

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-fourth Session
March 12, 2007**

The Senate Committee on Finance was called to order by Chair William J. Raggio at 8:05 a.m. on Monday, March 12, 2007, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

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

STAFF MEMBERS PRESENT:

Claire J. Clift, Secretary of the Senate
Brenda J. Erdoes, Legislative Counsel
Jeffrey A. Ferguson, Program Analyst
Gary L. Ghiggeri, Senate Fiscal Analyst
Lorne J. Malkiewich, Director
Melinda Martini, Program Analyst
Larry L. Peri, Principal Deputy Fiscal Analyst
Paul V. Townsend, Legislative Auditor
Don O. Williams, Research Director
Cynthia Clampitt, Committee Secretary

OTHERS PRESENT:

Kate Marshall, State Treasurer, Office of the State Treasurer
Renee Parker, Chief of Staff, Office of the State Treasurer
Patrick G. Foley, Chief Deputy Treasurer, Office of the State Treasurer
Janice A. Wright, Senior Deputy Treasurer, Office of the State Treasurer
Jim Burke, Deputy of Unclaimed Property, Office of the State Treasurer
Andrew Clinger, Director, Department of Administration
David F. Sarnowski, General Counsel and Executive Director, Commission on Judicial Discipline and the Standing Committee on Judicial Ethics and Election Practices
David Perlman, Administrator, Commission on Postsecondary Education
Dana Bilyeu, Executive Officer, Public Employees' Retirement System
Tina Leiss, Operations Officer, Public Employees' Retirement System

CHAIR RAGGIO:

We will consider preliminary matters before taking up the items on the agenda.

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

I have distributed the Progress Report as of March 12, 2007 ([Exhibit C](#)). By the end of the week, if all budgets scheduled are heard, the Committee will have reviewed approximately 91 percent of the *Executive Budget*. There have been 33 bills referred to the Committee. Ten bills have been heard with one having been passed from the Committee. Twenty-two Capital Improvement Program (CIP) projects of the 104 total CIP projects have been reviewed.

I have also distributed a document, "Governor Recommends Budget Amendments, 2007-2009 Biennium" ([Exhibit D](#)). Budget amendments 31 through 42 were received on March 9, 2007. The total number of budget amendments received to date is 42.

Finally, I have distributed a letter from Senator Rhoads dated March 8, 2007, ([Exhibit E](#)) concerning support for the budgets of the Department of Wildlife.

Staff would request budget account (B/A) 101-1092, the Nevada College Savings Trust, be deferred due to further research required by staff.

CHAIR RAGGIO:

Budget account 101-1092 is deferred at the request of staff. I hereby open the hearing on B/A 101-1080.

ELECTED OFFICIALS

State Treasurer – Budget Page ELECTED-123 (Volume I)
Budget Account 101-1080

KATE MARSHALL (State Treasurer, Office of the State Treasurer):

Most enhancements in these budgets concern training and information technology costs. Both enhancements will add to the overall efficiency of the Office and our continued ability to serve the State in the best way possible.

CHAIR RAGGIO:

Committee members have received your memorandum of March 7, 2007, where adjustments were made to your budget requests. The first adjustment is in B/A 101-1080 pertaining to enhancement decision units and to B/A 261-1088 and B/A 101-3815.

MS. MARSHALL:

I will begin with B/A 101-1080 which is the Office of the Treasurer General Fund account.

There are continuing education opportunities at the National Association of State Treasurers' (NAST) Conference. These conferences are similar to the National Conference of State Legislators meetings. The costs were not included in the Base Budget, although the Office staff routinely avail themselves of the opportunities because my predecessor was recently president of the Association and the Association paid those costs.

There are also requests to replace computer equipment that has far outlived the Department of Information Technology (DoIT) replacement schedule.

The next item is enhancement decision unit E-714.

E-714 Replacement Equipment – Page ELECTED-128

We have requested replacement of the equipment that counts and seals checks. The Office of the Treasurer folds and seals over 35,000 checks each month. The current equipment does not function well. One machine has been replaced by the vendor. Equipment problems have required our staff to be present and personally review all check-processing operations in the Office of Controller. I realize the *Executive Budget* recommends a different replacement schedule than we recommend. I would ask the Committee to consider our recommendation based on the bid we received for the cost of a single machine rather than the two originally requested. The cost is \$7,885 in fiscal year (FY) 2007-2008. No replacement costs would be requested in FY 2008-2009.

CHAIR RAGGIO:

Is your request to purchase one machine in each fiscal year?

MS. MARSHALL:

No, that was the original request. We are now requesting only one machine at a cost of \$7,885 in the first year of the biennium, and no costs are associated with the second year.

CHAIR RAGGIO:

Will the new equipment replace, or be in addition to, the current equipment?

MS. MARSHALL:

It will replace existing equipment. We are not pleased with the current vendor.

CHAIR RAGGIO:

Why are your biennial postage costs budgeted at a level of \$34,000 greater than Base Budget expenditures? Can the postage be reduced to the Base Budget actual expenditure level? The Base Year actual was \$118,000. Your budget request is approximately \$34,000 greater.

RENEE PARKER (Chief of Staff, Office of the State Treasurer):

The Work Program budget amount was \$151,000 for the Base Year in which actual expenditures were \$118,000. The Work Program amount is provided to the agency by the Department of Administration. We have no control over the amount because the Office of the Treasurer is responsible for mailing checks for all State agencies.

The problem is that during the Base Year, expenditures were \$118,000; however, the \$151,000 Work Program budget has been static going forward for several years.

CHAIR RAGGIO:

The *Executive Budget* is not based on the Work Program.

MS. PARKER:

Sometimes the actual expenditures have reached \$154,000 and in other years it is less.

CHAIR RAGGIO:

Please work with staff and see if a reasonable request can be agreed upon.

In decision unit E-250, you mentioned the training offered by the NAST. How many staff are projected to attend the meetings under this enhancement module?

E-250 Working Environment and Wage – Page ELECTED-126

MS. MARSHALL:

We are requesting the person responsible for pooled collateral to attend one conference and one cross-training trip each to the states of Tennessee and Texas under decision unit E-250.

CHAIR RAGGIO:

You are referring to decision units E-250 and E-251.

E-251 Working Environment and Wage – Page ELECTED-126

MS. MARSHALL:

We are requesting the deputy serving under Ms. Robin V. Reedy in the Debt Management Division be authorized to attend the NAST Conference. We are concerned valuable staff has served at length and the deputies reporting to those individuals have not had the training necessary should the current deputies decide to retire.

CHAIR RAGGIO:

In decision unit E-250, the Base Budget provides for the Treasurer, chief of staff and chief deputy treasurer to attend the conferences. The enhancement would include a management analyst in the authorization. Why is it necessary to send a management analyst to the training?

PATRICK G. FOLEY (Chief Deputy Treasurer, Office of the State Treasurer):

The reason for the request is the management analyst is the individual responsible for the Pooled Collateral Program, who works with different states ensuring Nevada is up to date in our operations and remains current.

CHAIR RAGGIO:

The states of Texas and Tennessee were mentioned as states of interest?

MR. FOLEY:

Later today, we will be in a telephone conference call with the state of Texas discussing their implementation program for pooled collateral. This Program is also funded directly from banks and does not receive funding through the General Fund.

CHAIR RAGGIO:

We need to be accountable for all sources of funding.

MR. PATRICK:

I agree.

CHAIR RAGGIO:

Regarding module E-251, the Government Finance Officers Association, why does the management analyst for debt service need to attend?

MS. MARSHALL:

Currently, the deputy for debt management attends this conference, but we would like to groom and train her assistant to eventually grow into the deputy position. It is essentially a cross-training request.

CHAIR RAGGIO:

Adjustments have also been requested in decision unit E-721. Please explain that module.

E-721 New Equipment – Page ELECTED-129

MS. MARSHALL:

This unit requests backup software as part of our disaster-recovery plan. It would fund a server to mirror the server in Carson City, placed in Las Vegas.

CHAIR RAGGIO:

What adjustment are you suggesting?

MS. MARSHALL:

The agency request is \$23,106. We request the amount be reduced to \$21,925 because a new bid has been received.

CHAIR RAGGIO:

Staff, the agency has provided an invoice for that request. Please discuss enhancement E-125, an item for special consideration. You have indicated that request is no longer being pursued?

MS. PARKER:

We have worked with your staff. There had been some concern on the proper cost allocation and we have chosen not to pursue that request.

CHAIR RAGGIO:

I hereby close B/A 101-1080 and open the hearing on B/A 603-1081.

Treasurer Higher Education Tuition Administration – Budget Page ELECTED-133 (Volume I)

Budget Account 603-1081

MS. MARSHALL:

This budget funds the Prepaid Tuition Program. The Prepaid Tuition Program was created by the Legislature in 1997. It locks in the current cost of college tuition at current prices. It allows an individual to purchase a contract to prepay their child's college tuition at the tuition rate at the time the contract is initiated. Regardless of future increases in tuition costs, 100-percent tuition payment is guaranteed through the trust fund.

On March 5, 2007, the Committee was provided the FY 2005-2006 actuarial report for the Program. The FY 2005-2006 study indicates Nevada has sufficient assets to cover the value of tuition obligations under all contracts outstanding as of June 30, 2006. The Fund currently has \$97 million in assets

and surplus reserve of over \$1 million. In 2006, the reserve was \$5.7 million. The decrease has occurred because of an increase in university tuition rates of 10.9 percent for each of the next two years. That has reduced the surplus by \$7.3 million; however, be aware the Fund is able to absorb this material change and is still fiscally sound. The Board of Trustees expects the surplus to continue to grow as existing contract installments of approximately \$800,000 are paid monthly.

In addition, the actuarial report reveals the risk probability of the Program being able to satisfy its obligations has gone from 61 percent to 51 percent due to tuition increases. The actuaries have determined the Fund exceeded their best-estimate reserve of \$108 million by an actual Fund balance of \$109 million. The actuaries project an ending-fund balance of \$10.7 million in the year 2027 when all Fund obligations are paid.

The Committee will recall when the Program was created, a General Fund loan was provided to cover operating expenses. We are meeting the repayment schedule. The current loan balance is \$3.5 million. Full repayment will be completed by FY 2012-2013.

CHAIR RAGGIO:

Is it your testimony the repayments are on schedule?

MS. MARSHALL:

Repayment is on schedule.

The Fund has 12,246 children enrolled. We researched data for Committee members. There are 1,938 in Chair Raggio's district. There are 1,359 children enrolled in Senator Beers' district and there are 1,147 children enrolled in Senator Titus's district. I can provide similar information to the other members.

The only request in B/A 603-1081 is for replacement equipment.

CHAIR RAGGIO:

Does the Board envision any changes in the Program to your knowledge? Certain revisions have been made. The Board consists of the State Treasurer, the Chancellor of the Nevada System of Higher Education (NSHE), the Director, Department of Administration and two members appointed by the Governor. Have there been any changes in the Program in view of financial slippage?

MS. MARSHALL:

Not at this point.

CHAIR RAGGIO:

In the past, the four-year university contract was increased from 6.7 percent to 7.1 percent?

MS. MARSHALL:

That is correct.

CHAIR RAGGIO:

The community college contracts were increased from 3.5 to 3.8 percent. What was reason for that?

JANICE A. WRIGHT (Senior Deputy Treasurer, Office of the State Treasurer):
Every year the Board reviews tuition costs at the NSHE. When increases are noted, the Board increases the price of the contracts.

CHAIR RAGGIO:

I assume you are aware there are substantial tuition increases proposed in the *Executive Budget*.

Ms. WRIGHT:

The Board of Regents has already established an increase of 10.9 percent for each of the next two years. We carefully track that information. We work extensively with Vice Chancellor Jane Nichols to ensure our Board has the most accurate and up-to-date information.

CHAIR RAGGIO:

Will your Board make adjustments in the contract costs when tuition increases occur?

Ms. WRIGHT:

That is correct.

CHAIR RAGGIO:

It has been noted some states have considered capping or scaling down their programs due to financial performance. Is Nevada in a situation where the Office of the Treasurer is still supportive of the Program?

Ms. WRIGHT:

There were originally 20 states that offered prepaid tuition programs. There were five states, the most serious being Colorado, that have ceased or limited the open enrollment. The other 15 states, including Nevada, remain strong and healthy.

