

**MINUTES OF THE  
SENATE COMMITTEE ON FINANCE**

**Seventy-third Session  
March 9, 2005**

The Senate Committee on Finance was called to order by Chair William J. Raggio at 8:03 a.m. on Wednesday, March 9, 2005, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

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

**STAFF MEMBERS PRESENT:**

Mindy Braun, Education Program Analyst  
Claire Jesse Clift, Secretary of the Senate, Legislative Staff, Nevada Legislature,  
Legislative Branch  
Brenda J. Erdoes, Legislative Counsel, Legal Division, Legislative Counsel Bureau  
Gary L. Ghiggeri, Senate Fiscal Analyst  
Bob Guernsey, Principal Deputy Fiscal Analyst  
Lorne J. Malkiewich, Director, Legislative Counsel Bureau  
Paul V. Townsend, Legislative Auditor, Audit Division, Legislative Counsel  
Bureau  
Nancy S. Tribble, Chief Clerk of the Assembly, Legislative Staff, Nevada  
Legislature, Legislative Branch  
Donald O. Williams, Research Director, Research Division, Legislative Counsel  
Bureau  
Sandra Small, Committee Secretary

**OTHERS PRESENT:**

Pete Ernaut, Member, Board of Directors, Center for Basque Studies, University  
of Nevada, Reno  
Lorraine T. Hunt, Lieutenant Governor, Office of the Lieutenant Governor,  
Lieutenant Governor  
Elaine Barkdull, Executive Director, Elko County Economic Diversification  
Authority  
Robert E. Shriver, Executive Director, Division of Economic Development,  
Commission on Economic Development  
Todd M. Butterworth, Rehabilitation Chief, Disability Services, Department of  
Human Resources  
Mary Liveratti, Deputy Director, Department of Human Resources  
Terry L. Johnson, Deputy Director, Department of Employment, Training and  
Rehabilitation  
Robert A. Desruisseaux, Northern Nevada Center for Independent Living  
Dana Bilyeu, Executive Officer, Public Employees' Retirement Board, Public  
Employees' Retirement System

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Mark Balen, Chairman, Public Employees' Retirement Board, Public Employees' Retirement System  
Tina Leiss, Operations Officer, Public Employees' Retirement Board, Public Employees' Retirement System  
Laura Wallace, Investment Officer, Public Employees' Retirement Board, Public Employees' Retirement System  
David F. Sarnowski, General Counsel and Executive Director, Commission on Judicial Discipline

CHAIR RAGGIO:

We have a report from the Department of Education on overtime and compensatory time for classified employees who are under consideration to become unclassified.

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

In response to the Committee's request, you have received a copy of a memorandum from Doug Thunder, Department of Education, dated March 8, 2005 ([Exhibit C](#)). Attached to the memorandum is an analysis of compensatory and overtime paid for positions in the Department of Education for FY 2003, FY 2004 and FY 2005 to date. Based on what has been provided, it appears, in FY 2003, the combined annual leave forfeiture and overtime cost was approximately \$37,000; in FY 2004, the cost was approximately \$36,000 and in FY 2005 to date is approximately \$18,000.

CHAIR RAGGIO:

[Exhibit C](#) lists the employees who would go from classified to unclassified. Is [Exhibit C](#) also showing the amount of overtime that would not be paid if these employees become unclassified? The issue is whether or not there is a net loss in wages for employees.

MR. GHIGGERI:

Yes, it does.

CHAIR RAGGIO:

We will put [Exhibit C](#) with the information on unclassified salaries.

PETE ERNAUT (Member, Board of Directors, Center for Basque Studies, University of Nevada, Reno):

I am here today to request a \$250,000 appropriation for the new Basque Genealogy Center. You have received a handout titled Budget for the Basque Genealogy Center ([Exhibit D](#)) which describes the Center's needs and how the money will be used.

CHAIR RAGGIO:

Has the state previously appropriated funds to the Center?

MR. ERNAUT:

The 2001 and 2003 Legislative Sessions provided funds for Center projects.

SENATOR CEGAVSKE:

Can you provide information to the Committee about previous session appropriations to the Center and how the funds were used? Can you also provide us with the Center's plans for the future?

MR. ERNAUT:

I do not have the information with me. The funds previously provided were for full-time employees in the Center. We can bring data showing you what they do today. We are requesting seed money to begin the genealogy project.

SENATOR CEGAVSKE:

It is important for us to see what has been done since 2001 and what the Center's plan is for the future.

MR. ERNAUT:

I will get that to you.

CHAIR RAGGIO:

Is there an area in the University and Community College System of Nevada budget dealing with this Center?

MR. GHIGGERI:

Funding was added at the end of the 2001 and 2003 Legislative Sessions, but I will have to research that.

CHAIR RAGGIO:

[Exhibit D](#) appears to request funds for positions. The issue, if we introduce a bill, will be whether or not this is a onetime appropriation.

MR. ERNAUT:

There is no intention to use this appropriation for funding full-time employees. These are research assistants who will help create the Genealogy Center.

SENATOR TITUS:

Is there a reason this is not part of the Board of Regents' budget?

MR. ERNAUT:

We have a separate foundation and accounting for some projects of the Center even though it is administered through the University budget. The Center, in some respects, is a stand-alone entity.

CHAIR RAGGIO:

Is there a motion for Committee introduction of a bill draft request (BDR)?

SENATOR TITUS MOVED FOR COMMITTEE INTRODUCTION OF A BDR TO APPROPRIATE \$250,000 FOR THE BASQUE GENEALOGY CENTER.

SENATOR MATHEWS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR BEERS WAS ABSENT FOR THE VOTE.)

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SENATOR RHOADS:

There is an excellent opportunity for a project in Elko County. The Lieutenant Governor has additional information for you concerning this project.

LORRAINE T. HUNT (Lieutenant Governor, Office of the Lieutenant Governor, Lieutenant Governor):

I am Chair of the Commission on Economic Development. We are presenting an outstanding economic diversification opportunity for Elko County. Ms. Elaine Barkdull will provide an overview to the Committee.

ELAINE BARKDULL (Executive Director, Elko County Economic Diversification Authority):

The Port of Elko will be a rail-served industrial park and multimodal transloading facility. The Port will serve northeastern Nevada with Union Pacific Railroad as a partner in this project. We need to start building it now. The major challenge for rural Nevada is location. It is possible that the industrial park, as part of the Port, can bring between 1,300 to 1,800 jobs to the area.

CHAIR RAGGIO:

What is a transloading facility?

Ms. BARKDULL:

A transloading facility transfers a product from one mode of transportation to another. The Port of Elko would be from train to truck or truck to train. It will also provide rail service to existing companies; for example, the mines. Companies will save money on transportation costs because they will have this convenient service available. By building a port in northeastern Nevada, we will take an isolated area and make it possible for manufacturing and industry to locate there.

CHAIR RAGGIO:

Is this all in connection with the Union Pacific Railroad?

Ms. BARKDULL:

Yes, it is.

CHAIR RAGGIO:

What is the total cost, how will it be funded and what are you requesting?

Ms. BARKDULL:

The estimated cost is from \$6 million to \$11 million for the transloading facility and the beginning of the industrial park. It will be funded by the county, which will be the owner, Union Pacific and other grant sources. I have provided you with information titled Port of Elko ([Exhibit E](#)). The majority of the cost will come from Elko County. We are requesting a state appropriation of \$1 million for the project.

CHAIR RAGGIO:

What is the Union Pacific contribution?

Ms. BARKDULL:

The Union Pacific will contribute materials such as rails and switches.

CHAIR RAGGIO:

If there is a hearing on this, you will need to provide additional information. Would the state's contribution to the project be conditioned upon receipt of the other funding?

Ms. BARKDULL:

Yes, that is correct.

ROBERT E. SHRIVER (Executive Director, Division of Economic Development, Commission on Economic Development):

One of the great issues for economic development is diversification in the rural areas. We have a workable solution with the Port of Elko that will have an impact on the counties of White Pine, Eureka, Lander, probably Winnemucca and beyond. Railroads want to get products from ports to the inland areas. A transload facility is the way railroads like to operate the lines. The aggressive stance of Elko and northeast Nevada in pursuing this community-based facility is going to impact rural diversification.

SENATOR TITUS:

I think this is a good project. I have a bill dealing with economic development through matching grants with local governments and the private sector. Do you think your project fits this scenario?

MR. SHRIVER:

Yes, I do. We need the Port of Elko. It is a real project. The bill you have proposed is an adjunct in finding ways to make it work better.

CHAIR RAGGIO:

Is there a motion for a Committee-sponsored BDR?

