

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

Seventy-Fifth Session
February 11, 2009

The Committee on Ways and Means was called to order by Chair Morse Arberry Jr. at 8:09 a.m., on Wednesday, February 11, 2009, 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/75th2009/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
Assemblywoman Barbara E. Buckley
Assemblyman Marcus Conklin
Assemblyman Mo Denis
Assemblywoman Heidi S. Gansert
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman Joseph (Joe) P. Hardy
Assemblyman Joseph M. Hogan
Assemblywoman Ellen Koivisto
Assemblywoman Kathy McClain
Assemblyman John Ocegüera
Assemblywoman Debbie Smith

STAFF MEMBERS PRESENT:

Mark Stevens, Assembly Fiscal Analyst
Tracy Raxter, Principal Deputy Fiscal Analyst
Joi Davis, Program Analyst
Connie Davis, Committee Secretary
Vickie Kieffer, Committee Assistant

Catherine Cortez Masto, Attorney General, read the following summary of the proposed budget ([Exhibit C](#)) for the Office of the Attorney General into the record:

As the state's chief law enforcement officer, the Attorney General represents the people of Nevada before trial and appellate courts of Nevada and the United States in criminal and civil matters; and serves as legal counsel to state officers, state departments, and most state boards and commissions; and assists the 17 district attorneys of the state.

As provided by the Nevada Constitution and state law, the Attorney General is a member of several state boards that include

the Board of Examiners, Prosecution Advisory Council, Board of Directors of the Transportation Department, Board of Prison Commissioners, Board of Pardons Commissioners, Private Investigators Licensing Board, Domestic Violence Prevention Council, and the Advisory Board for Nevada Task Force for Technological Crime.

As is clear from this recitation of duties, the breadth of the legal issues that the Office of the Attorney General addresses on a daily, weekly, and yearly basis is substantial.

This proposed budget falls within the dollar constraints established by the Governor. There are no new fees within this budget. The proposed budget requests no new positions.

One of the first acts I took after assuming office in January of 2007 was to request a "best practices" assessment be conducted by the National Association of Attorneys General (NAAG). A team of three of the Chief Executive attorneys, each from a different state attorney general office, came to my offices for the better part of a week, conducted interviews, and surveyed staff.

As a result of that audit, I am organizing the office around what we do, rather than who we represent. This is an ongoing process. We are continuing to analyze ourselves to make sure resources are adequately directed towards the needs of the State of Nevada and its citizens.

In an effort to better utilize our staff and serve our clients, we have restructured our office. You will note in your backup material a copy of the new organizational chart.

The office is working to give our staff better direction regarding their duties and our expectations of them and to improve our hiring and promotion efficiencies. We have implemented streamlined procedures for the recruitment, interview, and hire of new employees, and for promotional opportunities of existing employees. Further, the Policy Manual has been overhauled to ensure that our policies are helpful to our employees and reflect fairness. The Manual has also been placed on our internal website for cost savings and ease of access.

The Office is working to be better stewards of our taxpayer dollars. There is an enhanced level of fiscal oversight of all money issues, including travel, training, and contracting. We have established agency-wide procedures setting safeguards over accounts receivable and collection efforts. There is also centralized and coordinated budget management.

There have been improvements within our Information Technology efforts. Last year, our office designed and implemented an Identify Theft database and partnered with 13 local law enforcement entities to reach out to all areas in the State of Nevada. We have added additional layers of security to our Infrastructure and created Disaster Recovery and IT Security plans to guarantee the protection of our confidential data. We have upgraded many major applications and databases (to include our Prolaw Case Tracking

System) in an effort to increase the productivity of the office and comply with all industry standards.

In the past several legislative sessions, for the most part, the office's legislative fiscal notes were not filed, were abandoned, or were otherwise compromised in a spirit of cooperation, and existing staff were called upon to absorb new clients and duties that inevitably flowed from each session of the Legislature.

The Attorney General's Office has absorbed new clients and work as a result of legislation from the last three legislative sessions and is currently handling these additional demands while holding 23.5 positions vacant to effectuate salary savings. I would ask that you be mindful during this session of new obligations placed upon this office without needed fiscal support.

General Masto also advised that based on the NAAG assessment, over the next two years, staff would be working to update performance evaluations for unclassified staff that included attorneys, investigators, a public information officer, personnel officer, and a chief financial officer. Additionally, over the course of the next two years, staff would work with representatives of the Office of the State Controller to develop more meaningful performance measures.

ELECTED OFFICIALS – ATTORNEY GENERAL - ADMINISTRATIVE FUND
(101-1030) BUDGET PAGE ELECTED-47

Teri Sulli, Chief Financial Officer, Office of the Attorney General, testified that Budget Account 1030 supported the salary, benefits, travel, and operating costs for 242.58 full-time equivalent (FTE) positions.

Ms. Sulli advised of changes from fiscal year 2008 to fiscal year 2009 that equated to an additional 0.96 full-time equivalent (FTE) position because:

- Two 0.51 FTE student positions were eliminated.
- Two 0.51 FTE administrative assistant positions were increased to full-time positions.
- One senior deputy attorney general position for Child Support Enforcement was added.

Another change from fiscal year 2009 to the 2009-11 biennium was reflected in decision unit Enhancement (E) E900 and E901 and resulted in the addition of 10 FTE positions to Budget Account 1030:

- E900 requested to move two full-time deputy attorney general positions from Budget Account 1038, Consumer Advocate, to Budget Account 1030.
- E901 requested merging Budget Account 1044, High Tech Crime, into Budget Account 1030, including eight FTE positions.

Ms. Sulli reported that Budget Account 101-1030 was supported by the General Fund, the Attorney General Cost Allocation Plan, Board and Commission fees, Tobacco funds, miscellaneous revenues, and district court assessment fees.

Additionally, Ms. Sulli reported that the proposed budget was based on fiscal year 2008 legislatively approved figures of 47 percent funding from the

General Fund, 51 percent funding from the Attorney General Cost Allocation Plan, and 2 percent funding from Board and Commission fees. Ms. Sulli advised that because the Office of the Attorney General had not yet received the Attorney General Cost Allocation from the Department of Administration, the percentages could vary. Ms. Sulli also said that the specific funding sources such as tobacco, gifts and donations, and settlement income were also budgeted as appropriate when applicable.

Ms. Sulli reported that decision unit E327, which did not appear in The Executive Budget recommended moving all unclassified law-enforcement investigator positions into the classified service. Decision unit E327 was included in the following budget accounts each of which contained law-enforcement investigator positions:

- Administrative Fund, 101-1030
- Workers' Compensation Fraud, 101-1033
- Crime Prevention, 101-1036
- Medicaid Fraud, 101-1037
- Consumer Advocate, 330-1038
- High Tech Crime, 101-1044

Ms. Sulli advised that the Attorney General wanted to continue to pursue decision unit E327 even though it was eliminated from The Executive Budget. Ms. Sulli explained that there would be no fiscal impact since there were no promotions requested in moving the positions to the classified service.

