

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

**Seventy-fourth Session
January 23, 2007**

The Legislative Commission's Budget Subcommittee was called to order by Chair William J. Raggio at 8:41 a.m. on Tuesday, January 23, 2007, in Room 4100 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.

SENATE 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

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Mr. Morse Arberry Jr., Chair
Ms. Sheila Leslie, Vice Chair
Ms. Barbara E. Buckley
Mr. Mo Denis
Mrs. Heidi S. Gansert
Mr. Tom Grady
Dr. Joe Hardy
Mr. Joseph M. Hogan
Mrs. Ellen M. Koivisto
Mr. John W. Marvel
Ms. Kathy A. McClain
Mr. David R. Parks
Mrs. Debbie Smith
Ms. Valerie E. Weber

STAFF MEMBERS PRESENT:

Steven J. Abba, Principal Deputy Fiscal Analyst
Gary L. Ghiggeri, Senate Fiscal Analyst
Larry L. Peri, Principal Deputy Fiscal Analyst
Mark W. Stevens, Assembly Fiscal Analyst
Cynthia Clampitt, Committee Secretary

OTHERS PRESENT:

Andrew Clinger, Director, Department of Administration, and State Budget Director
Gustavo Nunez, Interim Manager, State Public Works Board, Department of Administration
Evan R. Dale, Deputy Manager, Administration and Finance, State Public Works Board, Department of Administration

Chris Chimits, Interim Deputy Director, State Public Works Board, Department of Administration

Robin V. Reedy, Deputy of Debt Management, Office of the State Treasurer
Ward Patrick, Chief of Planning, State Public Works Board, Department of Administration

Glen Whorton, Director, Department of Corrections

Frederick Schlottman, Administrator, Offender Management Division, Department of Corrections

James Austin, Ph.D., President, JFA Associates

Darrel Rexwinkel, Deputy Director, Support Services, Department of Corrections

Dorothy Nash Holmes, Deputy Director, Correctional Programs, Department of Corrections

Dorothy B. North, Chief Executive Officer, Vitality Unlimited

CHAIR RAGGIO:

I hereby call this meeting of the Legislative Commission's Budget Subcommittee to order at 8:41 a.m. We will proceed with the Department of Administration and the *Executive Budget* Overview.

EXECUTIVE BUDGET OVERVIEW

ANDREW CLINGER (Director and State Budget Director, Department of Administration):

I will present a brief overview of the State's economy, discuss revenues, one-shot appropriations and the surplus funds used to fund them and highlight the enhancements in the *Executive Budget*. I have provided the Committee with copies of the *State of Nevada, Executive Budget in Brief* ([Exhibit C](#), original is on file in the Research Library). I will follow the PowerPoint presentation titled "Highlights for the Governor's 2007-2009 Executive Budget" ([Exhibit D](#), original is on file in the Research Library).

Page 2 of [Exhibit D](#) indicates economic growth in Nevada compared to that of the United States over the last ten years. It is broken into three categories: population, personal income and employment. The personal income growth in the State has outpaced that of the nation by a significant amount.

Page 3 of [Exhibit D](#) reflects economic indicators in the areas of taxable sales, Las Vegas visitor volume and total gaming win. Over the last few years, taxable sales have enjoyed double-digit annual growth, and the gaming win has enjoyed double-digit growth recently.

CHAIR RAGGIO:

What is causing the Las Vegas visitor-volume decrease?

MR. CLINGER:

I am not sure. It may be an error in the graph.

CHAIR RAGGIO:

The graph shows taxable sales decreasing as well.

MR. CLINGER:

The growth in taxable sales has slowed. It is still in an area of significant growth but has slowed from a high of above 14-percent annual growth in 2005.

CHAIR RAGGIO:

Is the taxable-sales rate still hovering at approximately 10-percent annual growth?

MR. CLINGER:

Page 4 of [Exhibit D](#) reflects statewide employment totals. The total number of jobs in Nevada grew by 58,300 between November 2005 and November 2006. The November employment figures were up 4.6 percent relative to the previous year. In the first eleven months of 2006, job gains averaged 5.3 percent. The 5.3-percent growth in Nevada compares to a national average of 1.4 percent.

CHAIR RAGGIO:

Will the increase in the Nevada minimum wage and the likely higher federal minimum-wage increase be of concern regarding employment totals?

Mr. Clinger:

There have been no discussions relative to that concern. Although I am not an expert in that area, I would speculate those increases would have some impact on job growth.

Page 5 of [Exhibit D](#) projects the Las Vegas visitor volume will reach 41 million in 2009.

The various economic indicators emphasize Nevada has enjoyed fairly strong growth in General Fund revenues over the past three years. The growth rate in 2004 was 31.7 percent. That is related to the taxes enacted by the 2003 Legislature. The growth rate in 2005 was 14.1 percent and it was 11.5 percent in 2006. The Economic Forum is projecting growth of 3.6 percent in 2007; 5.6 percent in 2008; and 7 percent in 2009.

Page 7 of [Exhibit D](#) is a pie chart reflecting the total sources of funding for the *Executive Budget*. We focus a large amount of energy through the Governor and Legislative processes on the General Fund.

General Fund revenues represent support for 37.5 percent of the budget. Federal funds provide 21.4 percent, and 22.4 percent is derived from other sources. Other sources include fees specific to certain agencies such as the Department of Wildlife, the Real Estate Division and the Department of Business and Industry. The Highway Fund represents approximately 6 percent of the total budget. Interagency transfers and the balance forward complete the funding sources.

Page 8 of [Exhibit D](#) shows the General Fund sources during the 1995-1997 biennium. Sales and use tax were 39 percent of the revenue. Gaming tax was 39 percent of the revenue and various other sources made up the remainder of General Fund revenues. If those figures are compared to the current forecast, the reliance on sales tax, use tax and gaming taxes has decreased significantly. This is due to the modified business tax and other new taxes.

On page 9 of [Exhibit D](#), projections for the 2007-2009 biennium anticipate 32 percent of revenues from sales and use taxes, 28 percent from gaming tax,

10 percent from insurance premium tax, and 9 percent from the modified-business tax.

Page 10 of [Exhibit D](#) compares the Base Budget, Maintenance and Enhancement modules of General Fund appropriations in the 2005-2007 *Executive Budget* with the proposed 2007-2009 *Executive Budget*. The Base Budget is slightly larger in the proposed budget. Maintenance items are less, and enhancements are considerably less.

Page 11 of [Exhibit D](#) reflects the funding breakdown in the total proposed budget by specific functional areas.

Page 12 of [Exhibit D](#) compares the 2005-2007 and 2007-2009 biennia General Fund appropriations by function.

I have provided the Committee with a chart entitled "General Fund Operating Appropriations by Functional Area" ([Exhibit E](#)). This exhibit provides more detail than is provided in [Exhibit D](#).

[Exhibit E](#) compares the 2005-2007 budget with the 2007-2009 *Executive Budget*. Only General Fund appropriations are addressed. Column 1 lists the specific functional areas of the budget. Column 2 is the 2005 Legislative appropriations. Column 3 represents the Governor's *Executive Budget*. Column 4 highlights the difference over the biennium and Column 5 indicates the percentage of change.

One area of significance is education. The General Fund portion of the Nevada System of Higher Education (NSHE) budget has grown 16.17 percent. The Kindergarten through 12th Grade (K-12) function, which also includes the Department of Education, has grown 15.5 percent.

The Department of Health and Human Services (DHHS) has grown 22.63 percent. Public Safety has grown 29.13 percent. The Public Safety function includes the Department of Corrections (DOC) and the Division of Parole and Probation (P&P), Department of Public Safety (DPS). There is significant growth in the inmate population within the DOC. Positions have been requested in the P&P to accommodate growth in that area as well.

CHAIR RAGGIO:

I am attempting to track [Exhibit E](#) with the budget summary, on page 18 of [Exhibit C](#), and the figures do not appear to agree. Does page 18 of [Exhibit C](#) include revenue other than General Fund revenue sources? For example, Elected Officials in [Exhibit C](#) is shown as \$537.7 million in fiscal year (FY) 2007-2008 and \$591 million in FY 2008-2009.

MR. CLINGER:

The chart, on page 18 of [Exhibit C](#), reflects all sources of funds.

CHAIR RAGGIO:

Should the columns under spending, on page 18 of [Exhibit C](#), be headed FY 2008 and FY 2009 rather than FY 2008 and FY 2008?

MR. CLINGER:

You are correct. That is a typographical error.

CHAIR RAGGIO:

The total spending authority for both Higher Education and K-12 would be in excess of \$2.5 billion?

MR. CLINGER:

That is correct.

CHAIR RAGGIO:

What would the total General Fund appropriation for education equate to in [Exhibit E](#)? Would it be \$3.6 billion for the coming biennium?

MR. CLINGER:

That is correct. The chart, on page 18 of [Exhibit C](#), is based on actual expenditures and work program changes. If an agency has visited the Interim Finance Committee (IFC) with a request for change in their work program, those changes are reflected in the columns of [Exhibit E](#).

CHAIR RAGGIO:

Must the two columns of [Exhibit E](#) be added together to find the total authorized expenditures over the next biennium as contemplated by the *Executive Budget*?

MR. CLINGER:

That is correct. Please note on [Exhibit E](#) under the education function, in the K-12 category, the General Fund portion is growing at a rate of 15.5 percent. If the Committee were to look at the Distributive School Account (DSA) and the total expenditures within the DSA, total expenditures are growing 20.09 percent. The General Fund requirement is less because local revenues included in the total DSA funding are growing faster than they are needed.

ASSEMBLYMAN PARKS:

The chart on page 17 of [Exhibit C](#) more closely represents the information in [Exhibit E](#).

MR. CLINGER:

The total ongoing appropriations recommended in the *Executive Budget* are 17.98 percent higher than the allocations approved by the 2005 Legislature. The chart in [Exhibit E](#) does not reflect the one-shot appropriations. It does not reflect one-shot appropriations approved by the 2005 Legislature, nor does it show one-shot appropriations recommended in the Governor's budget. It is simply a comparison of ongoing appropriations.

Page 13 of [Exhibit D](#) is a graphical display of State employees per 1,000 Nevadans. The top line represents all employees; the middle line represents the number of employees excluding constitutional positions and higher education staff; and the lowest line also excludes human services positions. The ratio of State employees per 1,000 residents has declined over the last ten years.

CHAIR RAGGIO:

How many new positions are requested in the *Executive Budget*?

MR. CLINGER:

The total of new positions requested over the 2007-2009 biennium is 1,313.

CHAIR RAGGIO:

Please provide the Committee with a breakdown of where the proposed allocation of new positions is placed in the budget.

MR. CLINGER:

The DOC is requesting 353 new positions to respond to inmate growth. The DHHS is requesting 331 new positions over the biennium. A large portion of those positions would be placed in the Division of Mental Health and Developmental Services. That also includes positions for Medicaid in the Health Division.

The Department of Motor Vehicles (DMV) has requested 236 positions related to the Real ID Act of 2005. The DPS, which includes highway patrol troopers and parole and probation officers, has requested 155 new positions.

CHAIR RAGGIO:

Is there any recent information on the status of the Real ID Act of 2005? I believe Committee members have all received information on the potential cost to the states for the Act and whether or not consideration will be given to the potential cost by the new U.S. Congress. It has been suggested the Act will have an enormous impact on states. What will be the fiscal impact to the State of Nevada if it is required to comply fully with the Act by 2008?

MR. CLINGER:

I am not aware of any recent status changes to address your first question. The total cost to the State in the current biennium is a Highway Fund appropriation of approximately \$30 million.

CHAIR RAGGIO:

Why is implementation of the program so costly?

MR. CLINGER:

Some technology requirements are included, but a large portion of the cost is for positions needed in the Field Services Division of the DMV for the required verification of documents. It will no longer be possible to renew driver's licenses by mail. Every driver must appear in person at the DMV to comply with the Act.

CHAIR RAGGIO:

There are many critics of how government runs and how bloated it is. I recently reviewed charts prepared by a national organization indicating the number of public employees per capita in the United States. Nevada ranked 50th.

SENATOR BEERS:

Those same charts indicate Nevada has among the most highly-compensated public employees at the local government level in America. Nevada ranks in the top five in all categories and approximately one-third from the bottom in compensation of its State employees.

MR. CLINGER:

Page 15 of [Exhibit D](#) is a high-level summary of the proposed General Fund spending for the 2007-2009 biennium. Economic Forum revenue projections are approximately \$6.9 billion. There will be a slight adjustment to that figure. Reversions are projected at approximately \$155 million over the biennium. The total for projected revenues and reversions is \$7,080,267,592.

The next area of the table reflects recommendations for change in certain taxes and transfers of Unclaimed Property receipts. The first recommendation is a reduction in the modified-business tax from 0.65 percent to 0.62 percent. Over the biennium, the loss of revenue would be approximately \$28.2 million. The modified-business tax is currently collected at 0.63 percent based on legislation passed by the 2005 Legislature. That legislation will sunset at the end of FY 2006-2007 and the rate will return to 0.65 percent. The 0.65 percentage was used by the Economic Forum in making their forecasts.

The next item would eliminate the branch bank excise tax. This tax is the excise tax of \$1,750 passed on to financial institutions representing a \$5.9 million reduction over the biennium.

The next line recommends the transfer of \$2.8 million each year from the Unclaimed Property receipts to the Millennium Scholarship Fund. When S.B. No. 4 of the 22nd Special Session was passed, it transferred \$7.6 million in each year of the biennium to the Millennium Scholarship Fund. This request will increase the total annual transfer to \$10.4 million.

CHAIR RAGGIO:

Is there any concern that this proposal, coupled with other projected uses of the Unclaimed Property Fund, would create a situation of insufficient funding?

MR. CLINGER:

The current projections for Unclaimed Property receipts over the biennium are \$16.9 million in FY 2007-2008 and \$15.4 million in FY 2008-2009. Those figures reflect the current transfer rate of \$7.6 million annually. I believe there is no need for concern with the Unclaimed Property Fund.

CHAIR RAGGIO:

The Governor proposed the "Georgia Initiative" that would also be funded by the Unclaimed Property Fund.

MR. CLINGER:

That request is the next line on page 15 of [Exhibit D](#). It is a transfer of \$10 million from the Unclaimed Property Fund to an Economic Development Trust Fund. It would be used to leverage \$50 million for economic development activities.

The final item, in that section of page 15 ([Exhibit D](#)), is the transfer of approximately \$3.3 million from the gaming-tax revenues to aid problem gambling efforts. This is a result of another bill, S.B. No. 357 of the 73rd Legislative Session, which will sunset at the end of FY 2006-2007.

The next section on page 15 of [Exhibit D](#), reflects General Fund spending for the upcoming biennium. The Base Budget is \$5,552,954,662. Caseload growth

is projected at \$371,970,170. These revenues would be utilized for approximately 24,000 new students projected in the K-12 grades. It also anticipates the projected 1,140 new inmates in the DOC, Medicaid needs and other areas of caseload growth.

The next line reflects approximately \$127 million for inflation rates and mandates.

CHAIR RAGGIO:

What rate of inflation are you using?

MR. CLINGER:

The inflation rates for the Medicaid, DOC, and Mental Health and Disability Services (MHDS) are 7.25 percent in FY 2007-2008 and 7.75 percent in FY 2008-2009.

CHAIR RAGGIO:

Is that a higher rate than has been used in the past?

MR. CLINGER:

I am uncertain what rate was used in the past. Part of the inflation figure includes mandatory provider-rate increases required in Medicare. The mandates relate to different court orders including *L.C. and E.W. v. Olmstead* concerning reduction of waiting lists to below ninety days for those awaiting services.

Other maintenance items include the increase in active State employees' group health insurance and the retirees' group health insurance. A portion of the \$180,247,679 is the General Fund piece for prefunding the retirees' group health liability.

The next line, on page 15 of [Exhibit D](#), concerns the Cost-of-Living Allowance (COLA) for all K-12 employees, State employees and the NSHE employees. It also includes equity adjustments totaling \$279.6 million.

Approximately \$515 million would be left for enhancement allocations and other one-shot appropriations. There are \$328 million in enhancements in the *Executive Budget* leaving net resources of \$187 million. A portion of the remainder is spent on the Capital Improvement Program (CIP). The one-shot appropriations and CIP appropriations listed would be funded in FY 2008-2009. There are other one-shot appropriations remaining in FY 2006-2007. The grand total for the CIP is \$194 million over the biennium. An additional \$144 million is appropriated for FY 2006-2007.

The Governor's budget recommends a \$36 million appropriation to the Fund to Stabilize the Operation of State Government (commonly known as the rainy-day fund) in the second year of the biennium.

CHAIR RAGGIO:

Would that appropriation raise the total in the rainy-day fund to approximately \$300 million?

MR. CLINGER:

The total in the rainy-day fund would be \$303.6 million.

The next line, on page 15 of [Exhibit D](#), reflects an increase in the ending-fund balance as required. The State is required to maintain a reserve equaling 5 percent of ongoing appropriations in the *Executive Budget*. As the appropriations grow, the ending-fund balance must also be raised.

The final item, on page 15 ([Exhibit D](#)), is the estimated cost of the 2009 Legislative Session.

CHAIR RAGGIO:

Have supplemental appropriations for the 2009 Legislative Session been placed in the budget? Accommodation is necessary within this spending authority.

MR. CLINGER:

Any supplemental appropriations approved for funding in FY 2008-2009 would need to be accommodated by additional revenue growth such as that experienced over the last two biennia.

CHAIR RAGGIO:

They would still need to be within the spending cap. Will the budget still be under the spending cap in FY 2008-2009?

MR. CLINGER:

Yes, it will.

CHAIR RAGGIO:

I see no reserve set aside for supplement appropriations that might occur.

MR. CLINGER:

There are funds available under the cap limitations. It is not the typical practice to set aside for future supplemental appropriations from a total resources standpoint. There is room under the cap provisions to cover future supplemental appropriations.

CHAIR RAGGIO:

I am asking because the former Governor had proposed a budget in which there was approximately \$40 million that would have accommodated such payments. Is your testimony that it is not necessary to budget for this because there is funding beneath the cap limitations? Is the projection \$150 million?

MR. CLINGER:

The ending-fund budget is projected to be \$158 million under the cap limit. The cap can change. The demographer is reviewing the July 1, 2006, population forecasts. Our early estimates are that the cap margin could be reduced by another \$32 million. When the budget was initially drafted, the revenue projections indicated resources were sufficient to spend all of the funding up to the cap. My recommendation was that cap space be left for the 2009 Legislative Session to also accommodate supplemental appropriations.

CHAIR RAGGIO:

The Committee should also be aware of potential liability due to the Nevada Tax Commission, Department of Taxation decision involving excess sales-tax collections from power companies.

MR. CLINGER:

A decision was made by the Tax Commission, in May 2005, to grant a refund of \$65 million to Southern California Edison. The State's portion is approximately \$36.5 million, including the 2-percent sales tax and the 2.25-percent Local School Support Tax (LSST) that serves as revenue in the DSA.

One reason for recommending the rainy-day fund appropriation of \$36 million is to provide cushion for that occurrence. It would be similar to what occurred in the 2003 Legislative Session. The 2003 appropriation to the rainy-day fund would be contingent on a certain level of the ending-fund balance. For example, if during the biennium the tax refund was required and the resources were not there, then no transfer would be made to the rainy-day fund.

CHAIR RAGGIO:

Once funds are placed in the rainy-day fund, certain criteria must be met to withdraw those funds.

MR. CLINGER:

Revenues must drop below 5 percent to access funds in the rainy-day fund.

ASSEMBLYWOMAN LESLIE:

I share the Chair's concerns as to whether funds will be available when needed. The intent of the rainy-day fund is for times of financial difficulty, not to manage the State's money.

Was your testimony concerning Economic Development that an appropriation of \$10 million would be leveraged into \$50 million? What is the source of the \$50 million?

MR. CLINGER:

The \$50 million would be derived from bonding and the \$10 million would provide debt service for the bonding.

ASSEMBLYWOMAN BUCKLEY:

With regard to the Tax Commission issue, did this Committee receive a briefing on the rationale behind the Tax Commission's ruling? The amount will be even larger as interest accrues. Was background provided to the IFC?

