**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-Third Session
February 10, 2005**

The Committee on Ways and Means was called to order at 8:08 a.m., on Thursday, February 10, 2005. Chairman Morse Arberry Jr. presided in Room 3137 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. Morse Arberry Jr., Chairman
Ms. Chris Giunchigliani, Vice Chairwoman
Mr. Mo Denis
Mrs. Heidi S. Gansert
Mr. Lynn Hettrick
Mr. Joseph M. Hogan
Mrs. Ellen Koivisto
Ms. Sheila Leslie
Mr. John Marvel
Ms. Kathy McClain
Mr. Richard Perkins
Mr. Bob Seale
Mrs. Debbie Smith

COMMITTEE MEMBERS ABSENT:

Ms. Valerie Weber (excused)

STAFF MEMBERS PRESENT:

Mark Stevens, Assembly Fiscal Analyst
Steve Abba, Principal Deputy Fiscal Analyst
Russell Guindon, Deputy Fiscal Analyst
Mindy Braun, Education Program Analyst
Jim Rodriguez, Fiscal Analyst
Susan Cherpeski, Committee Secretary
Lila Clark, Committee Secretary

**ELECTED OFFICIALS
SECRETARY OF STATE (101-1050)—BUDGET PAGE ELECTED-105**

**ELECTED OFFICIALS
SoS HAVA ELECTION REFORM (101-1051)—BUDGET PAGE ELECTED-116**

Chairman Arberry indicated the Committee would begin the meeting by hearing the budget for the Office of the Secretary of State, Budget Account 101-1050.

Dean Heller, Secretary of State, introduced himself and commented that he would be presenting his sixth and final budget as Secretary of State to the Committee. He indicated that he was accompanied by Renee L. Parker, Esq., Chief Deputy Secretary of State; Steve George, Public Information Officer for the Office of the Secretary of State, who would be aiding in the slide presentation; Ellick Hsu, Deputy Secretary of State, Elections; Charles Moore, Securities Administrator; Scott Anderson, Deputy Secretary of State, Commercial Recordings Division; and Peter Harrington.

Mr. Heller started the slide presentation and explained that the Committee had received a copy of the presentation in the form of a booklet entitled "Secretary of State Biennial Budget Request, FY 2006-2007" (Exhibit B).

Mr. Heller began by saying the revenues for the Office of the Secretary of State had increased by 25 percent overall from fiscal year 2003. He indicated those increases were partially due to fee increases that had been enacted during the previous legislative session, but the growth in activity within the divisions had also contributed to the increase. He said new business filings through the Commercial Recordings Division had increased 25 percent, and the Office continued to generate $8 of revenue for every $1 spent.

Mr. Heller indicated that through technology and more efficient processes, the Office was able to generate over $588,000 per full-time employee, which was a substantial increase from ten years previously when he had begun working at the Office of the Secretary of State.

Mr. Heller referred to the next slide which showed the increase in new filings of all entity types. He complimented the Commercial Recordings Division and said it was one of the best divisions of its type in the country, consistently ranking near the top in the number of new filings, the percentage increases, and customer service. He added that the Office received letters from customers expressing satisfaction that they were able to speak to someone in the Office rather than reaching an automated answering service and having to wait for a return call.

Mr. Heller added that another component of the Office's recent increase in efficiency was a project called the electronic Secretary of State (e-SoS) system. The e-SoS project had taken several years to complete, and there had been issues with the vendor; however, after threatening to sue the vendor, the vendor had responded and increased its efforts to finish the project. The e-SoS project had been completed approximately two weeks before the current meeting and seemed to be working well. With the e-SoS system, the Secretary of State's Office had become virtually a paperless system. Mr. Heller explained that all the mail received by the Office, which was between 500,000 to 750,000 documents per year, would be scanned into the system and each document would then enter a queue to be processed in order of receipt. He indicated that employees would no longer be working with paper, which would substantially change the Office.

Assemblyman Marvel asked if the Secretary of State's Office had a disaster recovery plan in place. Mr. Heller said that question had surfaced during the last audit and indicated that Renee Parker, Chief Deputy Secretary of State, would respond.

Ms. Parker explained there was a minimal disaster recovery plan based on a template created by the Department of Information Technology (DoIT), but it was not exactly what was needed. She indicated that the Governor had recently issued an Executive Order requiring all state agencies to have a disaster recovery plan and a security backup plan; however, there had been difficulties finding someone with the level of expertise needed for a comprehensive system. Ms. Parker indicated that the Secretary of State's Office had been receiving some help from various vendors, particularly the vendor providing help with the statewide voter registration system, but the Office was still lacking a comprehensive disaster recovery system.

Mr. Marvel pointed out that security had been an issue the Legislature had been concerned about for several years, and comprehensive systems were still not in place. Ms. Parker agreed and said the Secretary of State's Office had requested help from the Department of Information Technology (DoIT) and the Legislative Counsel Bureau (LCB), but neither agency had been able to provide a template. She added that a committee had been formed with technical staff from the Secretary of State's Office, LCB, and DoIT, and that committee was working to create a plan to meet the needs of the state.

Mr. Heller referred the Committee to the section in Exhibit B outlining the uses of the electronic Secretary of State (e-SoS) system. He provided a brief history of the e-SoS system explaining that it had taken four years to complete the system, and there had been difficulties with vendors. At a Board of Examiners meeting, Northrop Grumman, the current vendor, had been threatened with a lawsuit. Since that time, Northrop Grumman had worked very hard on the system, and the first phase of the e-SoS project had been completed. Mr. Heller declared that e-SoS would allow corporations to file with the Secretary of State's Office from anywhere in the world.

Mr. Heller continued his presentation and directed the Committee to the voting statistics contained within Exhibit B. He pointed out that the state had a substantial increase in participation in the voting process, and Nevada had received national attention for its technology and advancements in administering the voting process. He opined that Nevada was moving in the right direction with the sixth-highest voter registration increase in the nation over previous election cycles.

Mr. Heller mentioned the Help America Vote Act (HAVA) and expressed appreciation for the support the Secretary of State's Office had received from the Legislature, the Governor's Office, the county clerks and recorders, and claimed that their support for HAVA had made the election cycle a success. He pointed out that the state had matched 5 percent on the HAVA funding, which had totaled approximately $850,000. In contrast, other states had struggled as their governors had vetoed HAVA funding legislation, but the Nevada Legislature and Governor Guinn had been very supportive.

Mr. Heller said the Secretary of State's Office had received approximately $21 million in federal funding. Of that $21 million, $9.4 million had been used to purchase 2,000 touch screen voting machines with maintenance and support agreements through 2006. He pointed out that 16 of the 17 counties in Nevada had received brand-new voting machines. The only exception was Clark County, which already had touch screen voting machines, although printers had been purchased and added to those machines. There had also been changes made to the absentee voting system which had been updated to an optical scan system from the punch card system used previously, and 37 optical scan machines had been purchased.

Mr. Heller said that an additional $5.5 million had been spent on the statewide voter registration system, which was required by the federal government to be in place by January 1, 2006.

Chairman Arberry questioned a $15 million funding request mentioned in Exhibit B. Mr. Heller explained the choice had been made to use the Sequoia

Voting System because that system was already in place in Clark County; however, the machines in Clark County did not have a printer attached and there was no paper trail. He indicated that initially it had been thought that the machines could be retrofitted by the 2006 election. Unfortunately, the vendor had recently informed the Secretary of State's Office that was not the case, and the full-faced machines, of which there were several thousand, would need to be replaced. Mr. Heller acknowledged the request for $15 million had not been included in The Executive Budget due to the late notice from the vendor; however, that money was needed to ensure there would be a paper trail for all voting machines in the state. He indicated that the machines without a printer attached had been decertified and if the machines were not replaced before the 2006 elections, Clark County would have to use the absentee optical scan system to ensure a paper trail in case of a recount. He voiced concern that the Clark County system was inferior to the systems put in place in the other 16 Nevada counties.

Mr. Heller reiterated the need for the additional $15 million in the budget and indicated that he had spoken with the Nevada congressional delegation regarding federal legislation that would require all states to have a paper trail for all electronic voting machines. The passage of such a bill would have federal funding attached, and the state could be reimbursed for the cost of those replacement machines. Mr. Heller pointed out that a similar situation had occurred in Georgia, which had switched to electronic voting machines before required to do so by HAVA. When HAVA became law, the state of Georgia received HAVA funds retroactively to cover the costs incurred. Mr. Heller repeated that the Nevada congressional delegation was very supportive of the aforementioned federal legislation, and he thought the state would be reimbursed if that legislation were passed.