Ms. Sulli next discussed decision unit E500, which realigned revenue from decision unit E900. Decision unit E900 transferred two FTE positions from the Bureau of Consumer Protection, which were entirely funded by the General Fund within the Consumer Advocate Budget Account 330-1038, and would become cost allocated once transferred into Budget Account 101-1030.

Continuing, Ms. Sulli advised that decision unit E606 requested to increase vacancy savings to meet the 14.12 percent budget reduction requirement. Ms. Sulli indicated that increasing budgeted vacancy savings would meet the proposed reductions while still providing the ability to determine which positions would remain vacant and for what period of time depending on the current needs of agency clients.

Ms. Sulli advised that the agency's budgeted vacancy savings would equate to 23.75 vacant positions in the following budget accounts:

- Administrative Fund, Budget Account 101-1030
- High Tech Crime, Budget Account 101-1044
- Consumer Advocate Budget Account 330-1038

Ms. Sulli further advised that the vacancies together with the normal turnover experienced each year would prevent layoffs while still meeting the proposed 14.12 percent budget reduction.

Ms. Sulli advised that decision units E670 through E674 were additional reductions proposed in The Executive Budget.

Ms. Sulli next discussed decision unit E710, which requested replacement equipment maintenance agreements. Ms. Sulli advised that while no new or replacement equipment was requested for Budget Account 101-1030,

equipment- and software-maintenance agreements had to be renewed each year.

Ms. Sulli reported that decision unit E900 recommended transferring two deputy attorney general positions from the Consumer Advocate Budget Account 330-1038 to Budget Account 101-1030 for ease of fiscal management. Ms. Sulli advised that during the 2007 Legislative Session, additional prosecution duties that were related to mortgage fraud and elder protection were assigned to the Office of the Attorney General. At the close of the 2007 Session, Ms. Sulli said the Office was reorganized to bring similar functions into the same management structure based on an audit performed by the National Association of Attorneys General (NAAG). As a result of the reorganization, two Bureau of Consumer Protection security fraud prosecution positions, funded from the General Fund, were moved under the supervision of the Bureau of Criminal Affairs, the primary prosecution bureau within the Office of the Attorney General. Ms. Sulli said that because of the criminal prosecution duties assigned by the Legislature, the audit report recommended that similar functions within the Office be located together.

Ms. Sulli advised that decision units E901 through E912 were the Base, Maintenance, and Enhancement decision units that were requested to be transferred from High Tech Crime, Budget Account 101-1044, into the Administrative Fund Budget Account 101-1030. Ms. Sulli indicated the transfer was necessary because of the crossover of activity and support that was required.

Chair Arberry noted that decision unit E670 to E673 reductions did not reflect appropriate revenue sources and asked when a budget amendment would be submitted to correct the funding sources.

Ms. Sulli advised that the Department of Administration had indicated that the Cost Allocation Plan, which would affect the funding percentages, would be available at the end of the month.

Chair Arberry requested that a representative of the Budget Division confirm that the Attorney General Cost Allocation Plan would be made available to the Attorney General and legislative staff by the end of February.

Stephanie Day, Deputy Director, Department of Administration, advised that members of the Budget Division staff were putting together final pieces of information that the vendor needed to complete the Attorney General Cost Allocation, which would be available by the end of February or earlier.

Assemblyman Denis asked when MGT America, Inc., the consultant contracted to work on the Cost Allocation Plan, reassigned another consultant to complete the cost allocation for the 2009-11 biennium.

Ms. Day advised that the reassignment occurred when the vendor was working on both the Attorney General Cost Allocation Plan and the Statewide Cost Allocation Plan. However, Ms. Day provided assurance that both plans were forthcoming and that members of the Department of Administration staff were working closely with MGT America, Inc., who she confirmed had assigned a new individual to work on the cost allocation plans.

Assemblyman Denis questioned the level of transition that occurred between the former MGT consultant and the new MGT consultant in the reassignment of duties.

Ms. Day advised that after numerous discussions with the new consultant, the transition appeared to be "going well."

Assemblywoman Gansert questioned the E606 vacancy savings proposal, the length of time the positions had been vacant, and whether the level of vacancies had been held at a consistent level.

Ms. Sulli advised that beginning in state fiscal year 2008, 14 positions were held vacant to meet fiscal year 2008 proposed 14.12 percent budget reductions, and the positions held vacant were increased in fiscal year 2009 to a total of 23.75.

Assemblywoman Gansert questioned whether the positions were necessary and how the Office of the Attorney General functioned without the positions.

General Masto indicated that she would prefer to fill the vacant positions and expressed concern that the Office was not adequately staffed at a level to appropriately represent clients and to protect state liability. General Masto advised, however, that she had made a "conscious effort" to continue to fill the vacancies within the Bureau of Criminal Justice and Bureau of Consumer Protection for the protection of consumers and public safety. General Masto said, however, that the Bureau of Public Affairs and the Bureau of Government Affairs bore the burden of the vacancies.

General Masto reported that over the course of the year, positions were rotated to provide the level of service needed without jeopardizing constitutional obligations and state liability. General Masto explained that if a position that had been held vacant needed to be filled to provide service to a client, the position would be filled as another position became vacant.

Assemblywoman Gansert questioned whether the members of the Attorney General's staff were cross-trained since it appeared job descriptions were specific.

General Masto responded that staff members in the Bureaus of Public Affairs and Government Affairs were cross trained, but staff members who worked in the civil and criminal divisions were not.

Assemblywoman McClain questioned whether dedicated staff had been appointed to the Attorney General's Elder Protection unit and what was needed to make the unit "truly" functional.

General Masto advised that Chief Deputy Attorney General John Kelleher, who was in charge of the Elder Exploitation and Mortgage Lending Fraud Unit, was a member of the "Elder Abuse Task Force" in southern Nevada and had prosecuted several cases involving elder abuse. Additionally, Mr. Kelleher had entered into a memorandum of understanding with the District Attorney in Clark County to determine which cases the District Attorney and the Attorney General would process since the Attorney General had secondary jurisdiction in such cases.

Additionally, General Masto advised that the Elder Protection unit could benefit by the addition of a new dedicated criminal attorney and an investigator since all investigators were currently focused on mortgage lending fraud.

Assemblyman Denis noted decision units E670 to E673 reflected revenue reductions but did not include a reduction for Transfer from the Treasurer

revenue, which supported eight positions in the Tobacco Enforcement Unit. Assemblyman Denis asked whether a budget amendment that corrected funding sources in decision units E670 to E673 would be submitted by the Budget Division.

