

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

**Seventy-Sixth Session  
March 7, 2011**

The Committee on Ways and Means was called to order by Chairwoman Debbie Smith at 8:06 a.m. on Monday, March 7, 2011, 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/76th2011/committees/](http://www.leg.state.nv.us/76th2011/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](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

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

**STAFF MEMBERS PRESENT:**

Rick Combs, Assembly Fiscal Analyst  
Mike Chapman, Principal Deputy Fiscal Analyst  
Connie Davis, Committee Secretary  
Cynthia Wyett, Committee Assistant

**OFFICE OF THE GOVERNOR**  
**GOVERNOR'S OFFICE ENERGY CONSERVATION (101-4868)**  
**BUDGET PAGE ELECTED-30**

**RENEWABLE ENERGY & ENERGY EFFICIENCY AUTHORITY (101-4869)**  
**BUDGET PAGE ELECTED-41**

Chairwoman Smith recognized Stacey Crowley, Director of the Office of Energy (NSOE), who was accompanied by Stephanie Brooks, Deputy Director of NSOE and Evan Dale, Administrator, Administrative Services Division. Ms. Crowley provided an overview of budget account (BA) 4868 through a PowerPoint presentation ([Exhibit C](#)).

Ms. Crowley explained that NSOE currently employed 14 staff with 1 position assigned to the Renewable Energy and Energy Efficiency Authority (REEEA). Many of the American Recovery and Reinvestment Act of 2009 (ARRA) programs were carried through fiscal year 2012, and with a few exceptions, by fiscal year 2013 there would be only nine staff remaining.

Slide 3 of the exhibit outlined the current NSOE programs. Ms. Crowley elaborated on each of the programs as follows:

- EECBG – The Energy Efficiency Community Block Grant had \$4.1 million given to cities and \$2.3 million given to counties for energy efficiency, energy conservation projects, and development of renewable energy systems. The projects were currently underway and should be completed by April 2012.
- SEP ARRA – The State Energy Program (SEP) American Recovery and Reinvestment Act (ARRA) was a Department of Energy (DOE) program that provided annual funding to each of the energy offices of the state, but was set up specifically to use ARRA funds. The program began in 2009.
- NRI – The Nevada Retrofit Initiative was a new \$5 million grant to strengthen Nevada's residential building retrofit market. The program linked energy auditors, contractors, and financing partners to assist homeowners in understanding where they could take energy efficiency initiatives.
- Energy Assurance Grant – This grant was through the Department of Energy (DOE). Through the program NSOE developed an energy

assurance plan that included strategies for monitoring and overseeing energy demands, supply, and emergency preparedness.

- Revolving Loan Fund – This fund was \$9.2 million that stemmed from the ARRA grants to provide short-term, low interest loans to developers of renewable energy projects in Nevada. The NSOE was in the midst of expanding the program to include energy efficiency, conservation, and renewable energy manufacturing projects. To date, 100 percent of the funds were loaned out. Interest and principal would be returned to NSOE within the coming months.
- Business Development – This was a contract in collaboration with the Commission on Economic Development (NCED) and the Nevada Institute for Renewable Energy Commercialization (NIREC). The purpose was to identify resources in the state that enhanced renewable energy business development in Nevada at a sustainable level. This was a new program.
- NEAC – The Nevada Energy Assistance Corporation (NEAC) was a nonprofit established by the Legislature in 2009. Over the past two years, the NEAC had gone through the functions of creating the nonprofit 501(c)(3) board and establishing missions and goals. Through NSOE, the NEAC was given a grant to look at transmission issues.
- Green Building Incentives – This program had been underway for several years. The program was a partial abatement of taxes on buildings that met the Leadership in Energy and Environmental Design (LEED) standard. The abatement was for ten years and ranged from 25 percent to 35 percent, depending on the level of LEED certification received.
- State-Owned Buildings Program – The NSOE was working with the Department of Administration, Buildings and Grounds Division, to identify the energy consumption for each of the nearly 3,000 state-owned buildings. This was a grant through the DOE that would assist NSOE in meeting its goal of reducing grid-based energy purchases for state-owned property by 20 percent by 2015.

On slide 5, Ms. Crowley noted activities that were not necessarily grant-funded but were set by legislative policy. These activities included:

- The promotion and solicitation of energy-related companies for economic development purposes. This was accomplished by collaborating with the Commission on Economic Development and other local economic development authorities as warranted.