CHAIR RAGGIO:

The General Fund repayment referenced earlier will come from B/A 101-1092 which has been deferred for this hearing.

Ms. MARSHALL:

That is correct.

CHAIR RAGGIO:

I hereby close the hearing on B/A 603-1081 and open the hearing on B/A 261-1088. There have been changes in qualifications for the Millennium Scholarship Trust Fund.

Millennium Scholarship Administration – Budget Page ELECTED-138 (Volume I)
Budget Account 261-1088

Ms. MARSHALL:

I would first draw the Committee's attention to decision unit E-807. We are withdrawing that request.

E-807 Position Upgrades – Page ELECTED-141

The request was originally a request to upgrade one position from an administrative assistant II to an administrative assistant III. We would like to work with the Department of Personnel concerning the duties of this position to determine whether or not we should consider the reclassification process.

I have provided the Committee with a document providing an overview of the education programs ([Exhibit F](#)).

I have provided the Committee a group of three documents showing the balances and expenditures in the Millennium Scholarship Trust Fund using different scenarios and assumptions ([Exhibit G](#), [Exhibit H](#), and [Exhibit I](#)). Each scenario has four iterations.

Please understand the models you will see are formula driven. If the Committee wishes to see a different set of assumptions, we have the ability use information you specify, input it to the model and determine the results.

These documents provide projected Fund balances using a model of the Millennium Scholarship Program. The first set, [Exhibit G](#), uses the assumptions noted at the bottom of the first page. We used Global Insight's projections of the amount of tobacco revenue Nevada will receive. Their projections assume a slight reduction of \$6.7 million going forward.

CHAIR RAGGIO:

On what is the computation based?

MS. MARSHALL:

Global Insight is the company that provides our projections. [Exhibit G](#) assumes the Global Insight projections with no additional decrease.

CHAIR RAGGIO:

Should Committee members be referring to the line labeled Projected Tobacco Revenue? What does the reference to April mean?

MS. MARSHALL:

That is the correct line. April is the month in which tobacco revenues are received.

You should also note the number of eligible students is based upon the Western Interstate Commission for Higher Education (WICHE) projections. Interest rates and administrative costs are also identified. The grade-point averages, approved during the 2005 Legislative Session, are also assumed.

CHAIR RAGGIO:

What is the difference between the models in [Exhibit G](#), [Exhibit H](#) and [Exhibit I](#)?

MS. MARSHALL:

The model in [Exhibit G](#) assumes no reduction beyond the Global Insight projections; [Exhibit H](#) assumes a 10-percent reduction in tobacco revenue received beyond the Global Insight projections; and [Exhibit I](#) assumes an 18-percent reduction.

CHAIR RAGGIO:

Why were those percentages selected?

MS. MARSHALL:

The 10-percent reduction was selected because the tobacco revenue was reduced by 10.2 percent in FY 2005-2006. Those are the projections currently being used. The reason the assumption of 18 percent was made is, a projection of a 16.56 percent reduction is anticipated in FY 2006-2007.

CHAIR RAGGIO:

What is the bottom line regarding the three models?

MS. MARSHALL:

In the [Exhibit G](#) model, the Program can operate through FY 2018-2019.

CHAIR RAGGIO:

There are three pages in [Exhibit G](#). What does each contain?

MS. MARSHALL:

Page 1 of [Exhibit G](#) assumes a transfer from the Unclaimed Property Fund of \$7.6 million in each fiscal year. Page 2 assumes a transfer from the Unclaimed Property Fund of \$7.6 million at any time during the year funds are available and needed. A bill has been drafted containing that request. Page 3 assumes a transfer of \$10.4 million as included in the *Executive Budget*.

CHAIR RAGGIO:

Does that include the Georgia Plan?

MS. MARSHALL:

Those assumptions do not include the Georgia Plan. The assumptions provide additional funding in the Millennium Scholarship Program. Another \$5 million is requested for the Georgia Plan.

CHAIR RAGGIO:

Do you have a model that includes the Georgia Plan request?

MS. MARSHALL:

I have a document that includes the Georgia Plan request when the Unclaimed Property budget is discussed.

CHAIR RAGGIO:

The exhibits you have provided only address the added amount of withdrawals for the Millennium Scholarship. In the [Exhibit G](#) model, it shows the revenue projected by Global Insight. What is the bottom line if \$10.4 million is transferred from the Unclaimed Property Fund to the Millennium Scholarship Fund? Is the proper reference figure the ending-fund balance?

MS. MARSHALL:

On page 3 of [Exhibit G](#), you will see, with a transfer of \$10.4 million, the Program would not have a funding problem until FY 2060-2061.

CHAIR RAGGIO:

Does the model in [Exhibit H](#) suggest a 10-percent reduction in tobacco revenues?

MS. MARSHALL:

[Exhibit H](#) projects tobacco revenues to reduce an additional 10 percent. If the \$10.4 million is added in this model, the program will be viable until FY 2019-2020.

CHAIR RAGGIO:

Is the third model in [Exhibit I](#) a reduction of 18 percent in tobacco revenue?

MS. MARSHALL:

If the model is reduced an additional 18 percent, and the \$10.4 million is added, the Program will become insolvent in FY 2017-2018.

CHAIR RAGGIO:

I do not see 2018 reflected in the exhibits. The exhibits end at 2017.

MS. MARSHALL:

We did not run the printed models out to FY 2017-2018.

CHAIR RAGGIO:

[Exhibit I](#) appears to have funds reduced to \$8.4 million in 2017. Would it become a negative balance in 2018?

MS. MARSHALL:

That is correct.

CHAIR RAGGIO:

Would it be a severe situation where the revenues would be reduced by 18 percent?

MS. MARSHALL:

That is correct.

SENATOR BEERS:

I hold a fiscally-conservative view. If we allocate \$10 million in General Fund revenues into the Program each year, it would seem the Program is currently in crisis. [Exhibit G](#), [Exhibit H](#) and [Exhibit I](#) indicate highlighted lines containing negative mid-year balances beginning in FY 2007-2008. How will the cash flow be managed?

MS. MARSHALL:

That is a cash-flow problem. I would not identify the issue in FY 2007-2008 as a grave concern, because it is less than the administrative costs. It could be carried through within the office. There is a cash-flow problem in the models between the time when we are required to pay tuition payments to the universities and the time when tobacco funds are received or revenue is transferred from the Unclaimed Property Fund. It is one reason [Bill Draft Request \(BDR\) 10-496](#) has been requested. It would allow the Office of the State Treasurer to draw the Unclaimed Property Fund allocation at an earlier date.

BILL DRAFT REQUEST 10-496: Revises provisions related to unclaimed property.

SENATOR BEERS:

As early as FY 2011-2012, depending on the model being referenced, the cash-flow deficit will be greater than the General Fund revenue being allocated.

MS. MARSHALL:

To which model are you referring?

SENATOR BEERS:

The problem occurs in any of the models. How are you going to manage the cash flow? The negative balance is greater than the General Fund or Unclaimed Property Fund allocations.

MS. MARSHALL:

That is correct. Our initial attempt to balance the cash flow is through BDR 10-496.

SENATOR BEERS:

What do you propose over the long term?

MS. MARSHALL:

We understand we have a cash-flow problem. We may need to work with the NSHE and the Legislature about the problem.

SENATOR BEERS:

On the first page of [Exhibit I](#), assuming an 18-percent reduction in tobacco revenue, there is a \$10 million cash-flow deficit against a \$7.6 million General Fund appropriation.

MS. MARSHALL:

That is correct. It is a worst-case scenario.

SENATOR BEERS:

What is the current reduction rate projection used by your Office?

MS. MARSHALL:

We are using the 10-percent reduction.

SENATOR BEERS:

You are using the 10-percent projection, although your current fiscal year will be down 17 percent?

MS. MARSHALL:

The projections are for a 16.52-percent decrease.

SENATOR BEERS:

That figure is closer to the 18-percent scenario than the 10-percent projection your office is using.

MS. MARSHALL:

That is correct.

SENATOR BEERS:

Is this because the tobacco revenue is received year round and tuition is loaded in the fall?

MS. MARSHALL:

No, the tobacco revenue is only received in April and there are two tuition payments made in September and February. Both tuition payments occur prior to receipt of the April tobacco revenue disbursement.

SENATOR BEERS:

Is there also a much smaller summer tuition payment?

MS. MARSHALL:

The summer payment is a part of the September payment.

CHAIR RAGGIO:

Have you not modeled the proposal of the additional amount paid from the Millennium Scholarship Fund?

MS. MARSHALL:

We will discuss that option when we discuss B/A 101-3815.

SENATOR BEERS:

I heard last year from a father in Fallon who was unhappy because we had cut the Millennium Scholarship for his child. It seems, with the reduction in the number of credits required and the increased tuition, the Fund only pays two-thirds to one-half of normal tuition costs. Is there a projected decrease in utilization of the Fund as other scholarship funds available begin to become more competitive with the Millennium Scholarship Fund?

MS. MARSHALL:

I have information on that item; however, I do not think it directly answers your question. I will provide the information to the Committee.

SENATOR BEERS:

Who determines the projection of the number of students who will take advantage of the Fund?

MS. MARSHALL:

We receive our information on the number of eligible students from the WICHE and the NSHE.

SENATOR BEERS:

Does the NSHE provide the Office of the State Treasurer with the number of students utilizing the Fund?

MS. MARSHALL:

That is correct. Changes were approved in the 2005 Legislative Session including the two-strikes rule, the 12-credit flat rate, the requirement a student must maintain a 2.6 grade point average (GPA) their first year and a 2.75 GPA thereafter. No remedial classes are allowed.

The question was posed from the LCB of whether the number of eligible students has increased. I have those figures. The number of students represents a decrease, and I will provide the percentages to the Committee later.

SENATOR BEERS:

Are you using the current forecast of eligible students from the NSHE into the future?

MS. MARSHALL:

That is correct.

SENATOR BEERS:

Do they also provide a long-term forecast or only the current percentage of students using the Fund?

MS. MARSHALL:

One issue is the 2005 Legislative changes have only generated one semester of data at this point. I would be uncomfortable with long-term projections based on one semester of data. I will provide the information we have.

SENATOR BEERS:

Does the NSHE provide a long-term or only a short-term forecast?

MS. MARSHALL:

The NSHE only provides short-term forecasts.

SENATOR COFFIN:

I am aware Senator Beers has a bill proposing modification of expenditures from the Millennium Scholarship Fund. Tuition increases have been the largest factor contributing to the inability of students utilizing the Fund to receive full compensation. It is almost as if we poured hundreds of millions of dollars into the NSHE and yet tuition rates are raised to match the expected income. Until something other than the GPA is used as a requirement, the crisis will continue. The GPA is the driving force, and it has become the biggest mistake we have made as the means of selecting who receives the funds.

CHAIR RAGGIO:

During hearings of the Senate Committee on Finance and the Assembly Ways and Means Joint Subcommittee on Higher Education, it was indicated enrollment was declining. I do not know if that has been taken into consideration. Senator Beers' bill would depend on SAT (formerly known as Scholastic Aptitude Test) scores and the like. There could be significant adjustments based on Legislative actions and future enrollment.

MS. MARSHALL:

It appears the two-strike rule led to an approximate 450-student decrease. Again, that is only based on one semester of data.

SENATOR CEGAVSKE:

How does the NSHE notify you when a student drops off the qualification list? Do you not automatically place the \$10,000 in funds aside for a qualifying student? If the student drops out, or does not attend college for two years, does the funding still get held in the name of that student? If the student does not fulfill the requirements and must repay the scholarship, does the repayment come back to your Office, or is it retained by the NSHE?

MR. FOLEY:

If the student dropped from the NSHE system, a net settlement is made in February. Our system accounts for each student and tracks how much has been spent each period during a semester, up to \$80 a credit. If the credits are used, the account from the NSHE is validated before payment is made.

If a student does not attend for two years, we track those funds. If a student drops out, they are not required to repay the Millennium Scholarship. We simply send no more funding to the NSHE for that student.

SENATOR CEGAVSKE:

Is there not a reversion of unused funds?

MR. FOLEY:

A net reconciliation is done with the NSHE. We determine what has been used by students in the Program and what funds were not used.

CHAIR RAGGIO:

I am not clear on the tobacco settlement funds. The funds are received in April, yet we pay the NSHE in February? Is there some way to coordinate revenue and disbursements more efficiently?