SENATOR COFFIN MOVED FOR COMMITTEE INTRODUCTION OF A BDR TO APPROPRIATE \$1,000,000 FOR THE PORT OF ELKO CONDITIONED UPON RECEIPT OF ADDITIONAL FUNDING FROM SOURCES OTHER THAN THE STATE.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR RAGGIO:

We will open the discussion on Senate Bill (S.B.) 22. This bill was referred from the Senate Committee on Human Resources and Education because of the fiscal note on the bill.

**SENATE BILL 22 (1st Reprint)**: Makes various changes concerning certain programs and services for persons with disabilities. (BDR 38-689)

SENATOR DINA TITUS (Clark County Senatorial District No. 7):

Senate Bill 22 came out of the Interim Legislative Committee on Persons with Disabilities. Its primary focus is to create an interagency advisory board on transition services for youth with disabilities. You have before you a memorandum dated March 9, 2005, from me to the members of this Committee ([Exhibit F](#)) describing the requested changes, fiscal impacts of this bill and other information. The bill was amended by the Senate Committee on Human Resources and Education to add the Coalition Employing Nevadans in Training and Services (CENTS). I am bringing you additional amendments that will remove the fiscal impact of the bill.

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CHAIR RAGGIO:  
Are the proposed amendments before us?

SENATOR TITUS:  
Yes, the proposed amendments are on page 2 of [Exhibit F](#). Items one and two remove the fiscal note, item three clarifies the language related to a council name change and item four requires the Department of Employment Training and Rehabilitation (DETR) to report progress on the CENTS program.

CHAIR RAGGIO:  
Does staff know if this will remove the need for a fiscal note?

MR. GHIGGERI:  
We received a revised fiscal note ([Exhibit G](#)) this morning. I do not know if Senator Titus has had a chance to review it. I have not reviewed it. Perhaps members of the Department of Human Resources (DHR) could address the revised fiscal note.

TODD M. BUTTERWORTH (Rehabilitation Chief, Disability Services, Department of Human Resources):  
This is a 25-percent reduced version of the original fiscal note.

CHAIR RAGGIO:  
Explain the March 8, 2005, revised fiscal note; what is the fiscal impact of [S.B. 22](#)?

MR. BUTTERWORTH:  
The fiscal note, [Exhibit G](#), page 2, covers travel for the members of the committee who are not employed by state or local agencies. It funds a portion of the staff who serve the council.

CHAIR RAGGIO:  
The total on this fiscal note shows zero.

MR. GHIGGERI:  
The original fiscal note used General Funds of \$34,676 in fiscal year (FY) 2006 and approximately \$35,000 in FY 2007. The revised fiscal note, [Exhibit G](#), shows a General Fund cost of approximately \$26,000 in each year of the biennium.

CHAIR RAGGIO:  
Is it correct there is a cost to the Office of Disability Services and their budget will be revised?

MR. BUTTERWORTH:  
That is correct.

CHAIR RAGGIO:  
Senator Titus' understanding was that the revised fiscal note would remove the fiscal note.

SENATOR TITUS:  
I knew that it would remove the fiscal note that dealt with CENTS. This fiscal note relates to the creation of a council. The funds are not for new employees;

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they are for employees paid out of grant funds who cannot charge their activities related to the council to the grant.

MARY LIVERATTI (Deputy Director, Department of Human Resources):  
There are no new positions. It is a cost allocation issue. We cannot allocate the council costs to federal grants. We need General Funds to cover the council expenses.

CHAIR RAGGIO:  
Is DHR prepared to support S.B. 22 and the revised fiscal note? Does the Governor have any objection?

Ms. LIVERATTI:  
We support S.B. 22 and the revised fiscal note. The Governor does not object. This is a recommendation from our Strategic Plan Accountability Committee.

SENATOR CEGAVSKE:  
The CENTS program was passed during the 71st Legislative Session. Nothing has been done. We provided staff. Are we utilizing the staff originally planned for this program?

SENATOR TITUS:  
The CENTS program has been a problem of reorganization and staff changes. The staff costs in the fiscal note are related to the Interagency Advisory Board on Transition Services.

CHAIR RAGGIO:  
If we adopt your amendments, does the bill still create the Interagency Advisory Board on Transition Services?

SENATOR TITUS:  
That is correct.

TERRY L. JOHNSON (Deputy Director, Department of Employment, Training and Rehabilitation):  
The DETR agrees with the amendment language as it affects us. We will provide information to the Committee about the CENTS program.

CHAIR RAGGIO:  
Are you comfortable with the proposed amendment?

MR. JOHNSON:  
Yes, the DETR met with Senator Titus and DHR recently to discuss this topic. We support the amendment.

ROBERT A. DESRUISSEAU (Northern Nevada Center for Independent Living):  
I am the chair of the Strategic Plan for People with Disabilities Statewide Accountability Committee. I have been involved in the development of the ten-year strategic plan from the beginning. Transition services have been part of that planning process. There have been attempts to improve transition services throughout the years, for instance the Transition Forum Subcommittee and the Governor's Council on Rehabilitation and Employment of People with Disabilities. One of the barriers to improving transition services is the lack of communication between all the entities that provide some portion of transition,

such as vocational rehabilitation, school districts or the private community. We support S.B. 22.

CHAIR RAGGIO:

Does this bill assist disabled persons who leave school and get into an adult living situation?

MR. DESRUISSEAUX:

The purpose of the bill is to assist youth from age 16 to 22 by preparing them for the workforce. The service provided depends on the youth's needs. It may be as simple as providing the connection to a trade school, a community service, intensive assistance through vocational rehabilitation, case coordination or training.

CHAIR RAGGIO:

Are you comfortable with the proposed amendments?

MR. DESRUISSEAUX:

Yes, we are.

CHAIR RAGGIO:

I have been given a letter ([Exhibit H](#)) from Mr. David F. Larsen, an 18-year-old student, in support of S.B. 22.

I will accept a motion to amend S.B. 22. The Committee can then review and discuss the amended S.B. 22.

SENATOR CEGAVSKE MOVED TO AMEND S.B. 22.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR RAGGIO:

We will close the hearing on S.B. 22 and open the hearing on S.B. 122.

**SENATE BILL 122**: Authorizes certain public employees with active military service to purchase additional years of service in Public Employees' Retirement System. (BDR 23-630)

CHAIR RAGGIO:

This bill authorizes any member who is in the retirement system with five years of service and has served on active military duty to purchase equivalent years of service in the Public Employees' Retirement System (PERS) in addition to any other service credits authorized. The person qualifying under this bill will be required to pay the full actuarial cost.

I received a request for an amendment to this bill allowing a participant to purchase full months of service instead of full years of service.



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

The Board has not taken a position on S.B. 122. Staff has been reviewing the bill. The Uniform Services Employment and Reemployment Rights Act is a federal law protecting our veterans called to active duty while publicly employed and return to that employment. The employers are required to pay contributions, plus interest, for that military service. If an individual is called out of public service and then returns to that public employment, they accrue the service credit while they were gone. There is no period of leave without pay. Senate Bill 122 is in addition to the federal act. The concern is how much time should be purchased versus how much time is served. For instance, if an individual is employed for two years in the public sector, called to active duty, serves three years and returns to the public sector, they receive three years of service credit because the employer paid those contributions. Senate Bill 122 will allow the purchase of up to eight years of service. Senate Bill 122 could result in an employee with 2 years of service having the ability to purchase an additional 11 years based upon the nature of the purchase.

CHAIR RAGGIO:

Why are you saying an additional 11 years?

Ms. BILYEU:

When the employer pays the contributions for three years of military service, added to the two years of employment, it results in five years of total service credit. Now this employee is allowed to purchase an additional eight years.

CHAIR RAGGIO:

Is it eight years because of the federal law?

Ms. BILYEU:

It is eight years because of the current ability of an employee to purchase five years plus the three additional years contained in S.B. 122.

CHAIR RAGGIO:

How do you get to the ability to purchase 11 additional years?

Ms. BILYEU:

The Uniform Services Act requires the employer to pay a contribution for the number of military years of service. In my example, the person is vested in PERS because the employee has five years of service, two actual and three military. The employee, under S.B. 122, could purchase an additional three years based on military service. The employee could purchase three years of military service plus the current ability to purchase five years plus the three years under S.B. 122 bringing the total to 11 years.

CHAIR RAGGIO:

That could happen, but the employee would pay full actuarial value.

Ms. BILYEU:

That is correct. This is a cost-neutral bill to PERS from a purchase perspective. The other issue is the Internal Revenue Code (IRC) limitations on any purchases above five years of service. There is not a prohibition within the IRC, but there are dollar limits for lump-sum payments. The payments may need to be made over a period of time to satisfy the IRC. It is an administrative issue that would

depend on each individual case. There is a similar bill in the Assembly which provides for a two-year purchase in a similar fashion.