- Providing legislative policy review, coordination, and evaluation as required.
- Actively seeking and collaborating on grants for sustainable programs. This was an area of high priority for NSOE, and a full-time position was maintained for this purpose.
- Promoting renewable energy export in the regional market that was accomplished through a position on boards and committees at the regional level. Generally, the boards and committees dealt with renewable energy and transmission issues in western states.

Ms. Crowley announced that NSOE was proposing to merge with the Renewable Energy and Energy Efficiency Authority (REEEA). Until the legislative body confirmed the merger, she would remain the Acting Nevada Energy Commissioner of REEEA, created under Senate Bill No. 358 of the 75th Session (2009) and Assembly Bill No. 522 of the 75th Session (2009). The primary objective of REEEA was to promote, fund, and administer programs that developed the use of renewable energy resources and that conserved or reduced energy demand. She believed this mission was in line with NSOE. The merger would eliminate duplications and consolidate efforts.

The merger, according to Ms. Crowley, would provide the state a savings of \$575,833 for the 2011-2013 biennium. The merger would eliminate three positions. Although these were not General Fund dollars, the money would go to other agencies to be used for other programs.

Chairwoman Smith requested Ms. Crowley work with legislative staff to clarify how the savings would be achieved through the merger.

On slide 7, Ms. Crowley outlined the REEEA programs, which included:

- Renewable Energy Tax Abatement
- Energy Efficient Light Standards
- 2009 International Energy Conservation Code
- Evaluation of Residential Property Energy Consumption

The fiscal year 2012 and fiscal year 2013 staffing requirements for NSOE were listed on pages 8 and 9 of [Exhibit C](#). Ms. Crowley noted that one position was vacant, but she was in the process of recruiting for that position. In fiscal year 2013 there would be staff reductions because the ARRA funds would expire.

Slide 10 listed the revenue sources of NSOE. A small portion of General Funds were used for salary and fringe benefits for the Director, deputy director, and the management analyst 2. Additional sources of revenue included federal ARRA funds, the Nevada Retrofit Initiative (NRI) grant, the State Energy Program (SEP) formula grant, the REEEA real property tax abatement program, and Nevada energy rebates. Ms. Crowley anticipated the SEP formula grant would be reduced or eliminated, which was a cause for concern because the grant had consistently been an annual funding source for NSOE.

Ms. Crowley discussed the expenditure allocations as indicated on pages 12 and 13 of [Exhibit C](#), noting the expenditures were standard operating costs.

In response to Assemblyman Hickey, Ms. Crowley explained that the proposed new language for the program for evaluating residential property energy consumption was not coming out of NSOE. She supposed that there were issues with that type of audit. Currently, there was no defined technology for the energy audit. She believed there would be an understanding of the components of an energy audit to ensure consistency across the state. There was an existing form that the residential seller must complete that identified energy usage for the past 12 months. It had been discovered that because of the numerous foreclosures, many of the homes had not been occupied for several months and gathering the information had been difficult. Ms. Crowley indicated that while other issues could surface, those were the ones she was aware of.

Assemblywoman Carlton recalled the Renewable Energy Tax Abatement program. She believed this to be a misnomer as the land would not have been taxed from the beginning; therefore, she was unclear how there could be tax dollars associated with the land. She requested Ms. Crowley provide additional information on the program.

Ms. Crowley explained that the Renewable Energy Tax Abatement program applications submitted included some information regarding the capital investment for projects. In some cases, without the tax abatement these projects could never happen. When NSOE reviewed the applications they looked at the estimated capital expenditures, such as equipment purchases and construction costs. Through fiscal notes from the Department of Taxation and the Budget Division, NSOE would determine what the estimated abatement of the taxes would be. There had been an approximate 10:1 ratio of the capital cost expended to the taxes abated. This gave companies incentive to undertake projects that would otherwise be cost-prohibitive.

Assemblywoman Carlton was aware there were many grants for green energy projects through S.B. No. 152 of the 75th Session (2009) and wanted to know whether NSOE planned to collaborate with the Department of Employment, Training and Rehabilitation (DETR) or other groups who received grant funds to avoid duplication of effort.

Ms. Crowley stated that NSOE had been working with DETR and the Department of Business and Industry (B&I). A portion of the energy audit training had been through DETR and B&I funding sources. Moving forward, NSOE was looking at gaps in job training for green energy. When the energy audit program was refined, she believed there could be a new energy audit program that would require additional training.

In response to Chairwoman Smith's question regarding the status of the appliance rebate program, Ms. Crowley advised that 100 percent of the money had been expended. Additionally, Chairwoman Smith requested a report of LEED and what projects made the certification and the outcome. Ms. Crowley commented that NSOE had made a short presentation to the Assembly Committee on Taxation regarding this issue and would be able to provide the information to staff.

