the district court judges and general trial courts in other states, Nevada ranked twelfth. Chairman Raggio remarked Nevada did not appear to be far behind the curve. He asked the AOC to provide information ranking Nevada with other states if the requests for increases were granted. Chief Justice Maupin agreed that was an essential correlation the Subcommittee needed and it would be provided. When asked by Chairman Raggio when the last raise for the justices was implemented, Chief Justice Maupin responded it was effective January 1, 2003. Chief Justice Maupin further stated if legislation for an increase was approved this session, it would become effective January 1, 2009.

Chairman Raggio referenced specialty courts and A.B. No. 29 of the 72nd Legislative Session which added the \$7 assessment fee and asked what the total assessment was currently. Mr. Ron Titus, Director, AOC, responded the assessment of \$7 was applied to every defendant convicted of a misdemeanor. The amount of the total assessment varied but could range from 50 percent or more of the fine.

Chairman Raggio and Chief Justice Maupin discussed the collection of the fines noting an increase due to use of improved technology. Chairman Raggio noted in fiscal year (FY) 2006 there was a 15.8 percent increase in the collection of administrative assessments; however, the judicial budget showed only 4 percent was to be collected in FYs 2007 and 2008. Deanna Bjork, Manager of Budgets, Supreme Court, explained the growth in citations and convictions was estimated at 2 percent and 3 percent per year respectively. It appeared to Chairman Raggio with only a four percent increase it seemed likely there was justification for additional General Fund money. Ms. Bjork agreed this was the case with the Supreme Court budget. She further clarified the estimates for FY 2008 would be an 8 percent increase over FY 2006 receipts and FY 2009 it was estimated a 12 percent increase over FY 2006 receipts. Ms. Bjork observed by annualizing what was received to date for FY 2007, it was estimated there would be a 6 to 7 percent increase over FY 2006.

In response to a question from Chairman Raggio regarding the justification of a coordinator position for the Specialty Court, Mr. Ron Titus set out the reasons for the request:

- The significant amount of work required with budget review for the courts.
- Increased client service needs.
- Contract coordination in the rural areas for service and testing supplies.
- Assistance to the courts in maximizing funding of the dollars used.
- Expanded programs.

Chairman Raggio suggested for future Judicial Branch budget hearings prioritizing the FTE positions so appropriate committees could easily review in greater detail. He also questioned why it was necessary to purchase new furnishings. Chief Justice Maupin explained that in order to house the full court of seven justices in the facility in Carson City, it would be necessary to remodel. Currently the building was configured with only five full-functioning chambers.

Assemblywoman McClain requested Mr. Titus provide updates of the Nevada Offense Code revision and disposition projects when appearing before the Subcommittees in the future. Mr. Titus stated significant progress had been achieved in these areas and updates were forthcoming

There being no further questions or comments, Chairman Raggio declared a short break. The Subcommittee was called back to order at 9:35 a.m.

NEVADA SYSTEM OF HIGHER EDUCATION BUDGET OVERVIEW

Executive Vice Chancellor Daniel J. Klaich representing the Nevada System of Higher Education (NSHE) was accompanied by Mr. Bret Whipple, Board of Regents Chair, and Mr. Daniel Miles, Budget Consultant. Prior to beginning the Nevada System of Higher Education Budget overview, Mr. Klaich acknowledged the university presidents who were present.

Senator Coffin, in attendance at the Sawyer Building in Las Vegas, voiced his dismay at the lack of attendance at that location. It was his contention that taxpayers had saved approximately \$3,000 by videoconferencing.

Mr. Bret Whipple, Board of Regents Chair, expressed thanks to the Legislature for past support of the Nevada System of Higher Education (NSHE). He stated the upcoming presentation would demonstrate that enrollments would continue to grow in the System. Increases in the formula funding percentage would have the greatest impact on the institution's ability to graduate more students. In addition, the base funding of higher education supported important growth in research and workforce development. None of this could be achieved without additional formula dollars.

Mr. Daniel Klaich, Executive Vice Chancellor, offered prepared testimony as set forth in [Exhibit D](#). Mr. Klaich first outlined the NSHE master plan goals as:

- A Prosperous Economy.
- P-16 Education (Pre-kindergarten through college).
- Building Quality of Life.
- Opportunity and Accessible Education for All.
- Student-Focused System.
- Reputation for Excellence.

In his continuation of the overview, Mr. Klaich described the two institutions at each end of the State, University of Nevada, Reno and University of Nevada, Las Vegas, that provided baccalaureate through doctoral education. There was also one state college, Nevada State College (NSC), providing baccalaureate level education in critical areas where workforce needs could be met, for example, teaching and nursing, at a more efficient price than at the universities. There were four comprehensive community colleges that, in addition to transfer education, were at the front lines of workforce development. Those community colleges were critical for occupational education and handled all remedial and developmental education within the System.

Mr. Klaich further stated the head count of the community colleges made up more than half of all the students in the NSHE. In addition to the student focused institutions, there was one research institute located in Nevada, the Desert Research Institute (DRI). DRI was focused on environmental sciences and the application of technologies.

Mr. Klaich next focused on population trends. NSHE was the third fastest growing public system of higher education in the United States. Although the trend was expected to slow slightly, continued growth in numbers of Nevada high school graduates and individuals who matriculated to the System was anticipated. As demonstrated on Page 9 of the exhibit, the college continuation rate of Nevada high school seniors moving to the NSHE increased by almost 20 percent. According to Mr. Klaich, these rates of continuation to post-secondary institutions remained below national averages.

Senator Cegavske inquired whether any studies had been done to determine why students were not completing their education. Mr. Klaich requested Dr. Jane Nichols, Vice Chancellor for Academic and Student Affairs, to respond. Dr. Nichols surmised some students took longer to complete their education because they had full-time jobs. Nevada had the highest percentage rate of students with full-time jobs of any state.

In response to Senator Cegavske's question as to whether classes were not available to the students, Dr. Nichols replied that the institutions had worked hard on this issue but it continued to be a problem for students. Dr. Nichols explained an increase in evening classes and classes scheduled at non-traditional times was in response to this concern. Senator Cegavske requested to Chairman Raggio that an update be provided to the Subcommittee on the issue. Dr. Nichols agreed to make the information available to the Subcommittee.

Mr. Klaich further testified that since 1996 almost 30,000 students had been added to the NSHE and over 100,000 young Nevadans were now being served. More than half the enrollments of all the students in the System were in four community colleges, with Community College of Southern Nevada (CCSN) serving more students than any other institution in the System. Page 13 of the exhibit showed a slightly different factor: Full-Time Equivalent (FTE) students counts continued to be dominated by the two universities. Mr. Klaich advised, however, that the number of FTE students at the two universities was declining.

Mr. Klaich continued by moving forward to Page 14 of the exhibit. It was anticipated over the next eight years an additional 30,000 students would be served in Nevada. The next chart projected where students were attending. More importantly, the chart demonstrated Nevada State College (NSC) was performing as planned when it was brought to the Legislature for creation and funding.

On Page 17 of the exhibit, according to Mr. Klaich, was a graphic representation of the workings of the funding formula. The display represented the volatility of the workings of the formula. Mr. Klaich defined the acronym of "AAFTE" as Average Annual Full-Time Equivalent.

Mr. Klaich continued by highlighting research and development on Page 18 of the exhibit. From 1999 to date, the research and development conducted at the institutions increased by 54 percent. Those dollars were poured straight into the economy of Nevada and were typically spent on the high-end jobs. They also represented the attraction of some very high quality individuals residing in the System institutions.

Senator Cegavske questioned whether the unemployment and earnings shown on the chart on Pages 19 and 20 of the exhibit had to do with whether a degree was held in a marketable skill. Mr. Klaich agreed supply and demand always made an impact, particularly when both charts were combined. Senator Cegavske expressed concerns regarding whether the University System provided guidance to students in this area. In response, Mr. Klaich stated the System provided assistance, however, not enough. According to Mr. Klaich, one of the initiatives started by Chancellor James E. Rogers to alleviate this situation was community roundtable discussions with business leaders throughout the State. These discussions were preceded by surveys facilitated through CCSN.

Mr. Klaich explained another initiative undertaken was periodic meetings with the seventeen superintendents of all school districts across the State to focus on teacher education. The main emphasis of the meetings was much narrower than the aforementioned roundtable discussions. Mr. Klaich pointed out to Senator Cegavske the answer to the question was with the NSC and the community colleges. Mr. Klaich offered further that one of the recommendations made by Governor Gibbons in the State of the State Address was to provide an appropriation for workforce development aimed at part of the problem Senator Cegavske suggested.

Senator Cegavske stated her belief in the importance of the continuation of the P-16 council but cautioned the time involved in implementing the changes continued to be a problem.

Mr. Klaich continued his testimony emphasizing Pages 21 and 22 of the exhibit and the success of the Millennium Scholarship on NSHE and particularly on graduation rates. Mr. Klaich pointed out the best students were being kept in Nevada, and this was vital to the quality of life in the State.

Senator Beers questioned whether the numbers shown on Page 21 of the exhibit were available for years 2005 and 2006. Dr. Nichols stated the numbers were not available when the report was prepared but could now be provided to the Subcommittee.

Mr. Klaich noted in the original Millennium Scholarship authorizing legislation, the burden was put on the Board of Regents to make more need-based aid available. That was done by means of allocation of a greater portion of fee increases at the institutions. According to Mr. Klaich, Nevada had a wave of first-time, college-bound students enrolling. Historically, a high percentage of individuals came from very low socioeconomic status, and more need-based aid must be made available.

In partial response to Senator Cegavske's earlier question, Mr. Klaich referenced the 2003 Legislative Session when discussions first took place regarding doubling nursing enrollments. With the assistance of the Legislature, innovative funding was put into place. The success of that venture had more than doubled the nursing enrollment in less time than was allocated. Mr. Klaich noted that the NSHE participated in Senator Maurice Washington's Interim Healthcare Committee meetings and discussed the issue of whether nursing enrollment in the State could be redoubled. NSHE submitted a detailed plan to Senator Washington on the subject.

Mr. Klaich further acknowledged the critical teacher shortage issue in Clark County. The Legislature attempted to deal with that shortage by the creation of Nevada State College (NSC). The universities, community colleges, and NSC worked together to develop a number of innovative programs that fast-track teacher educations.

Mr. Klaich concluded his presentation and asked the Subcommittee for questions.

Assemblyman Marvel questioned the accuracy of the 2.49 percent decrease in 2007-2008 enrollments noted in The Executive Budget. Mr. Klaich stated although enrollments would continue to grow, a flattening would be noted in the future.

Assemblywoman Weber noted the graduation rates on Page 10 of the exhibit were shown at 46 percent in 2005, and asked whether statistics were available comparing nursing program and teacher program graduation rates to the overall graduation rates. In response Mr. Klaich remarked the specific calculations had not been done; however, they could easily be prepared and submitted to the Subcommittee.

Senator Cegavske requested Mr. Klaich submit to the Subcommittee reports providing information regarding: (1) the monitoring of fast-tracking of teachers in collaboration with the school district, (2) the lack of testing for the

remediation program, and (3) whether student teachers were used instead of professors or teachers for the remediation program.

Mr. Dan Miles, Budget Consultant, advised the Subcommittee the performance indicators on Pages 32 to 48 of the exhibit contained much valuable information regarding measurement of goals for NSHE. Mr. Miles then began his presentation on the Full-Time Equivalent (FTE) Enrollment charted on Page 49 of [Exhibit D](#). He stated the numbers were all average annual FTE enrollments, and they depicted the enrollments included in the budget formula calculations. Mr. Miles explained the first column was the actual FTE of 59,746 students for fiscal year 2005. The last session of the Legislature budgeted 63,412 FTE students for 2006. The third column showed actual FTE in 2006 was 60,948 students or below the number budgeted. That 60,948 figure and the numbers for each institution, which were the latest available, then became the base on which future enrollment increases were calculated for each institution. Mr. Miles continued his explanation by pointing out the next column which showed the percentage change of 2006 over 2005 was still an increase overall of 2 percent. The budget as approved the last legislative session was based on a three-year weighted average of about 5.5 percent growth in student enrollment. The new three-year weighted average enrollment growth using 2006, 2005, and 2004 enrollments, produced an enrollment growth forecast of about 3.5 percent going forward. Using the new actual enrollments for 2006 and proceeding forward at 3.5 percent growth, the calculation produced an enrollment figure for 2008 of 65,294. According to Mr. Miles, that was actually lower than the budgeted level for 2007, the current year, which was approved by the 2005 Legislature. In 2008, the formula used an enrollment figure that was 2.5 percent lower than the previously budgeted enrollment for 2007. That created a situation where some of the institutions had less operating money after adjustments and maintenance than were currently available. This situation in the Governor's Budget was referred to as "hold harmless."