CHAIR RAGGIO:

Do you have any idea how many persons would be affected by S.B. 122?

Ms. BILYEU:

We do not have records regarding military service. The way S.B. 122 is written, the military service could take place at any time. We would require military records from the individual to substantiate the request to purchase time.

CHAIR RAGGIO:

Is it a question of equity? There would not be a fiscal impact on PERS.

Ms. BILYEU:

That is correct.

CHAIR RAGGIO:

The bill is an attempt to recognize the perils and uncertainty that go along with serving in Afghanistan, Iraq and Bosnia. Is the Board's position neutral?

Ms. BILYEU:

From a cost perspective there is no impact.

SENATOR COFFIN:

Many reservists and guardsmen have had active duty by way of training. In some circumstances the training is not considered active duty. Will training be considered active duty in S.B. 122?

Ms. BILYEU:

I do not know the federal definition of active duty. We would require documentation certifying the active duty.

SENATOR COFFIN:

I would like to see the definition construed liberally. Does this bill affect the legislator's retirement system if they have active duty?

Ms. BILYEU:

As written, S.B. 122 does not affect the legislator's retirement system. I believe in that system there is no ability to purchase service.

CHAIR RAGGIO:

Is there any requirement that the active duty take place within the time a person was a public employee?

Ms. BILYEU:

The way the bill is drafted, the military service could be at any time in the individual's career.

CHAIR RAGGIO:

Under existing law, does the active duty have to be within the period of being a public employee?

Ms. BILYEU:

Under the Uniform Services Act, the requirement is to make the individual whole. The active military service would be bookended by public service in order for the employer to pay the contributions and have the service credit established. There are exceptions such as a provision concerning the 1991 Persian Gulf crisis allowing free service credit. That was available between the times established by the President's declaration. The Uniform Services Act was implemented so that each state would not have to enact laws to provide a benefit to make all people called to duty whole for their service to our county.

CHAIR RAGGIO:

The intent of this bill would be to allow the credit, but only for active duty service occurring within the period of public employment.

Ms. BILYEU:

The way S.B. 122 has been drafted, that is not the case.

CHAIR RAGGIO:

We will make note of that. We will close the hearing on S.B. 122 and open the budget for PERS.

#### PUBLIC EMPLOYEES RETIREMENT SYSTEM

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

CHAIR RAGGIO:

We would like to hear about the actuarial scheduling that has changed.

Ms. BILYEU:

The PERS' contribution rates are adjusted, if necessary, each odd-numbered year. Anytime rates are adjusted, the increase or decrease must be shared equally between the employer and employee. The PERS has provided you with additional details and graphics of the actuarially-determined contribution rates titled Senate Committee on Finance and Assembly Committee on Ways and Means Dana Bilyeu - Executive Officer, March 9, 2005, – Testimony ([Exhibit I](#)).

In 2004, the Board modified its funding policy to moderate short-term swings in contribution rates. The new funding policy provides current and future generations of members and employers with the opportunity to fund new gains or losses over a rolling 30-year period. The first graphic shows the employer pay contribution plan, the second graphic is the employee/employer pay plan; both show actuarially-determined contribution rates effective July 1, 2005.

CHAIR RAGGIO:

This is termed a year-by-year closed amortization method. How did you decide to do this? Have other states gone to this method?

Ms. BILYEU:

The Board was advised by the independent actuary to review the funding policy of the system because the method in place would impose increasing volatility on the contribution rates. The reason being we were folding new gains and losses into shorter time periods.

CHAIR RAGGIO:

I remember there was an absolute necessity to fully fund this program by 2024. Is the effort to fully fund the program running into difficulty?

Ms. BILYEU:

The original period of time for amortization of the unfunded liability began in 1984. A policy-making committee was trying to find a way to fund postretirement increases within the contribution rate. A compromise resulted in the decision to fully fund postretirement increases within 40 years.

CHAIR RAGGIO:

The actuary at that time agreed with that decision. Under the new method, will we ever reach full funding; if so, will that require contribution increases?

Ms. BILYEU:

It is possible to reach full funding. The purpose of the year-by-year closed amortization and the contrast to the previous one is not that we are sliding away from full funding. We are trying to recognize new gains and losses in this program and provide intergenerational equity to new employers and new taxpayers. We had an unfunded liability in 1984 of about \$903 million. That number is the one we must be sure we are paying off. When unprecedented market activity occurs, such as from 2000 to 2002, what we are saying to those who absorbed the losses associated with those down markets is that they only have 20 years to pay off those losses versus the members in 1984 who had 40 years to pay off the unfunded liability. The new approach will provide intergenerational equity and the opportunity to spread losses and gains over 30 years. That provides stability to the contribution rates. Each year you recognize payment for each of the bases of the unfunded liability. The current unfunded liability is a composite of all previous years' gains and losses. For instance, during 2000 through 2002, there was a drop in investment markets which created a new unfunded liability. That was put into one composite amount and given its own 30-year period; it will be retired within 30 years. If we have positive market returns above our assumptions for the next ten years, the actuary will calculate our funded ratio. That funded ratio may exceed 100 percent prior to the payment on our current unfunded liability in 2034 because we have offsetting gains going against those losses. From the perspective of the health or financial security of the system, the new approach has no impact; in fact, it recognizes and denotes when we have gains or losses. You, as legislators, will be able to look at the schedule and say in 2018 there was a down market that will be paid off in 30 years from that particular time. Under the previous funding policy, that down market of 2018 would have only six or seven years to payoff.

CHAIR RAGGIO:

How many state pension funds have adopted this year-by-year closed amortization?

Ms. BILYEU:

In our survey of approximately 65 funds, we found 8 statewide pension funds using this approach. It is the approach required by federal law for all private sector defined benefit programs.

CHAIR RAGGIO:

Is full funding something we need to achieve?

MS. BILYEU:

Full funding is a goal that should be maintained because that is the day you have the assets to match your liabilities. It is a snapshot.

CHAIR RAGGIO:

Does that mean if everyone retired at the same time, the system would be fully funded?

MS. BILYEU:

That is the only time full funding would be needed.

CHAIR RAGGIO:

What is the status of the measures being considered by Congress with respect to social security? Will there still be an offset to public employees who are eligible for social security?

MS. BILYEU:

There are two offsets to social security. One government pension offset is pending and affects the widow's benefit in social security. The example used most often is a teacher who works for a non-social security state like Nevada with a spouse working in the private sector. When the spouse dies, this teacher is entitled to receive the widow's benefit, except that they take two-thirds of the benefit accrued in PERS and overlay that on the widow's benefit. If that amount is more than the widow's benefit, it completely wipes out the benefit. There is currently a bill to repeal this offset which is expected to cost approximately \$4 billion. Due to the cost, it probably will not be successful.

SENATOR COFFIN:

When we have cash in hand, PERS has not taken advantage of prepaying. We get in trouble when we are short of cash and have to face a large contribution. Here we have good times with lots of money in the bank; we ought to pay in advance. Assemblyman Lynn Hettrick has a bill to fully fund the judicial retirement system with \$24 million of one-shot funds. We were told it would save \$200 million dollars in future interest and/or contributions. I do not know if these are the right numbers, but the point is that going fully funded can save a lot of money. The same thing can happen here if we abandon our discipline and go the easy way. We have an increasing wage system and aging employees. I cannot see anything but future increases in contributions.

MS. BILYEU:

[Exhibit I](#), graphic 1, shows the actuarially determined contribution rates under the employer pay plan, effective July 1, 2005. For regular members, the rate is 19.7 percent which is less than the present 20.25-percent statutory contribution rate. Rates must be changed if the difference between the actuarial rate and the statutory rate is greater than 0.5 percent. The rate for FY 2006 and FY 2007 will be rounded to 19.75 percent for the regular fund. Employers and employees must equally share any increase or decrease in contribution rates. The rate reduction for regular members is due, in part, to reduction in the normal cost of the benefit structure given our current plan demographics and assumptions. The police and fire rate is 32.12 percent compared to the statutory rate of 28.5 percent. The rate increase for the police and fire fund is due primarily to the recognition of salary experience in this fund and the smaller pool of members to spread the amortization payments.

CHAIR RAGGIO:

What occurred to require the increase in rates for police and fire?

Ms. BILYEU:

In 2003, the Board performed an experience study of the system. We measured our assumptions against the actual experience of the plan. We looked for five-year trends. The result of the experience study recognized that the salaries contained within the police and fire fund did not behave in the same fashion as the regular fund. The trend was significantly different. We had to recognize the change of experience in our assumption.

CHAIR RAGGIO:

Is that because salaries have increased?