Mr. Marvel asked if any HAVA funding was currently available to pay for the replacement of the machines in Clark County. Mr. Heller replied that there was approximately $4 million remaining of the HAVA funds, which had been slated to be used to retrofit the Clark County machines for the 2006 election. However, after the 2004 election, it had become apparent that some of the counties, particularly Washoe County, which had the longest wait time for voting, needed additional machines. He indicated that the county registrars and clerks had underestimated the voting machine need, and those needs would have to be addressed.

Mr. Marvel wondered what would happen if a recount were ordered, and Mr. Heller stated that there could not be a recount without a paper trail, a problem which had led legislatures across the country to pass legislation requiring a paper trail. He commented that the electronic voting machines in California had been decertified and only those with a printer attached were being recertified. All the vendors making voting machines were now attaching printers. Mr. Heller commended the Nevada Legislature for their foresight in dealing with those issues during the previous legislative session. He repeated that the Secretary of State's Office had only recently been informed that the Clark County machines could not be retrofitted and would need to be replaced.

Assemblywoman Giunchigliani pointed out that in an Interim Finance Committee meeting during 2004, Clark County had submitted a cost projection of $12 million to replace the machines, and she questioned the reason for the increase to $15 million.

Ms. Parker explained that there were 2,186 AVC Advantage full-faced voting machines in Clark County. The new AVC Edge machines were not full-faced, and the voter had to scroll through the ballots, which increased the time it took to vote, which required the purchase of additional machines. Larry Lomax, the Registrar of Voters in Clark County, had prepared that $12 million request, taking into account the cost four years ago, which had been $3,700 per machine. The Secretary of State's Office had successfully negotiated a contract in which each machine would cost $2,637 with an additional $500 to attach a printer for the paper trail, which made the total cost for each machine approximately $3,137. Ms. Parker commented that the original request had not included that additional $500 per machine.

Ms. Giunchigliani asked what Clark County had done with $650,000 that had already been received. Ms. Parker explained that the $650,000 Clark County received had been used to retrofit and add printers to machines. She said that Clark County had 2,186 AVC Advantage machines and 782 AVC Edge machines, which were the same machines the rest of the state had received. With that $650,000, printers had been purchased for existing machines and optical scan machines had been purchased for the absentee ballot voting system.

Ms. Parker indicated that Mr. Lomax, the Clark County registrar, would need to replace 2,186 machines, and the Secretary of State's Office was working with the vendor to determine the exact amount needed.

Ms. Giunchigliani questioned whether it had been determined that the machines had to be replaced. Ms. Parker explained that the replacement was due to an issue with a microchip inside the AVC Advantage machine. The microchip would need to be changed in order to allow the machines to be retrofit with a printer. The machines were currently certified to the 1990 regulations, but if any changes to the microchip were made, those machines would then need to be brought into alignment with the 2002 federal regulations. With the changes, the accuracy of the machines would be a concern.

Ms. Giunchigliani commented that there was an obligation to ensure that Clark County be brought up to the same level as the rest of the counties in the state. She conceded that it would have been much less costly to retrofit the machines, but as that was not an option, the state was obligated.

Ms. Giunchigliani asked if the state's obligation would continue beyond the initial replacement of the machines or if the local governments would assume that responsibility once the system was in place.

Mr. Heller replied that the state was in a position to establish the voting system in the counties, but the counties, particularly Clark County, recognized that growth would necessitate the purchase of additional machines by the county. He pointed out that Clark County would have to purchase the machines if the state did not provide the funds, but the state was in a position to purchase the machines. Clark County would purchase additional machines as needed, but $15 million would be a substantial expenditure for the county.

Ms. Giunchigliani questioned whether the $15 million request could be reduced to $11 million if the $4 million from HAVA was used for Clark County rather than for the other counties which needed additional machines based on growth. Mr. Heller replied that the formula used to determine the number of machines was based on population. The national average was 200 voters per machine, while the Nevada average was approximately 175 voters per machine; however, there were variables such as the amount of time a voter spent scrolling through the touch screen, voting, and verifying his vote on the printed receipt. Those variables affected the formula, and Mr. Heller opined that it was the state's obligation to make sure the formulas were accurate and to fully fund the requirements of HAVA. Once that was done, the counties would then be responsible for any additions from that point forward.

Ms. Giunchigliani requested a county map detailing the formula used to determine the number of machines and the costs associated with supplying the necessary machines. Mr. Heller assured Ms. Giunchigliani those statistics were available and would be provided.

Ms. Parker interjected that problems had arisen with the national formula because of the rural nature of much of Nevada, which created different requirements. She gave the example of a polling place in White Pine County in which only 50 voters per machine were expected and two machines had been allocated; however, because of the remote location and the possibility of problems, three machines were needed. Ms. Parker said there had been similar situations throughout the state, and she indicated she would provide information regarding how many machines each county had received and the population of each county.

Ms. Giunchigliani requested that additional information be provided as well, such as what the counties were projecting and how that $4 million would be used. She opined that a one-shot appropriation to get the system established throughout the state would be the best course of action, and then the counties would be required to fund any changes from that point forward.

Ms. Parker agreed and commented that the Secretary of State's Office had been working with the vendor to obtain a salvage value out of the AVC Advantage machines. Previously, the vendor had informed Larry Lomax, the Clark County registrar, that there was no salvage value; however, Secretary of State Heller had spoken to the president of the company and there was a possibility of receiving some salvage value for the machines.

Ms. Giunchigliani requested a response from the Budget Division regarding the construction of the budget and the $15 million one-shot appropriation. Mr. Andrew Clinger, Deputy Director, Budget Division, responded to Ms. Giunchigliani and indicated that he had not spoken to the Governor's Office regarding the $15 million request and until he had done so, he did not have a recommendation for the Committee.

Ms. Giunchigliani expressed dissatisfaction with the number of revisions in the Secretary of State's budget, pointing out that it was difficult to make decisions on budget accounts without current information. She emphasized that the revisions should be given to the Committee as soon as possible. Mr. Clinger assured Ms. Giunchigliani every effort would be made to have the revisions finished and returned to the Committee by Monday, February 14.

Michael R. Alastuey, representing Clark County, addressed the Committee and said the information submitted by the Secretary of State's Office in regard to Clark County was congruent with the Clark County registrar's assessment. He verified that the ratio of one old machine to two new machines was correct due to the pagination on the touch screen device and the addition of the printer, and he indicated that the costs also included equipment related to the transportation and storage of the voting machines.

Mr. Alastuey stated that Clark County had chosen to pioneer electronic voting in the state of Nevada as a service to its citizens and was pleased to share that technology and experience throughout the state. Mr. Alastuey expressed his support for the budget request from the Secretary of State's Office and commented that as the change in the electronic voting systems was a state initiative, it was appropriate for the state to provide funding for the replacement of machines. He agreed that there were shared responsibilities at the local, state, and federal level. Mr. Alastuey reminded the Committee that the initial acquisition of the Sequoia Voting Systems technology in Clark County had been funded by Clark County, as it had been a county initiative. He pointed out that HAVA had been a federal initiative with federal funding, and he opined that state initiatives should provide state funding.

Mr. Alastuey concluded his remarks by stating that Clark County was willing to work with the Secretary of State's Office to share information and statistics and was supportive of the budget request.

Assemblyman Denis questioned the salvage value of the voting machines, and Mr. Heller explained that there was not a salvage value as far as the vendor was concerned, but the Secretary of State's Office was exploring other options, including using the machines in schools to educate children about the election process.

Mr. Denis asked if the new machines would have to be replaced if the standards were to change again or if the machines would be upgradeable. Ms. Parker explained that the machines would be certified to the federal standards and once that was completed the machines were essentially "grandfathered" in. Upgrades would be available under the maintenance and support agreements with the vendor, but those upgrades would have to be approved through the certifying authorities. The machines could then be used until the Secretary of State made a determination that the machines were no longer accurate, at which point the machines would be decertified. Ms. Parker pointed out that Clark County had used electronic voting machines for over ten years, and while the machines were being replaced due to the need for a paper trail, the equipment still worked and had a long life. She anticipated that the new machines would have a long life as well.

Assemblywoman Gansert requested clarification regarding the paper trail that would be used in a vote recount. Mr. Heller explained that the printout the voters looked at to verify their votes was the same printout that would be used in a recount or in an audit. He said that every county was required to keep 3 percent of the printouts to conduct an audit to check the accuracy on the machines.