Ms. Sulli explained that staff had communicated with the Budget Division staff with concerns that the Tobacco Enforcement Unit was not funded appropriately. Ms. Sulli assured Committee members that members of the Attorney General's staff would work with the legislative fiscal analysts to ensure that the funding sources for the Tobacco Enforcement Unit were recorded appropriately. Ms. Sulli indicated that the adjustment would be made upon receipt of the cost allocation figures from the Budget Division.

ELECTED OFFICIALS – ATTORNEY GENERAL - HIGH TECH CRIME (101-1044)
BUDGET PAGE ELECTED-59

Teri Sulli, Chief Financial Officer, Office of the Attorney General, advised that the High Tech Crime budget was established during the 2007 Legislative Session to monitor the High Tech Crime Unit and Technological Advisory Board. Ms. Sulli advised that The Executive Budget recommended that the High Tech Crime budget be merged with Administrative Fund Budget Account 1030 because of the crossover of investigative staff duties and for tracking purposes.

Ms. Sulli advised that Budget Account 1044 currently supported salary, benefits, travel, and operating costs for eight full-time equivalent (FTE) positions and was supported by funding from the General Fund, Attorney General Cost Allocation, and Board and Commission fees.

Ms. Sulli advised that decision unit E327 requested to move law enforcement investigators from the unclassified to the classified service but was eliminated from the Governor's recommended budget as previously discussed in Budget Account 1030. Ms. Sulli reiterated that because decision unit E327 would have minimal or no fiscal impact, the Attorney General recommended pursuing the request.

Additionally, Ms. Sulli advised that decision unit E606 requested increasing payroll vacancy savings in both years of the 2009-11 biennium to meet the 14.12 percent budget reduction requirement.

Ms. Sulli reported that decision units E670 through E673 requested salary reductions, suspension of longevity payments, and implementation of the Nevada Spending and Government Efficiency (SAGE) Commission recommendations.

Ms. Sulli advised that decision units E901 through E912 requested the transfer of the Base, Maintenance, and Enhancement decision units from Budget Account 1044 to Budget Account 1030.

In response to questions Assemblyman Denis asked regarding the outcome if the High Tech Crime budget was not transferred to the Attorney General Administrative Fund, Ms. Sulli indicated that staff would continue to monitor the High Tech Crime budget as they had in the past. Ms. Sulli pointed out that the Chief Investigator supervised the investigator positions within the High Tech Crime Unit, and because of the crossover of investigative staff duties and the costs, transferring the units within one budget account would be more efficient.

Assemblyman Denis questioned the necessity of transferring the High Tech Crime budget to the Attorney General's Administrative budget account.

General Masto explained that the High Tech Crime budget was transferred out of the Attorney General's Administrative budget account to a separate budget during the 2007 reorganization and said that "as in any reorganization, not all of it worked." General Masto indicated that with a shortage of staff, a better synergy would be provided by investigators who had the ability to cross over and work with other investigators.

Assemblyman Denis asked for comments regarding securing funds for the Account for the Technological Crime Advisory Board and what would become of the Board if the High Tech Crime Tech budget was transferred to the Attorney General's Administrative account.

General Masto advised that none of the funding or the services the Board provided would change.

Assemblywoman Gansert questioned whether the recommendation to move all unclassified law-enforcement investigator positions into the classified service could be attributed to turnover or difficulty in recruiting investigators.

General Masto indicated that recruiting and retaining law-enforcement investigators in the unclassified service proved difficult because of salary inequities. General Masto said that moving unclassified investigators into the classified service would make their salaries comparable with the higher salaries of classified investigators in other state agencies.

Assemblywoman Gansert questioned previous testimony that indicated there would be little or no fiscal impact in moving investigators to the classified service since it appeared the investigators would be paid at a higher salary.

General Masto advised that no initial fiscal impact would occur if the positions were moved, but that at some point in the future, salaries would increase.

Ms. Sulli confirmed that if the move to the classified service was approved, the investigators would be transferred at their current pay grade and would be eligible to receive merit-salary increases. Ms. Sulli advised that currently, unclassified investigators did not receive salary increases unless they were hired at a lower rate and then adjusted by the Attorney General to a higher level in the unclassified salary schedule.

Assemblyman Denis questioned the reason for a lack of performance indicators for the High Tech Crime budget.

General Masto advised that performance indicators did not exist for the High Tech Crime unit but provided assurance that performance indicators would be updated for those budgets in which they existed and established for the units in which they did not exist. Additionally, General Masto reiterated previous testimony that her office would work to develop "more meaningful performance measures."

ELECTED OFFICIALS – ATTORNEY GENERAL - SPECIAL LITIGATION FUND
(101-1031) BUDGET PAGE ELECTED-66

Teri Sulli, Chief Financial Officer, Office of the Attorney General, testified that the Special Litigation Fund Budget Account 1031 was established for payment of expenses directly related to investigation, preparation, prosecution, and defense of suits unknown at the time of budget preparation.

The budget also covered any costs of litigation and related outside services necessary to Nevada's efforts in opposition to the United States Department of Energy's proposed development of the Yucca Mountain high-level nuclear waste repository.

Additionally, Ms. Sulli reported that the budget supported the salary, benefits, travel, and operating costs for one full-time equivalent (FTE) Construction Law Counsel position for which the State Public Works Board provided approximately \$200,000 per year. Funding from the General Fund supported the litigation costs with a small portion covered by reimbursement from clients.

Ms. Sulli pointed out that an item for special consideration had been included in the budget request to increase the Nuclear Waste Litigation portion of the budget by \$2,406,735 per year. Ms. Sulli advised that the \$2,406,735 and the \$93,265 included in the base budget equaled the \$2,500,000 needed in each year of the biennium to fund Nuclear Waste litigation. Ms. Sulli asked for the Legislature's consideration that the funds continue to be allowed to be spent in both years of the biennium.

Ms. Sulli advised that decision unit E670 requested a temporary 6 percent salary reduction for the budget's one full-time equivalent (FTE) position, and decision unit E673 requested the implementation of the Nevada Spending and Government Efficiency (SAGE) Commission recommendations regarding group insurance subsidies for the position.

Assemblywoman Leslie noted that the \$10 million the agency requested was not included in The Executive Budget.

Ms. Sulli confirmed that the \$10 million the agency requested was not included in The Executive Budget and reiterated that the Office of the Attorney General had included an item for special consideration to increase the Nuclear Waste litigation portion of the Special Litigation Fund budget by \$2,406,735 in each year of the biennium.

In response to Assemblywoman Leslie, who questioned the litigation portion of the budget that appeared in The Executive Budget, Ms. Sulli advised that The Executive Budget recommended \$93,265 and the special consideration of \$2,406,735 requested by the Office of the Attorney General equaled a \$2,500,000 request for a General Fund appropriation.

