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

**Seventy-Sixth Session
January 26, 2011**

The Legislative Commission's Budget Subcommittee was called to order by Chairwoman Debbie Smith at 8:38 a.m. on Wednesday, January 26, 2011, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:

Assemblywoman Debbie Smith, Chairwoman
Assemblyman Marcus Conklin, Vice Chair
Assemblyman Paul Aizley
Assemblyman Kelvin Atkinson
Assemblyman David P. Bobzien
Assemblywoman Maggie Carlton
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman Cresent Hardy
Assemblyman Pat Hickey
Assemblyman Randy Kirner
Assemblywoman April Mastroluca
Assemblyman John Oceguera

ASSEMBLY SUBCOMMITTEE MEMBERS EXCUSED:

Assemblyman Joseph M. Hogan (excused)

SENATE SUBCOMMITTEE MEMBERS PRESENT:

Senator Steven A. Horsford, Chair

Senator Sheila Leslie, Vice Chair
Senator Barbara K. Cegavske
Senator Moises (Mo) Denis
Senator Ben Kieckhefer
Senator David R. Parks
Senator Dean A. Rhoads

STAFF MEMBERS PRESENT:

Rick Combs, Assembly Fiscal Analyst
Mark Krmpotic, Senate Fiscal Analyst
Mike Chapman, Principal Deputy Fiscal Analyst
Rex Goodman, Principal Deputy Fiscal Analyst
Joi Davis, Senior Program Analyst
Julie Waller, Program Analyst
Janice Wright, Subcommittee Secretary
Cynthia Wyett, Subcommittee Assistant

Following the call of the roll, Chairwoman Smith reminded everyone that this was a high-level overview of the budgets and not a detailed budget hearing. She encouraged the Subcommittee members to keep their questions at a high level because there would be other opportunities to review the specific details of each budget during the 76th Session. This morning the focus would be on the education budgets, and she asked to begin with the presentation on the Distributive School Account.

DEPARTMENT OF EDUCATION, STATE DISTRIBUTIVE SCHOOL ACCOUNT OVERVIEW

Keith W. Rheault, Ph.D., Superintendent of Public Instruction, Department of Education, introduced his staff that would assist in the presentation. They included: Greg T. Weyland, MBA, CPM, Deputy Superintendent for Administrative and Fiscal Services, Department of Education, and Roger M. Rahming, MBA, Director, Office of Fiscal Accountability, Department of Education, who coordinated the State Distributive School Account (DSA). Dr. Rheault had all new staff from his 2009 staff and they would present an overview of The Executive Budget for education. Dr. Rheault presented Exhibit C, which was "The K-12 School System Budget 2012-2013" and Exhibit D, which was a "General Overview of Department Budget Accounts Fiscal Years 2012-2013."

Roger M. Rahming, MBA, Director, Office of Fiscal Accountability, Department of Education, testified that the Kindergarten through Grade 12 (K-12) system budget was comprised of four budget accounts (BA): BA 2610, BA 2615, BA 2616, and BA 2699. He concentrated on BA 2610, the Distributive School Account (DSA), which included class-size reduction, adult education, and special education. He presented all the major education decision units in The Executive Budget. He explained how the DSA was constructed, both on the expense side and the revenue side, and some new structural recommendations that affected all of the budgets but mainly the K-12 Student Achievement Block Grant (Block Grant) and its distribution methodology.

Mr. Rahming spoke about the K-12 pass-through funding in BA 2610, which included 11 programs that funded aid to school districts and charter schools in fiscal year (FY) 2010 and FY 2011, of which some programs would be moving to the Block Grant. Budget account 2615 included the Innovation and Remediation Trust Fund Block Grant, comprised of one program that funded aid to school districts and charter schools for full-day kindergarten in FY 2010 and FY 2011, and that funding was slated to move to the Block Grant. Budget account 2616 contained the Incentives for Licensed Educational Personnel, which was the one-fifth retirement credit. That incentive would stay in BA 2616, but any remaining funds would be moved to the Block Grant. Budget account 2699 contained 13 other State of Nevada education programs, most of which would be moved to the Block Grant.

Mr. Rahming explained that page 3 of Exhibit C listed all the components and programs in the DSA (BA 2610) and provided a horizontal timeline view of proposed funding levels. The actual level of funding for FY 2010 was:

Program	**Funding Level**
Basic Support	$2,206,615,525
Special Education	121,252,632
Class-size Reduction	142,682,930
School Lunch	588,732
At Risk Kindergarten	1,580,390
Gifted/Talented Units	162,566
Regional Professional Development	7,897,804
Early Childhood Education	3,304,982
Elementary Counselors	850,000

Special Library Media	18,798
Adult High School Diploma	21,170,456
Special Transportation	128,541
Total	**$2,513,438,985**

Mr. Rahming said work program actions had kept funding flat with no increases. However, the figures represented in The Executive Budget showed the decrease in Basic Support was 5.69 percent [FY 2012 compared to FY 2010]. He said most program funding in the budget account 2610 would be moving to the Block Grant. The DSA funding was held flat for FY 2013 and the only change was a slight increase in projected enrollment.

Mr. Rahming explained that Basic Support was built from the FY 2010 *Nevada Revised Statutes* (NRS) 387.303 report. That statute required all school districts to submit an annual financial statement report each November to the Superintendent of Public Instruction. The Department of Education then reconciled those figures to the amounts actually paid by the Department of Education. Those figures became the basis for the 2011-2013 budget. The expenses included salaries, benefits, operating, equipment, and other. Then the revenues collected at the district level were subtracted out. Those included the opening balance, transfers, local taxes, and other revenues. The largest piece of the local taxes was the two-thirds of the school property tax rate authorized to be levied for each local district. The largest component of the other revenue was the Department of Motor Vehicles' Governmental Services Tax. All the line-item-funded programs were subtracted with the result being the Basic Support. The Basic Support was divided by the audited enrollment to determine the basic support per pupil.

Mr. Rahming discussed the Basic Support expenditure assumptions. The adjusted base budget started with a 1 percent step-on-scale increase and no cost of living raise. The budget included a "roll up" of 2 percent for both FY 2012 and FY 2013. Student-related operating costs were actually derived as a ratio based on the per-student support, and that funding was held flat with no inflation factor. Those numbers could move up or down, given enrollment assumptions. Utility costs were calculated using the same methodology but were reduced to a square-footage calculation. By taking the base budget and going through all the decision units, he said the Basic Support number was $2,081,061,165 in FY 2012 and $2,087,663,685 in FY 2013.

Mr. Rahming said decision unit Maintenance (M) 200 dealt with enrollment growth in FY 2010, when the Department paid for 425,527.2 students. The reason that student figure was not a whole number was that the Department counted kindergarten and pre-kindergarten pupils at six-tenths of the enrollment. There were actually 421,386.6 children in seats, but the Department paid for 4,140.6 more because of a "hold-harmless" provision. In FY 2010, the Department had about nine districts and about seven charter schools under the "hold-harmless" provision. In FY 2011, it projected enrollment of 422,569.6 students and that figure did not include "hold-harmless."

In response to a request from Chairwoman Smith, Greg T. Weyland, MBA, CPM, Deputy Superintendent for Administrative and Fiscal Services, Department of Education, provided a brief explanation of the "hold-harmless" provision. The hold-harmless provision was put into effect to allow school districts and charter schools to retain the district's or school's funding based on what the district or school had received in prior years.

Mr. Rahming added that when enrollment decreased less than 5 percent, the district or school received the preceding year's enrollment funding. When the enrollment decreased more than 5 percent, the district or school received the greater of the preceding year's enrollment funding or the year prior to that. That was the hold-harmless provision. As enrollments decrease, the Department pays those districts based on a prior year's enrollment.

Mr. Rahming discussed the projections of students for FY 2012 of 423,191.8 [a 0.15 percent increase from FY 2011] and for FY 2013 of 424,460.3 [a 0.30 percent increase from FY 2012]. The enrollment increases would occur primarily in Clark County. The effect of the growth for FY 2012 was $3,470,101 and for FY 2013, $10,500,121.

In response to a question from Senator Rhoads, Mr. Rahming said there were approximately 14 to 15 school districts in a hold-harmless status at this time. Mr. Rahming said Eureka County was not included in that figure because it did not receive DSA funds.

In response to a question from Senator Cegavske, Mr. Rahming confirmed that the hold-harmless status was in effect for the preceding year whether or not current year enrollment decreased less than 5 percent, and when the decrease was more than 5 percent, the hold-harmless provision was used for the higher of the preceding two years.

Mr. Rahming spoke about page 7 of Exhibit C and decision unit M300 which addressed benefit adjustments and the effect of the Public Employees'

Retirement System (PERS) moving from a contribution rate of 21.5 percent to 23.75 percent and the corresponding salary reduction of half of that PERS increase that resulted in small decreases to the other fringe benefits driven by the salaries. Decision unit M300 also encompassed an unemployment insurance rate increase of 52 percent, which was consistent with the rate increase for state agencies. Health insurance expenditures used a per-employee amount so it was not affected by growth or contraction in salaries. That funding was kept flat through the biennium. The net effect of M300 was $20,655,617 in FY 2012 and $21,127,781 in FY 2013.

After responding to a question from Chairwoman Smith, Mr. Rahming agreed to verify whether or not the unemployment insurance rate was the actual increase approved by the Employment Security Division of the Department of Employment, Training and Rehabilitation.

Mr. Rahming testified that decision unit Enhancement (E) 601 contained the PERS equalization, which applied a pay factor equal to one-half of charges for State of Nevada employees on the Employer Paid PERS schedule. The pay factor for State of Nevada employees was 89.385 percent. Pay was reduced by 10.615 percent for the contribution to PERS. The pay factor used for K-12 was 94.6925 percent and when that factor was subtracted from 100, the result was 5.3075 percent, which was the amount that came out of the employee's paycheck. School district employees were asked to pay 25 percent of their retirement contribution while State of Nevada employees were asked to contribute 50 percent of the PERS contribution. That recommendation resulted in a net savings of $100,289,928 in FY 2012 and $100,614,849 in FY 2013.

Mr. Rahming testified that decision unit E670 contained a salary reduction of 5 percent for the 2011-2013 biennium. This was consistent with the calculations used for State of Nevada employees. The net savings in E670 was $126,965,594 in FY 2012 and $129,582,949 in FY 2013.

Mr. Rahming explained decision unit E671 covered the temporary suspension of 2 percent "roll-ups" for merit salary increases for FY 2012 and FY 2013. The "roll-ups" accounted for the increases in pay scales resulting from experience and additional education, and E671 was consistent with the suspension of step increases for State of Nevada employees. The result was a net savings of $46,762,229 in FY 2012 and $94,616,804 in FY 2013.

In response to a question from Assemblyman Aizley, Mr. Rahming explained the difference between the net savings for FY 2012 and FY 2013 was because the suspension savings was 2 percent each year and was compounded to determine the FY 2013 savings. For many of the other calculations, the rate was 5 percent for FY 2012 and that rate was held flat for FY 2013.

Page 11 of Exhibit C showed the Basic Support amounts the Department paid in FY 2010 and what the Department projected for payment in FY 2011. Mr. Rahming said the Department paid $5,186 in basic support per pupil in FY 2010 and estimated the FY 2011 payment would be $5,192 per pupil. The Department also estimated the FY 2012 and FY 2013 payments would be $4,918 per pupil each year.

Dr. Rheault mentioned that Governor Sandoval's "State of the State Address" indicated that the proposed spending levels were moved back to the 2007 levels. The last time the projected student per-pupil payment amount was under $5,000 was in the 2007 school year.

Mr. Rahming testified about the revenue assumptions, which began with Basic Support minus the Local School Support Tax (LSST), and minus the one-third portion of the public schools property tax levy for operations. In FY 2010, the Clark County School District capital construction fund of $10 million was included in the revenue calculation for Basic Support, along with the transfer of $6 million from closure of the Clark County Redevelopment Authority. The formula included the addition of the other DSA programs including class-size reduction, special education, and others. As a result, the State of Nevada's share of the Basic Support was $1,361,639,055. The other State of Nevada revenues were subtracted out from the Total State Share to determine the amount of Total General Fund Share of $1,173,542,690.

Mr. Rahming said in FY 2011, the Clark County School District Capital Construction Fund amounted to $35 million and the transfer from the closure of that fund was $5.4 million and the net effect of those was on the State of Nevada share. He mentioned this because of decision unit E602, which was for the excess debt service reserve transfer. The proposal was to transfer $212.5 million each year in reserves from debt-service funds to the DSA. That amount would go into the same line item that contained the Clark County construction funds. The statute required the reserve to be equal to the lesser of 10 percent of outstanding debt or 12 months of debt payments. The bill draft request (BDR) that would be submitted was to change the required reserve from 12 months of debt payments to 6 months of payments. Unlike the Clark County School District capital construction funds, when LSST comes in stronger than the budgeted forecast, the difference would be used to restore the debt-service funds.

Chairwoman Smith mentioned there were several questions about this funding yesterday when the Budget Division made a presentation and representatives were present from the Clark County School District today to respond to any questions in detail later in this hearing.

Mr. Rahming explained that the actual LSST for FY 2010 was $872,948,748 and was increased slightly in the work program for FY 2011, but then decreased in FY 2012 and was projected to increase slightly in FY 2013.

In response to a question from Assemblyman Conklin, Mr. Rahming agreed that property tax figures lag significantly [perhaps by 18 months] behind housing trends as an economic number, and FY 2013 tax projections may be overstated because housing values continue to decline. The source of the projections was the Department of Taxation, which examined the FY 2011 billings, then used some anecdotal evidence for FY 2012 and FY 2013. Assemblyman Conklin was concerned that the property tax revenue projection was optimistic.

Mr. Rahming said slot taxes remained flat, with a slight increase projected for FY 2013. The interest on the Permanent School Fund was projected to decrease 28.05 percent in FY 2012 and increase 3.03 percent in FY 2013. The Federal Mineral Lease revenue remained flat. The out-of-state LSST was affected by the same sunset as the sales tax rates.

Mr. Rahming commented that in FY 2011, the Department of Education would request a supplemental appropriation of $140,833,874 based on a shortfall of projected outlays compared to revenues to offset the decline of sales tax collections in the guaranteed portion of the property tax.

Moving to the class-size reduction program, Mr. Rahming mentioned that this program was affected by the same decision units that affected the Basic Support program. Thirteen districts used the traditional first through third (1-3) grades class-size reduction, which was funded at 16:1 for 1st and 2nd grade and 19:1 for 3rd grade. The 26th Special Session (2010) allowed an increase in class size by 2 students for a funding level of 18:1 for 1st and 2nd grade, and 21:1 for 3rd grade. All districts employed that allowance resulting in 1,461 teachers being funded for grades 1-3. Four districts [Churchill, Douglas, Elko, and Nye] used the alternative class-size reduction program for grades 1 to 6 which were funded at 22:1 for 1st through 3rd grades and 25:1 for 4th through 6th grade. Again, the 26th Special Session (2010) allowed an increase in class size by 2 students for a funding level of 24:1 for 1st through 3rd grades and 27:1 for 4th through 6th grade.

As with the DSA budget, Mr. Rahming said he started with a 1 percent step increase through FY 2012 and a "roll-up" of 2 percent for FY 2012 and FY 2013. The class-size reduction was very similar in its calculations, but the M200 enrollment growth was grade specific so there was a 0.2 percent increase in first grade over the last two years and a 1.31 percent increase in FY 2012. In second grade, there was a 0.72 percent increase in FY 2012, and a 0.47 percent increase in FY 2013. For third grade, there was a 0.29 percent decrease in FY 2012 and a 0.72 percent increase in FY 2013. The same decision units [M300 benefits changes, E601 PERS, E670 salary reduction, and E671 step suspension] that affected Basic Support also affected the class-size reduction.

Mr. Rahming referred to page 19 of Exhibit C, which listed the positions required for class-size reduction as follows:

FY 2010	2,113
FY 2011	2,098
FY 2012	2,127
FY 2013	2,144

When he took the base budget figure and pulled out the decision units, the recommended budget amount was $134,348,069 for FY 2012, which was a 5.84 percent decrease from FY 2010, and $135,858,086 for FY 2013, which was a 1.12 percent increase over FY 2012. The second-year increase was driven by enrollment growth, and the funding for the program would move to the Block Grant.

Dr. Rheault commented that when the 26th Special Session (2010) authorized an increase in class size by two students, all of the districts that received class-size funding took advantage of that increase. When the difference was examined, there were 1,461 teachers hired under the class-size reduction program and 2,098 were funded in the DSA budget. The difference of 637 teachers used the flexibility from 1st, 2nd, and 3rd grades to move those positions into 4th through 12th grades. Those districts had already borrowed against the class-size flexibility. There were not 2,098 positions that were available to hire. The districts had used 637 positions in other grades this current year. His concern was that when the class-size flexibility was moved to the Block Grant, then the funds could be used for any purpose. If those funds were expended in the Block Grant because of the flexibility used this year, then that funding to increase class size by 2 students would not be available in the 2011-2013 biennium. In that case, the districts would be scrambling this spring to move back 637 positions that were transferred because of the flexibility to what the districts would be mandated to do by statute, which was to use it for grades 1, 2, and 3. Dr Rheault cautioned that continuing the flexibility and putting funds in the Block Grant were items to keep under consideration before closing the budgets.

In response to a question from Senator Cegavske, Dr. Rheault said that the Department had not figured out a way to compare students' performance from the time the Legislature first started class-size reduction to now. The Department had made an adjustment for more flexibility and had monitored that as well. Senator Cegavske knew that the Department had struggled with how to find a formula to measure performance.

Dr. Rheault said the Department had never done a detailed assessment of the effect of class-size reduction for grades 1 through 3 in the State of Nevada. The Department completed a small study maybe 15 years ago. Because class-size reduction had been in place since the early 1990s, students going through the system that had been in the State of Nevada since 1st, 2nd, or 3rd grades, had already graduated, and the effect was unknown. He thought Clark County completed a study that he would try to find. He believed it compared students in Nevada in 1st through 3rd grades, and their achievement results, with those for students who were not in school in Nevada. He recalled that the results were very positive.

Senator Cegavske thought there were some results from Elko County. Dr. Rheault said the Department had information from Elko when Elko was granted flexibility to move from just 16:1 in grades 1 and 2 and 19:1 in grade 3. Elko was the first district to be granted flexibility to go to 22:1 in grades 1, 2, and 3 and 25:1 in grades 4, 5, and 6. That flexibility was the alternative program, and there were four districts that were authorized to use this program. Having an alternative program made it more difficult to make a statewide assessment because some districts used all the class-size teachers for grades 1, 2, 3, 4, 5, and 6. The value of the information that the Department had was questionable because it was anecdotal from teachers and parents. The Department did not have any hard evidence that proved that the result of class-size reduction was an increase of student performance by 5 percent, for example.

Mr. Rahming continued by saying that special education funding was kept flat at $121,252,632 because of the federal maintenance of effort (MOE) requirements. Special education funded 3,049 units at $39,768 per unit.

Senator Cegavske questioned Nevada's ranking in receipt of federal funds and wondered about the mandate and Nevada's progress. Dr. Rheault responded that information was in his presentation a bit later.

Assemblyman Aizley wondered what a special education unit was. Dr. Rheault responded that he equated a unit with a special education teacher. The federal government paid for a portion of a special education teacher and the State of Nevada contributed some additional funds. Any difference that was needed by a district to fund the extra cost came out of the Basic Support, if any additional funding remained to pay for the special education student's needs.

Senator Kieckhefer asked why special education was funded without an increase. Because Nevada saw significant increases in enrollment in Nevada's Early Intervention Program and in the diagnosis of autism, he wondered whether or not there was a correlation between those increases and the number of units needed in special education in the State of Nevada's school system.

Dr. Rheault said he would find those numbers and provide them to the Subcommittee members. He said the Department kept track of the percentage of special education students because a material amount of federal reporting was required for special education. He believed special education numbers stayed flat even though there had been an increase in the autism numbers in the State of Nevada because other areas of special education had dropped. Nevada stayed consistently within one-tenth of a percent of the number of special education students identified within the State of Nevada. For this budget, Nevada will fund the minimum for special education students. Dr. Rheault said the State of Nevada cannot fund less than the MOE, or it would be in trouble with the federal government. He was not sure whether the number of special education students would increase or whether the formula would reflect the increase should additional special education students be identified.

Chairwoman Smith asked whether the enrollment stayed flat or the funding stayed flat. Chairwoman Smith said this funding should be studied closely because of the MOE requirements. Perhaps the funding was flat because of the MOE requirements. Dr. Rheault said he meant there was no increase in the enrollment percentage of special education students.

At the request of Assemblyman Goicoechea, Dr. Rheault clarified that The Executive Budget provided funding for 3,049 special education units at $39,768 per unit each year of the 2011-2013 biennium. The $39,768 included no federal funds. Dr. Rheault said the Department made a separate allocation from federal funds to the districts that had to be used for special education funding for staff, which was used at the local district level.

Mr. Rahming spoke about the Adult High School Diploma program, which was affected by the same decision units as the Basic Support program and class-size reduction program, including the PERS increase from 21.5 percent to 23.75 percent, the E670 5 percent salary reduction, the E601 PERS equalization, and the E671 suspension of merit salary. The recommended budget for FY 2012 was $21,641,050 for an increase of 2.22 percent from FY 2010 actual expenditures. The recommended budget for FY 2013 was $22,990,577 for an increase of 6.24 percent from the FY 2012 recommended level. The Department used estimated enrollment specific to adult education for the 2011-2013 biennium budget. In the past the Department had used figures for K-12 to project the cost.

The Regional Professional Development Programs (RPDP) was explained by Mr. Rahming. He said decision unit E904 transferred the RPDP funding from the DSA BA 2610 to the School Remediation Trust Fund BA 2615. It would be funded at $7,897,804 for both FY 2012 and FY 2013 and that was consistent with FY 2010 funding.

Chairwoman Smith asked how that would be allocated. Dr. Rheault responded that it would be transferred to the Remediation Trust Fund. He noted the RPDP would be a separate line item within the Remediation Trust Fund and would be distributed to the three regions. [The Budget Director, Andrew Clinger, was in the audience and acknowledged agreement with Dr. Rheault's explanation.]

Mr. Rahming said the Gifted and Talented Units program [another DSA program] would move from the DSA funding to the Block Grant and would be funded at $171,060 for FY 2012 and $175,004 for FY 2013. In response to a question from Chairwoman Smith, Mr. Rahming said the funding for FY 2010 was $162,566 for the Gifted and Talented Units, and thus the FY 2012 and FY 2013 funding was increased. He said the School Lunch Match funding was left unchanged at $588,732 per year. The Elementary School Counselors program funding would move from the DSA funding to the Block Grant and would continue without any change at $50,000 per district [$850,000 per year total].