Mrs. Gansert suggested the machines should be upgraded to allow the vote printout to be scanned into a computer rather than manually counted, which could affect the accuracy. Mr. Heller agreed and indicated that system was already in place. He said the Secretary of State's Office had been working with a different vendor to place a bar code on the bottom of each vote printout, which could be read by a machine that would scroll through the entire printout roll and count the votes. In the event of a recount, the machine could be used to count the votes or there could be a manual count.

Mr. Heller continued his presentation and said the State of Nevada would be one of the few states to meet the federal HAVA requirements by the deadline of January 1, 2006. He commented that the Department of Justice was unhappy with those states that were requesting extensions, but Nevada was doing well.

Mr. Heller referred the Committee to the information within Exhibit B about the Securities Division and pointed out the growth and the revenues within the Division. He said that much of that growth was related to the fee increases instituted during the 2003 Legislative Session, but there was also an increase in the number of branch offices, broker-dealers, and investment advisors in the state of Nevada. Mr. Heller indicated that the Office was requesting an additional auditor within the budget request for the Securities Division. He said the goal was 250 audits per year, which would be approximately 40 to 50 audits per investigator per year; however, the Office had only completed 163 audits the previous year. He opined it was necessary with the growth and the increase in the number of broker-dealers and investment advisors that an auditor be added in order to approach the goal of 250 audits per year.

Mr. Heller said the Technology Division was experiencing growth as well. He pointed out that there had been two flat years in 2002 and 2003, but within the last year, the number of hits on the website had increased dramatically to approximately 60 million hits per year. He conceded that much of the growth was in response to the presidential election and visitors to the website had been requesting statistics and information relating to candidates.

Ms. Giunchigliani interjected that she had visited the Secretary of State's website and while the site provided a link to the Commission on Ethics and forms could be filled out online, there was no way to access completed forms from previous years. Mr. Heller noted that those forms had not been scanned in electronically and could not be accessed online, although the information was public and available in hard copy form.

Ms. Parker added that the forms had been filed exclusively with the Commission on Ethics in the past, and she believed those forms were scanned electronically, but could not be accessed on the Commission's website either. She indicated that the Secretary of State's Office could work with Stacy Jennings, Executive Director, Commission on Ethics, to put all of that information online.

Ms. Parker requested clarification as to which information Ms. Giunchigliani wanted on the website. Ms. Giunchigliani indicated that information filed in 2005 and forward should be included. She opined that there should not be a conflict between the Secretary of State's Office and the Commission on Ethics, although the Assembly Committee on Elections, Procedures, and Ethics should verify any statutory changes. Ms. Parker agreed and remarked that there were bills coming before that committee as well as the Assembly Committee on Ways and Means that might facilitate the process.

Mr. Heller commented that an expansion of the Secretary of State's website had been discussed in the Senate Committee on Finance as well in order to make the site a "one-stop shop" for businesses in the state to fill out forms from the Department of Taxation or the Department of Motor Vehicles, as well as the Commission on Ethics and the Secretary of State's Office. He opined that as e-SoS was in place, it should be used for that purpose.

Ms. Giunchigliani agreed that linking the sites together to make the process easier for businesses would save time and money. Mr. Heller noted that the infrastructure was in place, e-SoS was already receiving 60 million hits per year, it was the first place businesses visited, and it made sense to provide all those services in one place.

Mr. Heller referred to Ms. Giunchigliani's earlier comments regarding budget changes and acknowledged that some of the budget revisions had been the responsibility of the Secretary of State's Office rather than the Budget Division, particularly the $15 million request, as the information that precipitated that request had only recently become known. Mr. Heller said he would like to discuss enhancement requests within the budget accounts, particularly an e-SoS maintenance agreement enhancement request for $1.5 million, which was a change from the original budget. Mr. Heller indicated that Ms. Renee Parker, Chief Deputy Secretary of State, would outline the e-SoS maintenance agreement for the Committee.

Ms. Parker explained that there had been problems with Northrop Grumman, the vendor for the electronic Secretary of State (e-SoS) system, and a lawsuit had been threatened; however, the vendor then changed the team working on the project and e-SoS was completed. It had then become apparent that a maintenance agreement was necessary.

Ms. Parker reminded the Committee that during the 2003 Legislative Session, the Secretary of State's Office had placed an amount in the budget to cover the maintenance of an imaging system, but the e-SoS maintenance costs were unknown at that time. She said that since the system had gone online approximately two weeks before, the Office had been negotiating a maintenance agreement that would be transitional in nature. Thus, the $862,000 requested in the first year of the biennium and the $600,000 requested in the second year seemed rather costly, but it was anticipated that the cost in FY2008 would be less than $100,000. The requested funds would cover the cost of any changes to the process, ongoing maintenance, and training for the staff so that outside support could be eliminated.

Ms. Giunchigliani questioned the amount allocated to maintenance, and Ms. Parker indicated that there was approximately $160,000 requested in the budget for e-SoS maintenance. She explained that she had been working with the LCB Fiscal staff to adjust the budget so that there would be enough funding for the maintenance of e-SoS. She commented that the new calculations might cause the request to increase by as much as $100,000, but it was a matter of allocating funds in the correct categories. Ms. Giunchigliani asked when those numbers would be finalized so she could examine them. Ms. Parker indicated that she had given the majority of that information to the Fiscal staff, and they would be giving that to the Committee.

Ms. Giunchigliani referred to page 109 in The Executive Budget and questioned E-217, which was an enhancement request for funding to reprint the *Political History of Nevada*. Mr. Heller explained that the last political history book was published in 1996 and the updated history should be published approximately every ten years.

Mr. Heller returned to the earlier line of questioning regarding the maintenance agreement and said the two-year agreement was not meant to be a long-term budget item. He pointed out that there were five new positions requested in the budget, three of which were technical positions. One of the positions would handle the maintenance of the e-SoS system and the other two positions would handle the maintenance of the Statewide Voter Registration System. He reiterated that the request for the three information technology (IT) positions would alleviate the need for a $1.5 million maintenance agreement with the vendor.

Mr. Heller continued outlining the budget and said there was a need for one additional securities auditor as mentioned earlier, as well as an additional deputy to oversee operations and elections. He explained that the fifth deputy position had been requested in the previous session, but the position had not been funded; however, the workload supported the need for that position.

Mr. Heller called the Committee's attention to the request for salary increases for unclassified employees contained in the budget. He opined that it was critical to maintain the level of expertise in the Secretary of State's Office that the public had come to expect. Mr. Heller reminded the Committee that when he had entered the Office ten years earlier, the elections deputy and the chief deputy were not attorneys, but now they were, and the head of the Commercial Recordings Division had not been a certified public accountant, but now he was. Having qualified professionals in those positions allowed the Office to run more efficiently and to provide the level of service expected by the public. Mr. Heller emphasized that the salary increases were necessary to enable the Secretary of State to hire people who could meet that level of expertise.

Chairman Arberry commented that the concern with the increased salaries was that they would not be in alignment with salaries offered for similar positions in other agencies, such as the Office of the Attorney General. Mr. Heller replied that the salary of the chief deputy would be raised to the same salary as that paid to the chief deputy in the Office of the Attorney General. He explained that the salary increases would not go beyond that of other offices, but would be comparable.

Mr. Heller explained that his Office was constantly involved in litigation, and he repeated that there were two attorneys in the Elections Division, including one who was overseeing the implementation of the Help America Vote Act (HAVA). He opined that it was critical to have that level of expertise in those positions, particularly as the state could be placed at risk if something was done incorrectly.

Mr. Heller said he was very fortunate to have Mr. Charles Moore as his securities administrator, as he was an attorney and a certified public accountant. Mr. Heller reiterated the need to have the right people for the job as Nevada continued to grow and he said the increase in salaries would be critical to finding and keeping the right people.

Mr. Denis requested clarification regarding decision unit E-275. Mr. Heller explained that the original request had been for six positions, but that request had been changed and only three positions were being requested. Ms. Parker interjected that the six positions had been in The Executive Budget and were originally funded through the General Fund; however, the number of positions had been reduced to three and would be funded through the Special Services Fund, which was generated by fees charged for expedited document processing. She indicated that the three positions requested were a master information specialist I, an information specialist III, and a computer network specialist II.

Mr. Denis asked if those additional positions would bring the total number of positions to 3, which Ms. Parker indicated was correct. Mr. Denis then asked if those positions were needed because of the e-SoS system. Ms. Parker explained that the positions were needed not only for the e-SoS system, but also for the Statewide Voter Registration System. She said she had contemplated using federal funds to fund the positions, but realized that would create problems because the employees would be unable to work on certain projects due to the federal rules. Because of those issues, changes had been made to fund the positions through the Special Services Fund.