In response to a request from Assemblywoman Leslie to discuss the timeline for the licensing proceedings currently pending before the United States Nuclear Regulatory Commission (NRC), Attorney General Catherine Cortez Masto provided the following information concerning the Yucca Mountain Nuclear Waste Repository litigation:

- The Office of the Attorney General was currently involved in litigation in state district courts with funding provided from the General Fund because use of federal funding was prohibited.

- Additionally, the Office of the Attorney General was involved in litigation before the NRC licensing body.

In response to a request for clarification from Assemblywoman Leslie concerning the use of federal and state funding, General Masto confirmed that The Executive Budget included only \$93,265 each year in General Funds in the base budget for Nuclear Waste litigation.

General Masto provided the following itemization of funding requested by the Office of the Attorney General:

- \$2,500,000 per year in state General Funds
- \$5,000,000 per year in Nuclear Projects Federal Funds

General Masto advised that the \$2,500,000 per year from the General Fund requested as an item for special consideration would be directed to state court cases. Currently, there were three cases pending, *United States v. State Engineer*, *United States v. State of Nevada*, and *Nevada v. United States Environmental Protection Agency*, for which federal funds could not be used.

Assemblywoman Leslie asked for information concerning the amount of money needed for the pending cases.

Marta Adams, Chief Deputy Attorney General, Office of the Attorney General, advised that \$300,000 in each year of the biennium was projected to be needed for *Nevada v. United States Environmental Protection Agency* and \$300,000 in each year of the biennium for the Nuclear Regulatory Commission (NRC) rule challenge for which federal funds could not be used.

Taking into account the \$93,265 requested in The Executive Budget, and the \$600,000 per year projected to be needed for the in-state court cases, Assemblywoman Leslie asked how the balance of the \$2,500,000 per year was proposed to be used.

Ms. Adams advised that the remainder of the funding would be used for the NRC licensing proceedings for which, she said, federal dollars could be used. Ms. Adams advised that federal funds, to the extent available, would be used both for outside counseling and for expert witnesses. Additionally, Ms. Adams indicated that high costs associated with licensing proceedings were anticipated and that those costs should become clearer within a few months.

Assemblywoman Leslie indicated that although a \$93,265 General Fund appropriation in each year of the biennium appeared to be too little, she was not yet convinced that a \$2,500,000 appropriation in each fiscal year was the right number either.

General Masto asked Ms. Adams to clarify whether the state funding in addition to the funding received from the federal government could be used to support the licensing proceedings.

Ms. Adams indicated that state funding would be required because federal funds would be inadequate for that effort.

In response to Assemblywoman Leslie, who asked how much state funding would be required, Ms. Adams advised that a minimum of \$5 million would be needed.

General Masto referenced a February 3, 2009, memorandum ([Exhibit D](#)) from independent counsel concerning a two-year estimate of costs for Yucca Mountain litigation. General Masto advised that over 229 licensing contentions had been filed, and until a ruling was received from the NRC Licensing Board on the number of contentions admitted for hearing, costs would be difficult to estimate taking into consideration the number of attorneys and expert witnesses that would be needed. General Masto pointed out that independent counsel had provided a range of estimates ([Exhibit D](#)), and that if, for example, 90 to 124 contentions were admitted, 5 attorneys and 9 to 12 expert witnesses would be needed with a cost ranging from \$13,300,000 to \$16,300,000. If 160 to 195 contentions were admitted, 9 attorneys and 16 to 19 expert witnesses would be needed with a cost ranging from \$19 to \$20 million.

Assemblywoman Leslie asked when the NRC would rule on the number of contentions.

General Masto indicated the ruling would occur "sometime at the end of March or April."

Ms. Adams advised that additional information concerning the timing of issues would be provided after a procedural telephone hearing scheduled for March 12. Additionally, Ms. Adams indicated that it was anticipated an order from the NRC, within a month to two months following the March 12 hearing, would identify the number of contentions that would be heard, and at that time, staff could determine the number of attorneys and expert witness that were needed as well as the costs.

Assemblywoman Leslie questioned whether the information had been communicated with the Budget Division staff and asked why the numbers were not included in The Executive Budget.

General Masto advised that discussion had not taken place during the budget building process and that the information had not been requested. However, General Masto advised that her staff had recently met with representatives of the Governor's Office and the Budget Division to discuss the contents of the memorandum from independent counsel and to provide a better understanding of funding needs.

Assemblywoman Leslie expressed the Committee's support but advised that a firm budget number was needed for consideration by the Legislature. Assemblywoman Leslie asked representatives of the Office of the Attorney General and analysts from the Budget Division and Fiscal Analysis Division to work together to determine the funding needs.

Assemblyman Hardy questioned whether the federal government was providing funding to the state to sue the federal government.

Ms. Adams explained that federal funding was provided for state oversight, which included a variety of functions including administrative litigation of licensing proceedings before the Nuclear Regulatory Commission.

Assemblyman Hardy asked whether a match or other conditions or restrictions were required for the provision of the federal funding.

Ms. Adams advised that she was "relatively" certain that approximately \$2,800,000 of the remaining \$5,000,000 allocation for oversight would be directed to the Office of the Attorney General in March 2009, at which time

legislative authorization to accept the funding would be requested. Ms. Adams indicated that current activities at the federal level could remove the need to request money from the Legislature. However, Ms. Adams said that in the meantime efforts could not be relaxed concerning ongoing obligations for the litigation.

General Masto also advised that a state match for the federal funding was not required.

Assemblyman Hogan pointed out that philosophically it was "appropriate and very important that a state be assisted in defending itself" during a federal imposition, such as the nuclear waste repository, to ensure full understanding of the interests of the state.

ELECTED OFFICIALS – ATTORNEY GENERAL - MEDICAID FRAUD (101-1037)
BUDGET PAGE ELECTED-70

Teri Sulli, Chief Financial Officer, Office of the Attorney General, testified that Budget Account 101-1037 supported the salary, benefits, travel, and operating costs for the Medicaid Fraud Control Unit (MFCU) and the Senior Medicare Patrol (SMP). Ms. Sulli advised that the budget specifically supported 15 Medicaid Fraud Control Unit full-time equivalent (FTE) positions and 2 Senior Medicare Patrol FTE positions.

Additionally, Ms. Sulli advised that 75 percent of the funding for the MFCU was received from Federal Title XIX receipts and 25 percent from recovery efforts, while 100 percent of the funding for the SMP was received from the Federal Administration on Aging.

As previously indicated, Ms. Sulli advised that decision unit E327, which recommended moving all unclassified law-enforcement investigator positions into the classified service, did not appear in The Executive Budget. Ms. Sulli reiterated that the Attorney General wanted to continue to pursue decision unit E327 since it was believed that approval would have little or no fiscal impact.

Ms. Sulli advised that decision units E670 to E673 requested temporary salary reductions, suspension of merit salary increases, suspension of longevity pay, and implementation of the Nevada Spending and Government Efficiency (SAGE) Commission recommendations for the 2009-2011 biennium.