MS. MARSHALL:

Two disbursements are made to the NSHE. Those are done in September and February. If students drop out during that time, or there are changes in the amount of funds required, a reconciliation process is conducted in February to ensure disbursements are appropriate.

CHAIR RAGGIO:

What about the gap between when revenue is received and when it is disbursed?

MR. GHIGGERI:

The Office experienced a similar situation in 2005 before funds were provided by the Legislature. An agreement was drafted between the NSHE and the Office of the State Treasurer that payment was not to be made until revenues were received.

CHAIR RAGGIO:

Is the agreement still in place?

MS. PARKER:

The agreement is still intact. Essentially, the NSHE has been floating us when funds are short. It is the reason behind BDR 10-496. It would potentially move the funding to an earlier disbursement of the Unclaimed Property Funds. The NSHE is not happy about the accommodation through the agreement.

SENATOR CEGAVSKE:

When the Millennium Scholarship Fund first began, some students were receiving refund checks. Has that stopped?

MR. FOLEY:

That practice has stopped. Millennium Funds are now allocated first if other scholarships are also available. If a refund is received, it may be from another program for which the student qualifies.

SENATOR CEGAVSKE:

For what reasons do students receive refunds?

MR. FOLEY:

A student may have a prepaid contract paid forward and also qualify for the Millennium Scholarship Fund. They are allowed to receive a refund of funds they paid into another program.

SENATOR CEGAVSKE:

A student may be eligible for other scholarships and yet the Millennium Scholarship Funds are paid first?

MS. MARSHALL:

The refund would not be issued from a scholarship fund. If a Nevada family purchased prepaid tuition and then the student qualified for the Millennium Scholarship Funds, they could receive a refund from the prepaid tuition funds.

SENATOR CEGAVSKE:

Those are two different funding sources. I was concerned about situations where \$10,000 in Millennium Scholarship Funds was provided each semester and if the student did not spend the allocated amounts they were receiving refunds. Is that still the practice? The purpose at that time was for the student to use leftover funds to purchase books or supplies. Refunds were not being used for that purpose in most cases.

MS. WRIGHT:

That situation did occur in the early years of the Program. Since that time, the Board of Regents has adopted a policy which prohibits that practice. The policy is all refunds are made to the Millennium Scholarship Trust Fund.

CHAIR RAGGIO:

I will now close the hearing on B/A 261-1088 and open the hearing on B/A 101-3815.

Unclaimed Property – Budget Page ELECTED-144 (Volume I)
Budget Account 101-3815

MS. MARSHALL:

We recruited Mr. Jim Burke, Deputy of Unclaimed Property, from the state of Nebraska to direct the Program.

There has been growth in the amount of unclaimed property. Historically, approximately 20 percent of what has been received as unclaimed property has been returned to the owner. Mr. Burke has brought new ideas and methods in increasing the incoming money, educating the community on what should be reported and increasing the percentage of property returned to rightful owners.

An unclaimed property file was provided to every county treasurer listing those persons with unclaimed property within their counties. The treasurer of Lincoln County was in the report.

In a desire to assist constituents in each senatorial district, we provided the Committee with individual lists of unclaimed property in specific districts in both paper and compact disc formats. (None were provided as exhibits.)

JIM BURKE (Deputy of Unclaimed Property, Office of the State Treasurer):

The lists provided were created based on zip code. There are thousands of names in each district listed in alphabetical order. The list indicates the amount and property number of each piece of unclaimed property. The number is a reference number in the system. The Office of the State Treasurer's Website can be checked by the reference number or by name.

SENATOR MATHEWS:

Some of the names in my district list do not appear to be individuals in my district.

MR. BURKE:

The lists were run by zip codes for the various districts. We would invite the Committee to look through the lists and share them with staff or post them on individual Websites so individuals can search for their names. The list can be updated at any time.

MS. MARSHALL:

A link can be established from the Legislative Website to the Office of the State Treasurer's Website portion for unclaimed property. If I look up the name Washoe, you will see there are listings for Washoe County, Washoe Search and Rescue and certain Washoe elementary schools that have unclaimed property. My Office will attempt return of funds to those agencies.

The Committee has been provided a document titled "Nevada State Treasurer, Kate Marshall, Unclaimed Property-BA 3815" ([Exhibit J](#)).

On page ELECTED-144 of Volume I, the *Executive Budget*, performance indicators 1, 3 and 4 are identified. Performance indicator 2 is not. That measurement identified the number of audits performed and the amount of money received. I have determined it to be a valid performance indicator. I have instituted appropriate procedures in the Office to track the information going forward. I ask it be reinserted in the budget going forward. Approximately 40 audits have been completed.

I will now address the positions requested in E-250, E-251 and E-805.

E-250 Working Environment and Wage – Page ELECTED 146

E-251 Working Environment and Wage – Page ELECTED 147

E-805 Classified Positions Reclassifications – Page ELECTED 150

We are requesting one program officer II and one administrative assistant II position. That is a change from the original budget. The original Budget requested one program officer II, one program officer I and an upgrade from an administrative assistant III to a management analyst II. The change will result in a net benefit.

CHAIR RAGGIO:

Is your testimony that the position requested in decision unit E-251 would be changed to an administrative assistant II?

MS. MARSHALL:

That is correct. We are no longer requesting a program officer I. We are requesting an administrative assistant II.

CHAIR RAGGIO:

Are you withdrawing decision unit E-805?

MS. MARSHALL:

The net change is a reduction of \$25,706 in FY 2007-2008 and \$30,489 in FY 2008-2009. Additional staff is needed, especially in an attempt to increase revenue, educate the community and assist in managing, tracking and returning funds to identified unclaimed property owners. However, the program officer II is imperative to keep on top of the workload and increase education and compliance within the community. I cannot represent a need for the program officer I position. We have a legitimate need for additional clerical staff. It appears certain staff members are working outside their class. I will work with the Department of Personnel to determine what is necessary. The two positions requested should resolve understaffing issues.

I will now discuss enhancement unit E-276 requests.

E-276 Maximize Internet and Technology – Page ELECTED-148

This decision unit requests a subscription to an online corporate actions database. It allows the Office to support the reconciliation and sale of securities held by custodians of unclaimed property records. Page 4 of [Exhibit J](#) reflects a significant increase in the number of securities held as the custodian of unclaimed property. It requires the Office to conduct significant management tracking to determine the exact amount owed to claimants.

For example, a person owned stock in a company called WhirlyBall. We thought it was worthless, and we were wrong.

MR. FOLEY:

In 2005, a claim was made for stock from a company called WhirlyBall. WhirlyBall was a unique organization located in Las Vegas in the shopping center at Valley View and Spring Mountain Road that offered basketball being played in bumper cars. The company was purchased by Major Video. Major Video was then purchased by Blockbuster Video. Blockbuster was purchased by Viacom which later became a part of the CBS Corporation. A gentleman made a claim for 10,000 shares of WhirlyBall stock issued in the late 1970s or early 1980s. We contacted Wachovia, our current broker and custodian, and they conducted a WhirlyBall research and were unable to locate any assets. I had met the gentleman who owns Xcitek, a software technology firm from whom we hope to purchase this technology, which is currently being utilized by ten other states. The claim for the 10,000 shares of WhirlyBall became a \$158,000 claim. Through validation, we generated an accurate total and paid the claim.

MS. MARSHALL:

We are requesting purchase of the database after having a trial in the Office.

SENATOR BEERS:

In a case such as the WhirlyBall stock, do you sell the stock and pay the proceeds to the owner of the lost property?

MS. MARSHALL:

That is correct.

SENATOR BEERS:

Had the State received the stock certificates as the lost property?

MR. FOLEY:

The stock was transferred to the State by Viacom for the holder himself. The Viacom stock was actually delivered to the State as Viacom stock in his name. The claimant showed up with the WhirlyBall stock in his possession. We had to find the connection to Viacom.

SENATOR BEERS:

Did Viacom report to the State that it had some lost stock and the claimant see his name and make the claim through the WhirlyBall stock?

MR. FOLEY:

That is correct. For the Office to pay the claim, we needed proof showing his rightful ownership to the Viacom stock. Making the connection was difficult.

The Xcitek database is an online system providing the most up-to-date reports of what can be gained. The other issue is, we have increased tracking from approximately 400 mutual funds to over 1,500 mutual funds on a daily basis. At the same time, our stock portfolio of over \$20 million is administered by Wachovia.

SENATOR BEERS:

Is all of this in regard to unclaimed property?

MR. FOLEY:

That is correct. We attempt to sell the property on a regular basis. We are required to sell stock as it is received and not to perform brokerage functions. The sale is done on an annualized basis. We attempt to keep the balance as low as possible. Some of the issues with tracking corporate actions include reverse splits and continual dividend payments.

CHAIR RAGGIO:

Will the Xcitek software perform those functions?

MR. FOLEY:

The software helps us track the stocks on a daily basis.

MS. MARSHALL:

The next decision unit is E-278.

We are requesting two subscriptions for Accurant service at \$140 monthly. This service helps the Office ensure we do not have fraudulent claimants. It allows us to verify someone from out of state actually lived in Nevada at one time through matching social security numbers, especially with common names. It can also help us to identify additional claimants. If we have a property and a social security number, it can be run through the service and generate a form letter thereby increasing our outreach. The process has been used with great success in other states.

An earlier comment by the Chair had questioned the transfer of an additional \$5 million from the Unclaimed Property Fund for the Research Alliance Plan. [Exhibit K](#) identifies scenarios assuming a percentage we can return to owners. As I explained, we have currently been returning approximately 20 percent of the unclaimed property received and assuming the costs to administer the Program. This exhibit assumes the \$7.6 million transfer to the Millennium Scholarship Fund. The next to last column of [Exhibit K](#) shows the amount remaining to be transferred to the General Fund. That amount can be reduced at the will of the Legislature. If legislation reduces it an additional \$2.8 million for the Millennium Scholarship Fund, raises the allocation to \$10.4 million or reduces it an additional \$5 million, this is the figure from which it would be deducted.

CHAIR RAGGIO:

Is the Committee to refer to the FY 2008-2009 line of [Exhibit K](#)? Is that what you are terming revised projections?

MS. MARSHALL:

That is correct.

CHAIR RAGGIO:

What is meant by the term "revised projections"?

MS. MARSHALL:

If one assumed Mr. Burke will be good at his job, and he will increase the outreach, instead of returning 20 percent we might be able to return 40 percent of unclaimed property. States with an aggressive outreach program are able to return approximately 40 percent. Other states return more. Because Nevada is a transient State, 40 percent would be an acceptable return rate.

CHAIR RAGGIO:

In FY 2005-2006, we were able to return less than 19 percent of the unclaimed property.

MS. MARSHALL:

That is correct.

CHAIR RAGGIO:

The percentage has hovered between 19 and 30 percent.

MS. MARSHALL:

That is correct. The last projection assumes a more aggressive outreach with a return rate of 30 to 40 percent. It also assumes we are able to slightly increase the amount of revenue received. The Committee can see the amount left for

transfer to the General Fund if \$7.6 million is moved to the Millennium Scholarship Fund.

CHAIR RAGGIO:

Are you assuming in FY 2008-2009, the amount to be received will be approximately \$40 million?

MS. MARSHALL:

That is correct. The examples in [Exhibit K](#) are simply stress tests on the Fund.

CHAIR RAGGIO:

How recently did Mr. Burke transfer to the Office of the Treasurer from a position in Nebraska?

MR. BURKE:

I reported for duty on January 2, 2007.

CHAIR RAGGIO:

How much experience did you have in the state of Nebraska?

MR. BURKE:

I worked in the State Treasurer's Office in Nebraska for 6.5 years. I was the director of the Unclaimed Property Program for approximately 4.5 years.

CHAIR RAGGIO:

Why do you contend you will be able to increase the collection or receipts as well as a significant increase in the return percentage? What has Nevada not been doing that you will do?

MR. BURKE:

We are going to begin holder education. The holders are the businesses, organizations and government entities that turn unclaimed property to the State. We are going to begin educating them about the responsibility they have to report unclaimed property and specify the reporting requirements in the *Nevada Revised Statutes* (NRS). That has not been done in the past.

Concerning returning funds to valid claimants, we plan to get the Program to the attention of the public. Each Senator and Assemblyman will have lists such as you received in the hope they will share them with constituents.