Ms. BILYEU:

That is correct.

CHAIR RAGGIO:

The rate now for police and fire is almost one-third of their salary.

Ms. BILYEU:

The second graphic shows the employee/employer plan. This is the after-tax contribution plan where the employees' portion is contributed after they pay taxes on it and is available for refund if they leave public service. Since the spread between the actuarial and statutory rates is less than 25 basis points, the rate will remain unchanged at 10.5 percent each. The police and fire rate will increase to 16.5 percent reflecting the salary experience of this particular fund.

CHAIR RAGGIO:

What is the actual increase in cost to the state? Why is there a decrease for regular members in employer pay but not employee/employer pay?

Ms. BILYEU:

The difference in cost between the two programs is because of refundability. Employee/employer pay has an additional feature in it that allows refundability of the employee's portion of contributions if they leave the public sector. That has a cost which varies between 75 basis points and a full percentage point. Because of the rounding mechanisms in our statutes, you see an actual reduction happening for employer pay because the actuarial valuation rate came in slightly over the 50 basis points rounding mechanism. Under employee/employer pay, it is within the tolerance of the current statute.

CHAIR RAGGIO:

If we had stayed on the old 40-year plan, would there have been a higher rate increase?

Ms. BILYEU:

That is correct. The employer pay rate would have been 21.25 percent. The police and fire rate for employer pay would have been 35 percent.

CHAIR RAGGIO:

In the short term, we are paying less; in the long term, it is costing more.

MS. BILYEU:

That is correct because we are spreading costs over 30 years rather than 20 years.

MARK BALEN (Chairman, Public Employees' Retirement Board, Public Employees' Retirement System):

I would like to spend a moment reviewing the proposed changes to the nonclassified pay schedules that are included in this budget. The goal of the Board is to make the salaries competitive for professionals and to provide incentives for retention. We have experienced significant turnover within nonclassified staff. We reviewed positions at other similarly-managed pension plans of comparable size. We then reviewed these pension plans in light of the surrounding states as well as other management positions within the state. I have provided you with a copy of Senate Committee on Finance and the Assembly Committee on Ways and Means, Mark Balen, Retirement Board Chairman – Testimony, March 9, 2005, ([Exhibit J](#)) for your review.

CHAIR RAGGIO:

I want to compliment you because you adopted the procedure the University and Community College System uses. They search for comparable peers.

MR. BALEN:

The PERS budget reflects the orderly progression for each of the nonclassified staff members.

CHAIR RAGGIO:

Do you have six steps in your current pay schedule for nonclassified employees? Is that adequate?

MR. BALEN:

The six steps are not adequate because the compensation is not fair. The additional steps requested in the pay scale widen the range to approximately a 44-percent differential between the lowest and highest steps for each position. This is in keeping with the nine-step scales typically used in the classified service of the state. The pay scales give the Board the ability to recognize the significant contributions our officers make to the financial well-being and security of PERS. The successful administration of the PERS is essential to the future of 90,000 active members and 29,000 retirees. The Board is united in its desire and responsibility to maintain a superior staff and compensate them accordingly, thus enhancing retention and effective recruitment. Our proposal for executive pay accomplishes both these goals in a fiscally responsible manner.

CHAIR RAGGIO:

What is the salary proposal for FY 2006 and FY 2007 for the executive officer?

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

The executive officer is currently at step 5 for FY 2005. In FY 2006, the executive officer would go to step 6, \$118,080, of the current pay scale. In FY 2007, the executive officer would go to a newly created step 7, \$123,588, which is approximately a 5-percent increase. I have provided you with a copy of Senate Committee on Finance and the Assembly Committee on Ways and

Means, Tina Leiss, Operations Officer – Testimony, March 9, 2005, ([Exhibit K](#)) which contains additional information.

CHAIR RAGGIO:

The salary schedule for administrative assistants would range from \$40,000 to \$57,000. For a similar administrative assistant in the state classification system, the top salary is \$40,000. That is a significant difference. How do you justify that difference?

Ms. BILYEU:

This position has been at a flat pay scale. We looked at similar positions in state government. This position is not only an administrative assistant to the executive staff, but is also the Board secretary and has other duties to the Board. We feel the position is analogous to a Board secretary position.

CHAIR RAGGIO:

Would it be more appropriate to reclassify the position? If we fund an administrative assistant at \$17,000 higher than similar classified positions, we will have problems.

Ms. BILYEU:

This is a nonclassified position.

CHAIR RAGGIO:

It still has the administrative assistant designation.

Ms. BILYEU:

The title is the same, but the job duties are not.

CHAIR RAGGIO:

When you look at budgets, it is important to be uniform in approach. Why did you compare this position to pharmacy and medical boards?

Ms. BILYEU:

We tried to look at jobs with similar responsibilities. We have a unique situation because there are no other public employer retirement systems within the state. Ms. Leiss has the comparisons we used.

CHAIR RAGGIO:

Please give those comparisons to staff for review. What about the issue of overtime due to the one-fifth retirement credit for teachers?

Ms. BILYEU:

There is a provision within one of the education acts that requires school districts to make one-fifth of a year purchase for individuals who have particular designations or are working at at-risk schools. In the last year, we completed over 2,000 of those purchases. We anticipate the number of purchases by the school districts will increase from 6,000 to 9,000 purchases in the coming biennium. The nature of those purchases requires doing them between school years.

CHAIR RAGGIO:

Are you requesting \$74,000 for the existing situation or is it predicated upon an expanded list of those eligible to receive this credit?



Ms. BILYEU:

The \$74,000 is what was expended during the base year. The overtime was also impacted by service-credit audits we were required to perform for the Public Employees' Benefits Program. That task has been completed. However, with the expansion in the one-fifth program, we believe the \$74,000 is a reasonable request.

CHAIR RAGGIO:

We have not passed that bill.

Ms. BILYEU:

The increase from 6,000 to 9,000 one-fifth purchases has more to do with at-risk schools. The bill that has not passed yet is another expansion.

CHAIR RAGGIO:

Do you have a compensatory time policy?

Ms. BILYEU:

Employees have a choice of compensatory time or overtime pay.

CHAIR RAGGIO:

Would it be less costly to have an additional position?

Ms. BILYEU:

If the overtime hours exceed 2,000, then it would be less costly. However, it is a peak workload approach since we have to complete all the purchases within the summer months.

CHAIR RAGGIO:

Give us a report on the retiree reemployment critical labor situation.

Ms. BILYEU:

The 2001 bill contained a sunset date of June 30, 2005, unless the costs associated with the program are recognized within the contribution rate. We have kept a spreadsheet of all the positions that have been designated by the state as critical labor. There were 141 total positions on the last spreadsheet.

CHAIR RAGGIO:

Were most of these positions in education?

Ms. BILYEU:

Almost 90 percent were in education.

CHAIR RAGGIO:

Is there a bill this session that would remove the sunset and continue the program? Has the Board taken a position on this program?

Ms. BILYEU:

The Board's position has to do with cost. The actuarial cost is slight, but triggers the contribution rate. If the cost associated with critical labor shortage is added to the actuarial valuation rate, there would not be a rate reduction. The cost associated with keeping this program in place is expensive. Therefore, the Board has declined to support the continuation of the program.

CHAIR RAGGIO:  
Will the Board object to it?

Ms. BILYEU:  
Yes, because the contribution rate will increase.

CHAIR RAGGIO:  
How do we deal with the fact that we need so many new teachers? This may be the only way to get highly-qualified teachers. Taking a position against this program because of cost may not be the best choice when we are in need of experienced teachers.

Ms. BILYEU:  
The Board is concerned about these issues. Because we were required to perform the experience study and absorb the cost of the critical labor shortage benefit in the contribution rates, the Board balanced the usage of the program to the overall cost borne by the members of all professions, not just school districts.

CHAIR RAGGIO:  
The Board may want to review its decision since the program is an incentive to bring experienced teachers into the classroom.

Please review the technology upgrades for this budget. Why do you need \$1.5 million?

Ms. LEISS:  
The PERS is requesting funds for purchasing and maintaining newly installed or upgraded hardware and software. We need to upgrade our workflow, database and imaging systems. Workflow is our tracking system for all work that comes into the system ensuring the work is done in a timely fashion. The database is our repository. Imaging is the system that ensures all documents are imaged and available on the workstation of every employee.

CHAIR RAGGIO:  
Does it require \$500,000 for each of those systems?

Ms. LEISS:  
Yes, the majority of the cost is for maintenance paid to Covansys, Inc., our consultant. The PERS has a fully-integrated computer system. We must do full testing before doing upgrades to ensure the upgrade will not affect our current production environment.

CHAIR RAGGIO:  
Senator Beers, will you please look into this system and discuss it with PERS.