Assemblyman Bobzien requested additional information on the REEEA merger and whether any programs would experience major cutbacks because of the merger.

Ms. Crowley explained that no programs were scheduled to be reduced or eliminated as a result of the merger. The Energy Efficient Light Standards program had been on hold, but the process of developing regulations would not be restricted because of the merger. In addition, two task forces, the State and Local Government Panel and the New Energy Industry Task Force, were scheduled to stay in play and work through NSOE.

Ms. Crowley addressed Assemblyman Bobzien's concern regarding the hold on the energy efficient light bulbs program, stating that she would return at a later date to give him an update on the program.

Assemblyman Bobzien asked how many entities had been approved for the tax abatements previously discussed and whether the state had a database of the proposed projects, regardless of whether or not the abatements would be pursued.

Ms. Crowley responded that there were a variety of sources from which NSOE garnered its information. If the entities did not go directly through NSOE to apply for the renewable energy tax abatements, NV Energy and the Bureau of Land Management, for example, had lists of proposed projects NSOE could access. She would provide an updated abatement project list to the Committee.

Regarding the solar generation rebates, Chairwoman Smith asked whether NSOE was involved with the enforcement of the provisions under which individuals would receive the rebates.

According to Ms. Crowley, NSOE was not responsible for the enforcement of that rebate program.

Since the Nevada Retrofit Initiative (NRI) program and the ARRA grant expired on April 30, 2012, Chairwoman Smith inquired why the two positions funded by this grant would not be terminated until fiscal year 2013.

Ms. Crowley explained that although the ARRA grant ended in April 2012, the NRI program would not terminate until the end of 2013.

Chairwoman Smith requested Ms. Crowley meet with staff to clarify some confusion regarding the positions in question. She next moved to the management analyst 2 position which was unfilled. She asked who had been managing the revolving loan fund while the position had been vacant.

Ms. Crowley clarified that the energy program manager had been managing the fund along with auxiliary staff. At the present time, the fund required very little management because all of the money had been awarded. Once the principal and interest was returned to NSOE, a request for proposal (RFP) would be developed for additional projects. At that time, additional staff would be required.

Chairwoman Smith noted that Ms. Crowley indicated that the criteria for the revolving loan fund could be expanded, but she was curious to know why it would be expanded when the money had been spent.

Because of the success of the program, Ms. Crowley believed the program could become long-term. If NSOE could loan out the money and get an interest return of 3 percent and move other monies into the program, the fund would grow and allow other large, energy efficient projects to come into the state.

Moving to the outreach coordinator position, Chairwoman Smith asked Ms. Crowley to discuss the delay in establishing the position and the questioned

funding to support the position during the 2011-2013 biennium. The position had been approved by the Interim Finance Committee (IFC) to work with the NRI grant.

Ms. Crowley explained that the existing outreach coordinator could manage both tasks. The existing coordinator worked on some of the ARRA projects, including the community block grants, the SEP ARRA programs, and the NRI grant.

Further clarifying, Assemblyman Conklin stated that this would mean instead of two outreach coordinators as contained in the budget, there would only be one coordinator working all of the programs.

In response to Chairwoman Smith, Ms. Crowley described the methodology used by NSOE to justify restoration of the three outreach coordinator positions in decision unit Enhancement (E) 490. The positions would administer the interest from the revolving loan fund, which would also fund the positions. The duties of the positions would be to seek future projects to be funded and to manage the program. The ARRA funding guidelines were specific regarding the management of the programs. Ms. Crowley suggested meeting with staff to finalize the necessary funding required for the positions.

Assemblyman Conklin asked whether enough interest payment revenue had been received to cover the costs of the positions in E490 and whether the revenue flow could be ensured to maintain the positions.

Ms. Crowley believed that the revenue would be sufficient because of the manner in which the money had been budgeted. There was no plan to use all of the accumulated interest. There was an average loan amount put forth, and the plan was to release funds on a regular schedule to ensure consistency in anticipation of the return of principal and interest.

Moving forward to E606 and E690, Chairwoman Smith requested Ms. Crowley provide information regarding changes that had occurred in the SEP grant that reduced the workload enough to warrant elimination of the positions.

Ms. Crowley explained that the renewable energy analyst position in E606 worked on the state-owned buildings and school energy retrofits and renewable energy projects. It was anticipated that by the time the ARRA funds ran out, the work would be completed; therefore, there would no longer be a need for the position. At this time she was not aware of any future grant funds that could be used to support the position.