CHAIR RAGGIO:

Members have been briefed in various committees. It has been ongoing for approximately two years. We can request a Committee briefing.

ASSEMBLYWOMAN BUCKLEY:

I would appreciate a committee briefing because I have not had an opportunity for questions on the matter.

MR. MARK. W. STEVENS (Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

The Department of Taxation will appear at the next hearing and we can request they discuss that situation.

ASSEMBLYWOMAN WEBER:

Where does the bulk of funding appear for caseload growth and inflation mandates in the Real ID Act?

MR. CLINGER:

The Real ID Act funding does not appear on the exhibits for the General Fund because they are allocated in the Highway Fund.

ASSEMBLYWOMAN WEBER:

Are the new employees for the DMV also allocated from the Highway Fund?

MR. CLINGER:

That is correct.

SENATOR COFFIN:

What will happen to the required cap on Highway Fund expenditures with regard to the costs associated with the Real ID Act?

MR. CLINGER:

The funding for the Real ID Act would have to be outside the 22-percent allocation cap.

SENATOR COFFIN:

Where would the funds for the Real ID Act be derived?

MR. CLINGER:

It would come from gas-tax revenues.

SENATOR COFFIN:

Are there sufficient funds in the gas-tax revenues to fund the expenditure?

MR. CLINGER:

There is a \$3.8 billion shortfall between the current time and the year 2015 in Highway Fund receipts versus State infrastructure needs. It would mean either certain projects will not be constructed or other choices would need to be made.

SENATOR COFFIN:

It was not clear to me in the State of the State address how we move from a blue ribbon commission to an advisory commission generating ideas, and still there are no concrete proposals to address construction needs. There is also a challenge to maintain the 22-percent Highway Fund cap. I assume the expenditures will need to come from the General Fund at some point.

MR. CLINGER:

That is correct. Otherwise, there needs to be legislation to exempt the Real ID Act portion of the budget.

SENATOR COFFIN:

Do you have any suggestions? Where is the appropriation in the *Executive Budget*?

MR. CLINGER:

The Real ID Act expenditure is recommended for funding from the total Highway Fund resources. A statement has been prepared that details the revenues and allocations of the Highway Fund over the next biennium. The cap has been balanced in that schedule.

SENATOR COFFIN:

I have read about the Real ID Act, but I am still unfamiliar with the details. How long will the 200-plus employees be needed to meet the provisions of the Act?

MR. CLINGER:

I am unfamiliar with the length of time those employees would be needed as well. When Ms. Ginny Lewis, Director, DMV, gives her presentation she will have further details for the Committee.

Page 16 of [Exhibit D](#) reflects General Fund appropriations since 1996 projected through 2009. The total appropriations recommended for FY 2007-2008 are \$3.4 billion and \$3.6 billion in FY 2008-2009.

Page 17 of [Exhibit D](#) represents the balance in the rainy-day fund for the same period of time. The graph bars for 2007 and 2008 reflect current balances. The 2009 bar reflects the additional \$36 million appropriation requested. That appropriation would bring the rainy-day fund to \$303.6 million figure cited earlier.

Page 18 of [Exhibit D](#) is useful. It represents the rainy-day fund as a percentage of General Fund appropriations since 1996. The Committee can see the balance has ranged from 6.6 percent in 2003 to a high in 1998 of 8.9 percent. With the addition of the \$36 million in 2009, the total percentage at that point would be 8.5 percent. The \$303.6 million in the rainy-day fund is in addition to the required 5-percent ending balance in the General Fund. At the end of FY 2008-2009, there will be an additional \$181 million in unallocated General Fund monies in addition to the \$303.6 million in the rainy-day fund.

Page 19 of [Exhibit D](#) reflects the fiscal year General Fund balances graphically.

Page 20 of [Exhibit D](#) reflects the percentage of change from FY 1999-2000 to FY 2005-2006 of the Nevada population compared to various areas of caseload growth. The largest increase is in the number of Medicaid recipients. The inmate population in this time period is slightly less than that of population growth.

Page 21 of [Exhibit D](#) is a representation of the legislatively-approved appropriations compared to the spending cap from 1982. The light color shading is the legislatively-approved spending and the darker shade behind are the spending cap levels. The graph is somewhat distorted toward the bottom due to the range the graph reflects. The graph reflects the State to be closer to the cap than what it is in reality. The graph reflects the FY 2006-2007 legislatively-approved appropriations as well as the FY 2008-2009 *Executive Budget* recommendations.

Page 22 of [Exhibit D](#) is a calculation of the cap for the current biennium. It begins with the base year of FY 1976-1977 with a total General Fund budget of \$389 million. To calculate the cap, the July 1974 population is compared to the

July 2004 population resulting in the percentage of change which increases the base expenditures to \$1.5 billion.

Next is an inflation adjustment for the same time period. The Budget Office compares the Consumer Price Index (CPI) in 1974 with the CPI in 2004 resulting in the percentage of change. That is applied to the base expenditures as well, resulting in a total cap of the biennium ending June 30, 2007, of \$6,025,048,894. The 2005-2007 legislatively-approved budget appropriations are \$5,842,978,772 leaving \$180,401,760 under the cap. The balance under the cap is approximately \$1.6 million for the current biennium.

CHAIR RAGGIO:

There has been a great deal of rhetoric over the past ten years about the Legislators being runaway trains who are spendthrifts. They say control is needed over spending and revenues. In the time I have served in the Legislature, in excess of 34 years, people seem to complain about taxes being raised and over-expenditures. Page 22 of [Exhibit D](#) should be made compulsory reading for those who are the critics. In the thirty years since the tax shift was implemented to avoid the oppressive effect of higher property values and property tax and more reliance on other forms of taxation, a cap was implemented for the Executive and Legislative Branches of government. The budget has not exceeded growth-plus-inflation rates for 30 years.

If one looks at where Nevada stands in comparison to other States, we are near the bottom in commitment to many areas such as Medicaid, Mental Health, or Corrections. Nevada has been fiscally responsible whether the Governor was a Republican or a Democrat. That should be considered as we begin budget deliberations.

MR. CLINGER:

I would add that the cap is calculated on population growth plus inflation growth. Page 20 of [Exhibit D](#) shows Medicaid recipients, from years 2000 to 2006, have outpaced population growth. One of the challenges is that certain segments of the population are growing faster than the general population, thereby placing spending pressure on the budget in relation to the cap.

SENATOR BEERS:

Has there been any effort to break out the caseload growth in Medicaid between natural growth and growth due to the addition of new programs or adjustment of eligibility standards?

MR. CLINGER:

I do not have that information with me, but I will provide it for the Committee.

Page 23 of [Exhibit D](#) details the same breakdown as page 22, but uses the time period of July 2006 for both population and inflation growth. It represents the cap calculation imposed on the upcoming budget in FY 2007-2009. The cap has grown from \$6,025,048,894 to \$7,065,116,387. That is equal to the growth in State population and inflation.

The *Executive Budget* recommends total appropriations that are subject to the cap. Construction and the rainy-day fund are exempt from the cap. Based on the current estimates of population, we are approximately \$158 million below

the cap. The population numbers are subject to change. We should know in March or April 2007 what the projections will be.

SENATOR BEERS:

It is my understanding the cap does not apply to the Legislature.

MR. CLINGER:

That is correct.

SENATOR BEERS:

Is it only applied to the Governor's budget proposal?

MR. CLINGER:

That is correct.

SENATOR BEERS:

I see the cap is based on the base expenditures for FY 1975-1976. It is possible the Legislature could appropriate beyond the cap. Because the cap is based on a time-specific 30 years ago, there may come a time when the Legislature would appropriate beyond the cap, and a Governor would be forced to present a flat budget because the Legislature was spending beyond the cap.

MR. CLINGER:

As the State budget director, I would caution the Legislature not to spend beyond the cap because if that occurs for the FY 2007-2009 biennium and my office prepares the budget for the following biennium, we may need to cut certain initiatives put in place by the Legislature beyond the cap to balance the *Executive Budget*. Supplemental appropriations are one area where, if the Legislature chose to make those appropriations beyond the cap, the Budget Office would find it necessary to cut budgets.

CHAIR RAGGIO:

Spending beyond the cap is not something this Chair would approve.

ASSEMBLYWOMAN BUCKLEY:

I agree. Spending beyond the cap is not a consideration.

MR. CLINGER:

Page 24 of [Exhibit D](#) reflects the total operating expenditures in relationship to the cap. The total ongoing expenditures are \$6.8 billion. It is detailed in [Exhibit E](#). In addition, page 24 lists other expenditures subject to the cap. Those include the estimated cost of the 2009 Legislative Session at \$20.5 million. Certain one-shot appropriations total \$53,721,031. A small number of items in the ongoing budget are exempt from the cap. They relate to facilities, maintenance and construction projects. After the adjustments are made, the total operating cost calculation is \$6.9 billion. That amount is \$158 million under the cap. Other items outside the calculation are \$50 million for the CIP and the \$36 million transfer to the rainy-day fund. After adding the exempt appropriations into the calculations, the total appropriations over the biennium are \$7,000,398,449.

[Exhibit F](#) is a statement of projected unappropriated General Fund balances for the upcoming biennium. Each block represents a fiscal year. The State began

FY 2006-2007 with \$351.4 million in the ending-fund balance, approximately \$212 million above the required reserve. In [Exhibit F](#) is reflected excess revenue prior to and including FY 2006-2007. The total estimated receipts in FY 2006-2007 are \$3.4 billion. There were approximately \$3.5 billion in recommended General Fund appropriations. That calculation includes \$27 million in supplemental appropriations, \$111 million in one-shot appropriation recommendations and \$23.6 million to restore certain fund balances. Those funds include the IFC Contingency Fund, the State Claims Account and the Statutory Contingency Account.

CHAIR RAGGIO:

Is the proposal that the funds be restored to a higher level than they have been historically?

MR. CLINGER:

Yes, it is.

CHAIR RAGGIO:

There were shortfalls in some areas, and I want to assure we are being prudent.

MR. CLINGER:

The IFC Contingency Fund was allocated \$12 million. The *Executive Budget* recommends a \$14 million balance in the IFC Contingency Fund. In addition, a \$1.5 million increase is recommended to the Fire Suppression Account. One of the major expenses over the last biennium was that of fire suppression.

The ending-fund balance in FY 2007-2008 is \$167.9 million and at the end of FY 2008-2009 it is \$181.9 million. The ending-fund balance in FY 2008-2009 is approximately \$4.5 million above the required 5-percent reserve balance at 5.13 percent. There is \$4.5 million unspent above the required reserve level.

I will now provide a summary of the CIP. The Governor recommends a \$912 million Capital Improvement Program. It is funded with \$524.8 million in bonds and \$194 million in General Fund appropriations. Of the \$194 million, \$144 million is funded in FY 2006-2007 and \$50 million is requested in the next biennium.

The available Highway Funds are recommended to fund \$23.5 million and other fund sources, such as donations for the NSHE, are requested at \$169 million.

The Committee will be provided detail on the projects by the State Public Works Board (SPWB) later in the hearing.

Page 26 of [Exhibit D](#) reflects one-shot appropriations and excess revenues. I have provided a sheet labeled "The 2005-2007 Governor Recommends One-Shot Funds" ([Exhibit G](#)). The top portion shows the sources of excess revenues to fund the one-shot appropriation requests. The top line shows the ending-fund balance for FY 2004-2005. The first column represents the ending-fund projection during the 2005 Legislative Session of \$131 million. The actual ending-fund balance for that fiscal year was \$163.9 million leaving excess funds of \$32.6 million. Total revenues for FY 2005-2006 and FY 2006-2007 were \$326.8 million higher than the approved budget.

Reversions were also higher. The FY 2006-2007 reversion is much higher due to the LSST.

CHAIR RAGGIO:
How realistic is that reversion number?

MR. CLINGER:
Are you referring to FY 2006-2007 reversions?

CHAIR RAGGIO:
That is correct.

MR. CLINGER:
I believe the FY 2006-2007 number is very realistic. I received a projection from the Department of Education concerning their estimate of reversions from the DSA. I projected more conservatively than their estimate. The DSA estimate from the Department of Education was \$197 million. I projected \$185 million because I did not feel comfortable with the higher level. The remainder is the historical percentage of General Fund reversions.

SENATOR BEERS:
Is it reasonable to infer that local governments enjoyed a similar windfall?

MR. CLINGER:
Yes, because they would have the same level of sales tax growth that the State has had.

The next section of [Exhibit G](#) contains adjustments to the General Fund balance. The next line is the rainy-day fund transfer pursuant to *Nevada Revised Statutes* (NRS) 353.288. The statute requires if a General Fund ending-fund balance exceeds 10 percent, 40 percent of the excess must be transferred to the rainy-day fund. The \$49.4 million transfer was made at the end of FY 2005-2006.

The Spend-Down Unappropriated General Fund balance of \$9.5 million was the amount above the Legislatively-approved budget two years ago. That amount was above the 5-percent reserve requirement and a portion is being spent down. The total excess funds available is \$475.9 million for one-shot appropriations; however, because of the 5-percent cap, only \$182 million can be spent on items subject to the cap.

CHAIR RAGGIO:
Although there are surplus funds, everyone should be reminded because of the cap, only \$182 million is available for appropriation.

MR. CLINGER:
The next portion of [Exhibit G](#) lists the items subject to the cap including supplemental appropriations, restoration of certain fund balances and restoration in the Tort Claims Fund. That is revenue from the settlement made involving litigation on the Southern Nevada Veterans' Home. The restoration to the Disaster Relief Fund is directly related to the fire suppression efforts. The total excess funds available are \$161.9 million. There is also \$18.5 million requested

for the cost of the 2009 Legislature bringing the \$180-plus million of the \$182 million subject to the cap.

The balance of the remaining funds is \$314 million which, because of the spending cap, cannot be allocated for anything other than construction projects. The Governor's budget recommends \$170 million for State Highway Projects.

CHAIR RAGGIO:

Is that amount essentially for the I-15 project?

MR. CLINGER:

That is correct.

CHAIR RAGGIO:

Is the I-15 appropriation request because there are no federal funds available for the project?

MR. CLINGER:

I am not sure of the details of that calculation.

The Governor's recommendation for one-shot projects not subject to the expenditure limit of \$314 million is allocated for highway projects and the 2007 CIP.

I will now highlight portions of the *Executive Budget*. Page 30 of [Exhibit D](#) is titled Fighting Methamphetamine in Nevada. The budget includes \$17.4 million to fight the Nevada methamphetamine problem, and \$100,000 is earmarked for a working group in the Governor's Office. The working group is established by Executive Order. The group is to be chaired by the Attorney General and include representatives from other State and law enforcement agencies. The intent of the working group is to bring a recommendation to the Legislature by April 1, 2007, of specifically how to address the problem.

The budget recommends \$3.2 million for ten additional public safety investigators. These would be broken into two five-member teams who would be placed in communities as needed to help fight methamphetamine and then move on to another community. They would be mobile teams.

The DHHS is to be allocated \$2 million for education and awareness. The definition of exactly how the listed funds would be expended is the responsibility of the working group. My office has simply earmarked a placeholder in the budget for those funds. Hopefully, the working group will provide specific recommendations on how to spend the funds.

Of the \$17.4 million, \$5.3 million will replace lost federal funds for community prevention programs. Another \$3.8 million is earmarked for substance abuse treatment that will, hopefully, reduce waiting lists to receive treatment.

The final \$3 million is to be used for integration of the systems for care of substance abuse and mental disorders. Those are commonly referred to as "co-occurring disorders."

ASSEMBLYWOMAN GANSERT:

Are these funds in addition to what is already being allocated with the exception of the replacement for federal funds? Are there already allocations in the DHHS budget?

MR. CLINGER:

At this point, I am not aware of what the current funding level is in the Bureau of Alcohol and Drug Abuse. The requested funds on page 30 of [Exhibit D](#) are in addition to those funds.

ASSEMBLYWOMAN LESLIE:

What use do you anticipate for the \$100,000 allocation requested for the working group?

MR. CLINGER:

It will be used for travel and to meet other needs of the working group. The allocation request is a placeholder in the budget at this point. The idea was to establish the working group as quickly as possible to facilitate having recommendations for the Legislature by April 1, 2007.

ASSEMBLYWOMAN LESLIE:

Is the allocation currently not tied to any specific detail?

MR. CLINGER:

That is correct.

ASSEMBLYWOMAN LESLIE:

My understanding is the treatment funding currently covers approximately 8 percent of those individuals on the waiting list.

MR. CLINGER:

I am not sure of what percentage is covered by the \$3.8 million.

Page 31 of [Exhibit D](#) lists the one-shot appropriations. The first two items have already been discussed. The next item is \$20 million in General Funds for the Nevada Cancer Institute. That \$20 million includes \$10 million appropriated in FY 2006-2007, primarily to add laboratory and clinical space. An additional \$5 million each year is requested in FY 2007-2008 and FY 2008-2009 to help the Institute recruit and equip researchers and to continue education and outreach programs.

An allocation of \$12 million to Opportunity Village is requested to assist with a new facility being built in southern Nevada. Opportunity Village provides vocational training, employment, and social recreation for people with intellectual disabilities.

The next item is an allocation of \$5 million to be split between High Sierra Industries and the Washoe Association for Retarded Citizens. These are agencies equivalent to Opportunity Village in southern Nevada.

Another \$10 million is appropriated to the Lou Ruvo Brain Institute for research, clinical studies and other operating costs.

An appropriation of \$4.5 million is requested for the Institute for Neuroimmune Disease. It is allocated at \$3.5 million in FY 2006-2007 and \$1 million of ongoing funds in the 2007-2009 biennium. These funds would support staffing and operating costs.

The next item is a \$10 million request for statewide stream restoration and improvement efforts.

Next is a \$6.5 million request for construction of a new courthouse in White Pine County. The request would fund 50 percent of the total cost of the project. The total cost of the new courthouse is \$13 million.

Another \$5 million is requested for a rural economic assistance fund which would provide a rainy-day fund for rural counties.

SENATOR BEERS:

Where are the matching funds for the courthouse to be derived?

MR. CLINGER:

The county would provide the matching funds. There is no further allocation from State funds.

SENATOR BEERS:

Is the issue driven by the Ely State Prison as well as the type of hard-core cases being heard in the existing courthouse?

MR. CLINGER:

That is correct.

ASSEMBLYMAN GRADY:

Currently, White Pine County is being managed by the Department of Taxation because they have no money. How do we ever expect them to fund the remaining costs of a new courthouse?

MR. CLINGER:

I do not know if there is a lesser project that could be considered for the \$6.5 million. There was a recommendation in the *Executive Budget*, in the 2005-2007 biennium, for \$8 million which represented the total cost of the new courthouse at that time. The cost of the project has gone from \$8 million to \$13 million in two years.

The budget includes \$2.1 million for the Nevada Discovery Museum in Reno. It would allow the Museum to purchase the old Reno city hall.

The final item on page 31 of [Exhibit D](#) is an appropriation of \$10 million for the NSHE Computing Center. It would integrate the NSHE computing resources.

Page 32 of [Exhibit D](#) lists statewide budget highlights in the coming biennium. The budget recommendation to improve the salaries of health care providers in State service is \$11 million allocated from the General Fund. It would be used to increase the salaries of nurses, mental health counselors, psychologists and clinical social workers. The State is over 40 percent behind the market in salaries for some of these areas. A 10-percent increase was granted to nurses

in the last budget cycle. The \$11 million would provide another 10-percent increase in the categories mentioned.

The *Executive Budget* contains a request for \$50 million to begin pre-funding the \$4 billion State retirees' health insurance liability. Approximately \$30 million will come from the General Fund and the remaining \$20 million will come from federal funds, other fees and Highway-Funded agencies.

The budget includes \$1.7 million for Yucca Mountain litigation and consulting with scientific experts. The funds would be split between the Office of High-Level Nuclear Waste and the Attorney General's Office. This recommendation will bring the total funding in each office to \$2 million each.

SENATOR TITUS:

How does this funding compare to past levels?

MR. CLINGER:

This proposal is approximately double previous funding for both agencies.

Finally, \$12.6 million is requested for the Unified Tax System (UTS). It is broken down into \$4.2 million in one-shot funding to complete work on the UTS system and \$8.4 million in FY 2007-2008 and FY 2008-2009 to continue development and implementation of the system. A portion of those funds are for staffing and training needs.

