

**MINUTES OF THE  
SENATE COMMITTEE ON FINANCE**

**Seventy-fourth Session  
April 11, 2007**

The Senate Committee on Finance was called to order by Chair William J. Raggio at 7:36 a.m. on Wednesday, April 11, 2007, in Room 2134 of the Legislative Building, Carson City, Nevada. **Exhibit A** is the Agenda. **Exhibit B** is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

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

**GUEST LEGISLATORS PRESENT:**

Senator Dennis Nolan, Clark County Senatorial District No. 9

**STAFF MEMBERS PRESENT:**

Gary L. Ghiggeri, Senate Fiscal Analyst  
Melinda Martini, Program Analyst  
Larry L. Peri, Principal Deputy Fiscal Analyst  
Sandra K. Small, Committee Secretary

**OTHERS PRESENT:**

Dennis Colling, Chief, Administrative Services Division, Department of Motor Vehicles  
The Honorable Deborah E. Schumacher, Department 5, Family Division, District Courts of Nevada  
The Honorable Kathy A. Hardcastle, Department 5, Eighth Judicial District, District Courts of Nevada  
The Honorable A. William Maupin, Chief Justice, Supreme Court  
The Honorable David R. Gamble, Department 1, Ninth Judicial District, District Courts of Nevada  
Michael J. Pomi, Director, Washoe County Department of Juvenile Services  
Cheryl N. Townsend, Director, Juvenile Justice Services, Clark County  
Dan Holler, County Manager, Douglas County  
Steve Robinson, Deputy Chief of Staff/Legislative Director, Office of the Governor  
The Honorable Dan L. Papez, Department 2, Seventh Judicial District, District Courts of Nevada  
E. K. McDaniel, Warden, Ely State Prison, Department of Corrections  
David L. McTeer, Information Systems Manager, Information Technology Improvement Division, Department of Administration  
Kenneth G. Reynolds, Information Systems Manager, Information Technology Improvement Division, Department of Administration

Michael T. Coleman, Administrator, Rehabilitation Division, Department of Employment, Training and Rehabilitation

Robert R. Loux, Executive Director, Agency for Nuclear Projects, Office of the Governor

Andrew Clinger, Director, Department of Administration

Suzanne P. Brunette, Accountant, Nevada State Office of Energy, Office of the Governor

Hatice Gecol, Ph.D., Director, Nevada State Office of Energy, Office of the Governor

Rajendra Mehta, Ph.D., Deputy Director, Nevada State Office of Energy, Office of the Governor

CHAIR RAGGIO:

The Committee heard Senate Bill (S.B.) 544 on April 9, 2007. The Chair indicated he would accept nominations for a subgroup to meet for the purpose of discussing potential changes or modifications on the issue of dealing with the Public Employees' Benefits Program problem. The following proponents of the measure are appointed: Mr. Martin Bibb, Mr. Roger K. Maillard and Dr. James T. Richardson; the following opponents of the measure are appointed: Mr. Al Bellister, Mr. Raymond Flynn and Ms. Victoria Robinson. Senator Beers, as chair, and Senator Coffin, as vice chair, will work with this subgroup and return with appropriate information or a recommendation. If any are unwilling to serve, although they have indicated they will, please advise the chair.

**SENATE BILL 544:** Makes various changes relating to the Public Employees' Benefits Program. (BDR 23-126)

We will open the hearing on S.B. 180.

**SENATE BILL 180:** Provides the registered owner of a vehicle with the opportunity to make a voluntary contribution to the State Highway Fund at the time of the renewal of the registration. (BDR 43-696)

SENATOR BEERS:

This bill adds a field to the vehicle registration form to allow people to contribute funds for road construction.

DENNIS COLLING (Chief, Administrative Services Division, Department of Motor Vehicles):

The Department of Motor Vehicles (DMV) is neutral on S.B. 180. There is a fiscal note attached to this bill. The bill requires all DMV methods of registering and dealing with the Department provide a field for the citizen to voluntarily make a contribution to the Highway Fund. The DMV would have to know who made the contribution, the amount and be able to reconcile the records. Many changes to programming, forms, the Internet, interactive voice, renewals by mail, kiosks and over-the-counter transactions are required. The total fiscal note for fiscal year (FY) 2007-2008 is \$176,962 and in FY 2008-2009 ongoing costs would be \$12,523; approximately \$25,046 will be required each biennia to maintain forms and for other ongoing costs.

SENATOR BEERS:

Is there any way to reduce the costs? Some of the programming could be done within the current budget. Kiosk changes are contracted. If we determine which

of the registration method changes are the most expensive and remove those, the fiscal note could be reduced. The printing costs for an insert in mailings could be eliminated from the fiscal note. Forms could be changed when they are reprinted to minimize the fiscal impact.

MR. COLLING:

The fiscal note could be cut by one-third by limiting the contribution to the Web page and over-the-counter registrations. The Director has discussed these potential amendments and is willing to go forward if the bill is amended.

SENATOR BEERS:

Has an amendment been drafted?

MR. COLLING:

To my knowledge, an amendment has not been prepared.

SENATOR BEERS:

I would like to see an amendment.

CHAIR RAGGIO:

Would you work with Senator Beers to prepare an amendment to reduce the fiscal note?

MR. COLLING:

Yes, I will.

CHAIR RAGGIO:

We will close the hearing on S.B. 180 and open the hearing on S.B. 248.

**SENATE BILL 248:** Revises provisions concerning the salaries of justices of the Supreme Court and district judges in Nevada. (BDR 1-663)

THE HONORABLE DEBORAH E. SCHUMACHER (Department 5, Family Division, District Courts of Nevada):

I am president of the Nevada District Judges Association (NDJA) which represents the 64 trial judges who preside in our general jurisdiction and family trial courts. We believe an increase in judicial salaries is appropriate. It is supported by the unanimous recommendation of an independent select committee. This request is supported by data. We acknowledge there is a shortfall in revenue and the challenge this body faces in responding to that circumstance. Ultimately, the issue of judicial compensation is a policy decision for the Legislature. The Legislature, historically, has handled judicial compensation fairly and we believe you will continue to do so.

The current base salary for district court judges in Nevada is \$130,000 plus longevity of 2 percent each year, accruing after four years of service, to a maximum of 22 percent. The last adjustment to judicial compensation occurred in 2001, when district court judges' salaries were increased from \$100,000 to \$130,000 annually, for judges taking office after the 2002 election.

In August 2006, Governor Guinn created a Governor's Task Force to examine and recommend appropriate levels of compensation for judges and justices. The task force consisted of five members: Mr. Bill Martin, President, Nevada State Bank, was chair; Mr. Bill Bible, President, Nevada Resort Association;

Ms. Patricia Mulroy, General Manager, Las Vegas Water District; Mr. Harry York, Chief Executive Office, Reno-Sparks Chamber of Commerce and Mr. Thomas Sheets, General Counsel, Southwest Gas Corporation. Pursuant to Governor Guinn's empanelling order, the primary goal of the task force was to ensure that Nevada citizens are served by attracting and retaining experienced and qualified attorneys to the judiciary. The Committee has received a copy of the Governor's Task Force on Compensation for Supreme Court Justices and District Court Judges ([Exhibit C](#), original is on file in the Research Library). The task force held three public hearings and received extensive testimony and evidence. It specifically compared compensation provided to attorneys with similar qualifications who are presently employed in the private and public sectors and examined inflation indices in coming to conclusions. This bill incorporates the task force recommendation to increase district court judges' annual salaries to \$169,000 commencing January 2009 for judges elected in 2008; that level of salary would continue through 2015. In choosing to incorporate the task force's recommendation to increase salaries, the NDJA proceeded exactly as it did in the last Legislative Session in which you considered judicial salary raises.

The 2001 gubernatorial salary task force recommendations were incorporated into a bill draft request that came before the 71st Legislative Session. The 71st Legislative Session did not adopt all of the 2001 task force recommendations, but it did approve the task force recommendation to increase district court salaries to \$130,000.

Article 6 of the *Constitution of the State of Nevada* prohibits a district court judge or a supreme court judge from receiving a salary increase during their term of office. Eighty-two percent of all district court judges will stand for election in 2008. Judges presently in office last received a salary adjustment in 2002. The Constitutional restriction on midterm salary raises means if no increase is approved by this Legislature, incumbent judges will serve for 12 years without a salary increase.

