

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

**Seventy-Fourth Session
February 12, 2007**

The Committee on Ways and Means was called to order by Chair Morse Arberry Jr. at 8:36 a.m., on Monday, February 12, 2007, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Morse Arberry Jr., Chair
Assemblywoman Sheila Leslie, Vice Chair
Assemblyman Mo Denis
Assemblywoman Heidi S. Gansert
Assemblyman Tom Grady
Assemblyman Joseph P. (Joe) Hardy
Assemblyman Joseph Hogan
Assemblywoman Ellen Koivisto
Assemblyman John W. Marvel
Assemblywoman Kathy McClain
Assemblyman David R. Parks
Assemblywoman Debbie Smith
Assemblywoman Valerie E. Weber

COMMITTEE MEMBERS EXCUSED:

Speaker Barbara E. Buckley

STAFF MEMBERS PRESENT:

Mark W. Stevens, Assembly Fiscal Analyst
Steve Abba, Principal Deputy Fiscal Analyst
Mike Chapman, Senior Program Analyst
Joi Davis, Program Analyst
Laura Freed, Program Analyst
Carol Thomsen, Committee Attaché
Patricia Adams, Committee Assistant



Chairman Arberry opened the discussion on Budget Account 1020.

ELECTED OFFICIALS

LIEUTENANT GOVERNOR (101-1020)

BUDGET PAGE ELECTED-34

Lieutenant Governor Brian Krolicki introduced himself to the Committee, and advised members that his budget was very simple and straightforward. Mr. Krolicki noted that staff members from the Lieutenant Governor's offices in Carson City and Las Vegas were present at the hearing.

Mr. Krolicki indicated that the only issue he would like to address was the issue of salaries. Mr. Krolicki felt that Committee members believed as he did, that an official was only as good as his staff, and he believed that the staff of the Lieutenant Governor's Office was extraordinary; therefore, he would like to bring some possibilities before the Committee for review.

Mr. Krolicki opined that to achieve parity between the chief of staff, senior staff, executive assistant, and other positions within the Lieutenant Governor's Office, those positions should be equated to similar positions within other constitutional offices in Carson City. Mr. Krolicki stated that he would be happy to provide information regarding the salaries for similar positions to the Committee.

According to Mr. Krolicki, there was a significant discrepancy, approximately 40 percent, between the chief of staff position within the Lieutenant Governor's Office and other chiefs of staff. In effect, staff had been asked to accept an approximately 30 percent to 40 percent cut in pay to accept positions within the Lieutenant Governor's Office.

Mr. Krolicki emphasized that he was not asking for special increases for his staff, but was seeking parity between positions. One method to achieve parity would be adjusted salaries in the Unclassified Pay Bill. The combined pay differential between the existing six positions within the Lieutenant Governor's Office and the positions within other constitutional offices was approximately \$161,000.

Mr. Krolicki noted that one reason for the salary disparity was that his predecessor was very prudent with taxpayer's money. The Lieutenant Governor's Office did not request increases for staff in the Unclassified Pay Bill for the 2001 and 2003 Sessions, at which time other constitutional offices sought increases in staff salaries.

The second approach to the problem, said Mr. Krolicki, was to create non-classified positions in place of unclassified positions, similar to the personnel structure within the Governor's Office. Mr. Krolicki noted that he would then work within limits determined by the Legislature regarding the positions and the pay. Creating non-classified positions would allow his staff to gain parity without seeking an appropriation through the Unclassified Pay Bill.

Mr. Krolicki indicated that the third approach to achieve pay parity was to restructure the unclassified positions within the Lieutenant Governor's Office. That approach might include the elimination or changing of some of those six positions.

Mr. Krolicki stated that concluded his presentation, and he would be happy to answer questions from the Committee.

Chairman Arberry asked whether there were questions from the Committee or testimony from other persons regarding the Lieutenant Governor's budget and, there being none, closed the hearing on BA 1020.

The Chairman opened discussion on BA 4061.

GAMING

GAMING CONTROL BOARD (101-4061)

BUDGET PAGE GAMING CONTROL BOARD-1

Dennis Neilander, Chairman of the Gaming Control Board, introduced himself to the Committee and referenced [Exhibit C](#) entitled, "State Gaming Control Board—Nevada Gaming Commission," a copy of which had been provided to members.

Mr. Neilander explained that the budget proposals for the Gaming Control Board and the Nevada Gaming Commission included no funding for new programs. Instead, the budgets funded the ongoing performance of duties and responsibilities set forth by statutes and regulations for the effective and efficient regulation of the gaming industry. The Board and Commission were tasked with keeping pace with advances in technology, increasingly complex financial affairs of individuals and businesses, and ever-creative gaming marketing strategies.

Mr. Neilander introduced Mark Clayton, Board Member, and Todd Westergard, Chief of the Board's Administration Division, to the Committee, and stated that they would assist with the budget presentation.

Mr. Neilander indicated that he would discuss some challenges facing the Board in its role as a regulatory agency. The budget included some enhancements, one-shot funding, and a special consideration.

According to Mr. Neilander, the public policy of the State in *Nevada Revised Statutes* (NRS) 463.0129, which drove the Board's budget, declared:

- The gaming industry was vitally important to the economy of the State and the general welfare of the inhabitants.
- The continued growth and success of gaming was dependent upon public confidence and trust that licensed gaming and the manufacture, sale, and distribution of gaming devices and associated equipment were conducted honestly and competitively, and that gaming was free from criminal and corruptive elements.

Mr. Neilander noted that the public policy declared by the Legislature was the cornerstone of the daily activities of the Board.

Page 1 of [Exhibit C](#) contained a chart that outlined the Nevada Gaming regulatory structure. Mr. Neilander advised the Committee that the structure had not changed, with the exception of the newly-created Technology Division. The Board reorganized several functions that were spread throughout other divisions and created the Technology Division. Mr. Neilander explained that the Technology Division housed the laboratory, the Board's information technology (IT), and conducted all gaming device testing, as well as the Board's IT audit

functions. Mr. Neilander advised the Committee that the Board had been very active in the IT audit area over the past interim, and had taken a number of steps to ensure that the Board was prepared for future gaming device submittals.

According to Mr. Neilander, the Board basically had three functional goals:

1. Promote growth and maintain stability of the gaming industry through the effective investigation, licensure, and administrative approvals conducted in conformance with applicable statutes and regulations.
2. Provide for the proper regulation of the gaming industry through judicious enforcement of statutes and regulations, and promote the gaming industry's ability to self-regulate. Self-regulation was important because it allowed the Board to maintain a very slim and lean agency at times when the gaming industry, itself, had increased enormously in terms of revenues.
3. Ensure accurate collection of revenue and payment of fees, fines, penalties, and interest, through the auditing and examination of licensees' records, procedures, and controls.

Mr. Neilander noted that page 3 of [Exhibit C](#) contained a brief industry update. In fiscal year (FY) 2006, state gaming tax and fee collections totaled slightly over \$1 billion statewide. Gaming tax and fee collections comprised 31 percent of state revenues, and there were currently 2,663 licensed gaming locations in Nevada, with the gaming industry employing approximately 225,000 people.