EDUCATION — Overview (Volume I)

Page 33 of [Exhibit D](#) graphs the K-12 school enrollments for FY 2007-2008 and FY 2008-2009. The total projected enrollments are expected to increase 3.1 percent in FY 2007-2008 and another 2.68 percent in FY 2008-2009. The percentages are an addition of 24,378 new students or a 5.9-percent increase over the biennium.

Page 34 of [Exhibit D](#) is a graph of K-12 students per 1,000 residents.

Page 35 of [Exhibit D](#) is a graph of the NSHE enrollments. The enrollments used in the *Executive Budget* are based on formula funding on a weighted average from the previous three years. The most recent year is weighted the highest. During FY 2008-2009, it is anticipated the NSHE will have 67,559 students. Their growth, compared to what was budgeted in the previous budget cycle, is essentially flat.

Page 37 of [Exhibit D](#) lists the education budget highlights. A request of \$60 million was addressed in the State of the State Address to fund an empowerment model and to decentralize school budgeting. The intent is to provide educators and parents more flexibility and control overfunding. The model is based on a model developed in Edmonton, Alberta, Canada. It has also been implemented in Chicago, San Francisco and New York.

SENATOR BEERS:

On January 24, 2007, in the Legislative Building, Room 3100, at 5:30 p.m., Dr. Michael Strembitsky, creator of the empowerment program, will host a

discussion of the empowerment model. Assemblywoman Smith and I requested the presentation.

MR. CLINGER:

The next item on the list is \$51 million to continue the full-day kindergarten pilot program in at-risk schools. The funds are derived from the Remediation Trust Fund created by former Governor Guinn in the last budget cycle. There is \$121 million currently in the account. Certain funds were transferred from the DSA into this account.

CHAIR RAGGIO:

How does that fund grow from the \$27 million originally allocated for the kindergarten pilot to \$51 million in the *Executive Budget*? Is it tied to additional enrollment or rollup costs?

MR. CLINGER:

The 2005 Legislature allocated \$22 million for the full-day kindergarten pilot program. It was scheduled to begin in FY 2006-2007. The \$51 million request represents two years of funding throughout the biennium and rollup costs for merit pay and COLA costs.

CHAIR RAGGIO:

In other words, the \$22 million did not fund a full year of the program?

MR. CLINGER:

That is correct. The \$22 million was the cost to fund one year of the program. The \$51 million covers both years of the program in the coming biennium.

The *Executive Budget* includes \$6.7 million for a regional development program. The intent is to use the funds for training and education of K-12 teachers, counselors and administrators.

Next, \$3.7 million is requested for leaders of the school improvement support teams. These teams work with schools that are failing to make adequate-yearly progress.

The \$157 million is part of the CIP program for the NSHE. It funds three health science projects in the 2007 CIP. The university match is \$47 million from private sources and the remaining \$110 million is State funds.

A request of \$7 million is for the development of a Workforce Development Challenge Grant Program. It would develop programs to stimulate emergent- or incumbent-worker training for statewide businesses and industry.

An allocation of \$2 million is requested to the Desert Research Institute (DRI) to begin inventorying statewide groundwater resources. It is an eight-year project. The \$2 million will fund the first two years of the project.

A request of \$400,000 is made to develop the Nevada Scholars Program.

Another \$400,000 is requested for the P-21 Council.

CHAIR RAGGIO:

I thought this was a P-16 Council. Has it grown to a P-21 Council?

MR. CLINGER:

This was formerly the P-16 Council. It is recommended to increase to a P-21 Council.

CHAIR RAGGIO:

Is this adding graduate school to the program?

MR. CLINGER:

That is correct. The Governor is referring to the Council as the P to Ph.D. Council.

The *Executive Budget* includes \$16.4 million to increase NSHE's formula funding from 84.5 percent to 85.5 percent. In addition, \$18 million is included in the NSHE budget to "hold harmless" certain education institutions that would otherwise lose funding due to enrollment figures lower than what was budgeted in FY 2006-2007. Those include the University of Nevada, Reno (UNR), Great Basin College and the Community College of Southern Nevada.

That completes the highlights of the education budgets. I will now move into the DHHS budgets.

HUMAN SERVICES – Overview (Volume II)

Page 38 of [Exhibit D](#) is a projection of the Nevada Medicaid recipients throughout FY 2008-2009.

Page 39 of [Exhibit D](#) projects the Nevada Medicaid recipients per 1,000 residents.

Page 40 of [Exhibit D](#) is a chart of the Temporary Assistance for Needy Families (TANF) grant recipients.

SENATOR BEERS:

Do you know how recently those numbers were updated? I understand there was a 7-percent drop when Nevada complied with the federal requirement to compel TANF recipients to prove citizenship.

MR. CLINGER:

I will verify if these figures were compiled before or after the required federal changes were made. Based on the numbers on page 40 of [Exhibit D](#), the TANF caseload is projected to increase over the biennium by 9.9 percent. The Medicaid caseload was projected to grow 9.6 percent.

Page 41 of [Exhibit D](#) lists the highlights of the DHHS budgets. The *Executive Budget* requests \$56 million in total DHHS funding. The General Fund portion is \$27.8 million to fund increases in the fee schedule for physicians and other medical-care professionals. The Department is currently using the Medicare 2002 Fee Schedule. This budget item would bring reimbursements up to the Medicare 2007 Fee Schedule. It represents approximately a 24-percent increase.

CHAIR RAGGIO:

Is that request proposed in the first or second year of the budget?

MR. CLINGER:

It begins October 1, 2008.

The budget includes \$7.3 million to increase the daily foster-care rate. The rate currently averages \$21.50 a day. The *Executive Budget* recommends increasing the rate to \$24 a day in FY 2007-2008 and \$28 a day in FY2008-2009.

There is \$8.8 million requested to improve child welfare services. Some of the items planned for this funding would include 32 new employees to improve the worker-to-child caseload ratios in Clark County; 8 new staff to facilitate the placement of children directly into foster care; 5 new staff to expand the foster parent recruitment, training and retention; 6 new staff for foster care licensing efforts; and 6 new staff as foster parent liaisons. In Washoe County, the request would fund one position to improve the caseload ratio; add new staff for foster care licensing; three counselors to expand the family preservation program; and three additional positions to meet workload demands.

In the Division of Child and Family Services Administration budget, we are recommending eight new positions to provide improved oversight of all child welfare activities. Additional positions are being funded in the family resource centers statewide to provide alternative responses to child protective services. All of these items are included in the \$8.8 million request to improve child welfare.

A request for \$1.5 million in total funds is included for children and their families in mental health crises. A total of \$950,000 is from the General Fund. It will provide immediate telephone response, screening, triage and community-based response. It is essentially a crisis hotline.

A request for \$11.2 million in State funds would fund construction of a 12-bed acute-care psychiatric beds for children and adolescents at the existing Desert Willow Treatment Center.

Also, \$8.2 million in General Fund savings initiatives are included in the *Executive Budget* within the Medicaid area. Staff is being added to the Medicaid Recovery Unit where the investment is expected to generate savings of \$929,000 in General Funds over the biennium. Seven positions are being added to the Surveillance and Utilization Review Unit to decrease fraudulent and abusive billing practices. That budget item is expected to save \$886,000 in General Funds during the biennium. The Committee will hear of further savings when the Department presents its budget.

Finally, \$17.8 million is included to continue the initiatives originally funded by A.B. No. 175 of the 73rd Legislative Session. The initiatives funded in that legislation are scheduled to sunset and are being requested as enhancements in the proposed budget. This includes funding for mental health courts and triage units.

That completes the overview of Human Services. We will now move to Public Safety and the Department of Corrections.

PUBLIC SAFETY

Department of Corrections — Overview (Volume III)

Page 42 of [Exhibit D](#) is also shown on page 46 of the *Executive Budget in Brief* ([Exhibit C](#)). The graph compares the October 2004 projection with the March 2005 and the October 2006 projections. The steep line on the top is the latest projections used to compile the *Executive Budget*. In the current biennium, 1,140 new inmates are expected. To accommodate the increase, the DOC is adding 337 new positions at a cost of \$29.9 million. An additional \$10.7 million is included for "inmate driven" expenditures.

The budget requests \$30 million for the Real ID Act discussed earlier. It impacts an area of the budget already projected to be \$3.8 billion behind.

Another area not shown in [Exhibit D](#) is an addition of 60 positions to the Nevada Highway Patrol. Those positions would be funded through the Highway Fund. I do not have those budget figures with me today.

SPECIAL PURPOSE AGENCIES

Office of the Military — Overview (Volume III)

There is \$1.7 million requested from the General Fund to establish the Project ChalleNGe Program in Nevada. Currently, Nevada youth are being sent to Arizona where a similar program is in place. The program places high school dropouts into a military-type environment where the goal is for them to earn their General Education Degree (GED).

ASSEMBLYWOMAN BUCKLEY:

Do you have details of the Project ChalleNGe Program? I would like to know how many youth, and from what areas, they might be selected.

MR. CLINGER:

I do not have the details with me; however, there are specific numbers tied to the requested funding. I believe it will fund approximately 200 youth each year. The \$1.7 million request represents the State's share. The federal government will fund 60 percent of the Program.

ASSEMBLYWOMAN BUCKLEY:

How does the Program operate?

MR. CLINGER:

I am not an expert on the Program. My understanding is that youth who have dropped out of high school will be placed in a structured environment similar to a military boot camp. The Program encompasses educational and recreational programs and various training. The goal of the Program is to assist the youth in achieving their GEDs.

CHAIR RAGGIO:

I would like to commend the Governor. On January 22, 2007, he invited the Legislative Leadership to a briefing of the *Executive Budget*. The Project ChalleNGe Program was discussed. It is the first time in my history of service

under six Governors that a Governor has provided a briefing to Legislative Leadership prior to the State of the State message.

MR. CLINGER:

I would add that I make myself available to this body and the entire Legislature and staff to provide any assistance that I am able.

ASSEMBLYWOMAN LESLIE:

I appreciated the charts provided in your presentation. There are some excellent goals provided in your presentation today.

SENATOR BEERS:

The *Executive Budget in Brief* is online.

MR. CLINGER:

The *Executive Budget in Brief* ([Exhibit C](#)) and the entire *Executive Budget* are online on the Budget Office Website.

CHAIR RAGGIO:

We will close the overview of the *Executive Budget* and open the hearing on the overview of the Capital Improvement Projects.

ADMINISTRATION – Overview (Volume I)

GUSTAVO NUNEZ (Interim Manager, State Public Works Board, Department of Administration):

I have provided the Committee with a publication, *Nevada State Public Works Board 2007-2009 CIP and SPWB Budget* ([Exhibit H](#), original is on file in the Research Library).

The State Public Works Board (SPWB) is responsible for the development and implementation of the Capital Improvement Program (CIP). We also serve as the building department for all construction on state-owned lands. We play a major role in managing the CIP funds which include assisting the Office of the State Treasurer with timing, amount and investment of general obligation bonds and maintaining separate accounts for each CIP project.

While other methods, such as design-bid-build and construction management at-risk, are used most projects are managed through the low-bid method.

CHAIR RAGGIO:

What is the difference between the low-bid method and the other processes?

MR. NUNEZ:

In the low-bid method the SPWB hires the architect, the project is fully designed, plan-checked and then advertised for bid in local newspapers in accordance with NRS 338. A bid opening is conducted and the award is typically made to the lowest-responsible bidder. A responsible bidder means one that has completed the required bid process as specified by the bid documents and submitted it to the SPWB. At that point, the contract is awarded to the low bidder.

In a design-bid-build method, the selection of the design-build team is made through a process of qualification and cost. The architect works with, and in most cases for, the contractor. The contractor is the entity that has the ability to provide the performance bond and necessary insurance requirements. The process is outlined in NRS 338.

In the construction manager at-risk method, the architect works for the owner, in our case the SPWB, and the contractor also works for the Board. The contractor is chosen in accordance with their qualification and background in performing construction management at-risk and similar projects. The cost involved in this process is specified in NRS 341. During the design process, the contractor assists with constructability and cost issues. They advise the architect and owner in those areas. Close to completion of the design the SPWB gets a guaranteed-maximum cost from the contractor. If it is within budget and scope, a construction contract is accepted and construction of the project begins.

ASSEMBLYMAN HOGAN:

Could you explain how the benefits of competition are achieved in the design-bid-build methodology?

MR. NUNEZ:

Within the design-bid-build process, NRS 338 requires a minimum of 30 percent of the score be based on cost. When design-build teams bid on projects, they submit a cost proposal which comprises 30 percent of their score. The remainder of the competition concerns qualifications of the contractor and the design team. Consideration can be given to projects done separately or jointly and on projects similar to the one being proposed.

ASSEMBLYMAN HOGAN:

What has been your experience in the number of competitors bidding on projects? That will give us an idea of how well the cost scoring provides the benefit of competition. Do you typically have more than two or three bidders or less than two or three?

MR. NUNEZ:

The law requires the Board to have a minimum of two bidders for each project. The Richard H. Bryan Building in Carson City was funded through lease-purchase; however, it was a design-build project. We held a pre-submittal conference attended by 40 or 50 firms. Of those, 12 submitted statements of qualifications. The Board then narrowed the bidders to three for the final competition. At the low end, approximately four bidders have been the least we have experienced.

We have had good response on larger projects in the metropolitan areas. We have experienced difficulties in remote areas such as Caliente, Lovelock and other small communities. We have faced difficulty in finding enough qualified contractors with interest to bid in those areas.

ASSEMBLYWOMAN BUCKLEY:

I am a new member of the Assembly Committee on Ways and Means, but it is not new for me to hear concerns about the SPWB. I have heard comments such as "the Board should be overhauled," or "it should be privatized." During your

overview presentation, please discuss what is being done within the agency to reform it. Also, discuss the challenges that have been experienced and what is being done to correct them. I have plans to meet with Chairs Arberry and Raggio to discuss whether there is some new and different plan that can be utilized. At the IFC and other venues we hear from individuals trying to get out from under the control of the SPWB because they feel they cannot manage their projects appropriately.

CHAIR RAGGIO:

There are bill draft requests concerning this matter and it is of concern. I would like to limit the discussion today to an overview of the CIP budget. We will take up the concerns at another time.

ASSEMBLYWOMAN BUCKLEY:

I would happy to work on scheduling a meeting. These are matters that should be considered.

CHAIR RAGGIO:

The Chair shares your concern. I have had discussions with the Interim manager and members of the SPWB.

SENATOR BEERS:

Does the agency have a document that lists the last six years of CIP projects showing the estimates, final cost and a narrative?

MR. NUNEZ:

Part of our presentation reviews the 2001, 2003 and 2005 CIPs and lists every project having a cost issue, whether it came before the IFC or as a subsequent CIP to supplement the prior CIP.

SENATOR BEERS:

Are there any projects that did not experience problems?

MR. NUNEZ:

Approximately 10 to 15 percent of CIP projects experience issues.

SENATOR BEERS:

Are you saying 85 percent of projects did not have substantial issues?

MR. NUNEZ:

That is correct.

SENATOR BEERS:

It would be helpful to have a complete list that includes the projects that did not have issues.

MR. NUNEZ:

We can provide that information in a table format. We can also provide the information by individual project.

CHAIR RAGGIO:

I suggest we hear the presentation of the CIP budget overview and then see if time remains for discussion of ancillary issues.

MR. NUNEZ:

The CIP process begins six months after the authorization of the prior CIP. In other words, six months from July 1, 2007, we will start the process of developing the project scopes and cost estimates of the next CIP cycle.

Our staff spent 2,856 hours in preparing the 2007 CIP and in processing 173 applications. The total cost for all the applications represented approximately \$1.4 billion submitted to the SPWB.

After the scope and cost estimates are developed, a series of hearings are conducted by the Board. At the conclusion of the hearings, the manager makes a recommendation to the Board and the Board decides which projects to recommend to the Governor. The Board's recommendations must be delivered to the Governor pursuant to statute by October 1 of each even-numbered year. The Governor reviews and modifies the recommendations of the Board resulting in the Governor's Recommended CIP. The result is the publication, *Nevada State Public Works Boards 2007-2009 Recommended Capital Improvement Program* ([Exhibit I](#), original is on file in the Research Library). Ultimately, [Exhibit I](#) is modified and approved by the Legislature and resubmitted to the Governor for approval and funding.

The SPWB then selects the design team and the project process begins which includes: programming, designing, cost estimation, bidding and construction. A brief description of these activities is provided in [Exhibit H](#).

Page 5 of [Exhibit H](#) lists the agency goals. These include the purchase and implementation of an electronic information management system and the implementation of a risk management system for projects with costs over \$40 million. A risk management system would provide alerts of potential claim issues and legal advice.

The next goal is a result of the SPWB meeting with the NSHE. It is a request to develop an agreement in accordance with NRS 341 between the SPWB and the NSHE regarding responsibilities for the development and implementation of the CIP.

The fourth goal is to increase the rate of design and construction projects from \$200 million to \$400 million each year in the next biennium. The size of the CIP is growing considerably. In the last year and a-half, we have increased the rate of completion from \$100 million to \$200 million each year. It resulted in the Legislative approval of three additional project managers and four additional building inspectors.

The fifth goal is to continue streamlining processes through the use of check lists and technology.

The final goal is to recruit, train, and retain a highly-qualified professional staff. This goal is a major challenge.

Major challenges are listed on page 5 of [Exhibit H](#). Those include the need to increase interest in Public Works projects within the construction industry to obtain competitive bids; to provide additional training for staff in managing risk in the construction contract administration phase; and to deliver projects for the

DOC within their schedule. It is critical to meet their timeline and need for inmate beds.

Mr. Evan Dale, Deputy Manager, will cover the status of the 2001, 2003 and 2005 CIP projects.

EVAN R. DALE (Deputy Manager, Administration and Finance, State Public Works Board, Department of Administration):

The charts are on pages 6, 7, and 8 of [Exhibit H](#). All projects in the 2001 CIP, except eight, are completed. We predict two of those will be completed by the end of the current year. Six projects will be carried into the next biennium.

Major projects not completed include rural armory renovations, the Clear Creek improvements and the door locks in Caliente. We are experiencing difficulty in generating bid interest in the Caliente area. Other incomplete projects are the Science and Engineering Building, the University of Nevada, Reno Library Center and the Nevada State College.

All 2003 CIP projects, except 18, are complete. We predict four of those projects will be complete by the end of the current year and the remaining projects will carryforward.

The major 2003 CIP projects include approximately four projects in Caliente. Those were recently brought before the IFC. They included a recreation building, a pool and renovations to the heating, ventilation and air-conditioning (HVAC) systems. One project is for the Science and Engineering Building, the DRI Maxey Science Center, a security system for the Community College of Southern Nevada (CCSN) and four statewide programs.

Almost one-half of the 2005 CIP projects are either complete or under construction. The remaining 43 percent are in the design phase.

SENATOR MATHEWS:

I wonder if we should just put the Clear Creek project to rest. When I think of myself as a home owner, if I keep ignoring a leak, I will not only have a bad roof but a bad inside ceiling. This Clear Creek project has been under discussion since 2001, but maintenance work is not even being completed. It baffles me that we let buildings deteriorate and then say there are not enough funds for the repairs when inflation has set in.

MR. CLINGER:

Correct, in that the \$1.2 million remaining in that project is insufficient to bring the buildings up to a level that would make them usable. I have a meeting on February 1, 2007, with representatives from the Department of Administration to discuss this topic and hopefully bring a suitable plan before the Legislature.

SENATOR MATHEWS:

I am not sure whether we should just let this project die.

CHAIR RAGGIO:

In his discussion with the Legislative Leadership, the Governor suggested the camp will be considered, perhaps, for the Nevada National Guard Youth-at-Risk Program. That would probably involve more funding than has been proposed.

I do not intend to speak for the Governor, but simply to pass the information on to the Committee as a possibility.

MR. NUNEZ:

Some roof and siding repairs have been done to prevent further deterioration of the structures.

MR. DALE:

Page 8 of [Exhibit H](#) lists the projects currently on hold. Projects 05-C17 and 05-C27 are pending additional funds from the next CIP. The work at the Grant Sawyer Office Building is on hold until the tile repair is completed. Project 03-C97L is a security system upgrade at CCSN added during the 2003 Legislative Session. A scope has not yet been done on the project.