As Mr. Miles continued, he stated the budgeted FTE figure in 2009 with another 3.5 percent growth rate was 67,559 students. In this schedule, Nevada State College was not calculated on the three-year weighted average. Although there were enough years of information for NSC, using the three-year or weighted average created a phenomenal growth curve and produced much higher levels of enrollment in the future years than believed realistic. Therefore, the projections for NSC were based on projections for 2008-2009 enrollments. By April 1, 2007, the actual annual enrollments for the current fiscal year would be available. Mr. Miles explained further that if past practices were followed, the System would substitute the 2007 enrollments into the formula calculation and into the three-year weighted average using years 2007, 2006, and 2005 as opposed to 2006, 2005, and 2004. That would change the enrollment picture in the spring of 2007. Overall, based on fall enrollments, it was anticipated the enrollment curve would continue to flatten.

Chairman Raggio questioned the System projected enrollment growth of 3.47 percent in FY 2009 and asked what the projections were in the Governor's Budget. Mr. Miles confirmed the three-year weighted average enrollment growth based on the Governor's Budget was 3.5 percent annually. Chairman Raggio then inquired, if based on preliminary fall 2006-2007 enrollments, the projected FTE for 2008-2009 would drop considerably below the Governor's recommended amount of 3.5 percent. Mr. Miles agreed that appeared to be the case. Chairman Raggio opined that if budgeting decisions were made on that basis, the problem would be exacerbated. In response, Mr. Miles suggested

that plugging in a lower enrollment curve going forward would result in smaller M200 Decision Units for most institutions.

Chairman Raggio explained the Subcommittee would be requested to fund a considerable amount of money for "hold harmless" for the institutions affected. Further, if the numbers were created by an unrealistic enrollment growth projection, it would become more difficult for the Subcommittee in regard to future budget decisions. Chairman Raggio stated at some point the System must recognize "hold harmless" cannot be continued indefinitely, and, at this time, staff analysis from preliminary 2006 numbers did not support the 3.5 percent enrollment growth.

Mr. Miles acknowledged the enrollment projection was simply an exercise in math and was based on the last three years of actual enrollment. As Mr. Miles continued, he expressed concerns as to whether the three-year weighted average was an appropriate mechanism for forecasting enrollment and agreed Chairman Raggio raised an excellent concern.

Mr. Miles continued his prepared overview with the fees and tuition section on Page 50 of [Exhibit D](#). He explained the Board of Regents, in advance of each legislative session, met and approved fees for the next two fiscal years to coincide with the budget cycle. The chart on Page 50 of the exhibit included the actual fees charged in 2007 and the recommended fees for 2008 and 2009. The registration fees were per credit hour.

Chairman Raggio interpreted the fees and tuition chart to depict the resident undergraduate fee at the universities as going from \$105.25 per credit to \$116.75 per credit in 2008 and to \$129.50 per credit in 2009. During the same time period the Nevada State College fee would go from \$79.00 in 2007 to \$85.75 in 2008 and to \$93.50 in 2009. Chairman Raggio questioned whether these tuitions and fees were comparable with similar institutions in the West. Mr. Miles informed the Subcommittee the policy was to review the tuition and fees every two years with respect to the Western Interstate Commission for Higher Education (WICHE) states but using a three-year lag in WICHE detail. The Board had a policy that aimed to keep tuition low at Nevada institutions.

Chairman Raggio observed 33 percent to 40 percent of the increase was to go to the State-supported portion of the budget. Chairman Raggio continued by informing Mr. Miles a proposal had been aired by the System to retain all of the increase rather than have any go to the State-supported budget portion. He reminded Mr. Miles that a Letter of Intent was sent by the Senate Committee on Finance and the Assembly Committee on Ways and Means ([Exhibit E](#)) stating there would be concern if the percentages of fees/tuition that went to the State-supported portion of the budget dropped below current percentages. Chairman Raggio stated the issue would be discussed at a later time in the session.

Senator Cegavske requested the Subcommittee be provided a list of every fee with explanations, not just the fees shown in the overview. Mr. Miles said the list would be submitted to the Subcommittee as requested.

Continuing, Mr. Miles referenced Page 53 of [Exhibit D](#) pointing out the effects of Western Undergraduate Exchange (WUE) registration fees. He stated there was a recommendation in the Governor's Budget for student fee income at UNR to account for the effect of WUE. The WUE was an opportunity for students from other states to come to institutions in Nevada at reduced fee levels. The

WICHE Board had authorized California students to take advantage of that opportunity in Nevada. According to Mr. Miles, UNR had taken steps to limit the impact in the future.

Chairman Raggio inquired of Mr. Miles why there was a non-resident decrease at UNLV that was not tied to WUE. As explained by Mr. Miles, the impact at UNLV was a recalculation of what they expected from out-of-state tuition fees. Mr. Miles further offered that the System had found that with the higher academic standards now required of Nevada's universities, in this case UNLV, the out-of-state tuitions had been dropping.

Assemblywoman Buckley questioned why Nevada students were not allowed to go to the University of California system when our taxpayer dollars were used to fund the California students. She requested a full breakdown of what benefits Nevada students were entitled to along with a description of what Nevada was receiving from this program.

Dr. Jane Nichols, Vice Chancellor, responded that Nevada had always been a state which took in more WUE students than were sent out-of-state. This was an institutional decision within WICHE WUE. The system believed this was good policy to keep more college graduates in Nevada and contribute to the economy. According to Dr. Nichols, Nevada accepted 2,600 WUE students and sent out only 600 WUE students.

Chairman Raggio asked Dr. Nichols about the effects since California was a participating member. In response, Dr. Nichols estimated the impact was going to be zero because both Nevada institutions were now going to limit the number of WUE students accepted. California students, according to Dr. Nichols, could not be excluded, but a policy limiting the number of students accepted had been put into place.

Moving on to Page 54 of the exhibit, Mr. Miles provided an overview of the summary of the basic budget and maintenance items requested in the higher education budget by the Board of Regents. It was an 8.51 percent increase from the current biennium, but the number did not include any amounts for the Cost of Living Adjustment (COLA), salary increases, or fringe benefit rate increases. It included base budget adjustments.

Mr. Miles pointed out Page 55 of the exhibit displayed a summary from the revenue side. The biennial request was a 7 percent increase in state General Fund, about 14 percent increase in student support, and an increase of 7.66 percent for other, for a total change of 8.51 percent. Again, the State-supported COLA was not included.

Chairman Raggio requested rental information on the Paradise School property, which formerly housed the Boyd School of Law. The projected rent represented a dramatic increase. In response to the question of why this had happened, Mr. James Rogers, Chancellor, explained that years ago there was an exchange of property related to the school district and to NSHE, and this exchange required rental payments on the Paradise School property for approximately ten years at \$150,000 per year. The agreement, according to Mr. Rogers, then required the rental be changed to fair market value or approximately \$600,000 per year. Further, with 20 years left on the lease, the property was virtually worthless to the NSHE. Mr. Rogers explained NSHE was exploring all options with regard to the property.

Assemblywoman McClain asked who owned the property. Mr. Klaich interposed the property was owned by Clark County and the Airport Authority. He advised the Subcommittee that NSHE was in a difficult situation as the county provided notice to the NSHE of its intent to raise the rent; however, the System did not agree with the methodology or amount but had to advise staff of the notice. Chairman Raggio asked the Subcommittee be kept abreast of the situation.

Mr. Miles continued the presentation and pointed out Pages 56 to 60 of the exhibit were inflation factors requested in the Regents' budget dealing with required insurance rates. In reference to Page 60 of the exhibit, there were a number of other items in the Regents' request. All items on Page 60 of [Exhibit D](#) were recommended in the Governor's Budget. The M200 maintenance item was the recalculation of the formula based upon the new enrollment and totaled \$6.93 million. The number was reduced as the Governor's Budget was updated for adjustments for fringe benefits. On Page 61 of the exhibit was a continuation of maintenance request in the M201 Decision Unit, another large amount. This was a calculation for adding building space and improved acreage at all campuses. The formula was approved by a prior Legislature.

Moving to the next item, M202, Mr. Miles explained this was new space rental costs which affected Nevada State College, Desert Research Institute, and Community College of Southern Nevada. The Athletic Fee Waivers (M203) for UNR and UNLV were the incremental increases in costs of athletic fee waivers. Chairman Raggio questioned why there was a large difference in costs between UNR and UNLV in 2008 and 2009. Mr. Miles said he would provide the Subcommittee the justification at a later date. He then continued his testimony stating there was a change in the budget to put the new Redfield Campus on an Operating and Maintenance (O&M) recharge mechanism with UNR as opposed to having all of the various individual line-item charges in the Truckee Meadows budget. There was no cost associated with this accounting change.

Mr. Miles noted there were small adjustments in the budget for Occupational Studies which were developed by the State Department of Personnel and inserted in the Governor's Budget.

The next few pages described by Mr. Miles dealt with items for special consideration offered by the Board of Regents in their approved budget.

Mr. Miles identified a number of requests for student access and success, including a response to the A.B. No. 203 of the 72nd Legislative Session findings that the Community College of Southern Nevada (CCSN) per student revenues did not meet peer revenue allocations for that institution. Bringing them up to peer levels required substantial increases in appropriations. The Board of Regents had requested an adjustment that was not recommended by the Governor.

An initiative on advising and counseling students to increase student access and success was requested by the Board of Regents, according to Mr. Miles. That would have affected or provided improvements at all of the institutions. That request was not recommended by the Governor.

Moving on to Page 70 of the exhibit, Mr. Miles advised the Subcommittee of a request, not recommended by the Governor, to increase part-time faculty salaries. There was a policy by the Board of Regents to set part-time faculty salaries and index them to full-time faculty salaries so they would both grow at

the same rate. The institutions were striving to get to that point, but had not been able to without additional funding. That request was not recommended by the Governor. Other requests not recommended by the Governor, but approved by the Board of Regents, included:

- An increase the funding formula to the 89 percent level. The Governor recommended increasing the formula percentage from 84.5 to 85.5 percent.
- Scholarships for students, called Science, Technology, Engineering, and Mathematics (STEM) Initiatives for Nevada. There was a STEM scholarship for juniors and seniors pursuing a major in the sciences or computer sciences, technology, or engineering. Also, a Nevada Mathematics, Engineering, Science Achievement (MESA) Program which increased the proportions of Hispanic, African-American, and Native American students excelling in mathematics and engineering programs was requested.
- A Nevada Student Training and Research Program (STAR) to recruit and hold onto the best graduate students to improve research capabilities.
- An Adopt-a-School program, whereby each institution would adopt a school in K-12.
- Athletic fee waivers for WNCC and CCSN. That was an issue brought up at the last session of the Legislature.
- Also, \$80,000 for the Regents' Academy to provide faculty with new teaching methodologies and training in best practices.

Mr. Miles stated the Board of Regents approved moving the Nye County Service Area, primarily the Pahrump area, out of the CCSN area and into the Great Basin College area. That involved two decision units, both of which had been recommended by the Governor. Chairman Raggio asked whether higher funding was required because of the service area. Mr. Miles commented there was a small increment in the funding level for Great Basin College because under the formula smaller institutions had an enriched formula due to the lack of economies of scale.

Mr. Miles continued his testimony moving on to Page 73 of [Exhibit D](#) noting the following points:

- In Enhancement Unit 308 (E308), the Governor recommended \$400,000 for a P-21 council.
- UNLV had requested funds for Research Infrastructure. This was a response to findings of A.B. No. 203 of the 72nd Legislative Session evaluation of higher education in the State and dealt with the opportunity to make UNLV a research institution. It would take some initial cost to move them quickly into that status.
- A request was made for Workforce and Economic Development Initiatives primarily dealing with the community colleges.

Chairman Raggio commented the Subcommittee wanted to see detail on that initiative as he was not clear on how the funding would be utilized. Mr. Miles responded the information would be provided. He further stated that included in the workforce component were other requests, such as moving the nursing student-to-faculty ratio at the community colleges to an 8:1 ratio. The last session of the Legislature recognized the 8:1 requirement of the licensing board for nursing and partially funded that ratio. The current budget requested the balance of funding to bring all of the classes up to the 8:1 ratio.

