

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

**Seventy-sixth Session
February 2, 2011**

The Joint meeting of the Senate Committee on Finance and the Assembly Committee on Ways and Means was called to order by Chair Steven A. Horsford at 8:39 a.m. on Wednesday, February 2, 2011, in Room 4100 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

SENATE COMMITTEE MEMBERS PRESENT:

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

ASSEMBLY COMMITTEE MEMBERS PRESENT:

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

COMMITTEE MEMBERS ABSENT:

Assemblyman Joseph M. Hogan (Excused)

STAFF MEMBERS PRESENT:

Jennifer Byers, Program Analyst
Catherine Crocket, Program Analyst
Michael J. Chapman, Principal Deputy Fiscal Analyst
Sarah Coffman, Program Analyst
Rick Combs, Assembly Fiscal Analyst
Scott Edwards, Program Analyst
Laura E. Freed, Senior Program Analyst
Rex Goodman, Principal Deputy Fiscal Analyst
Russell J. Guindon, Principal Deputy Fiscal Analyst
Eric King, Program Analyst
Mark Krmpotic, Senate Fiscal Analyst
Teri Sulli, Program Analyst
Wayne Thorley, Program Analyst
Cynthia Clampitt, Committee Secretary

OTHERS PRESENT:

James R. Wells, Executive Officer, Board of the Public Employees' Benefits Program
Michael L. Greedy
James G. Cox, Acting Director, Department of Corrections
Jeffrey Mohlenkamp, Deputy Director, Supportive Services, Department of Corrections
Chris Perry, Acting Director, Department of Public Safety
Bernard W. Curtis, Chief, Division of Parole and Probation, Department of Public Safety
Mark Woods, Deputy Chief, Division of Parole and Probation, Department of Public Safety
Mark Teska, Administrator, Administrative Services, Department of Public Safety
Connie S. Bisbee, Chair, State Board of Parole Commissioners, Department of Public Safety
Terry Johnson, Director, Department of Business and Industry

Brett J. Barratt, Commissioner of Insurance, Division of Insurance, Department of Business and Industry
William J. Maier, Administrative Services Officer, Director's Office, Department of Business and Industry
Todd Rich, Deputy Director, Department of Business and Industry
Charles (Chas) L. Horsey, III, Administrator, Housing Division, Department of Business and Industry
Hilary Lopez, Ph.D., Chief of Federal Programs, Nevada Housing Division, Department of Business and Industry
Lon DeWeese, Chief Financial Officer, Housing Division, Department of Business and Industry
Bruce Breslow, Director, Department of Motor Vehicles
Deb Cook, Administrator, Administrative Services Division, Department of Motor Vehicles
Troy Dillard, Deputy Director, Department of Motor Vehicles
Susan Martinovich, P.E., Director, Department of Transportation
John Madole, Associated General Contractors

CHAIR HORSFORD:

I will open the hearing for the overview of the Public Employees' Benefits Program (PEBP).

JAMES R. WELLS (Executive Officer, Board of the Public Employees' Benefits Program):

I have provided the Subcommittee with a copy of my PowerPoint presentation ([Exhibit C](#)). I am sure members of the Subcommittee have received telephone calls from constituents stating PEBP is abandoning its retirees; that we are no longer covering prescription drugs or dental care; and that we are expecting our participants to bear too much cost. I will address those complaints during this presentation.

The underlying cost of the Plan has soared over the last four or five years. Americans are 6 percent of the world population, but consume 60 percent of the world's manufactured pharmaceuticals including over 99 percent of the world's usage of Vicodin. Direct-to-consumer advertising has been a boon for the large pharmaceutical companies but has greatly increased the costs of health plans, as consumers insist on trying the latest and greatest drug. Treatments of specific diseases with new advanced medications are part of the

increase in drug costs. Too often, people who leave the doctor's office without a prescription drug feel they have not been properly treated.

All of this has resulted in prescription drugs remaining the fastest growing component of PEBP. From 2006 to 2010, the cost of prescription drugs for PEBP participants grew by 81 percent, from \$26 million to \$47 million. The population has increased by approximately 27 percent since July 2005. Actual per-participant, per-month prescription drug costs have risen 52 percent, or from \$84 a month to \$128 a month. In the first quarter of fiscal year (FY) 2009-2010, 47 percent of the self-funded members filled at least one prescription. The average was one and one-half prescriptions a month.

Approximately 84 percent of participants in the care management program have preventable, type-2 diabetes. Of that 84 percent, 71 percent have two or more co-morbid conditions in addition to diabetes. Thirty-one percent of patients receiving the Wellness Program blood tests had high fasting blood sugar levels indicating potential diabetes but did not report on the Health Risk Assessment that they potentially had diabetes. Approximately 11 percent of participants in the Wellness Program identified as being at risk for weight or body mass index gains say they are not ready to take the necessary actions to improve their health. All of this has caused PEBP's total participant per month cost for medical, dental and prescription drugs to increase by 32 percent, from \$489 in FY 2005-2006 to \$645 in FY 2009-2010 within the self-funded plan.

Page 9 of [Exhibit C](#) is a summary of the sources and uses of the PEBP budget for the 2011-2013 biennium. The PEBP is primarily a self-funded plan. The costs are driven by claims, not profits. In FY 2009-2010, the claims-loss ratio was 99.6 percent indicating PEBP has spent nearly all revenue from premiums on claims. The PEBP members incurred 300 individual claims of \$40,000 or more. The average cost of those claims was slightly over \$77,000. It takes 10 participants who experience no claims for an entire year to cover 1 of the 300 major claims. Thus, 3,000 of the 30,500 participants, or nearly 10 percent, would be required to have no claims over a 1-year period to pay for 300 major claims. The 300 patients with major claims represent single claims that are typically associated with additional claims for those participants.

The pie chart on the right side of page 9 of [Exhibit C](#), is PEBP's proposed budget expenditures for the 2011-2013 biennium. It indicates 48 percent of resources will be spent on self-funded claims and another 7 percent on

Health Savings Accounts (HSA) and Health Reimbursement Arrangements (HRA). The HSA and HRA funds are used for reimbursements of participants' out-of-pocket costs. That means 55 percent of the PEBP budget will be spent on participants' claims. Fully insured products including, Health Maintenance Organizations (HMO) plans, life insurance and long-term disability plans, are 25 percent of the costs. The reserves include a reserve for Incurred But Not Reported (IBNR) expenses. The reserve for catastrophic expenses to maintain long-term solvency are 17 percent of the expenditures. Self-funded plan administration, including fees for the third-party administration, the preferred-provider network and the pharmacy benefit manager is 2 percent of the PEBP expenditures, while only 1 percent is used for the administration of the PEBP.

The pie chart on the left of page 9 of [Exhibit C](#) indicates the resources for the 2011-2013 biennium. Under this budget, PEBP will receive 51 percent of its resources from the State for employee and retiree subsidies. Contributions from participants and local government employers will provide 27 percent of the PEBP resources. The carryforward from one year to the next is used to fund our reserves at 20 percent. The last 2 percent is derived from interest income, prescription drug rebates and miscellaneous sources. The revenues and expenses on page 9 are based on projections of the ending balance for FY 2010-2011. Projections indicate we will end the fiscal year between \$35 million and \$40 million in reserves in excess of that required to fully fund both the IBNR and the catastrophic reserves. Of that, \$35 million already built into the 2011-2013 budget will be used to fund benefits for the next biennium. Any additional funds received above the \$35 million will be used to establish contribution rates for FY 2012-2013. Certain assumptions are made in this budget. Plan design changes were approved by the PEBP Board in the fall of 2010.

Page 15 of [Exhibit C](#) shows the projected enrollment used as a guide to create the 2011-2013 budget requests. Enrollment is projected to be flat over the coming biennium at approximately 43,500 participants. Total enrollment has increased by 26.6 percent since July 2005, peaking at just over 44,200 in April 2009. The State employee enrollment peaked at 26,530 in June 2008, and decreased to 25,570 in July 2010. The active employee portion is projected as relatively flat with 25,500 in FY 2011-2012 and 25,600 in FY 2012-2013. Meanwhile, PEBP staffing levels have been flat at 32 full-time equivalents (FTE)s

over that entire period. Despite the 26 percent increase in enrollment, there has been no increase in administrative staff.

Page 16 of [Exhibit C](#) reflects the inflation estimates that were used to prepare this budget. The FY 2011-2012 and FY 2012-2013 columns show the growth associated with inflation and utilization increases. There is an 8.5 percent increase in FY 2011-2012 and a 9 percent increase in FY 2012-2013. Prescription drug inflation is at 10 percent for FY 2011-2012 and 10.5 percent for FY 2012-2013. Dental claims have a projected inflation increase of 4.5 percent for each year of the biennium. The HMO premiums are projected to experience a 10 percent increase over the biennium.

The columns on page 16 labeled "FY 2012 w/FHCR and FY 2013 w/FHCR" reflect the 1 percent to 2.5 percent increases associated with Federal Health Care Reform (FHCR). The increase consists of certain changes in the FHCR that will impact PEBP. They include coverage for children up to age 26, removal of the \$2 million lifetime cap, removal of the \$2,500 wellness cap, combined with what is considered wellness and covered at 100 percent, which is not subject to a deductible. There are also shifts in Medicare reductions that are expected to be shifted to group plans. Projections indicate increases in coverage of prescription costs to fill the "donut hole discounts" that manufacturers of prescription drugs are providing to those who use them. The proposed budget includes fully funded reserves for the IBNR and catastrophic reserve at a 95 percent certainty that they will be sufficient to maintain long-term solvency of the plan.

ASSEMBLYMAN CONKLIN:

On page 15, exactly which employees are included in the actives, early retirees and Medicare retirees? Are some of them university staff or school district employees?

MR. WELLS:

The active employees consist of all State employees, all employees at the University and Community College System, Public Employees' Retirement System, Legislative Counsel Bureau (LCB) and all boards and commissions. The non-State active employee population includes 13 local governments of which the largest is the City of Elko, several general improvement districts and a few charter school employees.

ASSEMBLYMAN CONKLIN:

It seems odd that we have 459 non-State active employees, 5,531 non-State early retirees and 3,832 non-State Medicare retirees.

MR. WELLS:

Assembly Bill (A.B.) No. 286 of the 72nd Session authorized local government retirees to join PEBP and receive a subsidy for participation in the PEBP Plan. Prior to that, no non-State retiree was eligible for a subsidy when joining PEBP. In 2003, there were approximately 2,000 non-State active employees and approximately 2,000 non-State retirees. After the approval of A.B. No. 286 of the 72nd Session, many non-State retirees joined the PEBP Plan because they were eligible for the subsidy, whereas they might not have received a subsidy from the local government plan they were leaving. The enrollment began increasing dramatically. As the retiree population increased, it became more expensive for the non-State active employees to remain on the PEBP Plan and they began to leave our Plan in large numbers. As the Plan became more weighted toward retirees, it was more expensive for active employees and the active employee groups found less expensive plans on their own. Senate Bill (S.B.) No. 544 of the 74th Session capped who could enroll in the PEBP Plan. As of November 30, 2008, non-State retirees could not join PEBP unless their employer's active employees were participating in PEBP. Between the end of the 2007 Legislative Session and November 2008, approximately 4,000 non-State retirees joined PEBP.

ASSEMBLYMAN CONKLIN:

Is that the time between when the Legislation was passed and its effective date?

MR. WELLS:

That is correct.

As shown on page 18 of [Exhibit C](#), the Department of Administration (DOA) provided PEBP with targets for available State funding for the 2011-2013 biennium. We were asked to maintain FY 2010-2011 levels. The active employees' group insurance subsidy would remain flat at \$680.84 per month. The retired employees' group insurance was to be left flat at \$37.7 million each year. Based on projected enrollment and the \$680.84 assessment for active employees, we determined the active employee assessment would be nearly \$418 million. The retired employee group insurance

would be \$75.5 million. The total revenue available to PEBP for the biennium was \$493.5 million. The DOA allowed PEBP to allocate those revenues from fiscal year to fiscal year or from active to retiree as PEBP deemed necessary resulting from the Plan design changes. Maintaining the current Plan design and the State subsidization percentages would have required approximately \$579 million in State funds based on the enrollment and inflation assumptions. Therefore, the current Plan would have a shortfall of \$85.2 million. Keeping the same Plan in the next biennium would have required increasing the participant contribution amounts by an average of \$205 per month for each State active and retired employee. The premium for an individual in the Preferred Provider Option (PPO) would have increased from \$45 monthly to \$250 per month.

ASSEMBLYWOMAN CARLTON:

That part of the Subsidization Plan is confusing to me. When I was involved in health contract negotiations earlier in my career, we subsidized each employee at the same rate. The PEBP Plan subsidizes employees at different rates. Employees with the PPO plan have one rate, while an individual with the northern HMO Plan has another rate and the southern HMO Plan at yet another rate. Is that still how the subsidization is split?

MR. WELLS:

There is a differentiation between the percentages of subsidy. One of the decision units in the proposed budget would make a slight alteration to that structure.

ASSEMBLYWOMAN CARLTON:

Your opening comments involved the use of prescription drugs. Which subsidized group has the higher prescription drug utilization rate?

MR. WELLS:

Prescription drug usage is typically seen in the higher age brackets.

ASSEMBLYWOMAN CARLTON:

Is it weighted more PPO than HMO?

MR. WELLS:

The PEBP does not cover prescription drugs for the HMOs.

Page 19 of [Exhibit C](#) is a summary of the Plan design changes presented and approved by the PEBP Board in fall 2010. The continued inflationary increases experienced by PEBP significantly exceed the Consumer Price Index and made it clear a long-term strategy was needed to keep PEBP solvent and sustainable. Addressing the funding shortfall required the Board to make difficult decisions resulting in a change in the Plan behaviors of our participants. Without changing the participants' behaviors and making them better consumers of health care, we would continue to increase costs to the Plan, the participants and the taxpayers. In the previous biennium, the Board addressed its budget reduction target evenly between cost shifting and Plan design reductions. The proposal for the 2011-2013 biennium first concentrates on Plan design changes that will positively impact our utilization. Secondly, it will make up any differences to participant premiums. The changes adopted by the Board promote personal responsibility and accountability while continuing to protect our participants against costs resulting from a catastrophic incident.

The Board opted for a significant shift from a cafeteria style of benefits. Instead of providing a "one premium fits all approach," the Board chose to replace the existing PPO Plan with a consumer-driven, high deductible health plan and added HSAs and HRAs. They made changes to various components of the Plan and eliminated coverage for spouses and domestic partners who are eligible for other employer-based coverage. Dental benefits were reduced by increasing the deductible, decreasing the coinsurance and decreasing the maximum benefit. The Board made reductions to fully insured benefits such as life insurance and long-term disability. Finally, the Board made a decision to transition the Medicare retirees to an individual market Medicare exchange.

SENATOR CEGAVSKE:

Is there a provision in the past or current plans for the participant to receive any carryover or a banked subsidy amount if they do not use the health plan for one year?

MR. WELLS:

The current Plan design has no carryforward provision. If the participant incurs no expenses to the Plan, there is no benefit in future years. Under the Plan design that has been adopted, there will be a benefit. The contributions made to the HSA and HRA will carry forward from one year to the next.

SENATOR CEGAVSKE:

If an employee retires and has not utilized the system, what happens to their HSA funds?

MR. WELLS:

Under the new plan, the amount placed in the HSA as an active employee will be continued when the employee retires and can be used to pay for their out-of-pocket costs.

Page 21 of [Exhibit C](#) explains the replacement of the PPO Plan with a High Deductible Health Plan. That meant increasing the deductible from \$800 for an individual to \$1,900 and from \$1,600 per family to \$3,800. The family plan has an individual family member deductible of \$2,400. Once one member of the family meets the \$2,400 deductible, coinsurance coverage will begin.

The out-of-pocket maximums were increased from \$3,700 per individual to \$3,900 and from \$7,400 to \$7,800 for families. It was changed to a true out-of-pocket maximum. Under the current Plan, the out-of-pocket maximum is a coinsurance out-of-pocket maximum and is in addition to the deductibles and co-pays. Under the new Plan the out-of-pocket maximum is the total exposure an employee or retiree will have. Co-payments have been eliminated and coinsurance changed from 80 percent to 75 percent. That is the amount the Plan pays after the deductible has been reached. It still maintains first-dollar preventive and wellness care that is not subject to deductible and covered at 100 percent.

The subsidy savings for this component alone is \$41.1 million over the biennium.

ASSEMBLYMAN ATKINSON:

Does the deductible increase from \$800 to \$1,600 for retirees or everyone under the Plan?

MR. WELLS:

This program is for all active and retired employees who select the PPO option.

ASSEMBLYMAN ATKINSON:

Will each participant pay a deductible of \$1,600 before coinsurance benefits begin?

MR. WELLS:

The new deductible of \$1,900 for an individual must be paid before the Plan begins to pay coinsurance. The coinsurance rate will be 75 percent of the incurred charges until the out-of-pocket maximum is reached.

ASSEMBLYMAN ATKINSON:

Is the out-of-pocket maximum paid up front or over time?

MR. WELLS:

The out-of-pocket maximum is the total of the 25 percent coinsurance paid by the employee or retiree. Once 25 percent is paid by the individual, the Plan will pay 100-percent of eligible claims.

ASSEMBLYMAN ATKINSON:

It seems like a large increase, doubling what employees will be paying.

MR. WELLS:

Page 22 of [Exhibit C](#) explains the tools established for active employees to decrease their out-of-pocket costs. The Board voted to add HSAs and HRAs and to provide contributions in the amount of \$700 for the primary participant and \$200 per dependent to a maximum of three dependents or a maximum of \$1,300 each year. That amount can be applied toward the participant's deductible. Therefore, the \$1,900 deductible becomes a \$1,200 deductible. The HSA or HRA provides first-dollar coverage for their out-of-pocket costs. The subsidy costs are projected to be \$29.7 million. The net savings of the High Deductible Health Plan, when combined with the HSA and HRA, is \$11.4 million.

ASSEMBLYWOMAN SMITH:

Does the retail price paid by participants mean there is any rate reduction as a participant in the Plan or is the participant on their own to negotiate a retail price with their provider?

MR. WELLS:

The Plan will still have a PPO network. The claims will still receive the discounts that have been negotiated for the participants.

Page 23 of [Exhibit C](#) explains HSAs. Health Savings Accounts and HRAs are the lynchpin behind the Board's decision to alter the Plan providing a tool to assist

employees with their out-of-pocket medical expenses. An HSA is only allowed with a high deductible health plan. The Internal Revenue Service (IRS) defines a high deductible health plan as a plan without co-payments and a minimum high deductible of \$1,200 for an employee only or \$2,400 for an employee and one or more family members. That person cannot be covered by a nonhigh deductible plan even if that plan is secondary. If the participant is an active employee, who is Medicare eligible and participating in Medicare, they cannot be eligible for an HSA because they participate in a non-high deductible plan. The HSAs allow pretax employee contributions. Any earnings of the funds in an HSA are interest free and distributions are also tax free as long as they are used for qualified medical expenses. The IRS sets annual contribution limits to the HSA. For calendar year 2011, that amount is \$3,050 for an individual and \$6,150 for a family. An HSA allows an employee to buy up to a lower deductible health plan. If the individual wants a zero deductible health plan, they can contribute \$100 pretax into the HSA and their entire deductible will be covered. For an employee in the 15-percent tax bracket, the cost for \$100 would be \$85. These accounts can be carried into perpetuity. Unlike the classical spending accounts, these do not expire at the end of the plan year and they are affordable. If the individual leaves service or retires, HSA funds belong to the individual. There are certain IRS reporting requirements associated with these accounts.

Page 24 of [Exhibit C](#) describes HRAs. They work similar to the HSA accounts with the exception they are employer funded. They are directed to the retiree population or for those individuals who have non-high deductible secondary coverage. There is no pretax implication for the HRAs. The accounts are owned by the employer, in this case PEBP. If the individual leaves service or retires, any funds remaining in the HRA revert to PEBP. Unfortunately, participants cannot contribute to an HRA. There is a carryover provision for HRAs also. Eventually the PEBP Board will set carryover limitations based on the State's liability for the HRAs. The funds can only be used for medical costs.