In regard to the program manager position in E690, Ms. Crowley advised that the position was eliminated because of the expiration of ARRA grant programs and NSOE budget cuts. She intended to seek additional funding for the position, but at this time none was available. Because the position was currently filled, there would be a layoff associated with the position when it was eliminated at the end of fiscal year 2012. Ms. Crowley would be meeting with legislative staff to discuss the associated costs of the elimination.

In response to Assemblyman Aizley, Ms. Crowley explained that although it appeared in budget documents that NSOE was using the grant money, in fact the money had been granted to subgrantees for various projects. The NSOE managed the reporting of the money and the missions of the programs.

Chairwoman Smith agreed that it was difficult for the Committee to track the full-time equivalent (FTE) positions because of various forms of funding for the positions.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division of the Legislative Counsel Bureau, explained that the full-time equivalent (FTE) positions for the work program year (fiscal year 2011) and the upcoming two years of the biennium eliminated the positions relative to the expiration of the funding source. If a position was eliminated during the fiscal year, it would not show as eliminated until the start of the next fiscal year. The reason for the significant increase in funding in fiscal year 2011 was because of the ARRA funds. Going forward, the ARRA funds were no longer available on a large scale in fiscal year 2012 and fiscal year 2013, accounting for the significant drop in FTE.

Chairwoman Smith requested Ms. Crowley move forward to a discussion of tax abatement program revenues and the methodology used to determine how much of the revenue should be used for operating expenses as described in decision unit E900.

Evan Dale, Administrator, Administrative Services Division, Department of Administration, explained that E900 transferred the necessary expenses and reserves from budget account 4869 into budget account 4868. Before the transfer took place, the expenses that could have been eliminated because of the merger were eliminated and transferred into reserve in budget account 4869. With the transfer came the revenues from the property tax abatement program, expense items expected to continue in budget account 4868, and resulting reserves from the budget cuts.

Chairwoman Smith asked whether a reserve was created only because of the transfer and whether a reserve would be needed in the future.

Mr. Dale was not able to comment on future plans for the reserves. The transferred-in revenues exceeded the transferred-in expenses by \$305,667 in the first fiscal year and \$424,841 in the second fiscal year for a total of \$730,508 for the biennium. The majority of the excess revenue was related to the property tax abatement program revenue. The reserves consisted primarily of those property taxes. The expenses for the property tax abatement program in budget account 4868 had not yet been determined. In budget account 4869 there was an analysis of the planned contracts and expenses that should have been moved forward. As positions were eliminated in budget account 4869, any connected expenses were also eliminated. The remaining expenses were considered necessary to provide support for the government panels and the renewable energy industry work group.

Ms. Crowley further explained that in terms of functionality, the renewable energy tax abatement program money was not used to fund positions in the existing budget. She believed this was an important tool that could be used to ensure continuation of the program. From that point forward, NSOE wanted to use a portion of the tax abatement program revenues to fund positions. A renewable energy fund, as defined in statute, would be created to house the 25 percent of the 45 percent the NSOE received. The Director would be allowed to use those monies as needed. As requested by Chairwoman Smith, Ms. Crowley would be willing to work with staff to verify the numbers.

Mr. Combs noted that because of the proposed merger and the elimination of budget account 4869 along with three positions, he requested a meeting with Ms. Crowley to work out budget details.

Assemblyman Bobzien believed it was necessary to further discuss the transfer and the consumers currently served through REEEA. He was curious to learn whether there was the potential for confusion and if NSOE anticipated any problems. Additionally, he asked whether NSOE was confident their office could absorb this workload.

Ms. Crowley responded that to acknowledge that NSOE was taking on REEEA responsibilities as of July 1, 2011, the website had been updated and press releases were issued to notify the public. As statute was written, all of the applications for the Renewable Energy Tax Abatement program had gone through NSOE and were then forwarded to REEEA. Therefore, the contacts had remained. As far as the Residential Energy Audit, NSOE had been housing one of the REEEA staff who worked on the adoption of the 2009 code. This had

ensured successful communication. The NSOE was reviewing staff workload and responsibilities to ensure that all programs were receiving adequate coverage without overloading staff.

**OFFICE OF THE GOVERNOR**  
**RENEWABLE ENERGY, EFFICIENCY AND CONSERVATION LOAN (101-4875)**  
**BUDGET PAGE ELECTED-48**

Moving to budget account (BA) 4875, Chairwoman Smith questioned the payment of escrow costs for the borrowers on the revolving loan account. Traditionally, escrow costs were paid by the borrower in addition to the loan amount. She was under the impression the costs were now being paid from the interest on the loans, but wondered whether the borrowers could pay instead.