Mr. Heller concluded his presentation and indicated that he would be willing to answer questions. Chairman Arberry pointed out that The Executive Budget requested General Fund dollars in the HAVA budget account and questioned why. Ms. Parker replied that the Secretary of State's Office had not made that request and there was no need for General Fund monies in the HAVA budget account.

Chairman Arberry thanked Mr. Heller and Ms. Parker for their presentation and indicated the Committee would hear the next budget account on the agenda.

Mr. Robert Loux, Executive Director, Agency for Nuclear Projects, addressed the Committee and said he would be presenting a brief overview of the Yucca Mountain project before presenting Budget Account 101-1005, which funded the Agency for Nuclear Projects as well as the Commission on Nuclear Projects. He indicated that the Commission had recently finalized their report of recommendation to the Legislature and the Governor concerning the issue of Yucca Mountain and high-level nuclear waste. The Agency was charged under statute with representing Nevada and overseeing and evaluating what the U.S. Department of Energy (DOE) was doing in regard to the Yucca Mountain project.

Mr. Loux said he would offer an overview of the Yucca Mountain project before he outlined the budget account. He reminded the Committee that in 2001 President Bush and the United States Congress had approved the Yucca Mountain site for development as a nuclear waste repository. The Department of Energy had then applied to the Nuclear Regulatory Commission for a license to construct the facility, depending on whether or not the regulatory requirements developed by the Environmental Protection Agency (EPA) and the Nuclear Regulatory Commission (NRC) could be met. The previous summer the state of Nevada was successful in having the regulatory basis for approving Yucca Mountain struck down by the U.S. Court of Appeals in Washington, D.C. for not being protective enough of public health and safety.

Mr. Loux said the project was stalled pending a number of outcomes, one of which was the repromulgation of radiation health and safety standards for the Yucca Mountain site by the EPA, and then the NRC would have to alter their regulations to conform to the new EPA regulations. He explained that one of the reasons the court threw out the EPA regulations the previous summer was that the EPA had capped the period of protection to the public at 10,000 years; however, Congress had directed the EPA to make the regulations consistent with the recommendations of the National Academy of Sciences. According to the National Academy of Sciences, the standards had to be in place as long as the public was at risk from any releases from a repository. The National Academy of Sciences believed that period could be as long as 1 million years, and since the numbers provided by the EPA were not consistent with the Academy, the court threw out the regulations.

Mr. Loux explained that the problem with the DOE plan at Yucca Mountain was that using computer models showed that the physical aspects of the site provided less than 1 percent of the needed contribution to performance and the rest of the performance would be provided by the metal disposal containers that would be placed underground. While the DOE believed that metal containers could be made to last 10,000 years underground, the scientific community did not believe metal containers could be made to withstand the hundreds of thousands of years that would be required by a new EPA standard in alignment with the National Academy of Sciences' recommendations.

Mr. Loux indicated that he would speak later about the state's research program and said that extensive testing had been conducted using the Yucca Mountain water and testing its interaction with the metal containers. The research had shown that the containers would last a few hundred years, and Mr. Loux said that the state's metallurgists and chemists were reporting that no metal of any kind would last more than a few hundred years at Yucca Mountain because of the corrosive nature of the water contained in the mountain itself with heavy amounts of lead, arsenic, fluoride, and mercury. Additionally, the DOE planned on an internal temperature above the boiling point of water in the tunnels in order to evaporate excess water. That would create an environment with high temperatures and 100 percent humidity, which was conducive to causing corrosion. In addition, the DOE and the state agreed that once any radioactive material escaped from the metal containers, it would infiltrate existing drinking water wells in Amargosa Valley in less than 50 years.

Mr. Loux pointed out that in order for the Yucca Mountain project to work, the DOE would have to improve the metal containers, as Yucca Mountain itself would not change. He said there were other obstacles for the DOE; a license would require the repromulgation of an EPA standard and a subsequent repromulgation of NRC regulations. He noted that historically the EPA had taken 6 to 10 years to write new regulations, and the NRC had indicated that even a minimum change in their rule would take 2 years. Thus, the time frame for any activity at Yucca Mountain had been extended, assuming that the DOE could meet a new standard, which appeared to be unlikely.

Mr. Loux said the other major obstacle faced by the DOE were regulations by the NRC that eliminated all discovery during the licensing proceeding. He explained that the proceeding was very judicial in nature with presentation of evidence and cross-examination of witnesses. The law provided that those proceedings needed to be conducted and concluded within 4 years, which would be very difficult as the NRC had predicted that the proceedings for a facility like Yucca Mountain would take 8 to 12 years. In order to facilitate a 4-year licensing proceeding, the NRC was requiring all parties, including the state of Nevada and the DOE, to have all the documents in their possession, including emails compiled in an electronic database managed by the NRC. The DOE had attempted to certify the electronic database; however, the NRC deemed the record incomplete. The DOE had been trying to compile the record, but as of a meeting on February 9, 2005, in Las Vegas, Nevada, the DOE believed another year was needed to complete the record.

Mr. Loux said the DOE was having difficulties with all aspects of the project—administrative, technical, and scientific, and he said it appeared the project was doomed, leading the Nevada Attorney General to say "the poison [was] in the system, it just [had] not reached the heart yet." Mr. Loux remarked that it was simply a matter of time before the nuclear industry and the United States Congress realized the project would not succeed. He noted that until recently the nuclear industry had linked the ability to build additional nuclear power plants with the successful completion of the Yucca Mountain project, but as the industry had begun to realize the project was unlikely to succeed, there had been attempts to separate the future of nuclear power plants from the future of Yucca Mountain.

Mr. Loux declared that tremendous progress had been made, and he opined that the Yucca Mountain project would not go forward, but he emphasized the need for continued vigilance in the event of new developments that could allow the DOE to file a license application and proceed with the project. He indicated that he had concluded his overview of the Yucca Mountain project and would be addressing Budget Account 101-1005 and Budget Account 101-1004.

ELECTED OFFICIALS
HIGH LEVEL NUCLEAR WASTE (101-1005)—BUDGET PAGE ELECTED-10

ELECTED OFFICIALS
NEVADA PROTECTION ACCOUNT (101-1004)—BUDGET PAGE ELECTED-15

Mr. Loux explained that Budget Account 101-1005 funded the Agency for Nuclear Projects, which had a staff of 7 employees and relied on contractors to perform much of the work. He said the budget account had remained static over the last three sessions and as it stood would adequately provide for the office in the future.

Mr. Loux directed the Committee's attention to decision unit E-350 in Budget Account 101-1004, which was a request for $2 million to supplement and replenish the Nevada Protection Fund. He reminded the Committee that he had requested and received $1.1 million from the Interim Finance Committee in November of 2004 in order to carry out pre-licensing activities. He indicated he had still not received the federal appropriations for FY2005, as the DOE was making him "jump through a series of administrative hoops and other delaying tactics" to receive the money.

Mr. Loux said he had maintained before the federal agencies and Congress that in the area of license preparation $5 million per year was needed. He said that in the year prior to the actual submission of a license, approximately $13 million might be needed to enable his agency to participate in the proceeding itself. He conceded that would be in the future if it happened at all.

Mr. Loux explained that decision unit E-350 was requested to fund the activity of the legal staff as well as a contractor in Washington, D.C., so they could perform the legal preparation work to maintain compliance within the licensing support system. He said that all documents had to be converted to an electronic format, and it was a requirement that the system be certified within 90 days of the DOE certification. The DOE had not yet been certified, which had stopped the filing of a license application for the Yucca Mountain project, but if the DOE were to be certified the application could be filed in 6 months. He reiterated that the request was in the budget to ensure compliance, and he added that the money would also be used to fund the activities of 20 to 50 scientists who had been studying aspects of the DOE Yucca Mountain plan.

Mr. Loux referred the Committee to a list he had prepared (Exhibit C) of topics that the state intended to challenge if the DOE license application occurred. He remarked that the Committee could see that there were several open questions about the DOE database and the scientific basis for the Yucca Mountain project, ranging from the durability of the containers to the possibility of renewed volcanic activity at the site. The NRC was, in fact, requiring the DOE to perform an analysis of the projected impact of a volcanic eruption at the site of the Yucca Mountain repository. Mr. Loux expressed doubt at comments made by the DOE that there would be no impact on public health and safety in such an event as the canisters would be able to withstand an eruption and temperatures of several thousand degrees Fahrenheit. He indicated that his agency hoped to work on its own climate model as the DOE model made the assumption that the current climate would remain unchanged for at least the next 10,000 years and possibly even longer, an assumption with which Mr. Loux did not agree.