Page 25 of [Exhibit C](#) lists the other medical plan changes. The Plan will eliminate laboratory tests performed by hospitals except for pre-admission, urgent care, emergency room or in-patient admission. It will reduce temporomandibular joint coverage from 80 percent to 50 percent. A 90-day supply of certain retail drugs will be allowed. The pharmacy benefit manager obtained excellent discounts on certain maintenance drugs through participating pharmacies. The current provisions only allow a 30-day supply at

retail. The new Plan will eliminate vision coverage for hardware but will maintain coverage for the exams. It removes the "or as needed" provision from wellness and preventive guidelines limiting those benefits to diseases or illnesses that are identified by the Centers for Disease Control. The subsidy savings benefit for this portion of the Plan is \$4.4 million over the biennium.

Page 26 of [Exhibit C](#) continues the Plan changes. It will eliminate coverage for spouses or domestic partners who have access to other employer-based coverage. These will be verified through independent audits. If an ineligible spouse is found to be on the Plan, their coverage will be terminated and any charges incurred on their behalf will be billed to the participant as an overpayment. The subsidy savings is estimated to be \$9 million for the biennium.

ASSEMBLYWOMAN CARLTON:

The Plan changes can become quite complicated for participants. When you testified using the terms "eligible" or "have access" it is difficult to know what the Plan really requires. A small employer may offer some form of health plan but the cost may be so prohibitive that the payroll deduction would encompass an employee's entire paycheck. Will there be guidelines regarding how those provisions will be applied? Nevada has one of the highest rates of uninsured children in the Nation.

MR. WELLS:

These provisions do not apply to children. The FHCR requires that children be covered until they reach age 26. This requirement addresses insurance coverage exclusions for spouses or domestic partners who have access to insurance through their own employers.

ASSEMBLYWOMAN CARLTON:

In other words, the entire family will not be excluded from the Plan because of the spouse or domestic partner?

MR. WELLS:

That is correct.

ASSEMBLYWOMAN CARLTON:

You are excluding only one member of the family. Please define what access or eligibility will be applied.

MR. WELLS:

If an employer of a spouse or domestic partner offers health care coverage, regardless of what type of plan it is, it will be considered access to other employer-based coverage. If the spouse is a Medicare retiree whose secondary health care coverage is not employer-based, they would not be excluded.

ASSEMBLYWOMAN CARLTON:

That will cause more adults to be uninsured. I am currently working for a small nonprofit employer and the cost of my health care through them would be six times what I am currently paying. That would mean my employer could provide less service to their recipients. I would hope some type of reasonable appeal process will be developed for this provision rather than penalizing the spouse.

MR. WELLS:

Page 27 of [Exhibit C](#) explains changes to the dental plan. There is an error in the first bullet point. The deductible is being increased from \$50 for an individual or \$150 for a family to \$100 and \$300 respectively. The maximum benefit will be decreased from \$1,500 to \$1,000 per person. The current preventive care of four routine cleanings each year, annual x-rays and fluoride treatments will be maintained. The existing dental network and preferred provider discounts will be continued. The original Board decision eliminated all preventive care options. That resulted in a subsidy savings of approximately \$16.8 million and premium reductions of an additional \$8 million. This add back to the Plan, approved in December 2010, will utilize the State subsidy savings with a slight increase in the subsidy to the participants.

Page 28 of [Exhibit C](#) describes the long-term disability provisions. The Board voted to reduce the benefit from 60 percent of base pay to 40 percent of base pay and allow participants to choose to buy back to 60 percent at group rates. The savings estimate for this budget component is \$1.4 million over the biennium.

Page 29 of [Exhibit C](#) reduces the life insurance payouts by 50 percent. The life insurance for active employees will be reduced from \$20,000 to \$10,000 and from \$10,000 to \$5,000 for retirees. It eliminates the dependent life insurance and the accidental death and dismemberment provisions. The Board did not make any changes for voluntary life plans. If life insurance were purchased in addition to the State-provided minimum, there is no impact to the voluntary life

insurance provisions. The subsidy savings for this component is estimated at \$6.1 million for the biennium. Additional life, short-term disability and long-term care options can be provided for long-term disability insurance, all through voluntary offerings.

Page 30 of [Exhibit C](#) begins the explanation of Medicare retiree plan changes. The Board voted to transition its retirees who are eligible for Medicare Part A to an individual Medicare market exchange. This would eliminate the subsidy toward their premiums and replace it with an HRA in the form of \$10 each month, per year of service. This provision would follow the current *Nevada Revised Statutes* (NRS) which begin subsidies at 5 years of service to a maximum of 20 years of service. The base amount for a 15-year retiree would be \$150 and would also apply to pre-1994 retirees. The HRA contributions can be used to pay premium costs the participant selects through the exchange and can be used for either retirees or their spouses. The subsidy savings for this component is estimated at \$22.2 million over the biennium.

ASSEMBLYMAN AIZLEY:

When comparing Medicare retirees with non-Medicare retirees, is the subsidy for each group equal? At the end of the first year, when all provisions are in place, will PEBP be subsidizing the non-Medicare retiree at a higher rate than that for the Medicare retiree? If so, what is the justification since the individuals have worked the same amount of time?

MR. WELLS:

The current subsidy is already computed differently. The premium PEBP must pay for Medicare retirees is less because Medicare becomes the primary insurer when the individual reaches the required age standards. The amount the Plan pays is different for non-Medicare retirees. Because we pay a percentage of the premiums as their subsidy, the Plan averages the subsidies for the Medicare retirees and the non-Medicare retirees and combines them to establish the amount of funding from the Legislative Session bill each biennium.

ASSEMBLYMAN AIZLEY:

Under the new Plan, will the maximum monthly amount for a Medicare retiree be \$200? What will the Plan costs be for a non-Medicare retiree?

MR. WELLS:

Under provisions of the current Plan, PEBP subsidizes a non-Medicare retiree on a per-participant, per-month basis at a rate significantly higher than what it is for a Medicare retiree. The Plan changes simply separate the HRA/HSA benefit based on whether they are a Medicare or non-Medicare retiree.

ASSEMBLYMAN AIZLEY:

Will we still have individuals who have provided an equal time of service for the State being treated unequally?

MR. WELLS:

Once a participant becomes a Medicare retiree, Medicare coverage becomes their primary insurance so their costs to the Plan are less.

ASSEMBLYMAN AIZLEY:

I am not concerned about the participant costs; I am concerned about the Plan costs. A Medicare retiree does not cost PEBP as much as a non-Medicare retiree, yet they receive a smaller subsidy.

MR. WELLS:

We will provide information regarding Assemblyman Aizley's question. However, there is and always will be a differentiation between the amounts paid by the client for a Medicare retiree versus a non-Medicare retiree. Part of the cause is that Medicare becomes the primary insurer once a client reaches age 65 and enrolls in Medicare.

Page 31 of [Exhibit C](#) explains moving retirees to the exchange is a method to preserve health care benefits for retirees while reducing costs for the Plan and the taxpayers. The exchange offers Medicare advantage plans, Medigap or medical supplement plans and Medicare Part D, also known as prescription drug plans, provided by recognizable insurance companies. There will be guaranteed issuance and pricing regardless of health status as the eligible participants are transitioned. Multiple plans will be available in every zip code in which there are PEBP Medicare retirees. The savings to the participant result from being a member of a much larger risk pool resulting in competitive rates. There are over 40 million Medicare retirees in the various plans of the individual insurance market compared to slightly less than 10 thousand Medicare retiree participants in PEBP. It will allow similar benefits at lower cost for PEBP and the retiree.

Page 32 of [Exhibit C](#) continues the explanation of the exchange. The exchange allows for the participant and a spouse to enroll in different insurance plans based on their individual health needs. A healthy individual might select a plan that has a low premium and a higher out-of-pocket responsibility while the other individual with chronic conditions might select a plan that has a higher premium and lower out-of-pocket costs. Coverage can be tailored based on their lifestyle, health status, drug utilization, provider treatments needed and their geographic location. The vendor used to implement the exchange provides licensed advisors to guide retirees through this process and provide advocacy between the retiree and their insurance company. Drug, dental and vision coverage can be added to these plans.

ASSEMBLYWOMAN CARLTON:

Is there an administrative cost to the State or the retiree for the Medicare exchange services?

MR. WELLS:

The only administrative fee is for HRA to the participant or the Plan. The Plan is absorbing the \$3.50 per month HRA administration fee. The remaining revenues for the vendor are based on commissions from the insurance companies. The benefit advisors do not receive commissions. Commissions are directed to the exchange service which receives reimbursement as established by the Center for Medicare and Medicaid Services.

Medicare retirees not eligible for Part A or those who have non-Medicare eligible dependents will have a few different options. Those who are not eligible for Part A because they did not pay into Medicare or are not eligible through their spouse will remain on one of the PEBP PPO or HMO plans. All Medicare retirees are eligible to participate in the PEBP dental plan and basic life insurance.

Page 34 of [Exhibit C](#) reflects the impact of various decision units to the reserves. The IBNR reserve maintenance decision unit decreases from \$43.3 million to \$33.3 million in FY 2011-2012, ending the biennium at \$37.4 million. The decrease reflects the Plan design changes. The catastrophic reserve maintenance decision unit decreases from \$40.5 million in FY 2011-2012 to \$35 million but increases by the end of the biennium to \$39.2 million. The decrease in the catastrophic reserve was not as large because that plan has a greater volatility. Results of the added reserve represent the unspent allocations owed to those participants who have an HRA.

Page 35 of [Exhibit C](#) represents the total per-participant per-month cost for each of the active employees, the non-Medicare retirees and the Medicare retirees. The light blue or light green bars represent costs prior to the reductions; whereas the solid color columns represent the reductions after the Plan design changes. For the Medicare retirees, there are no per-member per-month participant costs for the Plan because their costs are incurred through the exchange. The limited cost to the Plan is for the monthly HRA contributions it provides.

Page 37 of [Exhibit C](#) shows the subsidization changes approved by the Board. They standardized the differentiation between plans and the primary insured and their dependents. A blended statewide HMO rate was established. The current rate paid by a southern Nevada HMO participant and the current rate paid in northern Nevada will be combined and averaged. There will be no differentiation for cost of the HMO plan regardless of where the participant lives. The plan designs will be different based on the carrier; however, the premium paid by the participant will be the same. The subsidy savings for decision unit E-661 are projected to be \$30.7 million over the biennium.

SPECIAL PURPOSE AGENCIES

PUBLIC EMPLOYEES BENEFITS PROGRAM

PEBP – Public Employees Benefits Program – Budget Page PEBP-1 (Volume III)
Budget Account 625-1338

E-661 Program Reductions/Reductions to Services – Page PEBP-7

ASSEMBLYWOMAN CARLTON:

Does every State employee have access to an HMO plan?

MR. WELLS:

The HMO plans are available to all participants. There is an HMO available in all 17 counties of the State. However, access to providers becomes problematic in some of the rural areas.

Page 38 of [Exhibit C](#) reduces the subsidy for part-time employees within decision unit E-673. If an employee works between 0.5 percent and 0.74 percent FTE, the subsidy amount will be 60 percent. This change is

scheduled to take effect July 1, 2012, and estimated subsidy savings are \$1.6 million for FY 2012-2013. Currently, a person who works 51 percent FTE or more is entitled to a full subsidy. A person working 50 percent FTE or less is not entitled to a subsidy.

E-673 Reduce PEBP Subsidy for Part-Time Employees – Page PEBP-8

Page 39 of [Exhibit C](#) shows the base subsidy levels for the biennium. The light blue portion is the amount before the deductions and the dark blue portion is after the deductions for active employees. The current \$680.84 subsidized by PEBP will decrease to \$644.47 in FY 2011-2012 and increase to \$735.97 in FY 2012-2013. The subsidy for non-Medicare retirees and Medicare retirees is currently the same. Those are combined and an average is established. When these are separated, the non-Medicare retirees' subsidy will increase to \$418.42 and the Medicare retirees' rate will decrease to \$150 monthly for the HRA contribution.

ASSEMBLYWOMAN SMITH:

What do the figures \$756.05 and \$848.49 represent at the top of the shaded blue columns?

MR. WELLS:

The shaded blue bar is the amount the subsidy would have been before any plan design changes.

ASSEMBLYWOMAN SMITH:

Please explain why the subsidies are reduced from FY 2010-2011 in the *Executive Budget* then increase in FY 2012-2013.

MR. WELLS:

There are two reasons. The Plan design changes are effective the first year of the biennium and the rates begin growing due to inflation in the second year of the biennium. The bigger component is for FY 2011-2012. The Plan is scheduled to receive funds from the early retiree reimbursement program, a part of FHCR, offsetting some of the costs for FY 2011-2012.

Page 41 of [Exhibit C](#) reflects how the PEBP subsidy rates are established. It shows the current percentages paid for primary participants in the PPO Plan and in the HMO Plans. Currently, the Plan pays 93 percent of the premium for the

participant only in the PPO plan and 85 percent for the primary participant only in the HMO plans. Active dependents are currently subsidized at 73 percent of the PPO premium and 67 percent for the HMO premium.

That is scheduled to change due to the standardization of subsidies as established by the PEBP Board. The State will pay 91 percent of the primary participant's premium for the PPO plan. The rate will be 76 percent for the primary participant in an HMO plan. The rate will be 71 percent for dependents on the PPO plan and 56 percent for dependents in an HMO plan. The subsidy for the primary retiree is scheduled to be approximately 61 percent on the PPO plan and 46 percent for the primary participant on the HMO plan. The rate for dependents on the PPO plan will be 41 percent and 26 percent for HMO dependents.

We often hear PEBP premiums are high compared to those of private sector companies. Part of the reason is the statutory requirement that PEBP commingle the experience of its early retirees with its active employees. That has the impact of increasing the active employee rates and decreasing the non-Medicare retiree rates. The commingling creates an implicit subsidy for the purposes of the other post-employment benefits (OPEB) liability.

Page 51 of [Exhibit C](#) discusses the \$4 billion OPEB, Governmental Accounting Standards Board (GASB) liability. The OPEB is a liability to the State providing subsidized health insurance to retirees. It is comprised of a cash subsidy as approved by the Legislature as well as any implicit subsidy created by the commingling of its early retirees and active employees. It is earned by the participant during their working career and considered deferred compensation. It is required to be recognized in the financial statements of the State by the GASB. The OPEB liability is actuarially calculated based on the number of employees and retirees eligible for health insurance benefits, the amount of the benefit already earned, the life expectancy of the employee or retiree, the estimates of how long the employee or retiree will receive the benefit in the future, the investment earnings, if applicable, of funds that are set aside for the long-term liability and the estimated medical trend associated with future medical costs.

Page 52 of [Exhibit C](#) reflects the latest OPEB evaluation as of July 1, 2009. The present value of benefits is the total amount expected to be paid in the future including amounts continuing to be earned by employees who have not yet

retired. The \$3.3 billion figure has decreased from \$4 billion in July 2007. That reduction is a result of the changes made in the 2009 Legislature.

The actuarially accrued liability which is a snapshot of the liability as of July 1, 2009, is \$1.9 billion. That amount has decreased from \$2.2 billion in July 2007. The required annual contribution is \$222 million which has decreased by \$65 million from two years ago. On the side of benefits or expectations from the Plan, design changes are the significant further reductions to the liabilities.

Page 49 of [Exhibit C](#) lists the six performance indicators for PEBP. The expense ratio is the amount of premiums paid for operating expenses. It is quite low compared to what might be experienced in the private sector market. The FHCR requires at least 85 percent for small plans and 80 percent for large plans to be paid for premiums. The PEBP is paying more than 95 percent.

The claims loss ratio of 106.7 percent in FY 2011-2012 and 105.3 percent in FY 2012-2013 will allow PEBP to spend down the \$35 million excess reserve over the biennium.

The PEBP is proud of the generic drug utilization performance measure which shows 71.6 percent of the drugs purchased are generic. That is only 1 percent or 2 percent away from the maximum percentage possible.

ASSEMBLYMAN AIZLEY:

I appreciate the difficulty of organizing this presentation; however, I am driven by a sense of fairness for treatment of good people. I suspect a great inequity is occurring. If non-Medicare retirees purchase secondary insurance for themselves, would PEBP reduce the coverage for that person?

MR. WELLS:

If an early retiree purchases a secondary insurance policy, their coverage would not be reduced. The complete answer is complicated. If that retiree is an active employee outside State service and has insurance through an active employer, the active employer's insurance becomes the primary policy. The PEBP would be the secondary insurance company and thus incur less expense. If the retiree purchases a secondary retirement policy directly, PEBP would be the primary insurer and would receive no savings associated with that person.

ASSEMBLYMAN AIZLEY:

Is the Medicare retiree completely different from any other category?

MR. WELLS:

That is correct because Medicare becomes the primary insurer unless the participant is an active employee. If the participant is a 65-year old active employee who is currently employed in State government and has enrolled in Medicare, PEBP is the primary insurer because of the individual's active employment status. Once that individual retires and is enrolled in, and eligible for Medicare, Medicare is the primary insurer. It changes the dynamics of the retirees' policies.

ASSEMBLYMAN AIZLEY:

That situation saves PEBP considerable expenses. Why is there not a lower premium for Medicare retirees even though they are saving the Plan money?

MR. WELLS:

That is why the Medicare retirees have a lower premium. The premium is based on experience. Medicare retirees are not commingled with non-Medicare retirees and active employees. While NRS requires PEBP to commingle non-Medicare retiree experience with that of active employees, Medicare retirees are rated separately. They are rated only on the claims cost PEBP incurs on their behalf and thus they have a significantly lower premium. The subsidy is based on percentages of premiums. Because the premium is lower, the subsidy is lower.

ASSEMBLYMAN AIZLEY:

Is it required for the subsidy to be based on the premium or is the premium based on the subsidy? The retiree constituents are unhappy. I am also a Medicare retiree.

MR. WELLS:

I am willing to meet with you and explain the process further.

ASSEMBLYWOMAN SMITH:

If the Medicare retirees were given the same subsidy, the subsidy for the other retirees would need to be reduced because there is a specific amount of funding available. Therefore, the participants who paid more would receive less of a subsidy. Is that correct?

MR. WELLS:

There are two choices influenced by the amount of funding available. The Medicare retiree subsidy could be reduced and the non-Medicare retiree would pay a significantly higher premium; or there would be Medicare retirees who would pay no premium and their PEBP coverage would be free.

ASSEMBLYMAN KIRNER:

I was previously the Chair of PEBP and am familiar with these issues. The one item that has not been mentioned is the number of employee and retired employee seminars held to explain the changes. What has been the response among Medicare retirees and other employees?

MR. WELLS:

Approximately 7,500 of the participants have attended at least one of several seminars that have been offered. In general, especially on the Medicare side, most are indicating the changes are not as bad as they thought. Many are even saying the move to the insurance exchange could be a good thing. Approximately 15 percent of the Medicare retirees live out-of-state. That 15 percent, through the exchange, will have access to carrier-specific, geographic-specific plans that are significantly better than anything that can be offered by PEBP today.

We have analyzed the participants' out-of-pocket costs under the existing PEBP plans and what the costs would be under various plans within the exchange. Nearly everyone is in a better position by working through the exchange. They will pay smaller premiums and lower out-of-pocket expenses and the State will pay less for their coverage.

MICHAEL L. GREEDY:

I am a State retiree who is over 65 and enrolled in Medicare. I perceive certain information appears to have been taken out of context. After reviewing the newspaper accounts of the Governor's recommendations, it appears those recommendations may create a situation in which the State may be unable to attract new employees. The Governor's proposals reduce salaries and wages for State employees and health benefits are being decreased. This sends the message that Nevada provides very little medical care for its retirees.

I am worried that if we are not careful, Nevada will no longer be competitive with other states' employees.

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ASSEMBLYWOMAN SMITH:

The American Federation of State, County and Municipal Employees, AFL-CIO submitted a letter ([Exhibit D](#)) in opposition to the PEBP Plan design changes.

CHAIR HORSFORD:

We will close the hearing on the PEBP overview and open the hearing on the overview of the Nevada Department of Corrections (NDOC) budget.