Mr. Neilander said the gaming industry continued to expand its presence throughout the world, as well as in Nevada. Licensing and regulation of the ever-dynamic industry continued to be complex, as did ownership structures and business finances. Mr. Neilander commented that interest in making gambling more convenient continued to occupy much of the Board's time. Advances in technology continued to prompt a new generation in gaming devices, associated equipment, and casino management systems.

Continuing his presentation, Mr. Neilander stated that page 4 of the exhibit contained the FY 2006 tax collections on a percentage basis. He explained that 83 percent of the tax collections were the percentage fees, with the second largest category being the entertainment tax.

The challenges faced by the State Gaming Control Board included:

- Recruiting and retaining professional staff.
- Keeping pace with the industry's need to evolve with advances in technology.
- Acquiring and applying technology to continue to effectively and efficiently regulate the industry.
- Affording licensees the ability to be creative in structuring and financing in the competitive market.
- Contending with enforcement staffing strains that occurred as more high-profile special events were housed in Las Vegas.

Mr. Neilander explained that the Board was currently working on a plan for the NBA All-Star Games that were scheduled for February 17-18, 2007, which was also Chinese's New Year—one of the biggest gaming industry weekends of the year. Mr. Neilander likened the NBA All-Star Games to "four days of New Year's Eve." The Board would authorize staff to work overtime to ensure that the All-Star Games were held without glitches. Mr. Neilander stated that the

Board expected many minors to attend the games who might attempt to participate in gaming activities. That weekend was a new challenge for the Board as a regulatory agency.

Mr. Neilander stated that the Board was working on a complex project to transition its old computer system, which was a COBOL-based system that had been internally written, into a modern computer system. The Board was also imaging and filming a backlog of approximately 1.9 million documents, which would cut down on paper storage. Mr. Neilander said that the Board would also bear increased operating costs. Those were the challenges facing the Board over the upcoming five to ten years primarily because of the evolving technology.

Page 6 of [Exhibit C](#) contained the budget enhancements for the Board, and Mr. Neilander briefly described those enhancements:

- **E175 Increase Non-Gaming Business:** Add travel funds to meet the increased costs and demands and add training funds to keep pace with technology. Those increases were necessary to keep pace with technology and the complexities of the work of the Board.
- **E250 Working Environment and Wage:** Add two Investigation Division agents to meet increasing demands in licensing investigations and replace the data management analyst position with a supervisor position; the data management position was moved to the Technology Division.
- **E710 and E712 Replacement Equipment:** Acquire the latest versions of computer software. Replace equipment in the gaming lab and in the Enforcement Division to keep pace with advances in technology incorporated by the industry.
- **E730 Maintenance of Buildings and Grounds:** Provide building improvements and maintenance contracts for the Las Vegas offices, and carpet cleaning in the Carson City office.
- **E813 Unclassified Step Adjustment:** Adjust salary for unclassified employees to maintain equity with classified employees.
- **E821 and E822 Position Upgrades:** Realign employee class codes with current responsibilities, which had no fiscal impact. Adjust salaries commensurate with duties and responsibilities for five positions.

Chairman Arberry asked why the entire salary adjustment amount was funded by General Fund money.

Mr. Neilander explained that since 2001, the Board's positions were not in parity with other state agencies. The proposal asked for the step increase, which would apply to all unclassified employees, but a "special consideration" request asked for an additional increase funded by an increase in fees charged to applicants for gaming licenses.

Assemblyman Marvel asked about the rate of turnover in Board staff. Mr. Neilander replied that the Board had lost 34 people within the past six months.

Mr. Marvel asked whether that was because of pay differentials, and Mr. Neilander replied that was correct. The Board believed it was avoidable turnover, and many of those individuals had gone to other state agencies. Mr. Neilander pointed out that the Board had been very conservative in its budgeting for the past 15 years, and had not participated in the pay increase that occurred for law enforcement officials during the 2005 Session because

turnover was not an issue at that time. However, during the past biennium, the Board had fallen behind in salaries.

Mr. Marvel asked whether there was a cooling-off period for the Board's employees. Mr. Neilander explained that there was a one-year cooling-off period for all employees. He commented that the Board had never experienced turnover to other state agencies in the past.

Mr. Marvel asked how other state agencies could afford to pay higher salaries. Mr. Neilander stated that most of the Board's employees were unclassified and there had been increases during past sessions for other unclassified employees, which put the Board at parity with other salaries.

Assemblyman Denis asked how often the Board changed or upgraded the gaming lab equipment. Mr. Neilander replied that the Board submitted upgrades for its gaming lab equipment every legislative session.

Mr. Denis asked whether that was because technology was constantly changing, and updates were needed. Mr. Neilander replied that was correct, and explained that technology changed enormously each year. In the past, the Board tested stand-alone gaming devices, such as a slot machine that stood by itself, but today all devices worked together through systems. There were no longer stand-alone devices, and the Board could not simply test the single platform and modifications, but rather had to test the machines as they would function in the field when attached to systems.

Chairman Arberry noted that on June 13, 2006, the Interim Finance Committee (IFC) approved 11 new positions for the gaming lab, as well as expenses for the gaming lab to move out of its location in the Grant Sawyer Building into private office space in Las Vegas. Chairman Arberry asked Mr. Neilander to give the Committee an update.

Mr. Neilander explained that Mr. Clayton headed up that relocation and would provide an update.

Mark A. Clayton, Board Member, introduced himself to the Committee and explained that 11 positions were approved by IFC and 6 of those positions had been filled. The Board had two offers outstanding and would soon extend offers to two other potential candidates.

Regarding the physical move, Mr. Clayton stated that the lease negotiations were complete, the county permitting process was complete, and construction was underway at the current time. The targeted moving date was in the first week of April 2007.

Mr. Marvel asked about the location of the new lab. Mr. Clayton replied that the location would be south of the Las Vegas Airport, where many gaming manufacturing firms were clustered. Part of the reason for the move was for efficiency in communicating with gaming device manufacturers. Should the Board have questions about a device or system, a technician from the manufacturer could then provide assistance to the lab in an efficient manner.

Mr. Marvel asked whether the move would remove the Board from the Sawyer Building. Mr. Clayton explained that it moved only the lab from the Sawyer Building.

Chairman Arberry stated that since the Board was in the process of filling the 11 positions approved by IFC, would that reduce the time it took the Board to review gaming devices. Mr. Clayton replied that it would reduce the time, but here was new technology to consider, such as computer network systems, and the Board needed additional staff who were experienced in computer network communication and database management. Mr. Clayton said the increase in staffing would also reduce the lab's turnaround time.

Chairman Arberry asked whether that reduction in turnaround time would be reflected in the Board's performance indicators. Mr. Clayton replied that was correct. He explained that the Board's target was 30 days turnaround time for any modification to a gaming device and, over the past year, the Board had tested approximately 2,000 devices with a turnaround time of 30 days.

