

**MINUTES OF THE  
SENATE COMMITTEE ON FINANCE**

**Seventy-sixth Session  
March 9, 2011**

The Senate Committee on Finance was called to order by Chair Steven A. Horsford at 8:09 a.m. on Wednesday, March 9, 2011, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Steven A. Horsford, Chair  
Senator Sheila Leslie, Vice Chair  
Senator David R. Parks  
Senator Moises (Mo) Denis  
Senator Dean A. Rhoads  
Senator Barbara K. Cegavske  
Senator Ben Kieckhefer

**STAFF MEMBERS PRESENT:**

Brian M. Burke, Senior Program Analyst  
David A. Byerman, Secretary of the Senate  
Rex Goodman, Principal Deputy Fiscal Analyst  
Mark Krmpotic, Senate Fiscal Analyst  
Lorne J. Malkiewich, Director  
Julie Waller, Program Analyst  
Madison Piazza, Committee Secretary

**OTHERS PRESENT:**

Ross Miller, Secretary of State, Office of the Secretary of State  
Nicole Lamboley, Chief Deputy, Office of the Secretary of State  
Kate Thomas, Deputy for Operations, Office of the Secretary of State  
Crystal Jackson, Executive Director, Public Utilities Commission of Nevada  
Anne-Marie Cuneo, Director of Regulatory Operations, Public Utilities  
Commission of Nevada

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CHAIR HORSFORD:

We will begin with hearing from the Secretary of State.

ROSS MILLER (Secretary of State, Office of the Secretary of State):

I will be presenting the Biennial Budget Request FY 2012 & FY2013 ([Exhibit C](#)). Page 1 details the varied duties of the Office of the Secretary of State. The Office is in charge of commercial recordings which are responsible for the filing of corporate formation documents, uniform commercial codes and the issuance of annual State business licenses. The Office deals with securities which licenses investment advisors, brokers, athletes' agents and also regulates investment activity. I serve as the State's Chief Elections Officer and am responsible for the administration, interpretation and enforcement of federal and State election laws. Another responsibility I am charged with is the Notary Division, which appoints notaries public. I also serve as the State's official record keeper by maintaining the official records of the acts of the Nevada Legislature and of the Executive Branch agencies. I also manage a number of programs including the registration of domestic partnerships; the Living Will Lockbox, which is the registry of advance directives for health care and the statewide ministers' database. In addition, we are building the State Business Portal which will be a one-stop shop for businesses to conduct transactions.

I also serve on a number of boards: the Board of Examiners, the Tahoe Regional Planning Agency, State's Records Committee and the State Board of Prison Commissioners.

The Office has expanded to eight main areas of jurisdiction and responsibility. When I took office in 2007, there were only four areas of jurisdiction. It seems that whenever the Legislature creates a new program and does not know where to put it, it is assigned to my office.

The Office is an example of government being able to expand its services to constituents without increasing the cost to taxpayers for those services.

Page 2 illustrates a graph of the Office of the Secretary of State's revenues versus its expenditures. It is important to keep in mind that the Office is the State's third-highest revenue generating agency. This revenue is not generated through taxes, but through fees for services, fines and settlements resulting from violations. The interaction necessary to generate that revenue is more intensive than a department that is simply a collection agency.

Continuing from page 2, the Securities Division is outlined. The Securities Division contributed approximately \$20 million to the General Fund in fiscal year (FY) 2008-2009 and FY 2009-2010. In the same two-year period, the Division collected approximately \$5.6 million in civil fines and penalties through enforcement actions. This money was available to fund the Securities Division's entire budget without using any General Fund money.

In the first seven months of FY 2010-2011, the Securities Division has generated General Fund revenue of about \$20.4 million as compared with about \$17 million for the same period in FY 2009-2010. From the securities industry perspective we are beginning to see some recovery. Equally important is the nearly \$1.8 billion in restitution dollars recovered by the Division in the 2009-2011 biennium and paid directly to Nevada investors.

Page 3 illustrates the Commercial Recordings revenue. Commercial Recordings brings in more than 80 percent of the revenue in our Office and we are second in business filings per capita only to Delaware. Since I took office in 2007, we have made it a priority to promote Nevada as the premiere business filing jurisdiction through enhancement of our electronic filing application. We have now directed a significant focus on revenue not collected.

Page 3 also shows the State Business License revenue. In the 75th Session, the Legislature transferred the collection of the State Business License fees from the Department of Taxation to our office. This resulted in new revenue to the State. Taxes collected in FY 2007-2008 were about \$19.6 million, increased in FY 2008-2009 to approximately \$22.5 million, and for the first nine months of FY 2009-2010 totaled about \$37.6 million.

Page 4 depicts a line graph of business licenses collected per month since October 2009. Although we have limited historical data to gauge business license filing cycles, the peak in June 2010 and subsequent decreases until December 2010 are consistent with the filing cycles of other entity filings. We expect the growth in business license filings experienced in December 2010 and January 2011 to continue through June 2011 and expect to meet or exceed the filings experienced during the same period in 2010.

It is important to note, and this was depicted in the revenue slide on page 2, that Business License revenue will drop approximately \$25 million due to the sunset provision that occurs July 1, 2012.

Page 4 also denotes business license exemptions. This is an important focal point because they are not currently being enforced. There is legislation pending to address this problem.