JAMES G. COX (Acting Director, Department of Corrections):

Our budget overview will be presented in two portions. I have provided the Subcommittee with a copy of our PowerPoint presentation ([Exhibit E](#)).

The mission of NDOC is that of public safety, not only of staff but inmates under our supervision.

Page 3 of [Exhibit E](#) is a Nevada map showing the location of all NDOC facilities. These include the camps, major facilities, restitution centers and the transitional housing center in Las Vegas.

Page 4 of [Exhibit E](#) lists the institutions and camps including their custody levels. The facilities closed in June 2008 were the Southern Nevada Correctional Center (SNCC) in Jean and the Silver Springs Conservation Camp. Also listed are the restitution centers. These are the Casa Grande Transitional Housing Center (CGTHC) in Las Vegas and the Northern Nevada Restitution Center (NNRC) located in Reno.

The NDOC is similar to a small city requiring many of the same functions. There is a core process and a disciplinary process. Our police are the correctional officers and provisions such as clothing, medical, and mental health needs for the inmates are required. Other functions that might be included in a small city include facility maintenance, employment, educational programs, substance abuse programs, reentry programs and a broad array of access to legal and religious material and services which are required by the *Constitution of the United States*. The NDOC also provides financial management, recreational activities and inmate transportation. The staff employed by NDOC are some of the best in the Nation.

Page 6 of [Exhibit E](#) lists some of the major business activities and the approaches used to provide them. These services are provided to the public, the State and the inmate population.

Approximately 320 inmates are processed monthly through the intake programs in southern Nevada at the High Desert State Prison (HDSP). In northern Nevada, approximately 80 inmates are processed for a total of 400 inmates each month.

Various programs and educational activities are conducted through the school systems, including the General Educational Development diploma and high school programs. Work programs include the Division of Forestry, the Division of Buildings and Grounds and Prison Industries. There has been a decrease in inmate employment due to the economy. There have fortunately been fewer wildland fires reducing the need for inmate employment. The forestry camps do a good job for the State and for local and rural communities.

Nevada is using a reentry and release model that will be beneficial to the State and help reduce long-term costs. Much has been discussed on a nationwide basis over the issue of Nevada's reentry and release programs. We are working with the University of Nevada, Las Vegas (UNLV) in gathering data regarding reentry programs. There are currently two reentry programs at CGTHC in Las Vegas. These are the OPEN (Opportunity for Probation with Enforcement in Nevada) diversion program and the P.R.I.D.E. (Purpose, Respect, Integrity, Determination and Excellence) program. These are relatively new programs which provide sanctions designed to keep inmates from returning to jail or prison. Nevada is on the cutting edge of providing those services from one location to keep the offenders out of prison and in communities, working or with their families.

Page 7 of [Exhibit E](#) shows the projected inmate population. The numbers have been fairly stable. The NDOC currently has approximately 602 fewer inmates than the JFA Associates' population projection. The minimum-custody camps, including CGTHC and NNRC, house 1,726 inmates and the in-house population is 12,407. Total beds available are 17,900. Some departments use the term "swing beds" to describe vacant beds. These are beds used to operate securely and effectively according to the type of inmate population housed. Some inmates are housed in single-cell units consisting of two beds. These are cells reserved for inmates who cannot be housed with other inmates. Our intake and classification procedures for the inmate population, in conjunction with the

Offender Management Division and the caseworkers, help to reduce violent incidents.

The 2011 male population projection is 12,046; however, we currently house 11,482 males. The current female population is approximately 925 inmates including the camp in Jean and the Florence McClure Women's Correctional Center in North Las Vegas.

CHAIR HORSFORD:
What caused the 2.2 percent increase in 2011?

JEFFREY MOHLENKAMP (Deputy Director, Supportive Services, Department of Corrections):
The projections essentially increase from what the snapshot of population was at the time the projections are developed. We expect the population to be somewhat lower than the 2.2 percent projected.

CHAIR HORSFORD:
Is the budget built on that projection or something lower?

MR. MOHLENKAMP:
We use the average population based on the JFA Associates' projections to build the budget.

CHAIR HORSFORD:
What is the actual number of inmates for 2011?

MR. MOHLENKAMP:
The male population is 11,482 as of January 31, 2011. We will continue to monitor the population numbers. The JFA Associates will perform another projection in the next couple of months. The numbers for 2012 and beyond will be revised. The female population is 925 as of January 31, 2011.

MR. COX:
Page 8 of [Exhibit E](#) shows the trend in age categories. The trend reflects a slightly older inmate population which is also reflected in areas such as increased medical costs. However, the perception is that the inmate population is getting younger.

Page 9 of [Exhibit E](#) is the population demographics for inmate custody levels. There is a reduction in minimum security inmates from FY 2008-2009 through FY 2010-2011, as a result of A.B. No. 510 of the 74th Legislative Session. Other factors affecting the decrease are the P.R.I.D.E and OPEN programs at CGTHC. Future forecasts through FY 2014-2015 are relatively stable as a result of A.B. 510 of the 74th Legislative Session. The level of violence and sex offender measures are also included in the population demographics. The foundation of the security threat group in the population includes gang members. That trend increase is related to the gradual hardening of the population.

Page 11 of [Exhibit E](#) is a graph of the historical FTE positions. The positions increased from FY 2006-2007 to a high of 3,173.52 in FY 2008-2009. The trend reflects the opening of phases IV and V at HDSP. The additional buildings accommodated 4 units of 336 inmates. The trend then decreases reflecting the closures of SNCC and the Silver Springs Conservation Camp in June 2008. Another decrease occurs in FY 2010-2011 reflecting the closure of the Nevada State Prison (NSP) and the Wells Conservation Camp (WCC).

The staffing ratios compared to other Western states and the National average shows Nevada has the second lowest staffing ratio. The Nevada ratio of inmates to staff is 5.1:1. Only Alabama is higher. When broken out by correctional officers to inmates, the Nevada average is 7.4 inmates to each staff. The Western average is 5.5 inmates to each staff and the national average is 4.9 inmates to each staff.

CHAIR HORSFORD:

The source of these statistics shown on page 13 of [Exhibit E](#) is the Bureau of Justice Statistics. Do you have a report that shows the importance of maintaining certain inmate to staff ratios? Does staff mean front line staff or do the figures include management staff?

MR. COX:

The numbers include total staff.

CHAIR HORSFORD:

Do all staff supervise inmates? Is that an apple-to-apple comparison with other U.S. or Western states?

MR. COX:

The total staff figures reflect all staff in all states; the C/O Staff figures refer to custody officer staff.

An internal audit was conducted in 2006, concerning the relief factor. Our relief factor is 1:60. The normal operations of a corrections department require a relief factor. It takes into consideration such things as sick leave, annual leave, Family Medical Leave Act of 2003, and military leave. The typical relief factor is 1:82. At the time of the audit, we added approximately 200 staff to reach a relief factor required to maintain that level. That factor also includes training and terminations such as retirements or transfers.

MR. MOHLENKAMP:

When we first embarked on development of priorities of government activities we did so with some trepidation because of the heavy workload. The priorities of government process began with numerous meetings with the LCB staff and those from the Budget Office. The project was ultimately well worthwhile.

ASSEMBLYMAN HAMBRICK:

A tragic incident occurred recently in Washington State involving the death of a correctional officer. How does the Nevada correctional staff respond to similar situations?

MR. COX:

The death of the female correctional officer was a terrible loss to the Washington Department of Corrections. After reading their report, we began reviewing procedures in Nevada related to religious activities. We considered the type of staff present, whether it includes correctional officers, what time of day such services are held and if they are located in buildings with other staff present. We study those incidents to determine the safety and security of our staff. Several factors and dynamics are considered such as scheduling, intense movement of inmates and why the inmates are moved to specific locations.

MR. MOHLENKAMP:

The NDOC identified a total of 11 activities in which it is involved. There are three core activities:

- Safely and securely confine felons in medium, close or maximum security environments.

This activity involves staff and operations of each facility. We include staff who are involved in inmate management and movement and the classification of inmates.

- Safely and securely confine convicted felons in minimum security;
This core function is comprised of all camps under NDOC jurisdiction. The institutions for reentry are sorted differently.
- Medical services for inmates.

We are required by the *Constitution of the United States* to provide these services. They are performed at all locations.

The second category is core functions – support activities. It ensures support activities exist to properly support the core activities. These include programs which are inmate specific activities. These are the education functions, substance abuse, the re-entry facilities and related costs. Additional costs were allocated that pertained to the direct management of inmates to each facility on a pro rata basis.

The Inspector General's office is the primary in-house investigations unit. They are grouped as a separate activity.

Prison Industries is a non-General Fund enterprise account.

Inmate Services include the management of inmates' funds. The NDOC takes a custodial relationship to inmate monies, management of inmate stores and all other major inmate services.

The last group is Infrastructure Activities. It is required to be broken into:

- Fiscal Services.
- Personnel, Payroll and Training.
- Information Technology.
- General Administration.

The pie chart on page 14 of [Exhibit E](#) shows the activities in relation to General Fund expenditures. Ninety percent of the General Fund appropriations is

allocated to core functions, 5 percent is allocated to core activities and 5 percent is allocated to departmental infrastructure.

Page 15 of [Exhibit E](#) shows the total distribution of all allocated funds including the General Fund.

MR. COX:

The NDOC anticipates challenges it will face in the future. There are 33 management positions, 14 of which are eligible to retire in the next 3 years. Four wardens and six associate wardens are eligible for retirement within that time frame. Approximately 43 percent of management is eligible to retire within the next 3 years and approximately 60 percent are eligible within the next 5 years. We have established succession plans.

CHAIR HORSFORD:

During previous budget cycles, testimony before the money committees indicated the need to alter shift requirements. It was suggested shifts be changed to a 12-hour block of time with 3 shift configurations to improve staff morale. It would alleviate working in such an intense environment five days a week.

MR. COX:

Staff has requested a return to 12-hour shifts. There are currently 12-hour shifts in the Lovelock Correctional Center (LCC) and the Ely State Prison (ESP). Twelve-hour shift patterns result in at least four shift configurations. At the ESP, there are 9 different shifts. There are 12-hour, 10-hour and 8-hour shifts at that location. It is necessary to have staff where we need them, when we need them. Shift flexibility allows NDOC to place staff where they are needed most such as situations when major inmate movements are occurring. These include recreation and meal times. The facilities go into a lock-down mode at 9 p.m. with reduced movement and more controls in place.

In my review of working conditions in environments such as ours, longer shifts do not work well. It is difficult for individuals to work 12-hour shifts. Many states maintain 12-hour shifts. Our relief factor does not allow for a correctional officer in a gun post or tower to be relieved. That creates situations in which the employees are placed in positions with weapons for extended periods of time. I am reviewing how relief can be provided under the current staffing plan including annual or sick leave, while still providing for the 12-hour shift request.

I will not close the door to 12-hour shifts because my staff has made it clear that is their wishes. There is a possibility it might be considered in 2012.

Other challenges we face are the pay and benefit reductions and loss of rural incentive pay for rural employees. The Subcommittee is aware NDOC must compete for new staff with local entities with better pay packages. The counties pay their detention staff considerably more than our correctional officers are paid. We understand the economy and the issues surrounding that challenge. In the future, we hope that salary of our staff would be considered for an increase as the economy recovers.

Our facilities are well maintained by the maintenance staff. There are concerns regarding upkeep and future maintenance factors. The NDOC is reacting to situations associated with different plants such as heating and cooling of the plants, broken water pipes and other maintenance issues. We would like to take a more proactive status.

Members of the Subcommittee are aware of the American Civil Liberties Union (ACLU) lawsuit that occurred regarding the ESP. Disputes arise over the multiple dietary needs of the inmates to accommodate religious practices. We provide kosher meals at a cost of approximately \$10 a day for each inmate. We are working with the State of Virginia and attorneys general from other states in establishment of a menu that would satisfy the dietary and religious requirements for meals. The California Department of Corrections and Rehabilitation (CDCR) is in receivership. The NDOC is reviewing that situation to see how it may affect us in the provision of services at our institutions. The legal community is watching the NDOC medical department's provision of medical and mental health services as well.

The NDOC wants to increase the efforts of inmate services connecting with communities in regard to substance abuse and mental health treatment. It is a challenge as well as an opportunity. The State of Washington is instituting a policy of aftercare drug rehabilitation programs. The NDOC provides a program within its facilities for substance abuse at various facilities. The challenge is aftercare upon release from our facilities.

ASSEMBLYWOMAN SMITH:

After discussions in the hearing of February 1, 2011, concerning reductions in the budgets for mental health services and substance abuse programs, I am

interested in your thoughts regarding those reductions as they relate to your Department.

MR. COX:

When offenders are released, the ability to provide the necessary levels of treatment is a significant challenge. We are considering use of CGTHC to bridge that gap. The NDOC provides a significant amount of mental health services to the inmate population. Correction departments across the Country historically have a large number of inmates with mental health issues. The community needs include medications and maintenance of certain levels of service.

SENATOR LESLIE:

Discussions in the past focused on re-entry court to bridge mentally ill individuals from the NDOC system into communities. Former Chief Justice A. William Maupin was involved in that effort; however, those plans did not materialize. Do you see that as a potential way of forming the bridge?

MR. COX:

Mental health courts are used in various locations throughout the Country. Services that benefit the recidivism rates will be a critical need in the future.

SENATOR LESLIE:

Will NDOC provide detail concerning a partnership between the NDOC and the Department of Health and Human Services (DHHS), Division of Mental Health and Developmental Services (DMHDS) to provide mental health care?

MR. COX:

A request for proposal (RFP) will be issued involving the NDOC psychiatrists, physicians and dentists to provide that level of service through privatization. Previous staffing challenges have occurred at ESP, LCC and other areas. It also impacts the mental health services that can be provided at the maximum security facility at ESP.

SENATOR LESLIE:

Is there information in [Exhibit E](#) concerning the proposal? I was unaware this was a privatization proposal.

MR. MOHLENKAMP:

A Request for Information has been issued. It involves the use of a private company to provide physician-level services. The DMHDS proposal would be in the southern Nevada region and would include psychiatrists and internists. The proposal for NDOC would be statewide including psychiatrists and doctors. No existing bridge program provides appropriate services. The intent is to utilize a central provider. The NDOC inmates would become clients of those services before their release. The inmate would be registered in the AVATAR computer system and have their first appointment set before release.

SENATOR LESLIE:

It sounds like NDOC will be participating in a DMHDS health care privatization plan.

MR. COX:

The increased use of technology for shaker and lethal fences helps provide perimeter level security. There are opportunities to utilize video visitation. It will allow citizens of the State to connect with their family members at various locations. Many states are utilizing this function. It is less costly for the families and the inmates. It allows family members to take less time from work and incur lower travel expenses. Telemedicine is currently in use at ESP. There is an opportunity to expand that service at other institutions. The CDCR uses telemedicine expansively and it appears quite successful. Delivery of services can be provided at reduced costs.

ASSEMBLYMAN HICKEY:

Are the provisions of interfaith menus a federal requirement? One state seems to be allowed to feed its inmates meals of peanut butter and jelly sandwiches without censure.

MR. COX:

The NDOC has a Constitutional obligation to provide interfaith services and diet- or religion-specific meals. It is a constant challenge across the Country. Wide arrays of religious services are required. In many cases, volunteers provide those services at no cost to NDOC. Otherwise, we would be hard-pressed to provide that level of service.

MR. MOHLENKAMP:

The budget overview will be in two parts. I will discuss the developmental structure of this budget and then the budget reductions.

The NDOC budget is heavily staff-oriented. Seventy-four percent of the overall budget is in personnel costs under the General Fund. Other portions of the budget include inmate-driven items, maintenance, medical, utilities and operating and other costs. One distinction between the NDOC budget and others is the inmate-driven costs including the increase of inmate-driven medical costs. Inmate-driven costs also include food, clothing and hygiene to ensure individuals' needs are met without excess costs.

Page 20 of [Exhibit E](#) provides an overview of funding over time. Funding on an overall basis in this budget is nearly level with FY 2006-2007. Funding for all inmate costs in FY 2006-2007 was \$21,622. In FY 2011-2012, funding per inmate is \$21,925 and in FY 2012-2013, that amount is \$21,825. The difference in budget reflects equipment and deferred maintenance costs in the first year of the biennium.

The overall General Fund budget request is an increase over the expenditures in FY 2006-2007. There are reductions in other funding sources led by reductions in federal grants and room and board receipts paid by inmates. In prison, inmates are sent to work for Prison Industries, Forestry or institutional jobs. Inmates receive nominal pay for their jobs. Inmates who are working are required to pay rent to the institution, while those without jobs are not required to pay rent. As with the rest of the economy, Prison Industries has seen a decline in its ability to put inmates to work. The overall budget requests have decreased by \$36.3 million from the 2009-2011 biennium. The General Fund portion has decreased by \$9.3 million.

CHAIR HORSFORD:

Did NDOC receive \$72.2 million in American Recovery and Reinvestment Act of 2009 (ARRA) funds?

MR. MOHLENKAMP:

That is the amount of ARRA funds received.

CHAIR HORSFORD:

The *Executive Budget* recommends General Fund support for NDOC of \$495 million. That is a 10.9 percent increase over the \$446.5 million approved for the 2009-2011 biennium.

MR. MOHLENKAMP:

The overall funding has not increased, but the General Fund portion has increased.

CHAIR HORSFORD:

This is a completely different approach to what was taken in the education budgets where they used a different starting point to develop their budget. Your budget was developed to get NDOC back to the 2009 legislatively approved budget with a 10.9 percent increase. That is in part to replace federal funds but the same approach was not used to fund the Nevada System of Higher Education (NSHE) and Kindergarten through Grade 12 (K-12). I need to understand the rationale behind those decisions.

MR. MOHLENKAMP:

I am not familiar with how the education budget was funded. Had NDOC not received the replacement funding we would be closing three prisons instead of one facility.

CHAIR HORSFORD:

Instead, NSHE is proposing closure of UNLV and the Desert Research Institute or all four community colleges. I do not disagree that the lack of funding in either case would result in the closure of institutions. What is the rationale for increasing the NDOC budget 11 percent while reducing the education budget 15 percent for K-12 and 30 percent for NSHE? I will pose this question later to staff from the Budget Office.

MR. MOHLENKAMP:

Page 21 of [Exhibit E](#) is a graphical representation of the overall spending levels. It shows the spending levels in FY 2006-2007 and the projected spending levels through FY 2012-2013. It depicts all spending including General Fund expenditures. The NDOC biennial spending level is in line with or slightly higher than with the FY 2006-2007 spending levels.

Page 22 of [Exhibit E](#) depicts the nonmedical inmate-driven costs per inmate. It is a historical perspective. There was a spike in FY 2008-2009 and costs were fairly flat going forward.

Page 23 of [Exhibit E](#) is a historical comparison of costs per inmate. However, I could find no more current data than 2001 expenditures reflected in a June 2004 report. It compares Nevada's inmate costs with that of other states. I expect Nevada to remain much lower than other states based on the staffing and medical comparisons.

In discussions with LCB staff, I understand medical costs are an area of concern. Page 24 of [Exhibit E](#) depicts 2009 comparative data of medical costs per inmate. The source of the information was the *Corrections Compendium*. The article provided a study of 35 states, 30 of which reported. The data presented on this page are states which were representative of Nevada based on size and jurisdictional location. Within the full report, Nevada is in the bottom third of overall medical costs per inmate.

ASSEMBLYWOMAN SMITH:

When this budget item reaches the joint subcommittee, please be prepared to discuss the medical costs for the aging population. Former NDOC Director Howard Skolnik repeatedly noted outside medical costs were steadily increasing due to the aging population. I do not see the aging population changing dramatically in [Exhibit E](#).

Also, be prepared to discuss efforts to reduce prescription costs by working with DHHS.

MR. MOHLENKAMP:

Page 25 of [Exhibit E](#) depicts the annual medical costs per inmate over time. The outside medical costs per inmate have risen from \$697 in FY 2006-2007 to an anticipated amount of \$998 in FY 2012-2013. The total figure for FY 2010-2011 is the budgeted amount. The actual projection is expected to be \$3,793 per inmate. That is still a slight decrease from FY 2009-2010. I will provide a more detailed analysis to the joint subcommittee.