The midterm salary adjustment prohibition in Nevada creates a situation unique among the western states. The majority of western states adjust judicial compensation annually. The Committee has received a copy of "SB248 Judicial Salaries" ([Exhibit D](#)) containing statistical and other judicial salary information. For example, in Seattle in King County, there is an annual adjustment to judicial salaries determined by a standing committee which meets every two years. According to the National Center for State Courts' most recent information, released in July 2006, adjusted for inflation, Nevada district judges rank 31st among the states with respect to current salary.

Since any salary increase this Legislature might approve would not become effective until the last quarter of the biennium, January 2009, it is likely most western states will have continued to adjust compensation annually as they have historically. It is likely Nevada's ranking will then fall below its current 31st place. If no salary increase is approved, and most judges need to wait until 2015 for a salary increase, it seems probable the ranking will fall well below the 31st place ranking.

THE HONORABLE KATHY A. HARDCASTLE (Department 5, Eighth Judicial District, District Courts of Nevada):

I am also representing the Judicial Counsel of the State of Nevada as well as the Second and the Eighth Judicial Districts. I want to discuss what judges in this State accomplish despite the fact we have the lowest ratio of judges anywhere we have looked. Nevada averages 2.4 judges for each 100,000 in population. Clark County has 1.8 judges for each 100,000 in population. We also have the highest caseload, especially in the western states. Despite this, we have a hard-working, dedicated and efficient judiciary. We have a clearance rate ([Exhibit D](#)) of 102 percent. The number of dispositions for each judge is 2,864, the highest of anywhere we have seen. The cost for each disposition per judge is \$52, the lowest we have seen. I am not sure how long we can keep up with this type of workload. Most of us have a passion for the law and a strong sense of public service. Most of us took a pay cut when we decided to either run for or be appointed as a judge. We do depend upon our salary. At some point the pay disparity does become a concern and possibly a deciding factor when deciding whether or not to seek a judicial position. Last Session this Legislature set a public policy that experienced judges are a benefit to our citizens and set a minimum qualification of ten years' experience in the legal profession before we could run for district court judge. We have been able to attract candidates with diverse backgrounds to the bench. We have a number of women on the bench. We could do better, but we do have good racial diversity. Our income levels, our work experiences, our life experiences are broad. Just as experience in the legal profession is desirable in the judiciary, so is diversity of the bench. I believe that diversity makes the court stronger and more responsive to the needs of our citizens and businesses in Nevada. To maintain the diversity, strength and level of experience, we must receive fair compensation to remain competitive and continue to attract a diverse and highly experienced group to the bench.

CHAIR RAGGIO:

The Governor's Task Force ([Exhibit C](#)) recommendations are reflected in S.B. 248. There are other recommendations in the report that are not in this bill. For instance, district court judges receive equal pay for equal work for serving on the District Court Commission on Law Libraries. It is my understanding a companion bill has been requested.

DISTRICT JUDGE SCHUMACHER:

The bill was received last night.

CHAIR RAGGIO:

The last time the Chair looked at this issue, Nevada was one of the few states to provide longevity. Did the ranking include the fact most Nevada judges receive longevity pay?

DISTRICT JUDGE SCHUMACHER:

The National Center for State Courts and similar bodies do not track longevity and other benefits. The ranking does not include longevity.

CHAIR RAGGIO:

There is longevity pay to recognize the need to retain judges.

DISTRICT JUDGE SCHUMACHER:

Longevity pay is an important benefit which accrues after 4 years and ends after 11 years at 22 percent. I was able to ascertain that a similar benefit is available to the justice court judges in Clark, Washoe and Carson City Counties. I did not find any national information.

CHAIR RAGGIO:

Nevada is one of the few states to provide longevity pay which should not be discounted in this discussion. The Task Force report recommends the longevity pay be increased to 30 percent. That is not part of S.B. 248.

DISTRICT JUDGE SCHUMACHER:

That recommendation was contained in the *Executive Budget*. In responding to the Governor's request to reduce budgets, it was removed from the Supreme Court's budget.

CHAIR RAGGIO:

The Task Force also recommended an increase for chief district court judges.

DISTRICT JUDGE SCHUMACHER:

That recommendation was originally included but was also eliminated from the Supreme Court budget.

THE HONORABLE A. WILLIAM MAUPIN (Chief Justice, Supreme Court):

The salary commission recommended longevity increases and additional stipends for services. It was my understanding the NDJA and the Justices of the Supreme Court were not interested in pursuing that recommendation. It was in the *Executive Budget* and the Supreme Court's budget for informational purposes only.

CHAIR RAGGIO:

I want to make sure we do not overlook these recommendations. There is also a recommendation for an increase in the chief justice's salary.

CHIEF JUSTICE MAUPIN:

We have no interest in that recommendation. All justices should be paid the same.

CHAIR RAGGIO:

Does the other bill provide a vehicle for equal pay to serve on the Commission on Law Libraries at the District Court and Supreme Court levels?

CHIEF JUSTICE MAUPIN:

Yes, they are both being pursued.

DISTRICT JUDGE SCHUMACHER:

In preparing for this hearing, I looked at the legislative history of this Committee's consideration in 2005 of the salary increases of certain constitutional officers. I noted this Committee was interested in the effect of inflation on the salaries being considered. The graph on page 1 of [Exhibit D](#) indicates the application of the Consumer Price Index and the Nevada all Industry Wage Index to the district judges' base salary from 2003 through the present and extrapolates it to 2015 which is the period the requested wage must cover.



Similarly, in providing context for this discussion, I would like to discuss the salary increase of the State of Nevada classified employees as another lens through which this bill can be assessed. The State of Nevada classified employees' history, not included in [Exhibit D](#), indicates during the five-year period July 1, 2001, through 2006, State employees received cost-of-living increases of 16 percent. On two occasions, they received an additional step in compensation. Many of you are familiar with typical government compensation in which an employee, if he or she is entitled to merit, will move up steps. All employees receive cost-of-living increases. Unless an employee has reached the top step, if they deserve a merit increase, they will move up an additional sum in addition to cost-of-living. On two occasions, between July 2001 and 2006, Nevada classified employees were afforded an additional step. The State informs me that a step has the value of about 4.5 percent. Two steps combine to 9 percent. A 16-percent cost-of-living increase and an additional two steps, brings the increase to 25 percent over that period of time, without any consideration for compounding. Both the inflation indices and the State of Nevada classified employees should be included when considering our request.

CHIEF JUSTICE MAUPIN:

I would like to give you a couple of examples of what you get from the district court judges in Nevada. Every week, Judge Dan L. Papez and Judge Steven Dobrescu in White Pine County must travel to Eureka and Pioche to hear cases. Their caseloads are not as serious in numbers as Clark or Washoe Counties, but their work is arduous and difficult not only in the confines of the Ely Courthouse, but the travel required by rural judges. In the Family Division of the Eighth Judicial District Court, we have had to redeploy the new Family Division judge to help with child dependency cases. Those judges unanimously agreed to assume the same caseload they had before which is overwhelming. The judges in the Second Judicial District Court are in hearings almost every day. The Nevada Supreme Court is one of the busiest Supreme Courts in the United States. Every member of the judiciary is committed to provide justice and quality formal dispute resolution for the citizens of Nevada. We know what the many considerations are going into this bill; we know this only gets considered every six years. It is a different kind of pay bill. We are asking for the respect this position deserves.

CHAIR RAGGIO:

We must be concerned with this situation. As the speakers have indicated, these salaries are for a period of six years. If we do not deal with this in a responsible way and in adequate amounts, we are doing a great disservice to those serving in these positions. You will find it difficult for any attorney, with the length of service and expertise required, to serve as a judge. Few attorneys are earning less than this in private practice. The chart on page 3 of [Exhibit D](#) indicates the salaries of public attorneys, some earning more than District Judges or Supreme Court Justices. We ask people to serve on the bench, expect them to leave private practice for an extended period of time and hope they continue in public service and perform adequately so they will be retained, with little expectation of returning to a private practice. They need to be compensated adequately.

We will close the hearing on [S.B. 248](#) and open the hearing on [S.B. 249](#).