We have provided similar lists to each county treasurer. They have been helpful in communicating possible claims to people in their area. We have established links from county treasurer Websites to our Website. An advertisement later in the month will have a front page as is shown on page 9 of [Exhibit J](#). It is a bold, fresh approach from what has been done in previous years, and will hopefully grab people's attention.

We are planning links from television and radio Websites to our Website. We plan mass e-mailings. We plan to place posters in bank branches, government offices, including the Department of Motor Vehicles, to put the information in front of people.

Two weeks ago we issued a press release regarding the discovery of \$118,000 being held in the Unclaimed Property Fund for 28 different State agencies. After

the press release, claims on the Website increased six times. On a normal day of Website activity there are 45 to 50 claims. After the press release, overnight, there were approximately 350 claims on the Website.

SENATOR BEERS:

Is there an inventory value such as gross receipts indicating property found during the year?

MS. MARSHALL:

The approximate value of unclaimed property inventory is \$200 million.

SENATOR BEERS:

That is a total of identified unclaimed property?

MS. MARSHALL:

That is correct.

CHAIR RAGGIO:

Is there any further information needed on the proposals for funds to be allocated from the Unclaimed Property Fund to the Commission on Economic Development?

ANDREW CLINGER (Director, Department of Administration):

We need nothing further.

CHAIR RAGGIO:

I will now close the hearing on B/A 101-3815 and open the hearing on B/A 745-1086 and B/A 395-1087.

Municipal Bond Bank Revenue – Budget Page ELECTED-162 (Volume I)

Budget Account 745-1086

Municipal Bond Bank Debt Service – Budget Page ELECTED-164 (Volume I)

Budget Account 395-1087

MS. MARSHALL:

Budgets 745-1086 and 395-1087 together reflect costs associated with debt already issued through the Municipal Bond Bank. Nevada currently has 21 municipal entities within the State and we have financed 83 projects since 1981. Today, there are 14 municipalities participating with over \$600 million in principal outstanding with the Bond Bank.

The Committee should note, this debt is not subject to the Constitutional debt limit described under our debt structure. It is exempt from the 2-percent assessed value as a natural resource exemption. We are currently monitoring 34 issues. As of March 7, 2007, there was \$632,050,000 outstanding.

I hope our Office is able to facilitate Legislators reaching out to constituents. We will work with staff on questions that were asked.

Senate Committee on Finance
March 12, 2007
Page 22

CHAIR RAGGIO:

Seeing no further questions on budget accounts 745-1086 and 395-1087, I will close the hearing on these budgets and open the hearing on B/A 101-1497.

LEGISLATIVE JUDICIAL

JUDICIAL BRANCH

Judicial Discipline – Budget Page COURTS-75 (Volume I)
Budget Account 101-1497

DAVID F. SARNOWSKI (General Counsel and Executive Director, Commission on Judicial Discipline and the Standing Committee on Judicial Ethics and Election Practices):

I am accompanied today by Ms. Kathy Schultz, who monitors and updates our budget from day to day. Commission Chairman Greg Ferraro, and Standing Committee Chairman, Gordon H. DePaoli, were unable to attend this hearing. Most members of the Commission and Committee serve in a volunteer status.

CHAIR RAGGIO:

Is the Commission composed of two justices appointed by the Supreme Court? Who is appointed at this time? Can they participate against another jurist in their area?

MR. SARNOWSKI:

I have provided this Committee with a budget presentation document ([Exhibit L](#), original is on file in the Research Library). It contains a list of members for both the Commission and the Standing Committee on Judicial Ethics and Election Practices. They are located on page 9. The current district judge members are the Honorable Jerome Polaha of Washoe County and the Honorable Mark Denton of Clark County. The Chair was correct in noting when a complaint against a jurist from Washoe County is received, for instance, Judge Polaha cannot participate. Alternate district judges are appointed for that purpose.

Additionally, the law requires, in cases involving limited jurisdiction judges where judges go to a formal public hearing. Judges from that level of the bench participate rather than district judges. There are both primary and alternate appointees. From time to time, there is the possibility of preemptory challenges, challenges for cause or absence for personal situations.

There are 17 possible positions on the Commission, although 1 is unfilled at this time. The Standing Committee has a possible 28 positions with 3 unfilled at this time.

[Exhibit L](#) provides an outline of the role each of these bodies plays. The Standing Committee, which is the advisory branch and lesser known entity, had its most productive and busy year in 2006. The number of advisory opinions issued doubled.

That body does not entail travel, but it does entail dedication on the part of the members. We typically confer by telephone and submission of multiple drafts of opinions. I have provided a copy of sample opinions, on page 22 of [Exhibit L](#), as an example of the work product of the Standing Committee. It issues advisory opinions and, in election years, campaign complaint decisions.

[Exhibit L](#) includes statistics of the Commission portraying the new work performance standards. They are statistical and based on the number of complaints and how they are disposed.

CHAIR RAGGIO:

What is the number of complaints against the nonjudges category?

MR. SARNOWSKI:

From time to time, we receive complaints against court clerks and other court staff. By rule of the canons, we have no jurisdiction for those complaints. We also receive complaints against appeals and hearings officers, who are assigned to the Department of Administration, within the Executive Branch. Complaints are received against federal judges or someone who seems to have only a slight connection to the court system. I am authorized, under the rules, to dispose of those types of cases summarily. All other complaints must be adjudicated by the Commission.

CHAIR RAGGIO:

What do you see happening in the workload over the next biennium?

MR. SARNOWSKI:

Our statistics have been fairly constant. We investigate approximately 25 percent of complaints annually. In 2006, there were more than 160 complaints. We are currently tracking close to that number in the current calendar year. There is the possibility of an increase depending whether or not new judges are authorized in both Washoe and Clark Counties. The general jurisdiction judges are those against whom the majority of complaints are filed.

CHAIR RAGGIO:

Are complaints most often filed by those who lose a case?

MR. SARNOWSKI:

It is common to receive complaints from unhappy litigants. The majority of complaints are disposed of summarily. That means the Commission chooses not to investigate them. In many instances, the complainant misunderstands the role of the Commission. We do not serve as an appellate body and we do not second-guess court decisions. Nevertheless, some feel because a judge renders an unfavorable decision against them, the judge should answer to the Commission.

CHAIR RAGGIO:

For what purposes are the out-of-state travel funds used? It is a small amount.

MR. SARNOWSKI:

In the five years I have served in this position, the out-of-state travel has only been used for my travel once a year to attend the annual meeting of the Association of Judicial Disciplinary Counsels. We meet in various parts of the country.

CHAIR RAGGIO:

Is the total request for out-of-state travel expenses only \$379?

MR. SARNOWSKI:

No, what was allocated to out-of-state travel has been moved to our training budget.

CHAIR RAGGIO:

Is adequate funding requested in the *Executive Budget*?

MR. SARNOWSKI:

It is adequate at this time. We send certain commissioners or the chair or vice chair of the Standing Committee to a conference held in election years in Chicago, Illinois. It is called the National College of Judicial Ethics. We projected five members attending in 2008. We work with the administrative officers of the courts to have them send judicial members to the training as well. That allows us to send some of our attorneys or lay members to the conference.

CHAIR RAGGIO:

Your budget includes 2.5 authorized positions. How do you work a case when an investigation is required?

MR. SARNOWSKI:

To my knowledge, all investigations, both currently and in the past, have been done by a private investigation agency. Those costs are included in the operating budget and make up the majority of operating costs.

There has been a contract throughout my tenure with an entity called The Advantage Group, which has offices in both Reno and Las Vegas and travel wherever necessary through revenue from the contract.

Infrequently, they are required to go out of state. Most travel is done by car and the Commission or Standing Committee is billed for mileage and an hourly rate.

SENATOR COFFIN:

Has the Commission reviewed the problems discovered by the *Los Angeles Times* series of stories? It embarrassed the Nevada media.

MR. SARNOWSKI:

Yes, the Commission has reviewed the matter. A recent meeting dedicated time to a review of certain campaign finance issues. I cannot provide detail on specific cases under NRS chapter 1 provisions. Both the Commission and the Standing Committee are well aware of the impact of the three-day series of the *Los Angeles Times* articles. The articles certainly highlighted problem areas. The articles reflected incidents that occurred as far back as 1990. For the record,

While I have the authority to file Executive Director Complaints, the great majority of information that I get necessarily has to come from individual complainants. Usually litigants, but it could be lawyers and, occasionally even a fellow judge.

I anticipate, later this year, the Supreme Court will issue updates to the canons that govern judicial ethics. Their charter by court rule is to provide input to the court regarding recommendations to the code of judicial discipline, including electioneering practices.

SENATOR COFFIN:

Chair Raggio and I support legislation for the appointment of judges. I can think of no greater reason for its passage than to have the State publicly embarrassed by what is inevitable in an electioneering situation.

MR. SARNOWSKI:

I am aware of pending legislation to amend the filing times for judicial races to eliminate the necessity of campaign fund-raising. It is particularly applicable when an incumbent judge has no challenger. I believe the administrative officer of the courts has indicated their willingness to support the proposal. That may eliminate one judicial campaign issue.

CHAIR RAGGIO:

Seeing no further testimony on this budget, I now close the hearing on B/A 101-1497 and open the hearing on B/A 101-2666.

EDUCATION

K-12 Education

NDE Commission on Postsecondary Education – Budget Page K-12 ED-103 (Volume I)

Budget Account 101-2666

DAVID PERLMAN (Administrator, Commission on Postsecondary Education):

The primary work of the Commission is to monitor the private postsecondary schools that operate in Nevada. This is done through a rigorous application process and periodic reviews. In addition, the Commission contracts annually with the Department of Veterans' Affairs (VA) providing inspections for those training establishments where veterans can use their educational benefits. This includes on-the-job training (OJT) and apprenticeship programs as well as traditional vocational schools and colleges.

The budget is straightforward. Salaries and rent comprise the bulk of costs. Other costs, such as travel and supplies, are minimal.

I have provided my written testimony to the Committee ([Exhibit M](#)).

CHAIR RAGGIO:

It appears the federal funding is expected to decrease.

MR. PERLMAN:

That is a fact.

CHAIR RAGGIO:

The actual revenue was \$116,207 for FY 2005-2006. The projection is for \$98,400 in FY 2007-2008 and \$73,800 for FY 2008-2009.

MR. PERLMAN:

The federal budget previously provided a five-year funding plan.

CHAIR RAGGIO:

Was that funding through the VA?

MR. PERLMAN:

That is correct. There was a five-year program to increase the budget category from \$13 million to \$19 million which sunsets on September 30. The budget will return to \$13 million nationwide. It is still being negotiated, but I am predicating my budget on a likely allocation of \$13 million.

CHAIR RAGGIO:

What will you do to accommodate? Will you reduce the number of inspections?

MR. PERLMAN:

We anticipate discontinuing the OJT and apprenticeship programs as they are the most time-consuming part of our functions. We would continue with traditional colleges and vocational programs.

CHAIR RAGGIO:

What percentage of schools are you able to review each year?

MR. PERLMAN:

That performance indicator was established approximately four years ago and we have not been able to conduct reviews at that level. We typically review one or two schools each year.

CHAIR RAGGIO:

Is that all? The performance indicator projects a review of 10 percent of active schools in FY 2005-2006. No schools were reviewed in that year.

MR. PERLMAN:

That is correct. However, we did visit some schools in which complaints were received.

CHAIR RAGGIO:

The performance indicator indicates at least 5 percent each year should be reviewed. Why were no reviews conducted?

MR. PERLMAN:

We do not have sufficient staff for that function. We have had only four staff since 1990 and there has been a 60-percent increase in the number of schools during that period. We lost a half-time position in the 1990s.

CHAIR RAGGIO:

What are you doing if you are not reviewing the schools?

MR. PERLMAN:

We address schools when complaints are received, although they are minimal. We rely on the VA Program because 40 percent of the schools have active veteran students and those are required to be reviewed annually.

CHAIR RAGGIO:

How many schools are under your jurisdiction?

MR. PERLMAN:

We have jurisdiction over 155 schools.

CHAIR RAGGIO:
What types of schools are included?

MR. PERLMAN:
They range from dog-grooming schools to private universities and everything in between.

CHAIR RAGGIO:
What problems have you encountered as a result of short staffing?