Robert Nellis, Energy Program Manager for the Revolving Loan Program for the Office of Energy (NSOE), testified that NSOE had looked into that option and believed that could be put into place. He was uncertain whether legislative action was required.

Chairwoman Smith agreed that would be a good course of action and requested Mr. Nellis put procedures in place. She also requested clarification on the amount of money available for expenditure and the amount of money that had been awarded. It appeared that \$9.85 million was granted in fiscal year 2011; however, the expenditure authority in the account for fiscal year 2011 was \$9.2 million.

Stacey Crowley, Director of the Office of Energy (NSOE), explained that there were projects approved through the Interim Finance Committee (IFC) for funding, but the Office was waiting for the appropriate funding sources. The NSOE had sought preapproval from IFC so that when the funds were available to be moved into the loan, the projects could be funded.

Chairwoman Smith requested Ms. Crowley meet with staff to examine the methodology used to determine the amount of money available for the projects.

Additionally, Chairwoman Smith inquired whether a bill draft had been prepared to deal with the issue of using interest income for administrative costs. The Committee was unsure whether that was allowed by statute.

Ms. Crowley believed it was in statute that the Director of NSOE had the ability to administer the fund as needed. There had been confusion and a bill draft had been prepared and submitted. The bill, Senate Bill 60, was recently approved by the Senate Committee on Commerce, Labor and Energy.

Chairwoman Smith advised that with the merger and loss of funding, the budgets for NSOE were difficult to understand. She requested Ms. Crowley put together a brief overview of the full-time equivalent (FTE) positions in NSOE showing the positions that would be kept and the positions that were scheduled for elimination.

In Ms. Crowley's presentation, she mentioned state-owned properties and the retrofit. Chairwoman Smith asked for a brief update on the issue.

Ms. Crowley explained that on March 1, 2011, the Board of Examiners (BOE) approved the Master Services Agreement (MSA) which was a contract with GA-SNC Solar LLC. The contract was a commitment to move forward with up to 55 state-owned sites to look at renewable energy installation projects on those sites and to develop a program, cost estimate, and proposal for a Power Purchase Agreement (PPA) for certain state agencies. There were 10 agencies involved in the MSA. The PPA would be reviewed by each agency, by NSOE, and by other experts with an understanding of utility rates. If favorable, the PPAs would be formalized and approved through the BOE and other processes. There was a potential for 28 megawatts for various sites throughout the state. The sites generally included rooftops, parking structure overhangs, and solar arrays on the ground.

In response to Chairwoman Smith, Ms. Crowley noted that meetings and discussions in regard to the MSA were underway.

Chairwoman Smith asked for assurances that power costs would not increase and suggested the contract contain that stipulation.

Ms. Crowley assured Chairwoman Smith that it was written into the contract, which had been delayed nearly three months giving NSOE time to investigate the issue. It was hoped that with the resources available, NSOE could adequately evaluate each of the power-purchase agreements to ensure that would be the case.

Chairwoman Smith asked what the benefit of the program would be if the power charges remained the same.

Ms. Crowley responded that it would reduce the fossil fuel use at state-owned facilities, assist with the goal of reducing grid-based power purchases by 20 percent by 2015, and make the state less reliant on the volatility of the fossil fuel market. The PPA sets a flat rate over 20 years with an escalation rate to be determined at each site.

Patty Wade, President of Wade Development Company, Inc. provided comments regarding the revolving loan fund noting that she worked closely with NSOE. The real point of the revolving loan fund, in her opinion, was allowing companies to be launched in Nevada that created hundreds of jobs. Two examples of companies relocating to Nevada as a result of the revolving loan program administered through NSOE were Avatar Energy and Berken Energy. Avatar Energy would have 400 jobs available and Berken Energy estimated 150 jobs to start, with 500 to 600 jobs estimated for the future. Both of the companies would be a good opportunity for Nevada.

Chairwoman Smith commented that everyone must remember that it was necessary to have staff to make things happen and to leverage dollars to bring in more money.

Ms. Wade agreed and expressed her support of the revolving loan program for the state. She believed that many individuals in the private sector would be willing to also express their support if the Committee desired.

There being no additional questions or comments, Chairwoman Smith closed the hearing on this budget account.