**SENATE BILL 249:** Revises provisions relating to the financial support of regional facilities for the detention of children. (BDR 5-653)

THE HONORABLE DAVID R. GAMBLE (Department 1, Ninth Judicial District, District Courts of Nevada):

The Spring Mountain and China Spring Youth Camps, for boys, and the Aurora Pines Girls Facility are regional treatment facilities. They serve mid-level juvenile offenders. The Spring Mountain Youth Camp serves Clark County; the China Spring Youth Camp and Aurora Pines Girls Facility serve the other counties. These are children who have continued in delinquent behavior despite everything that can be done for them in the community. A juvenile judge has made a determination to remove the child from their home for further treatment. Once the removal decision is made, the issue becomes where to place the individual. Our choices in Nevada are limited. If they are placed in State custody, they either go to the Nevada Youth Training Center in Elko or the Caliente Youth Center. Spring Mountain, China Spring and Aurora Pines bridge that gap. If not for these facilities, all these children would go to a State facility. Originally, the idea was to have regional treatment centers so a child could be incorporated back into the community more easily after staying at the facility and to be closer to their family. Spring Mountain works that way for Clark County. China Spring works that way for the western counties. We still have problems because children from Ely coming to China Spring are not close to their community. Nevertheless, we fill the gap for the smaller counties.

The funding methods for the north and south camps have been radically different. The China Spring and Aurora Springs budgets are developed by camp staff and submitted to the Division of Child and Family Services (DCFS) and are included in the DCFS budget which comes before the Legislature for approval. The Legislature has approved funding approximately 37 percent of the cost of these two camps. The remaining funding is received from the 16 participating counties. Problems occur due to budget timing. The counties have to wait to set their budgets until the State has determined its budget. The small counties do not have any input on the budgeting process which creates antagonism between the camps and the counties. The camps request funds but cannot quantify the amount needed from the counties until after the Session. During the Sessions, the division between the State and the counties can be volatile. There is a multilevel budget review.

The Spring Mountain camp, in the south, has not received major contributions from the State. Clark County sets the Spring Mountain budget, funds the camp and then Spring Mountain seeks a budgeted amount from the State, usually about \$300,000 each year. The \$600,000 each biennium is a small portion of Spring Mountain's budget. The funding manner with Spring Mountain results in an additional problem: the unequal treatment of facilities doing essentially the same work. Not only is it the same work, it is effective work. The low-recidivism rates and high-success rates of the regional treatment facilities have been good compared to other programs. In spite of the fact that Spring Mountain is doing the same good work that China Spring and Aurora Pines does, the State has not funded it to the same extent it funds the northern camps.

Senate Bill 249 is an attempt to solve these various problems in three major ways. The first is to change the budgeting method for the northern camps. We have created an advisory committee for China Spring and Aurora Pines made up



of representatives from all judicial districts, except the Eighth Judicial District in Clark County. The counties are represented by juvenile representatives and by a fiscal officer. The plan to implement this bill would be for the advisory committee to set the budget for the northern camps. That gives them input and ownership over the budget and is a self-assessment instead of the camp or State assessing, for instance White Pine County, for a certain amount without White Pine County having any input into the budgeting process. The second part of the change is to take the budgeting duty away from the DCFS and the need for the DCFS to transmit the funds. Until now, the northern camps' funds have been assessed by the State, paid to the State, paid by the State to Douglas County, and then distributed for the benefit of the camps. These are steps we do not believe are necessarily appropriate. Under this bill, Spring Mountain budgeting would remain basically the same. The budgeting responsibility would remain with Clark County with no major change to the budgeting system.

The next problem-solving area in S.B. 249 is State funding would change from a percentage of the camp's budget to a flat rate of \$50.93 per bed per day. These camps are always full and always have a waiting list. Spring Mountain has 100 beds for boys. China Spring has 40 beds for boys. Aurora Pines has increased from 16 to 24 beds for girls. That number was calculated by averaging the daily cost of China Spring, Aurora Pines, Caliente and Elko and applying the rate of 37 percent the Legislature has used in the past. This is a radical change but takes away the need for budgeting by the DCFS, money transfers, and gives the counties a definite amount to budget for because they will have developed the camp budgets.

Another major change contained in the bill is to equalize State funding for the north and south camps. This should have happened a long time ago. We are saving the State money. Every child who goes to Spring Mountain does not go to Elko, except those who re-offend. Fairness dictates that when two outfits, one north and one south, do the same work equally well and are saving the State money, funding should be similar. We are not requesting the same percentage of cost as for the camps because Clark County has determined to budget at a higher daily rate for Spring Mountain, but it is a closer comparison than it has been historically.

As an overview of S.B. 249, Section 1 and its first five subsections describe the changes in the budgeting method and the payment method that applies only to counties whose population is under 400,000. The new subsection 6 includes Spring Mountain Youth Camp as a regional treatment facility. Section 2 of the bill contains the flat fee change with a price indexing component. The *Executive Budget* would include a flat fee per bed per day with an increasing index, simplifying the Legislature's task in analyzing the budget.

CHAIR RAGGIO:

The effect of this measure would be to remove any and all fiscal oversight on the part of the State or the Legislature on the operation of these facilities because the amount contributed by the State would be set at \$50.93 adjusted by the Consumer Price Index. The State has oversight and management of the other juvenile facilities, such as Elko and Caliente; there would be no oversight for these three camps. That is a concern. The State would be providing approximately 37 percent of the cost to operate these facilities.

These camps have evolved over a period of time. China Spring was desired by Douglas County to have a place where the court could send children rather than sending them to Elko or Caliente. Through a lot of efforts, particularly of former Senator Jacobsen and others, a camp was created. That facility grew because other counties wanted the same capability so children would not be sent to State facilities. Soon the State was asked to participate in funding China Spring; it was an intermediate detention facility where the level of supervision was appropriate to the level of juvenile offender.

Clark County wanted its own facility, so it created Spring Mountain as an alternative, and funded it entirely for a long time. These camps are alternative placements the local juvenile court judges wanted available. The State has stepped up from time to time and provided capital improvements and operating funds. That has been true, to a limited degree, in Clark County. For a long time Clark County wanted to operate Spring Mountain without State participation.

DISTRICT JUDGE GAMBLE:

Everything you said is correct. The Legislature has been faithful to the northern camps. In addition to the 37 percent recent funding, the Legislature has also been generous in the form of capital projects. Clark County has wanted self-determination.

CHAIR RAGGIO:

I do not want to leave the impression the State does not want to help. We have been following the history of the camps.

DISTRICT JUDGE GAMBLE:

The State facilities are also full.

SENATOR RHOADS:

What does it cost to go to Elko and Caliente per day per bed if it costs \$50.93 at the regional facilities?

DISTRICT JUDGE GAMBLE:

It does not cost \$50.93 for these facilities. Originally, the Executive Branch was helping us form this bill. Last year we did a fiscal analysis. In doing so, we used the numbers at Nevada Youth Training Center at Elko of \$176.76 a day; Caliente was \$147.03 each day; China Spring was \$132.52 a day; and the girls' facility at Aurora Pines was \$108.33 per day per bed. The average for the four facilities is \$138.40 per day; \$50.93 is 36.8 percent of that number.

SENATOR BEERS:

Will eight beds be added at China Spring?

DISTRICT JUDGE GAMBLE:

That is correct.

SENATOR BEERS:

When was the last time beds were added in this State?

MICHAEL J. POMI (Director, Washoe County Department of Juvenile Services):

I also serve as the President of the Nevada Association of Juvenile Justice Administrators. The Legislature added 96 State beds at Summit View Youth

Correctional Center about two Sessions ago. Aurora Pines became available in 2002.

CHERYLN K. TOWNSEND (Director, Juvenile Justice Services, Clark County):

We have been working hard over the last two years to make sure we came forward to the Legislature with a statewide approach and with the support of the judges, citizen advisory groups, probation departments and other interested parties. All of the judges and all of the probation departments agree the youth camps are a great investment for Nevada. Spring Mountain Youth Camp serves nearly 240 youth each year. All of the youth camps in Nevada have an 85- to 87-percent success rate. With the support of S.B. 249, we can further increase the success rate and reduce any need to expand or build new State facilities for youth corrections.

SENATOR RHOADS:

The fiscal note is \$3.2 million. Is this in the budget; is this new money or is it a different way to divide it up?

DISTRICT JUDGE GAMBLE:

It is not a different way of dividing it up. A portion is new money. The new money is the \$50.93 per bed per day for Spring Mountain netted out with the budgeted amount for Spring Mountain, about \$600,000 for the biennium. There are two small increases. One increase is the result of averaging in the higher cost bed per day at Caliente and Elko; the other is for the increase in beds, from 16 to 24, at Aurora Pines.