Dr. Rheault commented that the Elementary School Counselors program was approved in the early 1990s by the Legislature. It used to fund up to 70 counselors who were proportionally distributed to the school districts. When the Department of Education ran into funding problems in the early 1990s, it was determined that every school district would receive one counselor. Clark County received one counselor and Eureka County received one counselor. The program remained in the budget at $50,000 per district. He was not sure how important it was for the funding to remain in the DSA. He knew the elementary school counselors were important, but when the number dropped to one counselor per district, and Clark County only received one counselor, he was unsure of the value of the program.

Mr. Rahming spoke about the School Library Media Specialist Certification Compensation that would be moved from the DSA funding to the Block Grant and would be continued at the budgeted amount of $18,798 for both FY 2012 and FY 2013. The Special Transportation program would be moved from the DSA to Block Grant funding and that was specific just to Lyon County. These dollars were reduced from about $170,000 to $128,542 for both FY 2012 and FY 2013, based on actual usage. The Early Childhood Education program would be moving from the DSA to Block Grant funding.

Assemblyman Grady asked about the Special Transportation program for Lyon County School District. He said the program was created because of the transportation needs of the various Indian reservations around Lyon County. With the proposed changes, transportation would cost the District somewhere between $125,000 and $150,000 per year because the District did not receive tax funds from the Indian reservations.

Dr. Rheault agreed and said the specific line item for transportation would provide funds that went directly to Lyon County. When these funds were transferred to the Block Grant, the Block Grant would be divided up by formula and shared by all the districts. Then Lyon County would only get a county share and not get a specific amount for transportation. It would be Lyon County's responsibility to pay the cost for special transportation.

Assemblyman Grady said the *Nevada Revised Statutes* (NRS) covered this and the transfer would be ignoring the statutes. Dr. Rheault said it was his understanding that all of the statutes that were tied to funding that was moving to the Block Grant would have to be amended. These included the class-size reduction program, this Special Transportation program, along with a few other programs that were affected by the move, so there would no longer be any requirements for the State of Nevada to fund or implement the programs. Assemblyman Grady asked who would submit the bill draft request to the Legislature. Dr. Rheault was not sure. Chairwoman Smith said the Budget Division would submit any bill drafts required that addressed these budget issues.

Mr. Rahming explained that the Early Childhood Education program showed a slight increase in funding. In FY 2010, the program was funded at $3,304,982 and it was requested to be funded at $3,343,791 for FY 2012 and $3,353,814 for FY 2013. The program would be moved to the Block Grant.

Mr. Rahming next spoke about BA 2615, which was the School Remediation Trust Fund. The line item for Full-Day Kindergarten was recommended for funding of $21,141,740 for FY 2012 and $20,621,415 for FY 2013. Like class-size reduction and Adult Education, this was affected by decision units E670 for 5 percent salary reductions, E671 for 2 percent suspension of merit salary increases, and E601 for PERS equalization. In this budget account there would be three items, the Block Grant, the Regional Professional Development Program, and Teacher Performance for Pay, which would be funded in FY 2013.

Senator Cegavske asked about full-day kindergarten and wondered whether or not the Department of Education had any performance records that showed how the teachers or students had performed since the full-day kindergarten was started. She wanted to know the different schools that used the full-day kindergarten. She also asked how much the difference was between what the school district paid and what the parents paid for the full-day kindergarten. She said even though half of that amount was already paid by the parent, there was still a cost.

Dr. Rheault responded that Senator Cegavske had asked for that information during the interim. He had finally received the updated information. He recalled there were three districts that had a "pay for full-day kindergarten" program. He said he would provide that report to the Subcommittee. He had not done a formal study but thought he could complete one. He knew the schools that had been funded for full-day kindergarten had been consistent since the program started in 2007. They were the same 114 schools. He would ask staff to complete a comparison of third-grade student achievement for those 114 schools compared to the other schools that did not have the full-day kindergarten program. The problem was his database did not contain figures for all those years as to how many of those other schools were using a parent-paid program or maybe some other funding source besides the State of Nevada funds. There were a few that were still funded with Title I federal funds, and that may skew the results. But he would work to get some indication of the performance results of full-day kindergarten.

Senator Cegavske asked about the numbers and funding for the Adult Education program. Dr. Rheault responded that the line item for Adult Education funding was in the DSA and it was not being transferred to the Block Grant. He did have numbers for Adult Education. Senator Cegavske asked about the adult successes for the students in that program. She wondered whether we give them something that says they have a diploma and whether they were successful and able to find jobs.

Dr. Rheault said he believed he had performance indicators on how many students completed the program and how many actually received a diploma. He would check but thought the program did some follow-up. He was not sure he had a good database on how successful students became once they left the Adult Education program.

Chairwoman Smith said some consideration needed to be given to the point of the Adult Education program. If the goal was for students to get a diploma, then that should be the performance measure. Perhaps the goal was to provide some kind of a career training program. She said the Subcommittee would discuss the full-day kindergarten question when it got into the budget hearings. She knew they had seen a lot of data over the last few years. She knew the districts had their own data which she would appreciate having compiled and submitted to the Subcommittee. She thought the compelling data she had seen were comparisons of students in schools that had a "pay for full-day kindergarten" program and students who were not on the full-day kindergarten program within the same school. She would look forward to seeing those reports during the budget hearing.

Dr. Rheault said Clark and Washoe Counties had done studies on the program, and he knew that Clark County had put a lot of input into that study, and its results were supportive of full-day kindergarten.

Chairwoman Smith said she wanted to inform the school districts now that one of the things she was interested in was how districts managed these "pay for full-day kindergarten" programs and whether the Legislature needed to include these programs in the new budget. She wanted to see what the districts did with these programs. She thought the Subcommittee needed to look at the issue and whether there needed to be more similarities in statute for such programs in the school districts.

Dr. Rheault said the $25 million for full-day kindergarten this year funded 464.50 full-time equivalent (FTE) positions for full-day kindergarten teachers. Of that number, Clark County received 364 of the 464.5 units. Washoe County received 78 of the 464.50 units. Those two counties received most of the teachers. Not all districts received full-time teachers, and only 9 districts of the 17 districts actually benefited from the full-day kindergarten, because the initial allocations were based on the number of students who qualified for free and reduced-price lunches. The initial percentage to qualify for the funding was 55.1 percent of free and reduced-price lunch students at the school. A lot of the small rural school districts did not have large enough numbers and did not qualify. The Department had not expanded the program since its inception.

Chairwoman Smith said the Subcommittee would get into more discussion about full-day kindergarten later when it heard about how the Block Grant program would work.

Mr. Rahming explained BA 2616 was the Grant Fund for Incentives for Licensed Education Personnel and this funded the cost of the final two years of the one-fifth retirement credit program in FY 2012 and FY 2013. Any remaining funds in this account would be rolled into the Block Grant instead of funding the cash incentives. It was funded at $13,049,546 for FY 2012 and $12,055,905 for FY 2013. In FY 2012 there was an expectation that $4,193,250 would be moved to the Student Achievement Block Grant.

Mr. Rahming said that BA 2699 was the Other Education Programs budget account that had already been reduced by 10 percent to meet agency targets per the all-agency memo #2010-20. Most of those programs would move to the Block Grant and be funded at the following levels:

Geographic Alliance in Nevada (GAIN)	$44,583.
Teacher Certification	$54,870.
Speech Pathologist Certification Compensation	$526,785.
Vocational Student Organizations	$106,998.
Peer Mediation	$26,674.
Educational Technology Funds [School District Funds]	$1,912,241.
Career & Technical Education	$3,543,822.
LEA (Local Education Agency) Library Books	$449,142.
Public Broadcasting	$229,725.
Counselor Certification Compensation	$668,742.
Apprenticeship Program to Department of Employment, Training and Rehabilitation	$459,449.
ED TECH KLVX [funded for FY 2012 only]	$392,329.

Library Database Funds to Library and Archives [funded for FY 2012 only]	$421,165.

Mr. Rahming mentioned that the School Support Team Substitutes program would be eliminated, providing a reduction of $31,895 in each year of the 2011-2013 biennium.

Mr. Rahming explained the Block Grant distribution methodology. Each district was given $60,000 and each charter school was given $30,000 in base funding. That ensured a minimum level of funding. Ten percent was reserved to provide remediation services to the lowest-performing schools. Ten percent was reserved to provide incentive awards to the highest-performing schools. Fifty percent of the remaining balance was available for distribution based on weighted enrollment pupil counts, and the other 50 percent of the remaining balance was distributed based on the number of licensed instructional teachers in both the General Fund and Special Education.

Dr. Rheault subsequently clarified Mr. Rahming's explanation of the Block Grant by explaining that the two 10 percent allocations for remediation and incentives, respectively, would be determined after the $60,000/$30,000 base funding was calculated. He also noted because the program was a Block Grant, the Department would calculate the 10 percent allocations and notify each of the districts how much was available for remediation and incentives.

A lengthy discussion ensued between Chairwoman Smith and Andrew Clinger, Director, Department of Administration, concerning the workings and the reasons for the Student Achievement Block Grant proposal.

Chairwoman Smith explained that the Block Grant program [about $325 million for the biennium] was developed by combining proposed funding for a number of line-item programs from the DSA budget, such as the class-size reduction program, as well as programs from other budget accounts, such as Full-Day Kindergarten. Chairwoman Smith noted that the combined funding for the programs was reduced by $18.7 million over the biennium and reiterated Mr. Rahming's and Dr. Rheault's earlier testimony regarding how the remaining funds for the Block Grant were to be allocated to school districts and charter schools.

Chairwoman Smith went on to point out that the $18.7 million reduction combined with the 10 percent reserved for remediation services and the 10 percent reserved for incentive awards meant the funds available for the line-item programs such as Full-Day Kindergarten would be reduced and that some smaller line-item programs would no longer be funded. She questioned the philosophy behind providing the districts more flexibility with the funds and expressed concern that the Block Grant program, just like the earlier School Remediation Trust Fund program, would be vulnerable to further budget cutting if that became necessary.

Chairwoman Smith also wondered why the Block Grant program was structured the way it was, and if combining the programs was the goal, she felt that putting the funding to the basic DSA funding formula might be a better approach. She also pointed out that most of the funds were distributed based on weighted enrollment and licensed instruction, which would be similar to the existing DSA funding formula, and questioned how performance measures and accountability would be determined and used for that portion of the Block Grant.

In response, Mr. Clinger agreed that total funding from the various programs was being reduced by $18.7 million because of budget considerations. He argued, however, that the Block Grant program was designed to provide more flexibility to the school districts and charter schools to allow each of them the ability to direct the funding to the areas they believed to be most beneficial for improving school performance. At the same time, a share of the money would be set aside to create incentives for high-performing schools and to provide remediation funds, when needed, for low-performing schools.

Mr. Clinger said the Budget Division did not want to make the Block Grant program one where school districts had to go through a competitive process similar to the remediation process. He said the Block Grant money would still be going to the school districts, but noted that if the funds were allocated through the basic funding formula, there would be no incentives for the districts to improve performance.

Concluding the discussion, Chairwoman Smith said it was important to encourage the districts to perform with all their money and not with just a portion of the Block Grant money. Chairwoman Smith said she could see where this discussion was going, and there would be many more opportunities for discussion as the budget hearings began.

Senator Leslie asked about the philosophy behind cutting the funds by $18.7 million first. Questioning whether the purpose was just to save money or to require the programs to operate more efficiently, she wondered why the Budget Division cut it that much.

Mr. Clinger said the cuts were a matter of priorities and a matter of trying to live within the state's means. It was one of the difficult choices that must be made. He said the Budget Division would prefer not to cut the $18.7 million and make the Block Grant whole with the funds currently available. But given the revenue situation and given all of the other choices that had to be made, this was one of the difficult choices they made.

Dr. Rheault added that the Department had some concerns that he wanted to present but had not met with the districts as yet to discuss them. The Department did not calculate student enrollment until the student count date late in September and teacher count date late in October. The Department may have to use the previous year counts to prepare the funding in July with this type of Block Grant. Some of this program funding currently did not go to school districts, such as public broadcasting money that was just a pass-through that went to the public radio and public television stations, which then distributed the funding. If the funding transferred to the Block Grant, then the public radio and television stations would not receive any funds.

Chairwoman Smith wanted to hear from some of the district superintendents, but she wanted to discuss a couple of figures first. She said staff had done work on preparing some facts on cuts and percentages. According to staff, the districts had experienced a 14 percent cut from the legislatively approved budgets and would be unable to spend the same amount as last year.

Dr. Rheault said he was not sure how staff calculated the 14 percent. He asked whether or not staff calculated the decrease from the actual allocations this year, for example from the $5,192 basic support per pupil estimated for FY 2011. Chairwoman Smith asked for the legislatively approved basic support per pupil, and Dr. Rheault said he would research the figure and provide the data to the Subcommittee.

Chairwoman Smith asked about the decreased funding support from the State of Nevada for education of $668 million, which was a 27 percent decrease in General Fund. She understood based on what the State of Nevada spends to support K-12, funding was decreased by $668 million. When you look at what the schools districts have to spend, funding was decreased by 14 percent. She asked for Department confirmation on those figures.

Senator Cegavske said she also had some confusion about the numbers and wanted clarification. She wanted to thank Heidi Gansert and Andrew Clinger for their presentations yesterday. She wanted to make sure that the Subcommittee was presented with figures that showed the legislatively approved numbers for comparison purposes. She wanted both houses to work together with the Executive Branch to put the best ideas forward for consideration by the Legislature. She also wanted the members to develop suggestions and recommendations and to work together with all members.

Chairwoman Smith responded that the Subcommittee was willing and eager to work with the Administration on the budget. These were tough times and tough discussions, and those would be held in a respectful manner. The Legislature was in a different situation because it had the legislatively approved budget from the 75th Session (2009). It also had the 26th Special Session (2010) adjustments which changed the basic support per pupil. The reductions mattered. Chairwoman Smith said you can look at the K-12 budget and look at reductions in numbers in a variety of ways. She was trying to get to something that made sense to her and to the public as she talked about the budget. That was why she brought up the two numbers that her staff had developed [the 14 percent cuts to what the districts would have to spend and the $668 million decrease which was a 27 percent decrease in General Fund support]. She wanted to make sure that those figures were confirmed by the Department of Education.

Senator Horsford said he respected both Governor Sandoval and the Office of the Governor. He expressed his concerns about the level of cuts to education to the Governor. He had asked delving questions about the budget. He respected Mr. Clinger and his knowledge of the budget, and Mrs. Gansert did her job noblely, but he disagreed with the levels of cuts to education, both K-12 and higher education. He believed that all Subcommittee members were trying to come up with an understanding of The Executive Budget, so that they could offer suggestions and alternatives in a constructive way, and the result would be a more balanced approach. Senator Horsford said members needed to focus on the facts before the Subcommittee.

Assemblyman Bobzien made an observation on the Block Grant matter. He did not want to forget the fact that while setting up this system, the Subcommittee does not unwittingly encourage the school districts to shortchange some of those highly specialized services that they have to provide, such as special education. He would hate to see a situation where that money was pushed away from those students that were in need. He did not want to lose sight of those needy populations.

Chairwoman Smith asked for the school district superintendents to provide the Subcommittee with an initial reaction to what the cuts may mean to school districts, while keeping in mind that the school districts all have their elected board members and their own budgets and must deal with these cuts as a board. Some initial observations from the superintendents would be helpful.

She also wanted some discussion from Clark County about the bond reserve problem.

Dr. William E. Roberts, Superintendent, Nye County School District, and the recently elected president of the Nevada Association of School Superintendents, thanked the Subcommittee members for taking the challenge to represent all the citizens of Nevada and trying to improve education in the State of Nevada. This was his 20th year of being involved with public education in Nevada. He found that the children of Nevada had a good solid education, and he did not think that the education system was broken. He thought Nevada had good persons and good systems, but was severely underfunded to accomplish what it needed to do. He had served 10 years in northern Nevada and another 10 years in southern Nevada, and he had seen the State of Nevada in both urban and rural settings. During these difficult times with the reduction of $270 per student, the current budget put Nevada further into a hole that was very difficult to climb out of. Every year there had been budget reductions to the services provided to students over the last three years. He loved the saying that all we did was throw money at education and it had not improved anything. But he would like to try that to see whether or not it would work, because when you were bouncing around somewhere in the bottom five, clearly Nevada had not spent enough to accomplish what was needed.

Dr. Roberts said that rural Nevada was larger than most states in the Union. Nye County alone could contain the State of Rhode Island over 18 times. Most of the cuts made in the communities were severe. He did not have a school principal in all schools and instead had a principal covering multiple schools in multiple towns. His own secretary retired in Pahrump in December and he had not replaced her. When fiscal notes were requested he was slow to respond because he was covering many other areas. The money that was considered for Block Grants seemed like an innovative idea if the statutes were modified to allow flexibility to use the money as needed. That might work well. He did not think monies were being taken away. His preference was to increase funding by $270 per student.

Heath Morrison, Ph.D. Superintendent, Washoe County School District (WCSD), wanted to echo Dr. Roberts' comments about thanking the Subcommittee members for their service. He congratulated the re-elected and recently elected members. The challenges they faced were unprecedented. It would require a new way of doing things and a new outlook. He said everyone was here today because they believed education was a solution to those challenges and wanted to be good partners that solution.

Dr. Morrison said that the WCSD has engaged in one of the most aggressive school-reform efforts in the country. The District worked proactively with its Board of Trustees last year and created a new strategic plan. Many persons had seen that plan. As he heard the calls all across Nevada for reform in all sorts of different governmental agencies, he thought he, his staff, and his Board had tried to model what reform would look like. They established clear accountability indicators and pledged to hit key indicators to reach the ultimate goal. In business one should have an "elevator talk" and he believed that they should run their school districts in many ways like good businesses. So their "elevator talk" was simple. It was about getting every child by name and face to graduation.

Dr. Morrison said the WCSD's strategic plan had already yielded some positive results. There was a 7 percent increase in graduation last year and an 84 percent increase in student achievement at elementary and middle schools. Many achievement gaps had been closed and the District was on the right track but knew there was tremendous work that must be done. He believed from the beginning that the strategic plan was never built under the assumption that schools would see an increase of dollars from the State of Nevada over the next few years. The strategic plan was made with full awareness of the challenges in Nevada. But it also was not built around the assumption that we could complete our work with less funding. The challenge for the WCSD was how to not back away from any of the accountability of its strategic plan. He did not want to move those targets backwards. As a matter of fact, they would bring to their Board soon revised targets upward because they had already exceeded their graduation target for this year. They wanted to move forward and that was what they owed their students in Washoe County, and that was what we owed all of our students in the State of Nevada.

Dr. Morrison said he was not as prepared as he would like to be to talk about The Executive Budget. He had access to the budget for a little over 72 hours. He spent a lot of time yesterday trying to understand what the 9.29 percent reduction meant, where those monies were coming from, how much money did that mean, and what was the percentage of that cut. He did have the beginning of an understanding of the potential effect of the budget reductions for the WCSD. It was his understanding that the proposed 9.29 percent was the total funding to education. It was not only the DSA, and it was not only the categorical funds put into a block grant and the reduction that had already been spoken about here. It was the total contribution to K-12 education, both the amounts received at the local level and at the State of Nevada level.

Dr. Morrison said the 9.29 percent cut for the WCSD would be approximately $45 million. He also had to anticipate some other reductions that he was bracing for, even if there were no cuts incurred from this Legislature. The cuts he had to anticipate included the loss of revenue from the two-thirds of property tax, the loss of ARRA funds, and the loss of the onetime money used last year from budget reductions. Even though all five employee association contracts were open because of the negotiating process in Nevada, there were some contractual obligations that were causing deficits right now. That totaled another $30 million. So the cuts for the WCSD produced a $75 million budget reduction. That was in the context of having cut $73 million the previous four years and $37 million last year.

Dr. Morrison met with his high school and middle school principals prior to today's meeting and would meet with his elementary principals later today to help them understand the budget, where we were, what we were trying to do, and how we might begin to approach this. He said they prided themselves on doing everything possible to keep the cuts away from the classroom. Many parents had said he had done such a good job in protecting the classroom that they had not felt the effect of any cuts. Once you start to cut things like music, athletics, and gifted and talented programs then the parents really started to take notice. He was proud of the WCSD when he looked at the manner in which many other school districts across the country handled budget cuts last year. The WCSD did not take reductions in those areas. He thought those were critical areas to maintain to achieve the mission of getting every child by name and face to graduation.

Dr. Morrison said the WCSD started with the $75 million in cuts. The employee associations came together and worked with the District to give concessions to keep the cuts as far away from the classroom as possible to reduce the budget by $37 million last year. The District took the single largest reduction to central services in its history. It increased class sizes as Dr. Rheault mentioned and deferred textbook purchases. It had been fiscally responsible, and had used contingency funds and savings available. The WCSD did all of that to get to the $37 million cut. If the $75 million was accurate, then the District would have to do all the same cost-savings measures again, which it may not be able to do because some items must be negotiated. If the district applied all those same cuts, then it would only get halfway to where it needed to be. The WCSD can no longer protect some areas from cuts, such as gifted programs, music, athletics, and library services. A 25 percent reduction would be about $8 million, so that was still a long way from the needed cut. Finally you get to a point where there must be some class-size increases. The WCSD looked at increasing class-size for K-12 by about four students. The increase of four students would save the WCSD about $26 million, which would mean 432 fewer teaching positions, and perhaps as many as 50-100 support positions, but the WCSD would still not achieve the reduction target.

Dr. Morrison said the WCSD had its strategic plan that he could achieve and did not want to back off at all from the accountability pledged to his community. That was what he owed the students in Nevada.

Dr. Morrison felt encouraged by the conversation that was occurring right now in Nevada on the tie between education and economic development. He applauded the leaders that put on the Nevada 2.0 Economic Forum. The conversation was about creating better education, both K-12 and higher education. That was the pathway to having the kind of economy that was needed in Nevada. The state had a graduation rate that was a little over 50 percent. With 440,000 approximate students, that meant 220,000 students not on a pathway to graduate if we did not change how public education was delivered. We have the highest unemployment rate in the nation. It had gotten as high as 15.2 percent with the recorded number of unemployed in Nevada at 195,000, and with the additional number that we knew did not report their unemployment, the number totaled 220,000. Education improvement and improvement to our economy were connected. We cannot do one without the other.

Chairwoman Smith asked the superintendents about changing education policy and wanted their thoughts. She said they were moving in an aggressive way on changing education policy and delivering education services in Nevada. She did not want anyone to think that the talk was only about funding in this legislative environment. There was more going on than ever.

Dr. Morrison responded that there had been some amazing conversations about educational reform. There had been many partners in those reform endeavors: school-based leaders, legislators, other political leaders, members of their employee associations, and business leaders. He commended Chairwoman Smith for her lead in many of those conversations, bringing many of those groups together to talk about educational reform. He served on the Education Reform Blue-Ribbon Task Force that produced a document titled *Nevada's Promise* that talked about the need to reform, the commitment to put great teachers in every classroom, the duty to have schools led by great principals, the obligation to reach out and actively engage with parents, the need for accountability, and the need for reforms to make those things occur.