ASSEMBLYWOMAN SMITH:

Please prepare to update the joint subcommittee on the stale claims item presented at the last Interim Finance Committee (IFC).

MR. MOHLENKAMP:

Page 26 of [Exhibit E](#) depicts a part of the issues driving up medical costs. The blue bar represents the baseline costs for claims under \$50,000. The red bar represents claims between \$50,000 and \$100,000. The white bar represents claims over \$150,000. There has been an increase in the number of claims over \$100,000. These claims are typically major medical needs such as cancer, aggravated diabetes, heart failure or an inmate-on-inmate assault that results in a major injury. One factor driving medical cost increases is the increase in the aging population. Currently, there are approximately 100 more inmates in the aging population than in FY 2006-2007. The aging population costs are approximately \$3,600 in outside medical costs compared to approximately \$1,000 for the next lower age tier. The younger population averages approximately \$500. Other factors include increased days of hospitalization and the cost for days of hospitalization.

Page 27 of [Exhibit E](#) lists comparative raw food costs. Nevada is efficient in its meal provisions. These costs do not include the labor associated with ordering, storage or preparation of meals.

Page 28 of [Exhibit E](#) specifies major budget reductions included in the *Executive Budget*. The salary reductions do not include general reductions made statewide which are the 5 percent salary reductions and the holiday premium pay reduction from double-time-and-a-half pay to double-time pay.

The NDOC budget reductions include the closure of NSP and WCC. It also includes the elimination of non-essential food and drink items. The total biennial reduction for these items is \$21.7 million.

SENATOR RHOADS:

What is the annual cost for operation of an honor camp?

MR. MOHLENKAMP:

The operation costs for camps vary. Most camps are 150-bed camps and overall costs are approximately \$1 million annually.

SENATOR RHOADS:

What are the costs for WCC?

MR. MOHLENKAMP:

I do not have the exact amount. However, per-inmate costs are typically between \$11,000 and \$12,000 annually. If all department-related expenditures are included, the cost is between \$13,000 and \$14,000.

SENATOR RHOADS:

The cost for an inmate incarcerated in a prison is approximately \$21,000. What is the rationale for taking inmates from lower cost custody in an honor camp and placing them in a prison facility, thereby increasing the costs of incarceration?

MR. MOHLENKAMP:

I will present that information in more detail later in the presentation.

The proposal to close NSP would save \$16.1 million in General Fund appropriations for the 2011-2013 biennium. The NSP houses between 690 and 730 inmates depending on when a count is made. Currently, 730 inmates are housed at NSP with an operational staff of 209. Of those, 193 FTEs are in the NSP budget account. The remaining staff are in other budgets but work specifically with NSP. Page 29 of [Exhibit E](#) lists the specific positions included. If NSP is not closed, the operations budget would be \$34.5 million. A General Fund savings of \$16.1 million will be realized if the proposed procedure for closure of NSP submitted by NDOC is accepted. The savings thereafter will be approximately \$9 million annually. The savings in the first year are lower because of the phased closure that would be completed at the end of October 2011.

CHAIR HORSFORD:

The issue raised in previous budget hearings about the closure of NSP was the lack of an overall housing plan from NDOC. With a new director in place and the cooperation of the administration, when will we be given the overall housing plan indicating where inmates are housed, where there is additional capacity, issues of medium versus high security, location of medical services and transport of inmates with associated costs? Those are all factors which must be considered in determining whether or not to close a prison.

While the issue will be discussed in joint subcommittee, for the benefit of this Subcommittee and the public, how will the master plan ultimately be delivered?

MR. COX:

There are 672 beds at HDSP within 2 empty units. The current general population at NSP is 730 inmates. There is additional capacity at other locations. The population projections are flat. There are currently 600 fewer inmates than the budgeted allocation. Additional beds are available at the Three Lakes Valley Conservation Camp in the event of a spike in population. The SNCC is currently closed. There are an additional 300 beds at the Florence McClure Women's Correctional Center. Considerations include:

- Current facilities.
- Facility design.
- Mission.
- Efficiency.
- Effectiveness.
- Ability to make changes beneficial to the citizens of the State.

This is a difficult decision and NDOC will provide whatever information is needed or requested as thoroughly as possible. This is one of the toughest decisions I am forced to make. However, NSP is the oldest prison facility West of the Mississippi. It is like the battleship for NDOC. The staff are anxious to hear the final outcome and timing of this decision.

CHAIR HORSFORD:

Will our staff please gather previous requests for information related to the closure of NSP for which there has been an inadequate response and make the requests again for future joint subcommittee hearings?

MR. MOHLENKAMP:

Page 30 of [Exhibit E](#) provides a general discussion of why NSP was selected for closure. It begins with the concept that budget directions were to make considerable reductions in the NDOC budget requests. There are two major options to be considered in meeting that requirement. One is privatization of certain operations and the other is consolidation. Articles on the Internet indicate many corrections departments are making similar choices. A recent survey identified more than 15 states that are considering closing units or entire prisons as cost-saving measures. The choice of closure of units at several facilities or closure of a prison is important.

If several units are closed, the only savings is personnel costs for officers who staff the units and minimal ancillary costs. If a prison is closed, the infrastructure and management support of functions are included in the savings. Closure of a prison is the best way to gain meaningful budget savings.

CHAIR HORSFORD:

It is not beneficial to this Subcommittee to get only information on the closure of NSP without having the entire master plan presented. There are issues such as an empty prison in southern Nevada that is not utilized.

MR. MOHLENKAMP:

The next item is the closure of WCC. This closure will generate a savings of \$2.1 million over the biennium. One of the key points supporting closure is the excess minimum security bed capacity available. That capacity is primarily due to A.B. No. 510 of the 74th Legislative Session which reduced the level of inmates typically housed in a minimum environment.

We coordinate the camps with the Nevada Division of Forestry (NDF). The NDOC has identified excess capacity locations and NDF stated closure of WCC would cause them the least problems concerning fire abatement, response time and community-based services. The WCC is in relatively close proximity to the Carlin Conservation Camp (CCC).

The NDOC has made preliminary plans for this closure. Staff can be placed at nearly adjacent facilities. Staff from WCC will be placed in other positions at CCC, ESP or the Ely Conservation Camp. The camp will be maintained in a mothball status in the event of its reopening in the future. This plan would be completed by the end of July 2011.

SENATOR RHOADS:

What is the capacity of inmates at WCC?

MR. COX:

The maximum capacity is 150 inmates.

SENATOR RHOADS:

It would be better to keep the camp open and house 150 inmates at \$11,000 each at WCC rather than \$22,000 each in a prison.

MR. COX:

The current population is an effect of A.B. No. 510 of the 74th Legislative Session. The bill caused significant reductions in minimum custody inmate populations. The NDOC considered closure of various honor camps and the classification procedures in place. I have requested that the National Institute of Corrections review and validate our classification procedures to ensure they meet 2011 standards. In the past, such a review has meant moving inmates into lower custody levels. It is unknown whether the review may cause an increase in minimum custody inmates.

MR. MOHLENKAMP:

Page 36 of [Exhibit E](#) describes salary reductions which were mentioned earlier. I learned yesterday that the reduction in shift differential pay will be a statewide proposal in the *Executive Budget*. This would cause the elimination of one of the two shifts that receive shift differential pay at NDOC. We would prefer a regulation in the *Nevada Administrative Code* (NAC) requiring the implementation of a shift differential change making it more palatable to our staff. The elimination of remote area differential would affect staff employed with the Jean and Indian Springs facilities, while the elimination of the 5 percent rural incentive pay would affect staff at LCC and ESP. This has been used as a recruitment tool. We propose that this change be implemented for new hires as positions are vacated to lessen the impact on current staff.

Rural incentive pay is in effect in the Las Vegas area. Indian Springs is located 25 miles from Las Vegas and Jean is also located outside the city limits. Historically, all employees at those locations have received an additional compensation of \$7.50 per day. This would remove that compensation as positions are vacated.

CHAIR HORSFORD:

Are these temporary or permanent proposals?

MR. MOHLENKAMP:

The current proposal is that the changes become permanent. I have not seen the revised bill draft request (BDR).

CHAIR HORSFORD:

How long has shift differential pay been in place for NDOC?

MR. COX:

I do not know the exact year, but it seems like the provision has been in place "forever." I do not know of a department that does not have some kind of shift differential pay. We can take a closer look at the 12-hour shift proposal. Perhaps we could allow shift differential pay for 8 hours of a 12-hour shift if approved by the Legislature. There are several different approaches to shift differential pay. The adjustment of shift hours, such as a change from a midnight shift to a 9 p.m. to 5 a.m. shift, would reduce the shift pay. It is a common practice in the history of corrections and other law enforcement agencies.

CHAIR HORSFORD:

This is a permanent change to a policy that has been in effect for a long time. How would that affect your ability to recruit staff? How will NDOC sustain employment if this long-term incentive is removed?

MR. COX:

It will be difficult in the future to recruit and retain staff. We all understand the current economic situation and I would ask the Legislature to consider reinstatement of this policy once the economy improves.

CHAIR HORSFORD:

I am concerned because this proposal is an additional reduction to the Governor's recommendation for a 5-percent pay reduction. It will directly impact employees in Lovelock and Ely through the rural pay differential. It would amount to a total pay reduction of 10 percent if the Governor's recommendations are approved. What is the average pay for a correctional officer?

MR. COX:

The base pay is approximately \$40,000 and the full employment package is approximately \$45,000.

CHAIR HORSFORD:

A 10 percent reduction would mean their take-home pay would be reduced to approximately \$36,000. These are tough choices but were a part of what had to be considered to meet budget reduction directions. It places a major hardship on middle-class families.

MR. COX:

These provisions would only affect new hires. Current employees would not receive the salary reductions. The salary reductions are significant. I will come before the Legislature when the economy improves to request restoration of these provisions.

ASSEMBLYWOMAN CARLTON:

It is one thing for there to be varying levels of retirement benefits, but it is especially difficult for employees who work alongside each other to have varying salary levels under the same working conditions. Hopefully, the Budget Office will address the shift differential issue in all affected departments.

MR. MOHLENKAMP:

Page 37 of [Exhibit E](#) lists the savings, by institution, through the elimination of non-essential food items. The NDOC will no longer purchase food items with no nutritional value such as coffee, tea or flavored fruit drinks for inmates. These items are currently and will continue to be available for purchase by the inmates in the inmate stores. It is not a large budget savings. However, our staff will experience large reductions in their compensation and we needed to take some reductions in areas utilized by inmates.

MR. COX:

Several budget recommendations were received from our line staff and this is one suggestion we chose to include in the budget requests.

CHAIR HORSFORD:

The joint subcommittee can go into further detail for these budgets. However, please give a brief summary concerning the ACLU class action lawsuit and the settlement.

MR. COX:

The class action lawsuit involved medical services provided at ESP. The result is an increase in medical staff and related funding required. One concern with the suit is the propensity for ACLU to examine services at other locations and facilities. The cost in the next biennium could be significant across the Agency. We are considering measures to help reduce the liability risk.

Medical services provided to inmates are being scrutinized not only in Nevada, but in other states as well. Nevada is scrutinized more closely because of our

proximity to California. We are reviewing new requirements in regard to where our medical staff are located. For clarification, my concern is the spread of the results of the lawsuit moving to other locations and facilities.

ASSEMBLYWOMAN CARLTON:

Among the comments we heard in the Town Hall Meeting in southern Nevada was the buy-out provisions for officers. When the budgets are presented before the joint subcommittee, please provide the cost of employee buy-outs compared to their retention as employees.

CHAIR HORSFORD:

We will now close the hearing on the NDOC budget overview and turn to the Department of Public Safety (DPS) overview.

CHRIS PERRY (Acting Director, Department of Public Safety):

The DPS consists of three offices housing nine divisions. It also has administrative oversight for the State Board of Parole Commissioners. The divisions include:

- Division of Parole and Probation.
- Investigations Division.
- Capital Police Division.
- Highway Patrol Division.
- Information Technology and Criminal History Repository.
- State Fire Marshal Division.
- Training Division.
- Office of Professional Responsibility.
- Office of Traffic Safety.
- Office of Criminal Justice Assistance.

I have provided copies of our PowerPoint presentation ([Exhibit F](#)).

Page 2 of [Exhibit F](#) describes the mission and vision statement for DPS.

Page 3 of [Exhibit F](#) shows the 2011-2013 biennium organizational chart. The deputy director position is vacant and will remain so for some time. The positions shown in red are positions proposed for elimination in the *Executive Budget*. The blue items are positions to be transferred to the Director's Office in the proposed budget. The chief of the Training Division has

been eliminated, but the Division remains. Training will continue under the direction of a captain, rather than a chief.

Page 4 of [Exhibit F](#) shows a pie chart of DPS funding for the 2009-2011 biennium and another pie chart comparing the proposed funding for the 2011-2013 biennium.

Page 5 of [Exhibit F](#) provides a more specific breakdown that includes the balance forward funds, interagency transfers, federal funds including pass-through accounts, the Highway Fund and the General Fund. The General Fund total for the 2009-2011 biennium was \$110,664,746. The General Fund proposal for the 2011-2013 biennium has been reduced to \$79,932,223 or a decrease of \$30,732,525.

Page 6 of [Exhibit F](#) provides a staffing graph. It is comparable to most agencies in State government. The DPS is losing positions as the economy fails to rebound. The total number of employees in FY 2009-2010 was 1,504. We are reduced to 1,496 employees in FY 2010-2011. Total staff is further reduced to 1,334 in each year of the next biennium. Civilian employees are shown in purple and the sworn employees are shown in blue.

Page 7 of [Exhibit F](#) lists the 163 position eliminations within DPS. There are 105 filled positions to be eliminated as of January 21, 2011. Three or four retirements are not included.

Page 8 of [Exhibit F](#) reflects achievements by DPS. We have installed and equipped all of the rural duty stations with temporary evidence lockers. That was a problem for DPS previously. We used forfeiture funds to effect that enhancement. Each of the locations has a locker system controlled by a key card with a server system backup including locations in:

- Laughlin.
- Pahrump.
- Tonopah.
- Hawthorne.
- Fallon.
- Winnemucca.
- Ely.
- Alamo.

- Mesquite.
- Carson City.

This provides a complete audit trail of evidence in all smaller offices. Those evidence lockers are used as temporary storage facilities before evidence is moved to the larger lockers located in:

- Las Vegas.
- Reno.
- Carson City.
- Elko.

The DPS has partnered with the Nevada Sheriffs and Chiefs Association to establish a program for computer-aided dispatch (CAD) and records management system (RMS) for DPS and a number of partner agencies.

Those partner agencies include:

- Nye County Sheriff's Office.
- Sparks Police Department.
- Lyon County Sheriff's Office.
- Elko County Sheriff's Office.
- Esmeralda County Sheriff's Office.
- Yerington Paiute Tribe.
- Yerington Police Department.
- Nevada Attorney General's Office.
- Nevada Department of Wildlife.
- Department of Motor Vehicles, Division of Compliance and Enforcement.
- Secretary of State's Office.
- Division of State Parks.

The DPS secured significant ARRA funding. In addition, we utilized forfeiture and Justice Assistance Grant funds for this project. The cost of the project was approximately \$7.3 million. The training rollout phase of the project has begun. The operational implementation of CAD is scheduled in late summer or early fall of 2011. The RMS rollout will follow later.

Page 9 of [Exhibit F](#) lists the goals of DPS. The first is a management enhancement by utilizing forfeiture funds to send all mid-level managers to a ten-week school, the Northwestern School of Police Command and Staffing,

recognized as a standard practice for most major police departments. It is on par with the Federal Bureau of Investigation (FBI) national academy. It is an ongoing training tool we will utilize over the next two years.

In addition to the temporary evidence lockers, the statewide evidence program is now being supervised from the Director's Office under civilian control. It is important to maintain that degree of separation of control. Officers who collect evidence should not have control over the storage of evidence.

We continue to partner with other agencies within the State to enhance homeland security, law enforcement and public safety through use of the CAD and RMS Programs.

The DPS reassesses the critical infrastructure of the Department on a regular basis. We evaluate the infrastructure of our buildings and holding facilities. One project has been in the Capitol Complex where bollards are being placed in front of gate areas and rocks were moved to make the area more secure for visitors and staff alike.

Page 10 lists organizational changes proposed for the 2011-2013 biennium. The State Fire Marshal's Office will be integrated with the Division of Emergency Management.

The administrative services will be merged with the Director's office to centralize the fiscal functions of the smaller divisions. The exclusion to that merger will be the Division of Parole and Probations (P&P) and the Nevada Highway Patrol (NHP). The centralization of evidence control and the merger of fiscal functions will be utilized in the down-sizing of government without interrupting service to the general public.

Page 11 of [Exhibit F](#) lists the major impacts and issues for P&P. The general supervision caseload ratio will increase from 70:1 to 80:1. High risk caseloads will remain 30:1 and sex offender caseloads at 45:1. With these changes, 45 FTEs will be eliminated.

Presentence investigator (PSI) positions will be eliminated. The PSIs are a district court function organized by county of origin. Seventy-seven positions will be eliminated providing a General Fund savings of approximately \$10 million over the biennium.

SENATOR KIECKHEFER:

The PSI reports were described in recent town hall meetings as an accumulation of the individual's history to be utilized by the judges and other law enforcement agencies as needed. Please explain the role PSI reports play in the overall system of public safety.

MR. PERRY:

The DPS does not discount the value of the PSI reports. We are suggesting that counties should shoulder the burden of funding this function. The PSI reports are provided to the district attorneys' offices, the defense counsel, the Records and Technology Division of the DPS for the sex offender registry, in-custody overview of prisoners when they are transferred from county custody to prison population, P&P to determine whether an individual can be successfully paroled, judges during sentencing, and DPS when an interstate-compact inmate is transferred from Nevada into another state's custody.

SENATOR LESLIE:

Are you passing the functions to each judicial district or will the DPS perform the function and bill the judicial districts?

MR. PERRY:

It would be preferable to keep the function within State government providing a degree of separation. We are requesting payment for time spent in preparation of the PSI reports.

SENATOR LESLIE:

How does that affect the elimination of 77 positions?

MR. PERRY:

If the positions are eliminated, the functions of employing and funding of PSIs would need to be moved to the counties and become their responsibility.

SENATOR LESLIE:

Which proposal is contained in the *Executive Budget*?

MR. PERRY:

The *Executive Budget* proposes elimination of the positions and placing responsibility with the judicial districts.

SENATOR LESLIE:

Is your testimony today that you would prefer to have the function remain with the State and bill the judicial districts?

MR. PERRY:

Yes, the State already has the system established.

SENATOR LESLIE:

Because I utilize PSI reports in my job and agree that they need to be completed in a consistent manner, decentralizing the function would cause havoc. Have you discussed this with the judicial districts?

MR. PERRY:

The DPS has just begun a dialogue with the judicial districts. We met with NDOC yesterday and are establishing a team to work on the plan.

SENATOR LESLIE:

What is the national standard for P&P general supervision caseload ratios?

BERNARD W. CURTIS (Chief, Division of Parole and Probation, Department of Public Safety):

There is no national standard. Some states are much worse and some states are significantly better. The greater intensity caseloads are fairly acceptable. The 80:1 ratio is a 14 percent increase in caseloads. My staff will absorb the increased caseload fairly well.

SENATOR LESLIE:

Does P&P have a significant vacancy rate?

MR. CURTIS:

It takes approximately 16 to 18 months for an officer to go from recruitment, through the academy and onto the street working their own caseload. That has been a significant problem. Our Agency does not necessarily attract the young law enforcement officers because of the benefits and pay scale that continue to decrease. Counties are beginning to see similar problems which may make for better benefits equality.

SENATOR LESLIE:

Does P&P recruit and train new officers only to have them move to a higher paying agency?

MR. CURTIS:

For the most part, our officers tend to be loyal to our Agency.

SENATOR LESLIE:

What will the actual caseload ratio be when the position vacancy rate is included?