Continuing with highlights of [Exhibit D](#), Mr. Miles noted other requests, such as:

- NSC requested funds to jump-start teacher preparation programs in order to further address the shortage of teachers, particularly in the southern part of the State.
- UNR requested matching money for an International Game Technology (IGT) grant which was designed to develop and sustain programs in the study of computer gaming.
- UNLV Small Business Center requested funds to extend services to the small businesses located in the outlying areas such as Pahrump, Mesquite, Boulder City, Laughlin, and other areas.
- The UNR State Health Lab requested funds for software maintenance upgrades in the laboratory.

As Mr. Miles remarked, although none of the workforce development projects by themselves were approved in the Governor's recommendations, there was a recommendation for \$7 million for the community colleges for workforce development in The Executive Budget.

Requests in the budget as outlined by Mr. Miles were statewide programs existing at UNR and UNLV. UNR had requested extra funds to enhance a variety of their programs that fell into the Statewide program area. UNLV did the same. One of the programs funded previously was the Women's Research Institute of Nevada. There was \$150,000 appropriated each year for this program by the Legislature. The legislation that was approved prohibited that from becoming part of the base budget, so it was requested as an enhancement item. However, this request was not recommended in the Governor's proposed budget. Other requests included:

- From Desert Research Institute (DRI) to maintain a system-wide program focusing on Nevada's Security, similar to Homeland Security.
- From DRI for Institutional support. Although it has expanded over the years, DRI had not added any new State-funded positions. The request was to fund three more of the vice president positions through the State administrative grant. The Governor had recommended that enhancement.
- To support operating costs for a new health science system outlined later in [Exhibit D](#).
- To provide one-shot money for the iNtegrate Project to replace the student administration system, financial system, and human resource transactions system. The plan was to integrate those systems for communication purposes and to develop a data warehouse. The request was for \$17 million. The Governor had included in his budget a one-shot appropriation for \$10 million. The NSHE came up with \$15 million from invested operating income.

Chairman Raggio requested an accounting of the non-state funding sources be made available to the Subcommittee. Mr. Miles agreed to provide the information. He continued with his presentation from [Exhibit D](#) indicating there were other one-shot requests that did not make the Governor's budget, including Distance Education Infrastructure for System computing services and Statewide Network Infrastructure upgrades (detailed on Page 78 of [Exhibit D](#)). There was a special request from CCSN and NSC for one-shot appropriations for library acquisitions to bring their library collections up to the level necessary for the number and types of students they served.

In the interest of time, Chairman Raggio asked Mr. Miles to move on to the Governor's recommendations which needed to be addressed. Mr. Miles complied and continued his presentation noting that Page 83 of [Exhibit D](#)

showed a recapture of the revenue streams that were provided to support the Governor's recommended budget in the next two years. The top portion of the schedule was the State appropriation and included the salary adjustment and funds for the Cost of Living Allowance (COLA) in the State appropriation. The lower portion of the table listed all of the revenue sources available to the System, such as registration fees; non-resident tuition; miscellaneous student fees; some federal funds; operating capital investment, which is income from the investment of State funds; discretionary funds; miscellaneous revenue, which is recharge revenue at UNR and UNLV; and county funds that flowed into several accounts.

Mr. Miles explained Page 84 of the exhibit was a revenue summary of the Governor's recommended budget. The numbers did not include COLA or major adjustments for payroll fringe rates included in the Governor's Budget. There was a 16.1 percent increase in State appropriations over the biennium and a 13.3 percent increase in higher education revenues, for an overall increase of 15.5 percent for two years.

Mr. Miles noted that, although not listed in [Exhibit D](#), the System received 19.8 percent of total General Fund appropriations during the current biennium. The Governor's Budget recommended that the System receive 19.5 percent of total appropriations.

Moving forward Mr. Miles explained that the table on Page 85 of the exhibit displayed major expenditures. The major differences, he pointed out, between the request and the Governor's recommendation were the COLA and the fringe adjustments that had occurred.

Mr. Miles outlined the Governor's recommendations for the budget which began on Page 86 of [Exhibit D](#) as follows:

- Adjusted Base Budget which included:
 - Professional merit adjustments calculated at 2.5 percent of eligible salaries.
 - Classified merit steps.
 - Vacancy savings.
 - Elimination of one-time expenditures, and inflation adjustments that occurred in rent and contractual agreements, typically insurance rates.
 - Restoration of the National Direct Student Loan Program at \$50,000 per year.
- Recharge increases at UNLV and software license fees (M102). These were inflationary increases.
- The UNLV Paradise School lease increase, which came in after the original budget request (M103).
- Paper costs and book publication costs at the university press, the lease for the System administration building in Las Vegas, and library acquisitions for the inflation factor at the Boyd School of Law (M106).
- The recalculation of the formulas (M200) at -\$13.91 million, which was to be offset with the hold harmless recommendation.
- New space operating (M201).
- New space rental (M202) for Nevada State College, Desert Research Institute, and Community College of Southern Nevada.
- Athletic fee waivers increase (M203) for UNR and UNLV.

- Operating and maintenance recharge at Redfield Campus (M204, M205) allowed the campus to reflect the actual cost.
- Adjustment to fringe benefits (M300).
- Adjustment for occupational studies conducted by the State Department of Personnel (M303).
- Cost of living adjustment (M304) recommended at \$44.45 million, in addition to the merit pay.

Mr. Miles outlined the items for special consideration listed on Page 90 ([Exhibit D](#)) as follows:

- The increase in formula funding from 84.5 percent to 85.5 percent (M304).
- Support for enhancement initiatives including administrative positions for DRI to catch up with program growth.
- The P-21 initiative recommended at \$200,000.

Chairman Raggio interjected that the items had been covered earlier but the Subcommittee wanted a report outlining how the \$2 million the Governor was recommending for DRI was to be utilized. He noted this amount was in addition to \$1 million that was granted last session for specialized equipment for the same purpose. He asked Mr. Miles to proceed to the Health Sciences System (UNHSS).

Assemblyman Hardy asked why on Pages 84 and 85 of the exhibit the request was much less than what the Governor recommended. Chairman Raggio offered that the request did not contain the COLA, which might account for the difference. Dr. Hardy contended it appeared the Governor covered the fringe benefits and the COLA but not to the point of what was requested. Adding further clarification, Mr. Miles explained that besides COLA and fringe benefit increases, the Governor had recommended enhancements which were briefly described, such as the new administrative costs at DRI. Also included was a \$2 million appropriation for DRI to cooperate with others and develop a water inventory for the State of Nevada. In addition, there was \$7 million for workforce development in the Governor's recommendation. The Governor was not able to address all of the items in the Board of Regents' list in his budget. Upon the request of Dr. Hardy, Mr. Miles agreed to provide the Subcommittee a true comparison of the Regents' entire request with the Governor's recommendations.

Testifying for University of Nevada Health Sciences System (UNHSS) was Marcia Turner, Interim Vice Chancellor and Chief Operating Officer. Ms. Turner provided a brief overview of the UNHSS and stated the mission was to promote the advancement of health education, research, care, and community outreach through maximizing and enhancing resources efficiently and effectively.

Ms. Turner stated there were six major areas in the operational request as follows:

- Support initial implementation of School of Medicine growth plan at \$29 million. This was primarily to pay for an increase in faculty to support the expansion of graduate medical education. This includes New Frontiers research development in the area of molecular sciences and genetics.
- The first phase of increase in the Schools of Nursing at \$21.3 million. There are seven schools, and a three-phase plan has

been developed for a redoubling of the nursing program. First phase adds approximately 500 new students.

- Multi-professional Research Initiatives at \$13.1 million. These initiatives include the development of core research programs with rural components that focus on neurodegenerative diseases such as Alzheimer's and Parkinson's disease; addiction, especially methamphetamine addiction; radiation exposure research; diabetes care and maintenance; and injury prevention and care.
- Development of a School of Pharmacy and Pharmaceutical Sciences at \$2.9 million.
- Advanced dental education programs, including rural outreach, at \$1.6 million.
- Administration and operations support to nurture the development of the Health Sciences System at \$5.1 million.

Ms. Turner referred to Page 104 ([Exhibit D](#)) of the overview and emphasized that the total amount requested for capital improvements was \$157 million, and the plan was that 70 percent would come from the State and 30 percent would be raised through the System from private or other donations. The Health Sciences System was planning that approximately two-thirds of the \$157 million would be used for buildings in the south and one-third for buildings in the north. Approximately \$53 million was for UNR campus construction. In the south, three buildings were planned including two new buildings and one renovation.

Chairman Raggio commented that the Subcommittee would have more time in the future to go into all areas. He noted the total operating budget for the next biennium was \$1.71 billion net of interagency transfers of \$227 million or 15.3 percent higher than the previously approved budget for the NSHE. The Governor was recommending \$1.34 billion in General Fund appropriations for the System during the next biennium, an increase of \$186 million or 16.2 percent over the 2005 legislatively approved amount. That amount also reflected the NSHE share of the COLA the Governor recommended for all employee groups, including teachers.

Senator Coffin asked why a College of Pharmacy continued to surface when there was a successful, privately operated and accredited pharmacy school in southern Nevada. Senator Coffin questioned whether the University System could work with that medical school so the citizens would not have duplicated services and could possibly save money.

In response to Senator Coffin, Chancellor James Rogers explained the existing pharmacy school had an entirely different purpose than a pharmacy school as part of a medical school. It was not a duplication of effort. Wherever possible, the System would partner with Touro University in Las Vegas, but the programs were far different than what UNR and UNLV would offer.

Chairman Raggio recessed the Subcommittee for five minutes.

DEPARTMENT OF EDUCATION BUDGET OVERVIEW

Chairman Raggio called the meeting to order and asked for the overview of the Department of Education. He announced the Distributive School Account would be heard at 1:30 p.m.

Dr. Keith Rheault, Superintendent of Public Instruction, Mr. James Wells, Deputy Superintendent for Fiscal Services, and Ms. Gloria Dopf, Deputy Superintendent for Instruction, Research and Evaluative Services, appeared

before the Subcommittee and provided the overview of the budget for the Department of Education. Dr. Rheault referred the Subcommittee to the General Overview of the Non-DSA Budget Account ([Exhibit F](#)). The items included in the exhibit were:

- Major issues facing school districts in the next biennium.
- Status report on full-day, at-risk kindergarten program funding.
- Status report on the Programs for Innovation and Prevention of Remediation funding.
- State Assessment Program funding increases.
- System of Accountability Information in Nevada (SAIN).
- Review of enhancements to the Department of Education budget included in the Executive Budget for the 2007-2009 biennium.
- Other Issues—Department staff overtime and flat federal funding.

Dr. Rheault began by addressing the major issues facing school districts in the next biennium. The first item addressed was the recruiting and retaining of highly qualified teachers. The No Child Left Behind Act required 100 percent of the teachers be highly qualified by July 1, 2006; however, not one state in the nation met the requirement. Therefore, every state was required to submit a plan to the federal government by July 1, 2007, to get every teacher into that category. Dr. Rheault doubted the states would be able to meet the requirement. Page 4 ([Exhibit F](#)) provided a chart updating the Subcommittee on the progress towards meeting the goal. According to Dr. Rheault, last spring Nevada was at 80.38 percent highly qualified. Gains were made during the year but Nevada was still below 100 percent. Reporting was also required on how many highly qualified teachers were in low poverty schools compared to high poverty schools. In Nevada those included the top 25 percent of schools with high poverty rates versus the low poverty counterparts. In that analysis, the low poverty schools had a lower percentage of teachers not highly qualified. This indicated there was work to be done with the equity plan to get more highly qualified teachers in high poverty schools.

In response to a question from Chairman Raggio as to whether the 1/5 retirement incentive program in Nevada had helped, Dr. Rheault commented that a major improvement in equity of high quality teachers in high and low poverty schools was a credit to the incentive program. During the first year that numbers were collected there was nearly a 30 percentage point discrepancy; currently the figures were within 5 percentage points of being equal. The years of experience the teachers had at high and low poverty schools must also be compared. Dr. Rheault stated no specific funding was provided in The Executive Budget but was covered through other sources in the budget, such as federal funding, regional professional development programs for middle schools, local school districts, and Senate Bill (S.B.) No. 404 of the 73rd Legislative Session money.