Dr. Morrison also served on the Governor's transition team and every time they met the Governor spoke about education as a priority, educational reform, and the great opportunity to bring all those reforms together. We over-complicate the idea of educational reform. We must ensure that we put the very best teachers in front of our students; we must have schools led by great principals; we must have an intentional proactive outreach to our communities and our business leaders; we must have cultures that are safe and productive and engaging for our students. Much of the proposed legislation would ensure that we had those things.

The WCSD was presenting a bill draft for consideration on teacher tenure. Dr. Morrison believed that the current system that awards tenure at the end of probationary period after one year puts Nevada in alignment with only two other states, neither of which we were trying to benchmark for excellence in education. Extending tenure to three years would put Nevada in line with 36 other states. There had been some good cooperation with associations and leaders across the State of Nevada about tenure, seniority, accountability, compensating teachers and principals that were most effective, and rewarding excellence when we see it. There was tremendous collaboration around growth models and data systems between Dr. Jones of the Clark County School District and Dr. Morrison. They met with Governor Sandoval and Dr. Rheault and discussed the need to have a growth model and the implications to create more accountable school districts across the State of Nevada. We have a great opportunity to have these things that make sense and would make a difference for our students. Dr. Morrison wondered whether we would have the will to get it done.

Dr. Roberts echoed Dr. Morrison's Nevada's comments. He had served on the same Blue-Ribbon Task Force that produced *Nevada Promise*. He felt that the bill drafts being put forth by Washoe and Clark Counties would help districts move in the right policy direction. This was an exciting time to do some things that would make a difference in education in Nevada. It would be in our benefit and benefit our students by taking some of these bold steps.

Jeff Weiler, Chief Financial Officer, Clark County School District (CCSD), apologized that Dr. Dwight Jones, Superintendent, was unable to attend today. Dr. Jones had aggressively pursued his agenda to bring improvements to the District. Dr. Jones was working together with Dr. Morrison to make improvements. The CCSD had cut $375 million over the last three years from its budget and eliminated over 1,700 positions, which included a large reduction in its staff of 12 percent. It eliminated funding for things like block scheduling in the Advancement Via Individual Determination (AVID) program, increased class size, and reduced staffing to schools. In the CCSD, 89 percent of the budget went to salaries and benefits, so it was impossible to effect the kinds of cuts needed without touching salary, benefits, and staffing levels.

Mr. Weiler said he was looking at preliminary budget numbers and looked forward to getting more specific numbers from the Department of Education. The CCSD faced a structural deficit because of the loss of revenue over the last three years. He looked at the net effect of a shortfall of about $250 million. As he got more specifics he would be able to firm up those figures. He calculated the DSA funding would decrease about 33 percent [$244 million], offset by about $200 million per year in capital or debt service reserve money. The CCSD had shortfalls in local revenues because of decreases in collections of property tax. The CCSD had contractually obligated roll ups, step increases, and PERS increases. It worked with its employee associations collaboratively to come up with solutions.

Mr. Weiler continued and pointed out that if the debt service was not reduced in any way, then the debt service would be self-sustaining for the next five or ten years. Because of reductions in room tax, property tax, and real property transfer tax, [which were the major sources of the capital program] taking any money out of the debt-service fund would force the CCSD to either restructure bonds or increase the debt-service property tax rate. A restructuring meant extending the mortgage out longer, which was more costly in the long run. If funding stayed as it was today, then the CCSD would not have to complete a restructuring. If the loss of money was $400 million over a two-year period, then the CCSD would be forced to do a major restructuring to extend maturities so the property tax, real property transfer tax, and room tax would be sufficient to cover the debt service. He based these comments on very preliminary budget numbers and would firm those up with better detail in the future.

Chairwoman Smith asked about the money that was in the reserve. She worked on this previously because she wanted to free up some of that money for actual construction which was what she believed was the intended use for those funds. She asked whether that money was a combination of the voter-approved money plus the legislatively approved money. She asked whether the money was all in one account or was the available money separated in any way. There was the legislatively approved room tax, real property transfer tax, sales tax, and the voter-approved bond money. She wondered whether those moneys were all together or separate.

Mr. Weiler said that the CCSD did both. When the 1998 capital improvement program was set up, it was a fairly complex model. It all worked very well. Staff was able to deliver more schools than the program promised. He and his staff were able to do more with the money over a ten-year program than promised because the model worked well and the economy had grown. The reserve was a shock absorber for the CCSD. With property taxes going down as much as they were and if the CCSD did not have that reserve, it would be doing a restructuring or it would be increasing the property tax rate for debt service. That would have implications across the county and not just for the CCSD.

In answer to Chairwoman Smith's question about what was in the debt-reserve fund, Mr. Weiler said it contained property tax proceeds, which were the voter-approved bonds funds. The reserve was committed to capital construction or to meet the debt-service needs should revenues not be sufficient. This would require changes at the State of Nevada level. The CCSD cannot access that money or spend it for anything other than debt service when revenue declined. The challenge was when you start to dismantle parts of the model, it did not always work as well.

Mr. Weiler said the other large piece of the debt service was the actual bond proceeds. The CCSD issued bonds to finance construction. It was still completing that, which included renovations and modernizations of older schools and other capital improvements. Those moneys were bond proceeds and those funds may not be redirected to operating purposes. That totaled about $600 million at the end of last year. The fund was now less than that because some was used to complete the projects.

Chairwoman Smith said she was trying to make the point yesterday that if the CCSD money goes from construction bonds to operating, then the CCSD would have to do some type of restructuring.

Assemblyman Conklin commented that Mr. Weiler had said he was not planning on restructuring those bonds at this moment. He wondered if the Governor's recommended plan was approved, whether the CCSD would be forced to restructure and what the consequences of that restructuring were.

Mr. Weiler responded that the CCSD would not restructure as of today. If any of the money was taken, then it would have to restructure. The downside to that was long-term, it would pay more in interest because it would extend the mortgages. There were costs to refinancing. It would entail pushing maturities out. The CCSD always issued 20-year bonds. It might have to extend those maturities out to as much as 30 years. In the long run, it took away future capacity meaning there would be less capacity against which to obligate bonds in the future. If the district had a future need, there would be less capacity. It would adversely affect the bond rating. That was important because the bond rating, like your credit rating as an individual, indicated what interest rate would be paid on the debt.

Assemblyman Conklin asked whether or not the reserve that was in there now was large enough to get the CCSD through this period. He assumed that the money came from the property tax portion and was the publicly approved program. He assumed that money was put in there so, as there were peaks and valleys in collection of that revenue source, the CCSD would not miss any bond payments. Assemblyman Conklin said the budget indicated property tax collections would go down next year and then the budget suggested that taxes would go up the following year. He did not think that the taxes would go up for at least two years or more, and wondered whether or not Mr. Weiler believed that there was enough revenue in reserve now to safeguard the CCSD's bond rating whether or not the Legislature changed the revenue.

Mr. Weiler responded that the reserve would be sufficient, but just barely. He had modeled a decrease of property tax for next year of about 10 percent, and beyond that year he held revenues flat. He said when the CCSD had problem bonds, the District tended to model flat growth in property tax and that helped over the years. The CCSD had not overleveraged. He said it would get by, just barely, for the next five years.

Mr. Weiler said as far as growth, the CCSD believed and would project that property tax would start going up at some point in the future. Revenue growth would be abated at 3 percent for residential property and no more than 8 percent for commercial property, so even if there was a boom in property tax in three or four years, the growth would be limited to between 3 percent and 8 percent. The district was using 20 percent to 30 percent for growth at some point in the past.

Chairwoman Smith assumed that the CCSD did its own modeling on property tax revenue for bond purposes when it was doing the other funding calculations. These would be in addition to any official numbers provided to the CCSD. Mr. Weiler confirmed Chairwoman Smith was correct.

Assemblyman Hickey thanked Dr. Morrison for the discussions he held, his enthusiasm, his bill draft, and for being ahead on many of the reforms that were supported by a number of individuals. Cuts were painful to all and no one was happy to see districts cut. But the flexibility proposal would give principals and school districts the opportunity to rid districts of certain teachers that were not performing well. He asked whether there was a tie-in and would that be beneficial to the school districts to have greater flexibility to show teachers either the way to improvement or to another profession. Would that be helpful with regard to some of the painful cuts?

Dr. Morrison wanted to clarify his bill draft first. The bill draft did not specifically address anything about the concept of bumping or seniority. It was simply a bill draft that addressed the probationary time period for a teacher. It also had some elements of gross misconduct that could be an element leading to further discipline for any teacher or administrator found in violation.

Dr. Morrison said the problem from a business standpoint was, if there must be reductions in force, whether there was a mechanism or process that allowed the District to keep those individuals that were producing the best results and were the most effective. This was in contrast to the practice used across the country, which was "last hired-first to be let go." The national conversation was that there should be some mechanism to allow school districts to keep those individuals that they truly believed were making a difference for student achievement. On the other side of that argument was the problem of how such performance was measured. That was one of the quandaries for the State of Nevada. There was discussion earlier about whether we had been measuring certain programs. You need to be able to have some data to show that one person brings more value to the classroom or more value to the school than another. He believed that there was a lot of work that needed to be done and he believed that it was important. The good work needed was what he had been talking to the CCSD about and included doing some of the work together with all of the school districts. All of us would want some mechanisms to keep individuals who we truly believe were making the greatest difference for children when we have a reduction in force.

Senator Denis asked for clarification about the budget. He wondered in the process of developing the budget, whether any of the school districts were asked what was important to them in this process.

Dr. Roberts responded there had not been enough time and the budget was highlighted for him during the Governor's State of the State Address on Monday, January 24, 2011. Dr. Morrison said that shortly after the Governor was elected he held a meeting with all the State of Nevada school superintendents and many of the local school board members. They had an opportunity to have some broad conversations about the budget. The Governor was candid and said there would be cuts. They had an opportunity to have some input. It had been said today that the time period between the Governor's election to having to propose a budget did not really allow time for much discussion and input from affected parties.

Senator Denis said that the Governor's staff had made it clear that flexibility was important in what they were proposing. He asked whether flexibility was something that the school boards were looking for.

Dr. Roberts said he believed flexibility was important for the districts. Similarly during the last session, the Legislature gave the districts flexibility in the use of the mandated money for textbooks and how those were spent across the district. The increased flexibility allows the locally elected school board members to make decisions as to how to spend the limited funds that were received for the different geographical areas and needs of the various school districts in Nevada.

Dr. Morrison said at a recent meeting of all the superintendents in Nevada from the large school districts to the smaller, from the urban to the suburban, from the north to the south, all came together around a very simple concept. That concept was that they humbly request that the Legislature keep as close as they can to the current funding or take as few cuts as possible, give them maximum flexibility, some needed reforms, and the districts can improve. The superintendents commit to increasing student achievement. From all counties there was a request for as much flexibility as possible to provide the maximum amount of dollars to match up with the strategic plans and improve student achievement.

Senator Denis said it sounded to him that the school districts already knew what they needed to do to improve student achievement, and Dr. Morrison agreed. Dr. Roberts confirmed Dr. Morrison's response.

Senator Kieckhefer said that in The Executive Budget a 5 percent salary reduction would more than make up for the per-pupil reduction in Basic Support. Testimony had been heard from several persons that ongoing negotiations with the collective bargaining units and State of Nevada employees had occurred. State employees had taken 4.6 percent salary reduction through their furloughs; there was State of Nevada unemployment of 15 percent. He asked what level of reductions in the salary of school districts were taken in previous rounds of cuts, and when were these decisions made in the negotiations going into the next school year so that what the Legislature does can be incorporated into the negotiations.

Dr. Morrison responded by speaking about the 5 percent salary cuts and the possible PERS reduction that would be levied on the employees. He reminded the Subcommittee that those things had to be negotiated currently. The districts can make that the first round of negotiations. The superintendents have no idea what the ultimate budget would look like. They were trying to come up with a best-case scenario and a worst-case scenario. That makes it difficult at the same time that one is trying to staff schools to work to some negotiated agreement with wages and benefits that the districts think it might be able to fund. It is important to plan that whether or not there is agreement, the district may have to increase class size and lay persons off. That becomes very complicated.

Continuing, Dr. Morrison said that his strategic plan was his business model. He would like to be able to project two, three, or four years out to make sure the WCSD had maximum efficiencies, but that was not possible now. We go from one year asking were we going to have what we had this year or were we going to have a $75 million cut. It becomes very complicated in regard to how you approach this. He did not believe if he was able to get the 5 percent pay cut and the 25 percent PERS contribution, that it would offset the number of cuts that he would have to impose. The WCSD would even have to get further concessions or somewhere there would be layoffs. Almost 90 percent of the District's moneys pay for salaries and benefits. You either pay persons less or you have to make do with fewer persons. His hope was that the Legislature would be able to come to a budget solution that allowed the districts to deliver on their strategic plan and not have them contributing to the unemployment rate in Nevada.

Assemblyman Bobzien was interested in the superintendents' opinions on the Block Grant notion, and the implications of having this money in a separate account that may be a potential target and any complications that may arise from having the Block Grant.

Dr. Roberts responded that the Nye County School District nonunion employees all took the 4.6 percent salary reduction. No negotiated agreement with any of the unions resulted in a reduction in their salaries so the District laid off 74 staff members, which was roughly 10 percent of the work force. Layoffs would happen again. The superintendents did not have an opportunity to discuss the Block Grant issue with any of the collective groups. He would meet with all the superintendents on February 2, 2011. He had difficulty taking 20 percent off the top of that money and did not know how he would build a budget which was due by May 15, 2011, how the districts would operate, and what staff they would have. We have to notify employees who we were going to lay off, as a result of not having enough funds to meet the current numbers. We would have to increase class size, which we did last time. We were one of the four districts that increased the class size from 25 to 30 in elementary school. More of that would happen. We just voted to close an elementary school in Pahrump and last year we closed an elementary school in Tonopah. That may occur again as a result of any further budget cuts that are imposed. In the Nye County School District, 86 percent of its budget was comprised of salary and benefits. The District has no programs left and it has to pay the utility bills and provide food and transportation. Whatever cuts it incurs would end up being taken in personnel.

Dr. Morrison said the Washoe County School District (WCSD) had five employee association groups. Last year every one of those groups gave between two and three furlough days and deferred step and salary increases. He contributed ten furlough days and all total renegotiated agreements saved the WCSD

$11 million of the $37 million that he had to cut. He liked the idea of flexibility of the Block Grant. He spoke about the various programs like full-day kindergarten, class-size reductions, and gifted and talented programs. When it all gets put into one Block Grant he worried about it becoming a potential target for future budgets. If it could be put in a lockbox and the districts had a guarantee that it would not be touched, and had maximum flexibility, then the districts would be 100 percent supportive. If the districts did not get the lockbox guarantee, then he thought there would be some trepidation about protecting these important funds for the future.

Assemblywoman Mastroluca asked whether or not flexibility was a good trade-off for the cuts.

Dr. Morrison said this was a state that talked about empowerment and had done some innovative things pushing local control. The more ability you have to put resources and authority at the local level with superintendents and school boards, the more they would appreciate it and they could deliver on a promise of increasing student achievement.

Mr. Weiler said he would prefer none of the above, but the more flexibility the District had in a challenging situation based on local need, the better off it would be.

Assemblyman Goicoechea said to Dr. Roberts that Nye County was one of the four districts that had the ability to put more students in the classroom, and asked whether Nye County was at the maximum right now of 27 students to 1 teacher in grades 4 through 6 and 24:1 in grades 1 through 3.

Dr. Roberts responded Nye County was at that maximum number and greater for a time, but this year they had 234 fewer students which put them $1.4 million in the hole for next year before they even started talking about reductions. Nye County was probably 1 or 2 students under this number at this time. For their 18,400 square mile school they may have smaller class-sizes of 3, 4, 5, 8, or 10 students in some of their smaller rural elementary schools but they may have 30 or 32 students in Pahrump elementary schools. You then average that out to get the number you were taking about. That flexibility allowed them to do that. They were close to that number right now.

Assemblyman Goicoechea asked about the 234 fewer students and whether or not that allowed them to qualify for hold-harmless status in Nye County. Dr. Roberts said it did not and they were not at the 5 percent reduction level.

Assemblyman Goicoechea said it would be interesting to see how student achievement matched up versus the others that were not at the maximum. He asked whether Nye County had any numbers on student achievement.

Dr. Roberts clarified that Nye County qualified for hold-harmless status, because any number that you have fewer than the number you had the previous year qualifies.

Assemblyman Goicoechea clarified this would qualify Nye County for hold-harmless status for this current year, and Dr. Roberts agreed. Assemblyman Goicoechea asked for student achievement numbers and whether there were any available from Douglas, Elko, Nye, or Churchill counties.

Chairwoman Smith said they would work on that because that was a big problem and would be addressed during this legislative session. She spoke about class-size reduction and the numbers were spread out district wide. Some persons might think four students in a classroom was not a problem but a district could have many classrooms that were naturally large, such as English class in high school or a 4th grade class in elementary school and could be much larger. It was always good for persons to keep that perspective, because some classes can grow exponentially and some stay smaller.

Dr. Roberts mentioned that they still have a one-room school house in Duckwater that had one teacher for 17 students from kindergarten through eighth grade. Once they get past the eighth grade they enroll in Eureka schools just as Nye schools take all the junior and senior students from Esmeralda.

Chairwoman Smith asked what the starting salary was for the districts. Dr. Roberts said $31,000 for the Nye County School District, and Dr. Morrison agreed with that figure. Mr. Weiler said he thought it was in the range of $35,000 for the CCSD but would verify that and provide the detail to the Subcommittee.

Senator Horsford asked Dr. Rheault about the effect on the Education Jobs Funds (Ed Jobs) bill passed by Congress in 2010 and the fact that some of the funding that was provided in the 2009 budget was funded with American Recovery and Reinvestment Act of 2009 (ARRA) funds, which were also gone. The Subcommittee was focused on basic support but should look at the totality of all the dollars that were coming, those that were lost, and those that were being reduced. When Senator Horsford spoke to principals and teachers in his district who were funded by Ed Jobs, he learned that money would be gone. Part of the problem of discussing the cuts is we were talking about them only in regard to the basic support as proposed in

The Executive Budget, not in the totality of everything that was happening. In a middle school in his district, not only would they lose that position funded by Ed Jobs but they could lose a number of additional teachers because of the proposed reductions in basic support. He asked how that was being evaluated.

Dr. Morrison responded that Dr. Rheault could give the exact figure, but he thought it was about $84 million that Nevada received last year for the Ed Jobs bill. He was on a conference call about this last year and made a pledge to use part of that money last year and save part of that money for this upcoming year.

Senator Horsford asked how many teachers that meant.

Dr. Morrison responded for the WCSD it was about $12 million. It was not just for teachers. Districts could use it for support staff. The WCSD increased its number of parent-coordinators from 25 to 50 and that made a big difference. The districts would have to look at the teachers and support staff [no administrators] who were hired on a one-year contract. Unless they had persons retiring, then those persons would not be employed next year. The remainder of their Ed Jobs funds would be used to offset some of the $75 million reduction efforts for the upcoming year. He took Dr. Jones to visit the Smithridge Elementary School earlier, which was one of the lowest performing schools that did a huge turnaround. The school employed put in a new principal, replaced half of the staff, and was doing amazing things. They saw a young man who was creating magic in the classroom, with the children engaged and it was so positive. The teacher was an Ed Jobs teacher and may not be funded for this next year. There were a lot of stories about their budget because of the loss of ARRA funds, Ed Jobs funds, and the room tax money that would not be available next year. It was a complicated problem and they have to do what they can with what they have. But he would sure like to have that young man teaching in Washoe County next year.

Mr. Weiler said the CCSD would receive over $54 million from Ed Jobs. Currently they had 674 full-time-equivalent positions funded from that money. About 437 were licensed, 184 were support positions, and 53 were administrative positions that previously had been cut. In ARRA funds the CCSD had 228 positions funded from Title I funds and had increased Title I Schools. It would be a tough decision that would have to be made next year.

Senator Horsford asked both his staff and the agencies to provide an explanation of this as a whole, because he cannot make decisions in silos of basic support or current levels of funding. Those did not mean anything to him. What meant something was knowing that middle-school teacher was going to be funded one way or another through whatever source of revenue was available. The principals told him that the various restrictions on the pots of money, and the moving of teachers were both costs of implementing the cuts. That was a real expense that he thought they needed to factor in somewhere. Teachers kept getting notified that their jobs were getting lost, and then you have to go back and reauthorize their positions, or they get surplused at one school and sent to another school and that all cost money. He was not sure whether or not those costs were reflected anywhere in the overall budget but should be. He asked his staff to work with the Department to try and bring some of that information to the Subcommittee.

Chairwoman Smith said the other thing that did not get factored in was the loss to the economy when we laid persons off. We have to pay for them, and that revenue was lost to the economy as well. Those were the unfortunate things that we cannot factor in as well.

Dr. Roberts said in the Nye County School District, the ARRA monies [which had run out] provided some assistance and paid for staff members and the Ed Jobs money was used in a variety of ways. That was what helped the District to reduce class sizes where it had taken the majority of the hits last year in the elementary schools. It allowed the District to restore school counselors that had been eliminated from the schools. No administrators were hired using those funds. But they were also able to create a small amount of money as a retirement incentive for 13 employees who retired, thus allowing the District to hire back some of the laid off staff, which helped the local economies. In many of Nye County's communities, the only persons in the towns that had college degrees were the teachers that lived there. There were no other jobs for them in those communities, so when they were laid off from their jobs as teachers they left the State of Nevada. That caused problems trying to get a substitute teacher that had a license. The school was lucky to get someone who had an emergency license.

Chairwoman Smith said the Subcommittee would look at these additional streams of funding. She wanted to look at the 14 percent decrease in what the school districts had to spend. She said the State of Nevada support decreased by $668 million. She also said the effect included the Ed Jobs funds that were not factored into the numbers. Along with many of her colleagues, she toured an empowerment school in Clark County, and they heard that education was about persons and time. They were having a lot of success at that school. When we lose staff, it leaves less time with the children.

Chairwoman Smith closed the hearing on the Distributive School Account and opened the hearing on the Department of Education and said she would entertain public comments at the end of this presentation.