MR. PERLMAN:
Many of the complaints are from students who feel they are not receiving a good education because their instructors are not qualified. Occasionally, we hear complaints due to wrongful termination or late refunds.

CHAIR RAGGIO:
Please address the three legislative audit recommendations.

MR. PERLMAN:
One issue was the disparity of reporting of data by the schools each year. To correct that, I place actual enrollments on the annual form I send to the schools to assist schools with what they must report.

CHAIR RAGGIO:
Is it correct there were 14 or 15 schools at which the enrollment numbers were inappropriate?

MR. PERLMAN:
That is correct. Sometimes schools enroll students who do not fall within our jurisdiction. Those schools might report higher or lower numbers.

CHAIR RAGGIO:
Why do they do that?

MR. PERLMAN:
It occurs because of their accounting systems.

CHAIR RAGGIO:
Is the reporting error intentional? What benefit do they derive from inaccurate reporting?

MR. PERLMAN:
I do not believe they realize the issue and I did not at the time.

CHAIR RAGGIO:
What is your position on the VA-reimbursement audit finding?

MR. PERLMAN:
There were errors on our claim reports. That has been corrected. I built a spreadsheet that calculates salaries and a percentage of staff time, rather than the calculations being made manually.

CHAIR RAGGIO:
What is the student indemnification account audit finding?

MR. PEARLMAN:

It is a fund established by the Legislature where schools pay \$5 for each student. The account is maintained at \$250,000. If a school closes, refuses to issue a refund or goes out of business, the account is used for reimbursement.

CHAIR RAGGIO:

What type of reimbursement records do you maintain? How many schools have failed recently?

MR. PERLMAN:

I do not have the number of schools that have failed. I can indicate \$841,625 has been paid from the account.

CHAIR RAGGIO:

Over what period of time were those payments made?

MR. PERLMAN:

The time period is from 1999 to 2007.

CHAIR RAGGIO:

What problems have you encountered during the current biennium? Have any schools closed? What types of schools have closed?

MR. PERLMAN:

In 2006, we paid \$11,783 in reimbursements for Western Technical Institute. That institution taught medical stenography.

CHAIR RAGGIO:

Where was the school located?

MR. PERLMAN:

The Western Technical Institute was located in Las Vegas. In 2005, we paid \$17,000 for the Dealers' Training School and another \$312,000 for the American Institute.

CHAIR RAGGIO:

Is there any way to recover the funds from the owners of the defunct schools?

MR. PERLMAN:

It would likely be a hollow judgment because the schools have closed.

CHAIR RAGGIO:

Do you have a deputy attorney general to provide advice?

MR. PERLMAN:

Yes, sir.

CHAIR RAGGIO:

Do they not suggest following up in some of these cases?

MR. PERLMAN:

They have not up to this point. I have questioned a follow-up in some instances.

CHAIR RAGGIO:
Who is your deputy?

MR. PERLMAN:
The deputy attorney general appointed to the Commission is Mr. James "Ed" Irvin.

CHAIR RAGGIO:
Staff, please make a note for the Committee to request a response from Mr. Irvin.

What recommendations, if any, do you have to make the Commission more functional?

MR. PERLMAN:
I am considering the addition of another education specialist to staff.

CHAIR RAGGIO:
That request is not in the *Executive Budget*.

MR. PERLMAN:
That is correct.

CHAIR RAGGIO:
Did you originally request the position during budget preparations? If you did not, why did you not?

MR. PERLMAN:
I did not request the position.

CHAIR RAGGIO:
The Commission has the responsibility to inspect schools. There are 155 schools under your jurisdiction, and the performance indicator states you will inspect 5 percent of the schools annually. Why have you not requested adequate staffing?

Why have you not requested adequate staff to perform the mission of the Commission?

MR. PERLMAN:
We have a new staff member who is well versed in VA regulations and it is my intent to cross-utilize this person to perform inspections.

CHAIR RAGGIO:
That is only applicable to schools with veterans attending. Inspections are required across the board?

MR. PERLMAN:
This person is an education specialist. Veterans are attending each of the schools. My goal, with funding cuts and no responsibility for OJT and apprenticeship comprising approximately 85 percent of the job description currently, is to cross-utilize this person or perform inspections myself.

CHAIR RAGGIO:

Based on the existing staff of four, and a new employee with more experience, how many schools can be inspected in the coming biennium, given the current budget requests?

MR. PERLMAN:

I would estimate 1- to 2- percent of the schools could receive inspection.

CHAIR RAGGIO:

One percent would only equate to 1.5 schools. How will you select only 2 or 3 schools to be inspected?

MR. PERLMAN:

We do inspections based on the number of complaints we have had or issues we have heard are occurring at schools. We try to conduct inspections at the time of renewal applications.

CHAIR RAGGIO:

How many complaints are current that need investigation?

MR. PERLMAN:

The number of complaints is fairly low. We have received five this year with two currently outstanding.

CHAIR RAGGIO:

If the schools are performing adequately, there is no need for the Commission. How do you know of problems unless a complaint is received?

MR. PERLMAN:

We seem to stay fairly cognizant of what is happening. There seems to be a network of people informing us of problems. The network might consist of individuals from other schools or people starting a business who want us to know what is happening at a training center.

CHAIR RAGGIO:

Are fee increases being requested? Fee increases are requested in Senate Bill (S.B.) 63.

SENATE BILL 63: Revises certain fees charged by the Commission on Postsecondary Education. (BDR 34-563)

MR. PERLMAN:

The requested legislation was a bill draft request under former Governor Guinn. Fees have not been increased since 1989. School tuition has increased 600 percent in that same period of time.

CHAIR RAGGIO:

Mr. Clinger, what is the Governor's position on this matter?

MR. CLINGER:

It is my understanding the administration does not support fee increases as it is against the Governor's policy on all tax and fee increases.

CHAIR RAGGIO:

What is your recommendation in this situation?

MR. CLINGER:

This is a matter that needs to be considered. If the Commission on Postsecondary Education needs additional resources and no schools are being inspected, that is a problem.

CHAIR RAGGIO:

This is a severe situation. Nothing is that perfect or there is no need for the Commission. Please carry that message to the Governor and advise this Committee of his response.

MR. CLINGER:

Yes, sir.

CHAIR RAGGIO:

We will have further discussion, particularly in reference to S.B. 63. I hereby close the hearing on B/A 101-2666 and open the hearing on B/A 101-4821.

SPECIAL PURPOSE AGENCIES

Public Employees' Retirement Program

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

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

I have provided my written testimony for the Committee ([Exhibit N](#)). I want to take a moment before we begin our budget presentation to review the contribution rates for the 2007-2009 biennium. These rates affect all public payrolls.

I have provided the Committee with a document titled "Public Employees' Retirement System of Nevada" (PERS) ([Exhibit O](#)) which details the 2006 actuarial valuation results. The report is prepared annually by the independent actuary of the system.

The valuations determine the liabilities of the plan and contribution rates needed to fund the System on an actuarial reserve basis. Several areas are analyzed during the course of an actuarial evaluation including plan design, member demographics and economic assumptions such as salary growth and investment return.

By statute, contributions change July 1, or the first full-payroll reporting period of each odd-numbered year as determined by the even-numbered year's valuation. Therefore, the valuation for 2006, effective June 30, 2006, will affect rates July 1, 2007.

Page 2 of [Exhibit O](#) reflects the results of the evaluation and the impact on employer pay contribution plans (EPC) for both regular and police/fire members. Of the 98,000 active members of PERS, 87,000 participate in the regular fund. Eighty-two percent of those participate under the EPC plan. Approximately 11,000 participate in the early retirement fund for public safety and

approximately 85 percent of those participate under the pretax employer contribution plan.

The EPC is a shared contribution plan where employees pay one-half of the contributions through salary reduction or by foregoing equivalent pay increases. The first line of page 2, [Exhibit O](#), reflects the existing rate currently being paid for members of the fund based on the results of the 2004 evaluation. The second line of the chart, on page 2 of [Exhibit O](#), reflects the results of the 2006 evaluation. The third line shows the difference between the two rates. The last line applies the statutory rounding mechanism to arrive at the new contribution rate beginning July 1, 2007. For regular members under EPC, the rate increase of 0.75 percent is split equally between the employer and the employee. For police/fire members, the rate is increasing by 1.5 percent, 0.75 percent to be paid by the employer and 0.75 percent by the employee. Rates in the police/fire fund are more volatile due to the smaller size of the fund and the relative-funded status of the plan.

On page 3 of [Exhibit O](#), the chart shows the results of the valuation for members participating in the employee/employer pay after-tax contribution plan. Approximately 18 percent of members in the PERS participate in this plan. The chief differentiating factor between this plan and EPC is under this plan. The employee's contributions are available for refund if the member terminates public employment and chooses to withdraw their contributions. Refundability causes this plan to be slightly more expensive than the EPC plan where there is no refundability.

The first line of the chart shows the existing statutory contribution rate for both funds. The second line shows the results of the 2006 valuation. The difference is shown on line 3 and the last line shows the new contribution rate for FY 2007-2008. There is no change in contribution rates for regular members because the difference between the current rate and the new actuarial valuation rate is within the statutory rounding mechanism. The matching rate for police/fire members will increase by 0.75 percent, the same as in the EPC. The factors affecting members of this police/fire plan are the same as those affecting the EPC police/fire plan.

CHAIR RAGGIO:

We have had continuing correspondence requesting an increase of the members who are eligible for early retirement. I do not know how many members would be affected. The proposal is this: anyone who is delineated as a peace officer, regardless of whether or not they have qualified under the existing qualification committee review, would be added to the early-retirement plan. Would that change impact these rates?

MS. BILYEU:

We have not looked at the cost factors of the proposal. There is a significant public policy issue related to the proposal. The last time we reviewed the costs, there was an increase in cost to enlarge the size of the plan.

CHAIR RAGGIO:

Please ask your actuary, because that may become an issue.

MS. BILYEU:

I would be happy to carry that question to the actuary.

CHAIR RAGGIO:

Are there other proposals or bills under consideration that would affect the Plan?

MS. BILYEU:

One bill has been introduced thus far on which we have placed a fiscal note. It is a disability bill for police/fire members. It would make the disability program a duty disability program, a nontaxable benefit. It is similar to S.B. No. 145 of the 2005 Legislative Session. The proposal carries a significant impact to the police/fire fund.

CHAIR RAGGIO:

We need to hear from the PERS as soon as possible concerning whether or not, any proposed legislation, if enacted, would affect the rate further.

MS. BILYEU:

Any time there is a bill for a change in the benefit structure to the PERS, we cost those out with the actuary and provide the information in a fiscal note.

CHAIR RAGGIO:

Are there any changes in benefits anticipated in the budget?

MS. BILYEU:

There are no changes anticipated. The PERS Board has adopted a policy that prevents it from endorsing any legislation during periods when contribution rates have not decreased by a full percentage point. The PERS has not yet taken positions on all pending legislation at this time. Proposed legislation is reviewed at each monthly Board meeting.

CHAIR RAGGIO:

What is the need for a new retirement examiner requested in decision unit E-250?

E-250 Working Environment and Wage – Page PERS-3

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

The request for a new position in module E-250 originally stemmed from the workload of the one-fifth of a year purchases. However, after we received questions from the Interim Retirement and Benefits Committee, we also analyzed other workloads in the production area of the system to determine if the position was still required if the one-fifth of a year purchase program does not continue in the coming biennium.

The Committee may recall, during the 2005-2007 biennium, we were funded on an overtime basis to address the increased workload from that Program. The position is being requested because, over the past two years, the number of pension inceptions has increased by 33 percent; the number of requests for refunds of contributions has increased by 38 percent; the number of requests for purchase of service estimates, excluding the one-fifth of a year program, has increased by 31 percent; and the number of requests for benefit estimates has increased by 41 percent.

Twenty percent of the benefit estimates and 18 percent of pension inceptions require manual calculations. The position is being requested to assist in each of

these areas of production, depending on which area is experiencing the heaviest volume at that particular time.

CHAIR RAGGIO:

Is your testimony if the retirement credit was not continued, the position would still be needed?

Ms. LEISS:

That is correct, predicated on the workload increases in other areas of production.

SENATOR COFFIN:

I am concerned about the long-term health of the PERS and problems we face with the image we are, or are not, carrying a large unfunded liability. I am still unhappy about the 2004 decision of the Board to change its method of forward funding which creates a longer-liability term.