MR. CURTIS:

It will be higher than the 80:1 ratio. However, administrative banks have been established meaning certain individuals are not being supervised at a preferred level.

SENATOR LESLIE:

That is a danger to the public.

MR. CURTIS:

It is my nightmare.

CHAIR HORSFORD:

The general supervision caseload ratio is increased from 70:1 to 80:1 and other actions have been taken by P&P to maintain costs, such as mileage caps for some P&P officers. Can P&P officers really maintain contact with up to 80 parolees or those on probation? How will the other cost-saving measures place an additional hardship on P&P officers?

MR. CURTIS:

There will be hardships, as there are throughout State government. However, we have asked for an increased mileage allocation for our officers. The current mileage cap is 720 miles per month for each street-level sworn officer. The increase requested is 1,200 miles per month to allow additional flexibility for our officers.

CHAIR HORSFORD:

In addition, there would be the caseload increase from 70 to 80 clients. How many contacts could a P&P officer make with the increases in the mileage cap?

MR. CURTIS:

It would be the same as currently established. It will be more intense for the more egregious caseloads including violent or sex offender parolees.

CHAIR HORSFORD:

Approximately how many contacts are being made currently?

MR. CURTIS:

The number of contacts varies. Some of the offenders placed in the administrative banks have very little contact.

MARK WOODS (Deputy Chief, Division of Parole and Probation, Department of Public Safety):

Currently, for a general supervision caseload of 70 to 75 clients, the numbers of field or home contacts are between 30 and 40 each month.

CHAIR HORSFORD:

Is contact made with only a portion of the caseload each month meaning the entire caseload is visited only once in six to eight weeks?

MR. WOODS:

Those contacts are field contacts in the homes. The clients are being supervised in the P&P offices as well.

CHAIR HORSFORD:

Nevada P&P has a success rate of recidivism based on effective supervision. How will the increase in caseloads affect the ability of P&P to maintain or improve the recidivism rate?

MR. WOODS:

We feel confident that our success rate will remain higher than the national average. An increase in the mileage cap will assist in those efforts. Nevada P&P officers remain in the 60th percentile in probation success and in the 90 percent to 93 percent in parole success.

CHAIR HORSFORD:

It does not make sense to eliminate 45 positions and increase caseloads when NDOC funding will be increased. More money needs to be invested in the P&P strategy and other community-based strategies, thereby improving outcomes.

The consequences of these budget cuts are significant when offenders are unsupervised and commit additional crimes. They cause impacts to communities and affect victims. There are consequences to these budget decisions, not only in terms of caseload ratios or mileage increases. These reductions affect lives and the public safety of the State. There is documented evidence that Nevada is behind the national average in the number of cases per P&P officer. Why would we increase those caseload ratios? I am concerned about the risks to the public and P&P officers. Public Safety must be at the forefront of our decisions.

ASSEMBLYWOMAN CARLTON:

My husband is a P&P officer and has been for nearly 21 years; therefore, I am aware of the issues as the wife of one of these officers. The most concerning issue for me is the administrative caseload. I understand the need for budget reductions. Please describe the offenders who are not being monitored at the same level and how it is difficult to predict which offenders will commit future crimes. There are thousands of individuals who have committed crimes and were placed on probation by a judge. The P&P is doing its best but, with reductions in manpower, the public is left unprotected.

MR. CURTIS:

Approximately 1,800 of the least severe offenders are currently on the administrative caseloads. There is one in the south and one in the north due to lack of staff. Approximately 1,400 clients are in the southern Nevada administrative caseload at this time. These individuals have committed gross misdemeanors and E-level felons which are the lowest felony classification. Officers are monitoring the individuals with high level felonies through the Dangerous Offender Notification Program which alerts law enforcement officers and P&P if they stop an individual on probation at night for driving under the influence.

MR. PERRY:

Page 12 of [Exhibit F](#) lists actual and projected P&P caseloads.

Page 13 of [Exhibit F](#) lists the General Fund reduction impacts to the Division of Investigation. The budget proposes the elimination of ten sworn positions and two civilian positions in the Las Vegas office. The proposal will essentially close the Las Vegas office. The positions are currently assigned to the Southern Nevada Counter-terrorism Center, the FBI, the Drug Enforcement Administration

or the U.S. Marshals Service. If there is any good news, NHP can absorb the ten sworn DPS officer II positions that are currently filled.

The five ARRA-funded positions in the narcotics control groups in outlying areas will expire at different times over the course of the biennium.

Six positions will be eliminated in the State Fire Marshal's Office: one captain, four DPS officers and a training officer. Many of the statutory responsibilities will be shifted to local governments and to DOA, State Public Works Board (SPWB). The State Fire Marshal will no longer provide plan services for State buildings. The Fire Marshal will review State building plans to comply with the NAC. Inspections of State buildings will be transferred through a BDR to SPWB.

Page 14 of [Exhibit F](#) continues descriptions of the cost-allocated budgets.

MARK TESKA (Administrator, Administrative Services, Department of Public Safety):

The methodology for some of the cost-allocated budgets has been revised. The allocation for the Office of Professional Responsibility was previously based on the number of sworn positions in each division. Because our current system allows us to track caseloads more accurately, the methodology was changed to a three-year average of caseloads. It addresses not only sworn divisions, but all divisions, both sworn and unsworn, that have had offices of Professional Responsibility Investigations.

The Director's Office and the Administrative Services are being merged into a single budget account. Previous allocations that were position-driven are now based on measurable output over a three-year average.

The evidence function is proposed as a new budget account. Previously, those costs were included in individual budget accounts, primarily NHP and the Division of Investigations. Funds would now be allocated based on agency use.

Technology costs are allocated across DPS based on statewide support and department support.

MR. PERRY:

The deputy administrator position for the Emergency Management/Homeland Security Division will be eliminated. The individual has retired and the position is currently vacant.

The State Fire Marshal's role will be integrated into the DOA where the Fire Marshal will serve a dual role as a deputy administrator for the Department of Emergency Management/State Fire Marshal.

The NHP is a Highway Fund agency. Its budget is nearly flat. However, they are requesting the overhaul of the engine in one of their airplanes. The budget requests the replacement of 122 citation writers and printers which are used exclusively to conduct their business in the field.

Requests for 123 vehicle replacements over the biennium are based on the formula-driven model.

The NHP is requesting the reclassification of the vacant major position to an unclassified lieutenant colonel position.

ASSEMBLYWOMAN SMITH:

Are all the fleet replacement requests for patrol vehicles or are some of them used for administrative functions?

MR. PERRY:

Most vehicles we purchase are patrol-style vehicles. Occasionally, those vehicles are used by staff officers. Some will be used for administrative functions once they reach the mileage limit for patrol vehicles. We typically request either patrol sedans or patrol pickups for the commercial enforcement functions.

ASSEMBLYWOMAN SMITH:

Is there a possibility of vehicles dropped from one fleet due to mileage or other factors being utilized by another agency? If fleet vehicles are not specialized, I would like that option to be considered.

MR. PERRY:

Vehicles that reach the maximum mileage are transferred to the Purchasing Division of the DOA and made available for other agencies within State government and for purchase by local governments.

ASSEMBLYWOMAN SMITH:

I was also referring to DPS acquiring vehicles from other agencies that are reducing their fleet.

MR. PERRY:

Unfortunately, DPS vehicles are specialized.

As with other State agencies, the recruitment of new officers is difficult. A number of retirements of senior staff are expected over the next 6 to 12 months. There will be a loss of institutional knowledge and a transition time to refill those positions. Typically, it takes between 16 and 18 months from the time they apply until they are productive enforcement officers.

The Capital Improvement Project (CIP) to centralize DPS offices scattered throughout Carson City has been eliminated. It is the most optimal method of conducting business, but we recognize the current economic limitations.

The Criminal History Repository has experienced declining court assessments presenting certain budget challenges.

External factors influencing DPS budgets include the increase in fuel prices.

CONNIE S. BISBEE (Chair, State Board of Parole Commissioners, Department of Public Safety):

Page 17 of [Exhibit F](#) lists the continuing goal of the Commission to conduct prompt, fair and impartial hearings on parole applications and parole violation matters. The priority of the Commission continues to be that of public safety.

Page 18 of [Exhibit F](#) lists the funding changes to the Commission. The proposal is funding for 25 positions and related costs. Previously 28 positions have been allocated. In reality; however, there has never been sufficient funding to fill two of the positions. One position was lost due to a job change. While the Agency proposed elimination of 5 of the 28 positions in its budget requests, 2 of the positions have been reinstated in the *Executive Budget*. The

three vacant positions to be eliminated include the one that has never been filled and two that, although authorized by the Legislature, were never filled due to funding shortfalls. No layoffs will be experienced at the Commission.

The reduction in funding for the hearing representatives in the Base Year of the budget will impact the next biennium. We are unsure of the long-term effects with the loss of \$10,000 to make adjustments for the current economic state. The Commission budget is small in comparison to other entities.

Page 19 of [Exhibit F](#) shows the number of parole hearings held, the number of hearing results in each category and the projected numbers of both for the 2011-2013 biennium. Two items not listed are the fact the Commission is a small organization with a large caseload and the number of lifetime supervision hearings done annually. The Board of Parole Commissioners is also responsible for approximately 100 tier-panel reconsiderations annually. Ultimately, over 8,500 hearings are held each year within a small organization. Our responsibilities are done very well. Please review the Commission audit results.

SENATOR CEGAVSKE:

When I was first elected, one issue that came to my attention regarded the notification to victims. Some victims have told me they were not notified of parole hearings for their cases and discovered after the fact, that hearings had been held. Situations such as address changes affect notifications. However, the individuals who contacted me had not changed their address and the situation was traumatic to the family who had lost a son. Has that situation improved?

MS. BISBEE:

It is quite rare for the Commission to hear from a victim who says they were never notified of a hearing. On those rare occasions, because the victims have a right to provide input, another hearing is scheduled to allow victims to make their comments.

When the offender is in court and a surviving victim has been identified, the victim should be notified of their rights. Sometimes that does not happen. That is a county level function. The other opportunity for victims is within NDOC which has a victim coordinator and filters that information to the Commission victim coordinator. There are many opportunities for victims to be aware of their

rights. The human factor means such situations may occur. We are proactive in the provision of victim rights.

MR. PERRY:

The final page of [Exhibit F](#) concerns supplemental appropriations.

MR. TESKA:

There is one supplemental appropriation request in the *Executive Budget* to correct the General Fund/Highway Fund split that was taken during the 26th Special Session. An excess amount of General Fund was removed and insufficient Highway Fund was removed. The supplemental request corrects that situation for FY 2010-2011.

CHAIR HORSFORD:

This meeting is recessed at 12:04 p.m.

CHAIRWOMAN SMITH:

This meeting is reconvened at 1:21 p.m. We will open the hearing on the Department of Business and Industry (B&I) budget overview.

TERRY JOHNSON (Director, Department of Business and Industry):

The B&I, in one way or another, touches nearly every business in Nevada and every consumer who interacts with those businesses. Certain visitors also interact with our Agency. I have provided a PowerPoint presentation ([Exhibit G](#)) to the Subcommittee. Page 2 lists the various divisions currently within the B&I. They are:

- The Athletic Commission.
- Nevada Attorney for Injured Workers.
- Dairy Commission.
- Employee Management Relations Board.
- Financial Institutions Division.
- Housing Division.
- Division of Industrial Relations.
- Division of Insurance.
- Labor Commissioner.
- Manufactured Housing Division.
- Mortgage Lending Division.
- Real Estate Division.

- Taxicab Authority.
- Nevada Transportation Authority.

The Division of Industrial Relations houses the State Occupational Safety and Health Administration (OSHA). Other regulatory bodies are the Division of Insurance, Labor Commissioner and transportation related organizations.

Page 3 of [Exhibit G](#) provides an overview of the General Fund revenue collected by B&I. For FY 2008-2009 and FY 2009-2010 the amounts collected are listed by division for the General Fund and the Highway Fund totaling approximately \$262 million and \$258 million respectively.

Adjustments to staffing levels are one of the major issues B&I will be addressing during this Legislative Session. Page 4 of [Exhibit G](#) provides a list of permanent staff reductions listed by divisions that have already been made during the course of the Base Year.

Operational issues B&I will be addressing are listed on Page 5 of [Exhibit G](#). One budget proposal is to consolidate the Manufactured Housing and Housing Divisions. We expect to achieve certain financial and operational economies through this proposal.

Another budget proposal is to centralize the fiscal and administrative functions of B&I under the Director's Office. Various financial information and technology positions are spread throughout the 14 divisions that would benefit by centralization. We anticipate gaining better specialization within the Director's Office making the Department more consistent and responsive to Legislative interaction, budget submissions and preparation.

We propose to consolidate certain budget accounts. The Insurance Division will be reduced from eight accounts to two accounts, thereby streamlining accounting practices and oversight.

The General Fund reductions will affect certain divisions because their revenue collections are likely to continue to decline. Those include the Real Estate, Manufactured Housing and Mortgage Lending Divisions due to a decline in significant fee revenue and other sources over the past few years. That has driven the need to adjust staffing levels.

Page 6 of [Exhibit G](#) reflects the total number of positions proposed for elimination or reduction from full-time to part-time and broken out by division. During the 2009 Legislative Session, the Consumer Affairs Division was eliminated through sunset provisions. There has been one position remaining in the Consumer Affairs Division. A BDR has been submitted to permanently eliminate the Consumer Affairs Division. Although we lack previous staffing levels, it is important for B&I to maintain a presence in the consumer affairs arena. It is important to maintain an active presence in those areas because, as the economy rebounds, we need to ensure our consumers are protected from unscrupulous business activities and that law-abiding businesses are not forced to compete side-by-side with unlawful businesses. We will be crafting strategies to maintain that presence.

CHAIRWOMAN SMITH:

I am concerned about representation for consumers during the economic downturn as well. Many scams have occurred regarding ARRA funds being available when that was not the case and other areas where citizens are being misled. What is being done for those situations despite the bad economy?

MR. JOHNSON:

This will be approached in a couple of ways. The divisions will enhance their enforcement efforts with sensitivity to the consumer standpoint. The Director's Office will dedicate resources as best as possible to work on and field consumer issues. We will coordinate with individuals and partner agencies at the State, federal and local levels.

While we recognize the resource challenges, we will do whatever possible to marshal resources to ensure Nevada has a presence in consumer protection. The last perception we want to give businesses who consider moving to Nevada, current consumers and citizens of Nevada is that adequate consumer protection is not provided.

SENATOR DENIS:

This is a major concern, especially in the minority communities. In fact, a position has been created to monitor consumer issues; however, that position is proposed for elimination in the *Executive Budget*. As the Agency comes before the joint subcommittee, we need to see a specific plan for protection of consumers. Before I vote for elimination of this position, I will need assurance that a plan is in place.

MR. JOHNSON:

Page 7 of [Exhibit G](#) lists fiscal related BDRs that will be submitted for this Legislative Session.

Page 8 of [Exhibit G](#) discusses changes to B&I Administration. The centralization of functions has already been discussed. It will be funded through cost allocations. Two personnel related positions will be transferred to DOA in April 2012.

Page 9 of [Exhibit G](#) discusses the Industrial Development Revenue Bond (IDRB) Program. Staff is available to answer more detailed questions on the IDRB, particularly the monorail bankruptcy in southern Nevada. The project is currently in the federal bankruptcy court. There are efforts by the creditors' committee to establish a reorganization plan that meets the approval of the bankruptcy court.

Page 12 of [Exhibit G](#) addresses the Taxicab Authority and the Nevada Transportation Authority. Currently, we are interviewing to fill the vacant administrator position for the Taxicab Authority. The position was vacated approximately three months ago. The budget proposes reclassifications of certain positions. The Nevada Transportation Authority is eliminating two positions due to the Highway Fund cap.

Page 13 of [Exhibit G](#) describes the budget for the Real Estate Division. There have been significant financial challenges in this Division over the past few years. The challenges are primarily related to the 45 percent decrease in the timeshare program reflective of the broader economic conditions.

Senate Bill No. 230 of the 75th Legislative Session, which will become effective on July 1, 2011, will double the license returns and fees. The projections indicate it will generate an additional \$1.9 million in General Fund revenue for FY 2011-2012 and \$2 million is anticipated for FY 2012-2013.

Page 14 of [Exhibit G](#) is a brief representation of the Insurance Division noting the consolidation of a number of budgets for the Division. It also contains data regarding the annual insurance examinations and the company breakouts.

Page 16 of [Exhibit G](#) shows information for the Manufactured Housing Division which has also experienced financial decline over the last few years. Part of the decline is related to certain fees that were decreased in FY 2007-2008. Also, a

decline is expected in the reserve as well. The Division has undergone reorganization to streamline its operations. Seven positions are proposed for elimination in FY 2011-2012. Some of the positions are currently vacant; however, layoffs will occur in other positions.

CHAIRWOMAN SMITH:

What is the status of the desk audit for the insurance premium tax? Is there any hope for recovery or need for additional funds?

BRETT J. BARRATT (Commissioner of Insurance, Division of Insurance, Department of Business and Industry):

Assembly Bill No. 6 of the 26th Special Session created an obligation for the Insurance Division to create a premium tax audit program. A plan was required by June 1, 2010, to be implemented by July 1, 2010. Unfortunately, there were environmental issues in our building causing a somewhat fitful start to the program. The program is now in operation. Approximately 129 data calls have been made to date. The Division is analyzing the premium tax information. A couple of recoveries have been made. It is unclear whether the recoveries were because the companies were afraid of the new program or due to the effectiveness of the program. The program is successful, fully staffed, the software is performing well, and the Division has an excellent working relationship with Executive Director Dino DiCianno of the Department of Taxation. Regular consultation meetings are held. The plan is projected to complete 400 premium desk audits in the time period specified in the legislation. We anticipate the 400 audits will represent 90 percent of all premiums written in Nevada. We began with the largest companies first.

CHAIRWOMAN SMITH:

Will the Legislature receive periodic updates? How will the outcomes be reported?

MR. BARRATT:

The data is being tracked and we will provide the Legislature with specific information. That is a part of the accountability measures for the program.

ASSEMBLYMAN ATKINSON:

A position of ombudsman for minority affairs was created by the 2007 Legislature within the Consumer Affairs Division. Will that position be eliminated in the *Executive Budget*?

MR. JOHNSON:

That position is proposed for elimination.

ASSEMBLYMAN ATKINSON:

Has the position ever been filled?

MR. JOHNSON:

I believe the position was filled until a few months ago when the individual left on maternity leave and did not return.

WILLIAM J. MAIER (Administrative Services Officer, Director's Office, Department of Business and Industry):

The termination date of that employee was in October, or earlier, 2010. I can provide the exact information for the Subcommittee. She had left on maternity leave.

ASSEMBLYMAN ATKINSON:

I assume the position will not be refilled because it is proposed for elimination?

MR. MAIER:

That is correct. The position was suggested for elimination to achieve the necessary General Fund budget cap requirement.

ASSEMBLYMAN ATKINSON:

Is that the only reason?

MR. MAIER:

That is the only reason.

ASSEMBLYMAN ATKINSON:

Is the vacant taxicab administrator position being eliminated, or is it simply vacant?

MR. JOHNSON:

The position has been vacant for approximately three months. The recruitment was recently extended for 30 days working in cooperation with the Taxicab Authority Board. We hope to fill the position in March 2011.

ASSEMBLYMAN ATKINSON:

I have received constituent inquiries about the position. Three months seems like a long time for recruitment and it is making individuals nervous.

MR. JOHNSON:

I have met with the Taxicab Authority Board to discuss various issues about the organization, one of which is this position.

A limited number of applications was received for this recruitment. I have asked our staff to pursue all reasonable avenues to increase awareness of the advertisement for that position. The Board will screen the applications and ultimately submit three finalists for my consideration. I cannot speak to why the recruitment took as long as it did, but I can speculate it may have had something to do with recent changes in administration.

ASSEMBLYMAN ATKINSON:

How many applications were submitted?

MR. JOHNSON:

The original announcement resulted in 18 applications, 2 of which were subsequently withdrawn. Those 16 applicants will not need to reapply and will be considered with any other applications received over the next few weeks.