CHAIR RAGGIO:

Can staff indicate, at a later time, the amount S.B. 249 requires which exceeds the funding included in the budget?

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

Yes, I will.

MR. POMI:

You asked about Legislative oversight of the funds requested in S.B. 249. There is a bill in the Legislature to create an office which would have oversight of juvenile facilities for child welfare and juvenile justice. I do not know where that bill will end up.

CHAIR RAGGIO:

Is that bill for fiscal or operational oversight?

MR. POMI:

The bill is for operational oversight only. It is good practice and policy for the Legislature to have a consistent form of funding for the camps because of their great work and ability to keep the children closer to their families which is imperative.

DISTRICT JUDGE GAMBLE:

The bill has two safeguards. The budgeting for the northern camps will be done by all of the northern counties in the form of the advisory committee. You have input and oversight by all 16 counties.

CHAIR RAGGIO:

The county operating the facility will have the final determination to calculate the assessment due from each county.

DISTRICT JUDGE GAMBLE:

The assessment is calculated two ways including by student population. The budget will be created, overseen and approved by the advisory committee.

CHAIR RAGGIO:

The county sets the budget, according to S.B. 249. The total of the county assessments would equal the amount budgeted for the operation of the regional facility. The county operating the regional facility will calculate the assessment. In essence, the county operating the facility will create the budget.

DISTRICT JUDGE GAMBLE:

The budget is created by the advisory committee which is not part of the bill. The 16 counties will have duties regarding the budget. Douglas County performs the function of dividing the budget by the school population.

DAN HOLLER (County Manager, Douglas County):

Douglas County supports S.B. 249. The Committee has received a handout which includes letters of support for S.B. 249 from the Nevada State Juvenile Justice Commission, the Washoe County Department of Juvenile Services, the Carson City Consolidated Municipality, the Douglas County Board of County Commissioners, the Seventh Judicial District Juvenile Probation Department, the Lyon County Juvenile Probation Department and the Douglas County Juvenile Division ([Exhibit E](#)). The current camp budgeting process is a challenge. We work with the Office of the Governor to submit a budget. The last several years the Budget Division has not allowed any increases in the Base Budget. There is no room for utility increases. Camp employees are under the county system and receive cost-of-living and merit increases. These items are not reflected in the Base Budget. If the Base Budget is not enhanced during the Legislative process, the camp generally must come to Douglas County to balance the budget.

A couple of years ago, because of the way payments come in from the State and counties, we had to provide a \$250,000 grant to the camp for cash flow purposes. If a pay increase to State employees is not included in the budget, the camp does not receive an increase. One year, when the funding was provided later for the State employee salary increases, funding was not provided for the camp employees. The camps' budgets are caught between the development of the budget at the county level and the State level. The camps have never had the opportunity to come before the Interim Finance Committee (IFC) to address additional costs. Once the camp budgets are set, the counties' tax rates are set making it difficult to go back to the 16 counties requesting additional funds. We believe S.B. 249 is one means of solving the budget issue.

CHAIR RAGGIO:

We would have to find some way to have equal applicability to the way the State funds the other juvenile facilities. We will close the hearing on S.B. 249 and open the hearing on S.B. 333.

**SENATE BILL 333:** Makes an appropriation to the Office of Court Administrator for construction of a new courthouse for White Pine County. (BDR S-735)

SENATOR RHOADS:

In 1987 or 1989, Senator Raggio, Senator Floyd Lamb, Mr. Lloyd Mann and I flew to Ely to look at the prison site. Later that week, we argued about whether the location should be White Pine County or Las Vegas. At that time, the plan was not for a maximum security prison. I do not recall discussing the courthouse at that time. Those who have seen the courthouse were unaware of the safety factor. Two years ago, the Senate passed a bill similar to S.B. 333. Due to inflation, the cost of constructing the new courthouse has increased from \$12 million to \$14 million. We have two bills, S.B. 333 and S.B. 460, that are identical.

**SENATE BILL 460:** Makes an appropriation to the Office of Court Administrator for construction of a new courthouse for White Pine County. (BDR S-657)

CHAIR RAGGIO:

We will hear S.B. 333 at this time and not hold a hearing on S.B. 460 unless there is objection.

STEVE ROBINSON (Deputy Chief of Staff/Legislative Director, Office of the Governor):

The Governor has recommended \$6.5 million in one-shot funds for the White Pine Courthouse. He has visited the Ely courthouse and agrees it is a public safety issue and a State responsibility because of its proximity to the Ely State Prison. The amount will partially fund the building of the courthouse.

CHAIR RAGGIO:

In the last Session, the Senate voted to support S.B. No. 106 of the 73rd Session with an appropriation of \$8 million for the construction of the new court facility in White Pine County; however, it died in the Assembly. At that time, the total cost would have been \$10.8 million for a structure of approximately 30,000 square feet with two courtrooms, office space for the district attorney and juvenile probation. The county was contributing the land and \$250,000 in court construction fees. I do not recall how the remainder of the construction costs were going to be paid. How much will the building cost to construct and is there a change in the design and construction? The request in this bill is \$14 million. That must be someone's estimate of the total cost. The Governor's budget includes \$6.5 million. What will the budget provide if it is approved?

MR. ROBINSON:

The Governor did not think the \$6.5 million would fulfill the needs but is an amount toward construction. White Pine County would pick up some of the costs.

CHAIR RAGGIO:

Has White Pine County's fiscal situation improved to the point it can complete a project of this kind? The State does not ordinarily build courthouses. This is out of the ordinary because of the location of the maximum security facility. The holding cell in the courthouse is a disgrace. It is completely inappropriate and inadequate for prisoners who are brought to court, stand trial and are held for detention.

MR. ROBINSON:

The Governor hesitated to fund a county courthouse. It is setting a precedent and something the State would not normally do. After he heard and saw the testimony of people that this is a State responsibility and an outstanding public safety need, he included it in his budget even though we know the amount will not build the entire structure.

THE HONORABLE DAN L. PAPEZ (Department 2, Seventh Judicial District, District Courts of Nevada):

I appeared before this Committee during the 73rd Legislative Session. The needs have not changed and are more compelling than they were in 2005. The population at the Ely State Prison has gone from 1,000 to over 1,300 which generates more work as more things occur in the prison. The estimated cost of the structure in 2005 was \$10.8 million. The bill you acted on in 2005 was \$11 million. That bill passed out of the Senate but died in the Assembly. The \$14 million we are requesting now represents the cost of inflation.

The Committee has received a copy of the "White Pine County Judicial Facility Project" ([Exhibit F](#), original is on file in the Research Library). The architect's cost estimate is included in [Exhibit F](#). The design of the facility has not changed from the 2005 design. In 2005, White Pine County could only participate by providing the land and a small amount in facility fees. White Pine County may be able to participate financially this Session if [S.B. 74](#) passes and is signed into law. I have met with the director of the Department of Taxation to discuss the funds [S.B. 74](#) would generate for White Pine County. The estimate is \$300,000 to \$350,000 each year for the county. The Department of Taxation indicates that amount would service debt of \$2 million to \$3 million. The Department of Taxation also indicated it would be favorable and probably approve the county obtaining a loan in that amount to put toward the new court facility.

Recent cases in Ely show the need for an improved facility. In the last few days, a decision came out of the Nevada Supreme Court, *Hightower v State*. In that case, the Supreme Court has issued a ruling stating inmate witnesses, at the request of the defense, must appear in non-prison garb. They did not discuss shackling in that case, but I have been informed by the defense bar they will request inmates not have shackles when they come into court. This situation adds to the danger when you have opposing gang members coming into court to testify. There is a critical need to protect the people who work in the courthouse and serve on juries. [Exhibit F](#) provides additional information.

**SENATE BILL 74:** Revises provisions governing expenditure of money in infrastructure fund of certain counties. (BDR 32-255)

CHAIR RAGGIO:

There are pictures of the inmate holding cells in [Exhibit F](#). The holding cells are in a storage room containing two fabricated metal cells. Inmates or not, this is an inadequate condition. During the last Session, the Governor recommended \$8 million and the Senate approved \$10.8 million.

SENATOR TITUS:

I visited that courthouse and know it is in bad shape. I am not optimistic about White Pine County's ability to pay a share of the cost. We have heard the message loud and clear that new taxes will not be approved. What has happened to the special courtroom built at the prison to deal with this problem?



There was some talk of it being unconstitutional. Was there a court ruling about that?