Chris Chimits, Interim Deputy Manager, will provide an overview of the statewide projects.

MR. CHRIS CHIMITS (Interim Deputy Director, State Public Works Board, Department of Administration):

Under the Statewide Roofing Program, eight projects were funded in the 2001 projects and seven were completed. The incomplete project will be complete by June 2007.

Twenty-two projects were funded in the 2003 program. Sixteen projects are complete and five will start construction in February 2007. They will be complete by June 2007.

Twelve projects were funded in the 2005 CIP and half are completed. The other half, at the Ely State Prison, will start when the snow stops and will be complete by September 2007.

The 2001 CIP for the Statewide Paving Program and the 2003 CIP paving projects are 100-percent completed. Eleven paving projects were funded in 2005, and five were completed. Five are design complete and awaiting batch plants opening. They will be completed by August 2007.

Eleven projects were funded in the Statewide Planning Program. Nine projects were completed. Two are in the design phase and will be completed by June 2007. The 2005 program funded five projects and three projects were completed. The remaining two are in the design phase and both will be completed no later than September 2007.

The 2001 Hazardous Materials Program is 100-percent complete. The 2003 and 2005 programs are also 100-percent complete. The funds remaining were provided by the Risk Management Division and that agency has requested the SPWB retain the remaining funds.

The 2001 Statewide Fire and Life Safety Program is 100-percent complete. The 2003 program is two-thirds complete. The remaining one-third of the 2003 CIP is underway with completion dates scheduled for June 2007. The 2005 program is one-third complete. We have currently obligated approximately \$1.5 million of the budgeted \$5.1 million.

The 2001 Statewide American with Disabilities Act (ADA) Program is 100-percent complete. The 2003 program contains six projects and one is complete. The final project will be complete by May 2007. The 2005 program has nine projects; four are complete; two are on hold; two are in the construction phase; and one project was cancelled. The two projects in construction will be completed by May 2007.

Mr. Nunez will discuss legal actions for the Committee.

MR. NUNEZ:

The only pending legal action is the Grant Sawyer Office Building tile claim. A status of the claim was provided during the last IFC meeting. The State of Nevada, through the SPWB, sued the general contractor architect and the exterior tile subcontractor in the Eighth Judicial Court in Clark County. The tile and other subcontractors with less significant problems have also been made parties to the action.

The case is into discovery and, if not settled, the case is set for trial in 2008.

SENATOR CEGAVSKE:

On page 9 of [Exhibit H](#), under the Statewide Roofing Program, it lists one building that blew down. Was that building at one of the prisons?

MR. NUNEZ:

The building damage was submitted as an insurance claim. It was a metal building that has since been completed at the Nevada State Prison.

SENATOR CEGAVSKE:

How much was the insurance settlement?

MR. NUNEZ:

I do not have those figures with me today, but I will provide them to the Committee.

The next item we will discuss is cost overruns. Pages 11 through 16 of [Exhibit H](#) list all the projects in the 2001, 2003 and 2005 CIP that have experienced some form of cost overruns. We looked at all the IFC hearings back to the beginning of the 2001 CIP and all the CIP projects to determine if there was funding in any of the projects for a prior CIP project. The project overruns have been categorized into four groups: schedule delays, estimating deviations, request of scope increases and scope creep.

CHAIR RAGGIO:

Please define scope creep.

MR. NUNEZ:

Scope creep is typically a result of two things. It concerns project managers who work with the using agency. The design team, in the early stages of the design process, needs to ensure the project is kept within budget and scope, as approved by the Legislature, as the using agency expresses their needs. The design team must pay attention to detail so, as the project progresses, the scope, budget, programming and preliminary design ensure enough detail is

provided so the project stays within scope and budget and is a successful bid. This is listed as a challenge in my presentation.

Schedule delays were tracked beginning with the 2005 CIP. As soon as a CIP is approved, milestone dates for each major phase of the project are developed. The milestone dates are monitored at weekly staff meetings. Should any slippage be reported, it must be justified and the project manager must provide a mitigation plan to address the slippage.

The SPWB has gone outside the traditional sources to address estimating deviations. In the past, we went to the architects and engineers for assistance in estimation of projects. Currently, we utilize professional estimators to assist owners and contractors in estimating and preparing budgets. The SPWB will discuss estimating and inflation in greater detail at a later time.

When an agency requests additional scope and identifies funding sources, those scope increases will continue to be presented to the IFC for approval.

CHAIR RAGGIO:

I am wondering if certain guidelines or policies are in place. For example, I recall the arbitration that occurred with respect to the Southern Nevada Veterans' Home. Are policies or guidelines in place to prevent going to bid until all specifications have been identified? The arbitrators were critical that the contracts were let, but the bidders were not provided complete plans, specifications and designs before the bids were let. I understand the longer a project waits for bid, the inflation factor increases.

MR. NUNEZ:

Yes, sir. Not only is there a policy, it is the law that third-party-plan checking must be done on all projects before going out to bid.

CHAIR RAGGIO:

Will that be followed?

MR. NUNEZ:

That will be followed. There is a procedure and checklist for each project. Part of the checklist must be signed as completed by the project manager with his stamp. The checklist is also reviewed by the chief of design and myself before the project goes to bid.

We also have a permitting section that reviews and advises whether, based on the record, the plan check has been completed.

CHAIR RAGGIO:

With few exceptions, the other policy the Legislature has imposed is that State funds are not committed until other sources of funding have been received. Is that policy being followed?

MR. NUNEZ:

Yes, sir.

CHAIR RAGGIO:

It is incumbent on the agency to maintain a schedule because the delay in receiving other sources of funding also triggers the inflation factor. Someone has to monitor that process. Is that being done?

MR. NUNEZ:

Problems in that area have occurred in the past. Mr. Dale is responsible for that process. He ensures the funds are available before a contract is signed. This includes State funds and all other sources of funding for the projects.

CHAIR RAGGIO:

Any changes tantamount to a change in scope are to be brought before the appropriate Legislative body for approval.

MR. NUNEZ:

It is the policy of the SPWB to not only bring those changes before the Legislature, but to stop the process pending Legislative approval.

ASSEMBLYWOMAN McCLAIN:

Is the State in jeopardy of losing federal funds for the central dining area at the Southern Nevada Veterans' Home if a new CIP is not in place on the project soon?

MR. NUNEZ:

Currently, the Veterans Affairs Administration has received confirmation of the grant. Obviously, since this project has been on hold, the CIP bill required the SPWB could not begin design until the grant was received. Nothing has been started, and the inflation factor is increasing. The amount of the grant received was larger than expected. The SPWB will appear at the next IFC meeting to request additional funds to maintain the original scope of the project. At that point, the design phase will begin.

Before construction begins, additional matching funds from the State will be necessary. If the IFC approves the SPWB request, a contract cannot be awarded until the 2007 CIP is approved to allow the State matching funds allocation.

ASSEMBLYWOMAN McCLAIN:

How long will the federal government allow before the grant must be utilized?

MR. NUNEZ:

In our discussions with them, the current process meets with their approval.

ASSEMBLYWOMAN McCLAIN:

Is there no time limit on the grant funds?

MR. NUNEZ:

I am sure there is a time limit, but the plan I outlined meets their requirements according to discussions that have taken place.

MR. CHIMITS:

As a part of the process to keep the project on track, the architect-selection process has been completed and the proposal is ready. That will enable the SPWB to act quickly on the project once funding is available.

MR. NUNEZ:

Page 17 of [Exhibit H](#) describes the history and process of estimating projects. We have utilized current costs from recently bid or constructed projects and national publications such as *Means Cost Estimating* for construction cost estimating for the 2007 CIP. The estimates are prepared by the individual project managers and receive a peer jury in-house review. The annual publications we have relied on in the past are not keeping pace with the spiking cost of building materials and construction costs. We are currently moving to the use of professional estimators.

Page 17 of [Exhibit H](#) provides a history of how inflation was adjusted in prior CIP projects. It also discusses how inflation is applied in the current CIP process. The SPWB uses a 12-percent inflation rate except for southern Nevada projects. An annual inflation rate of 14 percent is applied for southern Nevada. The inflation rate is applied at the beginning when a project is estimated. The estimations for the 2007 CIP are nearly six months old at this point.

For smaller projects, inflation is typically advanced through award of the contract. On larger projects, which are typically projects taking in excess of twelve months for construction, inflation is advanced to the midpoint of construction.

Page 18, Figure 1 and Table 1, of [Exhibit H](#) provide the actual history of inflation derived from various sources. They include the Clark County School District which is one of the professional estimators in southern Nevada. The O'Connor Construction Management projections are another source the agency uses. The charts graphically display some of the spikes in inflation looking backward from 2003 and as reported by the *Engineering News-Record*. Inflation ran between 2 and 3 percent for many years, but it began spiking at the end of 2003 and the beginning of 2004. Future projections are also shown on page 18 of [Exhibit H](#) to the end of the 2007-2009 biennium.

Clark County School District notified us on January 22, 2007, that their next bond issue beyond 2009 will use a 10-percent inflation rate each year for the life of the bond issue.

Page 19 of [Exhibit H](#) shows the cost of inflation has more than doubled from 2003 to the present.

CHAIR RAGGIO:

It has been a concern for years that what was a complete project, including furniture, fixtures and equipment (FF&E), must be brought before the Committee for increased construction and inflation costs, often cutting the FF&E and deferring it to the next biennium. The result is a cut in other proposed projects. The Committee has been told that is the only option. We are told cutbacks cannot be made in design or other areas to adjust for these costs. It would seem a prudent course, given fluctuating double-digit inflation, that design and planning should include some reductions in scope plans if necessary. Would it be more prudent to allow for alternatives at the design stage to anticipate such spikes? Is that impossible?

MR. NUNEZ:

It is not impossible.

CHAIR RAGGIO:

I know some people do not like the idea, but it seems, given the historical pattern in almost every case, some alternatives could be developed.

MR. NUNEZ:

On the larger project designs, beginning with the 2005 CIP, the Board advocates that design be funded under one CIP and construction under the next CIP.

CHAIR RAGGIO:

Could an alternative be built into the project at the design phase in the event cutbacks are necessary?

MR. NUNEZ:

Alternatives could be built into the project during the design phase. Keep in mind the design is done in modules that could be deleted if need be. It would affect the way certain facilities are designed.

CHAIR RAGGIO:

I would expect the SPWB to work with the agency and say, "This is what you would really like, but in the event the funding is not available, what would accommodate the agency needs as fully as possible if cutbacks are necessary?"

MR. NUNEZ:

That can be done. It would affect the way a design is drafted.

CHAIR RAGGIO:

Please carry that thought back to your Board.

MR. NUNEZ:

I will do that. Excerpts from various articles are provided on page 20 of [Exhibit H](#) concerning project estimation. One is from a Davis Langdon article, "Construction Industry Market Report," Mid Year 2006 issue. Our region includes Arizona, California, Hawaii and Nevada. There is a common theme in the articles.

Page 4 of the report states:

The dramatic changes in material price and the possibility of labor or material shortages make it very difficult for bidders to develop reliable price estimates for their work. Since most construction procurement transfers the cost risk to the bidder, bidders must include substantial risk premiums in their pricing. This in turn leads to bids that are significantly higher than might be otherwise attributable to known or expected changes in source costs.

This type of cost risk is something that cannot be gleaned from any data or publication. It especially applies in Clark County. Other quotes from the publication address various issues within our region.

The excerpts from local firm publications, on page 21 of [Exhibit H](#), mention a large project in southern Nevada called City Center in Las Vegas. It is an extremely competitive project for the labor force. The managers have gone to other construction projects and offered workers \$4 or \$5 an hour over the

market rate to pull the worker to come to work on their project. Contractors go to work in the morning and find a portion of their workforce is gone.

A common theme appears in all the publications. Inflation expectations in the Nevada market are somewhere between 10 and 15 percent. The SPWB uses 12 percent, except in southern Nevada, where we use 14 percent.

A successful bid date will depend on getting good coverage from the sub-trades and the amount sub-trades include in their bids to manage the risk of doing business in such a market. One management challenge is to ensure good competition on all bids.

At this time, you will hear a presentation on bonding capacity. Ms. Robin Reedy, Deputy of Debt Management, will make that presentation.

ROBIN V. REEDY (Deputy of Debt Management, Office of the State Treasurer):
I have provided the Committee with documents titled "Debt Capacity Report Biennium 2008-2009" ([Exhibit J](#), original is on file in the Research Library) and the "State of Nevada Treasurer's Office Annual Debt Summary June 30, 2006" ([Exhibit K](#), original is on file in the Research Library). Both of these documents can be viewed on our Website.

I am pleased to inform you it is the intent of Treasurer Kate Marshall to provide the Legislature timely and accurate information to assist you in making informed decisions. Treasurer Marshall recognizes the enormous tasks facing the Legislature with regard to the Public Employees' Retirement System, the Public Employees' Benefits Reporting, the transportation infrastructure and the Capital Improvement Plan. The Office of the Treasurer will be happy to work with staff to provide clear, coherent information on which to make educated decisions. [Exhibit K](#) will bring members current on the State debt history and how it works for the State through the previous fiscal year.

[Exhibit J](#) reflects the debt capacity with regard to the CIP. The document can and will be changed as your decisions are made. The current report reflects the property-tax abatement and legislation. While interest rates, inflation rates and tax revenues appear as constant, these assumptions are reevaluated each time the report is run. The appearance of such constancy is the result of great consistency, accuracy and a little bit of luck.

The Office of the Treasurer is tasked with issuing the debt the Legislature authorizes, and it must be done within all legal parameters. We must know, with 100-percent certainty, the debt we issue is within the parameters and we will never issue more debt than we can afford.

Page 1 of [Exhibit J](#) is prepared by the Department of Administration. It reflects the *Executive Budget*. We have used those figures to coordinate what is available to issue and what is presented to the Legislature in CIP projects.

Page 2 of [Exhibit J](#) lists assumptions used in development of the debt limit. These percentages are one area of the computation that may be changed. The abatement and property-tax revenues are taken directly from the *Department of Taxation Redbook*. The 30-year inflation rates are listed. The computation assumes the property-tax rate will remain stable. Currently, the portion of the

tax rate used to pay for the general-obligation debt is \$0.1585. An additional amount of \$0.0115 is added to pay for Question 1 bonds. It is listed under a separate affordability.

CHAIR RAGGIO:

I thought the tax rate used was currently at \$0.16 and another \$0.1 was added for parks. Where is the \$0.1585 figure derived?

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

The last CIP approved by the Legislature provided for a property tax-rate of \$0.1585 for CIP projects and \$0.0115 for bond questions regarding natural resources, resulting in a total of \$0.17.

MS. REEDY:

To avoid increasing the rate above \$0.17, we used \$0.0115 for Question 1 issues. Two cents of the \$0.17 is exempt from the \$3.64 overlapping-tax limit. The \$0.1585 rate is the CIP general-obligation rate. The \$0.0115 is for Question 1 bonds.

We are still assuming a borrowing cost of 6 percent. I have used that rate for the past eight years. Tax-exempt rates have remained low and several events have occurred including the tragedy of September 11, 2001 (9/11), the tax abatement and the uncertainty in assessed values. I am currently issuing debt at approximately 5 percent, giving us approximately 100 basis points of a stress test to say we are within affordability.

Our intention is to stay within the 2 percent of assessed valuation constitutional debt limitation.

Page 3 of [Exhibit J](#) reflects the remaining pages of the document. It includes the property-tax abatement, property-tax revenues from the *Department of Taxation Redbook*, the existing debt service, assumptions based on a 6-percent interest rate of future debt service and the total of those figures into what we perceive the debt would be if it were all issued as recommended in the CIP Plan. It also indicates how the Debt Service Fund is adjusted. The Debt Service Fund is only used to pay debt.

Page 4 of [Exhibit J](#) is a table of debts paid with property taxes.

CHAIR RAGGIO:

Explain the significance of the Estimated Debt Service Fund Adjustments column. What are the negative figure representations beginning in approximately 2011?

MS. REEDY:

That column reflects adjustments, positive or negative, in any one year. We can accept the negatives because of the positives in the previous years.

CHAIR RAGGIO:

The years 2015 and 2016 appear to have large negative amounts.

MS. REEDY:

That is correct. There are surpluses in 2008 and 2009 that surpass all the negative amounts. If the Committee were to review affordability studies from eight years ago, you would see a more haphazard debt surplus. The Treasurer's Office has worked to smooth out the cash flow. We typically find ourselves refunding debt before those years as we move in closer to the curve. The negative trends do not actually come to pass but they must be projected out.

Page 6 of [Exhibit J](#) is the most important portion of the report for the purposes of the Committee. It contains, in the smallest size possible, the future bond sizing. Those figures match the Department of Administration numbers on page 1 of [Exhibit J](#). The balance of [Exhibit J](#) is the detail behind the debt service schedules, assumptions and what is done to arrive at the final debt service numbers.

On page 18 of [Exhibit J](#) you will see the debt affordability calculations and how Nevada meets requirements in all respects. Nevada is far below the 2-percent limitation imposed by the *Nevada Constitution*. It is not that limitation that limits debt issuance; rather, it is the \$0.1585 tax rate.

Page 19 of [Exhibit J](#) is the official Comprehensive Annual Financial Report (CAFR) page that reflects our position to the 2-percent debt limitation.

The appendix to the Debt Capacity Report beginning on page 20 of [Exhibit J](#) is prepared by the Department of Administration. It provides more detail on a long-run capital improvement plan.

MR. NUNEZ:

We will now cover certain changes in methodology.

APPENDICES

2007 Capital Improvement Program – Budget Page Appendix–7 (Volume III)

MR. CHIMITS:

A comment was made earlier that the SPWB should be reacting to changes in the market. Each project in the CIP manual ([Exhibit I](#)) has a project estimate sheet. Eight changes have been made to those estimate forms. The annual construction inflation rate has been adjusted and is being rated at 12 percent in northern Nevada and 14 percent in southern Nevada. The 2005 annual inflation rate was computed at 5 percent.

The next change is under the Extended Project Management line item. It is a new line item for each project over \$10 million in size. It is developed utilizing private sector firms that assist the SPWB project managers when needed on larger projects.

Next is the Risk Management line item. It has been added for each project over \$40 million in size. It is our experience that larger projects have a propensity to incur more legal exposure. This line item provides for out-sourced legal service. It provides for capture of all documentation on a project. The documents are maintained in a proper chain of custody protocol to result in admissible quality litigation documentation. Alerts will also be sent to the SPWB, and as the

project moves through the process, legal advice is provided to circumvent conflict.

The SPWB was directed to Leadership in Energy and Environmental Design (LEED)-certify all new state-owned projects. To do that, the design team, consisting of the architects and engineers, incur the need for additional consultants and preparation time and that cost is accommodated in this line item.

In the past, 5 or 6 percent was included in the budgets for the construction contingency line item. In the 2007 CIP, that rate is 10 percent for the majority of projects. This was done to address the volatile and unpredictable construction market created by the supply-and-demand imbalance that currently exists in Nevada, especially in southern Nevada.

The next new line item is the LEED construction requirement. It is similar to the LEED design requirement. Once construction has begun, the contractor has much more paperwork than on a traditional project.

CHAIR RAGGIO:

There are different levels of LEED certification. What are they?

MR. CHIMITS:

They are a base certification at 24 points, a silver certification at 31 points, a gold certification and a platinum certification.

CHAIR RAGGIO:

Who determines what level will be used in a design?

MR. CHIMITS:

Currently, each project conforms to the *Model Energy Code* which gets us within a few points of compliance with the basic LEED. That has been the practice since 1990. The SPWB has determined base-level LEED certification would achieve a five-year payback.

The Legislature, in A.B. No. 3 of the 22nd Special Session, provided direction to silver-certify two projects which are reflected in the 2007 CIP.

CHAIR RAGGIO:

Does each level of certification have a higher cost?

MR. CHIMITS:

That is correct.

SENATOR CEGAVSKE:

I have heard no mention of the Green Building Code. Is that a part of your presentation?

MR. NUNEZ:

If you are referring to the Green Building Council, the LEED certification is the method the Council uses to certify buildings built in accordance with their criteria. The two are synonymous.