DEPARTMENT OF EDUCATION BUDGET OVERVIEW

Keith W. Rheault, Ph.D., Superintendent of Public Instruction, Department of Education, provided a handout, "General Overview of Department Budget Accounts Fiscal Years 2012-2013" (Exhibit D) that covered the Department of Education, which had 21 budget accounts. Four of the budgets were discussed in the previous presentation, and the remaining budget accounts administered by the Department of Education with State of Nevada appropriations were 0.83 percent of the total State of Nevada appropriations. He reviewed pages 1, 2, and 3 in Exhibit D and spoke about the State of Nevada school improvement plan which included the vision, mission, and goals. Many of the training goals were student-driven or teacher-driven. He mentioned there were a number of bills that would be coming before the Legislature that would contain some governance issues that would streamline the way some of these programs may be carried out within the state. A number of councils and commissions would be proposed for elimination. Some bills would be providing more authority to the State Board of Education and the Department of Education so they can make sure these goals were being addressed to move forward within the State of Nevada.

Dr. Rheault turned to page 3 of Exhibit D that showed the organizational chart for the Department of Education, one of the smaller departments within state government in Nevada. Dr. Rheault had 155 full-time equivalent (FTE) employees. The State Board of Education appointed the Superintendent for a three-year period. He had two deputy superintendents and attempted to separate the duties of each. Dr. Rheault explained that the school nutrition program was one of the larger programs under the purview of Deputy Superintendent Greg Weyland. He showed all the federally funded programs over the last ten years, and the Nutrition Education Programs Account was funded at $104,198,718 for fiscal year (FY) 2012 and $113,900,992 for FY 2013 from the Department of Agriculture for child nutrition programs.

Dr. Rheault introduced Roger Rahming, who was recently moved to a director position overseeing Finance and Planning. One of the new offices that was reorganized was the Office of Information Technology. Prior to this point, it was a haphazard assortment of a few individuals doing technology work within the Department of Education. He had an outside group look at their process, and they told the Department of Education that it should get something organized at the state level to ensure the importance of information technology, the student accountability, and the infrastructure. It needed to be in place and the Department was fortunate to reorganize and took a previous position and turned it into a director position for information technology approved by the Interim Finance Committee. It had become more important in their activities. Dr. Rheault explained that they also had the accounting and audit section under Deputy Superintendent Weyland.

Dr. Rheault explained the Department of Education had a southern Nevada office administrator, whose primary responsibility was to oversee all of the teacher-licensing programs. Three of the larger programs were special education, school improvement, and Title I, which were under Rorie Fitzpatrick. The Department had assessments, program accountability, and instructional support under Carol Crothers. The Department recently replaced the director of Career, Technical, and Adult Education because Phyllis Dryden retired because of health reasons. Another new director was Steve Canavero, Director of the Office of Charter Schools. This was discussed as part of the charter school institute to provide more technical service to state-sponsored charter schools. The Department had been collecting an administrative fee of 1.5 percent for administering the work of the charter schools and that was what was funding this new office. Preliminary reports showed great improvement in the amount of technical assistance provided since 2009.

Dr. Rheault explained page 4 of Exhibit D showed six boxes [colored in yellow] containing the budgets that provided administrative support throughout the Department of Education. The biggest account where most of the state-funded staff were located was in budget account (BA) 2673, Education State Programs. The next account was Proficiency Testing (Student Testing Programs) BA 2697. Those two budgets included most of the appropriations to the entire Department of Education. Teacher Education and Licensing (BA 2705) included 12.5 full-time equivalent (FTE) positions that were 100 percent funded from teacher-licensing fees. There were indirect cost accounts that funded the rest of the positions.

Dr. Rheault mentioned that the next four budgets [colored in tan] provided K-12 school system funds and were discussed earlier. Those contained no FTEs and were just pass-through funding going to the school districts. The last five budgets [colored in blue] were combined because they were budgets that provided federal funding for specific purposes and required a Nevada or other match. The amount of State of Nevada match and maintenance of effort for career and technical education, continuing education, special education, nutrition, and student incentive grants in the Department of Education totaled about $1.6 million.

Dr. Rheault reviewed page 5 of Exhibit D and said all the accounts [colored in green] contained the budgets that provided federal grant funding for specific purposes with no State of Nevada matching requirements.

Dr. Rheault moved on to page 6 of Exhibit D and pointed out that within the Department of Education's budgets [excluding all pass-through budget accounts to school districts] there was a total of $10.24 million in appropriations for FY 2012 and $10.42 million in FY 2013. He said the Department would receive approximately $3 million less per year in state appropriations than in FY 2009. The regional professional development programs were at about $10 million or $11 million and were receiving about as much Nevada money as the entire Department of Education.

Dr. Rheault broke out the categories to show where the money went:

FY 2012	FY 2013	Category
$5.68 M	$5.88 M	Student Testing Program
$1.64 M	$1.64 M	Federal Matching Student Assistance
$2.92 M	$2.90 M	Department Staff Operating Expense
$10.24 M	**$10.42 M**	**Total**

Dr. Rheault said the student-testing budget was the first piece and would be one-half of the Department of Education budget. The program consisted of mandatory criteria and reference tests that must be given to students in grades 3 through 8. The Department was mandated to give the high school proficiency exam and gave three writing exams as well. They were also required to administer the National Assessment of Educational Progress test. The funding paid for contracts for the testing vendors that provided the test, put together the test, printed, scored, and provided the results. If anything was cut, it would jeopardize the State of Nevada testing program and all of the ones that were remaining were required by the federal *No Child Left Behind Act*, that the State of Nevada must administer to keep receiving the federal funding.

Dr. Rheault said the second piece was the federal-matching student assistance grants that totaled about $1.64 million and were matches for the federal nutrition, career tech, adult programs, and student incentives grants. If those were cut, it would jeopardize the federal money for that purpose. In many cases it was not a very big match. The career and technical match was about $480,000 in state funding, but the Department received about $9 million or $10 million under the Carl Perkins Act with that match. When considering cutting to meet the 10 percent reductions, the Legislature was limited in what could be cut.

Dr. Rheault said the final piece was the Department staff and operating expense and most of the staff funded was in BA 2673. They had one state science consultant and one state math consultant, one English consultant, and so on, that were paid with state funds. When you put it all together, it was 37 percent of the state budget. Of the 155 agency full-time equivalents (FTEs), 63 FTEs were federally-funded and 51 were funded directly with state appropriations. An additional 29 FTEs were funded through indirect-cost charges from federal monies and Nevada appropriations. Much of the accounting and auditing staff were funded through the indirect-cost charges. The remaining staff was funded through fee-generated funds received from teacher licensing and charter school administrative fees.

Senator Cegavske requested clarification on where the staff positions were located. Dr. Rheault responded the Department of Education had one office in Las Vegas that primarily housed the southern office licensing staff and had one or two staff in Las Vegas for each program, including career tech, special education, and nutrition, for a total of 29 FTEs in Las Vegas. In Carson City, the Department of Education had 3 different locations: one on Fifth Street with about 100 staff, one on Roop Street that housed the charter school office and auditing staff, and one office next to the Carson City Community Center which housed the Career and Technical Education staff.

Dr. Rheault said the Department of Education staffing levels were among the lowest of all 50 states. In Nevada, there were about 436,000 K-12 students and 155 FTE staff. The next state closest to Nevada in size was Arkansas which had about 460,000 students. Arkansas did not oversee vocational rehabilitation and yet had 378 Department of Education staff with about 30,000 more students. When you looked at Vermont, it had 98,000 students and they had 168 staff and did all the same things we did. Every state agency in Nevada had one of the lowest staffing levels in the nation. He pointed this out for those that thought we were bloated and thought we had too many administrative positions at the state level.

Dr. Rheault said The Executive Budget recommendations included the elimination of the following staff positions during the biennium:

- Safe and Drug Free Schools consultant position [1 FTE, BA 2605]—Federal program being eliminated.

- Administrative Assistant 1 [0.5 FTE, BA 2611]—Reduction in cost to school health education AIDS program used primarily to provide clerical support for the youth risk behavior survey completed every two years. This was a contract position.

- Business Process Analyst positions [2 FTEs] and Administrative Assistant 4 position [1 FTE] BA 2709—Federal Longitudinal Data Systems grant funding expired on June 30, 2011, and positions were being eliminated.

Dr. Rheault said the Department would lose some of these staff as part of the budget cuts, but they were all federally funded. They were doing some transfers from state funding to federal funding to save some additional money as well. Most of these positions were being cut because of reduced federal money or elimination of federal money. The position he would miss greatly was the Safe and Drug-Free Schools consultant position. Mike Fitzgerald retired, but the funding had run out and the program was being eliminated. He did not have anyone at the Department of Education that worked with student-discipline and peer-mediation.

Chairwoman Smith said the System of Accountability Information for Nevada (SAIN) was important to her in regard to how much of the reform in Nevada was managed. She asked for a brief update on what the culmination of the grant meant, how the Department was going to proceed, and whether there was funding in the new budget to keep working on the SAIN.

Dr. Rheault responded he started thinking of this in 2009 knowing that grant was going to run out. The Department had taken the SAIN from a good system to one of the best in the country. The 2009 Legislature authorized four additional staff in this new technology office, plus the new office director. The Department was able to fund those through indirect cost allocations. It had built up staff and could cover most of the programs developed moving forward. Most of the system was in place, and it was a matter of maintaining it and upgrading it as needed. Had the Department not been allocated additional positions, it would have had serious problems.

Chairwoman Smith asked whether everyone was hired now, and Dr. Rheault confirmed that everyone was in place.

Dr. Rheault spoke about student achievement, adequate yearly progress, and the 2010 results. Nevada had exemplary schools and schools that desperately needed improvement. He explained the numbers on page 7 of Exhibit D. The Department was mandated to assign a designation to every school in Nevada.

There were 678 public schools/programs in the Adequate Yearly Progress (AYP) Review, and 9 were designated as exemplary, 46 were high achieving, and 331 were making AYP. A total of 347 schools did not make AYP. These included 138 public schools, designated as being on the watch list [first year], and 209 Nevada public schools designated as "In Need of Improvement" with 54 of those schools making AYP but needing two consecutive years of AYP before they could be removed from that list.

Dr. Rheault pointed out the chart at the bottom of page 7 in Exhibit D and said the *No Child Left Behind Act's* goal was to have 100 percent of students in the State of Nevada proficient by 2014. That year was fast approaching and Nevada took a "stair-stepped" approach and increased the percentages in the last years. It took the first few years to work into the system. Starting with last year, the percentage of students that needed to be proficient in each of the types of schools [elementary, middle, and high school] was listed in the chart. The Department used the same percentage of proficiency this year that was used last year to avoid having a big increase in schools that were designated as in need of improvement.

Dr. Rheault said as he moved from 2013 and 2014, a 12 percent to 14 percent jump in proficient students could be seen. If the number of proficient students can increase 2 percent or 3 percent a year that would be lucky. He warned the Subcommittee that in 2013, of the 678 schools, there would probably be 550 that did not make adequate yearly progress. By 2013 and 2014 there would probably be 658 of the 678 in need of improvement. The only good news was that the *No Child Left Behind Act* was getting discussion about possibly being reauthorized. He hoped that it would address this problem because every state would be in the same position that 100 percent of all students at every school would not be at the right level. This would be the first year that the state would release the new growth model in August. The model would go beyond just saying proficiency at a set point but would give each school exactly how well they were doing in taking a third grader and improving the student's achievement by fourth grade. The model would have performance measures for every middle and elementary school in the State of Nevada. The problem at the high school level was we did not have any test to compare growth at that level.

Dr. Rheault said hiring the best teachers was the most critical factor in student learning. If teachers were not doing the job, then get rid of them. Two weeks ago a report was released and titled *Chance for Success* available at www.edweek.org/rc. There were 13 factors that were reliable and valid for ensuring a student had a successful experience in school from birth to graduation from college. There were several factors he wanted to point out beyond what was done in the classroom that affected a child's final achievement. The parent education that measured the children with at least one parent with a postsecondary degree showed Nevada ranked 50th in a ranking of 51 states, which included the District of Columbia.

Dr. Rheault said the linguistic integration measured the percentage of children whose parents were fluent English speakers, and Nevada ranked 49th. Only California and one other state had a lower percentage. When you looked at the school years and the preschool enrollment and the services and education provided to 3- and 4-year-old children, Nevada was dead last at 51st. When you look at the high school graduation rate, Nevada ranked dead last at 51st and ranked 50th in post-secondary participation. There were adjustments Nevada could make to its goals to achieve better rankings, but there were other things that were not addressed. Nevada ranked 49th based on funding for K-12 education.

Dr. Rheault discussed the Nevada achievement levels for elementary performance shown on page 9 of Exhibit D. Nevada ranked no higher than 40th among the states. Nevada needed to improve. He spoke about the achievement gains and how Nevada students performed from 2003 to 2009. Nevada ranked from 15th to 21st compared to all the other states on how fast the state out performed the other states in achievement gains for 4th and 8th grade math and reading. He emphasized the poverty gap, [which compares the achievement of students eligible for the school lunch program to other students] and noted Nevada ranked 8th best in closing the reading gap and 1st overall in closing the math gap at the 8th-grade level.

Dr. Rheault said based on changes between 2003 and 2009, Nevada was 5th in closing the reading gap for 4th-grade and 13th in closing the math gap for 8th-grade. Much of that data was never made public, and Nevada was moving in the right direction and had made great progress in the last few years. Nevada ranked 22nd in the number of students who were successful in advanced placement courses and 19th for improvement in this indicator. Even though Nevada may be dead last in some rankings, it was not going to be dead last for long.

Dr. Rheault said his final points were summarized in Exhibit D on pages 10 through 13. He pointed out some of the changes in the Education State Programs Account (BA 2673). The Department of Education was asked to submit a 10 percent cut separate from the DSA. Dr. Rheault accomplished that by using $270,000 designated for school-support leaders. Those funds were in place to provide some help to non-Title I schools in the third year that they were designated as needing improvement. It paid for a consultant to work with the school improvement team. The Department modified those statutes in the 75th Session, and now it was not mandatory that they have a school team leader after the third year, so he proposed that program be eliminated. If a school district chose to use one in the future, it would have to fund it with its own school improvement funding.

Dr. Rheault said that the Department was transferring two positions currently funded in BA 2673 to other funding sources. The planning, research, and evaluation consultant was primarily doing a lot of work with teacher licensing, and he would shift that position to a half-time one being paid with teacher licensing fees. The remediation consultant was working with the innovation and remediation trust program and she had shifted her duties to work with some federal programs; therefore, her funding would now come from Title III federal funding. Proficiency testing was still funded as needed. The *Nevada Revised Statutes* still required the Department to administer a norm-referenced test in grades 5, 8, and 10.

Dr. Rheault said the Legislature chose to suspend the administration of those tests for 2009 and took back the funding of about $50,000. The Legislature chose not to eliminate the norm-referenced test but to just to continue the suspension of it for the next two years. These tests were like the *Iowa Tests of Basic Skills* and were used to compare Nevada to other states. After that test came into being, Nevada was mandated to participate in the National Assessment of Educational Progress, which provided comparisons of states. From the state perspective, if there was one test to cut, the norm-referenced test was it. A decision must be made as to whether to suspend it and keep it on the books. He would request to eliminate the test and save about $950,000 per year.

Dr. Rheault continued by saying that the Safe and Drug-Free Schools and Communities programs were being eliminated and the child nutrition state portion of funding was reduced by $273,000 to meet the 10 percent cuts.

Dr. Rheault pointed out the Department had received about $220 million in American Recovery and Reinvestment Act of 2009 (ARRA) federal funding. The stabilization funding was only received for K-12 in 2009, and it was used to fill the hole in the budget. Most districts did not even know they received it because it was part of the Nevada Plan guarantee. We were not like the Nevada System of Higher Education that had about $170 million in ARRA funds in the current biennium.

Dr. Rheault said all of the Department money in the DSA this biennium was paid by State of Nevada appropriations. The districts received the ARRA benefit in

2009, so there was nothing to reduce this year. All the one-shot programs would be affected. The districts had $4 million for technology, $6 million for school improvement, $69 million for Title I, $67 million for Special Education, and $2 million for Early Childhood education. All of those would end on September 30, 2011, so the districts would have between now and then to finish spending that money.

Dr. Rheault would put together how much staff was employed by Title I and provide that to the Subcommittee. He would survey how many staff were hired at the school districts by Ed Jobs. Some districts chose to split the money and save half for this year so they would be fine for next year. The Ed Jobs money expired on September 30, 2012. The districts received $82 million, which could have paid for 1,400 staff for one year using an average teacher salary.

Dr. Rheault said the last two pages of Exhibit D showed a breakout of the federal funding the Department received for the last ten years. He noted how federal programs have come and gone, when all the discontinued funding was examined. A lot of those occurred when the *No Child Left Behind Act* was put in place, and Nevada received a big increase from $80 million in 2009 to $92 million. He listed every program and said Nevada received $71,792,394 for Special Education.

Chairwoman Smith said there would be much discussion about all those programs when the Committees get into hearing the actual budgets. She stressed that she wanted to see the outcomes of some of these individually funded programs. She wanted to know how Nevada was making progress, how the money was being spent, and how Nevada ensured it was getting the best outcome for its students.

Senator Cegavske asked for information about substitute teachers, including where the state had permanent full-time substitutes, and where they were located. Senator Cegavske asked whether that weighed in to what we average and pay out for substitutes. Dr. Rheault said substitute pay comes out of a separate fund and was not part of the salary piece discussed today. Senator Cegavske asked for that data so she would know per district how many substitutes there were, for how long, and what qualifications were required.

Chairwoman Smith said for the budget hearing the Committee needed data on how the substitutes were being used in the districts, how many there were, what the requirements were, and what the salary was.

Senator Cegavske thanked Dr. Rheault for bringing the positive things forward and said that the state had some students that were achieving well and teachers that were doing a good job.

Assemblywoman Mastroluca was interested in information for the next budget hearing on the effect of the economy on the school nutrition program. Had it grown since 2008? Had we accounted for that growth in the next biennium?

Mr. Weyland commented that the last two pages in Exhibit D contained an incorrect number in the last column on some of the summary totals and he would replace those pages for the members.

Chairwoman Smith suggested each Subcommittee member throw those pages away and corrected new ones would be provided. She invited members from the public to comment on all the budgets presented today.

Andrea Hughs-Baird testified and presented her comments in Exhibit E. She was a parent of three elementary school children and was a founding member of the Parent Leaders for Education. She advocated for education funding. In the WCSD, there was a new strategic plan and she would like it to be used as a model for other school districts in Nevada. If drastic cuts were made to education funding, then the strategic plan would have to be changed and the reform it promised would be delayed. If the legislators supported adequate funding for education then the Parent Leaders for Education would support the legislators.

Greta Jensen spoke on behalf of Parent Leaders for Education and presented Exhibit F. She requested no further cuts to education. She said Nevada was at the bottom of all education rankings, and she wanted Nevada at the top of the rankings. She complained about the following problems: school facilities were deteriorating; classes were being cut from the curriculum; classrooms were too crowded and were not adequate for 34 students per class; inadequate lab supplies were provided by parents; and textbooks must be shared. She requested time to allow the WCSD strategic plan to work. She had already seen results of a 7 percent increase in graduation rates last year and current levels of funding must be retained to allow this to success to continue.

Ms. Jensen said she was a parent of two children in the WCSD, one in middle school and one in high school. She was an economist by profession. Her two daughters had dreams, the youngest [13] wanted to be a doctor and the oldest [15] wanted to be a veterinarian. Fifty percent of our workforce would need college degrees, and school districts must move forward to be successful. Times have changed. Further cuts would not allow her girls to fulfill their dreams and they cannot go to college outside the State of Nevada unless we offer arts, humanities, physical education and language in our high schools. Many of these electives have already been cut. Spanish was the only language offered, and French was only offered in high school. Few humanities classes were offered. We cannot continue to limit our students. They were our future innovators and our future business leaders. We need that future to stimulate the economy and provide the economic growth. Let us make sure we invest in them. We heard a story about some high school graduates who were trying to go to different state schools outside Nevada. They understood that there was a black cloud over their heads because Nevada was not known for its educational system. As Nevada tries to reach out, it is deficient in many subjects. Some of the best and brightest students are the ones we need to improve our future.

Chairwoman Smith said she wanted to hear from parents during the detailed budget hearings. Chairwoman Smith recessed the hearing until 1:30 p.m.

Senator Horsford took over the duties of the Chair and reconvened the meeting at 1:41 p.m. He wanted to start with the Department of Health and Human Services.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIRECTOR'S OFFICE BUDGET OVERVIEW

Mike Willden, Director, Department of Health and Human Services, introduced his staff, Mary Liveratti, Deputy Director, and Shawna DeRousse, Administrative Services Officer 3. Mr. Willden presented four handouts:

Budget Support Documents (Exhibit G)

Reductions/Eliminations [E600 Series] (Exhibit H)

Director's Office Budget Overview (Exhibit I)

Highlights of Budgets/Programs (Exhibit J)

The past two years had been very difficult for the Department. The economy had struggled with unemployment, foreclosures, and bankruptcies. The Department had been through five rounds of budget reductions, and two special legislative sessions. The Department had seen increasing caseloads to limits that Mr. Willden had not seen during his entire career at the Department. More

Nevadans were in need of services and fewer resources were available. This continued to present a significant problem for the Department.

Mr. Willden was very proud of the staff at the Department. He presented some of the accomplishments of the Department. He and his staff had taken every furlough day required. The Department had significantly reduced overtime, while maintaining adequate staffing ratios particularly in its in-patient facilities. He and his staff worked to provide timely, accurate, and appropriate services which had been a challenge in the Division of Welfare and Supportive Services (Welfare) to meet the processing timelines, but staff had done a wonderful job of trying to keep pace with those requirements.

Mr. Willden said the Department had two problems: the American Recovery and Reinvestment Act of 2009 (ARRA) provided lots of new revenue but it was difficult to distribute and get that money on the streets and it had difficult reporting requirements; the other problem was health care reform. Many persons did not fully realize the effects of reform. Every week the Department had 70 to 80 full-time equivalent (FTE) employees working on issues, either planning for automated systems, new eligibility systems, grant applications, or the receipt of grants.

Mr. Willden said the Department implemented the American Management Systems (AMS) automated, web-based, electronic system for Welfare. The Department had finalized and submitted the performance and improvement plan to the federal government, that was accepted and approved, and was on a path for use by the Division of Child and Family Services. The Department had maintained Joint Commission on Accreditation of HealthCare Organizations (JCAHO) accreditation for all of its inpatient facilities which was a big problem, given the overtime and staffing. Nevada was noticed this past year by national Olmstead consultants that it was one of the leading states for Olmstead compliance, [required community-based programs for the mentally and physically disabled] which was a huge accomplishment and had been a ten-year project. Nevada had done a tremendous amount of work on its medication and pharmacy management systems for mental health and child and family services and in the Medicaid program with its preferred drug list and drug rebates. His staff deserved a lot of recognition for all their valuable work.