Chairman Arberry noted that the Board was asking for a new supervisor position to replace the data management analyst position. Mr. Neilander stated that was correct. Mr. Neilander said that under Enhancement Unit 822 (E822), the Board was requesting reclassification of positions to adjust salaries commensurate with duties and responsibilities. The requested upgrades were:

- ❖ Senior Agent to Special Agent
- ❖ Program Analyst to Senior Program Analyst
- ❖ Management Analyst to Supervisor, Administration
- ❖ Personnel Officer to Supervisor, Administration
- ❖ Hearing Officer, salary upgrade only

Chairman Arberry inquired about the position requested by the Board and asked whether that would be a supervisory position. Mr. Neilander stated that was correct. Chairman Arberry pointed out that the salary for that position would be allocated from the General Fund. Mr. Neilander concurred that the supervisor position would be funded by the General Fund.

Chairman Arberry asked about the duties of the new supervisor position. Mr. Neilander stated that Mr. Westergard would respond to the Chairman's inquiry.

Todd Westergard, Chief of Administration, informed the Committee that the new supervisor position would actually replace a data management analyst position that was moved to the lab to address immediate needs in that area. The data management analyst position was approved a few years ago and had moved within the agency depending upon the need. Mr. Westergard stated that the position finally landed in the Technology Division by virtue of the need, but also because the Technology Division recently assumed the IT functions of the Board. Because the IT functions were moved from Administration, the data management analyst position also moved to the Technology Division. Mr. Westergard emphasized that the requested supervisor position was a replacement for the Administration Division position that was lost to the Technology Division.

Chairman Arberry asked whether the new supervision position would administer the Records and Research Section, since the 1999 Legislative Session had approved a data management analyst position for that purpose.

Mr. Westergard stated that was correct, the 1999 Legislative Session had approved a data management analyst position, which was assigned to the Administration Division, primarily for budget functions, but also to address other functions. That data management analyst position was reassigned duties based

on the immediate need that arose in the Technology Division. Mr. Westergard said that when the IT functions were moved from Administration to the Technology Division, the data management analyst position was also transferred, which created a vacancy in Administration.

Mr. Neilander indicated that the hours of the data management analyst position were not billed to the industry: that position was currently not working in a capacity that would allow billable hours. The position worked within the Technology Division, which was the reason the Board was requesting a new supervisor position in Administration to replace the data management analyst position that was transferred to the Technology Division. Mr. Neilander indicated that the supervisor position would be funded through the General Fund.

Chairman Arberry referenced the Board's request for Out-of-State Travel funding for the Technology Division in the amount of \$8,642 in Enhancement Unit 175 (E175), and asked whether that would be a one-time cost or an ongoing cost.

Mr. Neilander replied that the amount requested included both the Audit Division and the Technology Division. Mr. Neilander explained that the Board would enter its audit cycle and have significant travel requirements over the upcoming biennium because the locations audited were often outside major metropolitan areas.

Mr. Clayton explained that the travel for the Technology Division would be a one-time expense, and the funding would be used for the training of new staff members in the newer technology. Some licensed manufacturers were not located in the state of Nevada, and the Board would incur travel expenses associated with that training.

Chairman Arberry asked for clarification regarding the one-shot funding for travel. Mr. Westergard explained that most of the travel expenses were not one-shot funding. Of the amount requested for travel, 59 percent would be paid though investigative fees and the Technology Division would bill for travel.

Chairman Arberry noted that Decision Unit E730 recommended funding for building improvements and maintenance, and he asked whether that would be a one-time cost or an ongoing cost that would remain in the Board's base budget. Mr. Neilander replied that the cost would be ongoing and would remain in the budget.

Continuing his presentation, Mr. Neilander stated that page 8 of [Exhibit C](#) depicted the one-shot appropriations. The majority of the requests were for replacement equipment within Decision Units E711; E715; and E716. Mr. Neilander reported that E716 included the need to upgrade the Board's radio system equipment for the Enforcement Division. Decision Unit E721 was a request for new technology to secure the Board's information systems and networks for protection against increasingly sophisticated threats from hackers, viruses, and spyware.

Mark Stevens, Assembly Fiscal Analyst, Legislative Counsel Bureau (LCB), referenced Decision Unit E730, and asked whether the costs in that decision unit included tenant improvements at the Board's lab location. He asked what improvements were included in the operating expenses line item in E730.

Mr. Neilander replied that Decision Unit E730 contained the building improvements and maintenance contracts for the Las Vegas office through the Buildings and Grounds Division. The remaining portion of that decision unit was for carpet cleaning in the Carson City office.

Mr. Stevens asked whether costs for building improvements should be a one-time cost rather than an ongoing cost.

Chairman Arberry requested that Mr. Neilander work with Mr. Stevens and LCB staff to clarify the costs included in Decision Unit E730. Mr. Neilander stated that he would comply with that request.

Mr. Westergard explained that a portion of the funds would be used to convert the space vacated by the Board's lab in the Grant Sawyer Building for use by the Employee Registration Unit. Some funding would be used to make the necessary changes to accommodate use of that space.

Chairman Arberry commented that those should be one-time costs. Mr. Westergard indicated that the Board would provide additional information to Mr. Stevens regarding Decision Unit E730.

Assemblyman Denis referenced Decision Unit E175, and noted that the request for Out-of-State Travel was higher than previously requested. Part of that appeared to be funding for Mr. Neilander to participate in the International Association of Gaming Attorneys (IAGA) conference, for which he served as the vice chair. Mr. Denis asked whether IAGA assisted with travel costs when Mr. Neilander participated in scheduled conferences because he was part of IAGA leadership.

Mr. Neilander replied that IAGA did not assist with travel costs. That organization did not have funding available to assist with travel. Mr. Neilander explained that persons at his level attended the conferences, rather than staff, and the conference attendees were heads of gambling regulatory agencies throughout the world.

Mr. Denis realized that the out-of-state funding request was higher since Mr. Neilander would participate in the IAGA conference in Europe, but he asked whether the Board's Out-of-State Travel request would continue to be higher to accommodate future IAGA conferences.

Mr. Neilander explained that IAGA conferences were held in North America one year, but outside North America the following year to accommodate regulators from Europe and Asia. For the North America conference, he and his counterparts from New Jersey, Mississippi, and Canada were the primary persons involved.

Mr. Denis wondered whether the increase in Out-of-State Travel would remain in the Board's budget for the next biennium. Mr. Neilander said that would depend on where IAGA held its conference. The site of the conference often depended on which regulator had ascended through the ranks of the IAGA.

Assemblyman Hogan questioned whether with the explosion in the number of gaming devices, the number of new technologies being developed, and the resultant pressure on the Board and thus, on General Fund dollars, the Board had revisited the guidelines that governed the Board's decisions about what was, or was not, billable. Mr. Hogan stated that there was a strong connection between most of the Board's activities and the industry.

Mr. Neilander noted that, currently, the Board did not bill out the time for its auditors. Mr. Neilander stated that the Board had always viewed the audits as beneficial to the State because the State wanted to ensure that it was receiving the proper amount of taxes, and that internal controls were being followed. While the Board conducted audits, the industry was also required to conduct its own internal and external audits. Mr. Neilander indicated that the Board had never charged its audits because they benefited the State rather than the licensee. However, the Board could revisit its guidelines regarding billable hours and fees.