**JUDICIAL BRANCH**  
**JUDICIAL DISCIPLINE (101-1497)**  
**BUDGET PAGE JUDICIAL-51**

Chairwoman Smith opened the hearing on budget account (BA) 1497, and recognized David F. Sarnowski, Esq., General Counsel and Executive Director of the Commission on Judicial Discipline and the Standing Committee on Judicial Ethics and Election Practices. Mr. Sarnowski was accompanied by Douglas Jones, Chair, Commission on Judicial Discipline, and Kathy Schultz, retired state employee. Mr. Sarnowski provided an overview of BA 1497, which financed the operations of both entities and submitted [Exhibit D](#), a copy of the slide presentation.

Mr. Sarnowski testified that the Commission operated with two full-time employees and one half-time employee who operate under the state furlough program. The budget under consideration would, if approved at the Governor's recommended budget level, add funding for an additional position. The position was authorized by the 2009 Legislature but not filled because of budget constraints.

Mr. Sarnowski provided an overview of the Commission on Judicial Discipline noting that it was established by the *Nevada Constitution* and consisted of lay members appointed by the Governor, district judges and justices of the peace appointed by the Supreme Court, and lawyers appointed by the State Bar of Nevada. He provided information on the functions of the Commission.

Mr. Sarnowski explained that because of the unpredictability of cases, the budget needs for the Commission could be high or low depending on the investigative dollars required. Occasionally, it was also necessary to hire special counsel to present evidence to the Commission to determine whether or not a judge had violated the Code of Conduct and, if so, what disciplinary action must be taken.

Douglas Jones, Chair, Commission on Judicial Discipline, noted it had been a pleasure to serve on the Commission. He agreed with Mr. Sarnowski, that it was not possible to predict when a high-profile case would come before the Commission, and therefore, it was impossible to predict the budgetary needs.

Chairwoman Smith noticed there had been no public hearings held in fiscal year 2010. She also questioned the need for increased investigation and legal counsel services.

Mr. Sarnowski explained that an on-going case for former Judge Elizabeth Halverson had precipitated the need for the increase in investigation and legal services. It had been nearly three years since the case was filed, and there was no way of knowing when the funds would be needed. As far as the public hearings, there was one on the current schedule to adjudicate a matter in public regarding a matter of stipulation between the discipline judge and the special prosecutor. There were no public hearings conducted in fiscal year 2010 because there were no cases that required public adjudication.

In response to a question from Chairwoman Smith, Mr. Sarnowski stated there were a number of matters under investigation which would drive the funding request increase for legal services. He believed it was possible that some of the matters could reach the public hearing stage in the next biennium; therefore, those costs were included in the budget request.

Chairwoman Smith asked whether the \$10,000 built into the base budget for the 2011-2013 biennium for witness fees and court reporter fees would be sufficient.

Mr. Sarnowski believed that would be adequate; however, it was difficult to predict.

Chairwoman Smith noted that although Mr. Sarnowski mentioned 2.5 full-time equivalent (FTE) positions, the budget indicated 3.5 FTE.

Mr. Sarnowski explained that the Legislature had authorized an additional paralegal position in the 2009 Legislative Session subject to the position being filled on or after October 1, 2009. The position was not filled because of agency budget cuts.

Returning to investigations and legal counsel services, Chairwoman Smith inquired whether contracts were reviewed regularly to ensure that the rate was competitive.

Mr. Sarnowski replied that the investigative firm was paid \$65 per hour, the going rate for five years. The travel costs were paid at the rates authorized in the *State Administrative Manual*.

Moving to training expenditures, Chairwoman Smith asked why there had been a significant increase in training costs when typically the authorized amount had not been expended.

Mr. Sarnowski explained that the training for Commissioners was limited. Every two years the College of Judicial Ethics in Chicago, Illinois, conducted training by the American Judicature Society which provided a number of services to the judicial branches throughout the United States. At the three-day training session, the lay members, lawyers, and judges attended to receive the only formal training they would receive as members of the Judicial Discipline Commission. Training had been cancelled in October 2010 and was rescheduled for the current calendar year. Additionally, the judges who are members of the Commission try to receive separate training funds through the Administrative Office of the Courts to defray the costs. This helps the Commission to fund the training for the lay members and lawyer members.

Chairwoman Smith thanked Mr. Sarnowski for his testimony and requested public comment. There being none, she closed the hearing on budget account 1497.

**LEGISLATIVE BRANCH**

**LEG-NEVADA LEGISLATIVE INTERIM (327-2626)**

**BUDGET PAGE LEGISLATIVE-5**

Chairwoman Smith opened the hearing on budget account (BA) 2626 and recognized Susan Furlong, Chief Clerk of the Nevada Assembly, and David A. Byerman, Secretary of the Nevada Senate. Ms. Furlong provided a brief overview of the functions of the houses during the legislative interim, the time between legislative sessions. She also explained that the interim legislative budget is shared by both houses, though not always equally, but dependent on the needs of the houses. There were six full-time employees: three in the Senate and three in the Assembly, including the Chief Clerk and the Secretary of the Senate.