Mr. Willden said Nevada was still at the bottom of the good lists in ranking across the nation, and at the top of the bad lists. He had the ranking data and would provide that to the members, and there had not been a significant amount of change in the rankings. The Department was working hard to bring in every non-General Fund dollar that could be identified. The Department ran upper-payment-limit programs, graduate medical education programs, the nursing-home provider tax program, drug rebates and patient assistance programs, third-party liability efforts, maximized Title IV-E [federal foster care and related placement reimbursement] dollars, targeted case management programs, the child support state-share collections programs, and worked on various grants to help implement health care reform. The Department tried its best to not have a dependence on the General Fund dollars that it had historically.

Mr. Willden said he was firmly committed to transparency in this budget process. Over the last couple of days as the Department had rolled out the budget, he had been hit hard by a couple of press reporters and several other persons, who accused him of sugar-coating the budget. He said he was not sugar-coating the budget. He was fully aware and would present the significant reductions and some program eliminations that he would point out and discuss today. It was a complex budget, was full of changes, and all kinds of revenue adjustments. And he was happy to point out those changes. The Department had spent a lot of time on the Priorities of Government (POGs). It spent a lot of time trying to rank those POGs by high, medium, and low priorities, and what the statutory authorities were. That POG document [Priorities and Performance budget] should be helpful to the members.

Mr. Willden discussed the ten most important issues to the Department. The first three were "cost-drivers." The first driver was the caseload and that cost $244,620,084 of additional General Fund dollars to meet the caseload growth requirements (page 9 of Exhibit G). He referred to page 11 of Exhibit G which showed the Medicaid caseload from 2000 to 2013. He referenced the Supplemental Nutrition Assistance (SNAP) program [the old Food Stamps program] which may increase to over 400,000 units, and the Temporary Assistance for Needy Families (TANF) caseload.

Mr. Willden also provided caseload projections for the Nevada Check Up program, the Child Care and Development Fund, Elder Protective Services (EPS) cases, Developmental Services cases, statewide Mental Health caseloads, Early Intervention services, and Adoption services. Those were the caseloads that had the most significant growth. Medicaid grew 22 percent in fiscal year (FY) 2010. The growth rate was slowing but he had seen about 54 percent growth over the last three years. The SNAP growth was 44 percent in 2010 and TANF growth was 29 percent in FY 2010. Those were the kinds of complexities that drove the need for $244,620,084 more in General Fund dollars.

Mr. Willden said the other chart was the Federal Medical Assistance Percentage (FMAP), which was the second biggest cost-driver in the Department. When you run a budget query and you look at decision unit Maintenance (M) 170 and

M171 across the budget, FMAP costs $190 million because Nevada was at a 50 percent FMAP before the stimulus package was passed in FY 2008. Then Nevada went up to a 63.93 percent FMAP and had been at that rate from October 1, 2008, through December 31, 2010. That had been a windfall for the State of Nevada. Now Nevada was coming off that FMAP and would step down to 61.10 percent for the period January through March 2011. During the next quarter, the FMAP would drop to 59.22 percent. The FMAP was budgeted at 55.05 percent for FY 2012 and at 57.655 percent for FY 2013. The reduction from the 63.93 percent federal match increased the state share.

Mr. Willden said the Subcommittee would hear more information from Mr. Duarte and Mr. Gilliland about health care reform. There was a significant amount of cost driven by health care reform. He mentioned the eligibility engine, which was the software and background information to interface the Department's eligibility programs with the health care exchange that was to be established by the Department. Mr. Willden said the Department would be discussing audit staff and administrative staff related to the provider enrollment issues. They would also address the heath insurance exchange, which was not a budget item, but a legislative item. All of those things were going to have to be addressed during this legislative session.

Mr. Willden spoke about the services that the Department was not cutting or the services that were being preserved, commonly referred to as the "add-back" list. On September 1, 2010, he submitted an agency request budget which was a 10 percent reduction. Then he was asked to reduce that budget by another $216 million. The Department faced a $400 million dollar General Fund reduction. About $119 million of items were preserved by Governor Sandoval and included, among others, personal care services, welfare eligibility workers, traumatic brain injury services, adult daycare, and some of the TANF services. He recognized that those services were not cut and then restored, but those services had been preserved. He hoped that advocates would understand that those services had been preserved.

Mr. Willden said the tobacco settlement monies were important to discuss because the Fundamental Review Committee (Legislative Committee for the Fundamental Review of the Base Budgets of State Agencies) recommended that the Legislature take a look at the amount [10 percent of the settlement amount] of money put into the Trust Fund for Public Health. That Committee recommended that the funds be diverted in the future. It recommended that those savings be used in FY 2013 to offset some General Fund in various programs. That was a one-time proposal recommended for FY 2013. The Department used those funds to offset General Fund dollars in Family Resource Centers, differential response, traumatic brain injury, autism, and the

Family Preservation Program for mental health. The Committee also recommended that the specific funding for tobacco-funded programs be eliminated for the future. The Department would submit a bill draft on that issue. There were a number of dollars going into various specific funds [referred to as silos] and that system was not working anymore. The best example was Senior Rx. The Department did not need that percent of money going into that account because Medicare Part D was available now. The Department put that money into the silo, but it could not be spent on the services that were needed, therefore the funds ended up being swept or used to offset General Funds.

Mr. Willden spoke about the rate reductions and eliminations, which were presented in Exhibit H and Exhibit J. There were two different ways to look at this. There were reductions and eliminations in the budget and Exhibit J highlighted each budget account and showed where changes were being made. This was the "reader's digest" version of the Department's budget. The second page of Exhibit H showed that the total General Fund cut over the biennium was $276.1 million, and the most significant sources of those cuts were listed on page 2. Those cuts were cross-referenced on page 1 of Exhibit H. He mentioned that $57.8 million of the cuts was nine medical rates for Medicaid and Nevada Check Up, $37.2 million was the payroll reduction for State of Nevada employees, and $76.5 million was county reimbursement.

Mr. Willden next discussed the rate reductions shown on page 30 of Exhibit G. Every one of the types of providers listed would be taking a reduction shown in The Executive Budget. Some of the rate reductions were carried over from the 26th Special Session (2010) and others were new rate reductions, and all showed the percentage of the reductions, the number of providers affected, the implementation date, and the dollar amount of savings.

Mr. Willden drew the Subcommittee's attention to the county impact tab in Exhibit G. He broke that down into four different areas. The first was the sweeping of the Indigent Supplemental Account (ISA). The Legislature approved a sweep of the ISA for three years, FY 2009, FY 2010, and FY 2011. It was suggested that it be swept again for FY 2012 and FY 2013, minus a small amount of dollars that were paid to Nevada Association of Counties (NACO) for administration. He proposed that there not be a pay-as-you-go method for the Child Welfare block grants. The block grant for Clark and Washoe Counties would be administered in a basic block grant with an incentive payment. As an example, Washoe County was funded at $14.2 million and would receive $12.5 million as a basic block grant and $1.75 million would be an incentive amount. The county would need to provide a plan to the Department to earn those dollars based on its performance.

Mr. Willden then explained a list of programs which the State of Nevada would continue to operate, but rather than getting General Fund dollars for the nonfederal share, the state would assess the counties to pay the nonfederal share for those services. He had been asked repeatedly where the counties could get the money and he did not know. He advised the Subcommittee to go through each one of the programs and see the effects for Elder Protective Services, county-match, various mental health and developmental services, juvenile justice, and child welfare programs.

Mr. Willden mentioned that the last section on page 32 of Exhibit G was State of Nevada funding that was eliminated. The State of Nevada would not continue to operate these programs, but the counties could accept those and pay for them, or the programs would be discontinued. That was the county effect.

Mr. Willden explained that it was not all about cuts. There was an opportunity to carry out some new and exciting things in a couple of areas. Silver State of Nevada Works was a new employment training program that the Department in partnership with the Department of Employment, Training and Rehabilitation (DETR) would implement to help stimulate getting persons back to work. The basic outline was that DETR would repackage about $14 million over the next 30 months to help persons get back to work primarily through work incentives and employment incentives.

Mr. Willden said there was $10 million in the Welfare Division budget targeted for at-risk TANF families, which included some specific goals. That $10 million came from part of the tobacco settlement repackaging. There was about $6.4 million of FY 2013 tobacco funds that had been repackaged into those five budgets, and General Funds had been freed up for that purpose. There was also about $3 million in the budget to resolve the hospital emergency rooms (ER) medical-clearance transportation problem in Clark County. The Department planned to develop a request for proposal (RFP) so that as soon as persons were medically cleared they could get out of the ER and over to the psychiatric observation units and into our hospital systems.

Mr. Willden noted that there was a substantial amount of fraud, waste, and abuse prevention efforts in the budget. Those efforts would net savings of about $6.5 million from staff being added in Medicaid, which cost about $1.5 million but would save about $8 million.

Mr. Willden said there was an ambitious list of bill draft requests submitted by the Department. There were 8 policy bills requested and 27 bills to implement the Department's budgets.

Mr. Willden closed with comments about the fiscal charts starting on page 1 of Exhibit G. He said on page 1 was the chart from Mr. Clinger and on page 2 was the pie chart showing the entire Department budget at $6,085,923,248, of which the majority was the Medicaid piece. On page 3 was the General Fund distribution of the dollars recommended in The Executive Budget for the 2011-2013 biennium of $1,907,252,981. Pages 4 and 5 showed comparisons of the 2009-2011 biennium legislatively approved amounts and The Executive Budget recommended amounts for FY 2012 and FY 2013. The 2009-2011 legislatively approved biennium General Fund budget for the Department was $1,917,200,007 and the Governor's recommended General Fund budget for the 2011-2013 biennium was $1,907,252,981. After the actions of the 26th Special Session (2010) the reductions provided a remaining General Fund budget of $1,818,711,811 for the 2009-2011 biennium. Thus the Department was either down $10 million or up $88 million depending on what figures were used for the baseline. Pages 6 and 7 showed the summary of budgets by division and listed the amounts of General Fund, federal funds, other revenues, and totals for all budget accounts for the 2011-2013 biennium.

Shawna DeRousse, Administrative Services Officer 3, Department of Health and Human Services, testified that Exhibit I was the budget overview of the Director's Office. The Department made a tremendous effort over the last six months to develop a priorities- and performance-based budget process. She was going to weave the Priorities and Performance budget terms and conditions into her presentation. Budget Account (BA) 1499 was the Office of the State Public Defender. This account had one activity, the public-defense client service was rated as a high priority. The funding was split for the 2011-2013 biennium as 22 percent General Fund and 78 percent County Fees. As a comparison, the 2009-2011 biennium was 25 percent General Fund and 75 percent County Fees. The Department decreased its use of General Fund in this account.

In response to Senator Leslie, Ms. DeRousse said she heard that some counties that were not currently using the services of the State Public Defender might be interested in using some of those services. Mr. Willden said according to statutes, the counties have until the middle of March to notify the Department whether the counties would or would not use those services for the next biennium.

Ms. DeRousse said BA 2600 was the Nevada Indian Commission. The Department had to reduce the two full-time equivalent (FTE) positions and looked for new funding during the last biennium. At this time the two FTEs were being reduced to 0.84 FTE each for the 2011-2013 biennium. The Indian Commission office was recommended as a medium priority activity.

Ms. DeRousse said BA 3150 was the Department of Health and Human Services Administration account [Director's Office]. The budget included several activities that were primarily federally funded and included 22.02 FTE positions. No new programs were requested but some changes to existing programs were being recommended. Decision unit Enhancement (E) 691 would change the funding for the suicide-prevention trainer from General Fund to federal grant funds saving $100,000 each year in General Funds. The 2-1-1 program would transfer to the Consumer Health Assistance Account (BA 3204). She said there were other funding sources that would continue such as Title XX and Healthy Nevada Funds, and there would be new grant applications for funding.

Ms. DeRousse said decision unit E275 was an increase in authority to continue Nevada's Health Information Technology (HITECH) Exchange funded with ARRA funds. Ms. DeRousse said the Department requested contingency funds to help get this program started with General Funds. The program was not requesting any additional General Funds for the upcoming biennium. The program would be funded entirely from the cooperative-agreement funds with donations and in-kind match from the community partners.

Ms. DeRousse mentioned the next budget account was Developmental Disabilities BA 3154, which was a program that currently resided in the Aging and Disability Services Division. She requested that this program be returned to the Director's Office. The sole activity was developmental-disability resource advisement, which was a high priority and used a mix of the General Fund match and the federal grant. Moving this account would put the State of Nevada into compliance with federal law, and the fiscal responsibility would be moved into the Director's Office with the supervision, which was currently in the Director's Office.

Senator Kieckhefer asked why this activity moved to the Aging and Disability Services Division two years ago and whether that was because of a federal law change. Mary Liveratti, Deputy Director, responded that the federal law did not change. The requirement of the Developmental Disabilities Act was that the activity cannot be located in an agency that was a service-providing agency. For the last biennium, the activity had been supervised by the Director's Office, but all the fiscal tasks were completed at the Aging Services office, because the activity had been colocated with the Office of Disability Services. What the Department wanted to do now was have the fiscal work back where the supervision was. The Department had technically been in compliance with the federal law. It originally wanted to move the whole program over to the new Aging and Disability Services Division, but needed to meet that federal requirement.

Ms. DeRousse explained BA 3195 contained the Grants Management Unit and had several activities that were listed as high priority. The education and support for parents of infants and toddlers was the Family to Family program, and decision unit E661 recommended the program for elimination because of the General Fund shortfall. The families and parents should be able to get service resources from the differential-response programs and other resources in the community.

Title XX funds were discussed next by Ms. DeRousse, along with potential changes. Title XX had a big effect on the Department because most of the Title XX funds were distributed to its sister agencies. She provided a list of the recipients on page 4 of Exhibit I for a four-year period. There was very little change over the four-year period. Decision unit E690 recommended the General Fund be reduced by $2,590,776 and replaced with tobacco funds. The General Funds would be used for the TANF BA 3230 in the Division of Welfare and Supportive Services.

Senator Leslie asked about zeroing out the tobacco fund and freeing up General Funds. So many years were spent trying to do just the opposite to get the tobacco funds out of programs that the Legislature wanted to fund. That was because it put those programs at risk when those tobacco settlement funds declined. Senator Leslie asked whether this was a one-time thing.

Mr. Willden said he could provide Fiscal staff a spreadsheet showing the analysis of the tobacco funds received each year. What would occur was a sweep or diversion of about $3.8 million of tobacco funds that normally would have gone into the Trust Fund for Public Health. The money had been swept before, and he thought that would be a better use of those dollars to fund some of these other programs and free up General Funds. Also there was money that went to tobacco-cessation programs. He believed there would be about $2.6 million of tobacco funding that would become available in FY 2013 to restart tobacco-cessation programs. The Legislature swept these dollars during the special sessions. The $2.6 million for tobacco cessation and the $3.8 million that would be available from the Trust Fund for Public Health was an opportunity to comply with the recommendation of the Fundamental Review Committee in FY 2013. In FY 2014 and FY 2015, he hoped that General Fund revenues would increase and be available for use in those programs. The Legislature would need to make a decision about continuing to fund tobacco cessation programs, or restart the Trust Fund for Public Health. Mr. Willden said the larger problem was that Nevada needed to get out of these silos of funding because too much was going into one place, but was needed elsewhere.

Senator Leslie agreed and said it was time to revisit that problem and she was open to looking at it. She was concerned about the future and whether we were giving persons false hope that conditions were going to improve. She was concerned about the overall budget because monies were taken away from the counties during the 26th Special Session (2010), so it was no big deal, and it would be done again. She thought that was supposed to be a one-time solution. She wanted to make sure that was brought out in the discussion because she thought it was good that the Family Resource Centers were going to continue but was not pleased about the Family to Family program cut. There were difficult choices and Senator Leslie appreciated the choices Mr. Willden had made. But she wanted everyone to think about the future and how we were going to fund these things once the tobacco money ran out.

Chair Horsford asked whether or not there was any thought behind trying to take some of the Family to Family or other programs and imbed those with nonprofit agencies or others that may be able to take on some of that work so that all that was not lost. He heard Sandy Miller, our former first lady, say she would be very concerned about those families and the children that were affected now.

Mary Liveratti responded when you looked at a program that had a low priority it was not that the program was less important but that the program was not required by statute. The Family Resource Centers (FRCs) were mandated by statute. The Department had 18 Family to Family programs and 16 were colocated with the FRCs. What would happen was they would not have that dedicated stream of revenue going into the FRCs, but the FRCs could continue to provide those programs. It would hurt the rural areas because they used those two funding streams to have a whole program. The FRCs would be able to continue with family-to-family activities because the activities were already located with the FRCs in every case but two.

Ms. DeRousse explained that BA 3200 Problem Gambling contained funding for the prevention and treatment of problem gambling. This account had its ups and downs the past few years. In the 26th Special Session (2010), the account was swept and only treatment programs remained funded for FY 2011. The Executive Budget continued funding treatment programs in FY 2012 and FY 2013. A bill draft request had been submitted to reduce the slot tax revenue from $2 per slot machine to $1 per slot machine. So this cut the dollars available in half. To continue the treatment program, the Department had to cut the grants management position to a half-time position. That position resided in BA 3195. The Department had a 1.49 FTE cut in BA 3195, of which 1 FTE position was for problem gambling and the other was a vacant administrative aid position.

Ms. DeRousse said BA 3201 was the Children's Trust Account, which was a pass-through account. The funds were collected through birth and death certificate charges. Funds were deposited into this account and used for the administration of grants for the prevention of child abuse. This money was combined with a federal Child Abuse Prevention grant. There were no changes to this account at this time.

Ms. DeRousse explained BA 3204 was the Consumer Health Assistance budget. This was located in the Governor's Office but was requested to be transferred to the Department. The Department also requested to move the Office of Minority Health from the Health Division over to the Director's Office and merge it with the Office for Consumer Health Assistance, which had several activities, some listed as a high or medium priority. There were no new programs but the Department would like to transfer the 2-1-1 program over to this account. The 2-1-1 program fit with the community health assistance goal and funding for the program would be $31,000 each year, and the Department would be applying for other grants each year.

Chair Horsford asked for details on this and what happened in case those grants did not come in. Again we have invested so much to build up that infrastructure. Many persons rely on this program to find out where the appropriate resources were. Chair Horsford was concerned that Nevada would now lose a big infrastructure which provided information to its constituents.

Mary Liveratti responded that the problem with the 2-1-1 program in the future was while she had some funding sources now, she was not sure she would have sources in the future. The Department had funding from the Healthy Nevada Fund through FY 2011 but would have to compete for the grants for FY 2012 and FY 2013. The Department never knew what it would receive under that funding. A few years ago it received $400,000 but now it was getting about $3.6 million. But because it was not sure, it could not rely on the funding. The Department would apply for those grants and hope it received some funding. What had been funding the 2-1-1 program in the past was $131,000 that was part of the United Healthcare Settlement money. General Funds were not available when the agency prepared the base budget so it had to add that in as an enhancement unit. Staff was trying to figure out a way to secure that additional $100,000 each year. However, without that addition, funding was reduced down to the amount available in FY 2010 for General Fund revenue, which was about $31,000.

Mr. Willden said that the 2-1-1 program was one of the most important programs the Department had. There were a lot of statistics on the effectiveness of this program. It was a great program. The Department integrated the Governor's Office of Consumer Health Assistance and the Office of Minority Health with consumer health care reform. It was constantly looking for new grant opportunities because the consumer assistance piece was a big concern in the future of health care reform. He would look for opportunities to help.

Mrs. Liveratti said that another thing that the 2-1-1 program had been working on was a texting project. The crisis center had a texting project to reach younger persons who used a lot of texting. The Department was using computer programming and was hoping that it might be able to sell that to other states by developing a product that generated some income for Nevada. The Department was trying to get money wherever it could, and Nevada was one of the first states that was trying to do a texting project.

Chair Horsford said Mr. Willden pointed out that the Department had been creative in the past in finding ways to fund programs. Those funds were now gone and, therefore, it was not reflected in the base budget. That was another by-product that persons must realize. We made all these cuts. You found creative ways. You exhausted every avenue. You had the settlement funds and now those were gone. Now you were back to not having what we should have had from the beginning to maintain a very important service to connect constituents.

Chair Horsford said they need some services which were not provided by government. In many situations, these were services by nonprofits for job services, training services, assistance for domestic violence, and so on. It was an example of "short-shifting" those things that were critical to the overall system. Chair Horsford said Mr. Willden again offered a number of creative things that he may be able to do. What would happen if those options did not work? What if those things did not pan out or did not result in enough dollars to maintain those services? Chair Horsford asked for an explanation of the types of functions that would be lost. These were the persons that actually pick up the phone and tell you where to go to get that service, and most of the time it was a nonprofit organization providing that service.

Mrs. Liveratti said the Department would have to look at cuts to the hours of service. The goal was to provide service 7 days a week, 24 hours per day.

Right now the program provided services on Mondays through Fridays from 8:00 a.m. until midnight and was open on the weekends from 8:00 a.m. until 4:00 p.m. The first place she would look to cut was the hours of operation. The program ran inexpensively. The Department prepared a report that went to the national Title XX agency, which then phoned the State of Nevada to ask whether or not a mistake was made because the cost was such a small amount. The national agency could not believe Nevada was able to run a program that cheaply. But Nevada used volunteers and tried to be as creative as possible to keep the costs down. The Department would have to limit the amount of service provided, and the availability of staff to answer those calls would be cut.

Assemblywoman Smith said that she always believed that the Office of Consumer Health Assistance and the 2-1-1 program were the best tools Nevada had for its constituents. The service was tremendous. She thought they needed to secure the funding and provide as much service as possible because it cut down on the effects in other places where persons would be calling for help. She shared the same concerns. Assemblywoman Smith asked whether the Consumer Health Assistance Office received a big grant.

Mrs. Liveratti responded the Department received a grant of about $240,000 approved by the Interim Finance Committee (IFC). That was a formula grant based on population. The program had hoped to get more money because there was a greater need in Nevada than other states, but it was a population-driven grant.

Assemblywoman Smith thought there was a bigger grant prior to the IFC approval.

Mrs. Liveratti responded the Department got $240,000 from the initial formula grant and that it would also receive surplus grant money [$57,000]. It would be almost $300,000 in total. That was a one-year grant, and those grants would be available in the future, and the program would be applying for future grants. The current grant ran from October through September. She hoped for other opportunities also through other grants from health care reform.

Assemblywoman Smith asked whether or not that funding was part of health care reform. Mrs. Liveratti confirmed that the grant was only for Consumer Health Assistance programs. The Department would continue to apply for future grant opportunities. The 2-1-1 program was easy for the public to remember so they could call that number and get directed to the correct resources. Right now there was a local number in Las Vegas and an 800

number for all other rural areas of Nevada. There were quite a few dollars for outreach and that would help let persons know about 2-1-1 program.
Assemblywoman Smith mentioned that while the Department had done a phenomenal job with creative funding, and the nonprofits had as well, there were still costs associated with using volunteers and updating those databases and the resources have to be constantly updated. She thought the agency needed to make sure that it was providing the resources to do that, or the program would not be valuable. Volunteers were free, but they did not come free because they required management, and they needed the tools to work with as well.