DISTRICT JUDGE PAPEZ:

The courtroom facility constructed at the prison is a small courtroom. It was not meant to accommodate jury trials. We have always believed there are constitutional issues in holding a criminal trial within the confines of a penitentiary. There are great due process considerations affecting the presumption of innocence. The practical problem is in asking the citizens of the community to serve within the walls of a maximum security prison. Warden McDaniel would have serious security problems with a hundred people entering his facility for jury service.

SENATOR TITUS:

Those arguments were not heard at the time the Ely State Prison courtroom was funded. At the time, it seemed like a good idea to hold trials within the prison.

CHAIR RAGGIO:

The courtroom was meant to serve for preliminary appearances, not jury trials.

SENATOR TITUS:

I read the minutes of those hearings. They are interesting.

DISTRICT JUDGE PAPEZ:

The Justice of the Peace does use the Ely State Prison courtroom for first appearances and preliminary hearings.

SENATOR COFFIN:

With respect to constitutionality in regard to the jury's prejudice, is it presumed, in the cases of one prisoner against another prisoner, that the parties are not in the free world? No matter where the jury sits, they know the parties to the trial are in prison for some offense. The constitutionality should stand. You do not have to dress them in civilian clothes to show the jury the parties are not already criminals.

DISTRICT JUDGE PAPEZ:

The inmates who appear for trial do not appear in prison garb or in shackles. In most cases, they have a stun belt under their clothes which the jury cannot see. When we do jury selection, we go to great pains to advise the jury of the concept of presumption of innocence. We state right out they are inmates of Ely State Prison. Regardless of their station in life, they are entitled to the presumption of innocence. We have lively debates in jury selection. Many citizens say a prisoner must be guilty. We carefully deal with this in every trial. We have to impanel a fair and impartial jury. We do a good job of that with the citizens knowing they are dealing with inmates; we have had several acquittals. There is not always a conviction.

SENATOR COFFIN:

I appreciate that. Regardless of how they are dressed, the jury knows they are dealing with prisoners. My idea was to build a concrete courtroom, safe for juries, costing \$2 million and preserve the old courthouse. We do not need an historical place to hear these inmate-on-inmate offences; build it outside the wall. It will not change the presumption of the jury. It is already stipulated that

they are prisoners. Some people already feel they are guilty. We just know that; it is life. What is the difference between spending some money, but not this entire amount, to build a good solid place near the prison without a lot of spectator room; a place with safety for the jurors or on the prison grounds but outside the fence?

DISTRICT JUDGE PAPEZ:

We have examined every possible solution to this problem including what you are suggesting. The prison is located ten miles north of Ely. We have a large number of jury trials in White Pine County. The small population is burdened with continuous jury service throughout the year. It would be an additional burden to travel to the prison.

SENATOR COFFIN:

Could you do jury selection in Ely at the courthouse then conduct the trial at the other premises?

DISTRICT JUDGE PAPEZ:

The defendant must be present for jury selection.

SENATOR COFFIN:

I did not know that. What could be done with concrete and steel close to the prison?

E. K. MCDANIEL, WARDEN (Ely State Prison, Department of Corrections):

I have been the warden at Ely State Prison for 14 years. We have looked at a lot of different things we could do to make trials secure. The location is not as critical as the construction. Several years ago, we had a serious trial with several incorrigible inmates called as witnesses. One judge ordered us to have a jury trial at the prison. A constitutional issue required the trial be held at the county seat. Ely State Prison is not located in the city of Ely and does not meet the requirements of the *Constitution of the State of Nevada*. In that particular case, we had to lease an airplane and fly inmates to Las Vegas, one at a time for a week, until the trial was accomplished. We did this with the cooperation of the Las Vegas Metropolitan Police and other parties. I can transport inmates to Ely as safely as I can transport them outside the fence. We need correct holding cells and juries not within two or three feet of a testifying inmate. The large windows at the courthouse require seven highly-trained correctional officers. I have to take these officers away from their normal jobs and assign them for a day at the courthouse. People can jump out of the windows or shoot through the windows; there are all kinds of problems with the courthouse. The plans for construction of a new courthouse are adequate.

CHAIR RAGGIO:

The reason this courthouse has a problem is not the normal course of legal business in White Pine County. It is because we placed a maximum security prison in White Pine County. No one else wanted this prison, particularly Clark County.

SENATOR BEERS:

It is a shame we cannot recruit the members of the U.S. Supreme Court to serve on a jury in Ely. It might change their minds about building a cage around the defendant box.

CHIEF JUSTICE MAUPIN:

If you are going to build a new facility, we must follow federal law. Any federal court in this country is going to have serious concerns with a jury trial taking place within the confines of the most maximum security prison in this State. The courtroom in the prison is rudimentary. It is among other activities in the prison. You could not hold anything other than an administrative type scheduling hearing there. If you build something, it makes more sense to build it as a full-purpose facility.

SENATOR COFFIN:

My suggestion is for in or out of the prison grounds.

SENATOR TITUS:

Other places may not have wanted the prison, but White Pine County did want it and saw it as a source of economic development and jobs.

CHAIR RAGGIO:

We wanted to put it in Clark County. They said no, so we had to find another place. That is also how a prison ended up in Lovelock.

SENATOR RHOADS:

Was it originally supposed to be a medium security prison?

CHAIR RAGGIO:

Yes, because of the condition of the maximum security prison in Carson City.

WARDEN MCDANIEL:

Most of you have been to Ely State Prison and are aware of our situation. We have the worst of the worst inmates. We have many inmates across the State whom people see out working. I supervise three camps and get a lot of work from those inmates. The mission of the Ely State Prison is to protect the public. It is difficult to provide my staff and feel comfortable when we take inmates to the White Pine County courthouse from Ely State Prison. Inmates continue to commit crimes. People wonder why inmates commit crimes inside a prison; they were committing them before they came; they probably committed them in another prison to get to my facility; while at my facility they continue to be violent toward staff and other inmates in all kinds of ways. We do our best to keep that from occurring, but when it does we want to pursue prosecution. We want to make sure they are held accountable for what they continue to do. For us to be able to keep the public safe and still prosecute those who continue to commit crimes, we need a new courthouse in Ely.

CHAIR RAGGIO:

We will close the hearing on S.B. 333 and hear S.B. 316.

**SENATE BILL 316:** Requires compensation for Legislators who serve on the Commission on Special License Plates. (BDR 43-861)

SENATOR DENNIS NOLAN (Clark County Senatorial District No. 9):

Senate Bill 316 was generated by the Commission on Special License Plates, a committee I chair consisting of four legislators and the directors of the Department of Motor Vehicles, Department of Public Safety and Department of Cultural Affairs. It is the only statutory interim committee that works and does not have travel expenses or per diem for its members. I do not think the

situation was too much of an issue. We met three times last year. The meetings last about four hours. The legislators were all southern members this time; the makeup changes every session. The legislators did not complain too much, but it is not fair to have the department heads travel without pay or per diem.

CHAIR RAGGIO:

Under the law, are there five legislators appointed by the Legislative Commission? How many meetings are held during an interim?

SENATOR NOLAN:

There are five legislators with three meetings during the interim.

CHAIR RAGGIO:

Would the commission members receive compensation, per diem and travel expenses?

SENATOR NOLAN:

That is correct.

CHAIR RAGGIO:

We will close the hearing on S.B. 316. Senator Beers has indicated that S.B. 365 should not be heard at this time.

SENATOR BEERS:

That is correct. The Nevada Department of Transportation and the Department of Administration will work with me on some mutually agreed upon amendment language.

**SENATE BILL 365:** Requires the continuation of the VHF Highband Radio Project. (BDR S-1323)

CHAIR RAGGIO:

We will defer S.B. 365. The Committee will open the hearing on S.B. 454.

**SENATE BILL 454:** Revises the dates upon which certain uncommitted funds from prior appropriations must be reverted. (BDR S-1070)

MR. GHIGGERI:

This legislation provides for the extension of the reversion for funds that were provided by the 2005 Legislature for flood improvement plans for the Truckee River Recreation Master Plan. The General Fund provided \$600,000 and \$650,000 was provided by the Commission on Tourism. This bill would extend the reversion date of that funding.

CHAIR RAGGIO:

This is for the white water project which was on schedule until it was delayed by the U.S. Army Corps of Engineers. They have been working assiduously with the Department of Conservation and Natural Resources, the Division of State Lands and the Department of Wildlife. The project I referenced is a continuation of the white water project which has been successful in Reno. This addition is in Sparks. The extension of the reversion appears to be necessary. I did not introduce the bill but will hold any action on it at this time.