Mr. Neilander remarked that page 9 of the exhibit contained a special consideration item, which amounted to a 5 percent increase in pay for the unclassified employees within the agency. The proposal was that the increase would be paid through an increase in investigative fees. Mr. Neilander indicated that the total amount of the increase would be approximately \$1.7 million annually. The Board proposed to increase its fee from \$70 to \$95 per hour for applicant investigations, which would align the fees in Nevada with those in New Jersey, and put Nevada slightly above the fees of the national Indian Gaming Commission. Mr. Neilander pointed out that Mississippi currently charged the same \$70 fee as Nevada and, if Nevada raised its fees, it was likely that Mississippi would also increase its fees to \$95.

According to Mr. Neilander, the investigation of applicants benefited the industry and, consequently, the industry would support the proposal. The Governor's Office would not object to the proposed increase in fees because it was not a new fee or program, it would not create additional bureaucracy, and the increase was needed by the Board in order to recruit and retain staff.

Mr. Neilander pointed out that the fees were raised in 2001 based on a very similar situation. At that time, the Board was experiencing a turnover rate that approached unacceptable levels, and the same fee was raised in 2001 to increase the pay scale for the Board's unclassified employees, thereby allowing the Board to remain competitive in the labor market. Mr. Neilander reported that in 2001, the increase in fees was very helpful in reducing the turnover rate, which was the reason the Board was again asking for a fee increase.

Mr. Neilander stated that it was critically important for the Board to compensate its employees at pay levels that were comparable to the salaries extended to like professionals in the public sector, and reasonably close to the pay scale for professionals in the industry. The salary increases were vital in order to hire and maintain productive and efficient employees with the necessary skills and knowledge to effectively regulate Nevada's gaming industry. Mr. Neilander again noted that 34 unclassified employees had terminated their employment with the Board, and several of those persons left the Board to take employment with another public entity; of those 34 terminations, 28 fit into the "avoidable category."

Assemblyman Marvel asked whether the Board tracked the persons who terminated employment. Mr. Neilander said that the Board tracked terminations on an informal basis. Mr. Marvel asked whether the Board could provide a list of public entities or private sector employers who hired staff from the Board. Mr. Neilander replied that the Board would provide that information to the Committee.

Chairman Arberry asked whether the increase of approximately 5 percent for unclassified positions included in Decision Unit E813 would be in addition to the requested raise contained in the 2007-09 agency budget request.

Mr. Neilander replied that was correct. The Board did not participate in the last salary survey conducted by the Department of Personnel because salary increases were not needed because the Board was not experiencing much staff turnover at that time. Mr. Neilander also indicated that comparisons between public safety positions and the Board's staff were difficult. The Board was very unique in that its staff consisted of lawyers, accountants, law enforcement personnel, financial experts, and engineers.

Mr. Neilander reported that pages 12 and 13 of [Exhibit C](#) depicted the pay disparity between the Board's staff and other state auditor positions and law enforcement investigators. The disparity in pay was the result of the salary increases approved by the 2005 Legislature for other unclassified employees in comparable positions. Mr. Neilander said that the salary for Board staff was now behind other salaries to the point where it was impacting the Board. The Board needed to catch up in the area of salaries so that when future unclassified pay raises were approved, the Board would remain competitive.

Chairman Arberry asked what would occur if the pay increase was not approved. Mr. Neilander said that the Board would continue to lose employees, not only to local governments and the industry, but also to other state agencies.

Assemblywoman Leslie asked whether the salary adjustments would be funded with a fee increase. She referenced page 9 of [Exhibit C](#), which stated that the Governor would not object to the increase in investigative fees because it was not a new fee. Ms. Leslie commented that while it was not a new fee, it was an increase in fees.

Mr. Neilander concurred that it was a fee increase that would primarily be charged to new applicants within the system. Existing licensees had applications that were ongoing, and the majority of the increase would be paid by new applicants into the system.

Ms. Leslie noted that the fee would increase from \$70 per hour to \$95 per hour. She specifically asked whether or not the Governor would approve the increase in fees.

Mr. Neilander said that during discussion with the Governor's staff, it was indicated that there would be no opposition by the Governor because the increase would benefit the industry, and the industry would support it.

Ms. Leslie commented that it still represented a fee increase, and she wanted to make certain that it had been approved by the Governor.

Mr. Stevens said the question appeared to be whether the fee increase was statutory or whether the increase was under the control of the Board. He also asked whether the two-thirds vote requirement would apply to the fee increase.

Mr. Neilander said the Board had the ability to raise the fee internally and would not require legislative approval. There was a mechanism within the Board's regulations that allowed it to raise fees. The Board, however, had never increased the fee without approval of both the Legislature and the Governor. Mr. Neilander said the Board was somewhat unique, in that it was funded partly with General Fund dollars and partly by the industry.

Mr. Stevens asked how much the additional fee increase would generate. Mr. Neilander explained that the increase from \$70 to \$95 was calculated pro forma, based on the approximate number of applicants over the next two years, and it would generate \$1.7 million, which equated to a 5 percent increase for the Board's unclassified staff.

Chairman Arberry asked whether there were further questions from the Committee and, there being none, the Chairman closed discussion on BA 4061 and opened discussion on BA 4067.

GAMING
GAMING COMMISSION (101-4067)
BUDGET PAGE GAMING CONTROL BOARD-9

Dennis Neilander, Chairman, Gaming Control Board, introduced Peter Bernhard, Chairman, Nevada Gaming Commission, to the Committee, and explained that the budget for the Commission was included in [Exhibit C](#). The Gaming Control Board administered the budget and handled the paperwork for the Commission for efficiency reasons.

Mr. Bernhard stated that the Board was the actual working arm of the gaming regulatory structure in the state of Nevada, and the Commission was primarily charged with policy determinations and taking action on recommendations made by the Board. As such, Mr. Bernhard stated that there were no substantive changes in the Commission's budget, with the exception of an unclassified step adjustment for the Commission's Senior Research Analyst. Mr. Bernhard indicated that the Analyst was an invaluable addition and aided the Commission in performing its duties.

Chairman Arberry asked for clarification regarding Decision Unit E813.

Mr. Westergard explained that the sole enhancement for the Commission's budget was the step increase for unclassified employees requested throughout The Executive Budget. However, the single unclassified employee of the Commission would also be captured in the additional increase the Board was seeking for its unclassified staff, aside from the budget-wide step increase.

Chairman Arberry indicated that LCB staff recommended removing the base budget expenditure of credential pay expenses from the personnel category and placing the funding into the Unclassified Pay Bill.

Mr. Neilander informed the Committee that the individual holding the position for the Commission was a licensed attorney, and would qualify for credential pay. He stated that he was unaware that credential pay expenses would be moved into a different category, but he would work with LCB staff to clarify the issue.

Chairman Arberry asked whether there were further questions regarding BA 4067 and, there being none, closed discussion of that budget account and opened discussion of BA 4063.

GAMING

GAMING CONTROL BOARD INVESTIGATION FUND (244-4063)

BUDGET PAGE GAMING CONTROL BOARD-13

Dennis Neilander, Chairman, Gaming Control Board, explained that BA 4063 was a fund for the purpose of paying expenses incurred by the Board and the Commission for investigations. The budget account was used to deposit any remaining funds at the end of the fiscal year into the General Fund. Mr. Neilander indicated that there were no changes in BA 4063.