Senator Cegavske echoed the earlier compliments to Mr. Willden. For her, one of the saddest closures of the nonprofits was the Area Health Education Center (AHEC) in Las Vegas. That was one of the best resources in Nevada. Senator Cegavske asked whether Mr. Willden had articulated not only AHEC's closure but other cuts that have had an effect on the Department's 2-1-1 program.

Mr. Willden responded that the Department received a lot of funding from the Health Division for health education efforts. He did not have the specific facts about AHEC's closure but thought it would involve funding-stream issues and the costs of doing business and that was difficult for a lot of nonprofits right now. He did not know of any specific connections to the 2-1-1 program. When Mr. Whitley made his presentation about the Health Division, Mr. Willden would make sure Mr. Whitley provided more details about this issue.

Ms. DeRousse said there were no changes to the current funding streams but the Department looked for about $520,000 for funding for the program. The $31,000 was just the General Fund revenue. The program would receive a total of $520,000 in revenue for FY 2012.

Ms. DeRousse continued with BA 3244, the Indigent Supplemental Account (ISA), which would be swept and the funds transferred to the General Fund. A bill draft request had been submitted to support this request and $60,000 was remaining in the account each year for the current contract with the Nevada Association of Counties (NACO) to administer that account. In previous years, when the ISA was swept, the Department was able to make some of those payments and having NACO administer that account was a great help.

Ms. DeRousse continued with BA 3261 the Healthy Nevada Fund which was a pass-through account. The funds went into BA 3261 and were passed through to the other accounts where the grants were administered.

Ms. DeRousse referred to the next ten pages in Exhibit I and summarized them by saying these were the performance-based activity listings. Some had descriptions and some had performance measures.

Mr. Willden made some closing remarks and mentioned he hoped the FMAP number for FY 2013 would be better than what was projected in the budget. He had discussions with knowledgeable national persons, and if the FMAP was increased, that would save Nevada some money. The Department would be working diligently with the Fiscal Analysis Division staff on the caseload projections to see whether or not improvements could be made.

Chair Horsford said one of the areas he agreed with Governor Sandoval on was the insurance health exchange. Nevada needed to have a plan in place so it could offer the plan and not rely on the federal plan. Chair Horsford asked Mr. Willden to elaborate on where he was in that effort and what he needed to move forward.

Mr. Willden explained he would need legislation this session to begin work on the health insurance exchange. He said one needed to not confuse that with the health information exchange. Nevada needed both of those. The Governor made it clear that he would be sending over a bill for consideration. Almost a year ago Congress passed and the President approved the Patient Protection and Affordable Care Act. States must have a health insurance exchange operating by January 2014. There were some progress milestones to be achieved between now and 2014. The federal government would take a look at the states in January 2013, and if Nevada was not making adequate progress in creating a State of Nevada operated exchange, then the federal agency could come in and run the exchange. Everyone he had talked to said Nevada did not want the federal agency running our exchange. Nevada would need to run its own exchange, and that was Governor Sandoval's position.

Mr. Willden said Nevada had a group working on the exchange. The state applied for and received a planning grant from the federal government and was working through that legislation and process. The Department hired consultants to help and was doing everything it could to move the planning along so that Nevada would be ready in 2014. The Department needed to address governance and organization this legislative session. Next legislative session it needed to address the financing and other issues. The law required that the exchange be self-perpetuating and self-financed by 2015. So there were a lot of milestones to work on and he emphasized governance, planning, and organization.

Mr. Willden mentioned that the Subcommittee would see in the Medicaid and Welfare budgets some requests for a $24 million information technology project to get the eligibility engine going. That would only require about $500,000 in this biennium and was included in The Executive Budget. The Department was doing the automation and back-room type of tasks to interface between the exchange and all its Medicaid programs. Nevadans and Americans would get their health care insurance, assuming nothing changed at the federal level, either through their employer, going through an exchange, or going through a Medicaid program. The Department must have all those tools in place so that when someone comes in, it knows how to process that client. This was really a form of "Travelocity" for health care coming in a couple of years. A person would be able to go on the Web and regardless of whether he was an individual, small business, or group, the Department would figure out whether Medicaid or Nevada Check Up was best, or whether the person was getting a federal subsidy or not. The Department also would be able to broker insurance products.

Chair Horsford asked about those benchmark deadlines. If Nevada was prepared in advance, did that mean that it could begin offering those opportunities to persons to buy health insurance through nonprofits or cooperatives or whatever was provided for in the health-exchange process?

Mr. Willden confirmed there was already a federal website, and one could do some shopping for insurance products there. The benchmarks were the "must-do" deadlines that he would meet, and he had a very ambitious schedule just to meet those must-do deadlines. The Department had a lot of planning going on and must wait for the green light to bring in some additional contractors and vendors to do the eligibility engine and back-room processes and operations.

Chair Horsford said the Legislature wanted to be helpful in working with the Governor, Mr. Willden, and the work group. Nevada had a high unemployment rate and increased numbers of persons who were accessing Medicaid as a result of losing their private insurance. Therefore, it was to everyone's benefit to get ahead of these both in regard to positioning for those federal grants and getting persons covered by insurance so that they were not accessing health care through uncompensated care. He wanted to do whatever he could to work with Mr. Willden from the legislative perspective and to work with the Governor to make this a component of Nevada's model and be ahead of the curve with other states.

Mr. Willden appreciated that and said he was struggling to get the bill draft in place. One of the problems was there were several lead states. Massachusetts had a full-blown system. Utah had a microsystem. He was really trying to figure out what the other states did not like. He used the analogy that he did not want Nevada to be like the wildebeest that runs off the cliff into the alligator pond. The first wildebeest might get across but the last wildebeest would surely get eaten. Nevada was trying to figure out the best approach by visiting states and collecting data. He would have that bill draft out shortly, and he appreciated the comments from Chair Horsford.

Senator Cegavske wondered about the lawsuit that Governor Gibbons had proposed against the federal health care reform act and having the mandated health insurance. Some doctors had indicated to her that the costs of implementing health care reform was tens of thousands of dollars to put a program in place to monitor everything and reduce the amount of time needed to process a single patient. Senator Cegavske asked whether Mr. Willden was able to help the doctors. Senator Cegavske's questions included how would this work with doctors to make sure they were on the right programs; what was being offered; and what was out there. Fraud was not discussed enough. She wanted more detail about the fraud numbers. It cost $1.5 million to operate the fraud program and it generated $6 million.

Mr. Willden responded regarding the lawsuit and the unconstitutional nature, that Nevada was still part of the lawsuit of 21 states in the Florida case. The Governor had made it clear that he continued to believe that portions of the act were unconstitutional. Nevada would continue on that track with the Florida lawsuit. Governor Sandoval had also made it clear that the law was the law until it was overturned by the courts, and Nevada would take every advantage of planning dollars and implementation opportunities. The state can not sit back and wait for the Supreme Court to make a final decision. The state must keep moving on two tracks: the unconstitutionality, which was primarily on the individual mandate, and the Medicaid expansion. Nevada was still moving forward and planning.

Mr. Willden said regarding the fraud question, Mr. Duarte would testify shortly and present information on that problem. Additional staff was requested in the Medicaid budget for fraud, waste, and abuse. There were also federal requirements in the Affordable Care Act. The Subcommittee would hear about recovery audit contractors, Medicaid integrity contractors, and much about the entire chapter on fraud, waste and abuse. The last question dealt with health information technology in a health care provider's office and Mr. Duarte would speak to that. There were some Medicaid dollars available in health reform funds to help physician's practices and hospitals defray some of those costs. All of those issues were being worked on by various staff.

Chair Horsford said he sent a letter of concern when the agency was requesting bids for the new contract for Medicaid. He was concerned that there was not a provision for an independent third-party subcontractor under the master contract. He thought that was a weakness because we need someone overseeing the contractor as well from a Medicaid-management standpoint. Fraud was not always on the basis of the participant but could be on the basis of the contractor who was billing the State of Nevada. We did not have that third-party subcontract which most other states had.

Mr. Willden said he would have Mr. Duarte provide some details on that question. The Department had a vendor in place for third-party liability. In the contract with Magellan Health Services, the new vendor, there would be a third-party liability effort. The third-party liability was because Medicaid was a payer of last resort. If someone had another health insurance option, then the agency would pursue that option. Mr. Duarte would provide the figures. Nevada offset about 13 percent of its costs through third-party liability efforts, either by denying claims, by having them billed to someone else, or by pursuing and reversing claims that have been paid.

Chair Horsford said that he knew there were efforts about third-party liability, but there were also providers that specialized in that. Texas had been very successful in recouping dollars that had been billed to the state unnecessarily. He thought that was a weakness in the contract and it was on his watch list.

Senator Leslie said for future budget hearings she wanted some more information on TANF "pullback." She thought there was a significant effect on our domestic violence shelters.

Mr. Willden agreed and said Mr. Gilliland would raise that problem and provide more details. There was a 50 percent reduction in the TANF dollars available for the social services contracts which would cover domestic violence, low-level mental health, and drug and alcohol screening testing.

Senator Leslie said she thought the TANF reduction would have a huge effect especially in rural Nevada. Mr. Willden said he would meet with those providers next week. Senator Leslie asked about page 25 of Exhibit G and the FMAP. She was curious about the blended FMAP rate in the second column for FY 2013 of 53.66 percent, which was listed in The Executive Budget as 57.655 percent, and wondered why it increased.

Mr. Willden said when the agency request budget was built, it was based on information known prior to September 1. The Federal Funds Information for States (FFIS) and Centers for Medicare and Medicaid Services (CMS) had not at that time posted the actual FY 2012 FMAP which was posted in October. Once the Department received the actual posting, it used a lower FMAP for agency request. When the Department determined the actual FMAP for FY 2012, it blended the rates for one quarter and three quarters. It was a higher blended FMAP. In late February or early March, the state would get a preliminary read from FFIS and CMS of what the actual FMAP would be for FY 2013. Mr. Willden hoped that would be higher than the 58.14 percent that he had used. If it was 59 percent or something similar he would blend that and he would get a little more benefit out of that than the rate posted in February. The Department usually went through a three-step process. Mr. Willden said you build agency request first. You knew a little more when you did the Governor recommends budget. He would know the final number before the budget was closed.

Senator Leslie said she was surprised. She knew the FMAP was going down and did not expect to see the increase.

Mr. Willden responded that it went down and he could go through a very detailed explanation but noted the poorer we get as a state, the more FMAP we would receive.

Senator Leslie said she was a little skeptical on the mental health transportation program and she thought we were cutting all that housing in southern Nevada and some other mental health programs. She was concerned that to alleviate the emergency rooms, we were going to bus patients from the Southern Nevada Adult Mental Health Services (SNAMHS) to the Rawson-Neal Psychiatric Hospital, where they would get stabilized for a short time. She wondered whether or not that was what we were doing.

Mr. Willden said he would not describe it in that manner. He said Senator Leslie was correct that there was a reduced amount of supported-living dollars. The Department was also reducing some of the beds in the Rawson-Neal Hospital. But those 22 beds had not been used for several months now. There were decreases in the lengths of stay. It was a working system, but he believed one of the big problems in that system right now was a person sitting too long in the emergency rooms (ERs) with no psychiatric care. Those patients had been cleared medically but they were getting little or no psychiatric care. Mr. Cook would be prepared to discuss that.

Senator Leslie asked whether or not the transportation program for mental health was located in the SNAMHS' budget. Mr. Willden confirmed that was true. She was really concerned about the 5 percent decrease in reimbursement to hospitals. Senator Leslie said the Legislature looked at that several years ago. It decided not to do that because of the strain it would put on some rural hospitals. It was back in the budget now.

Senator Leslie expressed concerns about hospital financing. She had started pulling together the home-office allocation information. She wondered where those reports were filed. Senator Leslie asked whether the reports went to Mr. Willden or Mr. Duarte. Mr. Willden responded that Mr. Duarte’s office published those reports. Those were the hospital cost reports and were available online. Senator Leslie asked whether or not Mr. Willden was satisfied with those reports. Mr. Willden said he had not spent a lot of time studying those reports, but he would have Mr. Duarte go over those reports for the Subcommittee.

Senator Leslie said she was really interested in looking at those reports and also the community benefits and how they were reported. She thought we needed to look at that as part of the overall financing mechanism for hospitals. She said that we have to figure out a way to keep our hospitals healthy, but with all the private hospitals in Nevada, we have to make sure we were correctly utilizing that revenue. Nevada should be getting the benefit from some of those profits. The Legislature had not given the Director’s Office or Medicaid enough money to fully analyze some of this data in the past. She realized this was an extra request, but the Subcommittee would have to take a look at this issue. In the long run, this may be an area where we can recoup some costs and reinvest those funds in our health care system. Senator Leslie said the last thing that we want was for rural hospitals to close. That would be really bad for Nevada.

Chair Horsford wanted to underscore this problem. He spoke to one of the major urban hospitals that primarily served the indigent. Between the cuts proposed, the provider reductions, and the economic reality of that institution, the hospital was getting hit from every direction. Chair Horsford thought there was a lack of accountability and that all providers were not in that same position based on who they were serving. Chair Horsford said we need more accountability and transparency with that. He knew the rural hospitals were suffering. Some of the urban community hospitals were teetering based on whom they were serving, while other hospitals had record high profits. He did not know whether or not the Department was getting all that information and whether or not it was able to analyze it so that the Legislature could make policy decisions accordingly.

Mr. Willden said he would be happy to work with the Subcommittee and go over that data. He suggested the Subcommittee look at the whole picture regarding hospitals. Rates should be looked at and discussed with the cost reports. The members should look at the upper-payment-limit programs and the work done there because it fits into that whole dynamic. He worried about the rural hospitals, but they were primarily public hospitals and they were cost-reimbursed. So even when a rate reduction was imposed, it may cause cash flow problems, but they were cost-reimbursed, audited, and reimbursed each year. So the urban hospitals were the hardest hit.

Senator Leslie said she remembered that from the hearings, and she thought they were looking at the 5 percent that would affect some of the rural hospitals and cause them to close.

Mr. Willden mentioned that public hospitals and rural hospitals were critical-access hospitals and were cost-reimbursed or cost-settled. There were some rural hospitals that were private like the Northeastern Nevada Hospital in Elko, so it was a problem for them. But Mr. Duarte would provide that information.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF HEALTH CARE FINANCING AND POLICY BUDGET OVERVIEW

Charles Duarte, Administrator, Division of Health Care Financing and Policy, introduced his staff, which included Elizabeth Aiello, Deputy Administrator, and Lynn Carrigan, Administrative Services Officer (ASO) 4. He presented Exhibit K which was entitled "Pre-session Budget Presentation." He would also be happy to answer some of the questions that came up earlier and any others that arose. He recognized the hard work with fewer resources of his staff that had helped the Division continue to provide health benefits to over 300,000 Nevadans who needed health services. Medicaid had increased its program integrity efforts and had a significant number of new initiatives, as well as ongoing initiatives to assure the public that it was spending its money wisely. The agency was subject to around 10 to 20 audits each year, and he would be happy to share those results with the Subcommittee.

Page 2 of Exhibit K showed the agency organizational chart, and Mr. Duarte again expressed his gratitude to his staff and his chiefs for assisting in managing the program and dealing with five rounds of budget cuts. On page 3 of Exhibit K he pointed out how the agency spent its money. For fiscal year (FY) 2010, he highlighted the breakdown of administrative costs and medical payments. Many persons thought the Medicaid program was inefficient. When one compared public programs like the Medicaid or Medicare program to commercial insurance programs, Medicaid was found to be quite a bit more efficient. His agency administrative costs were about 5 percent, which covered administration of claims and utilization management. Staff made up less than 1 percent of the costs. Medicaid provided and paid for all the services across a variety of provider types and provided services to 300,000 Nevadans. A commercial insurance company usually has administrative overhead between 15 percent and 20 percent. Medicaid operated on a pretty thin margin. It also provided administrative federal dollars to multiple state and local government entities to help them in their activities. There were a lot of dollars flowing out, but a majority of those went to private-sector entities. About 95 percent of the medical payments went to private-sector entities such as for-profits, not-for-profits, clinics, and doctors' offices. As we reduce the spending in the Medicaid program, the agency would get leaner and it would affect lives and livelihoods.

Mr. Duarte said 95 percent of the dollars going out supported private-sector entities and jobs in the private sector, and Medicaid cuts would affect the economy. On page 4 of Exhibit K, he showed a breakdown of Medicaid services by service type for FY 2010. The payments go to inpatient hospitals, long-term care, the Health Maintenance Organizations (HMOs), and pharmacy benefits. The HMOs provided all-inclusive care for the dollars that they get. The other dollars noted were primarily affiliated with fee-for-service programs that served rural Nevadans, as well as the aged and disabled. Page 5 provided a summary by budget account. He discussed some of the priorities and performance budgeting initiatives. Medicaid was listed as a medium priority, not a high priority. Medicaid was not a federal requirement. Even under the federal Affordable Care Act, it was a state option. From an economic point of view, it would be practically impossible to eliminate the Medicaid program. In *Nevada Revised Statutes* (NRS) Chapter 422, Nevada consents to the provisions of the federal Social Security Act. If we assume that Medicaid was an important priority from an economic perspective, then all the activities that were associated with running the Medicaid program were high priorities. Medicaid was a medium priority, but all the other activities associated with running the Medicaid program were ranked as high priorities. The other area that was ranked as a medium priority was hospital cost containment, which was a State of Nevada requirement only.

Mr. Duarte turned to page 9 of Exhibit K and spoke about key issues. Mr. Willden had already talked about some of the key issues such as budget reductions, increasing caseload, inflation, and health care reform. For expediency sake, a lot of health care reform activities were being administered out of his Medicaid office. He did not expect those activities to remain in his office. Medicaid would have a secondary relationship to the activities associated with the health insurance exchange in the future. There were separate health care reform activities that dealt with program integrity by making sure fraud was reduced or eliminated and eliminating waste and abuse in the program. There was a tremendous amount of activity already going that he would highlight.

Mr. Willden had also discussed the loss of the American Recovery and Reinvestment Act of 2009 (ARRA) Federal Medical Assistance Percentage (FMAP) enhancement. Mr. Duarte said he would discuss that and also address the technology requests in the budget. Page 10 of Exhibit K summarized the key issues. He spoke about the budget reductions and proposed about a $139 million reduction in General Funds. Caseload and inflation would cost an additional $236 million in State General Fund. Health care reform activities in Medicaid would save a net of $9.2 million. The FMAP enhancement and the loss of the ARRA funding was a decrease of $162 million in General Fund. The Technology Investment Request for the federal mandates that Medicaid must implement would cost $1 million in State General Funds.

Mr. Duarte referenced page 11 of Exhibit K which summarized the budget reductions. He said the agency was asked to put together proposals to deal with over $200 million in reductions. Many of those dealt with elimination of optional services. As Medicaid moved into the arena of ARRA and health care reform, state Medicaid agencies had increasingly constrained ability to administer the programs in tight budget times. Under the Affordable Care Act, several tools have been taken away from the agency that would help it manage the budgets. These were tools that he did not want to use but were previously available to states, specifically maintenance of eligibility, which was a requirement under ARRA and was a requirement under the Affordable Care Act. It required Medicaid not to change policies, procedures, or regulations that may deny access to coverage or eliminate persons from health coverage on the Medicaid or Nevada Check Up programs. That maintenance of effort (MOE) requirement had a significant effect. There had also been litigation associated with states that had tried to reduce provider rates or had tried to eliminate optional services. The four areas that Medicaid had available for cost reductions were eligibility changes, provider rate reductions, elimination of optional services, and utilization management. Each of those four areas involved painful cuts. Now Medicaid only had three tools available, and some of those were questionable. When one looked at the agency request, what was obvious was the elimination of optional services. What the members would see was a predominance of rate reductions as the means of achieving the budget goals. Mr. Duarte referenced page 19 of Exhibit K, which highlighted the issues affecting rate reductions.

Chair Horsford asked about the pending case before the U. S. Supreme Court. He wanted to know the timing of when those rulings might come down to better understand whether or not that may affect the Legislature's decision process.

Mr. Duarte said much of the judicial activity going on related to Medicaid agencies trying to reduce provider rates had occurred in the U.S. Court of Appeals for the Ninth Circuit. Those rulings have a special applicability to Nevada. There had been several cases against California that ended up in the Ninth Circuit Court, but those decisions would be of a very limited scope. The primary concern of providers was provisions in the U.S. Code that required Medicaid to achieve certain goals through the use of reimbursement. He cited 42 U.S.C. § 1396a(a)(30)(A) that required Medicaid payments made to providers to be consistent with efficiency, economy, and quality of care and sufficient to enlist enough providers in the program so that recipients had access to covered services that was comparable to that available to the general population in the geographic area. For example, if a regular person cannot get an orthopedic appointment for eight weeks using his general state employee benefits, then that would be the norm.

Mr. Duarte said the measure that must be used was whether or not Medicaid achieved the access standards that were available to the general public, which included persons who were insured, those who were uninsured, and those on public programs like Medicare and Medicaid. States were saying that whatever measures were used, states had to make sure that they were measuring the right thing.

Mr. Duarte spoke about the ruling going before the Supreme Court that states must consider the costs to the provider. He did not agree with that nor did the U.S. Solicitor General, who filed an amicus brief and said the ruling was wrong. Many believed that looking at the costs of providers should not be the problem, but the problem should be access, quality, and efficiency. If we were paying more than we should, then that was an efficiency problem, and we needed to address it through reductions in payments.

Mr. Duarte continued and said that a very narrow review was going to the U. S. Supreme Court dealing with the issues of the supremacy clause [U. S. Constitution, Article VI, paragraph 2] and ability of a private entity to bring a suit against the State of Nevada. What may complicate things in the amicus brief was that the U. S. Department of Health and Human Services (HHS) might issue new policies. There was no guidance in the environment Mr. Duarte was working in right now. He was unsure what measures the courts wanted Medicaid to use. He wondered what guidance the federal government can give Medicaid to assure that we were achieving the goals of the U.S. Code section.

Since Nevada Medicaid had no guidance measures, it was developing its own. Mr. Duarte was working with two consulting groups to develop his own benchmarks and measures. But things may change. A proposed rulemaking may be issued in the middle of April. Final rules may be issued in the summer, but those time frames were unknown. Several unknown things were a problem: there could be regulations coming out, but he did not know what those regulations would say; when they would be published; or how Medicaid would come into compliance with them. It created the need for flexibility in how we try to administer the budget because much of this guidance would come out after the legislative session ended.

Chair Horsford wanted to break this problem down in terms he could understand. He knew a pediatric dentist who served constituents in his district. Most of the clients that came to him were not receiving quality dental care before they showed up. He was doing major extractions and major work on children. Under the proposal by Governor Sandoval, there would be a 25 percent rate reduction. Chair Horsford asked for help to understand how these legal arguments applied with this particular pediatric dentist, who served constituents who had a lack of care. Chair Horsford asked if that provider dropped out, where those patients would go.