We will close the hearing on S.B. 454 we will move to S.B. 456.

**SENATE BILL 456:** Extends the reversion date of a previous appropriation to the Department of Administration for the digital microwave project. (BDR S-1151)

DAVID L. McTEER (Information Systems Manager, Information Technology Improvement Division, Department of Administration):

The funding appropriated in the 2005 Session was for Phase IV of the digital microwave project. The project is in the technology improvement account for which I am responsible.

SENATOR BEERS:

This is off the topic. I do not believe we have seen an accounting for the contingency piece of the B/A 101-1365 appropriation last Session. Did we pool together a bunch of 5 percents? Can you get back to us with detail on which project that went to? Do we already have that?

## FINANCE AND ADMINISTRATION

### ADMINISTRATION

Information Technology Projects – Budget Page ADMIN-36 (Volume I)  
Budget Account 101-1325

MR. McTEER:

I can give you the answer now. We have not taken any funds out of the Contingency Fund. It is still all there.

SENATOR BEERS:

Will that revert?

MR. McTEER:

Yes, it will.

SENATOR BEERS:

Do you need a portion of it for this?

MR. McTEER:

No, we do not. That is all General Fund money. This is Highway Fund money.

CHAIR RAGGIO:

The reversion date would be extended to 2009. There being no further testimony on S.B. 456, we will close the hearing. We can indefinitely postpone S.B. 460 since we are dealing with S.B. 333.

SENATOR RHOADS MOVED TO INDEFINITELY POSTPONE S.B. 460.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR RAGGIO:

The Committee will hear S.B. 470.

**SENATE BILL 470:** Extends the reversion date of an appropriation made during the 73rd Session of the Nevada Legislature to the Interim Finance Committee for allocation to the Department of Business and Industry. (BDR S-1421)

KENNETH G. REYNOLDS (Information Systems Manager, Information Technology Improvement Division, Department of Administration):

The extension of the reversion date, from 2007 to 2009, relates to funds for the implementation of the integrated tracking system for the Consumer Affairs Division.

CHAIR RAGGIO:

We will close the hearing on S.B. 470. The Committee will hear Assembly Bill (A.B.) 555.

**ASSEMBLY BILL 555:** Transfers certain money appropriated to the Interim Finance Committee to the Rehabilitation Division of the Department of Employment, Training and Rehabilitation. (BDR S-1459)

MICHAEL T. COLEMAN (Administrator, Rehabilitation Division, Department of Employment, Training and Rehabilitation):

This bill is a request for a supplemental appropriation for budget account (B/A) 101-3265, the Bureau of Vocational Rehabilitation, and B/A 101-3254, the Bureau of Services to the Blind and Visually Impaired. During the last Session, A.B. No. 576 of the 73rd Legislative Session held a portion of the rehabilitation services basic 110 grant in the IFC. This was done to assure the bureaus would expend their entire match in grant for funding during fiscal year (FY) 2005-2006 and FY 2006-2007. The bureaus were able to meet this requirement. The IFC released the withheld funds in April 2006 which resulted in services being provided to 1,433 clients. Since IFC cannot authorize funds while the Legislature is in Session, a supplemental appropriation is needed.

## HUMAN SERVICES

### EMPLOYMENT, TRAINING AND REHABILITATION

DETR - Vocational Rehabilitation – Budget Page REHAB-25 (Volume II)  
Budget Account 101-3265

DETR - Services to the Blind & Visually Impaired – Budget Page REHAB-33  
(Volume II)  
Budget Account 101-3254

CHAIR RAGGIO:

Actually, this is not a supplemental appropriation; this is a transfer from funding provided to the IFC for this purpose contingent upon the conditions being met.

MR. COLEMAN:

That is correct.

CHAIR RAGGIO:

This bill is required because the IFC cannot allocate funds while the Legislature is in Session. Does staff have any concerns about the contingencies being met?



Senate Committee on Finance  
April 11, 2007  
Page 21

MR. GHIGGERI:  
No.

SENATOR COFFIN MOVED TO DO PASS A.B. 555.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR RAGGIO:  
Assembly Bill 555 is recommended for do pass.

Staff has indicated that S.B. 454 needs an amendment.

MR. GHIGGERI:  
Staff recommends S.B. 454 be amended to extend the date from June 30, 2008, to June 30, 2009, in case they are unable to complete the project prior to June 30, 2008.

SENATOR CEGAVSKE MOVED TO AMEND S.B. 454 TO EXTEND THE DATES TO JUNE 30, 2009, AND DO PASS AS AMENDED.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR RAGGIO:  
This bill will be recommended for amend and do pass as amended.

MR. GHIGGERI:  
Funds referenced in S.B. 454 and S.B. 456 were allocated by the IFC. The IFC would have to revise their resolution for the funding at their meeting in June because the resolution provides for a June 30, 2007, reversion.

CHAIR RAGGIO:  
Is there any reason not to process S.B. 456? If we process these, should we call them to the attention of the IFC?

MR. GHIGGERI:  
The funds in S.B. 456 were appropriated directly to the Department of Administration; however, S.B. 470 was not.

CHAIR RAGGIO:  
Can we process S.B. 456?

MR. GHIGGERI:  
Yes, you can.

SENATOR BEERS MOVED TO DO PASS S.B. 456.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

SENATOR COFFIN MOVED TO DO PASS S.B. 470.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR RAGGIO:

Senate Bill 465 and S.B. 470 are recommended for do pass.

The Committee has received Closing List #2, [Exhibit G](#), original is on file in the Research Library. The first budget is B/A 101-1005. When we close these budgets, they are subject to other adjustments previously indicated by staff with respect to cost allocations and changes the Governor may submit.

#### ELECTED OFFICIALS

High Level Nuclear Waste – Budget Page ELECTED-11 (Volume I)  
Budget Account 101-1005

LARRY L. PERI (Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

There are two major closing issues and other information indicated on pages 2 through 4 of [Exhibit G](#). There is an increase in the General Fund appropriations for the Nevada Protection expenditure category which are expenditures utilized for Yucca Mountain pre-licensing and licensing activities by the Nuclear Projects Office. The Base Budget recommends the continuation of \$604,291 in each year of the biennium and decision unit E-350 adds \$395,709 in each year of the biennium making \$1 million available to the office in each year. This compares to \$1 million total for the current biennium. The agency was asked to support the appropriation. That information is included on page 4 of [Exhibit G](#). Does the Committee wish to approve the \$1 million in each year of the biennium? Staff has received information the Office of the Governor has a recommendation to reduce this request. The reductions identified are \$259,232 in FY 2007-2008 and \$255,901 in FY 2008-2009.

E-350 Environmental Policies and Programs – Page ELECTED-13

CHAIR RAGGIO:

Was that reduction based upon the agency's response to the Governor's request for reductions?

ROBERT R. LOUX (Executive Director, Agency for Nuclear Projects):

The concern I mentioned to the Governor was that the reduction assures we will be before the IFC at least once, if not more, during the biennium.

MR. GHIGGERI:

This agency has the capability of going before the IFC and the capability, with the IFC's approval, to transfer appropriations between fiscal years which would help if there are funding shortfalls in the first year.

CHAIR RAGGIO:

We do not have the full recommendations from the Office of the Governor. I have asked staff, and have indicated this to the Budget Division, to look at potential reductions and discuss them with the Budget Division. Our fiscal staff may have suggestions which may ameliorate some of the budget cuts. To close the budget, I suggest we approve the \$1 million less whatever the amount indicated by the agency is in response to the request for budget cuts, with the understanding the agency has the capability of movement between the two fiscal years and the capability of returning to the IFC if appropriate.

SENATOR COFFIN:

Sometimes agencies run short and go to the Board of Examiners before going to the IFC. Sometimes agencies get approval before going to the IFC under an emergency measure and the matter becomes an information item to the IFC. I want to make sure the agency has this ability.

CHAIR RAGGIO:

That is when a change in scope occurs.

SENATOR COFFIN:

We could look at this again before the end of Session. I do not want them to run short and not have an IFC meeting during the summer months. We have fought for so long and are near the end. If we make sure they are not handcuffed, at least those who are trying to force this on us will not consider this a weak stance. If it is considered an ordinary part of the budget process, and we are short on money for everybody, but are fully dedicated to this, I can be in favor of this budget. Going low on the funds now sends signals.