SENATOR CEGAVSKE:

Are you saying by building according to LEED, the buildings will be Green-certified?

MR. NUNEZ:

That is correct for new projects at the base-certification level. We are not attempting to achieve LEED certification on deferred-maintenance projects.

SENATOR CEGAVSKE:

I attended a presentation concerning private schools. Some of them are trying to meet LEED certification. They talked about platinum levels. Did your testimony indicate State projects are being done at the silver level?

MR. NUNEZ:

We are required, under A.B. No. 3 of the 22nd Special Session, to meet base-level certification for all projects and two projects must meet silver certification each biennium. Funding has been requested to meet those requirements in the 2007 CIP.

SENATOR CEGAVSKE:

Refresh my memory on the various levels.

MR. NUNEZ:

The top certification is platinum and the next level down is gold.

SENATOR CEGAVSKE:

In other words, Nevada projects are at the bottom of the scale.

MR. NUNEZ:

Base-level certification is what is required with the exception of two silver-level projects. The costs for design and construction are included in the 2007 CIP budget.

ASSEMBLYWOMAN WEBER:

Please draw a distinction between the construction inflation rate and the contingency figures. Are contingency figures directed more at labor costs than supply costs?

MR. CHIMITS:

Inflation affects the construction funding portion of the estimates at the 12-percent rate in the northern area of the State. That anticipates the amount of time that passes between when the estimate is prepared and when the construction contract is executed.

The construction contingency is similar to the rainy-day fund. It is an amount set aside in each project to cover unknown factors. For example, during construction we may uncover clay or utility lines that were not shown on "as-built" projects. A small portion of funds are allocated for errors and omissions in the plans that must be addressed.

Additionally, and most importantly for this Legislative Session, the additional 5 percent in the total 10-percent contingency will address the volatile market at this time. Bidding and bids are difficult to predict, especially in southern Nevada,

because of the level of risk, contractors are forced to estimate and apply on their labor costs.

SENATOR BEERS:

I am unclear on the exact process used to select which projects will be raised to the LEED silver level certification.

MR. NUNEZ:

That will be discussed when we present the 2007 CIP.

SENATOR BEERS:

I understand. What process is used to select which projects will be selected for silver certification?

MR. CHIMITS:

Both projects we selected are NSHE projects. One is at the Desert Research Institute. The DRI is an agency that focuses on energy and energy management so it seemed a prominent project for that agency to become silver certified.

The other project selected was the University of Nevada, Las Vegas (UNLV) Greenspun project in southern Nevada. By its design, the desire of the UNLV is to go beyond a minimum effort in saving energy and serving as an example for students and the community.

SENATOR BEERS:

Is the law silent as to how and who will choose the buildings to be selected for silver certification?

MR. NUNEZ:

At this point, there is no formal process for design-level determination. Typically, the agencies make the request to go above the minimum-level certification and most requests have come from the NSHE.

SENATOR BEERS:

I am looking at the law which states, "The director of the Nevada State Office of Energy, in consultation with the State Board of Examiners and the SPWB, has determined it is feasible for the buildings to meet such requirements and standards and that it is a cost-effective determination to do so." Was that determination formalized by the various agencies?

MR. NUNEZ:

Are you reading from the *Nevada Administrative Code*?

SENATOR BEERS:

I am reading from the bill.

MR. NUNEZ:

The Nevada State Office of Energy consulted the SPWB as to what criteria should be used in Nevada for compliance with the bill. We discussed using the Green Building Council guidelines or a similar system used by certain other governmental agencies where they developed their own criteria. The decision was made, by the Director at that point, to use the Green Building Council rather than develop a specific system for Nevada.

SENATOR BEERS:

Do you anticipate we will have budgeted for two additional silver projects specifically by the end of the coming Legislative Session?

MR. NUNEZ:

The Legislature will know and the SPWB will have budgeted for the two silver-certified projects.

ASSEMBLYMAN HOGAN:

My reading indicates that in the private construction industry, they are observing a distinct reduction in the presumption of additional cost to achieve certification. It had generally been assumed to be approximately 10 percent over what construction costs might otherwise have been. It is currently considered to be closer to 5 percent. As materials and other techniques are further refined and broadly used, the difference may nearly disappear. Has that been the experience or anticipation of the SPWB?

MR. NUNEZ:

As contractors in the State become more familiar with the system, the cost will decrease. Subcontractors who have never heard of LEED certification do not know what to expect. I doubt the cost will be eliminated entirely because someone has to monitor the design and construction areas. We are just not there yet for the State of Nevada.

SENATOR TITUS:

It was mentioned the Nevada State Office of Energy is involved in the determinations for silver certification. What position oversees the certification in that Office? I was led to believe the position has been eliminated due to federal cuts. Is that accurate?

MR. CLINGER:

Two positions in the Nevada State Office of Energy are being eliminated due to a loss of federal funding, but I am unsure whether they are related to this program.

SENATOR TITUS:

Is there no funding in the *Executive Budget* that will cover the positions despite the Governor's State of the State address indicating we need a stronger Nevada State Office of Energy?

MR. CLINGER:

The Governor recommends the deputy director position in the Nevada State Office of Energy be funded from the General Fund. You will see there is a significant increase of approximately 170 percent in the General Fund request for that Office.

SENATOR TITUS:

Will two positions still be lost?

MR. CLINGER:

That is correct.

MR. CHIMITS:

Statewide Building Official Projects S-09 is one of two new statewide items that have been added. This is an administrative tool that will allow the SPWB to accept fees for non-CIP projects and utilize them for plan review and inspection services only. It will allow an efficient means of administering the building official duties for non-CIP projects when they occur after the CIP bill has been approved.

Statewide Agency Projects S-10 has been added. The statutes require the SPWB to manage all building projects built on State lands or utilizing State funds. When an agency proposes a project outside the CIP process, the agency must pay the bills during the process or the SPWB appears before the IFC and requests additional funds. Either process delays payments to building contractors. As mentioned earlier, the SPWB is trying to generate more interest in bidding on State projects. Prompt payment is one method to encourage that interest.

Item S-10 would eliminate some of the bureaucracy and delay inherent in agency projects.

MR. DALE:

We will now begin the overview of the 2007 CIP Plan. Page 23 of [Exhibit H](#) shows the sources of available State funding. There is \$524.8 million from general obligation bonds, and \$194 million of General Funds, for a total State Funding of \$718.8 million.

The pie chart summarizes the requests for use of the \$718.8 million. The SPWB received requests for 172 projects totaling \$1.365 billion. The DOC requested 41 projects totaling \$538 million or 40 percent of the total requests. The NSHE requested 39 projects at a cost of \$453 million or 33 percent of the total requests.

Page 24 of [Exhibit H](#) reflects the distribution of project funding by department. It is proportionally close to the number of requests. The DOC is recommended for \$300 million and the NSHE is recommended for \$226 million, comprising nearly 73 percent of the total recommendation for State project funding.

Next is an analysis of State funding requests by project type. There are 49 maintenance projects, 37 construction projects, 10 planning projects and 8 statewide projects, for a total of 104 projects. The 2005 CIP had 94 projects for a total increase in the 2007 CIP of approximately 11 percent. The funding for the 2007 CIP roughly doubles that of the 2005 CIP. If we look at the project types, there are slightly more maintenance and construction projects than in the 2005 CIP and fewer planning projects.

Page 25 of [Exhibit H](#) is probably the most important in this exhibit. It is the analysis of the logic used by the SPWB in making its recommendations for State funding. The top portion of the list equals the available State funding of \$718.8 million. The projects have been broken into two categories. The first group is projects the SPWB considers must be done. It includes the critical maintenance, life safety and legal issues; statewide projects; the FF&E for previously-funded projects; supplements for existing-construction projects and the required DOC projects.

The FF&E funding is for NSHE projects currently under construction that must be furnished. The DOC projects are those the agency indicated they must have to prevent difficulties. The total projects for the DOC is \$\$467 million, or approximately 65 percent of the total CIP recommendations.

The remaining \$251 million is considered somewhat discretionary. It is used in the next three line items. The first item is continuation of the 2005 planning projects. A planning project is one that authorizes design of the building with the assumption construction will be funded in the next CIP cycle. The funding indicated is to begin construction of the 2005 CIP planning projects. Next is \$144 million in new construction projects. There is \$8 million for other planning projects.

Page 26 of [Exhibit H](#) begins the detail of the total requests listed on page 25. The FF&E includes nine projects to furnish buildings already authorized for construction. We expect the buildings to be completed during the next biennium. Funding provided, other than State funding, is also indicated.

The next detail is for supplements to existing construction projects. These projects were previously authorized and funded. For whatever reason, further funding is necessary to complete the approved scope. One project, the central dining room at the Southern Nevada Veterans' Home, includes \$1 million in federal funding.

Page 27 details the required DOC projects. It includes four construction projects and four planning projects. Three of the four construction projects are follow-through projects relating to a previously approved planning or phased project for the DOC. They are C-03, C-04 and C-05. The fourth project, C-07, is new for the 2007 CIP.

CHAIR RAGGIO:
What is the item listed as Prison 8 planning?

MR. DALE:
Prison 8 planning is a project to begin the design and planning for a new prison in southern Nevada. We expect construction will be necessary in the next biennium.

CHAIR RAGGIO:
Is this a new site not connected to an existing facility?

MR. DALE:
Prison 8 is a new prison.

MR. NUNEZ:
It will be built next to the existing High Desert State Prison at Indian Springs.

MR. DALE:
The four construction projects will add 1,648 beds to the prison system. The four planning projects will plan for an additional 3,024 beds for recommended funding, a total of 4,672 inmate beds for the DOC. It is approximately a 35-percent increase over the next six years or 5 percent each year.

CHAIR RAGGIO:

Is the number of beds based on the projected increase in inmate population?
I am aware we are over the capacity in a number of facilities.

MR. DALE:

The 1,648 beds will be constructed and an additional 3,024 beds will be planned for future construction.

CHAIR RAGGIO:

How far into the future will the inmate projections and number of new beds accommodate the needs?

MR. DALE:

The request for the 2007 CIP is anticipating six years.

MR. NUNEZ:

Please refer to the foldout at the back of [Exhibit H](#). It indicates all the projects scheduled for the DOC through the next two biennia. The project description is comprised of a title and location. The chart was developed by looking at a time frame when the DOC needs additional beds and working backwards to determine when to begin design and construction. In some cases, we were not able to meet all the DOC needs on timing. The DOC has included modular units in their budget requests to meet the needs on an interim basis. At the bottom of the chart is the \$258,339,920 needed for the 2007 CIP new projects. The difference between the \$258 million and the \$300 million referred to earlier is the cost of maintenance projects.

The chart also reflects the 2009 CIP projects and projected funding of \$845 million to meet projected needs. The column on the far right-hand side lists the number of beds each project will provide.

CHAIR RAGGIO:

How realistic is your timeline? You testified earlier that one of the major challenges was to deliver the projects for the DOC on time.

MR. NUNEZ:

The schedule is realistic. When the projects are placed on a schedule, a certain number of days are provided for the SPWB and the agency to review the design. All dates will need to be closely followed. Any issues that might arise will need immediate attention. There is no time flexibility because of the needs expressed by the DOC.

CHAIR RAGGIO:

You will need to hit the ground running at the beginning of the next biennium.

MR. NUNEZ:

That is correct.

ASSEMBLYWOMAN WEBER:

Does project P-29, the new Jean Conservation Camp for Women, replace the current women's facility, or is the request for additional beds utilizing rehabilitation of the current facility?

MR. NUNEZ:

It is for additional beds in the existing facilities.

ASSEMBLYWOMAN GANSERT:

The increased needs are driven by the increase in inmate population growth. Perhaps through new programs, such as those affecting methamphetamine addictions, if the programs are properly funded, we can affect the rate of inmate population increase. The current requests represent a huge expense.

MR. DALE:

The next area, on page 27 of [Exhibit H](#), begins a list of projects the SPWB considers somewhat discretionary. The project list under the 2005 Planning Continuation is all projects approved for planning in the 2005 Legislative Session. The project number of the 2005 CIP is listed in parenthesis. The current requests are to continue the projects into the construction phase.

CHAIR RAGGIO:

Is the Campos Building at the same site as the existing building?

MR. DALE:

That is correct.

CHAIR RAGGIO:

Is the plan to raze the existing building and construct a new building?

MR. DALE:

That is correct.

Under the logic explanations earlier in the document is a line item for new construction projects and page 28 of [Exhibit H](#) is the detail of those projects totaling \$144 million. These are projects that were not previously approved for planning.

Four planning projects are being recommended. A long-run analysis has been conducted and it is expected the projects may be planned in this biennium and sufficient funding will exist to begin construction in the next biennium.

Page 29 of [Exhibit H](#) shows the 13 projects in the 2007 CIP impacted by the LEED requirements of A.B. No. 3 of the 22nd Special Session. The total cost is \$12 million. The SPWB recommends the UNLV Greenspun Urban Affairs completion and the DRI CAVE project be the two projects silver certified as required by the bill. Roughly half of the \$12 million cost is for the two silver-certified projects.

To avoid interruption of existing projects and to meet certain schedules, nine projects are requested for early funding. They include three prison projects.

SENATOR CEGAVSKE:

Can you estimate the cost increase to LEED certify a project under either gold or platinum certification over the cost of silver certification?

MR. DALE:

It will certainly be more, but I do not have specific figures today. We can provide that information for the Committee.

Mr. Nunez:

We can provide estimates for individual projects.

SENATOR CEGAVSKE:

Please provide the estimates for one project. Also provide an analysis of the benefits of gold or platinum levels of certification.

MR. DALE:

We are currently requesting \$6 million to raise the level from basic to silver LEED certification on the two projects. The same \$6 million would achieve base-level certification for 11 projects.

SENATOR BEERS:

Is the \$12 million the incremental cost of two silver projects and the remainder meeting base certification?

MR. DALE:

That is correct.

ASSEMBLYWOMAN GANSERT:

The vast difference in cost may also relate to the size of the projects. I would like to see a table of the differences between the different certification levels. I am looking for information regarding what is added to a building to move from silver, to gold or to platinum. I would also like to see the benefits of each level.

MR. CHIMITS:

The first group of statewide projects is 18 roofing projects for a construction budget total of \$4.8 million under Project S-01.

The S-05 Statewide Paving Program has 28 projects with a funding request of \$3.4 million.

Three projects are requested in the S-04 Advanced Planning Program for a total of \$370,000. Included in that total are funds for the SPWB to prepare the 2009 CIP Program.

A total of \$750,000 is requested for the S-06 Hazardous Materials Program. There are not a specific number of projects assigned to this program. The program pays for environmental issues that are discovered during construction. It also funds issues arising outside the CIP that require attention due to regulations.

The S-03 Fire and Life Safety Program has five projects totaling \$1.7 million. Two of the projects are driven by Risk Management and Factory Mutual (the State's insurance company) to address seismic bracing for gas connections at buildings.

The S-02 Statewide ADA Program has ten projects with a funding request of \$2.1 million.

The last two are the new S-09 Building Official Projects and S-10 Statewide Agency Projects spoken of earlier.

CHAIR RAGGIO:

In the analysis of recommendations, your testimony was that one of the top priorities was critical maintenance and life safety. At the UNR, two projects have been on the list for a long time involving seismic retrofits for dormitories. What is the status of those requests?

MR. NUNEZ:

Those projects are not requested in the CIP. Certain projects are included for legal or ADA requirements at the Western Nevada Community College. The two UNR projects did not make the cut.

CHAIR RAGGIO:

If the SPWB is stating life safety issues are a critical component of the logic in project selection, why are those two projects not included? These are old dormitories housing hundreds of people.

ASSEMBLYMAN DENIS:

On the Statewide Hazardous Waste Materials projects, testimony was that the amount was not for specific projects. How do you determine the amount to request or those eventualities?

MR. NUNEZ:

The amount is based on prior CIPs over the past few years and the amount of available funding from Risk Management. Most recent projects concern indoor quality mold issues. A typical year may involve 30 such projects each costing from \$3,000 to \$10,000.

SENATOR TITUS:

How do the CIP requests relate to the cap on spending?

MR. NUNEZ:

The Budget Office typically provides an amount of available funding and bonding availability for the CIP. The numbers are provided to the Board that prioritizes the projects within the amount of funding we are told is available.

SENATOR TITUS:

My question is how that relates to the 1979 spending cap on State spending.

MR. GHIGGERI:

The expenditures limitation under the cap for the CIP excludes construction costs.

SENATOR RAGGIO:

The four items excluded from the cap are CIP projects, buildings, the rainy-day fund and potential rebates.

SENATOR TITUS:

That was my understanding as well. I just wanted to ensure we stayed in perspective of what is being spent under the cap or what is excluded from the cap.

MR. NUNEZ:

The SPWB has agreed not to change the priorities of the Board of Regents on the NSHE projects. We can provide the Committee a copy of their priority list. The UNR dormitories that need a seismic retrofit were approximately tenth on the priority list.

Public Works Administration – Budget Page ADMIN-106 (Volume I)
Budget Account 101-1560

MR. DALE:

The SPWB has two office budgets. Budget account (B/A) 101-1560 funds the SPWB and the general management of Public Works organization.

Budget account 401-1562 includes project managers, inspectors and clerical staff.

Page 31 of [Exhibit H](#) contains the budget details. It is a small, uneventful budget. There are three enhancement decision units.

E-710 Replacement Equipment – Page ADMIN-108

Unit E-710 is to replace equipment that is reaching the end of its useful life.

E-720 New Equipment – Page ADMIN-108

Most of this request relates to tools for analysis of buildings for the Facilities Condition Analysis Group (FCA). It also includes some software purchases used by general management.

E-813 Unclassified Step Adjustments – Page ADMIN – 109

This decision unit will appear in many of the budgets during this budget cycle.

WARD PATRICK (Chief of Planning, State Public Works Board, Department of Administration):

The three areas of the FCA I will discuss are the benefits of the program, the statistics in brief and the performance indicators. The performance indicator information was not available at the time of printing of the *Executive Budget*.

The benefits of the FCA are largely from the reports generated through the program. They document necessary repairs to state-owned buildings and assure safety issues are documented. Further, the reports provide a prioritized database of recommended projects. A planning level basis is furnished to agencies to provide a guide as to when to submit for CIP and facility maintenance projects. In addition, the FCA conducts a buildings inventory and an estimate of facility replacement costs.

The FCA provides information for facility planning as a basis for making repair or replacement decisions. There are three demolition projects recommended in the 2007 CIP. Those are partially justified by information from the FCA.

The FCA trains facility managers in building maintenance. The training includes HVAC operation and maintenance, chemical safety and budget planning.

The benefit of site visits fulfills a statutory requirement. Every state-owned building, except the NSHE, the Nevada Legislature, and the Nevada Department of Transportation, has been visited and reports are available. Secondary visitations began in January 2006. We are reexamining buildings that were analyzed six or seven years ago.

Under the statistics in brief in the category of buildings, not including NSHE, NDOT and the Legislature, there are 1,760 buildings totaling 8.3 million square feet. At the time of the surveys, \$2 million was estimated as the cost to replace the buildings. We have updated that information and provided it to the Risk Management Division, Department of Administration.

During the course of reviewing the buildings, it was determined there were \$253.7 million in needs.

CHAIR RAGGIO:

I note, on page 32 of [Exhibit H](#), certain projects are listed as currently critical needs at a cost of \$75 million. The Committee would like to see a list of the facilities that are currently critical, or necessary, and not yet critical.

MR. PATRICK:

We can provide that information.

SENATOR BEERS:

Are the projects totaling \$75 million for critical projects in the *Executive Budget*?

MR. PATRICK:

We reviewed the *Executive Budget* and the entire group is neither listed there nor in the Recommended Capital Improvement Program ([Exhibit I](#)). It is unclear to us whether a portion of the costs are reflected in an operating budget. The performance indicators were not included in the *Executive Budget* because of their lateness in completion.

The buildings inventories are listed on page 33 of [Exhibit H](#). The totals at the bottom of the list reflect 1,760 buildings for 8.3 million square feet mentioned earlier.

Historically, the FCA Program has been working with a target of 300 building examinations each year and the necessity to review 1.5 million square feet each year. That goal has been met since January 2003 and we have developed new performance indicators.