Ms. Sulli reported that decision unit E710 requested replacement software and hardware for the MFCU and SMP consistent with Department of Information Technology's (DoIT) five-year replacement schedule.

Additionally, Ms. Sulli advised that decision units E720 and E721 requested new equipment for the Medicaid Fraud Control Unit investigators that included a security/evidence cage to store medical records and surveillance equipment including cameras, video-recording equipment, and battery packs.

Chair Arberry noted a reserve balance in the Medicaid Fraud Control Unit's budget and asked agency representatives to discuss plans to "spend down" the reserve.

Mark Kemberling, Chief Deputy Attorney General, Office of the Attorney General, advised that the reserve funding was received through recovery revenue obtained from the collection of penalties. Additionally, Mr. Kemberling

said that funding from the reserve had to be used exclusively for the Medicaid Fraud Control Unit's activity and benefits as well as for the 25 percent match required by the federal government. Mr. Kemberling indicated that funding could not be guaranteed and advised that the balance in the reserve would cover the match for the existing year as well as for future years. Mr. Kemberling explained that a change in the case mix might alter the volume of cases the MFCU could address and the results of the cases. Additionally, he said that many of the targets or perpetrators might not be in a position to pay fines, penalties, or costs at the end of the cases. Mr. Kemberling explained that certain cases could run the length of a year, and during that time, there would be no recoupment of funds.

Assemblywoman Leslie noted that, as previously reported by Ms. Sulli, the MFCU received 75 percent of its funding from federal Title XIX receipts. She indicated Title XIX funding appeared to be more certain than many other federal funding sources. Additionally, Assemblywoman Leslie indicated that a \$1.7 million reserve balance was projected and asked whether a small portion of the reserve, perhaps \$500,000, could be moved to the Medicaid budget (Division of Health Care Financing and Policy).

Mr. Kemberling advised that without prior federal authority, the agency was precluded under the provisions of the *Code of Federal Regulations*, Title 45, Part 92.5, subparagraph G, from using revenue from the reserve for any purpose other than for the MFCU's activity and benefit. Additionally, Mr. Kemberling pointed out that the MFCU was not supported by any revenue from the General Fund.

Assemblywoman Leslie asked agency representatives to provide the federal regulation information to the Committee's staff, and Mr. Kemberling agreed.

Assemblyman Hardy asked agency representatives whether fraud increased during uncertain times or decreased because of enforcement efforts.

Mr. Kemberling advised that the MFCU did not produce a graph that charted an increase or decrease in fraud. Mr. Kemberling explained that Medicaid covered numerous areas of health care and because the MFCU had a limited number of investigators and a finite amount of resources, investigators reviewed the "entire pie" of Medicaid provider services whether through institution, fee-for-service, or home-health care to establish a general case mix. Mr. Kemberling indicated that occasionally investigators might be able to focus on just one "piece of the pie" and, after determining an adequate job was accomplished, could move on to another piece, which he said did not allow for a stable across-the-board case mix. Mr. Kemberling indicated spikes and valleys were encountered depending on which areas of fraud the investigators were able to focus, and he said certain crimes that involved quality of care or a neglectful or abusive situation could be labor intensive and prevented the development of an accurate graph.

In response to additional questions Assemblyman Hardy asked concerning information from other states on national trends, Mr. Kemberling advised that agency representatives were in routine contact with other Medicaid Fraud Control Units throughout the nation and the National Association of Medicaid Fraud Control Units. Additionally, he said the agency worked with other trade associations and with representatives of the Division of Health Care Financing and Policy.

In response to Assemblyman Hardy, who asked whether the trend for fraud had increased in neighboring states or nationwide, Mr. Kemberling indicated he did not have that information.

Assemblywoman Buckley asked agency representatives to discuss their plans for utilization of the reserve funding assuming that the federal regulation precluded other use of the funds.

Catherine Cortez Masto, Attorney General, Office of the Attorney General, reiterated previous testimony concerning the necessity to ensure the availability of funding in future years for the federal match requirement and said that any revenue received through recovery efforts would be used to support the caseload.

Assemblywoman Buckley noted that the current fiscal year federal match requirement was \$300,000 and with a reserve balance projected at \$1.7 million, it appeared sufficient funding would be available for the federal match requirement for several years. Assemblywoman Buckley asked agency representatives to provide a plan for the reserve to the Committee's staff at the same time additional information concerning the nuclear waste repository was provided.

General Masto agreed to provide the information.

ELECTED OFFICIALS – ATTORNEY GENERAL - WORKERS' COMP FRAUD
(101-1033) BUDGET PAGE ELECTED-77

Teri Sulli, Chief Financial Officer, Office of the Attorney General, reported that Budget Account 101-1033 covered the Workers' Compensation Fraud Unit (WCFU), and the Insurance Fraud Unit (IFU), which monitored costs and investigated and prosecuted all "fraud committed in Nevada by employees, employers, or medical providers against insurance companies or self-insured employers."

Ms. Sulli advised that the budget currently supported the salary, benefits, travel, and operating costs for 27 WCFU full-time equivalent (FTE) positions and 10 IFU FTE positions. Ms. Sulli pointed out the elimination of the following 3 FTE positions in the base budget for the 2009-11 biennium:

- Two IFU FTE positions that included a deputy attorney general and an investigator were eliminated because of a lack of funding to support the positions.
- One WCFU FTE auditor position was eliminated in the base budget because of changes in WCFU work requirements.

Ms. Sulli reported that funding for the Workers' Compensation Fraud Unit was received from the Division of Industrial Relations, and unspent WCFU funds were reverted to the Division of Industrial Relations at the end of each fiscal year. Additionally, Ms. Sulli reported that funding was received from the Division of Insurance for the support of the IFU, and unspent IFU funds were carried forward from year-to-year to support the IFU needs. Ms. Sulli also mentioned that a small portion of the budget was covered by recoveries and charges for copies when applicable.

Ms. Sulli advised that decision unit E327 moved law-enforcement investigators from the unclassified to the classified service but was eliminated from

The Executive Budget. However, Ms. Sulli said that because there would be little or no fiscal impact, the Attorney General wanted to continue to pursue approval for decision unit E327.

Ms. Sulli reported that E670 through E673 requested salary reductions, suspension of longevity payments, and implementation of the Nevada Spending and Government Efficiency (SAGE) Commission recommendations.

Decision unit E710 recommended the replacement of software and hardware for the WCFU and the IFU consistent with the Department of Information Technology's approved replacement schedule.

Decision unit E720 recommended two new scanners to assist staff with their work.

Chair Arberry, noting the reduction in staff, asked whether the IFU could continue to perform its function without creating a backlog of cases.

Attorney General Catherine Cortez Masto expressed concern regarding the elimination of staff and that a backlog of cases would occur. However, General Masto indicated that the IFU positions could not be supported without funding and advised that a bill submitted to the 2007 Legislature to increase industry fees had not been approved.