Page 5 illustrates the business license exemption rate. At a time when the State is looking to raise taxes, reduce services, close prisons and reduce education funding, our attention should be on collecting delinquent revenue. We should not be increasing or imposing new fees and taxes on business as a revenue source. Instead, we should be collecting those revenues that are in place but uncollected. We believe that this is already in place, but needs clarification and proper application.

If we are able to meet the projections expected to provide essential revenue the State needs, this Office will need the resources to process the business filings and to collect the associated revenue. Additionally, our customers expect a certain level of attention and customer service. We have worked hard to maintain a level of service to Nevadans in the face of severe budget restrictions.

Page 5 has a budgetary expenditures graph which shows that we have consistently been asked to do more with less.

When I first took office, we had 143 employees. Today, we retain only 127.5 full-time equivalent (FTE) positions to carry out the previously existing services. These positions must also perform additional programs and responsibilities, such as domestic partnership registry, advanced directives registry, State business license filings and the Portal. Through reorganization, we have been able to adapt and absorb the cost of providing additional services.

In the 2009-2011 biennium, we surpassed the requested 14 percent cut and reduced the Agency budget by 21 percent. This was accomplished through layoffs, position eliminations, utilizing technology, additional reversions and ongoing efficiencies. This amount included reductions totaling more than \$1.4 million, which balanced a deficit created by a budgetary shift of General Fund to special services revenue. The \$1.4 million was in excess of the cuts requested by any other State agency.

During a time of cutting back budgets and resources, we have succeeded with creative solutions, by empowering staff to problem-solve and to become solution oriented. This is seen on page 6, which demonstrates revenue per FTE.

In FY 2009-2010, my Office brought in about \$132.6 million for an average of slightly more than \$1 million in revenue per employee. In FY 2006-2007, we brought in approximately \$104.3 million with 138.5 FTEs for an average revenue per FTE of \$750,000. There comes a point of diminishing returns, however, when it is against the laws of nature to expand when everything else is contracting. We have taken on additional responsibility, some of which we created ourselves and some we have taken on in order to enhance productivity.

Continued on page 6 is a graph depicting Commercial Recordings backlog days by division. The Office has responded to budget reductions required by legislation. Any further cuts in the operations of the Office of the Secretary of State will endanger the productivity of the third-largest revenue stream in the State. The impact of budget cuts will be felt by other State agencies in years to come, while the Office will feel the impact immediately.

Further reductions in the Secretary of State's office will mean longer waits which translates not only to increased customer dissatisfaction, but also to a loss of revenue from those dissatisfied customers. We have seen the impact of budget cuts in extended hold times in customer service and increased processing times. This has had a significant impact on our revenue stream and jeopardized a significant revenue source for the State.

In the Twenty-sixth Special Session, I requested the reinstatement of six administrative assistants. The addition of these employees helped to reduce processing times and significantly improved customer service response times.

The budget, as prepared, complies with the funding requested by the Governor. The Secretary of State's budget currently has two primary budget accounts, B/A 101-1050, which is for general operations and B/A 101-1051, which is the Help America Vote Act. In this budget we propose the creation of B/A 101-1058, which is for the State Business Portal.

## ELECTED OFFICIALS

SOS – Secretary of State — Budget Page ELECTED-122 (Volume I)  
Budget Account 101-1050

SOS – HAVA Election Reform — Budget Page ELECTED-131 (Volume I)  
Budget Account 101-1051

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SOS – State Business Portal — Budget Page ELECTED-136 (Volume I)  
Budget Account 101-1058

Budget account 101-1050 encompasses the majority of revenue, expenditures and FTEs for the Office.

Page 7 gives the budget highlights. The few enhancements in this budget are necessary to streamline operations of the Office, effectively allocate limited resources and reduce waste. Budget account 101-1058 will be created by transferring a portion of credit card discount fees, four FTEs and various operating, informational and contract services to the account. This account was established in order to isolate and track all expenditures of the Portal as it continues to grow and expand.

The Office will be launching the Portal this spring. The Portal will be a one-stop shop to streamline the establishment of a business in Nevada, as well as ongoing transactions with the State and, eventually, municipal and county governments. The Portal will redefine how Nevadans will interact with government and customer service will improve dramatically. It is important to have a business-friendly climate in Nevada and the Office has an obligation to maintain that climate and improve it whenever possible.

I would like to reiterate that all of the spending reductions were difficult and the Governor's recommended budget cut is more difficult. I can accept most, but not all, of those cuts.

The Portal will eventually become one of our proudest accomplishments and I am asking you to strongly reconsider one addition to my Office's budget.

Page 8 is the request for a Portal administrator. Our budget originally included one new FTE for the Portal at a cost of \$123,917 in FY 2011-2012 and \$122,934 in FY 2012-2013. This position request was eliminated in the Governor's recommended budget.

The Portal administrator is critical to the overall administration and maintenance of the Portal to ensure it meets the objectives of streamlining business.

For the Portal to become a one-stop shop for transactions, an administrator is necessary to recruit and coordinate new government agency partnerships. We

are trying to bring State, municipal and county agencies together throughout the State. Each minor variation in policy, regulation, or technology must be addressed in order to make the Portal work properly. The administrator will manage all the vendor contracts for the development and maintenance of the infrastructure hosting the Portal technology.