Senator Cegavske inquired whether teachers who graduated from the fast-track programs were considered highly qualified. Dr. Rheault answered that a report would be prepared and provided to the Subcommittee.

Dr. Rheault continued his presentation with another major issue facing school districts in the next biennium, which was increasing the retention rate of young teachers. On Page 5 ([Exhibit F](#)) he pointed out the table titled "Prior Nevada Experience." According to Dr. Rheault, approximately 45 percent of Nevada teachers had five years or less experience. He opined the time had come where Nevada's needs could not be met by national or global recruiting. The answer was to retain teachers longer. A discussion held in the Committee on Education

the past interim dealt with developing standard criteria for an induction and mentor program for new teachers. The program had proven successful in other states. In Santa Barbara, California, for instance, the teacher loss rate was reduced from 37 percent to 9 percent in their pilot program. Currently there was not funding available for mentor programs in the budget but several school districts had used funds from S.B. No. 404 of the 73rd Legislative Session for that purpose. There was \$10 million provided during the last legislative session for performance pay incentives or other programs for which the school districts could apply. Several districts had used that money to develop mentor programs.

Senator Cegavske observed the information gathered from program evaluation and exit interviews with teachers indicated the number one retention issue was problems with management, specifically principals and administrators. That issue must be addressed. Rather than looking at teacher incentives, was anything being done to address management problems? It appeared this was a national problem.

Dr. Rheault advised the Department of Education was working with the Nevada Association of School Administrators putting together leadership programs to work with administrators to provide professional development.

Chairman Raggio reminded the Subcommittee this was merely an overview, and there would be ample time to gather information at future meetings.

Assemblywoman Smith informed Dr. Rheault that last session legislation was passed requiring school districts to track and report use of substitute teachers, long-term and short-term. She wanted to ensure the process was on track. Dr. Rheault affirmed the information would be provided as required.

Senator Mathews questioned whether the reference to "other" on Page 5 of the exhibit under States Where Degrees Were Earned included all other states and foreign countries. In response, Dr. Rheault explained it did include other states not on the list. There was a separate category for foreign countries, including Canada, which showed a total of 226 teachers.

Dr. Rheault explained that another major issue was providing incentives for teachers in at-risk schools. Since 2001 the Legislature had provided some funding for this category. The first incentive program was a signing bonus for new teachers. In school year 2006 the signing bonus of \$2,000 per teacher was paid to 3,228 teachers. This was above projected amounts. The calculation was over the projection because the at-risk kindergarten program alone added 449 new teachers not included in the projection. The funding was specifically set aside for the at-risk or need improvement schools where a 1/5 retirement credit was provided to teachers. Funding for hard-to-fill positions in mathematics, science, special education, English as a Second Language, and school psychologists was redirected to the empowerment program in the 2007-09 budget. Therefore, for the current budget request that funding to provide 1/5 retirement credit was zeroed out.

Assemblyman Arberry asked for clarification regarding the teacher signing bonus and whether it was still a part of the budget. Dr. Rheault noted the bonus was in the budget, and there was a slight increase from the previous year based on estimates for new teachers. There was, however, a shortage of funds for the current fiscal year. The Department of Education planned to request a supplemental appropriation of approximately \$1.5 million, which was not in the Governor's recommended budget. However, the ongoing request to support

new signing bonuses for teachers in 2008 and 2009 was a part of the Governor's recommended budget.

Dr. Rheault continued with the major issue of providing support to schools that did not make Adequate Yearly Progress (AYP). Page 7 ([Exhibit F](#)) provided a summary of the success achieved in 2006.

Dr. Rheault noted Nevada had maintained, for the past three years, the same percentages of students considered proficient in English Language Arts (ELA) and mathematics for schools to meet the AYP objectives. For example, the proficiency goals for elementary schools in 2005, 2006, and 2007 were that at least 39.6 percent of the students in each grade had to be ELA proficient, while 45.6 had to be proficient in mathematics. Dr. Rheault said the school districts had shown progress between 2005 and 2006 school years because the number of schools on the "watch" list which were schools that did not make progress the first year, decreased from 165 to 55, while the number of schools on the "in need of improvement" list which were schools that have not made progress for two or more years, remained steady at 233.

According to Dr. Rheault, 2007 was the last year the percentages for proficiency would remain the same. For the 2008 school year, the goal for the percentage of elementary students deemed proficient was increasing by 12 percentage points. In addition, other changes would affect the number of schools that did not meet the AYP standards. As examples of the changes, Dr. Rheault indicated that three new tests for AYP were being added and that the testing for middle schools would expand from just grade 8 to grades 6, 7, and 8. He anticipated that the number of schools not making AYP would increase significantly.

Chairman Raggio asked how many additional schools required a school support team. Dr. Rheault indicated that \$3.7 million was built into the budget specifically to provide support teams for non-Title I schools. Chairman Raggio questioned the effectiveness of the school support teams. The data available to Dr. Rheault was for the previous year when there were 22 school support teams. Of those, 19 of the schools made AYP. It was believed by Dr. Rheault the teams were very effective.

Senator Titus noticed the list of schools meeting the definition of at-risk where there were all-day kindergarten and the list of schools on the watch or needs improvement lists and wanted to know how the schools compared. Dr. Rheault did not have the list immediately available but would provide the information to the Subcommittee. Senator Titus also questioned why the schools that could be added to the at-risk list under the current definition did not have the all-day kindergarten and whether it was due to a lack of available funds. Dr. Rheault indicated he was prepared to address that issue later, but Senator Titus was correct that nine additional schools qualified under the 55.1 percent free and reduced lunch rate. Funding was not available and was not requested because the preliminary numbers requested by the department included full-day kindergarten funding for all schools and consequently was not broken down for only the at-risk schools. Senator Titus then asked if the additional nine schools were not included, wasn't Nevada, in fact, moving away from the all-day kindergarten program. Dr. Rheault agreed this was the case. As requested by Chairman Raggio, Dr. Rheault agreed to provide to the Subcommittee the cost requirements for including those schools.

The final piece Dr. Rheault covered was on issues related to increasing the achievement of Limited English Proficient (LEP) students. There were currently

74,000 such students in Nevada in school year 2006. That number had nearly doubled since 2001. This required the school districts to provide more teachers with English as Second Language (ESL) endorsements and required additional funding. Dr. Rheault included the federal funding provided to support specifically the LEP students in the budget. The total per pupil federal support for LEP students in fiscal year 2006 was \$99.82 per student. A previous adequacy study addressed the additional costs for educating LEP students. Some school districts addressed the needs last biennium by using S.B. No. 404 of the 73rd Legislative Session funding. Many programs provided directly to schools were targeted at LEP students and utilized either longer school days or after school programs in English and mathematics.

Senator Cegavske asked whether the Subcommittee could get the information about each program, what the cost was, and how many different types of programs there were. She suspected they would be looking into English immersion classes during the session. Dr. Rheault said he would provide the information as requested.

Senator Beers inquired at what point a student would be taken off of the LEP list. Dr. Rheault assured him students were removed from the list, and Ms. Gloria Dopf, Deputy Superintendent of Instruction, Research and Evaluative Services, could provide more detail. Ms. Dopf explained the English Language Proficiency Assessment (ELPA) was the State-adopted assessment that tested each student's English proficiency, not necessarily related to content or grade level. It measured the proficiency of language for the student as expected within that grade level, but the test was not grade-specific. The ELPA was administered throughout the course pre-imposed for the child's education. Regardless of the proficiency score, when the child was in the program for one year, he or she must be counted, and the scores must be counted in the content area Criterion-Reference Test (CRT). With one year of attendance, the child participated in the ELA (English Language Arts) Assessment and the math assessment, and the scores were counted for AYP purposes. Students had not reached proficiency often using the ELPA test. Continuing, Ms. Dopf said the ELPA test and the services provided to the LEP child was approximately a three-year program. However, there was continuation if the child had not made the proficiency targets on the language proficiency tests. At the beginning the child participated in the content area tests, the ELA and the math CRT at their grade level, but the scores did not count for AYP within the first year of the child being identified as LEP and new to the program. If the child continued to take the ELPA, regardless of his or her proficiency score thereafter, the score was counted for the ELA and math for AYP purposes. The ELPA scores allowed the child to continue to be eligible for specialized language training available through the school district with a three-year target for them to reach the proficiency level that equated to use and understanding of the language.

Senator Beers speculated a child who was on the LEP list in the second grade should be third grade English proficient by the end of the third grade. Ms. Dopf clarified the ELPA was set up to expect language proficiency at appropriate developmental levels. Consequently, the child was taken off the list if he met the proficiency target of the ELPA. In response to Senator Beers question regarding an average time a child was on the LEP list, Ms. Dopf stated the program was targeted at three-years; however, there were children on longer than that. In those cases, the districts must fulfill their measurable objectives for the LEP program. Ms. Dopf will provide the information to the Subcommittee.

Dr. Rheault next moved to the full-day kindergarten program. The 2006-07 school year was the first year for the program which was provided at 114 schools. The funding for the program supported the salaries and benefits of the additional teachers, but the funding formula still used the 0.6 Full-Time Equivalent (FTE) per student. If a school qualified for the full-day program, the Department provided the additional cost of the teacher and the district received the 0.6 FTE whether the student went the full day or half of the day. Nine school districts participated in the 2006-07 school year. A total of 31 portable classrooms were purchased to support program implementation using the \$7 million appropriated by the Legislature.

The Governor's recommended budget included \$25 million in FY 2008 and \$26 million in FY 2009 to continue full-day kindergarten. Dr. Rheault noted that nine new schools qualified for the program based on the current level of 55.1 percent student participation in the free and reduced lunch program. The list of schools and additional costs would be provided to the Subcommittee. Chairman Raggio interjected that to continue the full-day program with the current 114 schools was nearly \$52 million over the 2007-09 biennium. Dr. Rheault concurred.

Dr. Rheault continued with his presentation noting on Page 11 ([Exhibit F](#)) a list of the 31 schools that utilized the portable classrooms. Those were primarily in Washoe County, as Clark County was not eligible to participate in the additional portables. Page 12 of the exhibit provided a list of the 9 school districts that participated in the program.

Assemblyman Grady noted Lyon County was not listed as receiving a portable classroom although he was certain one had been installed. It was his belief they had one full-day kindergarten. Dr. Rheault responded that it was possible the portable classroom was purchased with federal funds as Lyon County did not have a school above the 55 percent free and reduced lunch threshold; therefore, the State appropriations did not provide funds to that district last biennium.

Continuing on Page 13 ([Exhibit F](#)), Dr. Rheault discussed the Programs for Innovation and the Prevention of Remediation. There was \$100 million provided to the account for remediation at the 73rd Legislative Session. Of that, \$22 million was used to pay for full-day kindergarten. The remaining \$78 million was earmarked for elementary school innovation and remediation programs. Additionally \$14 million in the Distributive School Account (DSA) was set aside for remediation programs in secondary schools. During the past biennium, the Commission on Educational Excellence had approximately \$92 million to provide funding to schools and school districts for remediation and innovation purposes. In the Governor's recommended budget, most of the remediation funding was continued. Dr. Rheault noted the items were listed on Page 13 ([Exhibit F](#)). The secondary school remediation was approved in The Executive Budget for \$7,089,000 each fiscal year. The remediation fund for elementary schools was \$27,696,000. Dr. Rheault went on to say the difference between funding last biennium and the current biennium had to do with funding of full-day kindergarten.

Dr. Rheault stated the next few pages of [Exhibit F](#) summarized the grants for the Department. Additional information was going to be made available to the Subcommittee at a later date. Page 17 of the exhibit summarized additional costs for testing programs. These were generally maintenance costs. Chairman Raggio asked why the writing examination increased over 50 percent.

Dr. Rheault responded the increase had to do with the numbers of students taking the test. More detail would be forthcoming.

Dr. Rheault noted that Page 18 of the exhibit provided data on the Nevada proficiency assessment program. All categories in the left column were different types of tests required. The CRT was used for AYP purposes. The Iowa Tests of Basic Skills (ITBS) was the norm reference test. Analytic Writing and science testing for 10th grade were added for the current year. The ELPA, special education assessment and the National Assessment for Educational Progress (NAEP) were used in selected schools.