Brian Kunzi, Senior Deputy Attorney General, WCFU and IFU, provided a brief history of funding for the IFU and recalled that an attempt to pass legislation several sessions ago to increase the assessment was vetoed. Mr. Kunzi indicated that the following session, another bill was submitted but was not approved. However, he said that sufficient reserve funds were available at the time to fund two investigators and one prosecutor position. Since then, a decline in revenue from the assessment levied against insurance companies had occurred because insurance companies had merged and fewer companies were being assessed. Additionally, Mr. Kunzi reported that 85 percent of the assessment was provided to the IFU and 15 percent went to the Division of Insurance for its investigative effort. Mr. Kunzi agreed that the lack of budgetary funds to support the positions would affect the IFU's ability to prosecute additional cases and would create a backlog of cases.

In response to Chair Arberry, who asked whether a bill draft request would be submitted to the 2009 Legislature, Mr. Kunzi advised that the industry supported additional funding for the Insurance Fraud Unit. Additionally, he pointed out that in early 2008, Governor Gibbons formed the Auto Theft and Insurance Fraud Task Force to address fraud and auto theft in Nevada, and a primary recommendation of the Task Force was to increase funding for the IFU. Mr. Kunzi indicated that any attempt to increase the assessment would be welcomed.

ELECTED OFFICIALS – ATTORNEY GENERAL - CONSUMER ADVOCATE
(330-1038) BUDGET PAGE ELECTED-83

Teri Sulli, Chief Financial Officer, Office of the Attorney General, reported that Budget Account 330-1038 monitored costs relating to the Bureau of Consumer Protection (BCP). The budget supported the salary, benefits, travel, and operating costs for 14 full-time equivalent (FTE) positions funded through an appropriation from the General Fund and 18.02 FTE positions funded through a utility mill assessment.

Ms. Sulli pointed out a change in fiscal year 2009 to the 2009-11 biennium with the E900 recommendation to transfer 2 FTE deputy attorneys general to Budget Account 1030.

Ms. Sulli advised that decision unit E327, which recommended moving all unclassified law-enforcement investigator positions into the classified service, did not appear in The Executive Budget. Ms. Sulli indicated that the Attorney General wanted to continue to pursue decision unit E327 since approval would have little or no fiscal impact on the budget.

Ms. Sulli next addressed decision unit E606, which recommended increasing budgeted vacancy savings to assist the agency in meeting the 14.12 percent budget reduction requirement.

Ms. Sulli reported that decision units E670 through E673 requested salary reductions, suspension of longevity payments, and implementation of the Nevada Spending and Government Efficiency (SAGE) Commission recommendations.

Ms. Sulli advised that decision unit E710 recommended replacement of software and hardware equipment consistent with the Department of Information Technology's approved replacement schedule for only those positions funded by the utility assessment.

As previously mentioned, Ms. Sulli advised that decision unit E900 recommended the transfer of two deputy attorneys general positions from Budget Account 1038, Consumer Advocate, to Budget Account 1030, Administrative Fund, Bureau of Criminal Affairs.

Assemblyman Denis discussed the Governors' recommendation to eliminate the Department of Business and Industry's Consumer Affairs Division and the suggestion that the Attorney General's Office provided services similar to those performed by the Consumer Affairs Division. Assemblyman Denis asked agency representatives to comment on whether the Bureau of Consumer Protection provided duplicate services.

Attorney General Catherine Cortez Masto explained that the Department of Business and Industry's Consumer Affairs Division and the Office of the Attorney General's Bureau of Consumer Protection worked well together and supported one another but had separate functions. General Masto advised that the Consumer Affairs Division processed consumer-driven complaints while the Bureau of Consumer Protection investigated and prosecuted cases of consumer fraud.

Ernest Figueroa, Consumer Counsel, Senior Deputy Attorney General, Bureau of Consumer Protection (BCP), advised that agency representatives went to great lengths to avoid duplicating the efforts of the Consumer Affairs Division. Mr. Figueroa reiterated the distinctions mentioned by General Masto by explaining that the Consumer Affairs Division processed individual consumer complaints at the administrative level, while the Bureau of Consumer Protection processed "pattern and practice cases" that involved a large number of citizens and a large amount of loss and either prosecuted on behalf of the state civilly or instituted criminal actions against particular companies or individuals.

Mr. Figueroa further advised that duplication of effort occurred because it was the mission of both the Consumer Affairs Division and the Bureau of Consumer Protection to educate Nevada consumers in ways to avoid dishonest schemes.

Assemblyman Denis asked whether, during the budget-building process, representatives of the Attorney General met with representatives of the Department of Administration or the Governor to discuss how elimination of the Consumer Affairs Division would affect the Bureau of Consumer Protection.

General Masto stated that no discussion concerning whether the elimination of the Consumer Affairs Division would affect the Bureau of Consumer Protection took place during the budget-building process.

Assemblyman Denis asked agency representatives to comment on why unfair/deceptive trade practice settlement funds were projected to "significantly" decline during the 2009-11 biennium.

Mr. Figueroa explained that the projections were based on litigated amounts for which there was no guarantee. Although strong successes had occurred in the past, Mr. Figueroa indicated that it was difficult to base projections on past success and that he preferred to use a conservative projection.

Chair Arberry noted that the Bureau of Consumer Protection anticipated a \$1.6 million reserve balance at the close of fiscal year 2011 and asked agency representatives to comment on any plans the agency had to spend down the reserve.

Eric Witkoski, Chief Deputy Attorney General, Bureau of Consumer Protection, testified that funding was received from an obligatory mill assessment on regulated utilities, which statutorily could only be used to fund the utility functions of the Bureau of Consumer Protection. Mr. Witkoski advised that the reserve funding would be used during "extraordinary circumstances" that required a large amount of resources. Additionally, Mr. Witkoski advised that during the last few years the mill assessment had been reduced from 0.65 to 0.60 to 0.50 mills. Mr. Witkoski indicated he could not guarantee that the Bureau of Consumer Protection could reduce the reserve, but advised that if an appropriation was taken from the reserve, a revision to *Nevada Revised Statutes* would be required.

In response to Chair Arberry, who asked agency representatives to comment on a desired reserve, General Masto asked to be permitted to provide a projection based on a historical analysis of the Bureau of Consumer Protection's average needs over the years. General Masto also advised that there "were no guarantees" since funding had to be available to support litigation.

Chair Arberry asked to have the information available to the Committee's staff by Friday, February 13, 2009.

Assemblyman Denis asked agency representatives to explain the Bureau's third performance indicator, which reflected that \$7,499,408 was collected for antitrust and deceptive trade practice settlements, but only \$1.3 million was projected for fiscal year 2009 and \$1.4 million for each year in the 2009-11 biennium.