Ms. LEISS:  
Our counselors are trained by the International Foundation for Retirement Education. It is a nonprofit educational organization devoted to training retirement counselors.

CHAIR RAGGIO:  
What benefit does the state gain when counselors obtain certification?

Ms. LEISS:

The training ensures that our counselors have current knowledge on retirement issues and can communicate that knowledge to our members.

CHAIR RAGGIO:

Who pays the cost of certification?

Ms. LEISS:

The PERS pays the certification costs. Counselors do independent study, and then the Foundation comes to PERS to administer the certification test.

Ms. BILYEU:

The actuarial value of the judicial retirement system came in less than the normal contribution rate. The rate being paid on behalf of the judges is reduced to 22.5 percent for the coming biennium.

SENATOR BEERS:

If we process Assemblyman Hettrick's bill to fully fund the judicial retirement system this year, what happens if the program's investment value goes down next year?

Ms. BILYEU:

Each year we value the programs. If there is a market loss, a new unfunded liability is created. That is the nature of defined benefit financing. If you pay PERS \$24 million, that would pay off the current unfunded liability program for the judicial retirement system as measured by its most recent valuation. However, next year, if there is an asset loss or an asset gain, the program will be either overfunded or underfunded.

If the mandate from the Legislature is to fully fund every year, and the fund has experienced a loss, PERS would expect payment of the underfunded amount. If the year results in a gain, the surplus would remain in the trust to offset future losses.

SENATOR BEERS:

If the law says PERS will have a fully-funded judicial retirement system as of 2005, and there is a gain in 2006, would PERS reduce the rate?

Ms. BILYEU:

The judicial system is funded at a normal cost rate which is the yearly accrual of benefit costs over time. As an individual earns another year of service credit, we value that person's benefit and that is what the contribution rate is designed to cover. The unfunded liability of the judicial retirement system is paid on a lump sum basis. The contribution rate does not recognize the amortization payment. It is different from the regular fund. The judicial system is a hybrid between the Legislator's system and the regular fund. Contributions only pay the normal costs.

CHAIR RAGGIO:

What is the experienced investment yield?

Ms. BILYEU:

For FY 2004 we had a return of 12 percent. For the 20-year period, our return is 11 percent. We are beating the actuarial assumption of 8 percent.

CHAIR RAGGIO:

How many investment managers do you have and are they reviewed regularly?

Ms. BILYEU:

There are 25 investment managers who are reviewed monthly, quarterly and annually.

SENATOR COFFIN:

I cannot find the PERS portfolio on the Web site. I think the portfolio should be available to its members.

Ms. BILYEU:

There are in excess of 5,000 different assets held in the portfolio. How to purchase or sell holdings is at the discretion of the portfolio managers. We can look at approaches to provide more disclosure, but because the portfolio changes daily, it would be difficult to create a real-time view of assets and equities held by the system at any given time.

SENATOR COFFIN:

Do you have the portfolio available electronically in your office?

Ms. BILYEU:

We receive reports from our custodial bank, the Bank of New York.

LAURA WALLACE (Investment Officer, Public Employees' Retirement Board, Public Employees' Retirement System):

We could explore a link through the Bank of New York.

SENATOR COFFIN:

I suggest you make it available at least quarterly. Are you required to inform the members of PERS' investments?

Ms. WALLACE:

The PERS annual financial report includes investment positions, if they are at a certain size.

SENATOR COFFIN:

It seems to me this is something you could provide.

CHAIR RAGGIO:

What is the current value of the investment portfolio?

Ms. WALLACE:

The PERS fund is at \$17.2 billion as of January 31, 2005. The judicial plan is at \$18 million. The legislators fund is about \$4.2 million.

CHAIR RAGGIO:

What kind of direction does the Board give for allocation of assets?

Ms. WALLACE:

We set the asset allocation through policy and formally revisit that annually. Currently, we have 45 percent invested in U.S. equity, 10 percent in international equity and 25 percent in U.S. bonds.

CHAIR RAGGIO:  
Do you have investments in real estate?

MS. WALLACE:  
We have a 5-percent target for private real estate.

CHAIR RAGGIO:  
What has been the loss experience in the real estate portfolio?

MS. WALLACE:  
The total return from that portfolio has been disappointing. That has been the case in the market due to credit and lease problems in institutional portfolios. We are looking at decreasing our private real estate exposure.

CHAIR RAGGIO:  
We will close the PERS budget and go to the Commission on Judicial Discipline.

#### JUDICIAL BRANCH

Judicial Discipline – Budget Page COURTS-48 (Volume I)  
Budget Account 101-1497

DAVID F. SARNOWSKI (General Counsel and Executive Director, Commission on Judicial Discipline):

The Commission on Judicial Discipline is comprised of a number of judges appointed by the judicial branch, public members appointed by the Governor and lawyer members appointed by the bar. In the last three years, the number of complaints has ranged from about 115 to 150. Next week the Commission will meet in closed session. We have 80 open matters under investigation and consideration by the Commission. The standing committee, which is comprised of the same kinds of people appointed by the same sources, is the advisory arm. We render advisory opinions when requested by the judges. Since 1988, the panels of the standing committee have refereed election spats between judicial candidates. Over that time, the panel has handled over 40 advisory opinions and refereed 23 of those contests. The advisory opinions and refereed decisions are posted on our Web site. We contract our investigations in the wake of a major constitutional and statutory change that occurred in what is commonly called the Whitehead case. The Attorney General has been taken out of the process and the investigative business has been contracted out to a private investigative agency.

Our Commissioners travel to various points in the state. Every other year we send some of our members to a two- to three-day seminar given by the National College on Judicial Ethics. The meeting is usually in Chicago where the American Judicature Society is located. Annually, the executive director attends seminars for the Association of Judicial Disciplinary Counsel. The investigators seldom travel out of state. In less than three years, there have been five matters handled in a public forum. There are strict rules of confidentiality in the *Nevada Revised Statutes* (NRS). Most matters are disposed of in a nonpublic forum. Judges have been removed or barred from seeking judicial office. There have been fines assessed, education required and public censure with monitoring requirements for alcohol abuse issues. Often, when a complaint is dismissed, the Commission will issue a letter of caution to a judge. The letter is not a disciplinary event.

SENATOR TITUS:

During the last campaign, some of the party slates were listing judges who are supposed to run on a nonpartisan ballot. Does the Commission handle this issue?

MR. SARNOWSKI:

There are two ways that issue can be handled. The advisory arm, which handles election contests, can consider a complaint only if it comes from one candidate against another candidate. The issue did not come up in the last election. The Commission would have jurisdiction to decide whether to investigate and what to investigate. If the Commission finds ethical misconduct, either under the statutes governing election campaign and expense reporting or under the election canon in the Nevada Code of Judicial Conduct, they can take action.

SENATOR TITUS:

Are you familiar with the incident?

MR. SARNOWSKI:

I have read about it in the newspaper.

SENATOR TITUS:

Should the Commission adopt a rule to identify that as inappropriate behavior?

MR. SARNOWSKI:

I cannot prejudge the situation. If someone brought a complaint to the Commission, the Commission would look at it. The Commission would be unable to tell anyone the incident is under investigation.

SENATOR TITUS:

Can the Commission develop a rule without a case?

MR. SARNOWSKI:

The Nevada Supreme Court promulgates and amends the Code of Judicial Conduct. The Commission cannot promulgate its own rules. There is a rule stating judges are nonpartisan officers and must comply with campaign and expense reporting.

SENATOR TITUS:

Do you think, if the Legislature passed a law about the judges' partisan slates, the court would say that it is a violation of separation of powers?

MR. SARNOWSKI:

I would say there would be a healthy debate between the Legislature and the Nevada Supreme Court.

CHAIR RAGGIO:

There is a difference between the judicial candidate revealing party affiliation and an outsider disclosing the judicial candidate's party affiliation. The Code of Judicial Conduct does not allow judicial candidates to discuss issues. Did the U.S. Supreme Court rule that, under freedom of speech, judicial candidates have the ability to discuss issues?

MR. SARNOWSKI:

The standing Committee evaluated the recommended changes by the American Bar Association and suggested those changes to the full Court. Late last year the Court adopted that recommendation. The canons have been amended to comport with the decision of the *Republican Party of Minnesota v White*. We have not encountered a matter since those amendments were made.

CHAIR RAGGIO:

What was the U.S. Supreme Court ruling?

MR. SARNOWSKI:

Nevada did not have the same rule as Minnesota. Judicial candidates do not have carte blanche to say anything they want. One of the key amendments the U.S. Supreme Court adopted was that if a candidate talks about an issue, that discussion may disqualify the judge from sitting in a case related to that issue. The judge could be deemed as prejudging the case.