Ms. Furlong described the workload during the interim, which included an evaluation of what worked, what did not work, and changes in staff, facilities, processes, and technology to be made for the next session. The implementation of [NELIS \(Nevada Electronic Legislative Information System\)](#) was an example of postsession evaluation.

As the Chief Clerk and Secretary of the Senate were members of the American Society of Legislative Clerks and Secretaries, they were invited to attend a Professional Development Conference for Clerks and Secretaries in 2009 hosted by the state of Washington. They were given a demonstration of the electronic bill book application used in Washington and believed the application would be beneficial for Nevada. Following discussions with contacts in Washington and their willingness to share the source code, this process was now in place in Nevada.

In addition, Ms. Furlong explained that interim staff responsibilities included editing, proofreading, indexing, and publishing the final journal for both houses. The journals typically ran over 7,000 pages. The staff also published the final history, the roll call record of all votes taken on bills during the session, and a variety of manuals and other materials.

Ms. Furlong noted that additionally the interim staff:

- Developed skills tests to test job applicants.
- Tested, scored, interviewed, and hired of all session staff.
- Developed training for session staff.



- Developed portions of training for legislators.
- Worked with youth groups, such as the Nevada Youth Legislature, Boys and Girls State, schools that wanted to visit the Legislature and hold a mock session, and elementary school tours.
- Staffed special sessions. Cross-training was essential for this purpose.

Ms. Furlong noted that the budget submitted by the agency included the 4.6 percent furlough and the elimination of step increases and longevity pay under decision unit Enhancement (E) 670. This was submitted prior to the Governor's announcement of a 5 percent salary reduction. The furlough figure was for 12 days of furlough in fiscal year 2012 and 8 days of furlough in fiscal year 2013. The figures in E572 reflected the elimination of longevity payments. The reduction in employee fringe benefit rates was shown in decision unit Maintenance (M) 300. According to Ms. Furlong, a 5 percent salary reduction would reduce the fiscal year 2012 budget request by \$6,700 and the fiscal year 2013 request by \$13,500.

When Ms. Furlong reviewed the final budget documents, it appeared that the figures were put into the "Governor Recommends" columns instead of the "Agency Request" columns.

In closing, Ms. Furlong noted that the budget included a small increase to cover the travel, per diem, and technology costs associated with moving the Secretary of the Senate's primary office from Carson City to Las Vegas.

There being no comments or questions, Chairwoman Smith closed the hearing for budget account 2626.

**LEGISLATIVE BRANCH**

**LEG-LEGISLATIVE COUNSEL BUREAU (327-2631)**

**BUDGET PAGE LEGISLATIVE-1**

**INTERIM FINANCE COMMITTEE (328-2630)**

**BUDGET PAGE LEGISLATIVE-8**

**PRINTING OFFICE (741-1330)**

**BUDGET PAGE LEGISLATIVE-10**

Chairwoman Smith recognized Lorne J. Malkiewich, Director of the Legislative Counsel Bureau (LCB.) Mr. Malkiewich provided the Committee with an

overview of the budgets for the Legislative Counsel Bureau, the Legislative Commission and its committees, and the five Counsel Bureau Divisions ([Exhibit E.](#))

Mr. Malkiewich explained that decision unit Maintenance (M) 300 had been adjusted to reflect changes contained in The Executive Budget. Decision units Enhancement (E) 670, E671, and E672 were shown with furlough adjustments rather than the Governor's proposed 5 percent salary cut. This was not intended to reflect a policy decision. If E670 was changed from a furlough day to a 5 percent salary cut, it would save \$253,000 in the first year and \$526,000 in the second year. Because of an error in the budget, the numbers for E670, E671, and E672 showed in the "Governor Recommends" columns rather than in the "Agency Request" columns.

Mr. Malkiewich described the LCB as consisting of the Legislative Commission and five Legislative Divisions. The Legislative Commission budget included the budget for the Commission and the interim committees that met between sessions. No money was included in the past biennium or in the current proposal for out-of-state travel for legislators. If the Senate Committee on Finance and the Assembly Committee on Ways and Means decided to continue that policy, the sunset on the freeze of payment for out-of-state travel must be extended. An exception for the Multistate Highway Transportation Agreement, which used Highway Fund money, should be included.