The Portal may appear deceptively simple, but there must be someone operating it. Without that operator, the Portal simply cannot run. When we build the Portal and try to run it without a dedicated administrator, we will have wasted several years and millions of dollars. Failing to fund the position would be the epitome of "penny wise and pound foolish." I am proposing funding from a securities settlement, applied pursuant to *Nevada Revised Statutes* (NRS) 90.851, which will free up General Fund money that was to be used to fund this position in the 2011-2013 biennium.

CHAIR HORSFORD:

Where are you in the implementation of the Portal? What impact would the recommended denial of the Portal administrator have on the Office's efforts during the 2011-2013 biennium? Please describe the functions of the position and whether it will be a classified or unclassified position.

MR. MILLER:

It would be an unclassified position. The Portal is moving along smoothly. We had to first assume responsibility of the business license fee from the Department of Taxation. That resulted in tens of millions of dollars in additional revenue for the State. The electronic architecture for the Portal should be released in a few months. The first phase will be to collect some of the Department of Taxation services, sales and use tax. After the main structure of the Portal is established, we can begin connecting other agencies such as Clark County, City of Las Vegas and Carson City, which is the second phase. The Portal administration position would be responsible for managing vendor contracts, maintenance of infrastructure and addressing all policy and operational challenges. It is the most crucial position for the Portal. If we do not get that position, the Portal may very well fail.

CHAIR HORSFORD:

If local governments benefit from the Portal, will they contribute to the cost of the Portal?

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NICOLE LAMBOLEY (Chief Deputy, Office of the Secretary of State):

Most State agencies have their own technology, which we refer to as the legacy system. Technology needs to be developed that will allow the legacy system to interface with the Portal. We will not know the cost until we complete the base system. Local governments are eager to participate and have already taken some steps internally to collect the Nevada Business Identification numbers.

CHAIR HORSFORD:

What is the time line for that?

MS. LAMBOLEY:

This will be completed before the end of FY 2010-2011. Because customers will be able to pay transactions using credit cards, agencies will bear the cost of the credit card discount fees. The agencies will have to write that cost into its budgets. They will have to administer its own fees, collect them and pay for the cost.

CHAIR HORSFORD:

Will local governments be able to utilize this system for local licensing?

MR. MILLER:

Absolutely. That is the end vision. Clark County, the City of Las Vegas and Carson City will be able to use the system as soon as they are ready. Currently, Washoe County does not collect any of its local business licensing information electronically. Until they enhance their system, they will not be able to feed into the Portal.

CHAIR HORSFORD:

With the discussion of consolidation of services, business licensing is one area in which there is already an agreement between local governments for improving that process throughout the State. Will those municipalities that are not advanced be able to work with another entity that is and eventually feed into the Portal?

MR. MILLER:

Yes. We will not maintain any of the information in the Portal, we will simply collect the information that is needed by the agencies and distribute it to the appropriate agencies. Information will be delivered electronically.



CHAIR HORSFORD:

That is a major improvement, especially from the private sector perspective. A lot of progress is being made.

How will the Portal administrator interact with other technical positions, such as the chief information technology officer, to prevent the duplication of efforts?

KATE THOMAS (Deputy for Operations, Office of the Secretary of State):

The Portal administrator will be the key person to coordinate security and technology advances, deal with contract management and many other job duties. We have been working closely with the Department of Information Technology in designing this project. The person who will fulfill this role, will take that vision and expand it, so we can create a product that will not only set the highest security standard but also move us forward with technological advancements.

CHAIR HORSFORD:

The technology industry leader said it is crucial for this position to have the ability to interact with administrators who understand what they need in the private sector. It is critical to the development of the industry as to whether or not we bring that infrastructure to interface.

We must think of the private sector as well as government when choosing an administrator to run this program. Will this individual understand the needs of the private sector and be able to combine their needs in with yours?

MR. MILLER:

That is another reason why this position needs to be restored, otherwise the project will fail. We need someone capable of coordinating among agencies and the private sector.

I would also like to point out that the online usage of services has increased dramatically which has enabled us to more efficiently utilize the limited staff resources that we have.

CHAIR HORSFORD:

What are the statutory uses for the \$1 million Merrill Lynch settlement?

MR. MILLER:

The applicable statute is NRS 90.851 which states that money the Division receives as a result of an enforcement action shall be used to pay expenses involved in investigations of the Division. This involves securities, actions to enforce the provisions of this chapter and providing educational programs relating to investor education. We propose to use those monies to fund securities, divisions and operations. That would replace General Fund money which would then become available to fund the Portal administrator.

SENATOR CEGAVSKE:

What is the total number of vacancies in the Office?

MS. LAMBOLEY:

We have six vacancies for which we are actively recruiting. Most are classified as information technology (IT) vacancies, because it has been difficult to recruit qualified individuals in that field.

SENATOR CEGAVSKE:

Do you have someone in mind for the Portal administrator position? It sounds as if the qualifications are very specific and it may be difficult to find an individual who fits your needs.

MR. MILLER:

We currently have someone under contract who is fulfilling many of the same responsibilities that the Portal administrator will assume. She is currently working as a State contractor.

SENATOR CEGAVSKE:

What is her current salary?

MR. MILLER:

She is making more now and we cannot afford her contracted pay rate. She has indicated her willingness to take the position if offered.

SENATOR CEGAVSKE:

Considering the \$1 million Merrill Lynch settlement is only going to fund this position for two years, where would you find the money to pay for the position after the initial two years? This is a long-term position, correct?