CHAIR RAGGIO:

It does not appear they will run short this summer because they have the capability to go to the IFC. Are they required to go before the Board of Examiners?

MR. GHIGGERI:

Moving funds between fiscal years requires a work program be submitted to the Budget Division then submitted to the IFC for approval. We have had instances in the past where we had to have a special meeting to address an agency need. The IFC is typically able to address any emergencies that arise.

CHAIR RAGGIO:

Does the agency also have the right, under statute, to expeditious action?

MR. GHIGGERI:

That is correct, but the transfer of funding between fiscal years does require the IFC's actions.

SENATOR TITUS:

We just did a supplemental appropriation because they needed money this year. It is clear they may need money next year if we are going to continue this fight.

I think cutting this budget sends the wrong message. I would not want to see us do that even if they can come back because it shows a lack of commitment.

CHAIR RAGGIO:

None of us want to show a lack of commitment, but with the capability this agency has, I do not think we would demonstrate a lack of commitment. We are discussing litigation for a particular purpose.

MR. LOUX:

It is essentially the same. The funds approved by the supplemental request were to make up the shortfall in FY 2006-2007. The IFC did not have the funds in FY 2006-2007 to provide the funds.

CHAIR RAGGIO:

That was for the current biennium. This request is for the next biennium.

SENATOR RHOADS MOVED TO APPROVE B/A 101-1005 WITH THE GOVERNOR'S REDUCTION AND WITH THE UNDERSTANDING THE AGENCY HAS THE ABILITY TO MOVE FUNDS BETWEEN FISCAL YEARS AND TO APPROACH THE IFC FOR ADDITIONAL FUNDING UP TO THE AMOUNT INDICATED.

SENATOR COFFIN SECONDED THE MOTION.

SENATOR COFFIN:

We have appropriated certain amounts to the IFC.

CHAIR RAGGIO:

That would be the Contingency Fund.

SENATOR COFFIN:

What issue did we just hear where we had appropriated to the IFC specific purpose funds so we could have that over and above what we allocate to the IFC for the interim?

MR. GHIGGERI:

In two of the bills the Committee approved this morning, the appropriations were made to the IFC for allocation. The bill to replenish the Contingency Fund currently is in the Assembly Ways and Means Committee. If, after further deliberations, the Committee feels additional funding should be added to the agency's budget and if additional resources do materialize between now and when the bill to replenish the Contingency Fund is approved, additional funding could be considered at that time. Since the bill would provide funding to be used in the next biennium, the bill probably will not be considered until the end of the Session.

MR. LOUX:

If the U.S. Department of Energy (DOE) does submit an application for a license in June 2008, we undoubtedly will be before the IFC for a rather large request, possibly in the \$4 million to \$5 million range. We are doing everything we can to prevent the submission of an application.

CHAIR RAGGIO:

You had better advise the committee hearing the funding for the Contingency Fund of that amount. That is not now contemplated unless you have already told the Assembly Committee on Ways and Means.

MR. LOUX:

I told both committees during my testimony on the budget.

CHAIR RAGGIO:

You told them about the \$4 million or \$5 million for litigation?

MR. LOUX:

Yes, I did. The federal government has the obligation to pay the bulk if not most of those costs; historically, the appropriation has not covered that. The estimate we are looking at is in the \$8 million range each year if we are going to be engaged in a licensing proceeding involving multiple licensing boards and panels all of which have to be staffed with lawyers, paralegals and the like. That was my testimony in both this Committee and the Assembly Committee on Ways and Means.

CHAIR RAGGIO:

Obviously we cannot appropriate \$8 million or \$9 million at this time.

THE MOTION CARRIED. (SENATORS BEERS AND TITUS VOTED NO.)

\* \* \* \* \*

CHAIR RAGGIO:

We will continue with a discussion on B/A 101-4868.

Governor's Office Energy Conservation – Budget Page ELECTED-28 (Volume I)  
Budget Account 101-4868

MR. PERI:

The issues and staff's recommendations are included on pages 5 through 8 of **Exhibit G**. This budget was heard before the full Committee on February 12, 2007. The Governor submitted a revised budget shortly after the Legislature received the *Executive Budget* which consists of three amendments. These amendments seek to increase General Fund support by \$243,550 in FY 2007-2008 and \$260,345 in FY 2008-2009. A copy of those amendments are on page 8 of **Exhibit G**. Two positions were recommended for elimination due to a reduction in federal funding; the budget amendment seeks to restore those positions using General Funds.

CHAIR RAGGIO:

Were those for grant writers? One of the positions has been vacant for a long period.

MR. PERI:

Yes, two grants and projects analyst positions. One position has been vacant since October 21, 2005, and the other since August 30, 2006. These positions are responsible for the preparation of grant applications to secure federal funding. The agency was asked if there is potential for new or extended grant revenue to support the positions rather than using General Funds. The agency

indicates slight increases are anticipated, but overall, the DOE has reduced grant authorizations and the agency expects additional reductions.

CHAIR RAGGIO:

Since these positions have been vacant, there has not been a lot of production in grant applications. Why would we want to continue these positions? Is there a reasonable likelihood that these positions would result in more revenue being received than the cost of the positions?

ANDREW CLINGER (Director, Department of Administration):

Over the last few years, the Energy Office has experienced a lot of turnover at the director position. The Office of the Governor feels the two existing positions are necessary. I am not aware of any specific grants available. The function of these two positions is to find the grants.

MR. PERI:

The revised budget proposes to transfer the nonclassified energy/science advisor position to this budget at a General Fund cost of \$119,408 in FY 2007-2008 and \$124,984 in FY 2008-2009 as shown on page 6 of [Exhibit G](#). This is an existing position in the Office of the Governor's budget funded by General Funds. The revised budget also requests the changed position be reclassified to an unclassified position. Additional information is available in [Exhibit G](#). The Unclassified Salary Subcommittee would review this if the Committee chooses to accept this request.

SENATOR TITUS:

Has the director of the Energy Office always been in the Office of the Governor as opposed to in this account?

MR. PERI:

Yes, it has.

SENATOR TITUS:

If you move the director out of the Office of the Governor and put the position in this account, will there be another position in the Office of the Governor?

MR. PERI:

This position would still report directly to the Governor. This request will physically remove the position from the Governor's budget account and place it in B/A 101-4868.

SENATOR TITUS:

Is there anyone in the Energy Office who is assigned to do renewable energy?

MR. CLINGER:

I will get that information to you.

SENATOR TITUS:

Before I support more staff to look for grants, I want to be sure they are looking for grants related to renewable energy and not things like coal liquification.



SUZANNE P. BRUNETTE (Accountant, Nevada State Office of Energy, Office of the Governor):

We currently have the staff working on renewable energy projects. He also works on energy emergency management issues. We do not have any active renewable energy projects at this time, except the Anemometer Loan Program. We are in the lull period of the year when grants are expiring and solicitations are coming out. We plan to go after grants. We have two people looking for grant funding, myself and a grants and projects analyst.

SENATOR TITUS:

There is no one specifically doing renewable energy?

MS. BRUNETTE:

That is correct.

MR. PERI:

When the Committee considers the two grant positions, the Committee could consider treating them as new positions and delay the start date until October 1, 2007. That is a common thing done with new positions.

CHAIR RAGGIO:

Senator Titus's concern is shared by the entire Committee. If we fund the grant positions and start them in October, we would want to indicate our concern that they also be looking for grants pertaining to renewable energy. That is a prime consideration for the Legislature as a whole. Would that kind of condition be objectionable?

HATICE GECOL, PH.D. (Director, Nevada State Office of Energy, Office of the Governor):

These two positions are important for two reasons. They will allow us to seek further grants, specifically for renewable energy programs. The Office of Energy has not done much about renewable energy. Many responsibilities were given to the Office of Energy through A.B. No. 3 of the 22nd Special Session without attached funding. We are pulling people from federal grants to do State work. They were technically supposed to work on federal projects. I would like to refer the Committee to the report generated by the Renewable Energy and Energy Conservation Task Force. I will provide you with the related report pages later. In several pages the Task Force urges the Legislature to fund the Office of Energy because the State is in danger of losing the Office of Energy due to cost.

CHAIR RAGGIO:

The two grants and projects analyst positions have been vacant. If we fund those positions, is there a reasonable likelihood there is a potential for recovery from grants in excess of the cost to fund the two positions? If we fund these positions, can we be assured with reasonable certainty applications for grant funding will be directed toward renewable energy?