CHAIR RAGGIO:

We could have alleviated this problem if the voters had adopted the Missouri plan where judges are selected instead of having to campaign. We will close the hearing on the Commission on Judicial Discipline and go to the budget for the Legislative Counsel Bureau (LCB).

LORNE J. MALKIEWICH (Director, Legislative Counsel Bureau):

The Committee has received a copy of the Legislative Counsel Bureau Budget Request for FY 2006 and FY 2007 ([Exhibit L](#), original is on file at the Research Library). I would like to take the budgets out of order and first go to the Nevada Legislature Interim budget.

## LEGISLATIVE BRANCH

Nevada Legislature Interim – Budget Page LCB-6, Volume I  
Budget Account 327-2626

CLAIRE JESSE CLIFT (Secretary of the Senate, Legislative Staff, Nevada Legislature, Legislative Branch):

I have provided you with a document titled Senate Committee on Finance Assembly Committee on Ways and Means, March 9, 2005, Proposal for Changes to the Interim Legislative Budget ([Exhibit M](#)). [Exhibit M](#) amends pages 48 through 52 of Mr. Malkiewich's handout, [Exhibit L](#).

I have reviewed the scope of my responsibilities and duties as Secretary of the Senate as well as the Chief Clerk's. I have also reviewed salary information for all Legislative employees for the current fiscal year and overtime compensation paid for 2003. My testimony this morning may be more specific to the Senate, but I am speaking on behalf of both Houses as both administrators perform similar activities.

We have had five special sessions and three regular sessions since 2000 when I became Secretary of the Senate. A great deal of specialized preparation and organization was required for the 18th and 21st Special Sessions. I took the lead in organizing research and interdepartmental meetings with the LCB Legal and Research Divisions and with the Director in order to determine what the Senate's procedures would be in the Senate Chamber as well as the Committee

of the Whole. My contacts were invaluable, especially in Arizona and Pennsylvania, as they were the two Senates, in recent history, to have conducted an impeachment hearing. This was the first time in history that Nevada's Senate had the role of advise and consent to the Governor's appointment of a constitutional officer.

Every other year the two Houses go from six full-time staff to a combined full-time staff of approximately 220 employees. It is imperative that our staffs begin work on the first day of session as if they were seasoned, full-time state agency employees. The Secretary of the Senate and the Chief Clerk have developed exceptional hiring practices and in-depth training programs. We work to develop new computer programs and improve existing programs that will assist the legislative process. The decisions we make throughout the biennium affect what the Legislature does on a day-to-day basis. We are the lowest-paid management staff within the Legislative structure.

As a result of the ever-increasing responsibilities and duties of the Legislature, we are requesting an adjustment to the salaries of the chief administrative officers of the two Houses to achieve parity with other LCB staff. Pages 3 and 4 of [Exhibit M](#) provide you with the LCB current and proposed salary information. I am requesting a salary increase from \$69,802 to \$89,802 beginning with FY 2006.

The NRS 218.195(b) states the salaries of the Secretary of the Senate and Chief Clerk of the Assembly "must not include compensation for overtime." We are requesting this language be deleted from the statute so we will be treated the same as other LCB staff. We are the only LCB staff members who are not compensated for overtime. Session staff accrue overtime prior to and after the convening and/or adjournment of a regular or special session. Session staff does not accrue overtime during regular or special sessions. To compensate for this overtime pay, session staff salaries increase approximately 29 percent during that period. The Secretary and Chief Clerk do not receive salary increases during that same period.

CHAIR RAGGIO:

Who would monitor overtime for these two positions?

Ms. CLIFT:

Overtime is recorded on our time sheets.

Page 5 of [Exhibit M](#) provides information on specific LCB overtime rates. At our level of employment, overtime compensation would be one hour earned for each hour of overtime worked.

We also request Senate and Assembly Technical Assistants, Grade 31, be reclassified to Technical Specialists, Grade 33, to achieve parity with comparable positions within the information systems unit of the LCB.

CHAIR RAGGIO:

Are there three full-time employees in each House? How long has it been since the two positions became full time?



MS. CLIFT:

Yes, there are. I believe the Secretary of the Senate and the Chief Clerk became full-time staff positions in 1983. The Technical Assistants became full-time staff in 1997. The Technical Assistant positions have evolved to require more computer knowledge such as Web programming and design and applications development. Additional information is provided in the Secretary of the Senate's, Claire Clift, written testimony ([Exhibit N](#)).

NANCY S. TRIBBLE (Chief Clerk of the Assembly, Legislative Staff, Assembly, Nevada Legislature, Legislative Branch):

I agree with Ms. Clift's sentiments.

CHAIR RAGGIO:

It is not likely we will continue the need for special sessions as we have had in the past two sessions. Assuming we have 120-day sessions, and an understanding that some committees do not finish minutes before October, would you still feel that this adjustment is necessary?

MS. CLIFT:

The 120-day mandate impacts our workload. We are all expected to do the same amount of work in a shorter period. In order to maintain that workload and the professionalism of the product and support staff for our Senators, I think it is imperative that the chief administrative officers of the two Houses be prepared to do the function in 120 days. We also work on the final journals, your constitutional record of the two Houses. The journals are an important aspect of what we do as administrative officers.

SENATOR TITUS:

Last interim staff was assigned specifically to leadership, the Majority Leader and the Speaker.

MS. CLIFT:

The Senate does not have leadership staff during the interim.

MS. TRIBBLE:

The Assembly Speaker does have part-time staff during the interim.

MR. MALKIEWICH:

Leadership interim staff is in the budget of the Legislative Commission. We budget for a half-time position in both the Senate and Assembly. Chair Raggio declined the additional staff; the Assembly position is half time during the interim.

SENATOR TITUS:

Is that personal position in addition to the regular positions? Is there any thought of adding additional interim personal staff for other legislators?

MR. MALKIEWICH:

The only proposed change we have in the budget of the Legislative Commission is to budget that position for 24 months.

MR. MALKIEWICH:

The *Executive Budget* contains an abbreviated version of the LCB's budget. [Exhibit L](#) contains information presented to the budget review committee and the Legislative Commission. Page 1 of [Exhibit L](#) shows the budget appropriations; there is an increase from FY 2005 to FY 2006 of \$3.5 million and an increase of \$800,000 from FY 2006 to FY 2007. My discussion today will focus on the areas of increase in this budget.

CHAIR RAGGIO:

You will need to recompute page 1 for the proposed changes to the Nevada Legislature Interim budget. We need to know what the changes will cost when the Committee discusses that proposal.

MR. MALKIEWICH:

I will work with the Secretary of the Senate and the Chief Clerk of the Assembly to provide that information.

The primary factor for the proposed increases to the LCB budget is due to workload. We are requesting an increase in staff from 237.5 to 256 positions as shown on page 2 of [Exhibit L](#).

The Legislative Commission budget begins on page 3 of [Exhibit L](#). The Base Budget contains funding requests for membership in various committees, dues, travel and salary for legislators attending meetings. This is the budget that includes the leadership assistant position. LCB is requesting this clerical position be budgeted for 12 months in each fiscal year rather than 18 months over the biennium. The Majority Leader and Speaker have additional duties during the interim. We want to keep the position in the LCB budget as a central, nonpartisan staff position although assigned to work for legislators. We may need to develop some kind of pool to assist legislators.

CHAIR RAGGIO:

Where is this position shown in the budget?

MR. MALKIEWICH:

The position is in the Base Budget of the Legislative Commission. The Personnel expense line includes that position.

CHAIR RAGGIO:

What else is included in that line item?

MR. MALKIEWICH:

Personnel also includes salary payments for legislators attending interim committee meetings.

CHAIR RAGGIO:

Why does that go up if the per diem and salaries have not gone up?

MR. MALKIEWICH:

Payments to legislators attending out-of-state meetings are included in Personnel. The Out-of-State Travel line item includes only the cost of travel. The Personnel line item covers the \$130 the Legislators get for each day of travel. The cost of travel was cut in half during the last session. The special session went to July 23 and the San Francisco National Conference of State

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Legislatures (NCSL) meeting started two days later. Few of our legislators attended the NCSL meeting. Last year the meeting was held in Salt Lake City and was not heavily attended. We anticipate higher attendance in the next two years.

The dues for all organizations are listed on page 4 of [Exhibit L](#).

SENATOR RHOADS:

Why does the American Legislative Exchange Council only show one year of dues?

MR. MALKIEWICH:

We included \$1,000 in dues for each year, but they never bill for it. We have contacted them and they still have not requested payment.

CHAIR RAGGIO:

Dues keep increasing. We are paying the NCSL over \$212,000.