A survey was conducted, derived from 5,121 projects, and sent to all facility managers in the State. They were asked to categorize the projects as to whether they were completed, funded and being completed, to be requested in the next CIP, if the project does not meet their needs or the building's future was uncertain. A final category was that non-State funding had been requested.

To develop a performance indicator of the percentage of projects recommended that have been completed, we determined the total was \$31 million or a percentage of completed projects of 12.2 percent.

Of the \$253 million in requested projects sent to facility managers, \$102 million of the projects were requested. Forty percent recommended by the FCA were requested by the agencies or in the deferred maintenance budgets. We are targeting a 50-percent performance indicator. We believe we can review certain data, educate the agencies and have more and better requests.

For the completed projects target, we evaluated the projects in the CIP or deferred maintenance category which totaled \$42.5 million or 17 percent. We have chosen to use that as our goal as to what can be completed in the next two years.

ASSEMBLYWOMAN WEBER:

When the FCA does an analysis on one of the 1,760 buildings, are they rated? Are there criteria for such ratings? When an agency brings their maintenance budget forward, but they do not receive 100 percent of their request, is that unfunded portion considered when a revisit is made?

MR. PATRICK:

One criterion, that is a facility management standard, is the percentage of costs versus replacement costs of the building. For example, newer buildings often have low repair costs compared to replacement costs. Buildings with high deterioration may have repair costs even higher than building replacement costs. Each building report has a Facility Condition Needs Index. Information on the projects scheduled for demolition has an index greater than 50 percent of the replacement costs. Different entities use different standards for a timetable to review or replace buildings.

MR. NUNEZ:

One task the FCA has been asked to perform, as the second round of inspections are being done, is a comparison of the status of the facility during the first visit and its current status. This is being done on a facility-by-facility basis. It will provide an indicator of whether the current levels of funding in the maintenance and statewide projects are keeping up with the needs.

ASSEMBLYMAN HOGAN:

I have been advised our new State Controller, Ms. Kim Walling, brings a remarkable degree of experience in the setting and monitoring of performance standards from a corporate perspective. I understand she is willing to work with agencies in the development of performance measures. The Committee depends, to a certain extent, on achievement of performance standards by agencies. We have an expectation that performance standards be an accurate reflection. Has the SPWB had the opportunity to work with the Controller on its performance standards?

MR. NUNEZ:

We were unaware of the offer. We will inquire whether it is still available.

MR. DALE:

Budget account 101-1560 is fully funded by a General Fund appropriation.

MR. DALE:

Budget account 401-1562 is not funded by a General Fund appropriation. It is funded by fee collections from each approved project in the CIP. Each project in [Exhibit I](#) includes a line item labeled PM and Inspection fees.

This budget requests approximately \$18 million over the next biennium. The PM and Inspections Fees contained in the 2007 recommended CIP are \$19.7 million. This represents 2.2 percent of the entire CIP. In other words, the SPWB is charging 2 cents to manage 98 cents.

Line items are included in this budget account for extended project management and risk management. If those are included in the total management effort, it comprises 3.4 percent of the entire CIP.

E-250 Working Environment and Wage – Page ADMIN-113

This decision unit would fund legal counsel for the SPWB if it is needed. We plan to have legal counsel on retainer who could be called upon to support the SPWB as needed.

E-251 Working Environment and Wage – Page ADMIN-113

This decision unit is a request for the purchase of code books and publications. The SPWB plans to adopt new building codes in the next biennium. New reference materials will be needed to adopt the proposed new codes. The regulation statutes require a copy of all references be filed with the Nevada State Library and one with the Office of the Secretary of State. If filing of the reference was not necessary, it would save \$14,000.

CHAIR RAGGIO:

What action is necessary with the Office of the Attorney General to accommodate the request in decision unit E-251?

MR. DALE:

The filing of the reference materials is a statutory requirement. The SPWB will be asking for a waiver for the new regulations.

E-252 Working Environment and Wage – Page ADMIN-114

MR. DALE:

This decision unit is a request for consulting fees. The SPWB recommends funding for provision of training in contract and claims management during construction. We predict two training sessions a year.

E-253 Working Environment and Wage – Page ADMIN-114

Decision unit E-253 is the most critical enhancement requested. The SPWB is requesting fifteen new positions. The size of the 2007 CIP is roughly double that of the 2005 CIP. Many of the increases relate to inflation; however, we believe there is a genuine increase in workload justifying the requested positions. The new positions would result in a 26-percent increase in staff.

The SPWB estimated the number of hours to inspect and manage each project in the 2007 CIP. The estimated project management is 92,483 hours. This decision unit will allow sufficient staff to manage the 2007 CIP. The estimated inspection management is 120,389 hours. With the additional staff, the SPWB will have slightly greater than 90,000 project management hours available and slightly over 82,000 inspection hours available.

As Mr. Nunez related earlier, one of the major challenges of the SPWB is the ability to hire qualified inspectors. If we meet the challenge with the enhancement unit to increase inspector pay, we may return in the next year or so to request still more inspector positions.

SENATOR CEGAVSKE:

One of the complaints I have heard concerning the SPWB is the length of time it takes the agency to go to a site for inspection. Can you provide an average of the time it currently takes from when a call is received until an inspection is performed and what you estimate will be the outcome if the new positions are granted?

MR. NUNEZ:

Two kinds of inspections are performed. One is on-call inspections for agencies and the other is inspection of CIP projects. By the time a CIP project reaches a construction cost of approximately \$8 million, there will be enough hours required to provide a full-time inspector on site.

The project manager hours are calculated differently. Project managers may have responsibility for as many as 15 to 20 projects at the same time. That is especially true for the statewide projects.

Inspection requests are typically processed immediately or at least within 24 hours. As the building official for State agencies, the SPWB is on call for such projects. Those are addressed within one day of the call.

SENATOR CEGAVSKE:

That is different than what we are hearing. Are you saying an inspector will be on-site within 24 hours if a call is received?

MR. NUNEZ:

That is correct. For agency projects where the SPWB acts as the building official, response is within 24 hours.

MR. DALE:

If decision unit E-253 is approved, it would still not provide sufficient inspection hours for the entire 2007 CIP; however, if we are successful in hiring inspectors, we may appear before the IFC to request further positions in approximately one year. If we are unsuccessful in our recruitment efforts, it will be necessary to use project management and inspection fees to hire outside firms for inspections.

E-275 Maximize Internet and Technology – Page ADMIN-115

This decision unit is a request to upgrade our Primavera project management system. It is one of the agency goals. The upgrade would make the SPWB fully

Web based with all correspondence and documentation concerning each project captured online.

E-710 Replacement Equipment – Page ADMIN-115

This decision unit is the standard request to replace equipment that has reached the end of its useful life.

E-720 New Equipment – Page ADMIN-115

This decision unit includes requests for various pieces of equipment and testing tools used by the project managers and inspection staff. It also includes additional storage tanks for site plans. Two Web servers are included as support for the Web-based project management system. One server would be online and the other would act as a backup system.

E-806 Unclassified Position Salary Increases – Page ADMIN-116

This decision unit is a request to declassify the project management staff. Because of the importance and highly professional nature of the work performed by the project managers, management and the SPWB feel it is appropriate for those positions to be included in the State Unclassified Service. The positions would be moved to the unclassified pay structure and their base salary increased 5 percent over their current step 10 salary in the Classified Service.

E-814 Other Salary Adjustments – Page ADMIN-116

The SPWB feel this decision unit is the second-most important unit in the budget. It is a request to upgrade the inspection staff. In many cases of recruitment, no applications are received. This decision unit would raise inspector pay by approximately 10 percent. Page 37 of [Exhibit H](#) includes comparisons of inspector salaries with other inspecting organizations.

ASSEMBLYWOMAN WEBER:

I am interested in the 12 prison construction projects for the DOC. Can you inform the Committee when the last prison project was completed?

MR. NUNEZ:

The last prison project was funded in the 1999 CIP. It was completed in August of 2000.

ASSEMBLYWOMAN WEBER:

It has been several years since a prison project was part of the CIP. Will the expertise exist for the prison projects' needs? Are there specific areas of expertise you look for when recruiting for these positions?

MR. NUNEZ:

Two of the existing project managers worked on the High Desert State Prison projects. One has been involved in prison projects since 1999. He has also been involved in the design of certain of the current projects. The SPWB is cross training all its project managers to work on prison projects.

CHAIR RAGGIO:

I hereby close the hearing on the SPWB budget overview and open the hearing for the Department of Corrections overview.

PUBLIC SAFETY

Corrections – Budget Page CORRECTIONS-1 (Volume III)

GLEN WHORTON (Director, Department of Corrections):

It has been a challenging biennium for the DOC. The DOC reflects the concerns stated earlier by the Chair that we attempt to be careful in our expenditure of State funds. Despite limited resources, we believe the DOC is a safer and more humane, efficient and professional correctional institution. I can say that based on over 33 years of contact with the DOC.

The DOC has significant issues and challenges. The most obvious is the inmate growth experienced over the past ten years. The male in-house population has grown 4.25 percent. The women's in-house growth is even greater and more troubling. The growth in women inmates is an average of 7.2 percent each year.

While that may not sound too bad, in 2006 the male population grew 8.3 percent and the female population grew over 18 percent. It is a major issue with our limited staff and how inmates are housed, programmed and treated.

In addition to that growth, the limited staff and housing resources, there is an aging infrastructure. The important infrastructure needs relate to sewer treatment, HVAC systems and water. These basic human needs are important to the agency. Problems exist at Ely, Lovelock, the Southern Desert Correctional Center, and roofing problems at the Southern Nevada Women's Correctional Center in North Las Vegas.

There have been problems with security-threat groups that have been acknowledged by the Department. The threat was evidenced by a request to the IFC for funds to develop segregation for a disruptive group at the Lovelock Correctional Center. Fortunately, based on that intervention, we have reduced the violent activities of that group of individuals.

I have provided the Committee with our budget presentation document ([Exhibit L](#), original is on file in the Research Library). Page 2 of [Exhibit L](#) is a comparison of various factors showing how Nevada ranks in relation to other states. The first column indicates Nevada ranks 35th in population among the states. Column 2 shows Nevada ranks 30th in inmate population. That means we incarcerate individuals at a higher rate than would be found in the general United States population. The State of Nevada ranks 12th in the nation for its rate of prison incarcerations. In the 1970s and 1980s, Nevada ranked first in the United States. At that time, approximately 450 individuals were incarcerated per 100,000 in population. Currently, we are incarcerating approximately 488 individuals per 100,000 in population. Approximately 0.49 percent of the general population in Nevada is incarcerated. States like Arizona, South Carolina and Texas have an incarceration rate much higher than Nevada. We have improved, but it has not improved the situation.

The State ranks 33rd in terms of the size of its corrections budget. The budget is relatively low because of column 6 on page 2 of [Exhibit L](#). The cost per inmate in Nevada is 39th in the nation. That is because the inmate-to-staff ratio is 42nd in the nation. The DOC is not a wealthy or frivolous department. I am proud of our staff and the job they do, considering the limited resources available.

SENATOR BEERS:

How can you reconcile the 12th in incarceration rate with being 30th in population? I am confused between the rate and inmates column.

MR. WHORTON:

The State of Nevada ranks 35th in overall population. However, we have a higher rate of inmate population. The gap between the general population and the inmate population is represented by the rate of inmate population.

SENATOR BEERS:

Does that represent an absolute head count?

MR. WHORTON:

That is correct.

SENATOR BEERS:

Does the 12 entered in the rate column represent a per capita rate?

MR. WHORTON:

No, it represents Nevada's ranking with other states on a per capita basis.

CHAIR RAGGIO:

Was the actual FY 2006 inmate population 11,700?

MR. WHORTON:

That sounds correct. The current overall inmate population is 13,200. We are approaching 13,000 in in-house population which is a record.

CHAIR RAGGIO:

Is that an annual increase of approximately 6 percent?

MR. WHORTON:

That is correct. This does not mean there have not been accomplishments. Two new institutions have been opened. The Casa Grande Reentry Center is one of those. It was overdue, in terms of treatment activities, throughout the correctional spectrum. That opening brought Nevada into the twentieth century in terms of other states' activities.

The Southern Nevada Correctional Center (SNCC) was reopened in late 2006 as a youthful-offender facility. At the present time, that facility has an inmate population of 539. It is a difficult population to manage because of the age of the offenders. Anyone who has raised teenage children knows how difficult that can be. These offenders' ages are between their late teens and early 20s; they are impulsive, and can be violent. A large percentage of youthful offenders are involved in gang activities on the streets and in the institutions.

In the last two years, the entire body of policy has been revised. The policies have been rewritten and some have been implemented. Many new policies remain at the Office of Attorney General for legal review. They will become effective when they are approved. Those policies bear a direct relationship to the development of the Nevada Offender Tracking and Information System (NOTIS) project. That project is the implementation of a comprehensive information system to replace the one built in the 1980s. The cost of the project was \$12 million, and I am happy to report it is on time and on budget. While it is scheduled for implementation in June 2007, it may be available to the DOC somewhat earlier. Staff is in training, testing the sentence calculation activities and the data transfer process. The system is a standard process used throughout the countries of Great Britain and Canada. The Las Vegas Metropolitan Police Department uses the application and California is currently considering its use.

Based upon the initiative from the last election cycle, new smoking policies have been developed that no longer allow smoking within correctional buildings. It may not seem like a crucial issue, but the fact is, many inmates and staff members are smokers. It is a beginning step in making the DOC a nonsmoking Department. Many correctional institutions and major jails in Nevada are nonsmoking facilities. Inmates come to the DOC as nonsmokers but often resume the habit inside our institutions.

The DOC has a small staff to manage a growing inmate population. Frankly, Nevada is burning the correctional candle at both ends. We have overcrowded institutions, small facilities and a small staff to manage inmates. It is a concern to all the DOC staff. It is important that a change be considered to avoid the kinds of judicial interventions being experienced in California and other states. The present inmate-to-staff ratio is 4.588 inmates per staff member. In 1986, the ratio was 4.056 inmates per staff member. The complexity of activities and the demands on the DOC are much greater currently than they were in 1986. The 4.588 ratio is based on the 2,873 positions authorized by the Legislature. The actual number of staff employed currently moves the inmate-to-staff ratio to slightly greater than five inmates per staff member.

One of the side effects of a small inmate population is we have limited programs. The correctional system became the Nevada Department of Corrections during the 2001 Legislative Session. Our goal, as articulated by former Director Jackie Crawford, was to correct individuals. It is a modern goal of corrections and should be addressed. It is a difficult activity to follow when one has the mission of corrections and the resources of incarceration. I am sure this situation will be discussed in the Assembly Select Committee on Corrections.

Another challenge is the issue of a hardened-inmate population. Mr. Frederick Schlottman will further discuss population particulars. The violent offenders, as a component of the corrections population, are increasing. That is also true of drug offenders. One would think the sex offenders would form a larger percentage due to their long sentences, but they only represent approximately 14 percent of the inmate population. Property offenders have decreased.

FREDERICK SCHLOTTMAN (Administrator, Offender Management Division, Department of Corrections):

Page 4 of [Exhibit L](#) reflects the male in-house population. There were approximately 4,500 male inmates in 1990. We are currently approaching 12,000 in-house male inmates, a substantial growth. Over the previous 15 years, the average male population growth has been approximately 5 percent each year.

There has been a substantial increase in two of the last three years. The increase was nearly 8 percent in 2004 and over 8 percent in 2006. It is interesting with regard to the crime rate in the general community. Federal figures for crime rates reflect a decrease every year since 1993. However, in the last two years, it has begun to climb. One cause is related to demographics. We are beginning to see the "baby-echo" generation come of age and represent a larger share of the prison population. Part of the cause is the changing nature of communities. There has been a substantial increase in robberies and motor-vehicle thefts. These will represent additional problems for the DOC in future growth.

Page 7 of [Exhibit L](#) reflects female in-house population. There was a significant spike in female inmate population in 2005 and 2006. The DOC has far exceeded the population estimates in both of those years. The rate of growth in 2004 was over 15 percent. In 2005 the rate was 8 percent, and in 2006 the female inmate growth rate was over 18 percent. The DOC was not budgeted nor projected to grow at those rates. As a result, we have outgrown existing female housing and have begun to house female offenders in male institutions. This is occurring at the SNCC in Jean. One unit of 92 beds is currently devoted to women. There are 12 female beds at the Northern Nevada Correctional Center placed within the Regional Medical Facility.

The camps for women are well beyond design capacity and the female prison is approaching 600 inmates. There are currently beds in the activity areas and the gymnasium of that facility.

ASSEMBLYWOMAN LESLIE:

Can you explain why there is such a spike in the female inmate population?

MR. WHORTON:

This is a phenomenon that is occurring nationwide. The question is whether the spike is due to drug usage. That is certainly a part of the problem. Increased drug use is noted in both the male and female populations. The question becomes what other offenses were motivated by drug use? Perhaps Dr. Austin can elaborate.

I would like to introduce Dr. James Austin, President, JFA Associates, the organization that promulgates the inmate population projections. He will answer questions about the assumptions and nationwide trends. Mr. Austin should be able to answer Assemblywoman Gansert's question about diversions.

ASSEMBLYWOMAN LESLIE:

Please also discuss why the female inmate population is growing so much more than the male inmate population.

JAMES AUSTIN, Ph.D. (President, JFA Associates):

The national trend mirrors what is happening in Nevada; a general surge in female population. Ironically, they pose a much lower risk to public safety than male inmates. We do not know why that is occurring. We do know they are incarcerated most frequently for drug offenses. With regard to the risk they pose, female inmates are a good population to begin depopulating. They are expensive to maintain in correctional facilities.

ASSEMBLYWOMAN LESLIE:

Is it possibly due to judges becoming increasingly hard on perpetrators of drug offenses such as methamphetamines?

DR. AUSTIN:

Methamphetamines are not the primary reason more women are entering correction facilities. It is happening in every state.

ASSEMBLYWOMAN LESLIE:

When your company projected the Nevada prison population, were the crimes perpetrated by women considered?

DR. AUSTIN:

We most definitely did.

SENATOR BEERS:

When you reference drug offenses, are these crimes of possession and sales or crimes attributed to drug use?

DR. AUSTIN:

The crimes for female inmates are typically for possession or conspiracy. Usually women are not major dealers; they get caught up with men who are the major dealers.

SENATOR BEERS:

In other words, we are incarcerating people for drug use?

DR. AUSTIN:

Nevada is doing a lot of that. It not only occurs for the original offense but with individuals who fail probation. There are large numbers of individuals who fail probation, in part, because of the use of alcohol and illegal drugs. They may have had a suspended sentence from the court which is revoked because of their parole violation. If improvement could be made on the probation system, Nevada would see a reduction in the need for prison beds.

SENATOR BEERS:

Do you find that is unique to Nevada? Is it a national trend?

DR. AUSTIN:

No, it is not unique to Nevada. Approximately 30 or 40 percent of all prison admissions are people who have failed the probation system. Approximately 55 percent of individuals placed on probation successfully complete their probation. That is a national trend.

SENATOR BEERS:

How does Nevada compare to the national trend?

DR. AUSTIN:

It is about the same. The parole system is better with an 80-percent success rate. If there was improvement on the probation success rate, Nevada would see tremendous reductions in the prison bed needs.

MR. WHORTON:

If the issue is a reduction in prison populations, the most significant method to do so is by keeping them from "coming through the front door." One can talk about the "backside" as well, but to make a difference, individuals must be stopped before they come through the "front door" of correctional institutions.

SENATOR CEGAVSKE:

Please provide a breakdown as to the types of crimes committed. I am also looking at the increase in the infants at Child Haven who are "meth" babies. Are the court systems doing more to incarcerate mothers whose babies test positive for methamphetamine use?

DR. AUSTIN:

That information is not accurately recorded in any state.

SENATOR CEGAVSKE:

Are we not keeping those statistics? If babies test positive, the mothers can be charged under the law.

MR. WHORTON:

That is an insignificant component of the Nevada female inmate population.

SENATOR CEGAVSKE:

Have you had an opportunity to discuss the new points in Governor Gibbons' State of the State message related to the corrections system?