Assemblyman Marvel pointed out that the investigation fee revenue was not as strong as it had been in the past, and he asked for clarification.

Mr. Westergard explained that there were investigative fees charged to license applicants, and there was also a fee charged for gaming employee registration applicants.

Mr. Marvel said that LCB staff had advised the Committee that the investigation fee revenue was not coming in as strongly during the current fiscal year. The programmed authority for investigation fees was \$12.2 million, but the agency had collected only \$4.6 million year-to-date.

Mr. Westergard advised the Committee that he would research the matter and provide additional information to the Committee.

Chairman Arberry asked whether there were further questions from the Committee or further statements regarding the Gaming Control Board.

Mr. Neilander reported that the Board had taken over the employee registration program when the counties eliminated that program, and the Board had retained the fee at the same level. The employee registration program was a fee-based program and roughly revenue-neutral. Mr. Neilander explained that work registrations were now valid for five years, and persons could move to different employment and/or areas within Nevada without reregistering, which was one of the benefits of the program.

According to Mr. Neilander, there had been more movement within Nevada's workforce than anticipated by the Board, and a separate omnibus bill would be submitted during the 2007 Session. Mr. Neilander explained that the bill would include a \$5 charge for change of employment notice. He further explained that persons who changed employment were required to notify the Board, and the Board simply had not contemplated the significant number of changes such notification would involve.

Assemblywoman Leslie asked whether the increase based on the \$5 charge was built into the budget. Mr. Neilander commented that the increase was built into the budget, but an amendment to statute was also needed to add the \$5 charge.

Ms. Leslie stated that she was not opposed to every fee increase because she understood that there was a cost to doing business. She simply did not want the Legislature to find itself in a situation such as occurred last Session when the Legislature proceeded to approve a fee increase only to have the Governor veto the legislation. Mr. Neilander said that he would make sure that the Governor was not opposed to the proposal.

Ms. Leslie asked Mr. Neilander to provide all available information regarding the proposed change in the work registration program. She stated that since she had not received any complaints from her constituents, it appeared that the changes made during the 2005 Session were working well.

Mr. Neilander stated that he would provide the requested information to the Committee.

Chairman Arberry asked Mr. Neilander if he had any idea when the Committee would receive the information it had requested. Mr. Neilander stated that he would provide the requested information to the Committee by Friday, February 16, 2007.

With no further information to come before the Committee regarding BA 4063, Chairman Arberry closed the hearing.

The Chairman declared the Committee in recess at 9:29 a.m. and reconvened the hearing at 9:40 a.m.

Chairman Arberry opened discussion regarding BA 3920.

PUBLIC UTILITIES COMMISSION (224-3920)
BUDGET PAGE PUBLIC UTILITIES COM-1

Donald Soderberg, Chairman, Public Utilities Commission (PUC), introduced himself and his staff to the Committee:

- Crystal Jackson, Commission Secretary
- Rebecca Wagner, Commissioner
- Kirby Lampley, Director of Regulatory Operations
- Donna Wickham, Assistant Commission Secretary
- Debrea Terwilliger, Administrative Attorney
- Kristy Wahl, Public Information Officer and Legislative Coordinator

Mr. Soderberg stated that the current budget was uncomplicated compared to past budgets submitted by the PUC. He asked Ms. Jackson to present the budget to the Committee.

Crystal Jackson, Commission Secretary, explained that the PUC was not a General Fund agency. The PUC had statutory authority to set an annual regulatory assessment not to exceed 3.5 mills, which funded the operations of the PUC. The assessment was paid by regulated utilities, and the current regulatory assessment was set at 2.0 mills. Mr. Jackson pointed out that the biennial budget was built around that mill assessment. However, with the increased personnel costs, the cost of living adjustments, and the unclassified step increases that were included in The Executive Budget, the regulatory assessment would need to be set at 2.1 mills for FY 2008 and 2.15 mills for FY 2009. Ms. Jackson noted that those increases would ensure that the PUC remained within its optimum reserve range of \$1.9 million to \$2.4 million. Ms. Jackson believed the Budget Office would submit a budget amendment to adjust the regulatory assessment for those fiscal years.

Assemblyman Marvel asked how much the regulatory assessment was for the Consumer Advocate (BA 1038). Ms. Jackson explained that the amount for that account was below the regulatory authorization of 0.75 mills.

Ms. Jackson explained that by June of each year the PUC established the regulatory assessment and, historically, the PUC had collected more than projected. For the current budget, the PUC used load growth factors of 4 percent for Nevada Power Company, 2 percent for Sierra Pacific Power Company, and 6 percent for Southwest Gas. Those percentages were provided by regulatory operations staff and would take into account expected growth in revenues.

During the 2005 Session, the Legislature authorized the spending of \$1.4 million for the PUC to complete the Electronic Filing and Records Management System. Ms. Jackson stated that she was happy to report that the PUC had spent approximately one-half of the \$1.4 million on that project. Approximately two weeks ago, the PUC submitted a work program to the Budget Office to de-augment Category 26 by \$600,000, with a corresponding increase of \$600,000 to the PUC's reserve account for FY 2007.

Regarding the current budget request, Ms. Jackson stated that the PUC was asking for approximately \$225,000 for expert consultants to assist with general rate cases, telecommunication issues, and federal energy legislation. Also requested was approximately \$153,000 to fund and administer an aggressive training program to meet the needs of the agency. Ms. Jackson stated that the PUC was asking for approximately \$600,000 for new and replacement computer hardware and software to upgrade and standardize hardware and software applications, and provide remote access capabilities.

Ms. Jackson reported that for the PUC's Rail Safety Inspection Program, the budget request included approximately \$39,000 for replacement of one vehicle for its Las Vegas office in FY 2008. The 4X4 utility vehicle to be purchased would be either flexible fuel, which was capable of using E-85 (ethanol/gasoline mixture); a clean diesel that was capable of using B-20 or other bio-diesel fuel; or a dual-mode hybrid, whichever was available at the lowest possible price and provided the PUC with the ability to reduce its fossil fuel consumption.

Ms. Jackson asked the Committee to note that the Rail Safety Inspection Program was funded through a combination of assessments to railroads and a portion of the hazardous waste disposal fees paid to the State. Since the program was not funded through the PUC's regulatory assessment, the cost of the vehicle would be recovered through those fees.

Chairman Arberry asked why there was no rail service between southern California and Las Vegas. Mr. Soderberg was not aware of any action that could be taken by the State or the PUC to alter that situation. He noted that Amtrak operated the only significant rail passenger carrier, and Amtrak was partially federally funded. The regulations of the PUC were strictly safety regulations rather than economic or general practice regulations. Mr. Soderberg explained that the PUC operated in conjunction with the Federal Rail Safety Administration and under that agency's rules and guidelines.

Chairman Arberry asked for a status report on the Electronic Filing and Records Management System. Ms. Jackson explained that the project was scheduled for completion in June of 2007, approximately six months ahead of schedule. The PUC was currently in a pilot phase with some of its major utilities and was preparing to consider changes to its regulations to begin accepting electronic filings.