Chairman Arberry requested additional details regarding federal funding. Mr. Loux said his agency had not received the FY2005 funding of $2 million, but the federal budget for FY2006 contained $3.5 million for the state for its oversight of the Yucca Mountain project. He expected the state to receive that money; however, he was uncertain as to when.

Mr. Loux continued outlining issues with the Yucca Mountain project and pointed out that the ingress and egress to the Nellis Air Force Base gunnery range passed over the Yucca Mountain site. He said there were numerous flights over the site daily, many of which carried weapons ordnance that could be inadvertently dropped in the wrong place. Mr. Loux reminded the Committee of an incident occurring several years earlier in which a 500-pound bomb was dropped in an intersection in North Las Vegas. He explained that the surface facilities at the Yucca Mountain site would have as much as 21,000 metric tons of waste waiting to be placed into a repository. An accidental drop of ordnance or an airplane crash into those surface facilities could have a devastating effect on public health and safety.

Mr. Loux said the other areas of contention regarding the site included quality assurance and several issues associated with the environmental impact statement (EIS), including the likelihood that as the metal containers decayed and became radioactive, the materials in the containers would then be controlled by the Resource Conservation and Recovery Act (RCRA), an issue the DOE had yet to acknowledge. There were also issues with the Federal Land Policy and Management Act (FLPMA) and various federal land withdrawal proposals that were yet to be addressed at Yucca Mountain.

Mr. Loux indicated that he would go into further detail at the Committee's request, but he had merely wanted to present a representative list of the issues his agency would be working on over the next several years in order to be effective in a licensing proceeding before the NRC, and the enhancements requested were needed for that effort.

Chairman Arberry mentioned an ongoing transportation study and asked for details on the situation with the rail and highway transportation routes. Mr. Loux replied that the DOE had yet to establish the national or local routes the waste would travel to Yucca Mountain; however, a 320-mile rail line had been proposed that would run from Caliente in southern Nevada, around the test site to the north, through the Goldfield/Beatty area, and then enter the test site from the south. Mr. Loux indicated that the state was challenging that proposal in court. There would be a briefing scheduled in the next several months with oral arguments likely in the early summer.

Mr. Loux pointed out that much of the proposed line had been destroyed by the recent flooding in the Caliente area, and Union Pacific was working to reconstruct the line. The flooding had also covered the proposed transfer facility, but the DOE appeared to be undeterred, despite the frequency of flooding in the Caliente area, which occurred approximately every 20 years. The DOE was planning a draft environmental impact statement in the next few months with notice and comment shortly thereafter and a final statement at some point in the future.

Mr. Loux said that as the proposed rail line would be used to transport commercial goods as well as nuclear waste, federal law required that the Surface Transportation Board (STB) should be the lead agency in the construction of any new rail line for commercial traffic. That issue was being litigated in federal court as well, and the DOE apparently had been unaware that the STB had authority in the matter. Mr. Loux opined that the selection of the Caliente route would be overturned due to those issues.

Chairman Arberry referred to the item in Budget Account 101-1005 titled Private Grant-A and requested details on the use of the funds as well as how many waste shipments were currently traveling through Nevada. Mr. Loux explained that Private Grant-A was money provided by the Department of Energy to the Western Governors' Association and then distributed to western states that had transuranic waste that was being transported to the repository in Carlsbad, New Mexico. The Nevada test site had some of that waste, which had been traveling with some regularity out of the Nevada test site by truck. An arrangement had been made with the DOE regarding the routes used to transport that waste; it would not travel through the Las Vegas valley or the Pahrump area. The route ran due south of the test site for approximately 12 miles in Nevada until reaching the California border and then traveled the I-40 corridor through Arizona and New Mexico. Mr. Loux indicated that six to eight of those shipments had left the Nevada test site in the previous year, and the same number was expected in the next year. He explained that his agency received the money from the Western Governors' Association and those funds were then passed through to other agencies, such as the Health Division and the Highway Patrol, for training and emergency management in the event of an incident during the transport of those shipments.

Chairman Arberry questioned federal plans to build an above-ground "aging pad" at Yucca Mountain. Mr. Loux explained that the surface pad had been an integral part of the DOE's proposal from the beginning because the DOE planned to place the hottest waste in the tunnels to evaporate the moisture that was in the mountain. The contracts negotiated with the nuclear utilities required that the utilities send their oldest fuel first, which meant that fuel would be cooler. In order to get the hottest fuel into the repository, the cooler fuel had to be stored on a surface pad. Initially the pad was designed to hold as much as 40,000 metric tons of waste, but that design had been changed to hold approximately 21,000 tons. He said the storage pad was an integral part of the facility and would not be constructed if the repository were not constructed. An independent temporary storage facility in Nevada would require new federal legislation as it was currently prohibited by law.

Assemblyman Denis asked how many shipments of nuclear waste were traveling through the state on an annual basis and if that number would be increasing. Mr. Loux explained that there were several different categories of nuclear waste: high-level, which was spent nuclear fuel from nuclear power plants, intermediate-level, which was called transuranic, and low-level. The proposed Yucca Mountain site would house high-level waste. Mr. Loux indicated that he had already spoken about the transuranic waste, and he said that the DOE shipped approximately 400 shipments per quarter of low-level nuclear waste for permanent disposal at the Nevada test site. Those shipments came from around the country from other DOE facilities. He commented that if the state of Nevada were capable of stopping those shipments, it would, but the state could not. However, the state had reached an agreement with the Secretary of Energy many years earlier that none of those shipments would go through the Las Vegas valley or across Hoover Dam. Rather, those shipments would travel the aforementioned routes going south through the Amargosa Valley or across Highway 160 over the Spring Mountains and into the Pahrump area to the Nevada test site. Mr. Loux told the Committee that he received a quarterly report from the DOE outlining the routes and destinations of those shipments, and he indicated that he would provide those reports at the request of the Committee.

Mr. Loux indicated that there had been approximately five shipments of high-level nuclear waste through the state in the previous five years. Those shipments generally came from a reactor site in Pennsylvania, traveled to a General Electric research facility in northern California where research was conducted, and then the waste was shipped back. He said the Governor received notice of each of those shipments and the Agency for Nuclear Projects then coordinated with the Highway Patrol and other agencies to ensure the nuclear waste was escorted through the state at specific times of day without incident. Mr. Loux pointed out that the waste had traveled on I-80 in northern Nevada; none of those high-level nuclear waste shipments had traveled through southern Nevada.

Mr. Denis questioned whether there were reports on the lower-level nuclear waste going through Nevada. Mr. Loux explained that there were reports, but the state was not notified in advance, as that was not required under federal regulations. He said there were approximately 1,200 shipments per year of low-level waste at the test site and between 8 and 15 shipments of the transuranic waste leaving the Nevada test site and traveling to Carlsbad, New Mexico.

Mr. Loux indicated that he had already spoken about Budget Account 101-1004, the Nevada Protection Account, but said he would be happy to review decision unit E-350 again or answer any questions. He repeated that the agency needed approximately $5 million per year to be prepared if the Yucca Mountain project progressed to the licensing stage. The combination of the budget request and the federal funds would allow the agency to pay for the expenses of the legal staff in Washington, D.C., to research the list of topics provided to the Committee in Exhibit C, and to put all documents into an electronic format for the NRC's database.

Upon the conclusion of the presentation by Mr. Loux, Chairman Arberry called for a brief recess at 9:39 a.m.

Chairman Arberry called the meeting back to order at 9:54 a.m. and indicated the Committee would hear the next item on the agenda.

ELECTED OFFICIALS
ENERGY CONSERVATION (101-4868)—BUDGET PAGE ELECTED-22

Mr. Richard Burdette, Energy Advisor to Governor Guinn and Director of the Nevada State Office of Energy (NSOE), addressed the Committee and introduced Ms. Suzanne Brunette, the accountant for the NSOE. He indicated that he had prepared a brief summary of his remarks (Exhibit D) and planned to focus primarily on the budget, but he would be happy to answer any questions or provide additional detail about the NSOE if the Committee so desired.

Mr. Burdette said the NSOE existed to implement the Governor's Comprehensive Energy Plan for Nevada, which had been submitted to the Legislature, as well as to handle the administration of federal grants. The Office was funded with money from the Department of Energy (DOE) and represented Nevada in regional planning efforts, such as a meeting that had taken place in San Francisco on February 9, 2005, with the Western Governors' Association regarding the 30,000 megawatt initiative the governors had signed for the western states. The Office was also involved in efforts to support the economic vitality of the state by supporting renewable energy and energy conservation.

