

**MINUTES OF THE  
SENATE COMMITTEE ON FINANCE**

**Seventy-sixth Session  
February 8, 2011**

The Senate Committee on Finance was called to order by Chair Steven A. Horsford at 8:06 a.m. on Tuesday, February 8, 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:**

Erica Eng, Program Analyst  
Rex Goodman, Principal Deputy Fiscal Analyst  
Mark Krmpotic, Senate Fiscal Analyst  
Heidi Sakelarios, Program Analyst  
Teri Sulli, Program Analyst  
Jackie Cheney, Committee Secretary

**OTHERS PRESENT:**

Mark A. Lipparelli, Chair, State Gaming Control Board  
Stacy Woodbury, Chief, Administration Division, State Gaming Control Board  
Caren Jenkins, Executive Director, Commission on Ethics  
Joseph C. Strolin, Acting Director, Agency for Nuclear Projects, Office of the Governor

**CHAIR HORSFORD:**

We will first discuss organizational issues for the Senate Committee on Finance.

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MARK KRMPOTIC (Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

I have provided Committee members with the proposed revisions to the Senate Committee on Finance Standing Rules 2011 Session ([Exhibit C](#)). All references to "Cochair" are deleted and replaced with Chair. Last Session, the Finance Committee had Cochairs and this Session there is a single Chair. Rule No. 12 has been added to permit members to attend Committee meetings via videoconference if approved by the Chair. The request must be made as early as possible in advance of the meeting so there is adequate time to reserve the room and get the meeting materials to the video conference site prior to the meeting.

CHAIR HORSFORD:

Are there any questions on the rules? If not, I will accept a motion for approval.

SENATOR LESLIE MOVED FOR ADOPTION OF THE REVISED RULES.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

Mr. KRMPOTIC:

The next item relates to budget reviews for full committees, subcommittees and Legislative Counsel Bureau (LCB) Fiscal Analysis Division Staff.

The 2009 *Executive Budget*—Preliminary Listing ([Exhibit D](#)) shows all budget accounts in State government. This document is color coded to delineate accounts identified for staff closing and new accounts included in the *Executive Budget* for the upcoming 2011-2013 biennium. The items identified for staff closing will not have a formal budget hearing in subcommittee or full committee. Staff simply makes a closing recommendation to a subcommittee or full committee when it is time to close the budget just prior to the drafting of the General Appropriations Act and Authorized Expenditures Act. Staff closing recommendations are based on past budgets closed by Staff and Staff's determination of no significant issues for consideration by the money committees. If committee members want any budget accounts heard in

subcommittee or full committee, versus having a staff closing, please advise Staff within the next couple of weeks.

The handout entitled New Budget Accounts Created by the 2009 Legislature Or Included for the First Time in the 2011-13 *Executive Budget* ([Exhibit E](#)) provides resource information regarding new budget accounts.

The next item, 2011 Session Joint Subcommittee Assignments ([Exhibit F](#)), shows the assignments for the Senate Committee on Finance as well as the Assembly Committee on Ways and Means.

You have also been given a copy of the 2011 Session Senate Finance Subcommittee Assignments ([Exhibit G](#)). A tentative calendar through the end of March 2011 has been developed. Each of the budget accounts in State government will be heard at least once by the end of March 2011.

CHAIR HORSFORD:

In the past, the primary focus of this Committee has been on General Fund support. This Session, there is emphasis on looking at the budgets in totality, how State agencies are funded and how they operate, including the non-General Fund sources. Through the fundamental committee process, a new budget review format will be incorporated into the work we do as a committee. More information on this format will be forthcoming from Staff.

Mr. KRMPOTIC:

I have provided a copy of the Fiscal Analysis Division Agency Assignments - September 2010 ([Exhibit H](#)) showing the areas of responsibility assigned to each analyst. The analysts are a resource throughout the subcommittee and full committee hearings.

Next is an example of the Senate Committee on Finance Progress Report from the 2009 Legislative Session ([Exhibit I](#)). An updated report will be given to the Committee each Monday. It shows the number of budgets the Committee is responsible for reviewing and the progress made. The report also provides information on budgets closed, bills assigned to the Committee and Capital Improvement Programs assigned to the Committee. There are 441 total budget accounts to be addressed by the money committees this Session.

Finally, Committee members will receive a report prepared by Staff the day before the Committee meeting to assist them in reviewing the budget.

CHAIR HORSFORD:

I will now open the budget hearing for the Gaming Control Board.

## COMMERCE AND INDUSTRY

Gaming Control Board — Budget Page GAMING CONTROL BOARD-1 (Volume II)  
Budget Account 101-4061

MARK A. LIPPARELLI (Chair, State Gaming Control Board):

I will begin my presentation with an overview. Please refer to the Nevada Gaming Control Board Senate Finance Committee Budget Overview document dated February 8, 2011 ([Exhibit J](#)).