MS. LAMBOLEY:

Yes, it is a long-term position. When we build our next biennial budget, we will seek the funding for it. Even though we have fewer staff, we have more professional employees. We would not have made this recommendation if we did not believe it was critical.

SENATOR CEGAVSKE:

Have you spoken with the Governor and his staff regarding your plan to use the money from the Merrill Lynch settlement?

MR. MILLER:

We have had some discussions with the Governor's staff about the potential of using this money, but nothing has been decided upon yet. We are still in the process of negotiating the settlement and we were given early indications that they were going to agree to it. Despite many repeated requests, we have not yet seen the money. We are almost at the point of having to decide if we want to litigate.

SENATOR CEGAVSKE:

The complaint I get most often is from business owners who have received their business license, but have to wait to conduct business because they are waiting on other approvals, for example from the fire marshal. Do you have any suggestions for improving that time frame? Will the Portal help move along the process of getting a business license and enable applicants to conduct business immediately?

If someone wants to receive their business license immediately, do you offer expedited service for an extra fee?

MR. MILLER:

There is potential for the Portal to interface with local governments to expedite the process of conducting business and is the one item that is missing. Participation in the Portal is optional, so we need support from the State agencies to engage with us. We ask for your support in bringing those agencies to the Portal.

We do offer expedited service. For \$1,000, the Office will set up a limited liability company, commonly referred to as LLC, within one hour. That has been a declining source of revenue for us since 2005, in part because of the

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economy. In addition, because of the increased use of online services, people can get their licenses instantaneously.

SENATOR LESLIE:

What was the feedback from the Budget Office on the Portal administrator?

MS. LAMBOLEY:

The Budget Office felt the Office of the Secretary of State did not need the Portal administrator position because we had some vacant IT positions. We have since filled some of the IT positions and the contractor is fulfilling some of the IT responsibilities as well.

SENATOR LESLIE:

Have you spoken with them about using the settlement money?

MS. LAMBOLEY:

We spoke with them in September regarding the need for this position. We have subsequently informed them that we have this settlement money to use and this is how we propose to use a portion of it.

SENATOR LESLIE:

Have they indicated their support of that?

MS. LAMBOLEY:

I think that is a legislative decision. They have not said they would oppose it, but they have not said they would support it either.

SENATOR LESLIE:

I think you will find the Legislature in favor of giving you the tools you need to continue your work.

SENATOR DENIS:

If we did not approve this position, how long would you be able to keep the contracted position?

MR. MILLER:

The contract expires June 30, 2011. At that point, we would have to regroup and determine whether we had any funding.

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SENATOR DENIS:

Will the project be completed by June 20, 2011?

MR. MILLER:

No, the first phase will be finished. We still have to build the second phase, which is why we need this position, to interface with the agencies.

CHAIR HORSFORD:

Please work with the Budget Office and Fiscal Division Staff to determine any budgetary changes.

Could the transfer of the administrative assistant II position to the non-Executive Budget Public Training account be supported another way?

MS. LAMBOLEY:

We have spoken with Staff about how it was fund mapped in our budget proposal. They made a recommendation and we said we would support that. By law, we must provide mandatory training for new notaries and any notary who has had a violation in their previous appointment term. The cost of the training supports the processing of the application for the class as well as the cost of the trainer to conduct the classes. Because the administrative assistant II position spends the majority of their time supporting the training requirement, we felt it would be appropriate to assign the funds from the cost of the training to that position.

SENATOR DENIS:

How have the budget cuts influenced the discipline of notaries who are not complying?

MR. MILLER:

It has been more difficult to carry out those enforcement actions. We are complaint driven and try to investigate as many complaints as we receive. Sometimes there are criminal violations that could be associated with the notary statutes. In that instance, we use investigators from our Securities Division, but their staff has been cut by about 50 percent which has impacted the number of investigations we have done. Notaries are not a top priority, so we have seen a decreased response to complaints.

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SENATOR KIECKHEFER:

Please explain why you wish to reclassify your public information officer to unclassified service.

MR. MILLER:

The head of an agency should have the flexibility of bringing in their own person, because it is someone with whom they will be working closely with who is on board with their mission. For a constitutional officer, especially a statewide elected official, it makes sense to have their public information position unclassified.

SENATOR KIECKHEFER:

Are there other constitutional officers whose public information officers are unclassified?

MS. LAMBOLEY:

Yes, the Attorney General's public information officer is unclassified. The Governor's public information officer is non-classified. The treasurer and the lieutenant governor do not have a specific position identified as a public information officer. The Department of Personnel has supported this in the past and has said they will continue to support the change of moving it to an unclassified position.

CHAIR HORSFORD:

We will now move on to the hearing on the Public Utilities Commission, B/A 224-3920.

## COMMERCE AND INDUSTRY

### PUBLIC UTILITIES COMMISSION

PUC – Public Utilities Commission — Budget Page PUC-1 (Volume II)  
Budget Account 224-3920

CRYSTAL JACKSON (Executive Director, Public Utilities Commission of Nevada):

I have provided a handout ([Exhibit D](#)) that I will be presenting from. Page 2 lists our statutory authority. The Public Utilities Commission is responsible for regulating public companies engaged in electric, natural gas, telephone, water and sewer services. We also regulate gas and electric "master meter" service at

mobile home parks and some propane systems. Lastly, we are involved in monitoring gas pipeline and railroad safety.