Mr. Burdette referred the Committee to page 2 of Exhibit D, which outlined the highlights of the budget, including the addition of two positions: a deputy director and a grants analyst. The deputy director position would require money from the General Fund, the grants analyst would be funded through money from the DOE, and a request for a reclassification of the accountant would also be paid through DOE funds. The DOE funds also would be used to pay for training and to increase the monitoring of contractors. He noted that the Office needed new equipment and the Nevada Energy Assurance Plan needed to be revised. Mr. Burdette explained that energy assurance was referring to homeland security measures that applied to energy infrastructure.

Mr. Burdette addressed the request for the deputy director position and said much of what was done in the NSOE was based on a state contribution which was matched by a factor of four by the DOE, meaning the state contributed one dollar, which was leveraged with four federal dollars. In the past, the NSOE had used the Petroleum Overcharge Rebate Account to provide the state contribution, but a certain amount of those funds were spent every year, and it appeared that the account could be depleted within two to three years. Another way would need to be found to contribute state dollars in order to continue to leverage the federal dollars. Mr. Burdette explained that the primary reason for the new deputy director position would be to continue that state contribution to leverage the federal funds, although he also needed the workload support.

Chairman Arberry questioned why the deputy director position would require General Funds and be funded through Budget Account 101-4868, Energy Conservation, when the director was housed in the Governor's Office budget. Mr. Burdette explained that General Funds were needed because a state contribution had to be made in order to receive the federal grant money available. He said the federal government had changed the way it awarded many grants and now awarded money on a competitive basis, and the NSOE needed a person on staff who could process the competitive applications.

Assemblywoman Giunchigliani requested clarification of Mr. Burdette's position, as he was an advisor appointed by the Governor and housed in the Governor's Office. Mr. Burdette indicated that Ms. Giunchigliani was correct and added that his salary was paid with General Funds. He explained that a portion of his salary was used as a state contribution to obtain the federal grant as a match.

Ms. Giunchigliani asked whether part of the Energy Conservation Division was contained in the Department of Business and Industry. Mr. Burdette pointed out that there had been several changes in the organizational structure and said that historically the state had a Department of Energy, but that Department had been eliminated and moved under the auspices of the Department of Business and Industry. In 2001, the energy conservation function was relocated to the Governor's Office, where it currently resided.

Ms. Giunchigliani questioned whether Mr. Burdette's office had been involved in the Southwest Energy Efficiency Project (SWEEP) study, and Mr. Burdette indicated that the NSOE had been a sponsor of that study.

Ms. Giunchigliani informed Mr. Burdette that she had sponsored a bill that would impact the NSOE and examine lead standards and create incentives for the private and public sector to do "green building." She requested clarification of the budget's organization and of the need for the General Fund request. Mr. Burdette explained that the NSOE was part of the Governor's Office, although he was physically located in the Capitol Building and the office was in another location. He said the majority of tasks performed by the NSOE were grant-related. There were approximately nine federal grant programs in the state and the NSOE managed those projects.

Ms. Giunchigliani questioned if the NSOE wrote a grant for staffing costs and then used money for that staffing to match other grants. Mr. Burdette said that grants were written and received by Nevada, which Nevada then used to pay national organizations to work on those projects. He mentioned a possible project involving upgrading building codes. Ms. Giunchigliani interjected that Clark County's building codes had not been upgraded since 1992. She noted that staff from the NSOE had worked with Clark County regarding building codes and the 2003 International Energy Conservation Code (IECC).

Ms. Giunchigliani pointed out that there was not a statute to require compliance with the IECC or even a periodic upgrade of codes. She said the NSOE could be involved in instituting some kind of standard and could assist local governments by providing training.

Mr. Burdette acknowledged that the NSOE did provide some training. Ms. Giunchigliani noted that there were federal funds provided for training as well. Mr. Burdette agreed and said the NSOE did use federal dollars for much of its training. He emphasized that in order to obtain those federal funds, a state contribution was required. He said half of his salary and money from the oil overcharge fund was used as the state contribution.

Ms. Giunchigliani questioned the request of a General Fund appropriation in the amount of $125,000 for updating the Energy Assistance Plan. Mr. Burdette said he hoped that amount would be paid with federal dollars obtained through the DOE directly or through a sub-grant from the National Association of State Energy officials, which obtained funding from the DOE.

Ms. Giunchigliani asked if the oil overcharge fund could be used to pay for the Energy Assistance Plan update as well. Mr. Burdette replied that was a possibility depending on how the grant was offered.

Ms. Giunchigliani asked how old the Energy Assistance Plan was. In reply, Mr. Burdette clarified that the Energy Assistance Plan referred to low-income support, and the request actually stemmed from the Governor's plan, which had been required by statute since 2001. He indicated that his predecessor had filed a plan in 2003, and he himself had filed one in 2005.

Ms. Giunchigliani questioned how that plan was related to plans from local governments and if it anticipated any changes in building codes, energy efficiency, public works projects, and so on. Mr. Burdette explained that the NSOE primarily worked with Washoe County and Clark County because that was where the majority of the population lived. He said he was reluctant to dictate to Clark County what building codes should be used, but the NSOE was anxious to support an aggressive system of building codes to support the needs of Clark County in terms of energy conservation.

Mr. Burdette said the NSOE had been working with Carnegie Mellon as the state needed a "sea change" in how architecture was viewed. Europe had been able to obtain, in temperate climates, a very substantial reduction in the energy consumed, but Europe did not have intemperate climates like that of Las Vegas.

Ms. Giunchigliani agreed that Europe had better construction with better windows, and utilized wind and solar power far better than the United States. Mr. Burdette acknowledged that Europe was the world leader in designing energy-efficient buildings for temperate climates, but noted that Las Vegas did not have a temperate climate. He said the NSOE was working with the University of Nevada, Las Vegas (UNLV), College of Architecture to address those different needs. There was grant money available in the energy plan to work on the architectural aspect of energy conservation for southwestern building.

Ms. Giunchigliani requested that Mr. Burdette outline what grants the NSOE received, what grants he anticipated receiving, what was required for matching, and what staff were assigned to the matching funds so the Committee could get a clear picture of what the NSOE's funding stream was and what other resources might be available to match the federal funds. She noted that there might be partnerships through the Nevada universities or the power industry that could provide matching funds. Ms. Giunchigliani said she would like to create a fund to be used as incentive for the public and private sector. She reiterated the need for a clear picture of the structure of the NSOE to determine how resources could best be used.

Assemblywoman Koivisto requested clarification on the oil overcharge fund and asked if there was still money entering the fund. Mr. Burdette explained that the oil overcharge fund originated from a lawsuit several years earlier in which Nevada received a certain portion. He indicated that Nevada could receive additional funds, but it would be very small. The settlement required that funds be used to deal with energy issues in the state. Those funds had been leveraged to obtain additional federal funds to support renewable energy and conservation programs.

Mrs. Koivisto asked how much was received in the original settlement and how much more could be received. Suzanne Brunette, accountant, Nevada State Office of Energy (NSOE), explained that the current amount in the fund was approximately $371,000, of which approximately $85,000 was committed as leverage to expend in FY2005. If the fund continued to be spent at that rate, taking into account the amount of interest earned, the depletion of the fund was expected by FY2006 or FY2007. She indicated there was a final disbursement planned for March in the amount of approximately $56,000.

Ms. Giunchigliani pointed out that NRS 701.190 contained the statutes regarding the Comprehensive Energy Plan for Nevada and included incentives for investment and the use of renewable energy. She asked if the previous plan had contained incentives as well. Mr. Burdette indicated that the previous plan had contained incentives as did the current plan.

Mr. Burdette offered to provide a copy of the current plan to the Committee and explained that the plan used the DOE funding and included four renewable energy areas: geothermal, wind, solar, and biomass. He said that the state had active programs with working groups in each of those four areas. Mr. Burdette commented that the DOE provided funding for outreach programs to spread information, but the NSOE wanted to focus on "putting metal in the ground."

Mr. Burdette indicated that the NSOE was working on projects with Eureka County and would be speaking to Mineral County about specific projects as well. He said the main items in the energy plan focused on energy efficiency and energy conservation. He noted that there was a slight difference between energy efficiency and energy conservation. Renewable energy avoided consumption of fossil fuel that needed to be bought from another state or even another country, but energy conservation was better for the state because fuel did not have to be purchased and local businesses could be created to support conservation efforts. He noted that Assembly Bill 398 of the 72nd Legislative Session determined how and where money would be spent, as it mixed capital and operating expenses and allowed those choices to be made effectively. Mr. Burdette opined that there were good conservation measures in several proposed pieces of legislation as well.