ASSEMBLYMAN ATKINSON:

Were 16 applicants not sufficient?

MR. JOHNSON:

Of the 16 applicants, approximately one-third were from within the Agency. That is not a bad thing, but there was some concern about awareness of the recruitment. The announcement was posted on the Department of Personnel (DOP) Website, but no other efforts were made to advertise in local newspapers or job listing services. It would seem that 16 applicants in the southern Nevada area with a nearly 15 percent unemployment rate is rather low.

[Exhibit G](#) continues with information regarding the Mortgage Lending Division, Financial Institutions Division and Housing Division.

The Mortgage Lending Division has seen its revenue decline, largely due to its licensee base. Page 17 of [Exhibit G](#) reflects revenue beginning with a high in

2006. The Division is forecasting no increase in its licensee base over the 2012-2013 biennium. As a result, the Division has proposed the elimination of seven positions in FY 2011-2012.

Page 18 of [Exhibit G](#) shows the Financial Institutions Division anticipates it will have sufficient staff to conduct the audits and examinations required in NRS. The proposed sunset of the furlough program will allow increased staff hours. A comparison is made of anticipated accomplishments with a continued furlough program versus discontinuation of that program.

Information has been provided regarding accomplishments and activities of the Housing Division including ARRA and multifamily housing funds.

Page 20 of [Exhibit G](#) provides information concerning the Weatherization Assistance Program (WAP).

Pages 22 and 23 of [Exhibit G](#) provide information concerning enhancement decision units requested within the Division of Industrial Relations. A 2009 federal OSHA special study was published recently. The Division will need additional staff to accommodate those findings. Five positions are requested in the FY 2011-2012 budget and four positions are requested in the budget for FY 2012-2013. The additional position requests are largely driven by growth and expansion in industry.

Business and Industry is predominantly a regulatory Department. As we oversee the State's regulatory scheme we provide clear, consistent and current rules. All regulations have been under review with an eye toward efficiency in addition and balancing and protecting the interests of consumers and businesses.

CHAIRWOMAN SMITH:

Please provide an update on the ARRA funding within the Housing Division in subsequent hearings.

CHARLES (CHAS) L. HORSEY, III (Administrator, Housing Division, Department of Business and Industry):

The ARRA funding was a large success.

HILARY LOPEZ, Ph.D. (Chief of Federal Programs, Nevada Housing Division, Department of Business and Industry):

Page 19 of [Exhibit G](#) provides a brief summary of the two sources of ARRA funds received for multifamily housing funds. The section 1602 grants in lieu of tax credits received slightly more than \$50 million. Those funds have all been allocated. Approximately \$32.6 million, or 65 percent, has been expended through January 20, 2011. Those funds will expire in December 2011. All projects funded to date are on schedule to be in service prior to the deadline.

The second program was the Tax Credit Assistance Program (TCAP) which provided gap funding to certain Low Income Housing Tax Credit (LIHTC) projects. Approximately \$15 million was received and all funds have been allocated. Of that amount, approximately 91 percent of the allocated funds have been spent to date. Those funds are required to reflect a 50 percent expenditure rate by February 16, 2011, and the deadline will be met. The next deadline is to expend 100 percent of those funds by February 16, 2012. The four projects, funded in part by TCAP funds, will be in service prior to December 31, 2011.

MR. HORSEY:

Although significant general rental unit vacancies exist throughout the State, the Housing Division is the largest lender of affordable rentals for senior citizens in Nevada.

DR. LOPEZ:

Both programs were created as a result of the economic downturn. Although there was a lack of investors in low income housing projects, there has been a return of investors under the LIHTC Program. While we do not anticipate additional revenue under either program, we are confident the projects will have interested investors. Therefore, the market will continue in its past roll.

Page 20 of [Exhibit G](#) indicates all ARRA WAP funds have been allocated. Due to the high performance of WAP, an additional \$6.9 million was received under the Sustainable Energy Resources for Consumers (SERC) grant. The contract was let to the four subgrantees under the SERC Program in January 2011. That program is nearly ready to roll out. To date, no funds have been expended in the SERC Program. Since ARRA WAP Program inception, approximately \$23 million, or 63 percent of those funds, have been spent. More than 3,000 units have been weatherized.

MR. HORSEY:

The WAP Program will now begin to focus on solar and other types of green energy improvements.

DR. LOPEZ:

Page 21 of [Exhibit G](#) shows approximately \$2 million in ARRA funds were received for the Homeless Prevention and Rapid Re-Housing Program. Approximately 65 percent of that funding has been expended. The Division plans continued support for these programs through the Emergency Solutions grant funds received annually from the U.S. Department of Housing and Urban Development.

CHAIRWOMAN SMITH:

Please provide an update on the ARRA Hardest-Hit Fund (HHF). At the last ARRA oversight committee hearing, the Division was in the process of developing the rules and program.

MR. HORSEY:

When President Barack Obama and U.S. Senator Harry Reid announced the HHF several months ago, they stated it would be a fund to be used by individual states to develop a program tailor-made to the foreclosure situation in their particular state. The HHF was well-intended, but that was not the case. Instead, the HHF was developed by, and the restrictions, regulations and eligible activities were determined by, the U.S. Department of Energy which had very little housing experience. However, the doors are now open and we will soon provide assistance to those in need.

LON DEWEESE (Chief Financial Officer, Housing Division, Department of Business and Industry):

The HHF Program has gone through a series of developmental steps typical of any new business. The readiness assessment required by the U.S. Department of the Treasury was completed and approved. The program will begin pilot testing with various contracted banks. For the record:

We worked very diligently in getting those banking contracts put in place. There was a coalition of three states, Arizona, California and Nevada, working quite tirelessly with the assistance of the Treasury Department to try to convince banks that the principal reduction silver bullet, the academics had insisted was the best

way to help people who were under water — 63 percent of Nevadans are — was going to be the best and only solution to help assist those folks. Unfortunately, the message didn't go out to the national banking institutions, and, in fact, only one of the top ten banks in the country size wise, portfolio and servicing wise, has chosen to sign up.

As of this date, I am happy to report Nevada was the first to execute their agreement with a principal reduction program with one of the ten largest national banks — in fact the largest national bank, relative to size. That agreement, for the record, shows that they will be sending over 40 clients a week to the Nevada Affordable Housing Assistance Corporation. That is over \$1 million worth of draw on the HHF, or about 17 months maximum to draw down the entire amount set aside for the principal reduction program, which was set at about \$75 million.

Since the rules were published by the Treasury in December 2010 encouraging the banks to work with the HHF Programs of the individual states, we have signed up five additional national banks, allowing unemployed individuals in Nevada to have partial mortgage payments made by the HHF.

The only disappointment has been that the State-chartered institutions with small portfolios relative to the national charter banks, with one exception, have chosen not to sign up for the HHF Program. To characterize their reaction: "They aren't in a financial position to put up \$1 of their own money for each \$1 of the HHF to assist their borrowers who have problems with their first or their second mortgage."

We have begun the pilot process at HHF offices to process direct placements of mini portfolios of bank-selected borrowers to determine if those individuals qualify, if the underwriting process works, or if the criteria required by the Treasury works. Of the 394 individuals who were being screened for the program on the first pilot from the credit counseling agencies, 47 percent were rejected because they did not qualify. That led to a reassessment and request by the HHF to the Treasury to modify Treasury requirements. However, the Treasury requires all the empirical data to be submitted before they make a determination to modify criteria.

Three public hearings and three round table discussions were held in 2010 to scope these programs. Testimony predominantly indicated that the money should go to the longest-serving residents first. The "bubble buyers" and new carpet baggers helped exacerbate the problem and should be last in receipt of assistance. As a consequence, the established criteria provided funding to be distributed first to applicants with five years of residency, followed by those who had been in the State four years and on down the line. However, the 47 percent of rejected applications was because they did not have 5 years residency. Thus, the requested modifications included elimination of the five-year requirement or to lessen the amount of time required for residency. When a determination is made, the program should move forward. We will first try a two-week soft opening period to determine volume capacity after which time we will publicly advertise the program.

MR. HORSEY:

The details are overwhelming. Sixty-three percent of mortgages in Nevada are held by Freddie Mac or Fannie Mae. They will not participate in the programs in any state. Those institutions have their own financial problems.

We recently received a call from a lady who was upside down in her mortgage by approximately \$500,000. She owed \$200,000 on a second mortgage and \$100,000 on a third mortgage. She would not be accepted for the HHF Program. Neither Nevada nor other states have an appetite for using more money to bail out states' financial institutions. The program will advance up to \$25,000 only if the lender will match the \$25,000 resulting in a \$50,000 mortgage principal reduction.

One requirement the Treasury established was not to help individuals who were unemployed but not in a training program. There are no training programs in many industries. Certified public accountants and school teachers already hold a Master's degree, so further training is not available in those fields. We have petitioned the Treasury to have that requirement lessened or cancelled.

CHAIRWOMAN SMITH:

When is a response from the Treasury regarding the modification requests expected?

MR. DEWEESE:

The Treasury is required to respond to requests within 30 days.

CHAIRWOMAN SMITH:

Please provide a list of the banks who signed on for the HHF Program and a condensed explanation of the criteria for acceptance.

MR. DEWEESE:

That information is currently being promulgated in both English and Spanish and will be published on our Website.

CHAIRWOMAN SMITH:

I recently met with two bankers who indicated they have plenty of money to lend, it is a matter of having qualified applicants.

ASSEMBLYMAN KIRNER:

What are the specific number of FTE positions within B&I?

MR. MAIER:

The *Executive Budget* proposes 628 FTEs.

ASSEMBLYMAN KIRNER:

The 21 FTE eliminations are a small portion of that number. Will any of those FTEs be placed into other positions? Are the positions currently vacant or will there be layoffs?

TODD RICH (Deputy Director, Department of Business and Industry):

We will make every effort to find a position throughout our divisions and work with the DOP to find other positions for these individuals.

SENATOR DENIS:

When these budgets are heard in the Joint Subcommittee on General Government of the Senate Committee on Finance and the Assembly Committee on Ways and Means, I would like to see a report of the work conducted by the ombudsman position over the three years it was filled. Also, please provide information regarding the response to telephone calls during the interim.

CHAIRWOMAN SMITH:

We will close the hearing on B&I and open the hearing on the Department of Motor Vehicles (DMV).

BRUCE BRESLOW (Director, Department of Motor Vehicles):
I have provided a booklet containing an overview of the DMV ([Exhibit H](#)).

The DMV has 1,142.55 FTE positions throughout 18 statewide offices. There are also satellite offices in certain county assessors' offices. Many authorized smog check stations can also register vehicles at various locations.

Page 2 of [Exhibit H](#) is a simple organizational chart of DMV.

The Field Services Division is where most individuals come face-to-face with our staff. The administrator supervises all window operations including staffing to ensure there is staff available for Saturday operations despite furloughs and other leave issues. She is responsible for confrontational issues.

The Central Services and Records Division controls all back office programs including vehicle titles, the Insurance Verification Program (IVP) and license review.

The Compliance Enforcement Division recently conducted an undercover sting in Reno which resulted in seizure of a large number of counterfeit driver's licenses and other documents from Nevada, California and Mexico. We suspect this ring has been operating illegally for ten years. This Division also supervises the smog stations with 93 FTE positions.

The Motor Carrier Division's new administrator, Wayne Seidel, was formerly an award-winning Public Works Director for the City of Sparks. This Division regulates commercial registrations, credentials and audits. If the *Executive Budget* proposals are approved, the Division will add weights and measures and standards and the gas pollution standards testing units. The previous administration's budget preparations included a new division for these additional functions. A bill will be introduced with a proposal we feel is a much better fit.

The Management Services Division, with 16 FTE employees, provides research and development and formulates long-term, legislative planning, as well as policies and procedures.

The backbone and future of DMV is the Information and Technology Division. The Division writes all DMV programs and codes. They recently won an award

for a program allowing smog check stations to instantly transmit that information to DMV. Vehicles can also be registered at those stations. Previously, all states hired a third-party contractor for those functions. The contractor wrote its own programs in open programming code. Not only does Nevada no longer need to hire a third party, but all other states have copied the Nevada program.

The Department goals are listed on page 3 of [Exhibit H](#). They are different than what was presented to the Governor. I have only held my position for 22 days, but I wanted to ensure customer service was our most important goal. The original goals submitted to the Governor did not include a customer service goal.

The second goal is to enhance programs and services through the use of technology.

Third is to protect State consumers against fraud and unfair business practices.

The fourth goal is to ensure the security of DMV resources followed by opportunities for employee training and stability. The Field Services Division experiences considerable staff turnover. It is especially important to have accessible training and for Information Technology Division to enhance recruitment efforts. Many DMV programs are ten years old. Finding programmers who can still work in the older computer languages is difficult.

The final goal is to ensure DMV revenue collections and accounting efforts operate at peak efficiency. The DMV employs internal auditors, is undergoing an LCB audit and has been audited by the U.S. Department of Labor.

DEB COOK (Administrator, Administrative Services Division, Department of Motor Vehicles):

The DMV total revenues are up less than 0.25 percent from the previous year. However, revenue from the Highway Fund has decreased by 0.25 percent. The increases in total revenues are due to the General Fund transfer and increase in the Governmental Services Tax enacted by S.B. No. 429 of the 75th Legislative Session.

Motor Carrier temporary permit revenues have increased as a result of A.B. No. 372 of the 75th Legislative Session. The driver's license exam fee increases result from A.B. No. 25 of the 75th Legislative Session. Increases in

driver's license reinstatement fees are a result of A.B. No. 407 of the 75th Legislative Session.

The projections for FY 2010-2011 are based on year-to-date figures through October 31, 2010. The projections for FY 2011-2012 are flat. In FY 2012-2013, projections indicate a 0.25 percent increase.

ASSEMBLYMAN ATKINSON:

Where are the exam fees located in your exhibit? Was that a result of 2009 Legislation?

Ms. COOK:

Yes, the driver's license exam fee increase was a result of A.B. No. 25 of the 75th Legislative Session. They are listed on page 5 of [Exhibit H](#).

ASSEMBLYMAN ATKINSON:

Does the figure on that page indicate actual revenue for FY 2009-2010?

Ms. COOK:

The fees are listed under the driver's license section. The revenue from driver's license exam fees was \$2.5 million in FY 2009-2010 and is projected to be slightly more than \$3 million in FY 2010-2011.

ASSEMBLYMAN ATKINSON:

Is the initial exam fee \$25 and \$10 for a second exam?

Ms. COOK:

We will verify those fee amounts.

ASSEMBLYMAN ATKINSON:

Does the total revenue include both the initial and retake exam fees?

Ms. COOK:

That is correct.

Pages 9 and 10 in [Exhibit H](#) provide information on the 22 percent Highway Fund cap. The DMV is governed by NRS to a 22 percent cap on Highway Fund appropriations. The statute was enacted during the 1950s. The DMV collects

revenues for the Highway Fund; however, DMV may only receive allocations up to 22 percent of Highway Fund revenue minus collections of gas tax revenue.

MR. BRESLOW:

There is approximately \$25,000 in General Fund allocations to the DMV for the motor/voter registration cards. The remainder of revenue is derived from the Highway Fund or self-funded fee programs. The DMV grants will be discussed later. We have no ARRA funds.

MS. COOK:

[Exhibit H](#) shows DMV is under the 22 percent cap by slightly more than \$4 million in FY 2011-2012. In FY 2012-2013, we are under the cap by \$3.2 million.

CHAIRWOMAN SMITH:

Subcommittee members may see different numbers reflected in information from the LCB staff depending on whether or not they are based on one-shot appropriations. Please explain that calculation.

MS. COOK:

The one-shot appropriations are currently calculated under FY 2010-2011. That information is not included in [Exhibit H](#). The DMV is under the cap in FY 2010-2011 with \$2.4 million remaining. The one-shot appropriations are included in that figure.

Page 10 of [Exhibit H](#) compares the legislatively approved budget over the last biennium to the *Executive Budget*. The Weights, Measures and Standards budget is transferred from the Department of Agriculture. The Records Search budget has experienced a reduction in revenues decreasing their reserve. A reduction is seen in the IVP revenue also decreasing their reserves. There are increased expenses in the Director's Office budget due to the kiosk changes. The Administrative Services Division expenses have increased due to credit card fees.

ASSEMBLYMAN ATKINSON:

Please explain the 22 percent cap in further detail.

MR. BRESLOW:

In the 1950s, it was determined DMV would be funded primarily through Highway Fund revenue. The NRS specifies the DMV portion of Highway Fund revenue cannot exceed 22 percent of the total revenue in the Fund. The remaining Highway Funds are distributed to the Nevada Department of Transportation (NDOT) and other agencies. The DMV cannot exceed 22 percent of the annual Highway Fund collections. If the Highway Fund experiences a good year, DMV is prevented from requesting a larger portion of the revenue. Any excess is allocated to NDOT for road programs. Historically, there has been legislation recommending removal of the cap for DMV. The legislation has always failed.

ASSEMBLYMAN ATKINSON:

Did the legislation fail in the Assembly Committee on Ways and Means? I have always had concerns regarding the 22 percent cap.

MR. BRESLOW:

I will forward a document to you that describes the history of the 22 percent cap. We will gladly work with the Legislature on any proposed legislation concerning the cap. Despite Legislative Committees that have recommended passage of the legislation in the past, it has always failed.

CHAIRWOMAN SMITH:

Please provide the document to our staff and it will be distributed to all Committee members.

Would the DMV's 22 percent share of the Highway Fund revenue allocation increase in good economic times?

MR. BRESLOW:

That would seem to be true, but it is not the case. Once a DMV budget is authorized, even if Highway Fund revenues are higher than projected, we do not have legal authority to request an increase in the revenue beyond the 22 percent cap.

CHAIRWOMAN SMITH:

The DMV has the authority to request additional allocations from the Contingency Fund if it is still within the cap. If the 22 percent is allocated in a good economy, the DMV would still receive increased revenue. The cap is not

stagnant. The DMV is never precluded from benefit in good economic times. The perception has been presented that the DMV cap never benefits from good economic times and that is not the case.

MR. BRESLOW:

I will do some research and provide the joint subcommittee further information on this subject.

ASSEMBLYMAN GRADY:

Legislators probably receive more calls on IVP than any other issue. Why will the revenue in the program decline by \$10 million over the next two years? The revenue was at approximately \$17 million and is projected to decrease to approximately \$7 million.

MS. COOK:

The decrease is due to less revenue being received. The program is still collecting enough revenue to pay for the program. The reserve balance is decreased as a result. Those funds revert to the Highway Fund.

ASSEMBLYMAN GRADY:

Does that mean people are not registering their cars or not buying insurance?

MR. BRESLOW:

A decision was made by the prior administration to stop mailing the postcards to verify insurance in December 2009. Several months passed without notifications being sent. Therefore, IVP was not collecting revenue. The State really never knew who was insured in the past. The current program is much improved but it is not currently operational. The new postcard mailings will be reactivated in mid-February 2011.

MS. COOK:

Pages 11 and 12 of [Exhibit H](#) provide a detailed list of requested enhancements by budget account.

The 5 percent salary reductions, suspension of merit pay increases, and suspension of longevity pay requested in the *Executive Budget* are included. Computer and miscellaneous equipment requests are made in self-funded budgets. Two positions are proposed for elimination and four are requested for salary downgrades in the Compliance Enforcement Division.

A budget enhancement is requested for 30 new positions in the Field Services Division to address customer wait times. We propose to implement a kiosk convenience fee.

MR. BRESLOW:

The DMV is requesting a supplemental appropriation to cover the increased expenditures associated with the kiosk proposal. When kiosk alternative services are utilized to register vehicles, more individuals avoid waiting in the Field Services lines or they are in line and our staff recommends use of the kiosk. I hope to move the kiosks to a self-funded program and essentially open 80 new DMV offices across the State. In the meantime, the State pays a transaction fee to the vendor each time the kiosks are used. The fees differ depending on which services are accessed. The fee ranges from \$1 for a copy of a driver's license record to \$4.99 for a vehicle registration renewal.

The prior administration asked the Legislature for the appropriate funding to cover the fees. I have been told the response was to reduce the allocation and DMV was advised to return to the Legislature for additional funding if needed. Thus, we are requesting additional funding at this time.