MR. WHORTON:

We have not had an opportunity to discuss those issues with Governor Gibbons. It will require development of a substantial and sustainable correctional policy that identifies the issues of diversion, construction and supervision. It will take a concerted effort on the part of the Office of the Governor, the DOC, the Division of Parole and Probation of the Department of Public Safety and consultants. It will be a difficult process.

SENATOR CEGAVSKE:

Legislators keep hearing the major problem in incarceration is related to drug use. It is what news agencies portray as well. Individuals are being incarcerated for stealing, possession and armed robbery among others. Is there any way offense statistics can be provided showing how those relate to drug or alcohol use?

MR. WHORTON:

We evaluate the drug use of an individual upon intake. One of the major elements considered is the motivation of the offense. We will have that information prepared for the Committee.

MR. SCHLOTTMAN:

Our prison population is broken out by offense groups. Of the male offenders in the December 2006 intake count, 5 percent were incarcerated for sex offenses, 24 percent were for violent offenses, 22 percent for drug offenses, 38 percent for property offenses, 8 percent for driving under the influence (DUI) and 3 percent were incarcerated for other offenses.

In the female intake group for December 2006, 3 percent were incarcerated for sex offenses, 15 percent for violent offenses, 40 percent for drug offenses, 40 percent for property offenses and 3 percent for other offenses. There were no female intakes for DUI in December.

ASSEMBLYWOMAN GANSERT:

Were the inmates incarcerated in December 2006 for drug offenses initially arrested for drugs? Were some crimes in the property offense category a result of an effort to gain money to purchase drugs?

MR. SCHLOTTMAN:

The DOC looks at the lead offense on the arrest report. That is the offense for which they are prosecuted.

ASSEMBLYWOMAN GANSERT:

In other words, it is not necessarily the motivational factor.

MR. SCHLOTTMAN:

That is correct. For example, if I were arrested for a traffic offense and a bag of cocaine and a gun were found in my vehicle, I would probably enter the system as a drug offender. The trafficking of drugs would rate higher than the use of violence category due to the presence of a firearm in the vehicle.

ASSEMBLYWOMAN GANSERT:

Are the offenses cross-referenced in any way?

MR. WHORTON:

If drugs and alcohol are a motive in the offense, that data is collected and we will be providing that information to the Committee.

ASSEMBLYWOMAN GANSERT:

One of the witnesses mentioned a plan was needed to keep individuals from "coming through the front door." Is such a plan being developed?

MR. WHORTON:

No, we indicated that if a plan was developed and there was intent to reduce the population, there must be an effect on the "front door." Such a plan has not been developed.

MR. SCHLOTTMAN:

If the Committee were to view the corrections intake population and the outgoing population, there are fewer parole violators than were projected and the number of paroles approximately meets the projections. The factor driving the prison population is the intake of individuals for new crimes.

Page 8 of [Exhibit L](#) depicts the changes in male offense group distribution between 1994 and 2006. The number of sex offenders is approximately the same. The greatest difference is in the violence and drug categories which have increased significantly. The property category has decreased significantly.

The female in-house population shows there are more violent offenders and a higher proportion of drug offenders than in 1994.

Page 10 of [Exhibit L](#) is a projection of the male corrections population. In calendar year (CY) 2005 the actual male population increased roughly 3 percent. The projected growth was roughly 3.5 percent. In CY 2006, the actual growth was 8.4 percent and the projected growth was 3.3 percent. The SNCC was reopened in September 2006 and those beds are already filled to capacity.

Page 11 of [Exhibit L](#) depicts the female population growth. In CY 2006, there was a significant increase in actual female population above the projections.

There have been changes in capacity since the previous Legislative Session. The Casa Grande facility was opened in December 2005 adding 400 beds. Unit 1 at the Nevada State Prison was previously termed the short line. The conditions in the short line were so dangerous, it was no longer fit for habitation. That unit contained 14 beds.

The Ely State Prison was opened above emergency capacity. The DOC began installing double bunks in units that were previously single capacity. The High Desert State Prison was opened above emergency capacity and those beds are all in use.

The Committee should consider the projections and the design capacity of facilities, meaning all beds at the camps, and the American Correctional Association (ACA) guideline of inmates per room and single cells. The ACA standard is a five-foot by five-foot area for each inmate. The future CIP plans will barely keep pace with the projected inmate population. Thirty beds have been opened in the gymnasium at SNCC and a unit at the High Desert State Prison for female housing because we have no other place to house them.

CHAIR ARBERRY:

Does the classification of the female inmates derive from the courts or from the DOC?

MR. WHORTON:

Classification of all offenders in the DOC is done by the Department. Judges can make recommendations, but case law leaves that decision to the DOC based on the need for security.

CHAIR ARBERRY:

Is it possible there has been some overclassification of inmates?

MR. WHORTON:

There is a degree of overclassification at this point because the minimum custody facilities for females are completely full. Some of the individuals at the SNCC are those who could not be placed in conservation camps.

Mr. Schlottman will discuss construction plans. An additional 100 beds will be built as minimum custody to serve as a reentry center at the North Las Vegas Correctional Center. With the hardening of the population, medium security beds will also be needed. If diversion or some program is utilized at the back end of incarceration, additional minimum custody beds will be needed. Individuals found guilty of robbery, assault, violence and major fiduciary crimes will still be incarcerated and will not be minimum custody inmates until they have served a substantial investment on their sentences. Over the last six years, the DOC has made major changes to the classification policy. Six years ago inmates within 18 months of a probable release were classified for minimum custody. That classification was adjusted to within twenty-four months and currently to 36 months from a probable release date.

CHAIR ARBERRY:
Why has that been done?

MR. WHORTON:
That decision was made to allow the DOC to house inmates in a bed appropriate to their level of classification. We recognize there are some individuals who, even though they have a 36 month probable release date, can function appropriately. As the classification changes were made, the number of minimum-custody-level inmates did not double. We merely kept pace with the custody levels based upon diversions that have occurred in the community and actions that have taken place upon release. Those actions include residential confinement or drug and mental health courts.

The male population is averaging approximately 21 percent. The women's facilities run at 41-percent minimum population. Twice as many women are on minimum custody compared to the male population. The only way the DOC has kept pace with the increases is by adjustment of the classification criteria.

CHAIR ARBERRY:
Do you think adjustment of the criteria has led to a greater need for beds? Before, the DOC did not release inmates as quickly. What drives the need for additional beds?

MR. WHORTON:
If we had not adjusted the criteria, we would have inmates sleeping in the warden's office. We have maintained the minimum custody classification as a percentage of the total beds inventory. Nevada's crime rate drives the inmate population.

DR. AUSTIN:
I was involved in the development of the classification system with the DOC many years ago. They have prudently extended the criteria for minimum custody, in part because of the population pressures, but also because research revealed individuals could be placed in those minimum custody situations for longer periods of time.

The danger I see is that the DOC has a low inmate-to-staff ratio. What we would expect to see is an inmate-to-staff ratio where such risks could be taken with confidence. The current situation entails less supervision in prison facilities, particularly in minimum custody facilities that have a small staff and large

numbers of inmates who are not placed in cells but in dormitory beds. The dormitory situation decreases the safety for everyone.

MR. WHORTON:

The extension of eligibility does not mean an inmate spends a longer time in prison. It increases the candidate pool for minimum custody.

CHAIR ARBERRY:

I still do not understand why so many additional beds are needed.

MR. WHORTON:

The State of Nevada was the fastest-growing State in the nation. The City of Las Vegas is the fastest-growing community, and there are drug and gang influences.

DR. AUSTIN:

One of the reasons the increase in beds is needed is because of the laws passed by the Legislature. I work with a number of states and my experience has been a prison population cannot be affected until the Legislature decides to do things differently. There are laws the Legislature has passed in the last ten years that have been intended to send individuals to prison for longer periods of time. "This is a purposeful increase in your prison population by the policy makers of the State of Nevada."

ASSEMBLYWOMAN WEBER:

Is there statistical data available to indicate what other legislatures have done to drive the criminal activity to the State of Nevada, for example, the three strikes rule in California?

DR. AUSTIN:

It is important for policy makers to understand their use of incarceration has virtually nothing to do with the crimes committed in the State. The prison system is the "waste management system." In other words, you are simply picking up on what is occurring in your State. There has been extensive research on why Nevada has a higher crime rate than other states. I can furnish that information to the Committee. It concerns the way youth are being raised, the education system and the type of economy in the State. The Committee will see that in Nevada, as in any other state, there are certain isolated communities that generate large numbers of individuals into the correctional system. In Nevada, those areas are Clark and Washoe Counties. People are not born with a criminal nature, they are raised that way.

When a ten-year forecast is done, approximately one-half of the individuals who will be in the prison system are those currently between 10 and 15 years old. They live in certain communities. It is similar to having a risk of cancer or anything else. They have a high probability of being incarcerated in their lifetime.

States that have low-crime rates have low-incarceration rates. They differ from Nevada on the socioeconomic indicators. The Committee needs to address crime to reduce the incarceration rate. As long as the violent- and property-crime rates are higher than other states, Nevada will need an expensive correctional system to manage that population.

ASSEMBLYWOMAN LESLIE:

You made many of my points for me. However, I do not like to hear people talked about as a "waste management" product.

DR. AUSTIN:

I apologize.

ASSEMBLYWOMAN LESLIE:

All of the Committee members may not be aware that Dr. Austin is conducting a study of crimes by neighborhood. It will provide good information. Can you advise when the study will be available?

DR. AUSTIN:

The State of Nevada, through the Legislative Leadership, has agreed to work with the Council of State Governments on a major project lasting two to three years. The first step is to identify those neighborhoods generating large numbers of individuals into the correctional system. A plan does not exist at this time, but a plan will emerge fairly quickly. It will then be the responsibility of the Legislature to move forward based on the plan.

I want to clarify; there are many things the Legislature can do to change future outcomes. Part of that is the assembling of information necessary to determine what appropriate actions must be taken. The first step is to identify the areas of the State, specifically certain blocks in Las Vegas and Reno, where the State is spending millions of dollars within a certain block incarcerating children and adults. Once those areas have been defined, discussions can begin on how reinvestments can be made to stem the tide. At the same time, the Committee must realize Nevada is vastly behind in inmate-bed capacity.

CHAIR ARBERRY:

Is Nevada offering any job skills training in the institutions to aid in reduction of the recidivism rate?

MR. WHORTON:

Ms. Dorothy Nash Holmes is present to discuss training programs. Nevada does not have a modern level of programs. We are not a correctional agency. I know there have been discussions in the past about programs, but if one looks at, among other things, the number of treatment beds available, you will see how far behind we are. There is 1 substance abuse treatment bed for every 31 male inmates in the DOC. There is 1 substance abuse treatment bed for every 16 female inmates at the DOC. It is not enough. The resources are declining. The Residential Substance Abuse Treatment Grant is gone. That means a major treatment program will be lost. Those issues need consideration as well as training opportunities if the DOC is to be a department of corrections.

MR. SCHLOTTMAN:

Based on the JFA Associates' projections, we have developed a male CIP plan to meet the population need. The projections are tracking well regarding male inmates. Unfortunately the projection suggests a substantial increase from what it has been in the past.

If the Committee will look at the chart for FY 2007-2008 on page 16 of [Exhibit L](#), the DOC will be adding three modular units at three different facilities.

The first will be placed at the Northern Nevada Correctional Center, the second at the High Desert State Prison and the third at the Southern Nevada Correctional Center. The necessity is based on the fact that in one or two months the DOC will begin housing male offenders in gymnasiums. We will likely have male offenders housed in gymnasiums until approximately 2010, despite the aggressive construction schedule. We are basically one institution behind at this point. The SPWB cannot deliver additional housing fast enough. The need for modular housing units will require legislation early in the session to accommodate that need.

DR. HARDY:

I have heard the discussion about frequency. We have paid lip service to the severity, but I am intrigued by the hardening of the inmate population. If it is a hardening nationwide, does that indicate individuals are more violent? Is that part of the study being done in neighborhoods?

DR. AUSTIN:

It would be a long discussion, but there is evidence in the last decade there has been a separation of people by the "haves" and the "have nots." As that happens, the residual population has a tougher time making a living. It is now true, of black males born in the United States, one-third will enter a State prison before they die. That does not include those who are incarcerated in jail systems throughout a state.

DR. HARDY:

That testimony addresses the frequency. I am questioning the severity of crimes, in other words, the hardening of the population.

DR. AUSTIN:

There are at least two populations in any prison system. There are a large number of people who are a low risk. They could be released and would have no impact on public safety. They cannot be released because of laws that have been passed. It is a problem in any correctional system. I would equate it to keeping straight-A students in college an additional two years, wasting money on that population. There is another smaller group made up of the dangerous inmates. If they were released, they would be a public safety risk. Those inmates must be kept as long as possible or be placed in an appropriate treatment program. In most states, 30 to 40 percent of the prison population is in the low-risk group.

MR. WHORTON:

There are two ways to view the hardening population. One is called the stacking effect where people enter an institution and, because of their violent crimes, they receive a long sentence. Over time, they become a larger and larger percentage of the inmate population. The other issue, developing at this time, is security threat groups. That is the politically-correct term for a gangster. They are those inmates who may become incarcerated because they stole a car, used drugs or were in possession of a weapon. Many of those are individuals who were caught for a lower-level crime, either because they did not get caught for the violent crime they committed or they have not yet committed a violent crime. They are violent individuals. It is the reason murders occurred at the Nevada State Prison and the Ely State Prison in 2006.

DR. AUSTIN:

Page 8 of [Exhibit L](#) displays the offense groups. In the violent group are certain individuals who are not violent. There are many violent individuals characterized in the property group. It is really a matter of risk assessment. The DOC has the capacity to view inmates from that perspective. Typically, a Legislature will identify a "crime of violence" and determine they will double the length of the sentence. It is a sledgehammer approach to dealing with the problem. It is termed the stacking approach.

Of those individuals entering prison, approximately one-fourth have committed a violent crime and have received a long sentence causing them to stack up in the prison system. They are the most expensive inmates.

SENATOR CEGAVSKE:

We hear that some other states have placed those inmates who are at a lower risk of harm to themselves or others into tent cities. Is that an effective low-cost option?

DR. AUSTIN:

It is my opinion, tent cities should never be used.

SENATOR CEGAVSKE:

The reason I am asking is because we hear of the success of the program in Arizona and other states. Nevada has not talked much about that alternative.

DR. AUSTIN:

My company is conducting a study in Maricopa County, Arizona, the home of the tent city. At some point I will share with this Committee the court costs that county has paid for assaults which have occurred as a result of the tent city. It is not a safe alternative. No professional correctional official I am aware of would endorse housing inmates in a tent city. It would be better to release them to the community in some form of supervision. Maricopa County has the only such tent city and they are looking for ways to change that policy. The concept has political appeal to certain segments of the population.

SENATOR CEGAVSKE:

The cost of housing is a factor in that decision.

DR. AUSTIN:

The State of Nevada is unique in the organization of its parole and probation entities. They are buried within another department. Typically, for a state the size of Nevada, the family of correctional services is placed in one department. There is a lack of coordination between the DOC, the Division of Parole and Probation, and the Parole Board. Those entities should be sharing information and resources. Instead, you have placed them in "silos." I have not seen that approach in any other state.

CHAIR ARBERRY:

What do you mean "we" have placed the agencies in silos?

DR. AUSTIN:

State government is created by someone and someone authorizes an agency to be located in a particular department. That responsibility rests in the Legislature.

I have spent the last two months with the Division of Parole and Probation and there are many things that need fixing at that agency. It is a good investment to consider positive changes in that agency.

CHAIR ARBERRY:

It is my understanding when inmates serve 10 or 15 years of their sentence, the Parole Board may still not release them even though they may have committed a nonviolent crime. What is your view on those situations?

DR. AUSTIN:

The Parole Board is doing a good job. They grant parole in over 50 percent of cases. The mandatory parole rate is 80 percent and the parole success rate is extraordinarily high. Eighty percent of the people placed on parole complete their parole successfully.

The problem lies with probation. Many individuals placed on probation never complete probation successfully. When they fail, the court will impose the prison term of the original sentence and they become an expensive reaction to the original crime.

CHAIR ARBERRY:

In other words, we need to consider the reasons the probation system may be failing?

DR. AUSTIN:

That is correct.

SENATOR TITUS:

At one time, Nevada had a system of boot camps. What has become of those?

MR. WHORTON:

Boot camps are still in place. The program of regimental discipline is still functioning at the Indian Springs Conservation Camp.

SENATOR TITUS:

Is it a successful program? How many individuals are in the program?

MR. WHORTON:

I am not a fan of boot camps. They are no more successful than any other form of probation. One driving force is that the statutory criterion for a candidate of the program is also a description of a good candidate for probation. In some cases, boot camp takes them away from their families, their jobs, their transportation and their homes and put them in a camp for six months.

SENATOR TITUS:

Does all the military training, exercise and discipline not seem to make much difference?

MR. WHORTON:

Judges are in favor of the program and they would disagree with my view in terms of its effectiveness. I talked to an individual who once stated he sent his son, an obnoxious little gangster, to boot camp and six months later he got back a polite criminal.

SENATOR TITUS:

The Committee heard earlier about a proposal to allow the Nevada National Guard to create a boot camp.

MR. WHORTON:

I think that would be a more appropriate place for a boot camp because of the mentoring and positive activities. Boot camps, as part of a correctional system across the nation, are becoming somewhat passé.

DR. AUSTIN:

The national Department of Justice has stated boot camps do not reduce the recidivism rates. One thing boot camps proved was that individuals can be given a much shorter period of incarceration and have the same effect. It is true in Nevada there is no difference in the recidivism rate whether an individual receives a sentence of 6, 12, 18, 24 or 36 months..

The National Guard is a good example that military service reduces incarceration rates. The incarceration rates were reduced during World Wars I and II and the Korean War when the draft was in place. It removed young men from troubled neighborhoods through the military draft.

ASSEMBLYWOMAN GANSERT:

The suggested National Guard boot camp was recommended for high school dropouts, not to reduce crime.

MR. WHORTON:

Page 18 of [Exhibit L](#) is a picture of a proposed modular unit. The DOC was considering a concrete tip-up facility but it would be approximately the same size. On the inside, the only difference from the picture on page 19 of [Exhibit L](#), as shown on page 20, is we would have double bunks around the perimeter. They would allow us to increase the density of the population without increasing the size of the facility and to maintain appropriate supervision.

I would prefer to house inmates in cells that would allow them a certain amount of privacy and security. All correctional institutions in the nation will be facing provisions of the Prison Rape Elimination Act of 2003 (PREA). It will set standards for the detection, reduction, prosecution and prevention of prison rape. The only thing that might save Nevada from having compliance problems with the law is the fact the rule-making process in the federal government is so convoluted and difficult it will take time for the rules to be promulgated.

CHAIR ARBERRY:

Whose idea was it for the bed layout in the modular units?

MR. WHORTON:

They are a result of a discussion of correctional staff to provide suitable beds within the necessary time frame so that inmates will not be sleeping on floors. The modular units will cost approximately \$8 million each. The DOC is requesting three for the men and one for the women. The cost includes site preparation and furnishings.

Page 16 of [Exhibit L](#) shows early legislation will be necessary to provide the units necessary for the December 2007 CIP plans. The same is true of the

240 beds for the Southern Desert Correctional Center (SDCC). They will also be needed at the SNCC by May 2008.

CHAIR ARBERRY:

If I am hearing you correctly, if the Legislature approves the modular units, there may be an increase in rape and other crimes?

MR. WHORTON:

That is the risk we take when having to build this kind of facility to provide at least some level of constitutional housing provisions. The DOC is behind in capacity planning by a whole institution. It is somewhat like planning for a military operation. One would not plan for what the enemy will specifically do, because that may change and the military unit might be in trouble. The DOC is in big trouble. The modular units are the Department's solution to the inmate housing shortage. Over time, the modular units will be phased out. History will someday reflect the modular units were used for catching up on housing needs and then be converted into program space. There is no program space in the SNCC.

CHAIR ARBERRY:

What I see happening is the modular units will solve the immediate capacity situation, but, in the end result, the State may be facing lawsuits so costs will only escalate. Are the modular units the only solution that has been suggested? I do not want to hear from a parent that their child was assaulted.