Chairman Arberry noted there was a savings of approximately \$600,000 because the system was completed ahead of schedule.

Ms. Jackson explained that approximately one-half of the \$1.4 million approved by the 2005 Legislature was spent in completing the system, and \$600,000 was returned to reserves. That savings was attributed to completing the majority of the system with internal staff and resources. The PUC initially intended to purchase an off-the-shelf package and have it customized to meet the specific needs of the PUC. However, as the project evolved and the requirement definitions were developed, it was soon apparent that it would be very difficult for the subcontractor to understand the business process of the PUC, and it was also difficult for the PUC to understand how an off-the-shelf package would meet its specific needs. Ms. Jackson stated that the PUC very quickly realized that even though the off-the-shelf package was a very good product, it would not deliver the special purpose results required by the PUC.

Chairman Arberry asked about the proposed increase in the mill assessment, given the Governor's position of not increasing taxes or fees.

Ms. Jackson said the current mill assessment was set at 2.0 mills, which was the assessment used to build the budget, but she and her staff would recommend to the Commission that the assessment be increased to 2.1 mills for FY 2008 and 2.15 for FY 2009. Ms. Jackson stated that the budget would be amended to reflect that increase.

Chairman Arberry asked when LCB staff would receive the budget amendment to reflect those increases.

Mr. Soderberg explained that the PUC was given a statutory range for its regulatory mill assessment. On an annual basis, Ms. Jackson and her staff recommend where that assessment should be set to Mr. Soderberg and the Commissioners. The maximum assessment was statutorily capped at 3.5 mills, and the current assessment was set at 2.0 mills. Mr. Soderberg stated that Ms. Jackson's recommendation to the Commissioners in June of 2007 would likely be to increase the assessment to 2.1 mills. The increase would not require the approval of the Legislature, but the PUC needed to amend the budget numbers to reflect the increased amount of revenue.

Chairman Arberry asked when the amendment to the PUC's budget would be received by LCB staff. Ms. Jackson believed that the Budget Office would submit that amendment. She noted that Ms. Watson was present and could address that issue for the Committee.

Elizabeth Watson, Budget Office, indicated that the amendment to the PUC budget was in the process of being completed, and she expected that LCB staff would have that amendment shortly. She explained that she was not familiar with the process and did not know how long it would take.

Chairman Arberry asked Ms. Watson to determine when that information would be available and notify LCB staff. Ms. Watson stated that she would comply with that request.

Chairman Arberry thanked Ms. Watson and pointed out that the Committee operated under time constraints because of the 120-day session, and the Committee needed the budget information in a timely manner. Ms. Watson stated that the amendment would be one of her priorities, and she would coordinate receipt of that information with LCB staff.

Assemblyman Marvel asked how much additional money the increase in the mill assessment would generate. Ms. Jackson replied that the revenue would bring the reserve to \$2.3 million in FY 2008 and \$1.9 million in FY 2009.

Mr. Marvel asked about the total net gain. Ms. Jackson replied that the net effect for FY 2008 would be \$427,000 and the net effect for FY 2009 would be approximately \$661,000.

Assemblyman Grady asked about the alternate fuel vehicle and the possible lack of availability of alternative fuels in rural Nevada.

Mr. Soderberg stated that the flexible fuel vehicle that the PUC was considering was a full-size sports utility vehicle (SUV), which could be filled with either regular gasoline or E-85, an ethanol/gas mixture. Mr. Soderberg agreed that E-85 might not be available in rural areas, but other agencies used such flexible fuel vehicles for their inspectors who traveled to remote areas of the State.

Assemblyman Parks referenced alternative fuel vehicles and asked whether the PUC was considering purchase of a diesel vehicle.

Mr. Soderberg said when the PUC began its budget process, staff was aware that the PUC could not use one of the smaller SUVs because of the maintenance costs incurred from use off paved roads, such as broken axles and problems with the undercarriage. Mr. Soderberg stated that the PUC was looking for alternative fuel vehicles in the full-size SUV market, but only smaller hybrid SUVs were available one year ago, which was the reason the budget included the possibility of three different technologies for purchasing a vehicle.

Mr. Soderberg explained that staff believed that one of the vehicle manufacturers would come out within the year with a flexible fuel vehicle that used either E-85 or traditional unleaded gasoline. Other manufacturers would be offering the new clean diesel technology, which in itself was more gas efficient. According to Mr. Soderberg, that technology would use bio-diesel, which was manufactured in northern Nevada. Other manufacturers were considering a dual-phase hybrid, which would use the hybrid technology currently in use in smaller vehicles, but applied to heavier full-size vehicles.

Mr. Soderberg said that research conducted by PUC staff indicates that, of the three technologies available at the time the vehicle would be purchased, the best vehicle would be a traditional SUV with a V-8 engine that used either gasoline or E-85. The cost of that vehicle would be less than the projection included in the budget.

Mr. Parks noted that a diesel vehicle might be more ideal if the PUC put extensive miles on the vehicle because of the longevity of a diesel engine compared to a gasoline engine.

Chairman Arberry asked whether there were further comments or questions regarding BA 3920 and, hearing none, closed the hearing on that budget.

The Chairman opened discussion of BA 1005.

ELECTED OFFICIALS
HIGH LEVEL NUCLEAR WASTE (101-1005)
BUDGET PAGE ELECTED-11

Robert Loux, Executive Director, Agency for Nuclear Projects, said he was pleased to see that members of the Legislature's Committee on High Level Radioactive Waste were also sitting as members of the Committee on Ways and Means.

Mr. Loux referenced [Exhibit D](#), which included two documents: "Status of the Yucca Mountain Project" and "Yucca Mountain Repository Schedule."

Mr. Loux noted that over the past several weeks there were several media stories about the apparent demise of the Yucca Mountain Repository, whether it was a statement made by an outgoing member of the Nuclear Regulatory Commission (NRC) suggesting that the project should be scrapped, or whether it was the nuclear industry indicating they would no longer lobby for legislation regarding the Yucca Mountain site. Mr. Loux pointed out that the ascendancy of Senator Harry Reid to the position of Majority Leader also spoke to the likely demise of the project.

Despite the media stories, Mr. Loux stated that the Department of Energy (DOE) planned to submit a license application for Yucca Mountain to the NRC in June of 2008, and that action triggered the Agency's current budget request. Mr. Loux explained that the Agency basically had the time span of the FY 2008 budget to finalize preparations for the likely licensing proceedings that might begin in the summer of 2008. Therefore, said Mr. Loux, the budget reflected an increase of approximately \$500,000 per year to allow the Agency to complete some vital scientific work. The funding increase would also allow the Agency to continue its interaction with the NRC, and other parties in the proceedings, in such areas as rule making; petitions for rules; staff positions; a pre-licensing hearing board; and the need required by the NRC to make all documents the Agency intended to use in licensing proceedings available via an electronic system.

Mr. Loux said the budget also supported the activities of the Commission on Nuclear Projects. The other aspect of the current budget that was different from past years was that the Agency requested a supplemental appropriation for the current fiscal year.