Dr. Rheault commented that Page 19 of the exhibit summarized the System of Accountability Information in Nevada (SAIN). The system was capable of providing longitudinal data. When a student left LEP, for example, the System tracked the student to compare progress after leaving the program versus progress while involved in the program. There was an increase in funding requested of about \$120,000 per year. The goal of the program was for every teacher to have access to individual student data, including assessments. The successive pages of [Exhibit F](#) provided a list of enhancements in the Department of Education budget. Most were included in Budget Account 2699, Other State Programs. A new item was the school support teams for non-Title I schools that was included within the Governor's recommended budget. The estimated need for the program was \$1.17 million. The Career and Technical Education funding was continued. The State Board had submitted a request for \$7.2 million per year.

Chairman Raggio asked how the \$1 million approved for Career and Technical education was spent. Dr. Rheault explained some of the money was used to establish new programs. Much of the money was used to meet the equipment needs for the training needed for meeting the new standards. There was still federal money available through the Carl Perkins Vocational Grant which was scheduled to be zeroed out in President Bush's budget, but the elimination had been rescinded.

Chairman Raggio announced to Dr. Rheault his allotted presentation time had expired and asked the Subcommittee for questions. Senator Cegavske asked for a detail from Dr. Rheault on the school districts with full-day kindergarten the parents paid for, what were the amounts, and what account the money went into. Dr. Rheault stated he would see the information was provided to the Subcommittee.

Committee recessed until 1:30 p.m.

DISTRIBUTIVE SCHOOL ACCOUNT BUDGET OVERVIEW

Chairman Raggio reconvened the meeting and requested an overview of the Distributive School Account by the Department of Education.

Mr. Keith Rheault, Superintendent of Public Instruction, Department of Education, introduced Mr. James Wells, Deputy Superintendent for Administration and Fiscal Services, Department of Education, and recognized Mr. John Gwaltney, Nevada State Board of Education. Dr. Rheault advised the Subcommittee of intentions to cover only the major issues and assumptions used in the Distribution School Account (DSA) Budget. Mr. Jim Wells presented the Table of Contents ([Exhibit G](#)) of the DSA Budget handout to the Subcommittee.

The first item included ([Exhibit H](#)) was a two-page summary of the financial resources and how the money was used in fiscal year 2006. The next item ([Exhibit I](#)) was a two-page document that provided a summary of the Department's budget grouped as follows:

1. Budget accounts that provide administrative support throughout the Department.
2. Budget accounts that provide non-federal funding for specific purposes.
3. Budget accounts that provide federal funding for specific purposes without state funding.
4. Budget accounts that provide federal funding for specific purposes requiring state or other match.
5. A budget account that received estate tax with use to be determined by legislative action.
6. A consolidated summary of all budgets accounts.

Item 3 ([Exhibit J](#)) was a four-page summary of decision units for each of the Department of Education budgets. Item 4 ([Exhibit K](#)) represented a ten-year summary of federal programs administered by the Nevada Department of Education.

Mr. Wells next referenced the Distributive School Account (DSA) Budget 2007-2009 ([Exhibit L](#)). This overview largely dealt with Budget Account 2610 and included 12 programs during the 2007-2009 biennium. Budget Accounts 2615 and 2699 dealt primarily with pass-through funds and also would be referenced.

Page 3 ([Exhibit L](#)) outlined the programs in the DSA for the upcoming biennium. Programs included were:

- Basic Support.
- Class Size Reduction.
- Special Education.
- Gifted/Talented Units.
- Adult High School Diploma.
- School Lunch.
- Secondary Remediation (transferred to Budget Account 2615).
- Regional Professional Development Program.
- Early Childhood Education.
- Elementary Counselors.
- Special Transportation.
- Retired Employee Group Insurance.
- 1/5th Retirement Credit—At Risk.
- 1/5th Retirement Credit—High Impact.
- Empowerment Program.

Senator Cegavske inquired how much of the adult high school diploma budget was prisoner-related. Mr. Wells advised the split was 70 percent regular programs and 30 percent corrections programs for the previous biennium. With the addition of the Jean Conservation Camp, the percentages changed for the upcoming biennium and were now closer to 65 percent regular and 35 percent corrections programs.

Continuing on Page 4 of the exhibit, Mr. Wells noted the budgets were built on FY 2006 actuals. In the case of the DSA, the budget was built on information provided to the Department from the school districts via a report required by Nevada Revised Statutes 387.303. Information was used from the FY 2006

actuals, and modules were added that dealt with caseload growth, benefit changes, salary increases, and so forth. In FY 2006 the school districts and charter schools spent \$1.5 billion on salaries, over \$500 million on benefits, \$330 million for operating expenses, \$55 million for equipment, and \$173.5 million in the other category, which included special education, adult education, retired employee group insurance program, and other obligations of school districts and charter schools.

Mr. Wells noted that to determine the basic support guarantee provided by the State, certain local revenues and funding from other DSA programs received by the school districts were subtracted from the total expenditures. Local revenues included two-thirds of the operating property tax rate for public schools, the government services tax, franchise fees, and other outside revenues. The separately funded DSA programs include adult education, special education, elementary counselors, retired employee group insurance, and the school lunch program match. As a result of these subtractions, total expenditures for basic support were \$1.793 billion in FY 2006. When divided by the student enrollment of 400,103.2 in FY 2006, the basic support was \$4,482 per student.

Mr. Wells next reviewed Page 5 of the exhibit. He described the adjusted base budget for FY 2008 and FY 2009. The salaries were rolled through the FY 2007 school year because all information was based on FY 2006 actuals. This required a 2 percent step increase and a 4 percent cost of living increase in FY 2007. The 2 percent step on scale increase noted on Page 5 was reflective of the increases on the teacher salary scales compiled at the Department. Also included were adjustments for teachers who retired at the end of their career and were replaced by younger teachers. Other basic support expenditure assumptions included:

- Roll-up costs of 2 percent for both FY 2008 and FY 2009.
- A 3 percent increase in "Student Related" operating costs for textbooks, instructional and other supplies, instructional software, and library supplies over the base for FY 2006 and an additional 3 percent for FY 2009.
- Equipment expenditures allowed at FY 2006 actual amounts.

These expenditure assumptions result in an adjusted base budget of \$1.973 billion in FY 2008 and \$1.946 billion in FY 2009.

Assemblywoman Smith asked whether the 3 percent increase included inflation for utilities. Mr. Wells replied utility inflation was not included. Mr. Wells also explained the total recommended budget for basic support differed from the budget book because the budget book did not include amounts for programs such as special education, adult education, elementary counselors, retired employee group insurance program, and school lunch match, but did include the revenues "inside" the Nevada Plan. The decrease in the second year of the biennium of \$30 million was reflective of the projected increases in "outside" revenues.

Mr. Wells moved to Page 6 of the exhibit, which outlined average salaries for FY 2006. This information was directly attributable to the amount spent on salaries divided by number of FTEs for each area. In order to obtain the FY 2007 average salaries, a 2 percent step increase and 4 percent cost of living increase was added.

Mr. Wells covered the enrollment growth as outlined on Page 7 of the exhibit. The Basic Support Expenditure Assumptions for Maintenance (M200) Enrollment Growth were:

- Budgeted Students.
 - FY 2006 – 405,606.
 - FY 2007 – 422,453.
- Actual Students.
 - FY 2006 – 400,103.2, a 3.26 percent increase versus 4.68 percent projected.
 - FY 2007 – 412,297.4, a 3.05 percent increase versus 4.15 percent projected.
- Projected Students.
 - FY 2008 – 425,270.2, a 3.15 percent increase from FY 2007.
 - FY 2009 – 436,675.2, a 2.68 percent increase from FY 2008.
- Module includes caseload increases for operating and "student-driven" equipment expenditures.

These enrollment growth assumptions resulted in a recommended budget within this Decision Unit of \$75,938,951 in FY 2008 and \$131,150,976 in 2009.

Chairman Raggio confirmed these were the amounts required to fund the projected enrollment growth. Mr. Wells stated that was correct; however, the numbers would differ slightly from the budget book provided to the Subcommittee as these numbers only represented basic support. The budget continued the use of the two-year hold harmless provisions, which meant that a school district or charter school with declining enrollments was paid at the higher enrollment for the current year or either of the two immediately preceding years. In FY 2006 the hold harmless provisions added 699 students at a cost of \$3.759 million. In FY 2007 the school districts and charter schools reported declining enrollment, and the hold harmless provisions added 1,218 students at a cost of \$6.76 million.

Chairman Raggio asked for the number of school districts that were funded as hold harmless in the new budget. Dr. Rheault responded by referencing the Nevada Education Quick Facts ([Exhibit M](#)) which showed nine school districts with declining enrollments and estimated the same for the next fiscal year. There were more districts with declining enrollments than growing enrollments. Additional information would be available for the Subcommittee.

Continuing on Page 8 ([Exhibit L](#)), Mr. Wells outlined the M300 Benefits Adjustments module. Two primary adjustments were:

- Public Employee Retirement System (PERS) Retirement Change:
 - Increased rate from 19.75 percent to 20.5 percent for employer paid employees.
 - Reduced salary by one-half of the amount, which is consistent with treatment of prior changes.
 - Resulted in small decreases to other fringe benefits driven by salaries, such as Worker's Compensation, Unemployment Insurance, Medicare, and so forth.
- Health Insurance Expenditures Change:
 - Used dollars per employee instead of percent of salaries, which reflects that salary is not a factor in determining the cost to insure an employee.
 - Applied twelve percent increase in both FY 2008 and FY 2009.

All other fringe benefits remained at the same rate as FY 2006. These adjustments resulted in a recommended budget within Decision Unit M300 of \$29.170 million in FY 2008 and \$57.965 million in FY 2009.

Chairman Raggio inquired whether the \$88 million for the biennium was just for the increased rate in PERS and the health insurance. Mr. Wells stated that was correct.

Mr. Wells continued on Page 9 of the exhibit, the Cost of Living Adjustments (COLA), Decision Unit M304. There was a 2 percent pay increase recommended in FY 2008 and a 4 percent pay increase recommended in FY 2009. The cost for these pay increases was \$41 million in FY 2008 and \$130 million in FY 2009.

Senator Beers asked with the 6 percent increase, 2 percent in FY 2008 and 4 percent in FY 2009, what was the percentage increase in benefit cost. Dr. Rheault estimated it was approximately 3 percent for the biennium which then increased the total compensation to 9 percent, including benefits and salary.

Mr. Wells explained that Page 10 of the exhibit displayed the student to teacher staffing ratios for the FY 2006 base budget. There were 19,909 licensed instructors, which provided a ratio of 20.10 students to teacher. In comparison, the student-teacher ratio was 19.65 in 2002 and 20.05 in 2004.

Mr. Wells continued with Page 11 of the exhibit, the Basic Support Levels. In FY 2006, as noted earlier, the basic support number was \$4,482 per student. In FY 2007 the projection was \$1.983 billion in total expenditures, 422,453 in student enrollment, and \$4,696 per student basic support. The Governor's Recommended Budget for FY 2008 provided \$2.178 billion, projected enrollment of 425,270.2, and total basic support of \$5,122 per student or a 14.28 percent increase over the FY 2006 actuals. In FY 2009 the total basic support expenditures were budgeted at \$2.326 billion, projected enrollment at 436,675.2, and basic support at \$5,329 per student, a 4.04 percent increase over FY 2008.

For the record, Chairman Raggio noted the basic school support for FY 2005 was \$4,424 per student; however, this was inside the Nevada Plan, a formula the Legislature used to determine the level of state aid for schools and each district's share. By comparison, the actual expenditure per student in FY 2005 as shown in the *Congressional Quarterly* was \$6,525. Chairman Raggio stated it was important not to confuse the basic support per student with what Nevada actually committed under the Nevada Plan and funding outside the Plan.

Mr. Wells explained the expenditures were only a portion of the final picture in the DSA. The basic support expenditures of \$1.793 billion in FY 2006 were adjusted downward by revenues from the local school support tax (LSST) [2.25 percent sales tax] and one-third of the operating property tax for public schools. In order to get total DSA funding, other programs such as Class Size Reduction, Special Education, Retirement Purchase Programs, and others were added back for a total State share of \$903,017,860. Other sources of revenue such as Slot Tax, Interest on Permanent School Fund, Federal Mineral Lease Revenue, Out-of-State LSST, Estate Tax, and other small amounts were counted towards the \$903 million in basic support. In addition, excess funds were balanced forward to provide a budgetary cushion in FY 2007. As shown on page 12 of the exhibit, these adjustments to the basic support amount result in a total General Fund share in FY 2006 of \$849,607,357.