MR. MALKIEWICH:

The dues for NCSL cover the cost of presentations, research, and reduced rates for meetings.

CHAIR RAGGIO:

Do all states pay dues to NCSL?

MR. MALKIEWICH:

I will check on NCSL and the Council of State Governments and get back to you. A few years ago, when all states were facing budget crises, they were working hard to get all the states to pay.

CHAIR RAGGIO:

What is "NLSSA?"

MR. MALKIEWICH:

The Nevada Legislative Security and Services Association. The organization is for the sergeants at arms, legislative police and some of the administrative division employees.

SENATOR TITUS:

Would you go over the leadership assistant position again?

MR. MALKIEWICH:

The Personnel line item on Page 3 of [Exhibit L](#) includes the Speaker's assistant.

SENATOR TITUS:

Is the cost of that assistant in the personnel number?

MR. MALKIEWICH:

We indicated the inclusion of the Speaker's assistant in the narrative of the base.

SENATOR TITUS:

What happened to the half-time assistant for the Senate?

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MR. MALKIEWICH:  
Chair Raggio did not choose to use one.

Staffing for the Nevada Silver Haired Legislative Forum was transferred to the LCB. We have determined that the most efficient way to staff the Forum position is to have a full-time position that could also work on constituent services. The budget impact is shown on page 9 of [Exhibit L](#).

SENATOR MATHEWS:  
How long has the interim leadership assistant been in existence?

MR. MALKIEWICH:  
We proposed the position several years ago when the leadership duties were becoming substantial. This position has been in existence for three interims; Speaker Richard D. Perkins had the first assistant.

SENATOR MATHEWS:  
Can we take the position out of the budget?

MR. MALKIEWICH:  
Yes, you can.

CHAIR RAGGIO:  
We should have input from Speaker Perkins. I was asked if the position was needed and declined the opportunity as Majority Leader. I did not want to expand the number of full-time employees for the interim Legislature.

SENATOR MATHEWS:  
If this item remains in the budget, it needs to be clearly identified. I do not want the cost combined with legislator salaries.

CHAIR RAGGIO:  
Provide the Committee with full details on this position, including a job description.

MR. MALKIEWICH:  
Page 11 of [Exhibit L](#) is the beginning of the LCB Administrative Division budget. The first major increase in cost is on page 13 of [Exhibit L](#). We are requesting 6.5 new positions. Two maintenance positions are needed for our expanding facilities; a help-desk specialist and audio-visual technician are needed in our greatest growth area and two legislative police officers as recommended by the security subcommittee.

CHAIR RAGGIO:  
Are these positions appropriately included as maintenance items or should they be enhancements?

MR. MALKIEWICH:  
Workload changes are shown as maintenance.

MR. GHIGGERI:  
If the positions requested are due to increased workload, they are maintenance items.

CHAIR RAGGIO:

Do the legislative police officer positions fall under maintenance?

MR. MALKIEWICH:

I am not sure if this is a workload change or an enhancement.

CHAIR RAGGIO:

Are these full-time positions rather than temporary session positions?

MR. MALKIEWICH:

Yes, that is correct.

SENATOR BEERS:

The building maintainer and the janitor are due to expanding facilities.

MR. MALKIEWICH:

We are renting space on Telegraph Square and have taken over the State Printing Office. We have the Legislative Building, a double building; the Sedway Office Building; Telegraph Square and the Printing Office. The maintenance staff is inadequate. We are unable to clean this entire building during the interim.

When we closed the budget last session, we cut utilities substantially. As a result, we have substantially overspent the utility budget during the biennium. We are requesting an additional \$100,000 for the next biennium.

Page 14, [Exhibit L](#), describes the reclassification request for eight positions in the Administrative Division. Five of the eight are information systems staff where we have a competitive market. We do a lot of our own programming.

Replacement equipment includes computers.

CHAIR RAGGIO:

Whose computers are being replaced?

MR. MALKIEWICH:

This new computer equipment is for the full-time staff.

CHAIR RAGGIO:

Does the staff utilize the legislator's laptops?

MR. MALKIEWICH:

Occasionally we use the legislator's laptops. We also buy the session secretaries' computers. These may be six months old, but it helps to keep our budget lower and we remain current on technology.

The maintenance of buildings and grounds portion of this budget is primarily for the exterior of the Legislative Building. We spray a coating that results in an extra layer of insulation. This maintenance item will help us paint the columns and finish the building.

CHAIR RAGGIO:

We have had many comments on how the maintenance has improved the appearance of the exterior of the building.

MR. MALKIEWICH:

The LCB is proposing the creation of a special projects account in case any division gets in trouble with their budget due to retirements. We have a large number of people with many years of service. When people like Mr. Ghiggeri, who has not taken sick leave since 1983, retire there will be a substantial payout. The money in this account would not be touched unless a division or unit could not cover a retirement allowance.

The LCB Administrative Budget is requesting authority to charge the Printing Office up to \$100,000 per year for services such as legal, maintenance and accounting. The LCB has absorbed many of the administrative duties of the Printing Office, previously provided by the Department of Administration which charged approximately \$250,000 annually.

MR. MALKIEWICH:

Mr. Paul Townsend will present the LCB Audit Division's budget.

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

Pages 19 through 23 of [Exhibit L](#) describe the budget for the Audit Division. The Audit Division has 31 employees consisting of 28 professional staff and 3 support staff. We are not requesting additional staff or upgrades. We are requesting replacement laptops for the auditors. We use a three-year replacement cycle.

CHAIR RAGGIO:

You were stretched thin between sessions in the Audit Division. What major audits did you complete?

MR. TOWNSEND:

We had statutorily required audits of the University and Community College System of Nevada which we broke into five reports. We also conducted performance audits of Clark County and Washoe County School Districts.

CHAIR RAGGIO:

You are to be commended; those are extensive undertakings and your work product was excellent on all the audits.

SENATOR COFFIN:

I like the audit one-page digest. It is easy to read. If we can get that digest electronically, it would be a good thing to send to a constituent.

MR. TOWNSEND:

The digest and full audit reports are available on our Web site.

MR. MALKIEWICH:

Next is our Fiscal Analysis Division which Mr. Gary Ghiggeri will present.

MR. GHIGGERI:

The Fiscal Analysis Division budget is covered on pages 24 through 28 of [Exhibit L](#). We have 19 professional staff and 6 support staff. Fiscal has a tax section comprised of a team leader and two analysts. Fiscal's major requests include additional funding, \$79,320 in FY 2006, for the Budget Analysis System of Nevada (BASN) and increased contract services to support the Legislative

Bureau of Educational Accountability and Program Evaluation, \$95,349 in FY 2006 and \$52,505 in FY 2007. The BASN upgrade should be completed in time for the 2007 session. I am also requesting a one-grade increase for four senior program analyst positions.

CHAIR RAGGIO:  
What has been your turnover in the last biennium?

MR. GHIGGERI:  
We have experienced quite a bit of turnover. We lost five staff during this last interim. The workload has had an impact. We lost one position to retirement; one position went to industry and one individual went to the Budget Division.

CHAIR RAGGIO:  
Can you cope with everything that is going on here? Everyone wants some kind of analyses on property tax relief and other matters.

MR. GHIGGERI:  
People are stretched thin. We work Saturdays and Sundays.

CHAIR RAGGIO:  
Are you paid overtime?

MR. GHIGGERI:  
Yes, we get paid straight time for overtime.

SENATOR BEERS:  
How is it legal to pay straight time for overtime?

MR. MALKIEWICH:  
The Fair Labor Standards Act does not apply to legislative employees, except employees of the library. The Act does apply to the Executive Branch. The budget analysts have not been classified as professional employees and therefore receive time and a half for overtime.

SENATOR BEERS:  
Do some people use compensatory time instead of paid time?

MR. MALKIEWICH:  
In the interim, generally, overtime is accrued as compensatory time; from September 1 preceding the session through the end of the session, a person has a choice between using compensatory time or receiving pay. You cannot carry more than 120 hours of compensatory time out of session. As a practical matter, the vast majority of overtime is paid. The rule was put in place to avoid a huge unpaid liability.

SENATOR COFFIN:  
The last two sessions had a significant emphasis on taxation. We do not seem to have enough tax people and must rely on outside consultants to perform analyses.

MR. GHIGGERI:  
Two of the Fiscal people who left during the interim were assigned to the tax section. We attempted to get the tax data loaded into our system to do the

parcel-by-parcel analysis that we are now attempting to do under contract. We simply ran out of time.

SENATOR COFFIN:  
Can we hire more tax people?

MR. MALKIEWICH:  
Three of Mr. Ghiggeri's 19 staff are tax professionals; two of the three left during the interim.