Mr. Malkiewich also noted that the dues for national organizations were not included in the budget proposal, but were submitted as a bill draft request.

In the Legislative Commission budget, the Committee to Consult with the Director proposed a separate means of conducting interim activities through joint interim standing committees, rather than statutory committees and interim studies. If that proposal was adopted, the budget could easily be adjusted to accommodate the new format and, depending upon the number of members on the joint interim standing committees and the number of meetings authorized, could generate additional savings.

Staff for the LCB was at 238 full-time equivalent employees out of 281 authorized positions. This was 25 percent below the 2007 staffing levels. Although the workload had increased significantly, the staffing level was comparable to 2003-2004.

Mr. Malkiewich described the five Legislative Divisions as follows:

- Administrative Division – This Division included human resources and accounting, buildings and grounds, broadcast and production services, janitorial, general services, information technology services, legislative police, and the Las Vegas offices. This budget was cut substantially during 2007 and 2009.
- Audit Division – The budget was very lean for this account. *Nevada Revised Statutes* (NRS) 630.127 required the Legislative Commission to conduct a performance audit of the Board of Medical Examiners at least once every eight years. The first audit was conducted in 2003 and the next audit was due in 2011. Therefore, the budget included \$75,000 for the contract to conduct the audit in fiscal year 2012 and a corresponding revenue transfer because the Board was required to pay the cost of the audit.
- Fiscal Analysis Division – The Division was faced with challenges because both of the fiscal analysts, both of the principal deputies, and three of the four supervisors were in new positions. Seven of the eight people were not in those positions last legislative session. The budget proposed no changes for the current biennium.
- Legal Division – This Division included the State Printing Office, the publications unit, and the legislative gift shop. Major expenditures were necessary because of printing such items as the NRS. A portion of the revenue came from the sales of these publications. There were no major changes to this budget from the previous budget.
- Research Division – There were no major items in this budget account for the next biennium.

Under the category of “One-Shot” appropriations, Mr. Malkiewich recalled the appropriation for the dues for national organizations. Additionally, he had requested a one-time expenditure for information technology purchases.

According to Mr. Malkiewich, some of the biggest challenges faced by the LCB was staff reduction, succession planning, and the expansion of the Las Vegas office. He believed it was imperative to provide developmental training for staff so that when employees left state service there would be personnel available for replacement. He recommended that if cuts were required for the LCB, it would be more feasible to reduce responsibilities rather than staff. Many of the divisions hired session staff, which gave the illusion of full staffing. However, when the legislative session ended, so did the positions.

Assemblyman Atkinson requested further discussion on the dues for national organizations and asked whether the bill would come before the Committee on Ways and Means.

Mr. Malkiewich responded that it was bill draft request (BDR) S-1239 (later introduced as Assembly Bill 492), which would be considered by the Committee. The request was for approximately \$300,000 and covered fiscal years 2011, 2012, and 2013.

Chairwoman Smith commented that LCB had done a tremendous job and recognized how important the training was for the legislators and for the staff.

Chairwoman Smith recognized Assemblyman Bobzien's parents in the audience visiting from Virginia.

There being no additional comments or questions, Chairwoman Smith closed the hearing for the LCB budget.

The meeting was adjourned at 10:18 a.m.

RESPECTFULLY SUBMITTED:

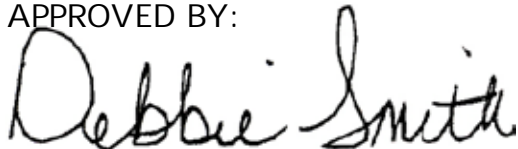
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Connie Davis  
Recording Committee Secretary

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Linda Blevins  
Transcribing Committee Secretary

APPROVED BY:



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Assemblywoman Debbie Smith, Chairwoman

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

**EXHIBITS**

**Committee Name:** Committee on Ways and Means

**Date:** March 7, 2011

**Time of Meeting:** 8:06 a.m.

| <b>Bill</b> | <b>Exhibit</b> | <b>Witness / Agency</b>  | <b>Description</b>                              |
|-------------|----------------|--|---|
|             | A              | Agenda   |   |
|             | B              | Sign-In Sheet  |   |
|             | C              | Stacey Crowley, Director,<br>Office of Energy                                | PowerPoint Presentation                         |
|             | D              | David Sarnowski, Executive<br>Director, Commission on Judicial<br>Discipline | Commission on Judicial<br>Discipline Statistics |
|             | E              | Lorne Malkiewich, Director,<br>Legislative Counsel Bureau                    | Budget justification                            |