Mr. Wells noted that Page 13 of the exhibit, the Nevada Plan Revenue Changes, outlined two other pieces in addition to the money that came from basic support that made up the Nevada Plan, namely the LSST and the one-third portion of the Public Schools Operating Property Tax. The one-third Public Schools Operating Property Tax also had a two-thirds component included in the local revenues of each school district. In FY 2006 the LSST [in-state sales only] generated \$986.785 million. Revenue from the LSST was estimated for FY 2007 at \$1.001 billion and increased in FY 2008 to \$1.097 billion and in FY 2009 to \$1.174 billion. This represented an 11.19 percent increase in FY 2008 over FY 2006 and a 7 percent increase in FY 2009 over FY 2008. These numbers were based on information received from the Economic Forum. The one-third Public Schools Operating Property Tax for FY 2006 totaled \$193.723 million. In FY 2007 revenues were anticipated to be \$204.865 million with anticipated growth to \$249.130 million in FY 2008, a 28.6 percent increase over FY 2006.

Mr. Wells admitted to Chairman Raggio he was surprised by the large increases in property taxes projected by the Department of Taxation. The Department of Education had met with the Department of Taxation to discuss the numbers and ascertain the accuracy of the estimates because not only did the property tax estimate impact the DSA directly through the one-third component, the two-thirds component also affected local revenues of the school district. Therefore, if the estimate was too high there was a problem not only for the DSA but also for estimates for the local districts.

Mr. Wells further apprised the Subcommittee there was another component changed in FY 2005 which dealt directly with the property tax caps. The one-third component was formerly called 0.25 or one-quarter amount [25 cents per \$100 of assessed valuation].

The one-third Public Schools Operating Property Tax consisted of actual amounts collected by the county treasurers and remitted to the school districts. The amount varied from year-to-year based on the collections of the county and the delinquencies of the property tax receipts. Mr. Wells advised the Subcommittee there was conflicting language regarding certification of collection amounts by the Department of Taxation. As certification would be very difficult, the Department of Education would be looking for cleanup language in that provision as part of the DSA bill.

Chairman Raggio asked staff whether the sales tax numbers were consistent with the rate of increase in sales tax recently experienced. Mr. Gary Ghiggeri, Senate Fiscal Analyst, explained he did not have the numbers available; however, he believed the sales tax collections, year-to-date, were a little lower than those projected by the Economic Forum.

Mr. Wells further provided that in addition to the two-thirds property tax that impacts local school revenues, there was also a Governmental Services Tax which was predicted to increase 11.56 percent in FY 2008 over FY 2006 with a 3.98 percent additional increase in FY 2009 over FY 2008. Franchise fees were projected to increase at 3 percent in FY 2008 over FY 2006 levels and another 3 percent in FY 2009.

Mr. Wells continued with Page 14 of the exhibit, Distributive School Account Revenue Changes, that showed the Slot Tax was anticipated to grow by 3.6 percent over the FY 2006 base and 7.06 percent in FY 2009 over FY 2008. In addition, interest on Permanent School Fund was projected to increase from \$8.281 million in FY 2006 to \$8.615 million in FY 2008 and \$8.788 million in

FY 2009, Federal Mineral Lease Revenue from \$7.6 million in FY 2008 to \$8.07 million in FY 2008 and \$8.31 million in FY 2009, and Out-of-State Local School Support Tax from \$94.42 million in FY 2006 to \$104.996 million in FY 2008 and to \$112.346 million in FY 2009.

Chairman Raggio commented the Department of Taxation was to be commended for efforts with the tax collections. Mr. Wells agreed, noting that, in the previous year, nearly \$8 million more than projected was collected.

Senator Cegavske asked whether there were any preliminary findings on impacts from the passing of the smoking ban initiative. Mr. Wells advised no reports were available but assured the situation would be monitored.

Mr. Wells continued on Page 15 of [Exhibit L](#), the Class Size Reduction Program. He defined Class Size Reduction as based on number of the students in grades 1 through 3 and the number of teachers needed to reduce the class sizes from the averages prior to the start of the program to 16:1 in grades 1 and 2 and 19:1 in grade 3. The outline provided the following elements:

- Adjusted Base Budget:
 - Rolls salaries through FY 2007 for teacher salaries.
 - 2 percent Step on Scale increase.
 - 4 percent Cost of Living increase.
 - Includes "Roll-up" of 2 percent for both FY 2008 and FY 2009.
- M200 Enrollment Growth:
 - 1st Grade—3.17 percent increase in FY 2008, 2.69 percent increase in FY 2009.
 - 2nd Grade—3.17 percent increase in FY 2008, 2.71 percent increase in FY 2009.
 - 3rd Grade—3.18 percent increase in FY 2008, 2.69 percent increase in FY 2009.
- M300 Benefits Changes and M304 COLA:
 - Same changes as proposed for Basic Support.

Senator Cegavske inquired whether projections would change if schools went to a flexible class-size reduction program as discussed last session. Dr. Rheault responded the figures would not change. He noted three districts were using the alternative schedules for class size reduction this biennium. The funding amount they used to distribute for grades 1 through 6 was the same amount they would have received for teachers in grades 1 through 3.

Moving on to Page 16 of the exhibit, Mr. Wells explained in FY 2006 there was a requirement of 2,107 additional teachers and in FY 2009 the requirement reached 2,260 for a total cost of \$295 million for the biennium. Chairman Raggio advised that staff had done research and since the implementation of the program to increase the number of teachers, a total of \$1.260 billion in funds had been committed. While there was a definite benefit to the program, it came with a cost.

Continuing on to Page 17 of the exhibit, Mr. Wells provided detail on special education. Special education units were predicted to grow at the same rate as the enrollment increase. In FY 2006 there were 2,835 special education units at a cost of \$34,433 per unit. In FY 2008 it was projected there would be 3,046 units at a cost of \$36,541 per unit for a total cost of \$111,303,886. The projection for FY 2009 was 3,128 units at \$38,763 per unit for a total cost of \$121,250,764. For the biennium, the special education costs totaled \$232.5 million.

Mr. Wells reported on the adult high school diploma program on Page 18 of the exhibit. As in previous sessions, this program included adjustments for enrollment and COLA at the same rates as the basic support program. In 2006 actual enrollment was 19,120 in the regular program, estimated to increase at approximately 6 percent per year, and enrollment totaled 4,887 in the Corrections program and was estimated to increase at approximately 3 percent per year. The addition of the Jean program adds approximately 750 students per year to the Corrections program. The recommended budget for the adult high school diploma program was \$21,447,995 in FY 2008, an increase of 16.37 percent over FY 2006, and \$23,362,996 in FY 2009, an increase of 8.93 percent over FY 2008.

Pages 19 and 20 outlined the other DSA Programs:

- Gifted and Talented Units—Increase \$58,128 in FY 2008 (34.34 percent increase over FY 2006) and \$10,767 in FY 2009 (4.73 percent increase over FY 2008).
- School Lunch Match—Pulled out last session from Basic Support to show Federal Government match in State Budget Accounts—no change.
- Elementary Counselors—Continued at \$50,000 per district (\$850,000 per year).
- Special Transportation—Continued at FY 2006 rate (\$112,012 per year).
- Early Childhood Education Programs—Increase of \$219,499 in FY 2008 (7.24 percent increase over FY 2006) and \$87,204 in FY 2009 (2.68 percent increase over FY 2008). Based on enrollment growth.
- Regional Professional Development Programs (RPDP)—Increase of \$3,321,662 in FY 2008 (32.16 percent increase over FY 2006) and \$426,111 in FY 2009 (3.12 percent increase over FY 2008).

Chairman Raggio questioned why there was a significant increase, nearly 33 percent, in the Regional Professional Development Programs (RPDP). Dr. Rheault responded, advising that the Department did not alter the RPDP request submitted to the Legislative Committee on Education. Chairman Raggio stated the increase was significant, and the question would need to be answered later. Chairman Raggio commented, it was his understanding, that one district in the State was not utilizing the RPDP. A considerable amount of money and effort had been expended on RPDP, and there was a concern districts were circumventing the program. He requested the Subcommittee be provided a report on the issue.

Mr. Wells continued the presentation on Page 21 of the exhibit, Retired Employee Group Insurance, explaining it basically referenced employees who retired and used the provisions of A.B. No. 286 of the 72nd Legislative Session. Those employees were allowed to join the State's Public Employees Benefits Program (PEBP) and received the same subsidies as State employees under Nevada Revised Statute 287.023. This account provided the subsidy for teachers who joined the program. The increase was significant and based on more teachers entering the PEBP. Recommended funding was \$18.402 million in FY 2008, an increase of 120 percent over FY 2006, and \$21.484 million in FY 2009.

Chairman Raggio inquired why the State should assume the cost in full. Mr. Wells responded the cost was absorbed by the General Fund since inception. The State must assume the cost directly, or it would fall under General Fund expenses and be funded through the basic support number. Not only was there going to be a significant increase, there were not enough funds

in the current biennium to cover the costs. Chairman Raggio noted the issue should be discussed at the next Subcommittee meeting.

Mr. Wells further noted the school districts were no different than the unfunded liability the State had for retired employee group insurance. The school districts fell under the same Governmental Accounting Standards Board regulation the State fell under; therefore, the unfunded liability also affected the school districts. That created an impact not yet considered for funding.

A brief discussion ensued between Senator Beers and Mr. Wells regarding the school district share of the \$4 billion liability. Mr. Wells remarked the school district was not included in that amount, and he was not aware of the number of districts that had a liability.

Mr. Wells proceeded to Page 22 of the exhibit which discussed the Empowerment Program. The funds previously used for the 1/5 retirement credit program were recommended to be used for the Empowerment Program. Chairman Raggio requested that Mr. Steve Robinson, Deputy Chief of Staff/Legislative Director for Governor Gibbons, come forward to outline the Empowerment Program. Mr. Robinson identified the origin and thought behind the Governor Gibbons' State of the State words on the concept of empowerment in K-12. The Governor had a long-standing philosophical belief in education decentralization, which is the embodiment of empowerment for principals, teachers and parents in Nevada. The Governor's ideas on the subject and his comments about the Canadian and other out-of-state programs did not mean those were the only approaches to accomplish the concept of empowerment.

Further, Mr. Robinson said the Governor acknowledged that some significant and innovative programs had been instituted throughout the State. Those that worked and proved effective must be helped, retained, and expanded under the Governor's empowerment effort. Mr. Robinson advised the Governor's staff had met with the State Board of Education and Dr. Rheault. There was going to be a meeting with Governor Gibbons to make recommendations to the Legislature. The Governor's transition team that dealt with education initiatives was innovative and a hard working group. The team had formulated a concept for the Governor, and the Governor thought the concept and a recommendation for significant funding effort should be highlighted. Now the Governor's staff is formulating specific criteria for inclusion: Which 100 schools to include? How to allocate the dollars? Who should administer the program? The initial assumption was the State Board of Education offered the most convenient and best means for the distribution of funds. On behalf of the Governor, Mr. Robinson offered to work with the Legislature and the relevant education committees, not only on empowerment, but also on other ideas to improve education. The efforts were to work with the State Department of Education and the school district superintendents to bring a plan that enhanced decentralization, provided discretionary powers at the lowest possible level, and had a buy-in from the educational community for the implementation of the plan.

Chairman Raggio confirmed the amount of \$60 million required to replace the existing retirement credit incentives in the budget. He requested Mr. Robinson provide the specifics as quickly as possible to the Subcommittee. He also asked Mr. Robinson about the negative impact of displacing the incentive program with the existing retirement credits. Mr. Robinson agreed to provide the information as soon as possible.

Assemblywoman Smith was curious about the rationale for beginning the program with 100 schools. Mr. Robinson was not aware of how the number of schools was chosen but agreed the program must start small.

Assemblywoman Buckley inquired whether Mr. Robinson had a breakdown of what items would be purchased at each school and the related costs of those items. Mr. Robinson did not have the information available.

Assemblywoman McClain asked Mr. Wells how the Department had arrived at 750 students per year added because of the Jean Program. Mr. Wells stated the number was an estimate based upon the number of persons currently revolving through the Corrections program.

Senator Titus noted Mr. Robinson had testified that if the education community did not accept participation in the empowerment program, the program would not work. She further stated the testimony presented to the Subcommittee thus far indicated much skepticism in the education community; therefore, would the program be abandoned if it was not readily accepted? Mr. Robinson stated the Governor believed the education community would accept the program when given more information.