Page 3 outlines our mission, vision and philosophy. Page 4 has our measurement indicators. Ten of them are listed and we are either on track or exceeding all of our measurements with the exception of number eight. Due to a locomotive power inspector position becoming vacant, we fell short of our mark in FY 2009-2010.

Page 5 gives information about our organizational structure. We have three commissioners appointed by the Governor, one designated as chairman. We also have the position of executive director pursuant to Assembly Bill No. 510 of the 75th Session. Our Agency is divided into two general sections: the Commission policy/administration staff and the Regulatory Operations Staff. We currently have 96 FTEs, which includes two positions funded by the American Recovery and Reinvestment Act of 2009 (ARRA). We have two offices, one in Carson City and one in Las Vegas.

Page 6 outlines our revenue sources. We do not receive any money from the General Fund. Our primary funding source is our annual regulatory assessment. The regulatory assessment is set at 2.0 mills for both years of the biennium. This is assessed on all public utilities in the State, for which they receive recovery from the rate payers. The statutory maximum is 3.5 mills and that is for the use of the Commission. Our optimum reserve balance is between \$2.2 million and \$2.7 million which is roughly 25 percent of our expenditures. This optimum reserve has been adjusted downward due to the Governor's recommended budget cuts. Our regular reserve is between \$2.4 million and \$2.8 million.

Page 7 outlines our gas pipeline safety program. We have pipeline staff who conduct safety inspections of liquid propane and natural gas systems statewide. They are also responsible for promoting and overseeing our One Call program, also known as Call Before You Dig. We receive up to 50 percent reimbursement from the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration.

Page 8 details our rail safety inspection program. We receive fees from the Beatty Storage Facility and the rest of the funding for that program is through rail assessment. We also administer collections for the Universal Energy Charge.

The statute allows the Commission to retain up to 3 percent for our efforts in those collections, but we currently retain 0.5 percent.

Page 9 shows our two priorities. The first is to retain two ARRA-funded positions, which are due to sunset on February 1, 2012 with respect to federal funding. One is an electrical engineer and the other is a policy advisor. Their job duties are varied, but essentially they analyze renewable portfolio compliance by electric utilities. They also review purchased power agreements between electric utilities and renewable generators. They participate in rulemaking with respect to renewable energy and energy efficiency. They review the integration of renewable energy into the electric utilities' integrated resource plans. They assist the portfolio credit administrator by verifying and inspecting the facilities, with respect to the Nevada Tracks Renewable Energy Credits system. They also answer technical questions from small renewable developers and other State and federal agencies.

Page 10 provides the necessary justification to demonstrate the critical need to retain these positions. The top graph reports that the total number of renewable dockets filed has more than doubled from 2008 to 2009 and is continuing to increase with up to 83 dockets in 2010. The graph labeled Number of Renewable Generator Applications shows participation in the portfolio energy credit tracking and trading program. We have seen a significant increase in the number of facilities registering to participate in the tracking and trading of portfolio energy credits. When the Commission first started registering generators and utilities to issue and track portfolio energy credits, there were a small number of large facilities. Over time, and with legislative changes, the number of applications has skyrocketed. You will notice a large jump in 2010 when the number of filings increased from 61 dockets to 534 dockets. This was as a result of Valley Electric Company filling 360 applications as part of its own solar thermal program. While Valley Electric will probably not file many more applications, it is likely that other municipalities or cooperatives will follow suit.

Going back to page 9, our other priority is for a certified depreciation expert consultant in the amount of \$65,000 for the biennium. We do not have the in-house expertise and we are expecting NVEnergy to file a depreciation case on or before June 1, 2011. These two priorities do not pose an additional fiscal impact on the monthly residential ratepayer.



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SENATOR CEGAVSKE:

Is this a contract position? Do we not have this type of expert in State?

MRS. JACKSON:

Our last depreciation expert came from New York.

SENATOR CEGAVSKE:

Do you hire them for a short period of time or are you looking for a permanent employee?

MRS. JACKSON:

It is case-by-case specific, so it would be to meet the needs of this case.

Pages 11 to 13 show our expenditures. All of these categories are at or below the Base Budget. We have been asked by the Budget Office to submit an amendment regarding our requested vehicle. We will be leasing future vehicles from the State Motor Pool and will not be requesting \$19,000 for the replacement equipment.

SENATOR RHOADS:

Were you involved in the Ruby Pipeline process with respect to permits and licensing?

ANNE-MARIE CUNEO (Director of Regulatory Operations, Public Utilities Commission of Nevada):

Since that pipeline is between two states, the federal government has regulatory obligations of inspecting that pipeline.

SENATOR RHOADS:

Did you have any involvement in it?

MS. CUNEO:

Our inspectors are going up to monitor some of the activities of the Ruby Pipeline.

SENATOR LESLIE:

What progress has the Commission made in implementing recommendations resulting from the legislative audit?

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MRS. JACKSON:

We have fully implemented all of the recommendations.

SENATOR KIECKHEFER:

Has there been a reduction in non-renewable dockets?

MRS. JACKSON:

I do not have those statistics with me today. I believe we are maintaining the same numbers, between 30 and 40 filings per month. There has been a slight decrease in telecommunications filings, because of deregulation. While we may have fewer filings, the dockets that are coming in are more complex.

SENATOR KIECKHEFER:

Are the individuals who work on energy dockets cross-trained to work on different types of dockets?