Ms. Giunchigliani thanked Mr. Burdette for answering her questions and reiterated her request for a "funding map" detailing the source of funding, the destination of the funds, and if there were additional sources of funding. She noted that the state had not written as many grants as it could have and had missed opportunities for additional federal funds. Ms. Giunchigliani indicated that she and Mr. Burdette would meet to discuss specific issues in more detail and then she would bring that information to the Committee.

Mr. Burdette indicated that he had concluded his presentation and offered a final comment that the General Funds requested for the update of the Energy Assurance Plan would most likely revert when the NSOE received federal funds. He emphasized that the most important item was the deputy director position that would use state funds in order to leverage federal funds.

Chairman Arberry asked when there would be a definitive answer on the federal funding for the plan, and Mr. Burdette committed to have an answer for the Committee within two months.

Chairman Arberry thanked Mr. Burdette for his presentation and indicated the Committee would hear the next item on the agenda.

MILITARY
MILITARY (101-3650)—BUDGET PAGE MILITARY-1

Major General Giles E. Vanderhoof, Adjutant General of Nevada, Homeland Security Administrator, addressed the Committee and read the following statement (Exhibit E) into the record:

> For the record, I am Major General Giles E. Vanderhoof, the Adjutant General of Nevada, and with me today is Mr. Miles Celio, Administrative Services Officer for the Office of the Military. As the Adjutant General, I command approximately 3,000 Nevada Army and Air Guard members, and I supervise nearly 80 State of Nevada employees.
>
> The budget we are about to discuss is not as austere as our budget submission last session, but it is not inflated or excessive. The Nevada Army and Air National Guard had a total budget of $270 million of federal dollars for fiscal years 2003 and 2004. State of Nevada funding for fiscal years 2003 and 2004, which was not reimbursed by the federal government, amounted to $5 million. While the state expenditure is small in comparison to the federal expenditure, it is nonetheless an essential factor in the Guard's ability to achieve and maintain military mission readiness. These state funds primarily contribute to the maintenance and repair of our training facilities and infrastructure.

> The budget you see before you is my projection for the amount the Guard needs in order to fulfill our responsibility to the state and nation. Fortunately, we were able to secure a higher rate of federal funding for our state/federal cooperative agreements for fiscal year 2003, fiscal year 2004, and even into next fiscal year, thus lowering the state share. Were it not for this unprecedented federal interim increase, I would not have been able to trim our state budget as much as I have. However, as I stated, the budget before you is adequate to address our responsibilities.
>
> Since the terrible events of 9/11 [September 11, 2001], the Nevada National Guard has been engaged in many operations and has performed superbly. We have had nearly 2,000 of our men and women on active duty performing military missions in several areas in the United States and overseas. We had Nevada Guard personnel in areas such as Kosovo, Afghanistan, Tajikistan, Pakistan, Qatar, Saudi Arabia, South America, Iraq, and several places in Europe. You should know that we did, and do, have some of these Nevadans in harm's way, but thankfully, though we have had personnel wounded, no Nevada National Guard personnel have been killed. While 890 of our personnel, 546 of whom served overseas, have been released from active duty, some are well into their third year protecting our country. Currently, we have approximately 1,000 Nevada National Guard members, of which approximately 425 are serving in Southwest Asia on active duty at this time performing extremely dangerous duties. We have been notified that it is certain, under current plans, that more of our units and individuals will be alerted and mobilized. I am sure you are aware the Nevada National Guard also responded to state emergencies involving fires, search and rescue, counter-drug operations, as well as providing aerial photography and intelligence analysis. All of the state and federal missions were performed with superb professionalism and excellence, and many times at great personal sacrifice of our members, their families, and employers.
>
> The goal of our Department is to provide a ready, trained, equipped, professional force capable of responding to federal and state requirements. This goal has been superbly met. In every instance, Army and Air Force commanders have notified me that the mobilized Nevada Guard men and women are the finest soldiers and airmen. They were surprised that our Nevada National Guard personnel were at or above the level of quality that normally only would be expected of active duty members.
>
> You and all Nevadans can be extremely proud of the men and women that voluntarily serve in the Nevada National Guard. I can tell you the respect I have for these fine soldiers and airmen is unsurpassed.

General Vanderhoof indicated that Miles L. Celio, Administrative Services Officer, Office of the Military, would present Budget Account 101-3650. Mr. Celio said the budget was based on past budgets, but there were some enhancement requests.

Mr. Celio referred to decision unit M-425, which requested funds for maintenance that had been deferred on many of the Army and Air National Guard facilities because money that could have been spent on maintenance had been used to pay utilities and, in some cases, for support of personnel. He indicated that the State Public Works Board had been involved in the process of assessing some of the facilities to determine which maintenance projects needed to be completed. The projects ranged from major projects, such as paving or repairing of roofs, to maintenance required by the Americans with Disabilities Act (ADA). Decision unit M-425 was funded with State General Fund and federal monies. The amount varied in each year of the biennium. In the first year, the split between state and federal funds was approximately half and half; in the second year of the biennium, there was a greater percentage of federal funds.

Mr. Celio said the next enhancement was decision unit E-325, which involved an additional 57 security officers for the Office. The enhancement would be funded entirely with federal funds. He indicated the personnel were needed to replace the military personnel that were activated as a result of 9/11. The Air National Guard and the Army National Guard facilities at the Stead Armory, the Carson City Armory, and the Clark County Armory required 24-hour security coverage. Mr. Celio said the federal government had determined that the cost of those military members being on active duty was approximately $4.5 million. The federal government had decided it would be economically more reasonable to provide federal funding to the state and allow the state to contract or hire state employees to provide that security.

Mr. Celio noted that there were currently 11 employees at the helicopter facility in Stead. Those employees provided security for the facility and its helicopters. That group would be increased by approximately 10 to 15 people. Between the Carson City Armory and the Clark County Armory, there would be approximately 20 additional individuals. He reiterated that E-325 was federally funded and involved hiring, equipping, and training state employees to provide security at the armories.

The next enhancement Mr. Celio discussed was E-525, a relocation of office space. The Department of Emergency Management, the Nevada Division of Forestry, the Nevada Highway Patrol Dispatch Unit, and a few other agencies would be relocating to an emergency operations center near the Nevada National Guard complex. He explained that the Office of the Military would provide maintenance, custodial, and utility support for that center. The building was expected to be ready and the relocation complete by January 2006, which meant in FY2006 there was a half year of funding for utilities, maintenance, custodial support, and the additional positions required to do that work. In FY2007, the amount projected would cover the rest of the fiscal year.

Mr. Celio then presented decision unit E-526, which was the opening of a new Clark County Armory near the airport in Las Vegas. The facility was projected to be completed in February 2007, and E-526 would provide the funds for maintenance and custodial support.

Chairman Arberry asked when the title to the land would be acquired. General Vanderhoof replied that issue was being resolved, but he expected to obtain the full title to the land within the next several months.

Ms. Giunchigliani requested additional detail on the 57 security officer positions. General Vanderhoof explained that additional security measures had been required after 9/11. The armories contained large amounts of munitions and weapons, so the federal government had required additional security to protect that equipment.

Ms. Giunchigliani asked if every facility required 24-hour security. General Vanderhoof indicated that 24-hour security was required at specific locations: the armory in Las Vegas, the armory in Stead, and the armory in Carson City.

Ms. Giunchigliani questioned the number of current state security officers and Mr. Celio replied that there were currently 11 state security officers: 9 at the Stead Armory and 2 at the Carson City Armory. He said there were also 6 state employees who worked with the police force at the Air National Guard base in Reno. He addressed Ms. Giunchigliani's earlier question and said the security requirements were determined by the type of equipment at a location.

Ms. Giunchigliani requested a detailed account of how the number of new security guards had been determined. She asked if the federal government would be funding those positions. Mr. Celio indicated that the request for 57 new positions had been determined by 24-hour shift requirements, and he said he had provided an organizational chart to demonstrate how those employees would be used.

Mr. Celio pointed out that security at the facilities was currently provided by members of the Guard on active-duty military orders, which cost the federal government approximately $4.5 million per year. The federal government wanted to save money by using contractors or state employees. Mr. Celio indicated that he and General Vanderhoof believed state employees would be more cost-efficient and more effective than contractors.

Ms. Giunchigliani commented that the positions would be eliminated if the federal funding was eliminated. Mr. Celio agreed and said that he and General Vanderhoof had told the federal government they would not hire the state employees without a three-year funding commitment. Ms. Giunchigliani repeated the need for the employees to be aware upon hiring that if the federal funding were eliminated, the position would be eliminated. Mr. Celio said he understood and indicated that similar comments had been made during an earlier meeting with the Senate Finance Committee.