The second supplemental request is similar. The DMV budgeted for credit card transaction fees when customers use online services, at a kiosk or in a DMV office. The projected funding necessary was reduced by the 2009 Legislature and DMV was directed to return with actual costs. More individuals are using credit cards and fewer are writing checks. Cash transactions are also decreasing except in the Las Vegas offices. That ultimately results in an increase in the credit card transaction fees billed to DMV.

CHAIRWOMAN SMITH:

There was a lengthy discussion in another agency's hearing regarding the cost of merchant fees. Have those fees been renegotiated with the vendor in this economy?

MR. BRESLOW:

I was told the negotiation is done through the Purchasing Division of the DOA. I plan to meet with that Agency to more accurately project these costs in the future. Our staff indicates the current rate is acceptable, but rates can always be renegotiated, especially in this economy.

CHAIRWOMAN SMITH:

Please explore the options and report to the Legislature through the joint subcommittee hearings.

MR. BRESLOW:

Page 15 of [Exhibit H](#) is titled, "Nevada DMV Opening a New Frontier." I want to increase the original proposal from six new kiosks to revolutionize this resource. Indiana has approximately 130 small DMV offices throughout the state. The DMV kiosk would essentially be "DMV in a box", offering many new services to rural locations, student campuses and retail locations. By making DMV accessible where people live, work and play, we would move DMV back into the neighborhoods. There is no additional cost to the State for this program. We propose making this a self-funded program which would reduce the burden on the Highway Fund.

Currently, DMV has 27 kiosks. Seventeen of those are located in DMV offices. While we have had 1.6 million transactions completed through kiosks, most are accessed by individuals in our offices who are told it is much faster to use a kiosk. Vehicle registration completed through a kiosk takes approximately 2.5 to 3 minutes.

We propose to dramatically grow the program. An RFP was being prepared to purchase the next-generation kiosks. I pulled that request because neither increases in scope nor transaction fees had been addressed. The proposed fees for the convenience need to be reasonable or no one will utilize the kiosks.

The next-generation kiosk will be available in 2012. The earliest those kiosks could be brought on line would be May 2012. We intend to add driver's license renewals and many other transactions to the kiosk services.

Proposed legislation would move the kiosks out of Highway Fund allocations into a self-funded program. The State currently pays a transaction fee to the vendor. Each kiosk costs approximately \$28,000. The vendor recoups its costs through the transaction fees.

The kiosk would collect the fee as a pass-through processing fee. It removes the kiosk costs from the 22 percent Highway Fund cap and allows DMV to deploy many more kiosks without concern for the 22 percent cap.

There were kiosks that had been mothballed. Two years ago, the Legislature was promised kiosks in Fernley and in Gardnerville where a full-service DMV office was closed, and in North Las Vegas.

Over the last three weeks, changes have been implemented. A kiosk currently sitting in the Fernley City Hall should be operational in approximately three weeks. We are in contract negotiations with Jerry Scolari to place a kiosk in his supermarket in Gardnerville. It will be available 24 hours a day, 7 days a week (24/7). It will be located in proximity to the Red Box, ATM machines and Coin Stars. Currently, kiosks not in DMV offices are located in American Automobile Association (AAA) offices. Some offices experience a good kiosk business while others, especially in small offices, get less use. We are considering removing kiosks from some of the least visited insurance offices and moving them to areas that would provide access 24/7. The first to be moved is currently located in Spanish Springs.

The DMV is searching for a better location in North Las Vegas. We will work with the residents to see where they would like a kiosk located. Other locations to consider are Summerlin in Las Vegas, Green Valley Ranch and at the student unions.

CHAIRWOMAN SMITH:

Subcommittee members who live in the Clark County area may have good ideas for future kiosk locations.

ASSEMBLYMAN AIZLEY:

What does a kiosk have that cannot be accessed from my home computer?

MR. BRESLOW:

There is no difference. However, only 30 percent to 37 percent of people use their computers to transact DMV business. When a computer transaction is made, there is no transaction fee charge. Kiosks are the best option for individuals who do not have computer access. Kiosks located in Las Vegas, attached to a DMV office where cash transactions can be monitored, also offer cash transaction options. The kiosks offer a check reader which reads the check code; therefore, check information does not need to be written by hand. Kiosks produce the license plate sticker immediately. It may take up to two weeks for stickers produced from home computer transactions to be mailed to the customer.

A transaction fee is already being collected but the program cannot expand unless it is a self-funded program. With a self-funded program and transaction fee pass-through, the 22 percent cap would not be affected and the program could expand. That means fewer customers in line at DMV offices and it lessens commuter traffic.

SENATOR PARKS:

What is the current per-transaction fee for kiosk usage? I have frequently utilized the AAA Nevada kiosk and found it convenient.

MR. BRESLOW:

The transaction fee is \$1 for a copy of a driver record and \$4.99 for a vehicle registration. The next-generation kiosk would allow renewal of driver's licenses. Kiosk companies claim future technology will take photographs and process first-time driver's licenses. The DMV will test the programs before they go online. We plan to add secure driver's license renewals to the kiosks because 95 percent of driver's license renewals are still conducted at DMV counters.

ASSEMBLYMAN ATKINSON:

Will the kiosk transaction fees be a part of the 22 percent cap?

MR. BRESLOW:

The transaction costs are currently reimbursed through the Highway Fund. The supplemental request is to increase funding to pay for the kiosk transactions. The intent is to create a fee-based pass-through account paid by the user, never becoming a part of the Highway Fund category.

ASSEMBLYMAN ATKINSON:

Where will the fee-based charges be accounted?

MR. BRESLOW:

The fees would pass through to the vendor. Instead of DMV writing a check to the vendor from the Highway Fund, it would be collected by DMV and passed through to the vendor to pay the \$30,000 cost for installation of each kiosk. When a kiosk is installed, the vendor contract requires a specific response time for repair services. Additional costs include the stickers and paper supplies. The transaction fee supposedly repays the kiosk costs, leaving the company a small profit.

When the new RFP is issued, DMV will increase the number of kiosks ordered and hopefully compel the companies to lower the transaction fees when they bid against each other. If the transaction fees increase too much, the kiosks will no longer be a customer convenience because of cost.

ASSEMBLYMAN ATKINSON:

Was the intent in your earlier testimony regarding opening 80 new DMV offices the installation of additional kiosks? A possible new location for the kiosk in North Las Vegas was mentioned. That is my district. I will provide you with a few locations to be considered.

MR. BRESLOW:

I was referring to the kiosks, or "DMV in a box" when I said we could open 80 new offices.

ASSEMBLYMAN KIRNER:

I am trying to reconcile the "DMV in a box" concept with the request for 30 additional positions in the Field Services Division. Would all 30 new positions be necessary?

MR. BRESLOW:

That is a logical conclusion. However, DMV lost 93 positions during the last Legislative Session. Of those, 87 were customer service positions. If that is coupled with furlough requirements and Saturday hours in the largest locations, the DMV has a staffing nightmare. Fewer windows are open to the public. It is not uncommon, at the Sahara Office in Las Vegas, for customers to still have approximately a two-hour wait for service when doors are closed. The 30 requested positions are slated for the four Las Vegas metropolitan offices where the lines are longest and staffing is complicated by furloughs and four-day, ten-hour work weeks. The new kiosks will not be available until 2012. If the customer wait times can be reduced, however, staff reductions can be considered in the future.

ASSEMBLYMAN KIRNER:

Many veterans receive a government services tax exemption. Are those transactions only available in DMV offices? Computers and kiosks cannot be utilized for such transactions. Is there a solution to make the process easier for veterans?

MR. BRESLOW:

One challenge of offering that service is that county computer systems will not interface directly with DMV's computer system. Those transactions can be done by mail. Technological access to county computers is needed to make that change.

ASSEMBLYWOMAN CARLTON:

Are you proposing to change the length of time driver's licenses are valid? An individual must physically appear one time, then the next renewal can be done by mail and the third renewal requires physically appearing at a DMV office.

MR. BRESLOW:

That idea has not been proposed.

Troy Dillard will discuss the Off Highway Vehicle (OHV) Program authorized during the 75th Legislative Session and the electronic dealer's report of sale program (e-DRS).

TROY DILLARD (Deputy Director, Department of Motor Vehicles):

Senate Bill No. 394 of the 75th Legislative Session created a registration and titling program for OHVs. The caveat is this is a fee-funded program that required start-up funds for design and programming. The start-up funds were not available until two weeks ago. The authorizing legislation is set to expire on June 30, 2011. We have met with Senator Rhoads. The Legislative Committee on Public Lands has agreed to extend the expiration date to June 30, 2012.

ASSEMBLYMAN BOBZIEN:

A new program takes time to implement. However, I am concerned with the length of time this program is taking to reach implementation.

MR. DILLARD:

I do not know why implementation was delayed. The DMV was tasked with the development of the software and regulations of the actual program. The initial start-up funds were a result of agreements between DMV and the user committee that worked three Legislative Sessions for passage of the bill. I can research what occurred and report to the Legislature.

ASSEMBLYWOMAN CARLTON:

I met with individuals in Clark County recently and they explained the different procedures, including specific uses for the permitting fee that caused the delays.

I have not supported this bill. Clark County had to provide permit fees of \$500,000 to jump-start a program for which constituents will only be charged \$25 or \$35. I hope the OHV Program can become self-sustaining and the funding would be repaid to Clark County.

CHAIRWOMAN SMITH:

When the bill is introduced, please explain why another year is needed to implement the OHV Program.

MR. DILLARD:

A few years ago, DMV identified groups of customers who were required to physically appear at DMV offices for various transactions and attempted to develop methods to reduce the wait times in offices by providing other options.

When a new or used vehicle is purchased from a licensed dealer in Nevada, a Dealer's Report of Sale is issued. Historically, the form has been required to be provided in person at a DMV office to register a vehicle.

The DMV, working with the vendor, developed an interfaced e-DRS pilot program. It interfaces dealer management systems with the DMV system. It allows franchised dealers with dealer management technology to transfer the sales data directly to DMV. The customer can then register the vehicle from their home computer without appearing at a DMV office. There are currently 34 dealers utilizing the e-DRS.

A few years ago, before the economic downturn, there were more than 200,000 DMV transactions annually. That is a potentially large customer base who would not need to physically appear at a DMV office. The e-DRS Program will be expanded as a Web-based, rather than vendor-based program. This will allow all dealers to participate as a convenience to their customers.

MR. BRESLOW:

Nevada is not yet in compliance with the REAL ID Act of 2005 (REAL ID) which requires states to produce a REAL ID-compliant driver's license. The deadline for compliance is May 11, 2011.

Nevada began issuing REAL ID-compliant driver's licenses in January 2010 and stopped the program in May 2010. When the program was in effect, wait time in DMV offices increased by approximately one hour. The methodology was a nightmare for our customers. Definitions of the documents that could and could not be used were not vetted by the federal government at that time. Former Governor Jim Gibbons established emergency regulations to allow use of the program. The Legislative Commission needed to approve the regulations to continue the program. The Legislative Commission refused to hold a hearing on the regulations; therefore, the program was stopped. Without the program in place, the wait times in DMV offices returned to normal.

The federal government has not changed the requirements. At some point, the United States Department of Homeland Security will not accept noncompliant Nevada driver's licenses as identification to board airplanes. I do not believe that will occur on the exact deadline date. By the deadline of May 11, 2011, all 39 benchmarks will have been met by 29 states. Eleven other states can meet 15 to 18 benchmarks. Nevada is currently meeting 16 benchmarks through system improvements alone. Nevada driver's licenses are no longer issued at the windows when the photos are taken. Hair is required to be styled allowing ears to show. Facial recognition software is now used on Nevada driver's licenses. Once everything is cleared, the driver's license is mailed to the customer.

The Legislature must decide whether Nevada will go forward to meet all federal requirements. My recommendation is to slowly and methodically move toward compliance. We can move forward over the next two or three years, utilizing best business practices to gain compliance with the Act.

One stumbling block was the "photo first" requirement. All customers were required to stand in line at the information counter, get in line to have their photo taken and then get in line for the service windows to complete their transactions. It was a nightmare. The DMV no longer requires customers to stand in line at the information counters. Customers are handed the document shown on page 25 of [Exhibit H](#) in English and Spanish which lists the

documents necessary for various transactions. The "photo first" requirement was removed this week. If DMV goes forward with REAL ID compliance, it may make one of the Las Vegas offices a driver's license only office. Many other suggestions have been offered to make implementation less problematic.

If the policy decision is made to move forward, DMV plans to do so methodically with the least impact to the residents of Nevada. It is possible the federal government may relax the deadline date. There are two federal benchmarks for which compliance requirements have not yet been established. I will provide the Legislature information regarding what DMV would like to do, how it would do it and how it could improve the system that was first implemented. The law is already in place, but the regulations were not approved.

ASSEMBLYMAN CONKLIN:

As the vice chair of the Legislative Commission and the chair of the Committee to Review Regulations, I heard most of the regulation proposals. My recollections do not match your testimony.

The Legislative Commission members with whom I have spoken, whether they agree with REAL ID or not, see the realities of State versus federal authority relative to driver's licenses as clearly a State function. The last time REAL ID was discussed, questions arose regarding the ability of the administration and DMV to garner public support for the program. In my district, an overwhelming number of people indicated their dislike of the program. I commend the Agency on the previous efforts to reach 16 benchmarks. This elected body wants secure driver's licenses and secure passengers on airplanes. It must be balanced with the public's sense of their right to privacy and a lack of government interference.

MR. BRESLOW:

Clearly, the State did not do a good job educating the public regarding REAL ID requirements. The media assisted through their publication of which documents would be required to receive a REAL ID-compliant driver's license. There was an overwhelming public aspiration to receive a REAL ID driver's license with a star on it, instead of waiting until they were required to update their driver's license. There are also facility layout problems to be in compliance with the Act.

ASSEMBLYMAN CONKLIN:

I represent 80,000 constituents and sometimes their voices can be quite loud. We need assistance from DMV to balance the needs of the State and the wishes of our constituents.

SENATOR HORSFORD:

I echo the comments of Assemblyman Conklin. Let me caution you not to assume the position of Legislative members on previous legislation. I tried to work with the DMV in the original application of these requirements. Several hearings were held, including one on the Floor of the Senate. To assume that my position is the same as it was in the past would be ill-advised.

I recommend discussing this as a new presentation based on the current status of Homeland Security. The information provided on the Floor of the Senate is two-year old information. Much has changed and many individuals still have questions. We are not trying to be obstructionists to federal policy. Nevada Legislators will always represent the concerns of our constituents.

MR. BRESLOW:

I apologize for my casual attitude on this issue. Much information must be exchanged and there is a great deal of work to be accomplished before implementation. The federal government requirements are changing. A new bill was presented to the federal government that would allow passports to be a form of recognition.

The next program is NV LIVE, otherwise known as the IVP. Nevada chose to be a pioneer as the first state to establish electronic verification of insurance status. Previously, individuals presented their auto policy insurance card and DMV took their word that coverage would be maintained. Information was received in many different forms from various insurance companies. There was a time lag issue with provision of updated insurance information.

The insurance companies suggested a Web-based service in which Nevada would electronically receive insurance data four times a month. This allows maintenance of insurance to be monitored more closely. In the past, some individuals provided proof of insurance at the time they registered their vehicles and immediately dropped their insurance policies.

The new IVP process began in February 2010 and, to this day, 55 percent of insurance companies do not provide Web-based information. Of those, 37 percent, or 142 "Group B" companies, are still having major issues in provision of information to verify insurance coverage. The DMV stopped the issuance of insurance inquiry postcards in December 2010 because it knew a large percentage of individuals who received the postcards had insurance, but verification was not being received from the insurance companies in compliance with NRS and time limits. The insurance companies that offer Web-based insurance verification and DMV agreed that a deadline for "Group B" companies would be required to meet Web-based verification by July 1, 2011.

The letter on page 21 of [Exhibit H](#) was sent in the last week of January 2011. I met with the Commissioner of Insurance and he agreed to add his signature to the correspondence to further emphasize the Web-base deadline. The DMV has assigned new technicians to assist the insurance companies in establishing connectivity. The DMV has also developed new computer programs to assist the insurance companies with compliance. The Division of Insurance and DMV will individually contact all companies that have not complied with the Web-based reporting. Once the "Group B" companies become Web-based, 98 percent of all drivers' insurance coverage will be electronically verified. There are still some challenges including name variations such as a vehicle purchase under the individual's legal name and purchase of insurance coverage under a nickname.

In the two weeks since the letter on page 21 of [Exhibit H](#) was mailed, 1,100 postcards were scheduled for mailing to your constituents within the next 100 days. The DMV will contact the insurance companies requesting a further check of whether an individual has current insurance coverage first to reduce the number of postcards that will be sent. The DMV anticipates a much smaller group of individuals will receive a postcard requesting their insurance information because coverage could not be verified.

Pages 23 and 24 of [Exhibit H](#) are copies of the newer, improved, friendlier version of the postcards. It states:

Dear Nevada Motorist: We need help in verifying your vehicle liability insurance coverage for the dates listed on the above postcard. It doesn't mean you are not insured, just that we are unable to verify your coverage at this time. It is also possible that

your insurance company has not provided the department with current information. Here's what YOU or your AGENT needs to do within 15 days.

The individual can call their agent who can contact DMV with the information, they can contact the insurance company directly, log on to www.dmvnv.com and click on the box located on the home page taking them to a link requesting four pieces of information:

- The code number on the postcard.
- The vehicle identification number for their vehicle.
- The policy number.
- The license plate number.

That will allow DMV to quickly reduce the list of individuals who receive notification post cards. There is a gap until July 1, 2011. There are things the DMV could have done and should have done to close the gap. Instead, DMV decided not to send out post cards causing a drastic decrease in revenue. The IVP Program delivers funds at the end of the year to the State. There are sufficient funds to continue the program. However, we need to ensure individuals maintain insurance coverage beyond the initial registration of their vehicles. The insurance companies do not notify DMV when they have lost a customer although they retain the records in an effort to regain the individual as a customer. With the Web-based process, DMV can use real time, live interface after July 1, 2011.

CHAIRWOMAN SMITH:

The 2009 Legislature placed confidence in DMV to get the Web-based program running. There were competing ideas presented at that time. We were assured the Web-based IVP Program would take care of business. In fact, in the 26th Special Session revenue associated with the program will obviously not be available. Those are important issues. It is frustrating to spend an entire Legislative Session hearing this was a great program, on track and would solve difficulties with the process. Now we are being told the program has been suspended; the revenue is no longer available. That is not acceptable.

MR. BRESLOW:

In my first 21 days as Director of DMV, at least 17 days have been spent on the NV LIVE Program. Our staff has heard me loud and clear and they have been

very responsive. I have testified today regarding the efforts to close the gap and to help force insurance companies to comply with requirements. I acknowledge this is a problem. "When you walk into a mine field and finally learn where the mines are located, you have to determine which direction is the safest path to not blow up coming out of the mine field." The DMV is three-quarters of the way through the mine field. It is easier to fix the program and solve the issues than it is to unplug it and return to the old system of IVP restarting with an outside vendor. When the obstacles are solved, Nevada will be the first State to have implemented the program. All other states will want to copy our process. However, to have brought the program forward before 90 percent of insurance companies were online was a serious mistake.

CHAIRWOMAN SMITH:

I want to see accountability for how this happened. The implementation process cost a large amount of revenue and heartache to our residents. It is a problem on all sides. I not only want to hear how we are going to fix the problem going forward, I want to hear how this happened and how we got to this point.

I suggest the Legislative body, through our Staff, deserved information regarding this problem before today's hearing. A letter should have been sent to the Legislature advising it of the stoppage of the program in December 2010. Also, this body approved the funding and policy for this program in the last Session and our Staff should have been notified regarding what had occurred to create the gap.

MR. BRESLOW:

You are correct. There is no excuse. The necessary communication was not provided. However, the problems do not mean the program will not be funded.

CHAIRWOMAN SMITH:

There appears to be a shortfall in funding the budget resolution adopted in the 26th Special Session. You may provide the explanation to our staff.