Chairman Raggio recessed the meeting for 15 minutes. When the meeting reconvened, Ms. Allison Turner, Legislative Liaison for the Nevada Parent/Teacher Association (PTA), expressed concerns on behalf of the PTA on the proposed empowerment program. The PTA recognized the program as a very strong concept and noted it was currently in place on a trial basis in the Clark County School District as of Fall 2006. She was aware that one model for the program was located in Edmonton, Alberta, Canada, which had a relatively stable and homogenous student population. The PTA wanted to understand how the program would work for Nevada, which was very different than the Canadian situation, and the impact on student achievement needed to be researched before the program was instituted.

Ms. Turner also expressed concerns with reduced funding for full-day kindergarten instead of moving forward with the program. She said the data showed increased achievement at every level for children entering the program. The PTA strongly supported funding increases for proven programs rather than moving forward on programs unproven in Nevada.

Chairman Raggio assured Ms. Turner the issues would receive much attention during the current session. The Subcommittee understood there were concerns which needed to be discussed at length.

DEPARTMENT OF BUSINESS AND INDUSTRY BUDGET OVERVIEW

Ms. Mendy Elliott, Director, Department of Business and Industry, presented an overview of the proposed budget for the Department. Ms. Elliott stated the Department was comprised of 635 positions, 11 commissions, and 15 advisory boards. The organization had not kept pace with the growth and needs of Nevada. Ms. Elliott provided [Exhibit N](#) which reflected the organization of the Department. She was asking each of the agencies in the Department to give an overview of their needs for the upcoming biennium.

Ms. Alice Molasky-Arman, Commissioner of Insurance, testified in support of the Division of Insurance ([Exhibit O](#)), and advised the Subcommittee that in December 2004 the Nevada Division of Insurance became fully accredited by the National Association of Insurance Commissioners (NAIC). Recently, the

Division received a recommendation for reaccreditation by the NAIC. However, the NAIC review team advised that due to the fragility of the corporate and financial section, reaccreditation would most likely be subject to an additional review in September 2008 to confirm development in regulatory expertise. Ms. Molasky-Arman provided the Subcommittee with a Government Accounting Office (GAO) report ([Exhibit P](#)), which gave an overview of the NAIC accreditation program. That report outlined the three principal criteria required for NAIC accreditation as:

1. Enactment of required statutes and regulations.
2. Standardized regulatory practices and procedures—including sufficient qualified staff and resources to perform financial analysis and examinations and participation in national regulatory actions.
3. Professional development, experience, and retention of qualified staff and active participation in the NAIC.

An excerpt from Ms. Molasky-Arman's testimony ([Exhibit O](#)) stated:

The chronic understaffing of the division has placed this state in a precarious position. In our closing conference with the NAIC review team last week, they stated, "you are one event or personnel loss away from a breakdown." Although the management letter they provided is privileged and confidential, I believe that it is important for your continued understanding. It is among your handouts. ([Exhibit Q](#)).

You will observe that the team recommends staffing augmentation because of the increasing complexity of solvency regulation of domestic multi-state insurers. The team recommended that we increase the number of analysts ([Section A.1\(a\)\(3\)](#)) and that we create a position to supervise examiners and examinations. ([Section A.2\(a\)](#)). The enhancements within the Division's Budget Account 3813 reflect the necessity of increasing the number of analysts.

Referencing Budget Account (BA) 3813, Ms. Molasky-Arman noted that the Interim Finance Committee (IFC) previously granted two positions to the Division, one management analyst and one administrative assistant. The addition of these positions was directly correlated with the recommendation by the NAIC review team for reaccreditation. Ms. Molasky-Arman stated Decision Unit E325 of BA 3813 requested retention of those two positions, and E250 requested two additional Management Analyst positions, which brought the Division up to the level of support required by NAIC for accreditation. Additionally, these positions addressed the concerns of the LCB auditor ([Exhibit R](#)) related to the timely review and analysis of required industry reports (finding number 1) and ensuring that examination requirements were met (finding number 2.) As a result of the LCB audit, the Division was conducting an extensive review of critical processes and procedures in each section. The review included detailed process mapping and evaluation for redundancies and opportunities for standardization of practices.

The Division's other budget accounts reflected the general health of the insurance industry in Nevada. These accounts were funded by a variety of fees and assessments paid by the industry, and funding levels were sound. The budget request was based upon maintaining the expenditure levels incurred in previous years.

Ms. Molasky-Arman noted that Nevada's captive insurance program, Budget Account 3818, was predicted last biennium to have 60 captives domiciled in Nevada by the end of fiscal year 2007. As of January 23, 2007, there were 96 captives authorized. It was anticipated that captive insurers would pay approximately \$700,000 in premium taxes in FY 2007, for an estimated economic impact of approximately \$342 million. [Exhibit S](#), a map of the United States, detailed the broad distribution of captives that had domiciled in Nevada.

Continuing, Ms. Molasky-Arman stated that A.B. No. 338 of the 73rd Legislative Session reduced the premium tax on foreign risk retention groups from 3½ percent to 2 percent and reduced their annual registration fees from \$2,450 to \$250 per year. Foreign risk retention groups were chartered and licensed in other states for the purpose of assuming the liability exposure of their members. Prior to the passage of the bill, Nevada had the highest rates and fees for foreign risk retention groups in the nation. These fees were not only prohibited under the Federal Risk Retention Act of 1981, but were also an obstacle to foreign risk retention groups' registering in Nevada, thus preventing access to insurance by Nevada citizens. [Exhibit T](#) depicted the projections made in 2005 for fees and taxes collectable from foreign risk retention groups before and after the passage of A.B. No. 338 last session. Premium taxes and fees to be paid by foreign risk retention groups in FY 2006 were estimated to be approximately \$1.3 million. This was in addition to the \$542,000 in premium taxes paid by domestic captive insurers.

Enhancements for Budget Account 3818 included:

- E250—Funding to attend the annual Nevada captive conference.
- E325—Out-of-state travel dollars to attend national conferences for the purpose of meeting with current and prospective captive insurers.
- E326—In-state travel dollars for meetings in Reno and Las Vegas.
- E720—Two file cabinets to support the growing captive program.
- E715—Replacement of a personal computer according to the Department of Information Technology (DoIT) replacement schedule.
- E806—Request for a Captive Administrator position, currently a Grade 42, to be reclassified to an unclassified Deputy Commissioner. This action is dependent on the passage of the Division's bill draft request to amend Nevada Revised Statute 232.825.

Chairman Raggio advised he had a prior commitment and had to leave and turned the gavel over to Chairman Arberry. Ms. Molasky-Arman continued her presentation, moving to BA 3824, Insurance Education & Research, which was established to fund education of consumers, and education and professional development for staff. The enhancements included in Budget Account 3824 were:

- E261—Travel dollars to attend Health Insurance Portability and Accountability Act (HIPPA) conferences, principally with the U.S. Department of Labor.
- E327—Funding for a Consumer's Guide to Title Insurance ([Exhibit U](#)).
- E715—Replacement of a personal computer according to the DoIT replacement schedule.

Budget Account 4684, Self-insured Workers' Compensation, was funded through a transfer from the Division of Industrial Relations. Enhancements to this budget account were:

- E259—Travel dollars to meet with self-insured employers and associations.
- E260—Out-of-state travel dollars to attend the quarterly meetings of the NAIC.
- E710—Replacement of a printer according to the DoIT replacement schedule.

In response to the question by Assemblywoman Weber as to whether the *Consumer's Guide to Auto Insurance Rates* was available to consumers on-line, Ms. Molasky-Arman responded the information was available on the Web site.

Ms. Elliott next introduced Mr. Charles Horsey, Administrator, State Housing Division, and Mr. Lon DeWeese, Chief Financial Officer. Mr. Horsey presented an overview for the State Housing Division. According to Mr. Horsey, the Nevada Housing Division created by the 1975 Legislature, was the State's version of a healthy financial institution. The primary goal was to get people into home ownership sooner than their economic situation normally allowed. Approximately 38,000 Nevada families live in a home or apartment unit financed through the Nevada Housing Division.

Mr. Horsey advised the Nevada Housing Division had four major tools at their disposal:

1. Federal HOME Program.
2. Low Income Trust Fund.
3. Federal Tax Credit program.
4. Sales of Tax Exempt Bonds.

The Governor had requested the Division use more creativity and flexibility to focus on special needs groups such as teachers and nurses with respect to the use of Tax Exempt Bonds. Accordingly, the Division will investigate the California Plan as a model and study the application of the Plan for teachers.

Mr. Horsey noted the vision statement for Nevada, to become the leader in low cost financing of affordable housing throughout the state, had been achieved. As successful as the programs had been, they would not exist if it were not for private sector developers availing themselves of what Nevada had to offer.

Mr. Horsey stated the Housing Division Budget was predicated upon two items:

1. Strong demand on the rental market, especially from senior citizens.
2. Staff cutbacks.

The Low Income Housing Trust Fund was the only State contribution toward affordable housing. Mr. Horsey advised the Subcommittee additional information would be provided during Subcommittee hearings.

Mr. Horsey next described the State Weatherization Program, which was one of two programs the Governor had asked the Housing Division to take over from other agencies. The goal of the Weatherization Program was to reduce the consumption of energy.

Assemblyman Parks commented that in the State of the State address the Governor referenced affordable housing as being of highest priority and asked Mr. Horsey whether teachers and nurses qualified for tax-exempt bonds at this time. In response, Mr. Horsey stated the program would be different than in the past. The program would assist with down payments for teachers at terms not available in the general marketplace. Nurses were a more difficult proposition as the federal tax code limited the incomes for eligibility to financing provided by the Division, and entry-level nurses were above those limits. Assemblyman Parks asked Mr. Horsey to provide specific outlines on these programs. Mr. Horsey responded the information would be provided to the Subcommittee.

Assemblywoman McClain asked for assurance from Mr. Horsey that money was not going to be taken away from senior housing. Mr. Horsey assured her the money for senior citizens would still be available.

Ms. Elliott introduced Ms. Gail Anderson, Administrator, Real Estate Division. In her overview of the Division, Ms. Anderson, outlined the responsibilities of the Division as a licensing and regulatory agency with programs for real estate licensing, including permits for property managers and business brokers, timeshare sales agents and registered representatives, appraisers of real estate, inspectors of structures, and community managers. Other programs under the jurisdiction of the Division were the Office of the Ombudsman for Common Interest Communities; projects registration, which included the sale of subdivided lands; timeshare projects; and high-rise condos and condo hotels.

The Division worked with three Governor appointed commissions: the Real Estate Commission, the Appraisers of Real Estate Commission, and Commission for Common-Interest Communities. Two of these commissions were funded from the Real Estate Administration Budget Account [BA 3823] and one from the Common Interest Communities Budget Account [BA 3820]. The Division had four budget accounts: one General Fund budget account; two fee-based budget accounts, the Common Interest Communities and Real Estate Research and Education [BA 3826]; and one revenue-only budget account, which was the Real Estate Recovery Account [BA 3827].

According to Ms. Anderson, real estate licensing statistics showed significant growth in the last biennium. There was a 30 percent growth from the previous biennium in just the number of licensees under the Division's jurisdiction. Over the past two bienniums the licensee base grew 81 percent and over the past three bienniums 101 percent. Real estate licensing fees were deposited to the General Fund.

For the Real Estate Administration Budget Account, which is supported by the General Fund, the Division was requesting the following enhancements:

- E252—Additional deputy administrator position to be located in the southern Nevada office. The deputy administrator position was to oversee several major program sections including licensing, agency information, and education.
- E325—Requested funds to create a Central Services Section within the Las Vegas licensing section which consisted of one administrative assistant 1 position and two administrative assistant 2 positions.
- E326—Requested funds for an administrative assistant 4 supervisory position in the licensing section of the Carson City office.
- E327—Requested funds for a program officer position to provide high level authority to assist the projects chief and administrator in administering the timeshare program.

- E330—Requested funds for two additional field investigators to meet the increased caseload demand.

Responding to Assemblywoman Weber's question as to whether a database listing real estate licensees was available online, Ms. Anderson stated there was a database, but it was not available online. Further discussion followed regarding what information might be helpful to consumers online.

Assemblyman Denis asked whether there was a Spanish-speaking translator available to consumers. Ms. Anderson's response indicated there was someone available in the licensing section as needed.