DR. AUSTIN:

My company conducted the study on the Texas rape phenomena and found the rapes were lowest in the dormitories. When the housing units are open as the pictures indicate, it is more difficult for rape to occur. Rapes were occurring in cell blocks where doors could be closed and a guard was not present.

If the proper staffing ratios are provided in the modular dormitories, a problem should not occur.

CHAIR ARBERRY:

Are inmates already sleeping in the rotundas and gymnasiums?

MR. WHORTON:

The DOC is at that point. Inmates are sleeping in program areas at the SDCC. The DOC appeared before the IFC requesting steel and bolts to bolt beds into the Ely State Prison to increase density. We have placed 30 inmate beds in a program area at Southern Nevada Women's Correctional Center (SNWCC). The DOC has received approval from the State Fire Marshal Division, but it is a bad way to house individuals. There are over 70 women living in Unit 7 at the SNCC.

ASSEMBLYWOMAN MCCLAIN:

Ms. Weber and I were on a tour of the SNCC and there are 70 women in a room smaller in size than the guest seating area in this committee room in double bunks.

MR. SCHLOTTMAN:

In FY 2008-2009, the two units of the High Desert State Prison (HDSP) should be completed in September 2008. Phase V of the HDSP should be complete in January 2009. It will require early action by the Legislature to meet the timeline. At that point, it is expected three of the gymnasiums in three facilities will be filled with inmate beds. There will be 200 beds at the HDSP and another 100 at the SDCC.

MR. WHORTON:

Phase V will complete the build-out at the HDSP.

CHAIR ARBERRY:

Was the facility designed for that capacity?

MR. WHORTON:

That is correct.

SENATOR BEERS:

Do you need to begin searching for land to build more facilities?

MR. WHORTON:

There is property available at the Indian Springs complex. Discussions with the engineer in the Department of Conservation and Natural Resources, Division of Water Resources indicate there is sufficient water available to support additional structures at that location.

ASSEMBLYWOMAN WEBER:

Testimony indicates the modular units will be used for housing and then converted to program areas. Has there been any discussion of adding a modular unit specifically for programs at this time? I am aware there are competing priorities.

MR. WHORTON:

As you said, it is a matter of competing priorities. In this instance, the greatest need is for beds.

MR. SCHLOTTMAN:

The project at Indian Springs will be the first minimum custody project in the CIP plan consisting of a partial renovation of an existing facility and addition of a new housing unit. The first phase of the Indian Springs Conservation Camp will add 192 beds and should be complete by June 2009. This project will also need early legislative action to maintain the timetable.

In FY 2009-2010, the next phase of Indian Springs will be complete adding another 192 beds in October 2009. In May 2010, a second unit at the Silver Springs Conservation Camp, in Carson City will be complete adding 384 beds.

Medium custody beds will be added at the SDCC in two units adding 560 beds in FY 2010-2011 and a single unit will be added to the Northern Nevada Correctional Center for 280 beds. These units will be the Nevada "T" design versus the traditional "bow-tie" design. It is a new design the DOC has developed in cooperation with architects to save costs.

The next major construction, Prison 8, which will be complete in FY 2011-2012, is approximately the size of the Lovelock Correctional Center. This is the first project that will add additional desperately-needed medical capacity and capability. The additional 120 medical beds will likely not improve the existing situation, and additional medical beds may be needed in the construction of Prison 9 and Prison 10.

Prison 9 will be built in FY 2012-2013. It will be slightly larger than the Ely State Prison. In FY 2013-2014 a new camp of two housing units will be added at Indian Springs.

Prison 10 is planned for FY 2014-2015 and it appears it will need to be the approximate size of the HDSP. Finally, in 2017, a new camp of approximately 400 beds will be needed.

Page 17 of [Exhibit L](#) details future CIP plans for female inmate housing. It is slightly more problematic. After five months of the current projection, the actual count is that of the ten-month projection. Projects may need to be accelerated when the next projections are made in March or April 2007.

In FY 2007-2008, a modular unit is planned at SNWCC. It should be ready in November 2007 which will require early legislative action. The expansion of the SNWCC will occur in FY 2008-2009 and is scheduled to open in January 2009. A new women's camp will be built in FY 2012-2013. One difficulty with the women's expansion is that this timetable is the soonest the SPWB says the facility can be delivered. If the female inmate population continues to accelerate, further modular housing will need to be considered or a conversion of male housing will be needed for female housing.

Finally, in 2016, the first phase of the new women's prison will be considered to be located in either the Indian Springs Complex or at Jean.

CHAIR ARBERRY:

Has there been any correlation in the JFA studies of whether employment or unemployment affects the prison population growth rate?

DR. AUSTIN:

Some studies have shown there is a relation between unemployment and crime rates. The most fascinating is the relation between people on welfare and crime rates. As welfare rolls have decreased, crime rates have decreased at nearly the same rate.

MR. DARREL REXWINKEL (Deputy Director, Support Services, Department of Corrections):

The General Fund request for the DOC reflects an increase of \$123,762,237. Other fund requests are fairly flat. Other funds are typically self-supporting funds. Approximately \$54 million is derived from the Inmate Store, Inmate Welfare and Prison Industry Funds.

Approximately \$22 million is derived from inter-agency transfers. Most of those include the 2-percent and 4-percent COLA increases and other salary adjustments. They are not included in the DOC General Fund allocations. They are transferred through the Board of Examiners. Approximately \$2 million is

from federal funds. Room and board collected from inmates is approximately \$7 million. Those are the major other fund sources.

Page 24 of [Exhibit L](#) reflects the Base Budget, the maintenance decision units and the enhancement decision units.

M-100 Inflation – Statewide Page CORRECTIONS-2

Under maintenance decision units, the first is inflation and rate changes. Most of the rate changes are from the State's Internal Service Fund such as DoIT, the Office of the Attorney General, Motor Pool, Rent, Insurance and Personnel Assessments totaling \$945,000. Approximately \$4.5 million is the medical inflation rate. An earlier question and response noted the inflation rate was calculated at approximately 7.1 percent to 7.5 percent.

M-200 Demographics/Caseload Growth Page CORRECTIONS-3

Approximately \$3.3 million is from the Inmate Store and Inmate Welfare Accounts. The population at Casa Grande Transitional Center is increasing because it is a new facility that has recently been opened. Each inmate pays \$16.32 per day to the Inmate Welfare Account totaling \$2.6 million in revenue. We will discuss the variable costs per inmate later in our testimony. The variable cost, including medical, is approximately \$2,340 each year per inmate or an annual total of approximately \$4.5 million.

M-202 Demographics/Caseload Changes – Page CORRECTIONS-4

This decision unit concerns new or expanded facilities that have been discussed previously. Included in the decision unit are 15 new medical staff at HDSP because of the increase in inmate population and the opening of phases IV and V of construction. The decision unit also includes the opening of Indian Springs Boot Camp with 18 full-time equivalent (FTE) staff. The SNWCC opens in January 2009 with 45 FTE. The HDSP Phase V opens with 103 FTE. The costs for each of these facilities and staff are included in the \$23,726,415 General Fund figure for new facilities shown on page 24 of [Exhibit L](#).

M-201 Demographics/Caseload Changes – Page CORRECTIONS-3

This decision unit addresses the opening of HDSP Phase IV with a staff of 419 FTE. Each new correctional officer position costs approximately \$60,000 annually at a beginning salary rate.

M-204 Demographics/Caseload Changes – Page CORRECTIONS-4

Decision unit M-204 reflects the \$4.7 million in operating costs for the modular units, also known as pre-engineered buildings. There will be a control officer for every 120 beds. The control officer will have a complete view of the dormitory area. Each modular unit will have 11 staff.

Other items listed on page 24 of [Exhibit L](#) include the fringe-benefit increases. Deferred maintenance and construction costs are \$3.3 million. Of that, \$361,000 would fund HVAC issues, fire alarm upgrades and other issues. Those issues stem from the SPWB testimony concerning the FCA studies.

Because of the construction spending cap, \$2.9 million is under a new budget category outside the cap.

Four new positions are included for the PREA requirements.

The other line item on page 24 of [Exhibit L](#) shows a budget reduction due the public safety dispatch cost.

Page 25 of [Exhibit L](#) lists the enhancement decision units. The first line item is medical electronic records. It will enhance dental charting and other items noted in the Legislative Audit of the DOC.

The second line item is requesting new positions for the NOTIS program. It is scheduled to come online at the end of May 2007. Six positions will be needed to maintain the program. The original request during the 2005 Legislative Session was for 12 positions, of which 6 positions were authorized. The remaining six are reflected in the current request.

Two medical FTE are requested for Casa Grande Transitional Center. The intent is to maintain and increase the inmate population at that facility.

The Going Home Prepared Program was a federally-funded program and the federal funding is no longer available. The request is for continuation of the program with General Funds. The request would allow 4 FTE positions.

Two new technology improvement projects are being requested. One is for the Inmate Commissary System and the other is for the Inmate Banking System. The systems will provide efficiency and accuracy to the programs and eliminate one of the Legislative Audit findings. The audit specified the need for a reconciliation of an outdated Inmate Banking System to the State's Integrated Financial System.

The next line item on page 25 of [Exhibit L](#) is for replacement equipment. Of the \$489,259 in General Funds requested, \$470,000 is requested to replace one bus.

New equipment requests are primarily components of a new telephone system and telephone service contracts.

The next line item is for unclassified equity adjustments. The funds are requested in the other funds category because it is funds that are first allocated to the Board of Examiners and then requested by the DOC. The request is significant due to the medical and other professional staff required by the agency.

E-814 Other Salary Adjustments – Page CORRECTIONS-9

This decision unit requests \$3.5 million in General Funds to the Board of Examiners and is ultimately allocated to the DOC as other funds. It encompasses medical staff rate increases.

The other line item includes 1.5 FTE storekeepers, programs testing, building maintenance and reclassifications.

Page 26 of [Exhibit L](#) is the one-shot appropriation request for the four modular units. Each modular unit will have 240 beds and be placed at SNWCC, NNCC, SDCC and SNCC.

Page 27 of [Exhibit L](#) is a recap of the FTE staff. There is a base of 2,835.99 employees. There are a total of 44 positions requested for the modular housing units. Six positions are shown as other staff. One is a medical technician at SNWCC, four for PREA and one is a caseworker to address caseload growth.

The other items listed in enhancement decision units have been previously mentioned. The 3.51 FTE include two medical staff for Casa Grande Transitional Center and 1.5 FTE storekeepers.

Page 28 of [Exhibit L](#) is listed as inmate-driven costs. They include the variable costs for each inmate other than those inmates in intake units. They include operating supplies at \$206 per year, clothing at \$28 per year and other incidental costs. The total variable cost per inmate is \$2,347 annually.

Page 29 of [Exhibit L](#) reflects the annual cost for each inmate. The administration costs of \$1,423 annually include costs for investigators, the transportation group and classification.

The average institutional cost is \$17,870 annually. The non-remote camp costs are \$8,469 annually. The Casa Grande Transitional Center has an annual cost of \$12,009 and the Northern Nevada Restitution Center has a cost of \$12,960 annually.

The overall annual cost per inmate is \$21,982 and the daily cost is \$60.23.

CHAIR ARBERRY:

Dr. Austin, do you have any comments concerning the DOC programs?

DR. AUSTIN:

The average national cost in FY 2004-2005 is approximately \$25,000 per inmate. Nevada is approximately \$4,000 or \$5,000 less than the national average.

Programs are important in institutions to assist in maintenance of safety. They keep inmates active and involved. Recidivism is somewhat affected by programs but, it is a much better investment to spend funds in community supervision and probation services. I would first get the organization back up to speed. A major focus of the Council of State Governments initiative will be improvement of probation services. If costs for 100 beds were allocated in the probation area, it would have a much larger effect.

MS. DOROTHY NASH HOLMES (Deputy Director, Correctional Programs, Department of Corrections):

Page 35 of [Exhibit L](#) details the Going Home Prepared Program. The program is presented in the next biennium as an enhancement unit although the costs were allocated from the General Fund in the current biennium. I recommend the Program be placed into the Base Budget.

During the three years of the grant, 69 percent of the most serious and violent offenders in the Program have had no new crimes or parole violations. Of the inmates in the program, 91 percent were employed and 88 percent achieved completion of high school.

The Urban Institute has the Program under study. I testified in the 2005 Legislative Session that the Nevada Going Home Prepared Program was one of 18 chosen in the country to be studied as a possible best practice.

Reentry is successful and it works. Funding should be placed in this area to assist inmates to get out of prison, get their identification documents and help them get into housing and employment.

Since the grant expired in June 2006, the reentry team has been working only in southern Nevada. Their accomplishments in a six-month period are shown on page 36 of [Exhibit L](#).

Page 37 of [Exhibit L](#) reflects the educational gains made by the Program in the last year. It can be attributed to the prioritization of education. The life-sentence inmates are the lowest candidates for high school education on the list. Those inmates whose sentence is five years or less and who only have a few credits needed to obtain a diploma must complete high school before they can be offered a job benefit. More people are attending the Program and more inmates are completing their education.

There were 23 associate degrees attained from community colleges this year. The college inmate population has increased to 160 inmates.

Page 38 of [Exhibit L](#) is pictures of the True Grit Program for senior inmates. It has been featured in the national corrections magazine, *Corrections Today*. The Program is a senior citizen home for inmates 60 years old and older. The Program began with less than 50 inmates and it currently boasts 70 inmates. There could be three such programs in three prisons, but there is no room for them. The DOC named the program Senior Structured Living, but the inmates call themselves True Grit.

A vendor called Choices Group operates the drug court programs in Las Vegas and has worked with 1,000 inmates in the one year that the Casa Grande Transitional Center has been open. Approximately 900 of those inmates found jobs and 300 were placed in halfway houses.

The problem is a large number of inmates still do not have proper identification to obtain a job. A part of the problem is the federal Social Security Administration (SSA) has placed on hold the issuance of social security documents for any State that does not have a memorandum of understanding (MOU) with them. Nevada had an MOU, in the south only, for the Going Home Prepared Program. The statewide MOU was in the legal office of the SSA in Washington, D.C., when issuance was suspended. We do not know when the hold may be lifted. The SSA is studying the problem of providing identification documents to prison inmates.

Page 41 of [Exhibit L](#) reflects the DOC Programs' situation at the beginning of the 2005 Legislature. There were funds for drug treatment, re-entry funds, college funds and training funds for the PREA program.

Page 42 of [Exhibit L](#) shows what has happened to funding since Hurricane Katrina and the War in Iraq. Grants are ended; the federal drug treatment funding has been reduced from \$600,000 to \$93,000 and may be completely eliminated at the end of this year. We apply for grants, but competition is greater and funds are not available.

The only increases are in the Youthful Offender Scholarship for inmates, age 25 and under, who will be released within five years. The reason it increased is because more funds are allowed if more students attend college.

Page 43 of [Exhibit L](#) lists issues of concern. There are legal questions concerning the Psychological Panel for Sex Offenders. The Nevada Supreme Court has rendered two decisions and the Office of the Attorney General has issued an opinion on open meeting laws. Those increase the caseload. We have been conducting 500 hearings each year and that will increase to 750 hearings annually. That issue may appear before the Senate Committee on the Judiciary.

Programming issues include the reality we have had a difficult time filling professional staff vacancies. Psychologists, psychiatrists, social workers, substance abuse counselors and mental health counselors did not receive salary increases during the 2005 Legislature when others in their classifications did, and the State Division of Mental Health has been hiring the few viable candidates in these fields.

Salary adjustment requests have been made in the 2007-2009 *Executive Budget* that will hopefully help. The Programs Division is the only division that did not exceed its personnel costs. The reason is certain positions require five to seven employment interview processes before a position can be filled. There are no staffing requests in the new prison construction programs. The staff requested in the budget only addresses security issues.

Under the Insufficient Substance Abuse Treatment Beds category, on page 43 of [Exhibit L](#), there are two typographical errors. The bottom line should read "male beds 31:1."

There are only 70 treatment beds for 1,127 female inmates. There are 372 treatment beds for 11,700 male inmates. Federal treatment funds are decreasing rapidly. I was pleased to hear, in the Governor's State of the State address, he was requesting \$17.4 million for a methamphetamine working group and treatment. I am hoping to talk to the working committee and perhaps receive a grant for our programs.

One of the two existing drug treatment programs will end when federal funding is eliminated. The Willing Inmates in Nevada Gaining Sobriety (WINGS) Program is still being operated, but the DOC terminated its contract with the vendor over particular issues. We are going to attempt to keep it in operation for the remaining six months until federal funding is eliminated. We also hope some State funding can be provided by the end of the 2007 Legislative Session.

CHAIR ARBERRY:

There have been previous audits of the DOC. What areas have been audited?

MR. GHIGGERI:

The DOC was recently audited for their medical and inmate banking programs.

MR. REXWINKEL:

There were three Legislative Audits. One was for the medical programs. One was for the personal property and inmate banking system. Those reports were made in December 2006 to the Legislative Audit Committee. The other was an administrative and fiscal audit that included personnel and payroll. They reviewed all financial records.

CHAIR ARBERRY:

Has there been an audit on the Planning and Classification Division?

MR. WHORTON:

The last Classification audit was done some time ago when Mr. Darin Conforti was working for the Legislative Council Bureau (LCB). I will provide a copy to the Committee.

MS. NASH HOLMES:

A Correctional Programs Division LCB audit has just begun and the auditors expect it will take approximately one year to complete. It is a result of the A.C.R. No. 17 of the 73rd Legislative Session Subcommittee during this last interim. The audit will identify what programs exist, which do not, what programs other states have and how they are funded.

CHAIR ARBERRY:

Is there anyone from the general public that would like to testify on any part of the hearing today?

DOROTHY B. NORTH (Chief Executive Officer, Vitality Unlimited):

I want the Committee to know that what I heard as I was sitting here is a lot of smoke and mirrors. "As long as people are hired to do studies that refer to the inmates as waste management, then more than likely we will continue not having a Department of Corrections. We are going to have a department of prisons."

The issue is of continually building more prison facilities and inmates will keep increasing. It is a self-perpetuating system. Until something is done at the front end and the good programs are maintained on the inside, and work on the back-end situation, we will never stop building prisons. I ran the first program inside Nevada prisons in 1981. It was temporarily funded with federal funds and the State chose not to continue the program when federal funding ceased. The same thing is happening with the WINGS Program. The WINGS Program has less than two out of every ten inmates returned to prison in less than three years for a commission of a new crime.

Albert Einstein said, "The definition of insanity is doing things over and over in the same way and expecting to get a different outcome." My tax dollar means something to me.

The WINGS Program has kept people out of prison at a savings of approximately \$13.5 million annually. We are operating the biggest homeless shelter in the State of Nevada. Male inmates are not making it on the street when they enter prison, and when they get out they cannot function. The female inmates are even worse.

We have to look at what we are doing. I cannot believe the comment about waste management slid past this Committee. We should all be ashamed. That comment is directed at someone's child, mother, dad or brother. Those people are important to someone. The Committee might want to look at how many of those people had no prior felony history before they entered prison. Nevada locks up everyone. It is especially true in the small counties. Those counties do not want to pay probation costs.

On the other hand, we have a Parole Board that does not want to let anyone out because they do not want to be responsible for those individuals.

CHAIR ARBERRY:

Those points are why I questioned what audits had been done. We must get a handle on this particular issue. We cannot keep locking up people.

There might be some way to consider the inmates in the True Grit Program. If they were released, who could an 80-year-old mug? There are programs and plans that need scrutiny.

MS. NORTH:

The prison population is disproportionately minority and poor whites. When I say the Pledge of Allegiance, I do not say, "In justice for all," I say, "in justice for some." Mr. Johnny Cochran was right when he said, "The color of justice is green."

CHAIR ARBERRY:

I would like to thank Assemblywoman RoseMary Womack, a freshman legislator, for her attendance throughout this hearing. It did not go unnoticed.

Seeing no further business or public comment, the meeting is adjourned at 4:45 p.m.

RESPECTFULLY SUBMITTED:

Cynthia Clampitt,
Committee Secretary

APPROVED BY:

Senator William J. Raggio, Chair

DATE: _____

Assemblyman Morse Arberry Jr., Chair

DATE: _____