According to Mr. Loux, the Agency submitted the same budget proposal to the 2005 Legislature, but that budget was reduced by \$500,000 in each year of the biennium. The Agency tried to manage with that reduction, but found it difficult to stop a series of ongoing, long-term corrosion studies. The budget reduction also curtailed activities before the NRC in the pre-licensing arena. Mr. Loux indicated that the 2005 Legislature advised the Agency that if additional funds were needed, it could approach the Interim Finance Committee (IFC) with a request for additional funding. When the Agency approached the IFC there was no funding available and, therefore, the Agency submitted a request for a supplemental appropriation to the 2007 Legislature.

Mr. Loux stated that the document entitled "Status of the Yucca Mountain Project," [Exhibit D](#), addressed the migration of water and its ability to corrode nuclear waste containers, and depicted the net effect on the overall project. The DOE's project at Yucca Mountain was experiencing significant trouble, stated Mr. Loux, primarily because the DOE concluded that the mountain

contributed nothing whatsoever to waste isolation, and would not contribute to protecting the environment and the public from nuclear waste.

Mr. Loux reported that only the metal storage containers that would be placed underground had any protective value; however, it was impossible for the DOE to meet any long-term regulatory goals by relying solely on the metal containers. Some in the scientific community might believe that metal containers would last 2,000 to 10,000 years underground, but no one in the scientific community believed that the metal containers would last 300,000 to 400,000 years, as required under the Environmental Protection Agency (EPA) standards.

Mr. Loux indicated that only with new federal legislation, which would "water-down" the regulatory standards and provide a legislative path for land withdrawal and water rights, would the project be able to move forward. However, Mr. Loux said that Senator Reid had made it abundantly clear that no legislation affecting Yucca Mountain would pass during the current year.

According to Mr. Loux, DOE officials stated that if the attempt to file a license application in June of 2008 failed, or if the application was rejected by NRC for being incomplete based on faulty data or incomplete modeling, the DOE would not make another attempt for licensure at Yucca Mountain.

Mr. Loux emphasized that this would be a critical year for both the State and the Agency for Nuclear Projects. The Agency was attempting to convince the staff of the NRC that the work conducted by the DOE was substandard and that the site could not meet the standards, in hopes that the NRC would reject the application.

In the event that the application was approved and the project moved forward, there would be a four-year licensing proceeding before the NRC that would entail as many as three licensing boards operating simultaneously. Mr. Loux said if the project moved forward, the Nevada Agency for Nuclear Projects hoped it could secure a large allocation from the IFC during the second year of the biennium. The Agency's budgeting needs would be in the vicinity of \$8 million to \$10 million per year if there was a licensing proceeding, as compared to the \$4 million or \$5 million per year required for the years prior to licensing.

While the budget did not reflect the need for the additional funding to address possible licensing proceedings, Mr. Loux wanted to advise the Committee and the Legislature that if the application went forward during the upcoming months, he would very likely approach the IFC for additional funds.

Mr. Loux stated that although many of the Agency's activities could be funded through federal dollars, it was difficult for Nevada's Congressional delegation to continue to advocate large increases for the Agency's budget as the federal government made cuts to the DOE's budget. Therefore, Mr. Loux believed that the federal contribution to the Agency's budget would remain in the \$2 million to \$2.5 million range, which would create a shortfall in the future. Funding should be sufficient for the current year with the budget as proposed, including the proposed supplemental appropriation. That supplemental appropriation would provide sufficient funding for licensing activities, including ongoing scientific studies and work before the NRC during the pre-licensing phase.

Assemblyman Marvel asked for clarification regarding federal funding. Mr. Loux replied that the Agency had received approximately \$2 million per year in federal funding for the last three to four years. Mr. Marvel said the budget did not

reflect the receipt of federal funding for the upcoming biennium. Mr. Loux said the money was reflected through transfer from another agency. Under statute, the federal funding was channeled through the Nevada Division of Emergency Management to the Agency.

Mr. Loux advised the Committee that the Agency continued to monitor the DOE's ever-changing plans for transportation routes to Yucca Mountain. There was no rail access to that area and, should the project move forward, DOE preferred the use of rail transport. Mr. Loux said that over the past three or four years, DOE had been evaluating two routes, the first of which was the Caliente route. That route entered Nevada at Caliente, traveled around the Nevada Test Site, and arrived at Yucca Mountain from the west. More recently, the DOE announced that it would evaluate a different rail access called the Schurz-Mina route. That route mirrored I-80 across northern Nevada, left the I-80 corridor near Fernley, and traveled south by Fallon, Yerington, and Hawthorne.

According to Mr. Loux, the principal reason that DOE was now reviewing the Schurz-Mina route, which it had earlier rejected, was that the DOE received an invitation from the Walker River Paiute Tribe to evaluate the route that runs through its Reservation, access to which had been denied in the past. The Paiute Tribe actually owned a portion of the route from Wabuska to Hawthorne, therefore, the Tribe was "in the driver's seat" relative to whether or not DOE would ultimately be allowed to use that route. Mr. Loux indicated that the Tribe could determine that it did not want DOE using that route, but at present, the Tribe had authorized DOE to study the route.

Mr. Loux noted that the transportation picture and the scientific picture at Yucca Mountain remained as clouded as ever. There continued to be nothing certain about the direction in which the proposal would move. Therefore, the Agency's budget also reflected the ability to continue to study the routes, conduct impact assessments, conduct analysis of the viability of the routes, and study the impact of the routes on local communities.

Chairman Arberry noted that the budget recommended a \$604,291 supplemental appropriation for FY 2007. He pointed out that from the original \$1 million General Fund appropriation for FY 2005-06, there was a remaining balance of \$395,709, which was carried forward to FY 2006-07. Apparently, as of February 7, 2007, the Agency had used only \$107,570 in expenditures out of the \$395,709 available. He asked Mr. Loux to explain how the Agency planned on expending the remaining balance.

Mr. Loux indicated that by the end of February 2007 the Agency would receive expenditure invoices and those invoices would eliminate the balance entirely. He further noted that Agency had not yet received its federal monies for FY 2006-07.

Chairman Arberry asked Mr. Loux about the contribution of \$50,000 each year from Clark County. Mr. Loux explained that Clark County, as an affected local government under the federal repository program, received federal appropriations every year for oversight and other activities associated with Yucca Mountain. Clark County offered to help fund some of the Agency's work on volcanic activity occurring around the Yucca Mountain area. Mr. Loux stated that Clark County and the Agency shared a contractor that investigated volcanic issues associated with the suitability of the Yucca Mountain site.

Chairman Arberry noted that the contribution from Clark County was not budgeted for the current fiscal year.

Mark Stevens, Assembly Fiscal Analyst, Legislative Counsel Bureau (LCB), said that the budget indicated that the Agency expended the \$50,000 contributed by Clark County in FY 2005-06, and The Executive Budget recommended \$50,000 in that category in each year of the FY 2007-09 biennium. Mr. Stevens pointed out that there was no work program authority for receipt of the Clark County funding in FY 2007, and he asked whether the Agency would approach the IFC for approval of a work program.

Mr. Loux replied that the Agency was in the process of completing a work program to receive the \$50,000 from Clark County, and anticipated continuation of the joint studies, at least through the following year.