Mr. Witkoski discussed the unpredictability of collections for antitrust and deceptive trade practice settlements and commented that although a settlement from a 2006 lawsuit against Sempra Energy collected \$30 million, \$25 million of the settlement was only now being sent to ratepayers and another case in 2007-08 with a \$15 million settlement provided \$5 million for the first year.

Assemblyman Hogan recalled previous testimony concerning the distinction between the Consumer Affairs Division resolving individual consumer complaints and the Bureau of Consumer Protection's identification of the "systemic nature of the violations." Assemblyman Hogan expressed concern about reducing assistance to consumers and pointed out that the Bureau of Consumer Protection's systemic approach was of great value especially during times of economic stress when citizens were being victimized by dishonest schemes. Assemblyman Hogan indicated that should the budget be adjusted, the Bureau of Consumer Protection should receive additional funding.

Chair Arberry noted that A.B. 95, concerning the investigation and prosecution of unfair trade practices, was referred to the Assembly Committee on Commerce and Labor. Chair Arberry indicated that if the bill was passed out of Commerce and Labor, it would be re-referred to the Assembly Committee on Ways and Means for a hearing.

ELECTED OFFICIALS – ATTORNEY GENERAL - CRIME PREVENTION
(101-1036) BUDGET PAGE ELECTED-90

Teri Sulli, Chief Financial Officer, Office of the Attorney General, reported that Budget Account 101-1036, the Crime Prevention/Missing Children's Unit, monitored costs relating to the Missing Children's Clearinghouse Unit and supported the salary, benefits, travel, and operating costs for 3 full-time equivalent (FTE) positions.

Ms. Sulli advised that the Crime Prevention/Missing Children's Unit received 83 percent of its funding from the General Fund and 17 percent from license plate fees deposited by the Department of Motor Vehicles.

Ms. Sulli reported that decision unit E327, which recommended moving all unclassified law-enforcement investigator positions into the classified service, did not appear in The Executive Budget. Ms. Sulli indicated that the Attorney General wanted to continue to pursue decision unit E327 since approval would have little or no fiscal impact on the budget.

Ms. Sulli reported that decision units E670 through E673 requested salary reductions, suspension of longevity payments, and implementation of the Nevada Spending and Government Efficiency (SAGE) Commission recommendations.

Chair Arberry noted that 17 percent of the Unit's funding was received from the sale of "missing and exploited children license plate revenue" and asked whether activities such as public service announcements to encourage the sale of license plates had occurred.

Attorney General Catherine Cortez Masto advised that no funding had been expended to encourage the sale of license plates.

Chair Arberry asked whether there were future plans to conduct public outreach efforts to encourage license plate sales.

General Masto indicated that activities to promote the sale of license plates would be reviewed to address funding shortages.

ELECTED OFFICIALS – ATTORNEY GENERAL - TORT CLAIM FUND (715-1348)
BUDGET PAGE ELECTED-95

Teri Sulli, Chief Financial Officer, Office of the Attorney General, reported that Budget Account 715-1348, the Attorney General Tort Claim Fund, monitored costs relating to the State of Nevada tort claims and supported the salary benefits, travel, and operating costs for 2 full-time equivalent (FTE) positions.

Ms. Sulli reported that the State of Nevada was self-insured for tort claims, and the Fund for Insurance Premiums, established for the payment of tort claims, was an internal-service fund financed by premiums assessed to state agencies, boards, and some counties. Ms. Sulli advised that the size of the fund was determined by a biannual actuarial report based on the state's claims history. Additionally, Ms. Sulli explained that state agencies were each billed a premium based on the number of full-time equivalent positions legislatively assigned to each agency, which was the general liability, and the number of automobiles owned by the agency, which was the auto liability, and the agency's claims history.

Ms. Sulli reported that decision units E670 through E673 requested salary reductions, suspension of longevity payments, and implementation of the Nevada Spending and Government Efficiency (SAGE) Commission recommendations.

Ms. Sulli also advised that decision unit E710 recommended replacement of software and hardware equipment consistent with the Department of Information Technology's replacement schedule.

Chair Arberry asked whether there were potential large claims pending that would require use of funding from the reserve.

Attorney General Catherine Cortez Masto advised that without going into specifics and breaching confidentiality, a potential large settlement was anticipated.

Stan Miller, Tort Claims Manager, Office of the Attorney General, confirmed that a large case was currently being negotiated. Mr. Miller advised that he had attended a settlement conference two weeks ago, and a continuation of that conference would be held on Friday, February 13, 2009. Mr. Miller indicated that he expected to attend the next Interim Finance Committee meeting to request a transfer of funding from the reserve. Mr. Miller advised that a settlement would be in the seven-figure range. However, he said that if a settlement was not reached, the case would go to trial on April 2, 2009, and the possibility existed for an adverse judgment against the state for millions of dollars.

Chair Arberry asked whether the reserve level was adequate to meet the anticipated needs of the agency.

Mr. Miller advised that the reserve was adequate unless the case currently being negotiated went to trial and ended in a large judgment against the state.

ELECTED OFFICIALS – ATTORNEY GENERAL - EXTRADITION COORDINATOR
(101-1002) BUDGET PAGE ELECTED-100

Teri Sulli, Chief Financial Officer, Office of the Attorney General, reported that Budget Account 101-1002, Extradition Coordinator, monitored costs that related to the Uniform Criminal Extradition Act and supported the salary, benefits, travel, and operating costs for 2.51 full-time equivalent positions.

Ms. Sulli advised that Budget Account 101-1002 received approximately 90 percent of its funding from the General Fund and 10 percent from recoveries.

Ms. Sulli also advised that decision unit E660 recommended a 14 percent reduction to the Extradition Coordinator budget based on the fiscal year 2009 legislatively approved appropriation of \$687,208, which equated to a reduction of \$97,464 per year.

Ms. Sulli reported that decision units E670 through E673 requested salary reductions, suspension of longevity payments, and implementation of the Nevada Spending and Government Efficiency (SAGE) Commission recommendations.

Chair Arberry questioned whether the budget reduction to the Extradition Coordinator's budget was realistic.

Attorney General Catherine Cortez Masto, Office of the Attorney General, advised that if the need arose for additional extraditions during the course of the year, the unbudgeted extradition costs would be requested from the Reserve for the Statutory Contingency Fund.

In response to Chair Arberry, who asked whether this budget reduction could be considered an actual reduction, General Masto advised that one could look at the reduction in terms of reducing costs related to extraditions with the expectation that future extradition costs would not be required.

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, advised that \$571,941 was expended in fiscal year 2008, and the Governor's recommended budget included \$474,477 and \$471,211 respectively in each year of the 2009-11 biennium. Mr. Stevens indicated that approximately \$100,000 was the recommended reduction for the General Fund in each year of the biennium.