Another troubling issue is I do not hear discussion to find ways to reduce the unfunded liability. If we do not "pay as we go," what has been suggested in changes to the benefit structure to reduce the liability? Suggestions to consider include age at retirement, full-benefit collections versus perhaps a later age at retirement to receive full benefits. Does the Board discuss forward-thinking solutions?

CHAIR RAGGIO:

Also include in your response the status of the unfunded liability issue.

Ms. BILYEU:

The payment period for the unfunded liability as of the 2006 actuarial evaluation is 28.3 years. That is a Governmental Accounting Standards Board (GATSB)-compliant funding period. We are on track to make full funding for the Program over the specified time.

The Board, from time-to-time, and in the most recent biennium, has conducted a benefit adequacy study related to the benefit structure of the Program. It focuses on the mission of the PERS over all public employers. The benefits study concluded the benefit structure, as currently designed, is not only adequate but a good plan for the public employees of the State. The chief issue for the Board is to always ensure a reasonable base income in retirement given the fact the State does not participate in the social security benefit structure.

From the perspective of benefit or plan design on a cost-reduction basis, the Board has not considered methods for reduction of the design. There are a number of bill drafts proposed to consider different benefit structures for the System. We have not participated with the sponsors of the bill drafts requests to know the details. The PERS would cost those proposals from a salary-savings perspective. That applies to both benefit increases and reductions. Fiscal notes would be provided.

SENATOR COFFIN:

If the drafts have not yet been introduced, they may not be considered. Employee benefits are a politically-sensitive area. Those individuals receiving social security benefits do not receive full benefits until a later age than in the

past. That change was made to save the social security system. Nevada has not approached that possibility.

Life expectancy has increased. Individuals with productive lifestyles are retiring earlier. Discussions should be conducted, because the cost of local government pensions is huge.

Can the PERS create a model for the Committee that indicates the GATSB liability if retirement ages were changed? I am not discussing those within 15 to 20 years of retirement. I am talking about those within 30 or 40 years of retirement.

Ms. BILYEU:

My initial reaction is the PERS cannot model the unfunded liability based on your request because a change in benefit structure, based on current contract law, can only affect newly-hired employees. We can model the normal cost of the benefit structure associated with older ages. The contribution rate has multiple components; the normal cost which is the yearly accrual benefits paid over a working lifetime and the unfunded portion you have questioned.

When benefit structures are changed on a going-forward basis by reducing or increasing contributions, it has an effect on the normal cost portion of the rate. The actuary can model what the contribution rate would be on a going-forward basis with older retirement ages.

SENATOR COFFIN:

Can the model use older retirement ages and/or longer years of service required to reach full-retirement benefits?

CHAIR RAGGIO:

Those are good suggestions. The PERS and Public Employees' Benefit System are key problems. We will take what time is necessary.

Explain the decision unit requesting a new Las Vegas office facility in E-325.

E-325 Services at Level Closest to People – Page PERS-4

Ms. LEISS:

The need in that area is a result of the fact the majority of our members and benefit recipients reside or work in the Las Vegas area. Currently, we are staffed with four retirement examiners and one retirement technician. The four examiners are responsible for all in-person counseling with members and retirees. We need to increase counseling opportunities to the members and retirees. During peak retirement periods, primarily for teachers, members may wait more than six weeks before a scheduled counseling appointment. In FY 2005-2006, the existing four counselors in Las Vegas counseled over 6,000 members and answered 33,000 telephone inquiries.

CHAIR RAGGIO:

What is the location of the proposed office in Las Vegas?

Ms. LEISS:

An area has not yet been selected. If we receive the funding, we will be considering an area on the other side of the Spaghetti Bowl and the Las Vegas

Strip from our current location. We are currently located close to the McCarran International Airport. That area has proven difficult to access by some members and retirees because of traffic issues.

CHAIR RAGGIO:

Will the equipment in the existing office be replicated for the new location? How many staff is at the current location?

Ms. LEISS:

There are currently four examiner positions for counseling and one technician position.

CHAIR RAGGIO:

Is the request in decision unit E-325 for two additional staff?

Ms. LEISS:

We are requesting two new staff and plan to split the existing employees between the two offices.

CHAIR RAGGIO:

Decision unit E-275 is a large request for nearly \$5 million for the Computer Automated Retirement System of Nevada (CARSON) information system. Is it having problems?

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

Ms. LEISS:

Staff chose the name of CARSON. The system is working well. The need for the request is the environment on which the CARSON system works called a forte UDS environment and the migration is necessary because the forte UDS product is scheduled for end of life in 2008. Sun Microsystems made that announcement. This environment is specific to Windows 2000 and XP clients. Windows 2000 has announced end of life in 2010. At end of life, the environment will no longer be supported by the vendor and security risks will develop. The security risks include the PERS having no notification of new threats and no assistance in threat protection. Given PERS has an obligation to ensure the integrity and security of our data and the nature of the sensitive financial information we maintain for members, it is critical to have a secure system.

I have provided my written testimony ([Exhibit P](#)) for the Committee.

CHAIR RAGGIO:

Senator Beers, what is a Java-based platform?

SENATOR BEERS:

The old system must be retired. The Java is a programming link. I have no concerns over this request.

CHAIR RAGGIO:

We may have other questions as we move through this Legislative Session. Please prepare responses to the questions posed today by the Committee. Seeing no further testimony, I close the hearing on B/A 101-4821 and open the hearing on B/A 327-2626.

LEGISLATIVE JUDICIAL

LEGISLATIVE BRANCH

Nevada Legislature Interim – Budget Page LCB-7 (Volume I)
Budget Account 327-2626

LORNE J. MALKIEWICH (Director, Legislative Counsel Bureau):
To accommodate the beginning of Legislative Floor Sessions I request to begin with the B/A 327-2626.

CLAIRE J. CLIFT (Secretary of the Senate, Legislative Counsel Bureau):
With me at the table today is Ms. Susan Furlong Reil, Chief Clerk of the Assembly.

The Committee has been provided a document titled "Legislative Counsel Bureau Budget Request for FY '08 and FY'09" ([Exhibit Q](#), original is on file in the Research Library). Page 3 contains the Base Budget for B/A 372-2626. The Base Budget funds six permanent full-time staff and allows those staff and the assistant secretary of the Senate and the assistant chief clerk of the Assembly and our two sergeants-at-arms to participate in meetings of the National Conference of State Legislatures (NCSL), the American Society of Legislative Clerks and Secretaries (ASLCS) and the National Legislative Services and Security Association (NLSSA).

CHAIR RAGGIO:
When addressing all of these budgets, please address the recommendations of the committee that reviewed the budgets.

M-200 Demographics/Caseload Changes – Page LCB -7

MS. CLIFT:
Page 4 of [Exhibit Q](#) contains a request our funding be reinstated to normal levels. In FY 2005-2006, the sergeants-at-arms did not attend the NLSSA annual meeting; however, both attended the annual meeting in FY 2006-2007. We have expended close to our FY 2006-2007 appropriation that allows our staff to attend professional-development seminars.

We are requesting an increase in out-of-state travel of approximately \$3,700 for the secretary and chief clerk for each fiscal year to accommodate inflationary travel increases and to allow the chief clerk and myself to attend meetings of the Mason's Manual Commission, to which I am an appointed commissioner.

The decision unit also contains minimal increases for publications of \$300 in each fiscal year.

Page 5 of [Exhibit Q](#) contains the recommended increases by the Budget Division and the Governor for Cost-of-Living Allowance (COLA) and fringe benefits.

CHAIR RAGGIO:
The Committee is aware of those provisions throughout the *Executive Budget*.

MS. CLIFT:
Page 6 of [Exhibit Q](#) contains the provisions of enhancement decision unit E-710.

E-710 Replacement Equipment – Page LCB-8

This covers incidental office equipment purchased during the interim which is a minor adjustment. Decision unit E-806 requests an upgrade for our technical administrative assistants from a Grade 32 to a Grade 33.

E-806 Unclassified Position Salary Increases – Page LCB-9

This upgrade reflects an increased level of technical responsibility as well as an attempt to achieve some level of parity with other technical personnel within the LCB structure.

Page 7 of [Exhibit Q](#), reflects the budget, as presented in November 2006, contained an overall increase of 1.64 percent. With the Budget Division and Governor recommendations, our increases are 6.27 percent in FY 2007-2008, and 4.63 percent for FY 2008-2009.

CHAIR RAGGIO:

Are there three permanent full-time positions in each House and no new positions requested?

MS. CLIFT:

There are just the six permanent positions and the request for upgrade of the two technical assistant positions.

CHAIR RAGGIO:

I will close the hearing on B/A 327-2626 and open the hearing on B/A 327-2631.

Legislative Counsel Bureau – Budget Page LCB-1 (Volume I)
Budget Account 327-2631

MR. MALKIEWICH:

I have been director of the LCB for 13 years and an employee of the LCB for 25.5 years. I am proud to present the budget of the LCB, the finest service agency in the State.

[Exhibit Q](#) is a more-detailed version of the *Executive Budget*. There are approximately 300 employees in the LCB. Those 300 staff provide services to 2.5 million people in the State of Nevada.

The first budget I will review is the Legislative Commission, B/A 327-2631 on page 8 of [Exhibit Q](#).

There are three budget accounts within the LCB, one for the LCB, one for the Interim Legislature and one for the State Printing Office (SPO). All those of the LCB are under B/A 327-2631.

Page 8 of [Exhibit Q](#) is the Base Budget for the Legislative Commission. The budget has been changed by the removal of the High-Level Radioactive Waste Committee and the Committee on Education. Those have been placed in a separate budget under Statutory Committees. What remains is the funding for Legislators' participation in the various statutory committees.

Page 9 of [Exhibit Q](#) lists the dues paid to the various organizations. It is the largest area of increase in the budget for the Legislative Commission. Page 9 also reflects the minor increase of the annual audit of the LCB. This audit is done every few years. A minor adjustment was made in that budget item.

Page 10 of [Exhibit Q](#) reflects the budget for the interim studies of the Legislative Commission. Those Statutory Committee budgets have gotten quite large. The interim study budget allocation has been \$80,000 for the last several interims and even with inflation, thanks to videoconferencing, we have been able to keep the same budget level. The *Executive Budget* request is \$80,000 once again.

Page 11 is a summary of the budget of the Legislative Commission. Like many budgets of the Commission, the first year of the biennium is comparable.

CHAIR RAGGIO:

Please provide the Committee with a current list of the staffing requirements over the past interim that have occurred. The Legislature has only authorized three interim studies annually in each House, plus the statutory committees requiring staff. Every time a Legislative Session ends, other studies seem to creep in. We need to get control of that practice.

MR. MALKIEWICH:

I will provide the requested information. Your request leads to the next budget area for statutory committees, beginning on page 12 of [Exhibit Q](#). The creation of this budget classification was for the reasons you specified. Much of the increase was approved by the Legislative Commission after the fact. Staff is being squeezed into the position of covering two or three studies. All statutory committees have been moved into this budget.

Page 14 of [Exhibit Q](#) reflects the only increase proposed in this budget under decision unit M-200.

M-200 Demographics/Caseload Changes – Page LCB-2

We had requested four additional employees for this budget. The Budget Review Committee cut the request to a single position. That position is for the support of the Health Care Committee.

Page 15 requests minor increases for in-state travel of the Health Care Committee and the contract fund for the Education and Public Lands Committees.

Page 17 of [Exhibit Q](#) requests a reclassification of secretarial positions. There are two changes I requested. I requested secretarial positions to be increased across the board. We have a difficult time attracting staff for these positions.

CHAIR RAGGIO:

Will those requests be in each budget segment?

MR. MALKIEWICH:

They will appear in all the budgets for the LCB, at my request, to maintain equity across the divisions. Division chiefs explain they must bring secretaries in

at the top of their grade and are having a difficult time in attracting qualified individuals for these positions.

Page 18 of [Exhibit Q](#) contains a summary of the budget. The budget for Statutory Committees is \$1.2 million.

CHAIR RAGGIO:

I am unclear as to the assignments of the five staff positions requested. Are they not in a specific division?

MR. MALKIEWICH:

As a general rule, the positions are within the Research Division of LCB, but they are assigned to specific statutory committees. As statutory committees are added and do not have staff to maintain them, the budgets of new statutory committees have included the secretary and the analysts to staff the committee. These are continuing positions.