Mr. Duarte said the rulings did not apply to a specific pediatric dentist. Mr. Duarte said it was not possible to take a specific provider and determine how these rules applied. One must look at the general environment and say for all dentists serving kids, what were the access standards that they used for all patients, not just Medicaid patients. That would be the standard that Medicaid had to abide by and that included uninsured patients. The suggestion was that Medicaid had a dearth of pediatric dentists. He did not think that was true. He had seen utilization go up dramatically and caseload had increased.

Chair Horsford said it was just like providers that were not seeing any new patients because of rate reductions. Obstetricians and gynecologists were not taking any new women because of the new Medicare rate reductions. That was the reality of the persons that Chair Horsford heard from, and he knew that other persons on the Subcommittee as well heard similar stories. The legal analysis that Mr. Duarte explained was one thing and that would be decided by the courts.

Chair Horsford was trying to understand what he needed to do as a policy maker to answer the question both to that provider and the fact that providers were not getting their costs covered, and more importantly to those participants who, if that provider was not accepting them, had no place to go to get services.

Mr. Duarte understood the questions. He said the problem was how did this pertain to a particular case, and he was trying to be factual and explain that it really did not pertain. These cases did not apply. Those types of issues presented by Chair Horsford might apply once HHS or CMS came out with specific regulations on how to measure access. The question about whether or not we were providing access to care was a pertinent one.

Mr. Duarte said over the last two years, Medicaid increased the amount of dental utilization for children in the Medicaid and Nevada Check Up programs. He did not know whether that would continue. There were issues that may require the program to have some flexibility because he did not know what type of guidance he would get from the courts or the federal government. He did not know whether or not he would have problems in the future with reduced rates.

Mr. Duarte said Nevada may need to do some things differently within these proposals. If we suggest some budget reductions for hospital services, then we may not want to look across the board at the same percentage reduction for everyone. We may want to target some of those reductions and not touch other services. Within our physician rate-reduction proposal, we were keeping whole all the primary care services. If we want to make adjustments and not affect a particular specialty, we can do those things. That was where the flexibility must be provided so that we did not make decisions that were across the board. Our proposals included flexibility to effect some of these changes in a more targeted fashion. We did not have final guidance from the government, but still needed the flexibility to adapt to these rulings.

Assemblywoman Carlton said, although Medicaid was keeping whole primary care services, she read that physician’s assistants, nurse midwives, and nurse practitioners would be getting a 15 percent cut and wondered why they were not considered primary care providers.

Mr. Duarte explained his fee schedule was established based on current procedural terminology (CPT) codes and there were about 5,000 CPTs and that was what physicians used. Those CPT codes were broken up into sets and there was a surgery set, a radiology set, and so on. Evaluation and management (E&M) were primarily office-visit-based services, and those made up the predominate number of physician services that Medicaid paid for. For E&M codes, Medicaid kept the rates the same. For nurse practitioners, physician’s assistants, physicians, and primary care specialties Medicaid billed a predominance of E&M codes. Specialists billed a predominance of other codes. Those were the ones that Medicaid would be reducing to achieve the 15 percent cuts.

Assemblywoman Carlton wanted to make sure there was no "cost shifting" if the Legislature approved a 15 percent cut to one group. Assemblywoman Carlton queried about a nurse practitioner in one medical group who may actually be classified more on a specialty line. She asked about which would cost less, seeing the nurse practitioner or a physician's assistant. The last thing she wanted to see happen was that these 15 percent cuts would result in the patient receiving a more costly level of care, because there were no cost cuts there, instead of going to the best and most reasonable level of care.

Mr. Duarte said it depended on the makeup of the practice and how they bill. Medicaid would have to look at the codes they used predominately to determine the effect of the cut. He could not tell whether or not they would be cost-shifting. Providers may shift to cover their overhead costs when they were losing money on one side and wanted to make it up on another side of their business. They may do some shifting. Most often a physician's practice was made up of about 10 percent or less of Medicaid patients. What we were affecting was 10 percent of their patient panel with a 15 percent cut. It was not as if we were affecting 15 percent of their revenue, unless they had only Medicaid clients, which rarely occurred.

Assemblywoman Carlton said unfortunately that a medical practice was like a pie and when the practice did not make enough money off one slice of pie, then someone else would end up getting a smaller piece of pie and paying for it. The cost would go up for everyone else because the cost went down for someone.

Mr. Duarte agreed and said that as we reduce our payments, there could be a shift that would affect livelihoods because it reduced provider revenue and jobs. He said that as an insured individual, the hidden tax that he paid was for uncompensated costs and the uninsured. The health care economy was a bubble, and if you push on one side, then it would pop out on the other side. What he had to be concerned about was State General Funds. He agreed that there could be an offsetting effect in the health care economy in Nevada.

Mr. Duarte turned to page 13 of Exhibit K and spoke about some of the efficiency measures, new initiatives, and some of the rate reductions. He explained about the 2010 initiatives that had been extended into the 2011-2013 biennium, which included decision unit Maintenance (M) 160 from the 26th Special Session (2010). Those reductions totaled $15,469,690. Medicaid reduced anesthesia rates to bring those down to the Medicare level implemented on March 1, 2010. Medicaid reduced some of the behavioral health rates for adults and children implemented on February 1, 2010. Medicaid lowered the monthly limits for incontinence supplies, eliminated the coverage of disposable gloves, and implemented the requirement for a clinical therapy assessment prior to authorization of personal care services.

Mr. Duarte said Medicaid expanded the preferred drug list to include psychotic medications and several other drugs and had a bill draft request to continue that expansion. In the last quarter, Medicaid approved the use of nonpreferred, antipsychotic medications for use by 229 patients and denied use zero times. Medicaid allowed a client who was on a nonpreferred medication prior to entering the Medicaid program to continue to stay on that medication.

Mr. Duarte spoke about the independent audit and his specific request was to look at the types of edits in their system to ensure Medicaid was not making improper payments to providers. Medicaid had a system in place called Claim Check. It had over 2 million edits in it and had saved over $3.4 million each year over the last few years. Those types of edits looked at things such as whether a physician was billing for a service for a male that was more appropriate for a female. The review also delved into clinical edits and clinical procedures to ensure the Medicaid diagnosis lined up with a procedure. The edits were in place, and Mr. Duarte was augmenting those further in this next budget cycle. He would be implementing a new set of Medicare edits, which was a federal requirement. He would have to use only those edits that Medicare used. Medicaid could not buy other software with other edits. He would have to adopt the Medicare edits, and he was currently working with CMS and vendors to save another $2 million.

Mr. Duarte said Medicaid used these types of tools over the last few years and had saved millions of dollars. The Division would continue to augment and use them. One did not want to use edits too aggressively. Medicaid was cautious about the types of policies it used so it did not deny appropriate services and create a problem for reimbursements for physicians.

Mr. Duarte spoke about how proud he was of the pharmacy management programs. In FY 2009, Medicaid offset $34 million in pharmacy expenditures because of the type of management initiatives used and lack of denials for medications. Medicaid was making sure that clients were not getting duplicate medications or refilling their prescriptions too early. The Division was also looking at safety edits. It put out about two million edit notifications to pharmacists and physicians to advise them their patients may not be safe. It sent out 2,700 letters to physicians to notify them of patient safety concerns. It did a tremendous job of offsetting costs. Medicaid also locked patients into one pharmacy who were abusing narcotics. The agency worked closely with the State Board of Pharmacy to make sure it caught any misuse of narcotics.

Mr. Duarte talked about the expansion of the Upper Payment Limit (UPL) program and worked with public hospitals to implement a supplemental payment program for public hospitals that had outpatient hospital services. With University Medical Center (UMC), Medicaid would be using county funds to help fund graduate medical education (GME) in their hospital. There was a net benefit to the state for this of approximately $5,889,485. This was currently under federal review, and Mr. Duarte did not have a date as to when this would be approved. There was also a net benefit to other rural hospitals.

Mr. Duarte spoke briefly about decision unit Enhancement (E) 681 for Drug Rebates. There were several adds and subtracts and E681 was fairly complex, but the total savings should net at $1,648,959. This was the result of federal legislation to increase the ability to pull in rebates from pharmacy manufacturers and managed-care programs.

As shown on page 15 of Exhibit K, Mr. Duarte spoke about the initiative to increase county responsibility for payment for persons in institutions. Under NRS 422.272, the requirement was that the counties would fund the State General Fund share of costs for medical services for individuals between 156 percent and 300 percent of the federal benefit rate for Supplemental Security Income (SSI), which equated to a monthly income of between $1,051 and $2,012. Medicaid proposed to lower that limit to 132 percent in FY 2012 and to 124 percent in FY 2013. The reason Medicaid had these various amounts was because of the Affordable Care Act. Certain types of restrictions were contained in the act around the contributions of political subdivisions [counties] to the operations and administration of the Medicaid program. There were numerous financial tests to calculate what those levels of income would need to be for Medicaid to remain compliant with the contribution cap for political entities and the Affordable Care Act. This may change depending on the total county contributions received for other types of programs like the Disproportionate Share Hospital (DSH) program. Medicaid would have to adjust this income cap or income standard each year to redefine the counties' obligation and the state's share. Medicaid also provided an estimated effect by county for the biennium. The largest share would be that of Clark County.

Mr. Duarte proposed several eliminations and program reductions shown on page 16 of Exhibit K. He proposed to eliminate nonemergency transportation which were rides to and from physicians' and therapists' offices for Nevada Check Up, which affected about 20 recipients per month. He proposed to eliminate nonmedical vision services for individuals over the age of 21, and that affected 7,833 recipients and saved about $1,772,099.

Senator Kieckhefer asked about the Health Insurance Flexibility and Accountability (HIFA) waiver and whether or not there was a relationship between that program and the MOE requirement for eligibility under ARRA.

Mr. Duarte explained there was no relationship between those two. When the waiver ended, Medicaid would continue paying for existing pregnant women and would continue to do so as long as they were pregnant and stayed on the rolls. But Medicaid would cap the program enrollment, end the waiver, and was working with CMS on a wind-down plan.

Assemblywoman Mastroluca recognized that the HIFA waiver was part of the federal program that was ending. She asked whether there were other programs that were in this reduction list that were being reduced or eliminated because of the lack of federal dollars available.

Mr. Duarte clarified that Nevada could have continued the HIFA waiver program or covered a higher income level of pregnant women on an ongoing basis, but because of the State General Fund requirements, it chose not to do so.

Assemblywoman Mastroluca said it would help her to know which programs were being eliminated because of a lack of federal funding and whether or not there are choices that the Subcommittee must make on top of that.

Mr. Duarte said that federal funding would remain for all these services that he had described. It really was a problem of whether Medicaid could afford to provide these kinds of services on an ongoing basis. On page 17 of Exhibit K, Mr. Duarte spoke about reducing the rates for skilled-nursing facilities (SNF) by $20 per day. There was a bill draft request associated with the reduction that would save about $9,829,854.

Mr. Duarte looked to reduce hospital rates by 5 percent and could be flexible in how that was done. He did not have to affect all services across the board and could work with the hospital community to develop the cuts, but it must be done by July 1, 2011. The list of rural hospitals that would be affected by this included Banner Churchill Hospital, Humboldt General Hospital, Nye Regional Medical Center, Northeastern Nevada Regional Hospital in Elko, and South Lyon Medical Center. The rest of the rural hospitals were critical-care hospitals and were cost-reimbursed. The hospital rate as well as the SNF rate would not affect any of the public hospitals that have distinct part beds, which were nursing facility beds in the facilities. The public hospitals affected included Battle Mountain, Boulder City, Desert View, Grover C. Dils, Humboldt, Mesa View, Mt. Grant, Pershing, Washoe [Renown Health], Barton Medical Center, and William Bee Ririe.

Mr. Duarte pointed out that in FY 2013 the Affordable Care Act required Medicaid to increase physician rates for primary care services. This was the E&M rates he discussed earlier. Medicaid would increase rates to 100 percent of the current Medicare program for those office visits, but it only affected family medicine, pediatrics, and general practice. The incremental increase would be 100 percent federally funded through 2014. In many of its planning discussions, the Division had talked about not reducing those rates after 2014, but that was a policy decision that must be made later.

Mr. Duarte spoke about page 18 of Exhibit K which listed some further reductions including a 25 percent reduction for dental and durable medical equipment (DME). The managed care plans were paying about 25 percent less and still managing to provide access to care. He believed there were a number of DME providers that would be able to provide reasonable access consistent with the rest of the community.

Chair Horsford asked about the contracts. He had done some research on major contracts. The Division had a contract with Hewlett Packard (HP) Enterprises which was $176 million over a 5-year period. Half of that amount was covered by the federal government, and the other half was funded by State of Nevada resources. One issue was that this was a major contractor that was required to pay Medicaid claims and conduct internal audits of its payments to determine whether overpayments were made or other third-party or private insurers should have been billed.

Mr. Duarte confirmed that Chair Horsford was correct and explained Medicaid did not have an independent, third-party group reviewing that contract. There was nothing it could do with this contract to reduce the amount HP was getting paid. In regard to the fairness of the procurement, Medicaid was very clear with the Board of Examiners' members that this was a fair procurement, and this was confirmed by the Purchasing Division.

Chair Horsford clarified that he was aware that someone had argued another provider should have been permitted to come within the allowed period to bid the contract. That was not his concern. Chair Horsford asked whether the HP contract that had been awarded had been subject to any effort to reduce the amount paid per the 26th Special Session's direction to find 10 percent reductions where possible on any new contracts and whether Medicaid realized savings.
Mr. Duarte responded that Medicaid did take into account the 10 percent reductions. It projected the basic expenditures for the fiscal agent contract over the next five years. It established a budget-neutral amount. The HP proposal came in well below the budget-neutral amount, which was $176 million, and

also the total authority amount. That did not mean Medicaid had to spend that much. Medicaid had some initiatives that it believed would be cost-effective and improve efficiency. The HP proposal was $122 million and Medicaid could spend less than the $176 million. There were optional services that HP could provide, and those would be negotiated items that were listed in the request for proposal (RFP). Medicaid included several negotiated items in the authority. The largest negotiated item was additional programming hours. The Division must pay for programming time for computer experts and business analysts to make changes to the system. The big changes that were coming were from this Legislature, as well as the Affordable Care Act. Mr. Duarte knew that he would need additional programming hours that were unpredictable, so he wanted the authority for $176 million.

Mr. Duarte said there were other smaller unpredictable items as well. Rather than ask for a specific appropriation for enhanced data-mining tools to detect fraud and abuse, he put that in the contract. The Division took that out of the budget request and put it in the contract. That was approximately $6 million over the 5-year period. Medicaid had a number of items in that $176 million in authority that it thought prudent to keep, and it would save money and allow the Division to complete its mission, which was to make sure it was compliant with Nevada and federal law and was effectively managing the program.

Chair Horsford asked about the incentive of that contactor to help maintain those costs. He wondered whether there were any performance requirements on them. If they had the authority to bill $176 million and had their own "checks and balances" of what was being billed, what was their incentive?

Mr. Duarte said he thought there was another misconception that the Division did not look at those contracts, or there was not an independent review. That was not true, and the Division used a third-party independent firm and was part of a single audit that examined contracts. The federal government also did a thorough examination of all of its bills. However, the Division did not have an independent audit of the HP contract.

Chair Horsford said Texas and other states had outside independent auditors.

Mr. Duarte said the Texas firm performed additional services that were not necessarily auditing services, and he would be happy to discuss that with Chair Horsford later. He put together a request for proposal (RFP) to do a true audit of Medicaid claims accuracy. There was a federal comprehensive review of claims payment accuracy that was done. Medicaid had staff that was doing reviews of high-risk contracts including this HP contract, managed-care contracts, and other large contracts. The Division requested additional resources to work on what was its responsibility to make sure it was using State of Nevada monies wisely and that it was not being overbilled. He clarified that HP did not have the authority to bill Medicaid $176 million. Medicaid had the authority to pay HP up to $176 million, and it scrutinized those invoices carefully.

Chair Horsford noted that under the justification for the award of this contract, the state indicated that it lacked resources, and its employees did not possess expertise and specialized knowledge required to take over the Medicaid Management Information System (MMIS) or carry out fiscal-agent operations. That was the reason Medicaid contracted with HP. Chair Horsford said Nevada paid for 41,600 enhancement hours at wage rates for business analysts of $85 per hour. A senior business analyst cost $105 per hour. A certified project manager cost $135 per hour. Clerical staff cost $40 per hour. The list went upward to $160 per hour for a system administrator. Those amounts seemed excessive to Chair Horsford for that contractor to be billing the State of Nevada compared to Medicaid's own qualified staff who may be able to do some of these tasks.

Chair Horsford knew Medicaid needed a contractor, and he knew there were a lot of benefits to having this contract in place. His concern was whether the Division had achieved every possible cost savings in issuing that contract and whether or not that contractor was billing reasonable amounts to ensure there was accountability for what was being billed. He was not on the Health and Human Services Subcommittee and that was why he was raising this now. He hoped those members would get more information on this contract later, and he wanted to raise this issue for his own understanding because it was one of the larger contracts in state government.

Mr. Duarte said he would be happy to respond, he did not believe the rates were unreasonable, and he did not believe the Division had the capacity to do the work that was being proposed. This was highly technical work that was being done on very complex systems. He thought it would be harmful to take that function over. But he could certainly talk about the rates that were charged and how that contract was reviewed. It was reviewed by an independent panel. He was not on that contract review panel. This problem was not negotiated but other issues were negotiated. He would be happy to answer questions.

Chair Horsford said he understood that the Department of Administration had a checks and balances system. The full Legislature, during the 26th Special Session (2010), asked that there be efforts made to reduce contracts by at least 10 percent. He wanted to know whether the Division achieved that reduction because this was one of the contracts that came up after that direction was given by the Legislature.

Mr. Duarte said the contract came in as a budget-neutral item so the Division was not spending more than it would have previously.

Chair Horsford said that was not the problem and that was not the intent [of the directive].

Mr. Duarte apologized and said he understood. He referenced page 24 of Exhibit K which listed the details of BA 3157 for the Intergovernmental Transfer program (IGT). There were a number of proposals, including the upper payment limit programs, where there would be a net benefit to the State of Nevada. This would be controversial because the State was proposing to take some of that net benefit for purposes of offsetting State General Fund. These were contributions from counties, primarily Clark County, to the Medicaid program. The Division expected a $33 million benefit in FY 2012 and $35 million in FY 2013. The net benefit to UMC was $49,077,622 in FY 2112 and $48,480,789 in FY 2013. Other smaller hospitals received the benefits listed.

Mr. Duarte referred to page 25 of Exhibit K which provided a general overview of the long-term care provider tax program, which helped fund nursing facilities, and used proceeds that were fees paid by nursing homes for non-Medicare bed days and were applied only to free-standing nursing homes. A number of rural hospitals had distinct beds that were part of the facility and not affected or funded by the provider tax. Those revenues were $30 million per year, and the net benefit to providers was $28 million. The State of Nevada funded a base rate of $122 per bed-day. The provider tax allowed Medicaid to bring in additional federal funds up to $189 per day. It varied by facility so that difference of $67 was a combination of both state matching dollars, which were really the provider tax dollars, as well as the federal dollars coming into the program.

Mr. Duarte referred to page 27 of Exhibit K which showed where the Division spent its money. The Division spent more for the Medical Assistance to the Aged, Blind, and Disabled (MAABD) populations than for the Temporary Assistance for Needy Families (TANF) population. It spent $521,963,621 for the MAABD population versus $456,402,395 for the TANF population. Page 28 of Exhibit K showed the TANF population made up the majority of the Medicaid caseload. The MAABD consisted of only about a quarter of the caseload. During the next biennium, the caseload would be predominately TANF, and the Division would be spending as much or more than it did for the

MAABD. That was going to have a considerable effect on the types of services and the way those services were provided.

Mr. Duarte explained page 33 of Exhibit K which showed the 2011 caseload shortfall. Lynn Carrigan, Administrative Services Officer 4, explained that the Division had a 2011 reserve in the IGT account (BA 3157) of $19,175,148 and the caseload funding shortfall would have required a transfer of $10,712,240. That would have left about $8,398,221 in the IGT account. She submitted a work program to move $9,263,374 from the IGT account based on a December projection that was prepared after the budget was submitted to the Governor. That showed the shortfall projected for 2011 would go down slightly, requiring about $1,513,553 less in transfer from the IGT. The Executive Budget transferred the $8,398,221 reserve in IGT to the General Fund in FY 2012. That reduced the General Fund need of the agency.

Ms. Carrigan said after The Executive Budget reflected the work program change, the Budget Division decided to account for that in The Executive Budget by creating a surplus in the IGT of $1,513,553 of additional funds that would be left at the end of 2011. The $1,513,553 was not designated for any purpose for FY 2012 or FY 2013. If the FY 2011 balance remained at the same amount, then that amount was available for another purpose.

Mr. Duarte referred to page 36 of Exhibit K which listed the justification for the positions being requested. All of the positions were associated with a net savings of about $6,795,172. The program-integrity initiative was in decision unit E680 and allowed the agency to count the savings associated with the federal law changes under the Affordable Care Act. Medicaid requested seven positions consisting of three audit and four surveillance utilization review services (SURS) staff. The SURS staff would be auditing high-risk contracts but also looking at activities of providers and making sure that the Division had a good handle on fraud, waste, and abuse. There was an Executive Order by the President of the United States issued in November 2009 to reduce improper payment across Medicaid programs. That led to an increase in workload. The Division had been able to use some of that as a way to augment some of the program integrity initiatives. The Affordable Care Act also created new initiatives.

Mr. Duarte said there was a federal Medicaid Integrity Program review that occurred that highlighted the fact that the Division had done a good job over the last three years to improve its program-integrity efforts. In 2007 the agency was given 5 additional staff, and since then it had been able to increase staffing in audit, oversight, and program integrity to 25 in FY 2008 and to 29 in FY 2009.

Mr. Duarte said prior to 2007, the Division brought in several hundred thousand dollars in recoveries of improper payments. In FY 2008 and FY 2009, those activities brought in $3 million in recoveries. That figure does not include the cost-avoidance that occurred because of fraud, waste, and abuse reviews.

Mr. Duarte said when the provider community becomes aware that reviews were being done, it improves their performance. A lot of those reviews resulted in recommendations to change policy and practice, and as a result of that, the Division was able to save tens of millions of dollars. One good example was what the Division had done with behavioral health. The reviews were able to find providers in behavioral health who were fraudulently billing the State of Nevada tens of millions each year and not providing effective services. Some of those had ended up as prosecutions and others were being looked at by federal prosecutors. One of the problems that it created was often those dollars were not recoverable: the companies folded or disappeared and there were no assets to pursue. From a positive point of view, the reviews eliminated fraudulent providers from the program and enabled a reduction in costs paid per child for mental health services and other services, so the Division was providing effective services and not letting these providers bilk the government.