Mr. Stevens said that while it appeared as though there was a General Fund reduction, simply requesting that the Statutory Contingency Fund pay for unbudgeted extradition costs incurred during the biennium meant nothing more than "pushing money around," since the funds from the Statutory Contingency Fund would have to be replenished.

Assemblyman Denis noted that it appeared the collection of extradition costs was difficult and asked whether the agency was aware of other states that had successful collection practices.

General Masto indicated that while she was not aware of other states' collection practices, representatives of the Office of the Attorney General were working with Justice James Hardesty, Chair of the Advisory Commission on the Administration of Justice, on ways to recoup extradition costs from defendants. Additionally, General Masto indicated that her office was also working with the

State Controller on proposed legislation concerning collections from courts and judicial proceedings.

In response to questions Assemblyman Denis asked concerning the problems involved in collecting extradition costs, General Masto indicated that while perhaps a better job could be done administratively, debtors were often unemployed with judgments that included drug assessment, counseling, restitution, and court-ordered fees and were often without resources to pay the extradition costs.

ELECTED OFFICIALS – ATTORNEY GENERAL - COUNCIL FOR PROSECUTING ATTORNEYS (101-1041) BUDGET PAGE ELECTED-105

Teri Sulli, Chief Financial Officer, Office of the Attorney General, reported that Budget Account 101-1041 monitored costs related to the Advisory Council for Prosecuting Attorneys and supported the salary, benefits, travel, and operating costs for 1 full-time equivalent position.

Ms. Sulli advised that the Advisory Council's budget was funded primarily through administrative assessments pursuant to *Nevada Revised Statutes* (NRS) 176.059 and \$100 a year from the General Fund and, with additional authority, pursuant to NRS 241A.090 could receive grant funds.

Ms. Sulli reported that decision units E670 through E673 requested salary reductions, suspension of longevity payments, and implementation of the Nevada Spending and Government Efficiency (SAGE) Commission recommendations.

Ms. Sulli reported that decision unit E710 requested replacement software and hardware consistent with the Department of Information Technology's (DoIT) replacement schedule.

ELECTED OFFICIALS – ATTORNEY GENERAL - VICTIMS OF DOMESTIC VIOLENCE (101-1042) BUDGET PAGE ELECTED-110

Teri Sulli, Chief Financial Officer, Office of the Attorney General, reported that Budget Account 101-1042 monitored costs related to the Domestic Violence Ombudsman, the Committee on Domestic Violence, and the Domestic Violence Council. Ms. Sulli advised that the Victims of Domestic Violence budget supported the salary, benefits, travel, and operating costs for 1 full-time equivalent position.

Ms. Sulli pointed out a change from fiscal year 2009 to the 2009-11 biennium because of the elimination of 1 FTE administrative assistant 4 position.

Ms. Sulli advised that in previous years funding for the Victims of Domestic Violence budget account was received from the Stop Violence Against Women Formula Grant (STOP), Grants to Encourage Arrest Policies Program (GEAP), and district court assessment fees pursuant to NRS 200.485. Ms. Sulli said that because of limited grant funds and decreased availability of district court assessment fees, it was recommended that the ombudsman position be totally funded by the General Fund. Ms. Sulli advised that the Department of Administration would be submitting a bill draft request to establish authority for the Victims of Domestic Violence account to receive court administrative assessment fees pursuant to *Nevada Revised Statutes* (NRS) 176.059 in support of the ombudsman costs.

Ms. Sulli reported that decision unit E606 recommended eliminating one administrative assistant 4 full-time equivalent position, and decision units E670 through E673 recommended salary reductions, suspension of longevity payments, and implementation of the Nevada Spending and Government Efficiency (SAGE) Commission recommendations.

Additionally, Ms. Sulli stated that decision unit E680 related to previous testimony concerning establishing authority for the Victims of Domestic Violence account to receive funds in support of the Ombudsman costs.

Assemblywoman McClain expressed concern regarding the new revenue source and asked for information on when the bill draft request was submitted and whether administrative assessments from municipal ordinances could be used to support the budget.

Stephanie Day, Deputy Director, Department of Administration, advised that representatives of the Department of Administration would submit a bill draft request around February 20, 2009, to revise NRS 176.059 to include the Victims of Domestic Violence budget account. Additionally, Ms. Day advised that use of court assessment fees had been investigated and was determined to be appropriate.

Assemblywoman McClain asked how the mission of the Victims of Domestic Violence budget could be accomplished if the legislation was not approved.

Attorney General Catherine Cortez Masto advised that the ombudsman for the Victims of Domestic Violence budget could not be supported without funding.

Assemblyman Hogan asked whether there were any prospects for replacement grant funding.

Ms. Sulli advised that grant applications were pending for the GEAP grant and a rural grant, but the grants contained only limited funding for the ombudsman. Additionally, Ms. Sulli pointed out that funding for the ombudsman provided through the STOP grant was based on a competitive process. Ms. Sulli further advised that funding awards for the GEAP and the rural grant were uncertain until October 2009 when the grants were awarded.

ELECTED OFFICIALS – ATTORNEY GENERAL - VIOLENCE AGAINST WOMEN
GRANTS (101-1040) BUDGET PAGE ELECTED-115

Teri Sulli, Chief Financial Officer, Office of the Attorney General, reported that Budget Account 101-1040 monitored costs related to the Violence Against Women Grant and supported the salary, benefits, travel, and operating costs for 3.75 full-time equivalent (FTE) positions.

Ms. Sulli advised that Budget Account 101-1040 was funded by the Violence Against Women Formula Grant and while applications had been made for other grants, funding awards were uncertain until September or October 2009 when the grants were awarded.

Ms. Sulli reported that decision units E670 through E673 requested salary reductions, suspension of longevity payments, and implementation of the Nevada Spending and Government Efficiency (SAGE) Commission recommendations.

Ms. Sulli advised that decision unit E710 requested replacement software and hardware consistent with Department of Information Technology's (DoIT) replacement schedule.

Assemblywoman McClain asked whether representatives of the Office of the Attorney General could provide any information concerning the Elder Justice Act at the federal level.

General Masto indicated that she was not aware of any activity at the federal level concerning the Elder Justice Act.

Hearing no further questions from the members of the Committee, Chair Arberry adjourned the hearing at 9:50 a.m.

RESPECTFULLY SUBMITTED:

Connie Davis
Committee Secretary

APPROVED BY:

Assemblyman Morse Arberry Jr., Chair

DATE: _____

<u>EXHIBITS</u>			
Committee Name: <u>Committee on Ways and Means</u>			
Date: <u>February 11, 2009</u> Time of Meeting: <u>8 a.m.</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Guest List
	C	Catherine Cortez Masto, Attorney General	Budget Presentation 2009-2011 Biennium
	D	Catherine Cortez Masto, Attorney General	February 3, 2009 Memorandum from Martin G. Malsch, Esq.; John W. Lawrence, Esq., Charles J. Fitzpatrick, Esq.