CHAIR RAGGIO:

These are full-time equivalent positions?

MR. MALKIEWICH:

That is correct. They are typically assigned 12 months in the interim year and 6 months during the Legislative Session.

CHAIR RAGGIO:

Is that the basis on which they are presented in B/A 327-2631?

MR. MALKIEWICH:

That is correct. It is the reason the budget request, in the second year of the biennium, is much less than in the first year.

Page 19 of [Exhibit Q](#) provides a breakdown, by committee, for the statutory committees.

CHAIR RAGGIO:

Explain why actual expenditures in FY 2005-2006 totals \$514,000 and it increases to \$830,000 in FY 2007-2008.

MR. MALKIEWICH:

The biggest reason for the increase is the addition of one position. The remainder is restoration of the budgets for different committees to amounts unspent in the FY 2005-2006 actual budget.

CHAIR RAGGIO:

Is the one new position requested for the Health Care Committee?

MR. MALKIEWICH:

That is correct.

When we created the data on page 19 of [Exhibit Q](#), we requested staff currently assigned to each of the statutory committees to prepare their budget recommendations for the coming biennium.

CHAIR RAGGIO:

The addition of one position cannot cause the budget to increase \$208,000. Why is the increase so large?

MR. MALKIEWICH:

Approximately \$100,000 is the total cost for one new position. The other factors include other funds included in the budgets of the individual statutory committees. Many times, the amounts were amounts included in the 2005-2007 biennial budget that were not spent. It is anticipated the funding will be needed in the coming biennium. We can provide the Committee a more detailed explanation.

Senator Cegavske had a bill to create one of the new statutory committees. A couple of new ones are proposed for this interim. Fiscal notes are attached to those measures. Before action is taken, the LCB needs to consider the requests and determine if the increase can be absorbed with existing staff or whether additional staff may be required. We have accounted well for the interim studies, but we have not done the same for the statutory committees.

SENATOR CEGAVSKE:

This is one concern discussed in the 2005 Legislative Session. We need to determine how many interim studies will be allowed, such as whether the Committee on Disabilities will continue. You did not project costs in the coming biennium. We must also consider existing staff. Subcommittees sometimes occur as a result of some of the interim committees. Was that included in the \$9,696 actual expenditure for FY 2005-2006?

MR. MALKIEWICH:

The amounts shown for the Committee on Disabilities would include amounts for the subcommittees. That was a labor-intensive committee for staff. In addition to having a number of meetings, a substantial amount of work went into the subcommittee.

SENATOR CEGAVSKE:

I was concerned if the Committee on Disabilities is continued. Statute specifies a subcommittee will be appointed for that committee.

MR. MALKIEWICH:

I cannot speak to the interim two sessions ago. I do know, during the last interim, this was a large statutory committee. If the sunset were to be repealed, it would have an impact on staffing.

SENATOR CEGAVSKE:

Both Houses need to consider committees that will be required and ensure the current staffing level will be adequate.

SENATOR MATHEWS:

Does the LCB automatically hire an interpreter for the deaf to serve the Committee on Disabilities, or is it provided by request only?

MR. MALKIEWICH:

As a general rule, all agendas and meetings give the notation to contact a secretary to request provision of an interpreter. We were providing interpreters for the Committee on Disabilities. We were often contracting both sign-language

interpreters and closed-captioning for those meetings. Generally, it would be a charge against one of the committees, but if the statutory committee did not have the provision in its budget, we would pay the costs from the administrative budget if necessary.

The budget of the Administrative Division begins on page 20 of [Exhibit Q](#). The Base Budget is shown. Page 22 of [Exhibit Q](#) indicates a major factor driving the increase in the budget of the Administrative Division. I have provided this Committee a memorandum providing detail on new positions and position upgrades ([Exhibit R](#)). It includes the seven positions approved and the nine positions the Budget Review Committee cut from the Administration budget. I request the two positions for communication technicians be reinstated for the Legislative Police. The Security Committee met and recommended these positions be added and I concur with the recommendation. I understand new positions are expensive. The seven positions will cost \$950,000, but I would ask this Committee to consider authorizing any of the positions that were cut by the Budget Review Committee that you deem appropriate.

CHAIR RAGGIO:

Would that be the addition of two new communication technicians and the seven approved by the Budget Review Committee? I thought two communication technicians were already recommended.

MR. MALKIEWICH:

That is correct. Four were initially proposed, providing 24-hour, 7 days a week (24/7) coverage.

CHAIR RAGGIO:

Are you saying all four positions are needed?

MR. MALKIEWICH:

In prioritization of new position requests, two were deleted allowing us to still provide coverage Monday through Friday to prove the concept. We believe it would be beneficial to have 24/7 coverage allowing officers to perform officer functions and have the communication technicians work the equipment.

SENATOR MATHEWS:

What addition would be made to this budget for the four positions? I concur with the request.

MR. MALKIEWICH:

The two communication technicians would add approximately \$95,000 annually to the budget.

CHAIR RAGGIO:

Is that figure for one position?

MR. MALKIEWICH:

No, it is the total annual cost for two communication technicians. Another reason for the request is, it is less expensive to hire a communication technician at a Grade 30 to run the console, than the cost of a trained officer.

CHAIR RAGGIO:

When would the staffing occur?

MR. MALKIEWICH:

If the budget is approved, new staff would be available July 1, and we would begin the hiring process in June 2007.

CHAIR RAGGIO:

Is it not more realistic to assume the new positions would not begin until approximately October 2007? That would allow some adjustment to the budget request.

MR. MALKIEWICH:

We can consider a budget savings by moving some of the newly-hired staff to a hiring date of October 1, 2007.

SENATOR COFFIN:

This is a sensitive area. Those who have experienced the need for assistance in the evening understand the need. I would hope we can approve the positions without a delay.

I want to ensure the salaries of LCB staff are not subject to a salary-survey challenge as compared to similar positions in other agencies.

MR. MALKIEWICH:

We will consider those observations.

SENATOR MATHEWS:

I am looking at the computer network technician at a Grade 38 and the communication technicians at a Grade 30. What is the difference?

MR. MALKIEWICH:

The communication technician would operate the console in the office of the Legislative Police. It is operation of the equipment, not a programming position. The positions in the Information Technology (IT) Division are generally programming and providing professional IT duties. The communication technician is similar to someone operating a complex telephone system, but in addition, they have responsibility for the cameras and key cards.

The biggest additional item in the budget of the Administration Division is for maintenance and furnishing for the new warehouse. That detail is on page 23 of [Exhibit Q](#).

CHAIR RAGGIO:

What is the cost for warehouse furnishings?

MR. MALKIEWICH:

We are constructing a warehouse adjacent to the SPO on the corner of Stewart and Fifth Streets in Carson City. It will be completed sometime in 2007. We anticipate moving into it this summer and fall. We will need to pay utilities used by both the SPO and the LCB.

CHAIR RAGGIO:

Does this budget request include utilities and maintenance for both facilities?

MR. MALKIEWICH:

Yes, as well as initial furnishings.

CHAIR RAGGIO:

What are the operating and equipment requirements?

MR. MALKIEWICH:

We will provide the equipment detail for this Committee.

SENATOR MATHEWS:

Are we using the Prison Industry inmates to build the furniture needed?

MR. MALKIEWICH:

I do not have that answer. We can consider that option. I do not have the specifics with me of what furnishings will be required initially. I will provide the information to the Committee.

[Exhibit R](#) requests a large number of position upgrades in the Administrative Division. The details are included in the memorandum. I will be pleased to discuss those with Committee members.

The summary, on page 28 of [Exhibit Q](#), lists the three major components of requested increases and the seven new positions.

CHAIR RAGGIO:

If the two communication technicians are added, would the total new position requests be nine?

MR. MALKIEWICH:

That is correct.

SENATOR MATHEWS:

Regarding the delicatessen manager position, do we not contract those services through the Bureau of Services to the Blind and Visually Impaired?

MR. MALKIEWICH:

Yes, we do. That is where the manager is currently funded. We are proposing to make him an employee of the LCB. It is one of the positions cut by the Budget Review Committee.

CHAIR RAGGIO:

This Committee is recessed at 10:46 a.m. and will reconvene at the conclusion of the Senate Floor Session to hear the remainder of the budget for the LCB.

The Committee is reconvened at 12:05 p.m.

We have two memoranda from the LCB, the new position and upgrade detail in [Exhibit R](#) and a memorandum providing an overview of these budgets ([Exhibit S](#)).

MR. MALKIEWICH:

That is correct.

CHAIR RAGGIO:

The memoranda will be made a part of the record.

MR. MALKIEWICH:

The next portion of the budget is that of the Audit Division beginning on page 29 of [Exhibit Q](#). Mr. Paul V. Townsend, Legislative Auditor, will present those budget items. Mr. Townsend has been employed by the Audit Division for 19.5 years.

PAUL V. TOWNSEND (Legislative Auditor, Legislative Counsel Bureau):

There are minimal changes in the budget of the Audit Division. One notable increase is in the cost of the single audit which falls under operating expenditures. This audit is performed by an outside certified public accountant firm. It is necessary to ensure continued funding of federal programs.

CHAIR RAGGIO:

What is the frequency of the single audit?

MR. TOWNSEND:

The audit is performed annually.

SENATOR BEERS:

Is the single audit an audit of the LCB as a whole or your audit process?

MR. TOWNSEND:

The single-audit process audits the entire State's financial system. It is the single audit for the entire State.

CHAIR RAGGIO:

Is the single audit a federal requirement?

MR. TOWNSEND:

That is correct. It is required to maintain eligibility for federal funding on specified programs. The federal funding is approximately \$2 billion in 2005. The single-audit report will be released shortly for this year.

CHAIR RAGGIO:

Who performs the audit?

MR. TOWNSEND:

The audit is performed by Kafoury, Armstrong Company. The audit contract was awarded in February 2006 by the Audit Subcommittee of the Senate Committee on Finance and the Assembly Committee on Ways and Means.

Page 30 of [Exhibit Q](#) lists the fringe benefits and COLA costs.

Page 31 of [Exhibit Q](#) lists enhancements. We are on a three-year replacement cycle for laptop computers. It helps to ensure auditors have appropriate and reliable equipment.

The enhancements, on page 31 of [Exhibit Q](#), discuss salary increases to bring positions in line with comparable positions in other divisions. The supervisors have extensive experience with the LCB ranging from 12 to over 19 years of service. All have prior audit experience as well.

CHAIR RAGGIO:

What kind of turnover has the Audit Division experienced?

MR. TOWNSEND:

The turnover rate has been low, averaging approximately 7 percent annually. That represents approximately two audit positions.

SENATOR CEGAVSKE:

Of the 31 employees within the Audit Division, are any positions half-time employees?

MR. TOWNSEND:

All employees are full-time employees.

Page 32 of [Exhibit Q](#) provides a summary of the budget of the Audit Division and the percentages of increase.

MR. MALKIEWICH:

The next budget is that of the Fiscal Analysis Division. It will be presented by Mr. Gary L. Ghiggeri, a 23-year employee of the LCB. He has served 6.5 years as the Senate Fiscal Analyst and is a 36-year employee of the State.

MR. GHIGGERI:

The Fiscal Division budget begins on page 33 of [Exhibit Q](#) where the Base Budget is located. One item I would highlight in the Base Budget is the continued funding for the Budget Analysis System of Nevada (BASN) software at \$10,000 in FY 2007-2008 and \$50,000 in FY 2008-2009. The allocation covers the cost of BASN when the Legislature is in Session.

Additionally, funding in each year of the biennium would continue the In\$ite Contract.

CHAIR RAGGIO:

Please evaluate the In\$ite Contract for the Committee.

MR. GHIGGERI:

I have not worked with the contract. It did prove useful when the Interim Study on Adequacy was performed. It enabled them to research actual cost information to assist in the study.

Decision unit M-200 is a request to align the travel and training fund to the 2006 work program approved by the 2005 Legislature.

M-200 Demographics/Caseload Changes – Page LCB-2

Costs or expenditures were not included in FY 2005-2006. It is now requested due to turnover within the Fiscal Analysis Division. We have new staff for which we would like to provide training and also allow them to visit agencies. That would allow them to view the operations of the agencies firsthand. It is imperative for the analysts to visit the agencies to enhance their understanding of the operations when reviewing budget detail.