Assemblyman Hogan inquired what would be the responsibilities of the two additional investigators. Ms. Anderson answered the two new investigative positions were in the Common Interest Communities account. One was to be located in the Carson City office and one in the Las Vegas office. The investigators would deal with processing of complaints that came in through the Common Interest Communities Program.

Ms. Elliott introduced Mr. Scott Bice, Commissioner, Mortgage Lending Division. Mr. Bice provided an overview of the Mortgage Lending Division stating the Division was created as a self-funded agency during the 2003 Legislative Session under Budget Account 3910. Two new budget accounts were being requested during the current session. The primary functions of the Division were the licensing, examination, and regulation of mortgage brokers.

Mr. Bice continued, stating that Decision Unit E325 requested 28 total positions; 15 positions for FY 2008 and 13 positions for FY 2009. The new positions included three investigators and one supervisory investigator. These positions were to investigate complaints from beginning to end which typically resulted in action for the consumer. When the Division was created in FY 2003, the number of licensees was 400 companies and 4,000 agents. Current numbers were 1,928 companies and 11,500 agents. Current staffing levels prohibited the annual examinations required by statute.

According to Mr. Bice the reserve balance for the Division was considered high at \$6.8 million. Each quarter the Division met with the Interim Finance Committee (IFC) and discussed the reserve. The Division intended to address the reserve by lowering fees. A bill had been requested to address this issue by a change in statute.

The two new budget accounts requested would also affect the reserve. One budget account created an education section [BA 3913, Mortgage Lending Education and Research], similar to the Real Estate Division, and one created a restitution fund [BA 3912, Mortgage Lending Recovery] to be financed from the reserve in the Mortgage Lending account.

Chairman Arberry disclosed he was regulated by the Mortgage Lending division in his business, a small mortgage brokering company. Senator Cegavske also disclosed she worked for Republic Mortgage as a loan consultant.

Assemblywoman Buckley asked Mr. Bice how the Division proposed to continue funding itself once the reserves were exhausted. In response, Mr. Bice explained the restitution reserve account allowed the Division to recover an assessment from the responsible company. If the company declared bankruptcy, it was difficult to replenish the account.

Ms. Elliott next introduced Mr. D. Roger Bremner, Administrator, Division of Industrial Relations. Accompanying Mr. Bremner was Ms. Lori Myer, Administrative Services Officer. The Division was responsible for employee safety in the workplace. There were six statewide locations with major offices in Henderson, Reno, and Carson City and satellite offices in Tonopah, Winnemucca, and Elko.

Mr. Bremner opened with discussion of Budget Account 4680, [Industrial Relations] for Worker's Compensation. The Budget also included the Administrative Services Section, Legal Section, and Administration. Decision units outlined were:

- E250—To provide courier services for the Legal Section.
- E325—To provide three new positions: two administrative positions and one collection position.
- E586—Automated data system to provide services for the Worker's Compensation Section.
- E715—Funds for replacement equipment.
- E720—Funds for new equipment.

Mr. Bremner next presented an overview of Budget Account 4682, Occupational Safety and Health Enforcement. The budget contained a request for 12 new positions. Mr. Bremner pointed out no new positions had been requested since 1999. The requested positions were:

- FY 2008—Two safety inspectors, one position in Reno and one position in Henderson; one boiler inspector position in Henderson; one elevator inspector position in Henderson; one elevator/boiler inspector position in Reno; and one administrative assistant 4 position in Henderson.
- FY 2009—One safety supervisor in Henderson; two safety inspector positions in Henderson; one safety inspector in Reno; two administrative aide positions in Henderson.

Mr. Bremner next discussed the following decision units:

- E586—Funds for an updated billing and tracking system for the boiler/elevator program.
- E715—Funds for replacement equipment.
- E720—Funds for new equipment.

Budget Account 4685, Safety Consultation and Training, was next presented by Mr. Bremner. This account assisted Nevada's employers to develop and implement effective safety and health programs and reduce workplace hazards by identifying unsafe or unhealthful working conditions through on-site safety and health consultations. The budget requested three new safety consultants: two in FY 2008 and one in FY 2009.

Mr. Bremner moved to Budget Account 4686, Mine Safety and Training, which provided mine inspection, technical assistance, consultation, and safety training to protect Nevada's miners pursuant to Chapter 512 of the Nevada Revised Statutes (Nevada Revised Statute). There was a request for one new position in FY 2008.

Ms. Elliott introduced Ms. Renee Diamond, Administrator, Manufactured Housing Division. Ms. Diamond presented an overview of the Division, a self-funded, fee-based State agency ([Exhibit V](#)). The Division, according to Ms. Diamond, was maintained through four budget accounts. Three of those

accounts, BA 3842 [Mobile Home] Lot Rent Subsidy, BA 3843 Landlord/Tenant [Mobile Home Parks], and BA 3847 Education and Recovery, had no enhancements or major issues related to their composition.

Ms. Diamond advised that because of the closure of manufactured home communities throughout the State, the Division had variables that could not be quantified. This unpredictable occurrence of closures affected revenue in BA 3842 and BA 3843. Manufactured home park closures and the downturn in shipments and used home sales created a need for higher than usual reserves in Budget Account 3814. Consequently, the Division was seeking two new inspector positions. The number of manufactured home installation inspections increased from the 2,995 projected in FY 2006 to an actual of 4,211. This increase added nearly 400 additional inspections for each of the current three inspectors. The Division viewed the new inspector positions as a critical enhancement to the budget.

Additionally, stated Ms. Diamond, the Division was requesting a management analyst 2 position under BA 3814. As a fee based agency with no control over the industry sales, five employees had been previously terminated, but current economic situations had created a need to restore these positions. Industry sales were declining nationally, and new and used home sales in Nevada were estimated to decline by at least 20 percent. This budgeting dilemma would be well served by an employee dedicated to study, research, and provide an analysis of the varying factors that influence the reserve.

Assemblyman Grady commented that constituents had advised him there was a waiting period of four months or longer for inspections. Ms. Diamond replied that was unreasonable. Typically the wait was only two weeks. The addition of a new inspector should reduce the waiting period for inspections. Assemblyman Grady reiterated he had received many complaints regarding the delay.

Ms. Elliott next introduced Ms. Kimberly Maxson-Rushton, Chairman, Transportation Services Authority (TSA). Ms. Maxson-Rushton testified the TSA operated under two budgets, Budget Account 3922 and Budget Account 3923. Budget Account 3922 was considered to be the administrative operational budget and was funded by Highway Fund appropriations. Budget Account 3923 comprised 6 percent of the total budget and was derived from fees collected from administrative citations for regulatory and statutory violations. Ms. Maxson-Rushton further testified that consistent with specific statutory provisions under Chapter 706 of the Nevada Revised Statutes, Budget Account 3923 was used exclusively for enforcement activities. This Budget Account maintained a reserve of approximately \$191,000. Both budgets were baseline budgets with the exception of three notable enhancements as follows:

1. A request for six additional positions: one financial analyst, one accountant 2 position, two administrative assistants, one compliance investigator, and one enforcement investigator. The basis of the request was the failure of TSA to meet performance measure 4, which was "percent of industry applications successfully completed within six months."
2. A request for a one-time appropriation for recording equipment. The equipment was to be used for recording application hearings, monthly agenda meetings, and citation hearings. The equipment was in lieu of a court reporter.
3. A request for a three-grade increase for the enforcement staff. This was a result of the 2005 Legislative Session when a global step increase for

Category II Peace Officers, with the exception of the TSA, occurred. The request was based on Department of Personnel Director Jeanne Greene's recommendation to Chairman Raggio with respect to the inequity.

Ms. Elliott introduced Mr. Richard Land, Administrator, Taxicab Authority. Mr. Land asked Mr. Brock Croy, Management Analyst, to present the budget overview. Mr. Croy testified the Taxicab Authority also had post-certified compliance certified positions that were not granted the three-grade increase authorized by the 2005 Legislative Session. These increases were included in Decision Unit E809. Other enhancement units included in Budget Account 4130 were:

- E327—A request for additional Senior Ride support because of inflation.
- E326—A public safety dispatcher supervisory position. This added an additional position, bringing the total to four.
- E710—A request for replacement of eight vehicles and associated costs.

Ms. Elliott introduced Ms. Nancyann Leeder, Nevada Attorney for Injured Workers (NAIW), accompanied by Ms. Julie Wisbar, Law Office Manager. Ms. Leeder presented an overview of Budget Account 1013. This budget was totally funded through the Worker's Compensation and Safety Fund. The NAIW office consisted of attorneys and support staff.

Ms. Leeder advised that NAIW was currently developing the Case Management System funded by the 2005 Legislative Session. The System was on schedule for completion by the end of the fiscal year. Decision units discussed included:

- E275—A request to pay for additional reporting which could not be completed by the vendor within the timeframe and money allotted.
- E710—Replacement equipment as recommended by Department of Information Technology.
- E720—New office equipment.
- E805—Reclassification of law office manager to administrative services officer position.

Ms. Elliott next introduced Mr. Michael Tanchek, Labor Commissioner. Mr. Tanchek provided a brief overview of Budget Account 3900, stating the agency wanted to maintain the staffing level of 20 full-time employees, and a budget of \$1.5 million. The Office of the Labor Commissioner enforced all Nevada labor laws, the enforcement of which was not specifically and exclusively vested in any other officer, board, or commission. The largest share of the duties performed was working with wage claims to recover back wages owed to workers within the State. In FY 2005-06 the Commission handled 2,600 claims and recovered \$1.5 million in back wages. All of the money was returned to the employees.

Mr. Tanchek further testified that during FY 2005-06 the Commission monitored 739 Public Works projects statewide. Total value for the projects was approximately \$2 billion. There were 164 contested cases within the prevailing wage realm for those projects. The Commission collected \$337,000 in back wages for employees who had worked on those projects.

Budget enhancements sought for the biennium included:

- E275—Conversion of the existing website from a FrontPage software site to a dynamic Internet-based maintenance system.

- E325—Small increase in-state travel due to the shift of the Commissioner's position from Las Vegas to Carson City.

Mr. Tanchek concluded his presentation.

Ms. Elliott commented she had no further testimony at this time.

There being no public comments, Chairman Arberry adjourned the meeting at 4:33 p.m.

RESPECTFULLY SUBMITTED:

Linda Blevins
Committee Secretary

APPROVED BY:

Senator William J. Raggio, Chair

DATE: _____

<u>EXHIBITS</u>			
Committee Name: <u>Legislative Commission's Budget Subcommittee</u>			
Date: <u>January 29, 2007</u>		Time of Meeting: <u>8:30 a.m.</u>	
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Chief Justice Maupin, Judicial Branch	Prepared testimony
	D	Executive Vice Chancellor Daniel Klaich, Nevada System of Higher Education	Nevada System of Higher Education Budget Overview
	E	Chairman William J. Raggio	Letter of Intent dated September 15, 2005
	F	Mr. Keith Rheault / Department of Education	General Overview of Non-DSA Budget Account
	G	Mr. James Wells/ Department of Education	Distributive School Account (DSA) Budget Index
	H	Mr. James Wells/ Department of Education	Summary of Financial Resources
	I	Mr. James Wells/ Department of Education	Governor Recommended Budget
	J	Mr. James Wells/ Department of Education	Summary of Governor Requested Budgets
	K	Mr. James Wells/ Department of Education	Federal Programs Administered
	L	Mr. James Wells / Dept of Ed	DSA Budget 2007-2009
	M	Mr. Keith Rheault / Dept of Ed	Nevada Education Quick Facts Booklet
	N	Ms. Mendy Elliott, Business & Industry	Organization Chart and Budget Overview
	O	Ms. Alice Molasky-Arman, Insurance Division	Prepared testimony
	P	Ms. Alice Molasky-Arman, Insurance Division	Overview of NAIC
	Q	Ms. Alice Molasky-Arman, Insurance Division	Nevada Accreditation Review
	R	Ms. Alice Molasky-Arman, Insurance Division	Plan for Corrective Action
	S	Ms. Alice Molasky-Arman, Insurance Division	Map of Nevada Captives
	T	Ms. Alice Molasky-Arman, Insurance Division	Revenue Chart
	U	Ms. Alice Molasky-Arman, Insurance Division	Consumer's Guide to Auto Insurance Rates
	V	Ms. Renee Diamond, Manufactured Housing Division	Prepared testimony