Mr. Duarte said between 2006 and 2009 the Division had increased the number of investigations performed from 67 cases to 740 cases. These were preliminary reviews where errors were found, usually because of lack of knowledge on the part of the providers, who were then given the opportunity to correct their behaviors. But the Division also increased the number of reviews and referrals from 34 to 659 that led to full investigations by the Attorney General's Office. The Division had auditors that were looking at specific provider types and how the systems paid claims. It had done 52 provider-specific reviews and had looked at 1,600 claims and how those were paid. It had resulted in both cost-avoidance and changes in policy so that Medicaid can avoid those future risks.

Mr. Duarte requested the additional staff to not only augment what the existing staff was doing with fraud, waste, and abuse reviews, but to increase the auditing to monitor high-risk contracts and fiscal-agent agreements, look at the managed care programs, and look at the transportation broker to make sure they were correctly doing what was specified in the contract. These tasks resulted from a recommendation by an independent firm contracted by the Division to tell it where its risk areas were and what it needed to audit. The

Division used the services of Clifton Gunderson, LLP for reviews and recommendations on plans and staffing related to health care audits.

Assemblywoman Smith asked whether Mr. Duarte used the frontline employees when he developed the audit plans to help identify problem areas. To her, they were the best resource.

Mr. Duarte confirmed that staff was involved in the process. The Division had staff that was in communication not just with the program staff but with the field offices. Quite often what happened was that it would do a review of a provider that was applying to be a Medicaid provider. The durable medical equipment (DME) offices have had lots of problems across the nation with these storefronts that did not really sell anything and billed Medicaid fraudulently. The Division had gone to each of those providers' offices to make sure that it was more than just a storefront and that they actually had product and could sell product before they allowed them in the program. The Division had done the same thing with some of the behavioral health providers. The Division involved them in taking a look at what was going on before they were enrolled as providers. When staff saw things that were questionable, they worked closely with the investigative and audit teams.

Senator Cegavske asked about inside fraud investigations. Senator Cegavske wondered whether there was an internal audit program to look at what the internal staff did that may help someone to commit fraud. She mentioned that when anyone says anything about fraud to the Division they were told they did not have enough employees to investigate. They were told that fraud was rampant and they knew it, but there was nothing they could do. She asked whether that was a statement that Mr. Duarte encouraged staff to make. That was what she heard from constituents.

Mr. Duarte said Medicaid did not have a specific review program that looked at internal employee fraud. There had been instances where the investigations had turned up instances involving local government as well as some State of Nevada staff. He could not say whether or not the State of Nevada staff had been involved in criminal activity, but that had been a result of those 52 provider specific audits that he discussed. There were requirements that employees cannot have conflicts of interest and work for outside entities. But whether or not the employees were doing the appropriate referrals was not the subject of a specific program. Regarding the comments about rampant fraud, the Division did not encourage those comments. It had increased efforts to look at fraud. He could not say that he had found all fraud. There were always providers out there that were committing fraud, but he could not say how many there were because if he knew, he would work to find them. He knew fraudulent providers continue to get into the system. His experience was that they came into the system with a legitimate purpose and somehow got redirected. There have been instances where the Division had been involved in prosecution and investigation of organized crime members in DME in Las Vegas.

Senator Cegavske said in talking to some of the physicians they have been very troubled by fraud. They would get a patient that wanted a referral to a specific doctor. The physician would say they were not in the program, and they cannot provide a referral and did not see a medical reason for the referral. The physician would sometimes engage in arguments with patients who demanded a referral to a specialty. The physicians were frustrated and wanted to know who to contact so they could work with the Division to make sure this was corrected. If they turned someone in, the physician was afraid that there might be a medical malpractice suit coming. Was there any office that could assist with those problems?

Mr. Duarte said Medicaid had a SURS team that took in those types of complaints. The Division had a link on its website that allowed persons to report anonymously any instances of fraud. Often the Division would follow up with the Attorney General's Office to get evidence to prosecute the fraud. Many persons were reluctant to get involved. The Division had numerous accusations of providers paying clients to come into their practice so they can get a service. It did a field investigation and was able to substantiate it with one provider and then was able to take action. So the Division had a venue for that to occur. It did not get a lot of hits on the website. Some of the issues had to go to the Board of Medical Examiners.

Chair Horsford asked Mr. Duarte to get that information to the members of the Subcommittee because they all heard that type of complaint. Chair Horsford suggested to Mr. Duarte that once the Division did an investigation and found a person who committed fraud, it should post that on the website and put it somewhere public. For example, take out an ad or do something else to bring attention to the fraud. That would probably dissuade some persons more than anything else. The Attorney General was doing a good job, but Chair Horsford suggested following the lead of the State Contractors' Board. Every time they bust someone, they put it out in an email. The public knows exactly who the Board busts every week.

Mr. Duarte said that Attorney General's Office had been doing a good job of issuing press releases on their prosecutions for Medicaid provider fraud. That was a good recommendation. There was also a federal website the Division used when it terminated a provider either in this state or another state.

Assemblywoman Smith said a lot of the deterrent was whether or not providers believed someone was watching. Assemblywoman Smith asked whether providers signed a statement that said they understood that there were multiple mechanisms in place to catch fraud. She wondered why physicians could not post a sign identifying methods that were used to catch fraud. If someone was thinking about committing fraud, and she had to sign a statement saying that she understood various methods were used to detect fraud and saw it in a physician's office, she might think they were taking a picture right now of who was using this Medicaid card and whether she was the same patient who owns the card. Much of the deterrent for persons is knowing that someone was watching. She wanted the Division to employ every possibility in that area.

Mr. Duarte said there was a separate unit in the Division of Welfare and Supportive Services that specifically did recipient fraud investigations. They referred them to the Medicaid fraud control unit in the Attorney General's Office. There was a working relationship there.

Mr. Duarte referred to page 37 of Exhibit K, which showed the request for two positions for provider support and hearings to reduce fraud, waste, and abuse. He said there was potential that the Division would see more requests for appeals and fair hearings related to the step-up in the audit activities. Last month the Division had 737 providers requesting enrollment and enrolled 332 and terminated 118. Some were for problem billings. There were additional federal requirements in the Affordable Care Act that the Division must abide by.

Mr. Duarte said enrollment of providers was the frontline check on fraud, waste, and abuse. Making sure that the Division checked criminal records, knew the ownership records that were associated with the provider, and knew who was investing in that company was essential. That helped to not just prevent one provider from coming in who might have a shady background, but also to prevent the same providers who have been discontinued from the program from attempting to come in the back door and be an anonymous party or just a financing party to another provider that was requesting to be enrolled. The Division tried to do a lot more to check the backgrounds of persons who were applying to be a part of the program.

Chair Horsford asked whether or not Mr. Duarte worked with the Secretary of State's Office on the development of the business portal. Some of what Medicaid was doing was a duplication of what they were collecting for licensing. He knew Medicaid had to go through more extensive background reviews but wondered whether it had worked with the portal.

Mr. Duarte said his staff checked the portal to make sure applicants had a business license and were appropriately doing business in Nevada.

Chair Horsford said his point was more to the extent Medicaid could use the development of that system to collect information that it needed that was then centralized in one place. Because another thing that should be done was to revoke the business license if the provider violated any provision. The state should also go after taxes and liens. That was happening through the business portal and Speaker Oceguera had worked very closely with Secretary of State Ross Miller on its development, and he encouraged Medicaid to streamline their application function.

Mr. Duarte agreed to do that. He pointed out that Medicaid was requesting one additional position to help with fair hearings. Medicaid had an obligation to provide fair hearings to individuals and providers when they disagreed with an action. Last year in FY 2010, Medicaid provided 783 requests for fair hearings and about 7 percent actually went to a hearing. About 500 of those requests were from recipients and 270 were from providers. In the first six months of this fiscal year [FY 2011], the Division had over 557 requests, and as it stepped up audit and oversight activities, an increase in fair-hearing requests was expected.

Mr. Duarte spoke about decision unit Maintenance (M) 505 that requested two additional staff to assist in developing new benefit policy programming changes that were necessary to make sure the Division was ready when the health insurance exchange went live. A requirement of the health insurance exchange was that Medicaid would expand. But for new eligibles that were not currently eligible under the criteria, Medicaid must provide benchmark coverage. The new eligibles would not get the same Medicaid coverage that very low income persons received from Medicaid. They would get a different package more akin to private HMO coverage, public employee benefit coverage, or federal personnel coverage. Mr. Duarte only looked at Medicaid and what the Division offered based on federal Medicaid requirements. Now it was going to have to align its policies and systems and the way that it operated more in line with commercial insurance coverage for this specific population. It would be offering two different products, one for the new eligibles under health care reform after 2014 and one for current beneficiaries.

Mr. Duarte also requested two additional audit staff in decision unit Enhancement (E) 410, specifically targeting federal funds that were going to providers. There was some provider difficulty in transitioning to electronic health-care records. Most of the activities for the auditors would be federally funded and would look at whether Medicaid would be able to make payments to providers to help them pay for reimbursement of the use of electronic health records. These were Medicaid providers who had a high patient population and were eligible to get their first payment as soon as the Division started the program. But they would continue to be eligible to start getting their payments by 2016. The program would run for the next decade from 2011 to 2020. A provider who met the requirements such as a primary-care physician could receive up to $63,750 in reimbursements.

Mr. Duarte said the Division must make sure that the requests were correct, that the invoices were correct, that Medicaid paid them correctly, and that they were using those systems in a meaningful way to manage patient care effectively. Many physicians had complained that establishment of electronic health records was challenging to a paper-based practice. Moving from a paper-based system to electronic health records was quite disruptive. But there were efficiencies after that. There were incentives not just from Medicaid but also from Medicare. This program also makes available almost $2 million to hospitals who were implementing these types of program initiatives for electronic health records.

Mr. Duarte said a part of the HP contract dealt with improving the capability of the Division to share information with clinical practices and hospitals that were going to be using electronic health records. It was called the Health Information Exchange, and Mr. Duarte wanted to be a party to that so he can have physicians and hospitals better managing care of his clients. This would be a federal pass-through program predominately sending about $38 million out to the community of providers. Mr. Duarte wanted to make sure that when we allocate those dollars that it was for the right purpose to improve the use of those systems and to improve care for their patients.

Mr. Duarte closed by thanking the Subcommittee for the opportunity to present his information. His staff had done a tremendous amount of work, and he thanked them for their dedication and said they had improved the integrity of the Medicaid program. He was very proud of them. He said the Division can certainly do more and can do it better.

Chair Horsford said he wanted to thank the entire team that had worked so hard. Based on the increases to program utilization because of the effect of the economy, the enrollment of providers, participants, and eligibility was extraordinary. He appreciated all of their work and wanted to find some ways to maintain these services so we can get through this hard time. Chair Horsford then asked for public comment.

Charles Perry represented the Nevada Health Care Association, whose mission was to represent the skilled nursing facilities and the rehabilitation facilities and some of the residential facilities for groups and assisted-living facilities. He was not challenging either Mr. Willden or Mr. Duarte but simply wanted to bring forward some information. He recognized the difficulty of the situation that the budget presented. In the 43 years that he spent in the post-acute-care profession, he had never seen an economic situation such as Nevada faced now.

Mr. Perry said the first problem he wanted to address was the reduction of payments for Medicaid patients in skilled nursing facilities. The State of Nevada had paid $121.73 per Medicaid day since 2001 out of the General Fund to skilled nursing facilities. His association brought the provider tax legislation to the Legislature in 2003. His group did that after going through a redo of the Medicaid reimbursement from the State of Nevada. The study cost $350,000 in 2000. The Medicaid reimbursement methodology was redone from the system we had then to the system that we have now, which was a price-based methodology, with the State of Nevada setting what that price was.

Mr. Perry said after we went through that revision, it was determined that the State of Nevada did not have the ability to pay the price that they had determined they needed to pay. It was agreed on that there was no way that anyone could figure out how the Legislature could approve a revenue enhancement or a tax that would make it possible for the state to pay those rates. So his group came forward as a profession and agreed to tax their revenues for the express purpose of attracting more federal funds to the State of Nevada that could be used to fund the Medicaid budget.

Mr. Perry continued by saying that legislation passed in 2003 stated clearly that the State of Nevada's portion was $121.73. Now ten years later his profession was still only paid $121.73 out of the state General Fund per patient day. He said in not a single session since had the state General Fund contribution to the Medicaid budget been increased. He understood the gravity of the situation. He understood the challenges the Legislature faced. But he questioned how anybody could legitimately think that a profession could afford to take a reduction of $20 per patient per day. His group had been chronically underfunded since 2001. He thought that it would present problems in the provider community. His profession stepped forward and volunteered to help solve the problem in 2003, and he resented Senate Bill 54 because it was essentially a betrayal of the trust his group put in the State of Nevada. Senate Bill 54 changed the language in the provider tax in Chapter 422 of *Nevada Revised Statutes* (NRS).

Mr. Perry testified that Mr. Duarte's Exhibit K on page 19 alluded to that fact that maybe the Division had done some type of study that dealt with the access to care problem. He recalled that Mr. Duarte said back in October 2010 that he had not done any detailed analysis of the access study or comprehensive detailed analysis of access. Essentially, the agency was trying to back into a budget. Nevada had the second highest wage rate in the State of Nevada for certified nursing assistants. Our state paid about twice the federal minimum wage. Mr. Perry noticed that anytime someone came to the State of Nevada they got a lot of sticker shock when they saw the wages being paid. In the rest of the country, they receive the minimum wage only and not much in employee benefits. Those were a few things that he wanted to get in front of the Subcommittee. His profession learned how to deal with less for a long time, and they may be to the point that they may not be able to do it any longer.

Chair Horsford asked during the last two years about the effects that had been made that were viewed as temporary and wondered what had the effect to quality of care been to patients in the facilities.

Mr. Perry responded that the effect on quality of care in Nevada was nil because his profession had upheld the quality of care at a higher level. Back in 2001 and 2003 the bulk of the complaints to the Health Division came from two sources: one from residential facilities for groups and one from skilled nursing facilities. When the profession received the last increase in General Fund to the Medicaid provider rates, the number of complaints coming into the Health Division dropped significantly.

Mr. Perry said his group had done everything possible to ensure that the quality had not deteriorated. Any time you accept a patient into a long-term care facility you made an implicit contract with that individual that you can provide all the services that were necessary to provide the level of care that the patient needed. That ability was what was being threatened at this time. His group existed as a profession under a variety of federal and state regulations. Our staffing levels were prescribed.

Mr. Perry said in the present reimbursement methodology that we use, there was a certain amount of money that comes out of the provider tax fund that had to be paid for direct care services, which meant wages, salaries, and benefits of persons on the floor. If you go below the level that was prescribed, then you were subject to substantial penalties. His group did not have any facilities that had dropped below that threshold, except for a few rural facilities that had difficulty attracting the type of skilled personnel that they needed. His profession had continued to meet the challenge. That was what they were afraid they were in jeopardy of losing.

Bill Welch, President and Chief Executive Officer of the Nevada Hospital Association, testified that he looked forward to the opportunity to present his in-depth analysis of the budget. He concurred with Mr. Perry that the last rate increase that the hospitals saw for services provided to Medicaid recipients was in 2001. Hospital costs had continuously increased since that year. Currently, Medicaid reimbursed hospitals at 58 percent of the cost of service, not billed charges. He understood the difficult challenges that this Legislature faced. His concern was ensuring the access to essential services and hospital health care-delivered services.

Mr. Welch said last legislative session, there was a 5 percent reduction on hospital inpatient services, and the effect on hospitals was approximately $20 million. There was a sweep of the Indigent Supplemental Account (ISA) which was the fund to care for those individuals who were either injured or become ill with a catastrophic medical condition and had no other source of payment. That was a $20 million plus sweep annually. What was being proposed with the 5 percent inpatient cut and a 15 percent cut for emergency services would result in a $60 million annual reduction in reimbursement for services for uninsured patients in Nevada. These were services for which hospitals were already not reimbursed for their costs. This was at the same time that our uninsured population continues to grow as a result of the increases in unemployment in Nevada. Hospitals were seeing an increase in the growth of the uninsured, and that meant more accumulated costs of uncompensated care for the hospital community.

Mr. Welch commented on the effect of the reductions. Hospitals had seen reductions in services over the last 24 to 36 months. He could not say what specific services would be reduced, but he had every expectation that services would be reduced. Hospitals could not continue to sustain these types of reductions and still be able to provide the care to the uninsured population. Currently 69 percent of the patients who presented themselves to hospitals for care were under a government program or uninsured and were not paying the cost of health care services. The insured community cannot continue to absorb the cost shift. More than half of the short-term acute care hospitals were currently losing money.

Mr. Welch provided information on the rural hospitals. He commented the state's hospital cost reports had improved and were current. Most of the rural hospitals were on a cost-based reimbursement as a result of being critical access hospitals. But if the cost reports were not reconciled and closed in a timely manner, then it could be two or three years until the problems were recognized. There was a cash-flow problem for those hospitals that were under a cost-based reimbursement. Even though the hospital reports would be reconciled at some point, cash flow appeared to be a problem.

Mr. Welch said small rural hospitals like Pershing General Hospital had financial problems. Pershing General Hospital was before the Department of Taxation under a hardship status. Other rural hospitals that were close to that hardship status were Grover C. Dils and Nye Regional Medical Center. The problem was not so much the bottom line, but it was the cash flow and ability to pay for the supplies and the personnel. That is how rural hospitals would be affected by rate reductions. He acknowledged that the state had done a good job on the settlement of its cost reports, so the hospitals should have been adjusted accordingly.

Mr. Welch said reductions would be detrimental. He had seen a number of services affected. He had seen obstetric services in three hospitals in southern Nevada close. Because of the loss of DSH payments and the additional proposed reduction of rates, he knew one hospital that may opt to discontinue being a short-term acute care hospital and focus on specific specialty services, where it could recoup its investment. He looked forward to reducing the problem of transparency. The Nevada hospitals had worked closely with the Legislature and the State of Nevada on the expansion of major transparency in corporate allocations, the laws hospitals were required to meet, and the periodic reviews. He quoted the hospital profitability figures from the State of Nevada public reports, as well as all the quality indicators. He would love to see the entire continuum of the health care system have transparency similar to that of the hospitals, including the payer community.

Jeff Fontaine, Executive Director of the Nevada Association of Counties (NACO), testified that he understood and appreciated the difficult challenges ahead for the Legislature. The proposed cuts and cost shifts to counties whether or not enacted would be catastrophic and have the potential to break counties. He recalled that Mr. Willden stated he did not know how the counties could pay for these services. Mr. Fontaine submitted the counties could not pay for these services. Like the State of Nevada, county revenues were down and the demand for services was up. Counties were also struggling. Shifting the costs of services such as those provided by the Department of Health and Human Services would require counties to further reduce or eliminate services, including vital services such as public safety. He emphasized that NACO's opinion was that these services were state services.

Mr. Fontaine said the largest shift in this proposal was a $37 million shift of Medicaid costs for recipients residing in nursing homes, which was known as the county-match program. Mr. Willden had suggested that the counties might have some discretion in not picking up some of the proposed eliminated services, but Mr. Fontaine was not sure that was the case. Counties were the safety net and served those that no one else would serve.

Mr. Fontaine said over 20 years ago the counties stepped up and asked for a tax increase of $0.025 per $100 of assessed value to fund the ISA and help offset the cost of providing indigent accident care. The ISA had been swept for the past three years and was proposed to be swept again. Now not only did the counties continue to have the responsibility to pay for indigent accident care, but the funding source to help pay for some of those costs was now going to be used to offset General Fund expenditures. That left rural counties vulnerable and reduced revenue by millions of dollars to UMC, the state's largest public hospital operated by Clark County. Mr. Fontaine was still working with the counties to analyze the specific effects and total dollars, but he believed that counties would simply not be able to provide or pay for these services, or if they could, they would have to reduce other services that their constituents relied on. This was grim testimony, but NACO was very concerned about these problems.

Constance Brooks, representing Clark County, testified that they had just received the budget and were working to provide everyone with a more in-depth analysis. Clark County was crunching numbers and making certain to provide the Legislature with the most accurate information. At first glance this budget did more than give them pause, but created grave concerns particularly with regard to the continued redirection of ISA funds and the shifting of services to the counties. As the budget process continued, she looked forward to working with the Legislature, providing it with more information, and coming to some resolution that did not further affect or hinder the county's ability to provide services that it was mandated to provide.

Kevin Schiller, Director of Washoe County Social Services, testified that his department had two different divisions, the Children's Services Division and the Adult Services Division. In those divisions he dealt with indigent health care assistance, homelessness, abused and neglected children, and adolescents in need of treatment. He echoed what had already been said by others about the proposed reductions and passing down of services. He saw a significant effect and was in the process of reviewing the details. Two of the key areas that the county would focus on were the direct effect on his budget and those items that were going to affect other community resources and those he served. He looked forward to working with the Legislature, and the county remained committed to trying to partner and collaborate as best it could as it tried to face these challenges. He recognized the task at hand was difficult at best.

Chair Horsford asked whether there was any public comment and hearing none, and there being no further business before the Subcommittee, Chair Horsford adjourned the meeting at 5:00 p.m.

RESPECTFULLY SUBMITTED:

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Janice Wright
Subcommittee Secretary

DATE: ____________________________

APPROVED BY:

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Assemblywoman Debbie Smith, Chairwoman

DATE: ____________________________

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Senator Steven A. Horsford, Chair

DATE: ____________________________

EXHIBITS

Committee Name: Legislative Commission's Budget Subcommittee

Date: January 26, 2011 **Time of Meeting: 8:38 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		**Agenda**
	B		**Sign-In Sheet**
	C	Keith W. Rheault, Ph.D., Superintendent of Public Instruction, Department of Education	**The K-12 School System Budget 2012-2013**
	D	Keith W. Rheault, Ph.D., Superintendent of Public Instruction, Department of Education	**General Overview of Department Budget Accounts Fiscal Years 2012-2013**
	E	Andrea Hughs-Baird, Parent Leaders for Education	**Prepared Speech**
	F	Greta Jensen, Parent Leaders for Education	**Prepared Speech**
	G	Mike Willden, Director, Department of Health and Human Services	**Budget Support Documents**
	H	Mike Willden, Director, Department of Health and Human Services	**Reductions/Eliminations (E600 Series)**
	I	Mike Willden, Director, Department of Health and Human Services	**Director's Office Budget Overview**
	J	Mike Willden, Director, Department of Health and Human Services	**Highlights of Budgets/Programs**
	K	Charles Duarte, Administrator, Division of Health Care Financing and Policy	**Pre-Session Budget Presentation FY 2012-FY 2013**