CHAIR RAGGIO:

What has the staff turnover rate been in the Fiscal Analysis Division?

MR. GHIGGERI:

Turnover has been significant. Eight of the 22 professional staff have never worked throughout a Legislative Session.

CHAIR RAGGIO:

The Legislative Session is a new learning experience for those staff. I would like to pose to all the divisions of the LCB the amount of overtime currently being required and has been historically required, especially during a Legislative Session. The Committee must consider whether or not compensation is adequate for retention of staff. We place a great deal of pressure on the staffs of the various divisions of the LCB. Please provide a report of the overtime required.

MR. MALKIEWICH:

We will provide that information. I do not mention the number of years of service for these managers lightly. One of the challenges we have within the LCB is planning for transition.

I would like to return to the Committee with a proposal to hopefully encourage staff into longer service. I would also like to address certain inequities in the realm of overtime. The Legislative Police and the Capitol Police are the same grade level. However, Legislative Police receive straight time for overtime and the Capitol Police receive overtime compensation at 1.5 times compensation. Our programmers receive straight time for overtime. Those in the Department of Information Technology receive 1.5 times compensation.

CHAIR RAGGIO:

The Committee will anticipate the proposal.

MR. GHIGGERI:

At the bottom of page 34 of [Exhibit Q](#) is decision unit M-202.

M-202 Demographics/Caseload Changes – Page LCB-3

That request is directed to the In\$ite Contract providing additional funding to align past expenditures to the new chart of accounts. It will provide for the addition of five charter schools in FY 2007-2008 and two additional charter schools in FY 2008-2009. It will also provide \$10,000 in each year to compensate for the increase in cost of the contract with In\$ite.

CHAIR RAGGIO:

That decision unit is a maintenance item.

MR. GHIGGERI:

That is correct. Page 35 of [Exhibit Q](#) contains the fringe rate adjustments that have been discussed previously and the 2- and 4-percent COLA.

Page 36 of [Exhibit Q](#) provides funding of \$330,000 in FY 2007-2008 to rewrite the BASN system utilized by our office in the budget process. The System was first put out to bid in 1995 and became operational in 1997.

CHAIR RAGGIO:

Who is the BASN contractor? Have they been performing well?

MR. GHIGGERI:

The BASN contractor is Affinity, who have been performing well.

Decision unit E-710 provides for replacement of printers and laptop computers.

E-710 Replacement Equipment – Page LCB-8

Six printers would be replaced in FY 2007-2008 and 12 laptops in FY 2008-2009. Funding is also included for minimal replacement of equipment as the need arises.

Decision unit E-806 would provide for personnel upgrades.

E-806 Unclassified Position Salary Increases – Page LCB-9

This module would provide upgrades for six support staff in the Fiscal Analysis Division. These include one office manager, an assistant office manager and four clerical positions.

CHAIR RAGGIO:

Are any new positions being requested for the Division?

MR. GHIGGERI:

There are no requests for new positions.

MR. MALKIEWICH:

The next Division is the Legal Division of the LCB. Although my point has already been made, I will mention Ms. Brenda J. Erdoes, Legislative Counsel, has been a member of the Legal Division for 26.5 years and has been the Legislative Counsel for 13 years.

BRENDA J. ERDOES (Legislative Counsel, Legal Division, Legislative Counsel Bureau):

Our budget begins on page 39 of [Exhibit Q](#). The first decision unit is M-200.

M-200 Demographics/Caseload Changes – Page LCB-2

In this decision unit we have requested three new positions. One position requested would be responsible for the scanning of BDRs to the network. The technology would allow our attorneys to access the text of the BDR on their laptops while attending a committee hearing. We will have the ability to use the network copy to store information, saving an enormous amount of paperwork. Files can be downloaded to a compact disc for storage. Bill draft requests are maintained into perpetuity because our Division receives multiple requests for historical data. The service of filing on compact disc is currently done through a contracted provider.

The files are highly confidential and the vendor must transport the files to another location to provide the service. This is an expensive contract.

CHAIR RAGGIO:

Do you anticipate finding appropriate staff to fill that position?

MS. ERDOES:

I believe that is possible.

The third position is for an indexer. This staff performs the function of the bill index for Legislators. The index is not a "key-word" index; it is a "phrase-index." It can search for a term not contained in the language of a bill. For example, when the "lemon law" was passed, one can find an entry under "L" for lemon law although that information is not a part of the language of the legislation. These staff members review a document and attempt to notate all phrases that might be used to search for information. They are also responsible for the index to the *Statutes of Nevada* and the *Nevada Revised Statutes*. It is one of the sales factors for our publications. The head indexer retired after approximately 30 years of service and her level of production was greater than other staff so another position is needed to fill that gap.

Upgrades are requested in certain attorney positions to provide incentive. We have lost a considerable amount of expertise in full-time staff and one or two session hires. The remaining upgrades relate to our program to increase the technical support for our attorneys. We believe this will eventually assist with the amount of overtime required through technology.

CHAIR RAGGIO:

The Legal Division has experienced serious staff turnover.

MS. ERDOES:

Two attorneys were lost just before the beginning of the Legislative Session and two others resigned in November 2006.

CHAIR RAGGIO:

Do you currently have staffing at the authorized level?

MS. ERDOES:

No, the two November positions have been replaced; the two positions lost at the beginning of the Legislative Session have not yet been replaced. It is difficult to conduct an interview process during this time. It is difficult to hire too many new staff members at this point that are not trained in bill draft procedures. The two we have hired are doing well. They are tasked with assignments that do not require as much training.

CHAIR RAGGIO:

We appreciate your dedication.

MS. ERDOES:

The next decision unit is M-201 on page 41 of [Exhibit Q](#).

M-201 Demographics/Caseload Changes – Page LCB-2

This decision unit contains a funding request for additional costs of program maintenance. We are increasing the on-call pay because it increases the IT on-call staff available. Currently, only one IT staff is on-call on a part-time basis. It is frustrating to encounter computer problems when one is already working overtime.

We are requesting an increase in the gift-shop merchandise fund. Those funds are reinvested into purchase of further inventory.

CHAIR RAGGIO:

The gift shop carries a great selection of products.

Ms. ERDOES:

Thank you, I will pass the compliment to the staff. Our new space for the gift shop is smaller, but sales have increased. Perhaps this is due to switching products around weekly.

CHAIR RAGGIO:

What is the intended use of the \$68,000 requested for in-house document preservation? That seems to be the largest request in your budget.

Ms. ERDOES:

I spoke earlier to the position requested to be tasked with the program of document scanning and compact disc storage. The \$68,000 is the cost of the program itself.

CHAIR RAGGIO:

That is for the document security program?

Ms. ERDOES:

That is correct. We believe it will be cost effective in the long run.

Decision unit M-202 funds the payments for the new warehouse.

M-202 Demographics/Caseload Changes – Page LCB-3

I have provided the Committee with pictures of how the completed project will appear ([Exhibit T](#)). The remodel is a result of S.B. No. 101 of the 73rd Legislative Session. It authorized the lease-purchase for a parking lot and addition to the SPO. In [Exhibit T](#), the Committee will see the resurfacing of the front of the structure to match the remainder. It has been shortened. The warehouse is being constructed with windows. It is designed in 32-foot by 32-foot squares that can be built into offices, if needed, in the future. Approximately 12,000 square feet is being built into offices in the initial phase.

CHAIR RAGGIO:

What is the current status of the project?

Ms. ERDOES:

We have the dirt permit for the parking lot. They will begin work on that portion on Monday of next week. On April 1, 2007, we will begin the foundation of the building.

CHAIR RAGGIO:

What is the timeline for the project?

Ms. ERDOES:

The project should be complete by September 1, 2007.

SENATOR BEERS:

Will the entrance, shown on page 2 of [Exhibit T](#), face the Legislative Building?

MS. ERDOES:

The entrance will face the entrance for the parking garage of the Legislative Building.

SENATOR COFFIN:

I am disturbed the trees have been removed. Was any consideration given to preservation of the trees in the design of this structure?

MS. ERDOES:

We considered removal of the trees extensively. We have chosen to work with Carson City on this project and not the State Public Works Board. Carson City is conducting oversight of the project and they expressed concern as well. Because these were old-growth elm trees, it made a difference of whether or not they could be preserved at that age. We were able to preserve the elm tree in the parking lot area.

SENATOR COFFIN:

I want to ensure new trees are planted.

MR. ERDOES:

New trees are included as part of this budget item.

CHAIR RAGGIO:

Elm tree disease is prevalent in Nevada.

MS. ERDOES:

Equipment replacement requests are in decision unit E-710.

E-710 Equipment Replacement – Page LCB-5

We are systematically replacing our computers with those utilized by session employees similar to other divisions.

Page 46 of [Exhibit Q](#) begins the budget of the SPO. We are requesting one additional position of a journeyman printer and two position upgrades.

CHAIR RAGGIO:

Are you pleased with your assumption of duties for the SPO?

MS. ERDOES:

The change has been good. The union has been working well with us. There is a staff of 27 in the SPO. The new position would be responsible for operation of the new six-color multi-color press. In the 2005 Legislative Session, the SPO was authorized to delete the requirement for State agencies to utilize the SPO; thus, we must earn their business. To make it more economically feasible, we had requested an extension of our business practice to local and federal government agencies as well. We have not received many federal-level requests, but are doing well in local government requests. The SPO is excellent for small jobs in which we have expertise. Local agencies have been requesting high-gloss, high-color prints. To accommodate those requests, we made a

request, through the Legislative Commission during the interim, to purchase a six-color Mitsubishi press.

CHAIR RAGGIO:

In the budget summary, on page 51 of [Exhibit Q](#), it indicates there is approximately \$4.5 million in SPO revenue. Of that, \$1.3 million was an unreserved fund balance. Overall, are you anticipating greater revenue through quick-print sales in the next biennium?

MS. ERDOES:

We anticipate a slight increase in sales in the next biennium. We expect an increase of approximately \$200,000. It is a difficult market, but it is working and provides the Legislature with printing services for legislation and the *Nevada Revised Statutes*.

MR. MALKIEWICH:

Mr. Don O. Williams, Research Director, Research Director, will present the Research Division budget. Mr. Williams has been an employee of the Research Division for over 20 years. Mr. H. Pepper Sturm, Assistant Research Director, is also present at the table.

DON O. WILLIAMS (Research Director, Research Division, Legislative Counsel Bureau):

The Research Division budget begins on page 52 of [Exhibit Q](#). I have provided my written testimony ([Exhibit U](#)) for the Committee. The adjusted Base Budget request includes continued funding for the existing 42 positions. Pages 53 and 54 of [Exhibit Q](#) reflect the request for four additional positions. The positions are requested to address our increasing workload.

I have provided the Committee with a document relating to the number of research requests ([Exhibit V](#)). Figure 1 of [Exhibit V](#) indicates research requests are projected to increase between 19 and 24 percent. Currently, requests are 27 percent higher than at the same point in the 2005 Legislative Session. We are meeting the challenge. The four positions are requested to address the increased workload while maintaining the same level of service.

SENATOR CEGAVSKE:

All of the LCB staff who have been before us today are outstanding. I would particularly compliment the staff of Constituent Services. I have had some difficult constituent issues and I want to thank the staff.

SENATOR RAGGIO:

I concur. I was at a meeting last Saturday and one of the staff attended as well to provide support.

MR. WILLIAMS:

One of our concerns is retention of staff. Because of that, salary increases are proposed on page 59 of [Exhibit Q](#).

CHAIR RAGGIO:

What has been your rate of turnover?

MR. WILLIAMS:

In the past year we lost a principal analyst. His replacement then left us six months later. Just before the Legislative Session, one of the top Constituent Services staff became the chief clerk of the Assembly. Another analyst left immediately prior to session due to family issues. This conundrum of events has not occurred in the past.

CHAIR RAGGIO:

The Committee wants the Research Division included in the analysis that has been requested of proposals for retention of staff of the LCB.

The budgets of the LCB were reviewed by the interim Budget Review Committee.

This Committee is adjourned at 12:45 p.m.

RESPECTFULLY SUBMITTED:

Cynthia Clampitt,
Committee Secretary

APPROVED BY:

Senator William J. Raggio, Chair

DATE: _____