MRS. JACKSON:

The two ARRA-funded individuals work strictly on renewable energy and energy efficient areas. All of our other positions work on everything. We do have certain areas of expertise and discipline. We typically assign dockets to those relative to their expertise.

CHAIR HORSFORD:

Will the Commission be monitoring its reserve levels and adjust its mill assessment if necessary?

MRS. JACKSON:

The current mill assessment of 1.99 mills, and the Commission, will be reviewed in June 2011. By statute, letters must be out by June 15, 2011.

SENATOR DENIS:

I work at the Commission as a computer technologist, which is neither one of the ARRA-funded positions.

CHAIR HORSFORD:

We will move on to the Legislative Counsel Bureau (LCB), B/A 327-2626.

## LEGISLATIVE/JUDICIAL

### LEGISLATIVE BRANCH

#### LEG – Nevada Legislature Interim — Budget Page LEGISLATIVE-5 (Volume I) Budget Account 327-2626

DAVID A. BYERMAN (Secretary of the Senate, Nevada Legislature):

I want to give you an overview of the interim Legislative staff and budget. We have a shared budget between the Senate and Assembly. It is not always shared equally as the houses have different needs. During the interim, staff closes out the previous Session and prepares for the upcoming Session. We prepare a 7,000 page journal, which we have to make sure accurately records the Legislative Session. We prepare the final history, roll call and all the manuals and materials for each Session. In the months leading up to Session, we have to interview, hire and train approximately 100 legislative employees for each house. We are also responsible for coordinating with LCB on training legislators. With the term limits now in place, it is a formidable goal for us to do a good job in training legislators. We also work closely with LCB throughout the interim period to determine best practices, especially in the areas of technology and human resources.

Susan Furlong and I both serve in the American Society of Legislative Clerks and Secretaries (ASLCS); we are principal members of that body. It is a national society of our peers that allows us to network and determine best practices across the Country. You may be interested to learn that our service in ASLCS lead directly to the creation of the Nevada Electronic Legislative Information System, commonly referred to as NELIS, which you, as legislators, are using on a regular basis. That came from work that Susan and my predecessor, Claire Clift, did with the State of Washington.

One of the responsibilities of this job is the ability to promote participatory democracy and to work with youth. I am the former chairman of the State's Advisory Committee on Participatory Democracy. We will spend the interim period working with different groups in the community to explain the legislative process and to be your representatives.

We must always be prepared for special sessions. We cross-train our staff rigorously. Our guiding principles are continuity, transparency, accessibility and service. That sets the framework for what we do.

The personnel budget that we are submitting to you today is absolutely flat. Susan and I are requesting the same three positions and salaries from the last Legislative Session. Changes in that budget are shown through decision units M-300, E-670, E-671 and E-672.

M-300 Fringe Benefit Rate Adjustment – Page LEGISLATIVE-5

E-670 4.6% Furlough with PERS Hold Harmless — Page LEGISLATIVE-6

E-671 Implement a Salary Freeze — Page LEGISLATIVE-6

E-672 Suspend Longevity for FY12 & FY13 — Page LEGISLATIVE-6

We proposed extending the furlough through this biennium which would amount to 12 furlough days in FY 2011-2012 and 8 furlough days in FY 2012-2013. The *Executive Budget* has the budget that we presented to them. We modeled what a 5 percent salary reduction would do to our budget. In FY 2011-2012, it would be a \$6,718 reduction and in FY 2012-2013, it would be a \$13,491 reduction.

The changes in this budget are operating expenses. We requested an increase in the expenditures budget, which reflects moving the office of the Secretary of the Senate from Carson City to Las Vegas. I have been working diligently to minimize costs associated with that change. Where possible, I am working hard to be a good steward of taxpayer dollars. For example, in October 2010, Southwest Airlines had a fare sale offering \$30 one-way tickets between Las Vegas and Reno. I bought ten weeks' worth of travel in one day to lock in those rates. We are using advanced technologies on the Senate side to accommodate my being 500 miles away from my staff during the interim period, including collaborative editing and videoconferencing. I am confident I can do this job successfully from Las Vegas. I will be up here every two weeks.

SENATOR CEGAVSKE:

How much more did you have to budget compared to if you were living in Carson City?

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MR. BYERMAN:

The impact on expenditures for the interim budget is approximately \$15,000, which is all travel and per diem. We already have the office space and equipment in Las Vegas. During the interim, I set my office up in one of the videoconference rooms so that I could turn around and talk with my staff in Carson City.

SENATOR KIECKHEFER:

You mentioned 12 furlough days in FY 2011-2012 and 8 days in FY 2012-2013. Is that because of the Legislative Session?

MR. BYERMAN:

The Legislative Commission had an agreement with LCB to implement the furloughs during the interim period, but not during the Legislative Session.

CHAIR HORSFORD:

We will move to the LCB hearing.

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

I have provided the Committee with a handout ([Exhibit E](#)) detailing the LCB budget. I will mainly be discussing B/A 327-2631. Budget Account 328-2360 is a pass through of the Contingency Fund money. Although it looks zeroed out, when you appropriate money to the Contingency Fund, this is the account through which it passes, but it is not a budget that we propose. Page 28 of the Introduction to the *Executive Budget* makes it look like there was a 40 percent or 50 percent cut to the Legislative budget. Budget Account 741-1330 is for the State Printing Office and is not a General Fund budget. They are funded at the level sales allow.