Ms. Giunchigliani asked if the state employees hired to provide security would be required to attend Peace Officers' Standards and Training (P.O.S.T.) Academy. General Vanderhoof replied that he was looking into that, but the people at the Air National Guard would not be required to be P.O.S.T. certified. The employees would be trained by the National Guard in a program similar to the P.O.S.T. certification. However, because the facility was on federal property there were different standards to meet. He said it was yet to be determined whether employees working at the other sites on property owned by the state would be able to find a similar training program that would be less expensive and more suitable to the work the employees would be hired to do.

General Vanderhoof pointed out that the employees would not be law enforcement officers. They would be providing security at a facility, but he did not think they required the same training that a policeman or a highway patrolman did. He noted that the security staff would be required to carry weapons, but their duties would be different from that of those in law enforcement. Ms. Giunchigliani remarked that she appreciated the efforts to avoid using P.O.S.T. if a more suitable alternative was available.

Mr. Celio continued his presentation and said there was an enhancement request for equipment replacement in E-710. He said that historically the Office had not established a life-cycle replacement system for replacing trucks and equipment used to maintain the facilities. The request would allow for the purchase of two vehicles in each of the fiscal years to replace outdated maintenance and equipment trucks, including a truck that was 25 years old. There would also be the purchase of an additional LAN server at the office in Carson City where the majority of the administrative work was done that would connect the Office to the state infrastructure system. In the second year of the biennium, the Office would purchase some laptop computers.

Mr. Celio referred the Committee to decision unit E-720 and explained it would fund the purchase of a floor scrubber. He said the Las Vegas armory was a very large building and they had been using a small floor scrubber for cleaning and maintenance, but a ride-on piece of equipment would be much more effective for maintenance of the floor.

Chairman Arberry asked if that maintenance work was done by a contractor or in-house staff. Mr. Celio responded that the armory had in-house custodial and maintenance staff, but it was a challenge because Las Vegas was growing quickly, and a second armory was being built that would require maintenance and cleaning. He noted that additional maintenance, custodial, and groundskeeping staff had been added to the budget for the new armory.

Mr. Celio indicated that the final enhancement request, E-730, was for buildings and grounds maintenance projects that needed to be done and should not be deferred. The request would fund an additional custodial contract for the rural armories that did not have in-house staff as well as groundskeeping contracts. He said the request included other small contracts for the maintenance of buildings and grounds and a variety of various projects that needed to be done in National Guard facilities around the state.

Chairman Arberry questioned the elimination of 50 percent federal funding for utilities. Mr. Celio explained that two years ago the Nevada National Guard had a funding shortfall in utilities and had needed additional funding. The federal government had provided 50 percent of that funding at that time; however, a requirement of the cooperative agreement General Vanderhoof had alluded to earlier in his testimony was that the state might need to provide 100 percent of the funding for the utilities in the future.

Mr. Celio said the increase in state funding for utilities had been placed in the budget because the federal government had indicated that the federal funding might not be available in 2006 or 2007. He commented that he did not want to return to the Legislature with a request for an additional $120,000 for utilities because the federal government had chosen not to fund 50 percent of the cost. Mr. Celio emphasized that the state funds had been placed in the budget to make the possibility of the federal funding being eliminated very clear to the Committee.

General Vanderhoof interjected that the federal government was not required to provide 50 percent of the funding. He reminded the Committee that the budget from the previous session had been very austere, and the federal government had agreed to help with utility costs because of the Nevada National Guard's good reputation. The assistance had been unprecedented. He pointed out that the federal government had given the National Guard $500,000 for an air conditioning system for the Las Vegas Armory, which was 100 percent of the cost. Typically, the funding would have been 25 percent federal and 75 percent state, but because of the Nevada National Guard's reputation and the critical need at that time, the federal government had provided funds. General Vanderhoof reiterated that the federal government had helped out on utility costs at a critical point, but the funding was never meant to be permanent. He indicated that his Office would work to keep the federal funds as long as possible, but it might not continue indefinitely.

Ms. Giunchigliani referred to General Vanderhoof's testimony and asked how many of the 1,100 individuals deployed had been sent overseas. General Vanderhoof indicated that 546 of the 890 who had returned from duty had been sent overseas. There were 425 of the 1,000 individuals currently on active duty in southwest Asia. He noted that a copy of his testimony had been provided to staff and contained those numbers (Exhibit E).

MILITARY
ADJUTANT GENERAL CONSTRUCTION FUND (101-3652)—BUDGET PAGE MILITARY-10

Mr. Celio presented Budget Account 101-3652 and explained that it was a pass-through account for federal funds for construction. The account also received a small amount of income from rental of the armories for community activities. The rental income was used for minor improvements to the facilities, such as curtains for the windows. He indicated that the money passing through the account was 100 percent federal funding used for construction projects.

MILITARY
NATIONAL GUARD BENEFITS (101-3653)—BUDGET PAGE MILITARY-12

Mr. Celio presented the last budget account, Budget Account 101-3653, the National Guard Benefits account. He explained that the account in the past had been used for tuition assistance and originally had contained funds to reimburse students in the National Guard up to 50 percent of tuition costs. In a previous legislative session, that had been changed to allow the Adjutant General to reimburse up to 100 percent of tuition costs, but the account had never been sufficiently funded to reimburse students for that amount. Mr. Celio said that during the 2003 Legislative Session a test program had been instituted in which the University and Community College System of Nevada (UCCSN) waived tuition and lab fees for members of the Army and Air National Guard.

Mr. Celio explained that the program was still in force until the end of FY 2004-05, but summer school was not covered under that agreement. Because of that, approximately $10,000 had been used from BA 101-3653 to support 17 students who attended summer school. He indicated that a bill would be presented to make the pilot waiver program permanent, but as summer school was an additional cost, a small amount of money was needed in the budget account. He explained that he had spoken with the Board of Regents and the Chancellor's office and had been told summer school could not be included in the waiver program because it was funded separately under a different budget process and essentially funded itself, which meant the fees could not be waived.

Assemblyman Perkins requested specific details on the cost for the 17 students to attend summer school so that the Committee could get a sense of how many students utilized summer school and how much funding would be required. He pointed out that the funding had to be placed into BA 101-3653 or into an account in the UCCSN budget to pay for the schooling of those students.

Mr. Celio informed the Committee that the cost to reimburse those 17 students at 100 percent had been $9,611. He indicated that he would work with the

UCCSN staff and with the LCB staff to project the cost of 20 students enrolled in summer school.

Mr. Denis asked if the tuition waiver program had been successful. General Vanderhoof declared that the program was "the finest thing that [had] happened in [his] tenure." He said continuing that program was his top priority as it was the best recruiting and retention aid that the National Guard had. He explained that under the previous system, students were reimbursed between 35 and 47 percent for tuition; however, the students had to pay the tuition at the beginning of the semester and then wait until the end of the semester to apply for reimbursement. The current program allowed the tuition to be waived up front.

General Vanderhoof said that Nevada's retention rates in both the Army and Air National Guard were the same as before 9/11, even with mobilizations and hardships. He attributed that to the tuition waiver program, and he reiterated that making the program permanent was his top priority. He opined that it was the best thing to happen for the members of the Nevada National Guard, for their families, and for the state. He said it would hurt recruitment and retention if the program were eliminated.

Mr. Denis asked how many students had taken advantage of the program. General Vanderhoof said there had been 421 students in the Spring 2004 semester, 384 students in the Fall 2004 semester, and 400 students were projected for Spring 2005. General Vanderhoof reemphasized how important the program was for the Nevada National Guard, particularly as it had helped Nevada avoid the severe recruitment and retention problems most other states were experiencing.

Chairman Arberry asked if there were further comments or questions. There being none, he adjourned the meeting at 10:45 a.m.

RESPECTFULLY SUBMITTED:

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Susan Cherpeski
Committee Attaché

APPROVED BY:

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Assemblyman Morse Arberry Jr., Chairman

DATE:______________________________

EXHIBITS

Committee Name: **Ways and Means**

Date: **February 10, 2005** **Time of Meeting:** **8:30 a.m.**

Bill #	Exhibit ID	Witness	Dept.	Description
	A			Agenda
	B	Dean Heller	SOS	Biennial Budget Request
	C	Robert Loux	Nuclear Project	Issues of Contention Summary list
	D	Richard Burdette	NSOE	Presentation
	E	General Giles Vanderhoof	Military	Written Testimony