Assemblyman Parks remarked that in years past private contributions had been made to the Yucca Mountain "fund," and he asked whether a final report was completed that depicted the amount received and how the funding was used.

Mr. Loux stated that between 2002 and 2003, the Governor established the Nevada Protection Fund and solicited matching contributions from public entities. The 2003 Legislature then made money available subject to match. The Agency reported total contributions from the public of approximately \$480,000, and the money was expended during the time when Nevada was engaged in the campaign to support the Governor's veto of the Yucca Mountain Repository site.

Assemblyman Hogan referenced the document included in [Exhibit D](#) entitled "Yucca Mountain Repository Schedule," and asked that Mr. Loux give the Committee a general idea of how the situation might play out should the decision be made that the Yucca Mountain site was not viable.

Mr. Loux stated that his answer was highly speculative, but should the project end during the next year, or should the site be deemed as not worth pursuing, it was uncertain whether Congress would move to repeal the law or would pass a new law or whether the law would remain on the books for a certain period of time. Mr. Loux indicated that as long as the law was viable and the DOE continued activities, there would be some need to at least monitor the actions of the DOE. However, Mr. Loux surmised that if the DOE indicated it would not pursue the Yucca Mountain site any longer, the federal budget authority would expire or be greatly diminished. That decision might lead to another approach, whether it would be addressed by legislation brought forward by Senator Reid and Senator Ensign or some other means. Mr. Loux said the outcome was still in doubt and there was interplay between the budget process and the statutory authority. Obviously, if the conclusion was reached that the DOE would no longer pursue the Yucca Mountain site, then the Agency's budgetary needs would drop dramatically.

Chairman Arberry asked when Mr. Loux anticipated receipt of the federal appropriation. Mr. Loux replied that it depended on a continuing resolution being adopted by Congress. Generally, once the resolution was adopted, it could be anywhere from three to six months before DOE provided the oversight money.

Chairman Arberry asked Mr. Loux to continue to monitor the situation and advise LCB staff as soon as possible regarding receipt of the federal funds. Mr. Loux stated that he would comply with that request.

Chairman Arberry asked whether there were further questions from the Committee and, there being none, closed the hearing on BA 1005.

Chairman Arberry opened discussion on BA 1343.

ELECTED OFFICIALS
ETHICS COMMISSION (101-1343)
BUDGET PAGE ELECTED-167

L. Patrick Hearn, Executive Director, Commission on Ethics, introduced himself and Mary Keating, Department of Administration and Fiscal Officer for the Commission, to the Committee. He stated that Ms. Keating had assisted the Commission with the preparation of its budget.

Mr. Hearn referenced [Exhibit E](#) entitled, "Presentation to the Assembly Committee on Ways and Means – Nevada Commission on Ethics," which contained a basic overview of the Commission's budget. Mr. Hearn advised that the exhibit also contained updated performance indicators. The third performance indicator, "Percentage of investigations completed within 45 days" indicated zero for May of 2006 and January of 2007. Mr. Hearn explained that was because almost all the subjects of complaints had waived that time requirement because it provided insufficient time to obtain legal counsel, if they chose to do so; prepare a response; and deliver the pertinent information to the Commission.

Mr. Hearn explained that the Commission was funded through a state cost share with local governments, which consisted of an assessment imposed upon cities and county unincorporated areas, whose populations were 10,000 or more. The assessment was based upon the proportion of the population of the qualified cities or unincorporated county areas to the total population of all such cities and unincorporated county areas in Nevada.

The proposed split for the 2007-09 biennium was 60 percent local funding and 40 percent state funding. Mr. Hearn reported that the budget maintained current service levels and included no new position requests, no new equipment requests, and no other enhancements.

Mr. Hearn pointed out that when the Commission's budget was originally submitted a supplemental appropriation of \$10,747 was requested to address the anticipated costs for a hearing. However, that matter was settled in December 2006 and the supplemental appropriation was withdrawn.

Chairman Arberry referenced the supplemental appropriation that was removed, and asked whether the Commission anticipated any further costs associated with additional hearings for the upcoming biennium. Mr. Hearn replied that the Commission did not anticipate additional costs at the current time.

Assemblywoman Leslie asked whether the Commission had changed the funding formula between the State and the cities and counties based on its experience over the last two years. Mr. Hearn said that was correct. Ms. Leslie asked whether the revised method would be used by the Commission in determining future funding splits.

Ms. Keating explained that in situations similar to that of the Commission, a moving average was used because one year could substantially skew the figures. Because the funding formula was relatively new for the Commission, it was based on the previous biennium. Ms. Keating stated that she envisioned

using an average in future years, which would make the formula more consistent.

Ms. Leslie acknowledged that 5 percent was not a substantial increase, but it would be beneficial to settle on a formula that the State, the cities, and the counties could depend upon.

Assemblyman Hardy asked whether the Commission projected an increase in the budget need because additional persons sought opinions from the Commission, or did the budget figures include contested cases that involved more research and attorneys.

Mr. Hearn replied that he had been the Executive Director of the Commission for approximately six months, and he was not involved in the preparation of the budget. However, when the Commission calculated anticipated costs, including the State and local funding formula, one of the issues it considered was the Commission's past workload. That included identifying the location of the complaints and opinions as being from the State, the cities, or the counties.

Dr. Hardy opined that there would probably be some ethic issues arise during the 2007 Session, which potentially could generate either complaints or questions. He stated that he would prefer to see questions come before the Commission rather than complaints. Dr. Hardy asked whether there was a mechanism in the budget that addressed the need to handle additional questions or opinions to avoid potential complaints that might come about.

Ms. Keating explained that the current budget was based on what the Commission actually spent in FY 2006. During FY 2006 the Commission handled requests for legal opinions as well as a number of investigations. According to Ms. Keating, to the extent that the mix remained somewhat consistent, the current budget proposal would cover the expenses of the Commission. If there was a tremendous increase in issues before the Commission that required a significant amount of investigative time, it would not be unreasonable to expect the Commission to approach the Interim Finance Committee (IFC) to request additional funding.

Ms. Keating stated that, based on FY 2006, the Commission hoped that no additional funding would be required; however, it was impossible to predict what might occur. Specific requests for information were handled by the staff of the Commission, and Ms. Keating believed that existing staff could continue to handle those requests.

Chairman Arberry asked whether there were further questions from the Committee regarding BA 1343 or public comment and, there being none, closed the hearing.

With no further business to come before the Committee, Chairman Arberry adjourned the hearing at 10:21 a.m.

RESPECTFULLY SUBMITTED:

Carol Thomsen
Committee Attaché

APPROVED BY:

Assemblyman Morse Arberry Jr., Chairman

DATE: _____

<u>EXHIBITS</u>			
Committee Name: <u>Committee on Ways and Means</u>			
Date: <u>February 12, 2007</u> Time of Meeting: <u>8:30 a.m.</u>			
Bill	Exhibit	Witness / Agency	Description
***	A		Agenda
***	B		Sign-in Sheet
***	C	Mr. Neilander/Gaming Control Board	Biennium Budget Presentation FY 2007-09
***	D	Mr. Loux/High Level Nuclear Waste	Status/Repository Schedule
***	E	Mr. Hearn/Ethics Commission	NV Ethics Commission