LEG - Legislative Counsel Bureau — Budget Page LEGISLATIVE-1 (Volume I)  
Budget Account 327-2631

Interim Finance Committee — Budget Page LEGISLATIVE-8 (Volume I)  
Budget Account 328-2630

LEG – Printing Office — Budget Page LEGISLATIVE-10 (Volume I)  
Budget Account 741-1330

Maintenance unit M-100, of B/A 327-2631, is a reduction of \$17,062 a year for statewide inflation. Maintenance unit M-300 is the fringe rate adjustment for Public Employees' Retirement System, workmens' compensation, Active Employee Group Insurance Subsidy and Retired Employee Group Insurance. These were adjusted to correspond to the rates proposed in the *Executive Budget*. Our budget is now in line with the *Executive Budget*.

M-100 Statewide Inflation— Page LEGISLATIVE-2

M-300 Fringe Benefit Rate Adjustment — Page LEGISLATIVE-2

Decision unit E-670 is for a 4.6 percent reduction in the form of a furlough. This was approved by the Legislative Commission in December 2010. Since the Executive Branch had not developed its budget recommendations, we assumed they would recommend something similar to the 4.6 percent furlough from last Session. The inclusion of decision units E-670, E-671 and E-672 does not indicate the Legislative Commission's support or preference of a furlough rather than a salary reduction. They were included so our budget for the upcoming biennium would be similar to the current biennium. As decisions regarding personnel budgets are made by the Legislature, we will adjust ours to correspond to those changes.

E-670 4.6% Furlough with PERS Hold Harmless — Page LEGISLATIVE-2

E-671 Implement a Salary Freeze — Page LEGISLATIVE-3

E-672 Suspend Longevity for FY12 & FY13 — Page LEGISLATIVE-3

As Mr. Byerman said, we have eight furlough days in FY 2012-2013 due to the Legislative Session. We requested an exemption for four months during Session. The LCB staff took furloughs in the month of January 2011, which was a challenge due to the Session staff beginning work that month. If the Legislature implements the 5 percent reduction in lieu of the 4.6 percent furlough, the personnel budget would be \$253,000 in FY 2011-2012 and \$526,000 in FY 2012-2013. Although it is reported that decision units E-670, E-671 and E-672 are the Governor's recommendation, they were actually included in our original budget.

The Legislative budget consists of the Legislative Counsel Bureau, its five divisions and the Legislative Commission's budget. The Legislative Commission budget did not have money budgeted this biennium for out-of-state travel for legislators or dues for national organizations. The proposed budget continues the freeze on out-of-state travel. If the Legislature approves that continuation, the Legislative Commission will have to revise the travel policy. The dues were removed last time because the personnel budget was reduced by approximately \$2 million. We had the choice of reducing it by about \$2.3 million or removing the dues, so we opted to remove the dues. We have proposed the dues as a separate one-shot appropriation, so it can be considered independently. Bill Draft Request (BDR) 1239 will be coming through at a later date.

**BILL DRAFT REQUEST 1239:** Makes an appropriation from the State General Fund to the Legislative Counsel Bureau for national organizations for Fiscal Years 2011, 2012 and 2013. (Later introduced as [Assembly Bill 492](#).)

The Committee to Consult has proposed to change the manner in which we do interim studies by creating joint interim standing committees. The Legislative Commission budget supports the Legislative Commission and the interim and standing committees. If the Legislature approves the proposal, the interim and standing committee support could be replaced with the funding for the joint interim standing committees.

The LCB currently has 238 employees, which is 25 percent less than in 2007. The staffing level is comparable to where we were in 2003 and 2004. The Administrative Division provides administrative services to LCB, the Senate and the Assembly. This consists of human resources, accounting, broadcast and production services, buildings, grounds, janitorial, general services, information technology services and legislative police. The deputy director, Director's office and Las Vegas office are also included in the Administrative Division. When we made cuts to the Administrative Division last Session, we put off many items, such as replacement equipment. This Session we have restored some of those items.

The Audit Division is headed by Paul Townsend. The Audit Division's budget is virtually unchanged and they are carrying forward with past proposals. The addition is an audit of the Board of Medical Examiners. Once every eight years a

national organization must complete an audit; however, if that national organization does not do it, our auditors will. The Board of Examiners will pay for it, so there is a \$75,000 revenue item and a \$75,000 expenditure item.

The Fiscal Analysis Division has some challenges this Session because seven of the top eight positions are being held by people who were not in those positions last Session. Their budget is nearly unchanged from the current biennium.

Brenda Erdoes is the head of the Legal Division. The Legal Division's budget also contains the State Printing Office and the publications unit. The annual principal and interest payments for the warehouse added to the Printing Office are in the Legal Division's budget. There are no General Fund monies for the Printing Office.

Don Williams is the head of the Research Division. The Constituent Services Unit and the Research Library are included in the Research Division budget. There are no major items in this budget.

The one-shot appropriations are for dues to national organizations and information technology. For IT, there are some switches and hardware that need to be replaced. The master switch is approximately \$400,000.

The challenges facing LCB are in position vacancies and succession planning. The LCB has made its budget cuts by allowing positions to remain vacant. We are proposing keeping them vacant to meet the cuts proposed. As Staff is very low and they are overworked, restoration of employees would be helpful. Our workload has increased so we have added two statutory committees which is why we asked for the change in how we handle interim committees.