DR. GECOL:

Yes, the grant funding would be directed at renewable energy. It is always our hope to receive grants in excess of their cost, but it is hard to predict the availability of grant funds. The deputy director and I are experienced competitive grant writers. We will be chasing the competitive grants. So far, all of the grants received by this office are noncompetitive grants.

SENATOR TITUS:

Could you give us examples of some specific grants for which you will be filing an application?

DR. GECOL:

There is a grant from the U.S. Department of Agriculture. The deputy director is working on this grant.

RAJENDRA MEHTA, PH.D. (Deputy Director, Nevada State Office of Energy, Office of the Governor):

I joined this office one month ago. Since joining the office I have been judging the grant dollars. We wrote a proposal to the DOE to fund \$40,000 for emergency project management. We are also applying for projects such as renewable energy in the rural areas. We have Indian tribes in Nevada. We are trying to find contact points to provide sources of renewable energy in those communities.

SENATOR TITUS:

Are there any specific grants?

DR. MEHTA:

We are attempting to generate more grants, but it takes time and manpower. We are also looking for a grant in the wind energy area from the DOE in the amount of \$75,000 which would continue a current grant. We will generate more grant dollars as we find them.

SENATOR TITUS:

I appreciate that effort. We need to get as many grants as possible. I do not see much substance in what you are telling me. It is hard for me to support an office I do not think is pursuing an energy agenda which takes advantage of Nevada's renewable energy resources.

SENATOR COFFIN:

You have discussed two sources of grants: the U.S. Department of Agriculture (USDA) and the DOE. There must be a number of foundations with competitive grants. You must give us specific information.

DR. GECOL:

One grant I would like to specifically mention is for wind energy from the National Renewable Energy Laboratory (NREL), currently in the amount of \$75,000. These grants have an opening date. It is hard to predict when a grant will open. When they do open, we have 90 days to apply. It would be unfair to say we do not know what is available. We are monitoring and looking for grants. Any time competitive grants open, through for instance the DOE, NREL, the federal Department of Defense or the Environmental Protection Agency, we will apply.

CHAIR RAGGIO:

We will hold this budget with a request that the Office of Energy compile some potential grants the Office will be considering. We do not expect a guarantee the grant applications will be productive. We would like to see a list of potential sources of grant funding.

The Committee will look at B/A 101-2666.

## EDUCATION

### K-12 EDUCATION

NDE - Commission on Postsecondary Education – Budget Page K-12 ED-103  
(Volume I)  
Budget Account 101-2666

MELINDA MARTINI (Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

Staff's report on B/A 101-2666 appears on pages 9 through 14 of [Exhibit G](#). There is one major issue in this account. During the previous budget hearing, the Committee noted none of the active schools that are not U.S. Department of Veterans' Affairs (VA) schools were reviewed; the performance indicator for FY 2005-2006 and FY 2006-2007 was 10 percent in each year. The Commission is projecting a reduction to five percent in each year of the upcoming biennium. The Commission does not have the personnel to perform the reviews on a consistent basis. The number of non-VA schools monitored by the Commission has increased from 43 in FY 2001-2002 to 63 in FY 2005-2006. During this time frame, the Commission reviewed two schools as scheduled and seven schools based upon complaints. The VA school reviews will decrease. The Commission requests \$53,696 in FY 2007-2008 and \$74,409 in FY 2008-2009 to support a new compliance/audit investigator and related equipment. This request is not included in the *Executive Budget*. The Budget Division indicates the Governor supports the new position; however, no formal budget modification has been received.

CHAIR RAGGIO:

Senate Bill 63, in the Senate Committee on Human Resources and Education, will eliminate the fee charged by the Commission for a transcript and increase all other fees charged to offset this cost, except the fee deposited in the student indemnification account. The bill would also impose a new fee of \$500 for certification of alcoholic beverage awareness programs. The Commission's fees have not been increased since 1989. Is the Governor against increasing the fees? If so, how do we fund the Commission? What is the use of the Commission if it has limited capabilities?

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

MR. CLINGER:

We support the addition of the compliance audit investigator to be paid from General Funds.

CHAIR RAGGIO:

Why would we pay for this with General Funds when we can increase fees?

MR. CLINGER:

This account is currently funded with General Fund appropriations. The fees go directly to the General Fund and are a source of revenue allocated to all State agencies.

CHAIR RAGGIO:

With limited General Fund capabilities, why not have the schools receiving the service from the Commission pay more in fees, as was contemplated in S.B. 63?

MR. CLINGER:

There have been years when the Commission spent more than it collected in fees and other years when it has spent less. For instance, the Commission spent more from the General Fund in FY 2002-2003 than it contributed in fees. I do not believe the current budget is inconsistent with what has happened in the past.

CHAIR RAGGIO:

The Commission is only capable, at this point, of reviewing less than 5 percent of the schools.

MR. CLINGER:

That is the reason we support the addition of a compliance/audit investigator. The cost, as indicated in [Exhibit G](#), is \$53,696 in FY 2007-2008 and \$74,409 in FY 2008-2009.

CHAIR RAGGIO:

That amount will provide a position and the related costs. Will the Commission then review all non-VA schools each fiscal year?

MS. MARTINI:

The objective is to review 100 percent of the non-VA schools each fiscal year. The Budget Division is recommending \$55,274 in FY 2007-2008 and \$75,200 in FY 2008-2009 to include increased travel costs, a new telephone and a new printer. Staff was not informed the Commission needs these items.

CHAIR RAGGIO:

We will hold B/A 101-2666. The Committee will hear B/A 101-4821.

## INFRASTRUCTURE

### PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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

MS. MARTINI:

The closing information for B/A 101-4821 is included on pages 16 through 17 of [Exhibit G](#). This Public Employees' Retirement System (PERS) budget requests \$57,999 in FY 2007-2008 and \$57,647 in FY 2008-2009 for a new retirement examiner position and related costs. Increased workload, primarily related to the one-fifth retirement credit for education personnel, necessitates the additional position. Overtime is normally included in this budget to support increased workload. If the position is approved and federal workloads do not change, overtime will be deleted. The addition of a position will result in savings with the elimination of overtime.

CHAIR RAGGIO:

If the new position is approved, the overtime will not occur?

MS. MARTINI:

That is correct. The budget has been built with no overtime.

The next item is the upgrade and conversion of the Computer Automated Retirement System of Nevada (CARSON), page 16 of [Exhibit G](#). The cost is \$2.56 million in FY 2007-2008 and \$2.01 million in FY 2008-2009.

CHAIR RAGGIO:

The Committee will recall the discussion. The old system is at its end of life and will no longer be supported.

MS. MARTINI:

The third issue concerns a new counseling office in Las Vegas. The cost in FY 2007-2008 is \$165,521 and \$168,737 in FY 2008-2009. The cost includes two new positions.

CHAIR RAGGIO:

Is the current Las Vegas office inconvenient? Will the new location be on the other side of the city?

MS. MARTINI:

Yes, it will. The current high-peak wait time is six weeks for members to obtain an appointment.

CHAIR RAGGIO:

The PERS justified the request based upon the number of contacts.

MS. MARTINI:

The PERS has requested an upgrade for a administrative assistant due to increased supervisory and administrative duties, page 17 of [Exhibit G](#).

CHAIR RAGGIO:

Does staff have any concerns with the closing items on page 17 of [Exhibit G](#)?

MS. MARTINI:

No.

SENATOR COFFIN MOVED TO CLOSE B/A 101-4821 AS  
RECOMMENDED BY STAFF.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR RAGGIO:

There is a request for a Committee introduction of a bill draft request (BDR). This is BDR 1-1475 and would serve as a vehicle to equalize the salaries of the justices and district court judges.

**BILL DRAFT REQUEST 1-1475:** Updates the provisions governing the Supreme Court Commission on Law Libraries and creates a District Court Commission on Law Libraries. (Later introduced as S.B. 556.)

Senate Committee on Finance  
April 11, 2007  
Page 32

SENATOR COFFIN MOVED TO INTRODUCE BDR 1-1475.

SENATOR MATHEWS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR RAGGIO:

There being no further business to come before the Committee, this meeting is adjourned at 10:32 a.m.

RESPECTFULLY SUBMITTED:

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Sandra K. Small,  
Committee Secretary

APPROVED BY:

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Senator William J. Raggio, Chair

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