MR. BRESLOW:

If the IVP Program begins to work effectively, there will be no revenue. The success of the IVP Program reduces the funding because individuals will not be fined if they have current insurance coverage. On behalf of my staff, I apologize the Legislature was not informed earlier.

Within the next two weeks, wait times in DMV offices will be posted on our Website. Individuals, especially in Las Vegas, can log on to see which offices have the shortest wait time.

CHAIRWOMAN SMITH:

One line item in the DMV budget is a funding request for advertising charges. It seems to address information for the public good rather than commercial advertising. Who pays those advertising fees?

MR. DILLARD:

The request is for a reader board system such as seen in other states' DMV offices. The revenue would be derived from the company that installs the reader boards.

MR. BRESLOW:

A bill has been requested to allow reader boards at DMV offices. It would generate the additional revenue reflected under the budget projections. Are you referring to current revenue related to advertising?

CHAIRWOMAN SMITH:

Does DMV plan to allow public messages rather than commercial advertising? If that is the case, how is revenue generated?

MR. BRESLOW:

An RFP would be issued and a private company would be chosen. We would solicit advertisers to entertain DMV customers while they are in line and to promote their businesses. The net revenue would be allocated to the Public Information Office where programs that keep individuals from standing in DMV lines would be promoted. Our new slogan is "Stay Away From the Line."

ASSEMBLYMAN ATKINSON:

Please discuss the budget line item for a CIP.

MR. BRESLOW:

It is my understanding no CIP projects are allowed at this time due to the economic situation. The DMV had planned to open an office to replace the Galletti Way Office in Reno or to move forward with a second office in south Reno. The State had already purchased land. That project has been withdrawn.

The DMV had also hoped to open an additional office in Las Vegas, but no State land is available for that project.

ASSEMBLYMAN ATKINSON:
I just wanted to get that on the record.

CHAIRWOMAN SMITH:
We will work that out with our Staff. The last time I was at the Galletti Way office in Reno, there was no signage indicating parking was available other than in the front of the building. I have watched individuals drive around for 20 minutes waiting for a parking space to open when parking spaces are available in the back of the building. Please check the signage.

MR. BRESLOW:
We will check that situation.

CHAIRWOMAN SMITH:
The Subcommittee is aware the DMV staff work in an Agency that has to put up with many issues. Those issues include the budget reductions, longer lines and attempts to assist an irate public. I have stood in DMV lines three times in the last few months, so I appreciate what DMV does. You are always trying to find solutions to better serve the public.

I will now close the hearing on the Department of Motor Vehicles and open the hearing on NDOT.

SUSAN MARTINOVICH, P.E. (Director, Nevada Department of Transportation):
I have provided a packet of information ([Exhibit I](#)) for the Subcommittee.

The NDOT is responsible for the planning, construction, operation and maintenance of approximately 5,400 miles of roadway and 1,000 bridges. Sixty percent of traffic in the State travels on the State highway system.

We work closely with our transit partners in the Washoe and Clark County Regional Transportation Commissions (RTC). We also interact with the rail, bicycle and air modes of transportation.

We have established a notification and communication system with the public through the 511 telephone system and the operation of the freeway signage systems.

The mission and goals of NDOT are to provide a better transportation system for Nevada through unified and dedicated efforts.

The NDOT strategic priorities are aligned with our performance measures. Fifteen performance measures have been identified which cover each core function of the Agency. These include planning, administration, engineering and operations. We work to improve the performance measures and to do our jobs better.

As was mentioned by Mr. Breslow, NDOT is also primarily supported by the Highway Fund. The monies allocated to the Highway Fund are protected constitutionally. The funds are to be spent for the construction and maintenance of highways. Article 9, section 5 of the *Constitution of the State of Nevada* is shown on page 4 of [Exhibit I](#). The NDOT operates under Chapter 408 of the NRS. The NDOT works closely with DMV and DPS in sharing responsibility for the Highway Fund balance. The Highway Fund projections are established by DMV in consultation with NDOT, DPS and the DOA.

We meet with LCB staff to discuss and reevaluate the Highway Fund projections. The projections include both federal and State revenues.

The Highway Fund revenue for the 2011-2013 biennium is expected to be approximately \$1.6 billion and expenditures are projected to be \$1.7 billion. The projected ending balance of the Highway Fund will be \$100 million. That amount is based on no further revenue flowing into the Highway Fund. If projects and agencies were stopped or closed, this reserve would allow safe shut down conditions for the public.

Page 7 of [Exhibit I](#) shows a snapshot presentation of Highway Fund revenue sources. The projected revenue of \$1.6 billion is derived primarily from gasoline taxes of \$380 million. Other sources are special fuel taxes, driver's license fees, motor carrier fees and the vehicle registration and bicycle safety fees from the State. The NDOT also receives a large portion of federal aid revenue estimated to be approximately \$470 million. Other receipts include DMV and DPS authorized revenue and other local entity agreement contributions to projects.

The Las Vegas Convention and Visitors Authority (LVCVA) revenue will be included as part of A.B. No. 595 of the 74th Legislative Session.

The largest portion of NDOT expenditures is allocated to NDOT and others shown on page 8 of [Exhibit I](#). Bond repayment expenditures are a large portion of that budget. The NDOT is currently at the maximum payment for bonds at approximately \$80 million annually. At the time bonds were sold, they funded major projects such as the widening of Interstate 15 (I-15), the widening of the U.S. 95 northwest corridor, participation in the Hoover Dam bridge project and participation in the State Route 580/North Carson freeway project. We received excellent interest rates and some bonds were sold with 10 years and others at 20 years maturity. Bond sales were nearly \$1 billion; therefore, NDOT is at its peak bond repayment, but ultimately the expenditures will begin to decrease.

No bond sales are proposed for the 2011-2013 biennium. If all funding were allocated to bond repayments, there would be nothing left for transportation projects. When the time is right with a good, balanced program where bond payments are being made and other funding is available for projects, NDOT will have new projects ready in which to sell bonds. The NDOT works with the Legislature and the Treasurer on those efforts.

The majority of NDOT Highway Fund expenditures are allocated to capital improvements for design services, construction management services, all construction projects and right-of-way acquisition. Programs also include assessments to other agencies including the Office of the Attorney General, Department of Information Technology, Taxicab Authority and other miscellaneous agencies that receive funding. Other expenditures include personnel and operating costs. Operating costs include supplies such as fuel, electricity, chips for sealing projects, road salt and guardrail materials.

If there is an increase in the federal or State gasoline taxes or in the Highway Fund, the NDOT budget remains flat with the exception of capital improvements. All funding is allocated to projects on the ground.

Assumptions were necessary for the federal capital improvements because of the expiration of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), the last federal highway funding bill.

The NDOT employs 1,780 FTE positions. The *Executive Budget* does not include any new position requests. We are working with DOP to shift positions and maximize the busiest areas. We evaluate the need for all FTE positions with the change of business practices.

The budget enhancement request of \$422,000 is to replace outdated radio equipment across the State.

The Commercial Vehicle Information Systems and Networks grant is a federal partnership. We are also working with DMV and DPS on the project. It helps to monitor trucks coming in and out of the State. Much of allocations fund the weight monitoring issues, licensing and leases and pages of the 511 telephone system to make public notifications. The return on investment to match federal funding is valuable.

The Electronic Documentation System (EDS) replaces and allows manual processes to be accomplished electronically. It assists in better monitoring of construction projects and payment of construction contracts. Under manual procedures, each contract may consist of more than 200 books used to record quantities of materials used. The EDS significantly reduces paperwork and expedites processes. The NDOT projects this will be a good return on investment.

The NDOT is requesting replacement of a portion of its mobile and fleet equipment based on cost of repairs, mileage and hours of use. A higher criterion has been established because a vehicle with 100,000 miles does not necessarily need replacement. However, if that vehicle begins requiring thousands of dollars to repair and is not available for projects because of the repairs, it is identified for replacement. Most of our equipment is well over DOA criteria for replacement. We work closely with the Associated General Contractors of America to determine which equipment is needed for NDOT to perform its maintenance functions.

The enhancement request of replacement equipment for the 800 megahertz radio system will replace approximately 10 percent of NDOT radios. These are statewide radios, many of which are more than seven years old. These radios are used by snowplow operators across the State. There are typically hundreds of miles between them and other locations in bad weather. The radios also help with emergency response.

New equipment requests are for sweepers funded through a federal category of congestion and air quality mitigation. The remaining new equipment includes laboratory testing equipment to test steel, asphalt and aggregate projects.

The NDOT is not planning new facility construction with one exception. We are responsible for rest areas and maintenance stations, some of which were constructed as early as the 1950s. They need to be cared for to benefit our staff and individuals living near those areas.

The single construction project is a request to build the Roop Street Annex to add facility capacity in Carson City. As we have acquired buildings for projects, we have moved NDOT staff into them. One example is the Landmark Building south of Carson City on U.S. Highway 50, which is to be demolished when the Carson City freeway is completed. Considerable NDOT staff is located in that building and will need to be moved to the main NDOT campus. We look for opportunities to lease vacant buildings in areas rather than building new buildings. This CIP request is to accommodate staff from other facilities that will be demolished.

The NDOT has two aircraft that fly almost daily between Reno and Las Vegas with staff. They are reaching an age where they need maintenance more frequently. The cost we save with overtime and tickets as a result of the aircraft crew efforts supports the aircraft and enables us to respond to statewide emergencies and provide transportation to outlying areas of the State.

ASSEMBLYMAN CONKLIN:

Although I am not a member of the joint subcommittee that will hear this budget, please provide the justification for the cost-effectiveness of NDOT aircraft. I have heard some individuals prefer to travel on commercial airlines. As a general public perception, the request must be justified. Information relative to that request provided in joint subcommittee will be helpful.

MS. MARTINOVICH:

We will provide the information.

ASSEMBLYMAN HARDY:

I am a contractor and am aware one use of NDOT aircraft is to have the ability to reach a jobsite quickly. Without that ability the State could be involved in

potential lawsuits. When the aircraft have been used for that purpose they may have saved the State millions of dollars in liability costs.

ASSEMBLYMAN CONKLIN:

That is acceptable. There are budget line items that affect the public perception. If the usage has resulted in millions of dollars in savings, the State should be proud of that. If not, we should consider whether two aircraft are necessary and whether there are other ways costs can be reduced.

MS. MARTINOVICH:

There are large benefits and NDOT will prepare the requested information.

The final budget request is the consolidation of the DPS Bicycle Safety Program with the NDOT Program. It was found that both agencies had similar programs which actually diluted the effectiveness of the programs. Both the staff and the DPS Program are proposed for combination with the NDOT Program under NDOT purview. It will eliminate some duplication of effort.

When A.B. No. 595 of the 74th Legislative session was approved, it consisted of three components: car rental fees, a portion of property tax and approximately \$300 million from the LVCVA. Page 14 of [Exhibit I](#) lists the projects funded from these sources. Major projects on major traffic corridors were recipients of these funds.

One current project is the I-15 design/build project under construction in Southern Nevada. It is the second NDOT project utilizing the design/build construction method. We anticipate having three more projects utilizing that construction method. So far, it has been very successful. The NDOT looks forward to use of that method for expedited and quality construction delivery.

Another special funding source included in S.B. No. 5 of the 26th Special Session provided allocations to be transferred from the fund for cleaning up petroleum discharges. At this time, NDOT has received \$1.77 million from that source. An additional \$5 million is projected during the 2011-2013 biennium. The condition for use of the funding was that 70 percent would be allocated to the RTC in southern Nevada. In working with Jacob Snow, General Manager, Clark County RTC, the project chosen for allocation was the opening of F Street under I-15. Another 20 percent of the funds were allocated to the Washoe County RTC which will be utilized for the next NDOT design/build

project. The remaining funds were allocated to rural counties, specifically a pavement preservation project.

CHAIRWOMAN SMITH:
What is the timeline for those projects?

MS. MARTINOVICH:
The pavement preservation project on U.S. Highway 95 shown on page 15 of [Exhibit I](#) will be advertised in the next couple of months during the current fiscal year.

The Washoe County project is in the process of selection for the design/build team. That will come before the NDOT Transportation Board in the spring; construction will begin in summer 2011.

The F Street project is in an earlier stage. It is in the National Environmental Protection Act of 1969 compliance processes and selection of alternatives. It is still a couple of years away from completion.

The most recent federal aid bill, SAFETEA-LU, expired on September 30, 2009. Since that time, NDOT has been through a continuing resolution process. The sixth resolution will expire on March 4, 2011. It is difficult for NDOT to plan because after March 4, 2011, we will not know the amount of funding that will be allocated, when it will be received and the criteria to qualify for funding. To date, the criterion has been an extension of the SAFETEA-LU bill, but there has been discussion with the new U.S. Congress regarding rule changes. I am reluctant to begin large projects without knowing if and when reimbursement from the federal government will be received. We are strategizing and working closely with the federal representatives.

The challenge with federal aid funding is that it is not a lump sum allocation. Many different categories are specified for federal aid uses. For instance, if funds are specified for interstate maintenance, the funds can only be spent on the national highway system and only for maintenance purposes. No new construction can be included. Other categories include urban areas with populations of less than 200,000, areas of population with less than 5,000, safety and others.

Projects must be ready in all categories to ensure all federal aid funding is spent each year. The federal aid funding is a reimbursable program. Therefore, if the funds are not spent, federal aid will not reimburse the expenditures. At times NDOT appears before the IFC for permission to accept additional federal aid funds. The State fund match to the federal aid funds is 5 percent. Most states have a fund match of 20 percent. Nevada has the 5 percent rate because of the magnitude of federal lands within Nevada.

Funding is awarded through an annual apportionment determined by the U.S. Congress. It is distributed through the various project categories and can only be used within those projects.

The funding levels are authorized in a multiyear bill. The amount allocated to Nevada can then be obligated. We are always at the mercy of U.S. Congress decisions. In reality, we work to be ready to spend all funds allocated for our projects. The NDOT recognizes transportation investments put people to work. It has both direct and indirect benefits. The NDOT goal has always been to obligate all federal funds apportioned.

In September 2010, NDOT had the right projects ready, in the right categories to qualify as one of four states to receive last-day funds. When other states do not meet their specified fund obligations, the remaining funds are reallocated to other states. Nevada has received an additional \$9 million in last-day obligation funds.

The NDOT received approximately \$201 million in highway funding and \$7.3 million in transit funding from ARRA allocations. That funding was divided among 71 projects with at least 1 project in every county. The projects are still under construction. All ARRA funds have been obligated and are in the process of being spent. The NDOT budget does not include any new ARRA funds.

CHAIRWOMAN SMITH:

I am surprised you made no mention of the loss of Highway Funds to NDOT through redirection of those funds in the *Executive Budget*.

MS. MARTINOVICH:

That funding was approximately \$44 million allocated through A.B. No. 595 of the 74th Legislative Session and NDOT had other priorities. Our original budget requests included a new airplane and creation of a traffic management center.

The timing of the traffic management center is not appropriate at this time. The new aircraft request, as stated by Assemblyman Conklin, needed further justification and support. The \$44 million would be reallocated from those two original budget requests.

CHAIRWOMAN SMITH:

However, approximately \$34 million in property tax that would have been transferred to the Highway Fund is being redirected to NSHE. Also, car rental tax of \$8 million is lost to the Highway Fund.

MS. MARTINOVICH:

Our budget request reflects the \$44 million decrease in revenue. The NDOT priorities will be directed to projects rather than aircraft or transportation management center requests. The 5 percent salary savings will be redirected to the Capital Program. The Capital Program lost no funding.

CHAIRWOMAN SMITH:

The Highway Fund still loses \$44 million that could fund other budget items. That is a sizable reallocation that could otherwise be utilized as the Highway Fund was intended.

SENATOR KIECKHEFER:

I was surprised to see the number of personnel within NDOT. Please explain the categories into which your staff is employed. Are they primarily workers on street projects or are they part of the planning process before jobs are put out for bid? How do you determine which projects will be completed by NDOT staff and which ones will be let out to bid?

MS. MARTINOVICH:

Over one-half of NDOT staff is distributed among our districts. Those include maintenance and construction personnel. There are approximately 800 maintenance staff and the remainder are engineering and planning personnel. The NDOT has made an effort to undertake maintenance projects. We have initiated a study to determine which types of projects would best meet Nevada's needs. There are possibilities for striping and chip seal projects that can be initiated. The NDOT historically worked all chip seal projects in-house. However, there are occasions when they can be put out to contractors. We are making that effort.

The NDOT staff is large because of snowplow, garbage pickup in rural areas and other maintenance challenges. The design staff is limited because not all design work is done by NDOT staff. We receive outside services for large technical designs, when specialized knowledge is needed or when there is a large workload of projects. The NDOT employs design staff at a ratio of approximately 50 percent NDOT staff and 50 percent outside teams. There may be times when NDOT staff will design the roadway but consultation from a hydraulics firm might be employed to assist in the project design completion.

Many positions are currently vacant. I intend to leave the vacancies unfilled to determine if those positions are still necessary. With funding changes, more maintenance projects will need to be directed to an outside workforce.

SENATOR KIECKHEFER:

The time is probably right, given the current economy, to see what private sector options can be utilized.

Your budget indicates \$260 million for personnel costs and \$777 million in the Capital Program. Are the Capital Program improvements all projects that have begun? Your testimony indicated operating expenses include items such as chip seal projects. When expenses are allocated, are NDOT staff exclusively included in personnel costs? Are staff who work for contractors included in Capital Program costs?

MS. MARTINOVICH:

The NDOT staff is reflected in the personnel costs. If contractors are hired, their staff is in the Capital Program. If we hire service providers or design consultant staff, those are reflected under the Capital Program.

CHAIRWOMAN SMITH:

Does NDOT have jurisdiction over your FTEs as well as contract employees?

MS. MARTINOVICH:

We have a considerable number of private design consultants under contract to assist with design projects and others who assist in construction administration. Very few other outside personnel are employed by NDOT. There are a few for information technology needs and a few for office positions.

CHAIRWOMAN SMITH:

Are temporary employment agencies used for some of the other needs?

MS. MARTINOVICH:

That is correct.

CHAIRWOMAN SMITH:

Those are some items we will want to see presented in your joint subcommittee hearing.

JOHN MADOLE (Associated General Contractors):

This budget proposes to expend approximately \$1.71 billion but the revenue projections are approximately \$138 million short. Now another \$84 million is proposed for reallocation. Even if the \$84 million were restored to these budgets, they would be approximately \$60 million short. There has been no increase in funding for NDOT in more than 20 years. In fact, funding for the NDOT has only been addressed three times.

The economic situation does not allow large budget increases. However, taxes are being paid by individuals who are taking advantage of those roads. If it costs a little more, perhaps a few more pennies in gas tax, I would prefer to pay a little more to have our roadways repaired. If we wait long enough, the gas tax increase may need to be 25 cents per gallon. If we create a crisis, sooner or later the public would likely beg for a 25-cent increase in gas tax. Is that a responsible way to manage one of our most valuable resources?

CHAIRWOMAN SMITH:

Our roads, in addition to helping us get to and from where we need to be, must be safe for those who travel on them. I talked to a friend over the weekend who hit a pothole causing a tire blowout which nearly caused an accident. We think in terms of convenience, but these are vital safety issues as well.

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Seeing no further business before the Subcommittee, this meeting is adjourned
at 4:39 p.m.

RESPECTFULLY SUBMITTED:

Cynthia Clampitt,
Committee Secretary

APPROVED BY:

Senator Steven A. Horsford, Chair

DATE: _____

Assemblywoman Debbie Smith, Chair

DATE: _____

EXHIBITS

**Committee Name: Senate Committee on Finance/Assembly
Committee on Ways and Means**

Date: February 2, 2011

Time of Meeting: 8:30 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	James R. Wells	PowerPoint presentation from PEBP
	D	Kevin Ranft	Letter from AFSCME Local 4041
	E	James G Cox	NDOC PowerPoint presentation
	F	Chris Perry	DPS PowerPoint presentation
	G	Terry Johnson	B&I PowerPoint presentation
	H	Bruce Breslow	DMV PowerPoint presentation
	I	Susan Martinovich	NDOT PowerPoint presentation