Succession planning has been a challenge that LCB is starting to overcome. I designated a deputy director, Tammy Grace, to help with succession planning. She has been tasked with training our leaders, namely legislators. Mark Krmpotic, Senate Fiscal Analyst, and Rick Combs, Assembly Fiscal Analyst, were moved into positions with great responsibilities without proper training. We need to ensure that does not happen again which is the reason for succession planning.

We are short on space in Las Vegas. With the escalated number of Senators and Assemblymen it is becoming increasingly difficult to house them all. With



reapportionment, at least two more legislators will be added to the 43 already located in the Las Vegas office. At this point, we have no additional space.

If further reductions are required in our budget, I suggest cutting programs rather than people. Even though we have decided to keep position vacancies open, we have not dropped any duties and have continued to do everything we did before the vacancies. It has become increasingly difficult to complete all duties. If we are required to make further reductions, I think we should look at functions that are not necessary to fulfill our goal.

We cannot staff a Legislative Session with 15 percent of our positions vacant. We hire Session staff to fill the holes that are empty in the interim. For example, the Fiscal, Legal and Research Divisions hire additional staff just for the Session. After the Session ends, we will have 15 percent fewer staff doing more than we did a few years ago when we were fully staffed.

SENATOR RHOADS:

Where is the standing committees' budget located?

MR. MALKIEWICH:

Right now, each of the statutory committees has a budget under the Legislative Commission. If the law is changed, there will be a change to the statutory committees and joint committees will absorb them.

SENATOR CEGAVSKE:

Page 7 of [Exhibit E](#) shows the source of revenue and expenditures for the Legislative Commission, statutory committees and interim studies. Some states are eliminating interim studies. Are we looking to cut the interim studies? Please provide information regarding what staff and legislators are paid for those studies.

MR. MALKIEWICH:

Page 7 shows the budget assuming we continue the current system. It has \$80,000 built in for interim studies. Under expenditures it shows payroll, that payroll is for the legislator's salaries for attending meetings. The operating expenses include their per diem and travel. I can give you those totals. We do have this broken out into greater detail and each of the individual committees has a specific line item.

SENATOR LESLIE:

Do you have a schematic that would show what the joint committees would be?

MR. MALKIEWICH:

Bill Draft Request 1239 proposes the joint committees. The idea is to have joint committees instead of statutory committees which may not reflect the priorities of the Legislature. This proposal will give the Legislature more flexibility in the interim and allow more continuity from Session to Session. They will be similar to the statutory committees. We will have five members of the Assembly and three members of the Senate on each joint interim committee, plus alternates from each house. Statutory committees would no longer exist and the funds would be used for the standing committees. The Legislature could then assign interim studies and the duties previously assigned to the statutory committees to them as well. It would also allow them to shift the emphasis to prepare for the upcoming Session.

SENATOR LESLIE:

When you use the term "joint", are you referring to the Assembly and Senate together?

MR. MALKIEWICH:

That is correct. Mr. Williams and Mr. Sturm can give you much more detail on the proposal.

CHAIR HORSFORD:

I think succession planning is very important at every level. Please let us know if you need help with that effort.

Please evaluate some options with respect to the lack of space in the Las Vegas office. There was one instance in which every hearing room was filled and we were unable to accommodate space for the public who wanted to participate. We should never turn a person away from a Legislative hearing in a State building.

MR. MALKIEWICH:

I would be glad to do that.

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CHAIR HORSFORD:

We will take up the other issues with the interim committees with the BDR.

SENATOR KIECKHEFER:

In regards to salary reductions or furloughs I would like to treat staff of the Legislative Branch the same as the staff in the Executive Branch.

MR. MALKIEWICH:

I would like to remind the Committee that we did not request a waiver for the furlough requirement until the Session. In 2010, LCB employees took a furlough once a month and many seemed to be working on days that they were supposed to be on furlough.

SENATOR DENIS:

Why are there no performance indicators for LCB?

MR. MALKIEWICH:

A few Sessions ago we had performance indicators, but discovered there were questions of satisfaction. We had surveys for the legislators to determine if we were providing adequate service to them. We had to tell Legal and Fiscal to please make sure you get the performance indicators finished, while working on 700 BDRs and 400 budget accounts. It became a workload issue. We have done performance indicators before and could generate them.

SENATOR DENIS:

I would not want to create more work, but if we expect everyone else to do it, you probably should as well.

CHAIR HORSFORD:

I agree with Senator Denis on this point. There are things you are doing that are evaluation-oriented indicators which would allow us to guide performance year-to-year. Please put together some benchmarks.

MR. MALKIEWICH:

I will get those for you. I think the general consensus was that because we work directly for you, if we are not performing you will know and inform us. I will start with where we left off and work with Division chiefs to see what the appropriate measures would be.

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CHAIR HORSFORD:  
Seeing no further business, we will adjourn at 9:54 a.m.

RESPECTFULLY SUBMITTED:

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Madison Piazza,  
Committee Secretary

APPROVED BY:

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Senator Steven A. Horsford, Chair

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

<u><b>EXHIBITS</b></u>			
<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
	C	Ross Miller, Secretary of State	Biennial Budget Request FY 2012 & FY 2013
	D	Crystal Jackson	Public Utilities Commission
	E	Lorne J. Malkiewicz	Legislative Counsel Bureau