MR. GHIGGERI:  
We can talk about adding tax positions.

MR. MALKIEWICH:  
Ms. Brenda Erdoes will present the Legal Division's budget.

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

The Legal Division's budget is on pages 29 through 31 of [Exhibit L](#). Page 30 of [Exhibit L](#) contains our largest request. I am requesting six new positions. Three are entry-level attorneys to handle interim and session workload. These are not attorneys intended to deal with the litigation that has increased in the last three years. We believe that to be an anomaly. I have provided a handout titled Legal Division ([Exhibit O](#)). The red graph shows the number of bills passed between 1987 and 2003. Those numbers continue to go down. The blue graph shows the number of pages of legislation. This number is a good indicator of the amount of material we process and that our workload is increasing. It is not all the material we process because you do not pass every bill we draft. The green graph indicates that the number of pages for each bill continues to increase. I do not think that will change. Our interim workload has increased with the request of additional opinions and regulations. It is easy for legislators to send us questions via e-mail. We try to answer all those questions in a timely manner.

The other three positions are a computer programmer, a document specialist and an administrator. These are all workload related. I am personally most interested in the administrator because as the Legal Division grows, 63 positions in Legal and 25 in the State Printing Office, I spend more time in personnel matters and administrative work.

CHAIR RAGGIO:  
Are you looking for an administrator trained in law?

MS. ERDOES:  
I would like someone with a Masters in Business Administration degree or a management training background rather than a law background.

CHAIR RAGGIO:  
What is the Legal Division's turnover rate?

MS. ERDOES:  
We have had a great deal of turnover in the last year. We lost four experienced professional staff and are replacing them with trainees. We also lost clerical and technical services staff. The turnover is a direct result of the workload during interim. The special sessions and working through the night was hard on people.



CHAIR RAGGIO:

How many years do you have with the LCB Legal Division?

Ms. ERDOES:

I have been here for 23 years.

We are also requesting additional funds for the gift shop and contract services. The gift shop is successful. We put funds back into inventory. We do not have clerical staff to conduct studies during the interim; we contract with session staff because they do a good job on studies.

SENATOR BEERS:

Does the gift shop make a profit?

Ms. ERDOES:

It does not. The publications generate almost \$1 million in authorized revenue. We have three people responsible for selling the publications who work in the gift shop. We offset their salaries with the publication revenue and purchase inventory. We put a logo or State seal on almost everything we sell making it expensive inventory. Eventually the gift shop may make a profit.

SENATOR BEERS:

Is inventory shown anywhere as an asset?

Ms. ERDOES:

Yes, it is. We have a revolving fund, set up by statute, that records those transactions and keeps it separate from the rest of the Division.

The Legal Division is requesting 15 upgrades in the next biennium for technical and clerical support staff. The upgrades are based on occupational studies and increases in the duties performed.

CHAIR RAGGIO:

Are these positions comparable to the *Executive Budget* positions?

Ms. ERDOES:

They are lower which has been a problem.

CHAIR RAGGIO:

If the changes are due to an occupational study, they should be comparable.

Ms. ERDOES:

We are trying to make them comparable.

Legal is requesting funds both years of the biennium for our three-year computer replacement plan.

CHAIR RAGGIO:

Are you satisfied with the operation of the State Printing Office being within the Legal Division?

Ms. ERDOES:

Yes, we have accomplished economies. We recently moved the reproduction services for LCB to the Printing Office so we could use the same machines.

Printing Office – Budget Page LCB-9 (Volume I)  
Budget Account 741-1330

Ms. ERDOES:

The Printing Office budget is shown on pages 35 through 39 of [Exhibit L](#). The budget is going down because we have reduced the staff from 28 to 25 through attrition. We are trying to get the Printing Office lean enough to pay its own way. When the Printing Office became part of LCB, the law was changed so that state offices are not required to come to the Printing Office. We have to earn their business. Business has returned from state agencies. We believe we can maintain the staff.

CHAIR RAGGIO:

Are you projecting \$2.5 million in printing sales each year of the biennium? What are quick-print sales?

Ms. ERDOES:

Yes, I am. Quick-print uses the copying machines as opposed to printing presses. LCB does most of its printing on quick-print rather than printing presses.

CHAIR RAGGIO:

Can you make the Printing Office self-supporting?

Ms. ERDOES:

We believe we can. We will continue to be as cost-effective as possible and continue to reevaluate the processes we use. We are also trying to make session cost-effective to you. That is why we want to stop printing on buff colored paper. We no longer work three shifts. We coordinate better since the majority of the printing is for the Legal Division.

CHAIR RAGGIO:

Are the Printing Office prices competitive?

Ms. ERDOES:

Yes, they are. We do have a problem with archaic equipment. Some machines are 50 years old.

CHAIR RAGGIO:

Are you requesting new equipment?

Ms. ERDOES:

We are requesting approval to replace computer and office equipment using printing sales to finance the purchases. We are also requesting authority to spend up to \$350,000 from the unreserved fund balance to replace printing and plant equipment.

CHAIR RAGGIO:

Do you have a list of the replacement equipment you plan to purchase?

Ms. ERDOES:

I can get that to you. We are being cautious because it is hard to predict how the printing market is going to do.

SENATOR BEERS:

Is the quick-print service across the street in the printing building?

MS. ERDOES:

Yes, it is. We also have two machines in the Legal Division we use to produce amendments.

MR. MALKIEWICH:

Mr. Don Williams will present the Research Division budget.

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

The Research Division's budget is on pages 40 through 47 of [Exhibit L](#). The Base Budget provides funding for the existing 36 positions. We feel the current and projected workload requires the addition of four new staff. I have provided you with the Research Division Workload Graphs ([Exhibit P](#)) which show the number of research requests processed and the anticipated increase over the biennium. The staffing of interim studies has increased significantly. The Research Division staffs most of the interim studies. The number of studies has increased from 18 in the 2001-2003 interim to 26 studies in the 2003-2005 interim.

CHAIR RAGGIO:

The Committee would appreciate an objective, but firm, recommendation from you on how to limit the number of interim studies. That includes everything we talk about that must occur during the interim. We need to impose a limit on these studies.

MR. WILLIAMS:

We have been working on a tentative proposal that will be presented to the leadership within the next two weeks.

CHAIR RAGGIO:

Too often we suggest an interim study rather than vote on an issue. Are the positions listed on page 41 of [Exhibit L](#) prioritized?

MR. WILLIAMS:

The positions are listed by priority. Two of the four positions will be for the Constituent Services Unit where there has been a large increase in requests.

CHAIR RAGGIO:

All of the LCB staff has been cooperative and responsive. I know all the legislators appreciate the rapid response we get with such things as correspondence, proclamations, and everything that is requested.

MR. WILLIAMS:

The four positions requested and costs related to those positions are shown on page 43 of [Exhibit L](#).

We have signed a three-year lease at Telegraph Square for the staff of the Constituent Services Unit.

We are requesting either upgrades or reclassifications for 11 employees based on the restructuring I instituted. These changes are listed in priority on page 44

of [Exhibit L](#). We did occupational studies of similar positions in other legislatures and other state and local jurisdictions.

CHAIR RAGGIO:

Is there any proposal in the budget for augmentation of the LCB Division chief's and top assistant's salaries other than the 2-percent Cost of Living Adjustment?

MR. MALKIEWICH:

We do not have anything proposed in the budget. We asked for upgrades of the top positions in the past because the top deputies were getting close to the same salary as the Division chiefs.

CHAIR RAGGIO:

Let us know if the salary of the chiefs and top assistants are comparable to positions in the other branches of state government taking into consideration the new proposals in unclassified positions.

MR. MALKIEWICH:

I will check that. If there are adjustments made with respect to the classified services, we would hope for comparable changes for LCB.

I have been informed that all 50 states belong to NCSL and are currently paying their dues. The dues formula includes a state population factor.

CHAIR RAGGIO:

What is proposed in the budget with respect to the Las Vegas office?

MR. MALKIEWICH:

The only change proposed for the Las Vegas office is a slight increase in rent.

SENATOR RHOADS:

What budget contains the standing committee information?

MR. MALKIEWICH:

The Legislative Commission budget includes the Committee on High-level Radioactive Waste, Legislative Committee on Education, page 6 of [Exhibit L](#); and a line item for interim studies, page 10 of [Exhibit L](#). Some committees are paid out of the legislative fund. We would like to have separate funding for each committee. That might help limit the number of studies.

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CHAIR RAGGIO:

There being no further business to discuss at this time, the meeting is adjourned at 12:40 p.m.

RESPECTFULLY SUBMITTED:

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Sandra Small,  
Committee Secretary

APPROVED BY:

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Senator William J. Raggio, Chair

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