The State Gaming Control Board is a two-tiered system made up of the Gaming Control Board and the Nevada Gaming Commission. The Board is comprised of full-time staff responsible for investigations, audits, licensing recommendations, enforcement of gaming laws, and collection of licensing fees and gaming taxes. The final authority on gaming licensing matters rests with the five-member Commission.

Page 3 of [Exhibit J](#) shows the current structure of the Board and the Commission. The Commission has virtually remained unchanged for the past two years. The Board has 436 employees distributed in 5 cities throughout the State. The Gaming Policy Committee serves as an advisory body and is called upon for decisions on special items beyond the normal operations of the Board and the Commission.

The primary mission of the Board is to provide oversight and ensure all people and entities within the Nevada gaming industry are operating with integrity and are in strict compliance with regulations. Considering gaming is a significant contributor to the State's revenue, much attention is given to the integrity of the games and the integrity of the operations. Additionally, the Board is responsible for the accurate and timely collection of gaming taxes and fees.

The distribution and location of the Board's 436 employees is shown on page 5 of [Exhibit J](#). The Board historically has had seven divisions:

Administration, Audit, Corporate Securities, Enforcement, Investigations, Technology, and Tax and License. Recent reorganization has reduced the number of divisions from seven to six by eliminating the Corporate Securities Division and incorporating its responsibilities into the Investigations Division.

Page 6 of [Exhibit J](#) shows the number of classified and unclassified employees from FY1990-1991 through the upcoming 2011-2013 biennium. The high water mark of 462 employees was in FY 2007-2008 reflecting the substantial growth of the industry that occurred during the 1998 to 2008 time frame. Since then, there have been several staff reductions. The 2011-2013 biennium budget shows total employees reduced to 418.5 full-time equivalencies (FTE).

Page 7 of [Exhibit J](#) provides information on the Board's funding from FY 2005-2006 through the upcoming 2011-2013 biennium. This includes revenues from the General Fund and other funds generated by the Board through collection of employee registration fees, investigation fees, gaming lab fees, publication sales, training fees, copy charges and fines.

The Gaming Control Board proposed budget for the upcoming 2011-2013 biennium is \$84.4 million. The General Fund is reduced approximately \$7 million as shown on pages 7 and 15 of [Exhibit J](#).

The revenues from gaming fees on page 8 of [Exhibit J](#) are down substantially from their peak of \$1 billion, bringing in only \$829,303,836 in FY 2009-2010. Eighty-five percent of the revenues are collected in Clark County; the remainder is spread throughout the State.

Within budget account (B/A) 101-4061 are enhancement units E-250, E-251 and E-252. Funds totaling \$128,500 are requested for the 2011-2013 biennium for travel and training, advertising and recruitment and imaging services as shown on page 10 of [Exhibit J](#).

E-250 Economic Working Environment — Page GAMING CONTROL BOARD-3

E-251 Economic Working Environment — Page GAMING CONTROL BOARD-3

E-252 Economic Working Environment — Page GAMING CONTROL BOARD-4

In enhancement unit E-710, funding in the amount of \$34,362 is requested for the replacement of furniture, parts for lab equipment and computer software for the Technology Division's gaming lab as shown on page 11 of [Exhibit J](#).

#### E-710 Equipment Replacement — Page GAMING CONTROL BOARD-8

In enhancement unit E-720, funding in the amount of \$104,516 is requested for the improvement and maintenance of the gaming lab to remain current with evolving technologies.

#### E-720 New Equipment — Page GAMING CONTROL BOARD-8

Pages 15-18 of [Exhibit J](#) provide details regarding proposals for reducing the General Fund in the 2011-2013 biennium. In summary, 18 staff positions are eliminated, 3 leased vehicles are returned to the State Motor Pool and there is a reduction in training funds. To increase revenues, a new fee is added for the review and processing of gaming applications. The Board currently does not charge for those reviews.

Additionally, a new \$5 fee is added for gaming employees who change their employment from one casino to another. Currently, gaming employees may be required to register with the Board and pay an initial fee but are not required to pay any fees when they make changes in their work locations.

Pages 17 and 18 of [Exhibit J](#) detail the impact of the budget reductions. Four auditor positions are eliminated which can impact the timeliness of audits. Of particular concern is the increasing number of bankruptcies. Bankruptcies result in unscheduled audits. They cannot be set aside and done at a later date. This, coupled with the reduction in staff, can impact the timeliness of audits.

The number of enforcement staff has remained at 98 professional employees for the past 10 to 12 years. The Board requires 24-hour coverage. Four unclassified positions in regulatory and criminal enforcement have been eliminated. This reduction in staff will have an impact on timely responses.

The deputy chief recently retired and the position will not be refilled. The responsibilities of this position can be absorbed by other positions.

Two unclassified technicians, which represents 33 percent of the staff, plus six classified support staff positions, are eliminated in the Gaming Lab. This comes at a time when there are more submissions of technology and more licensees on the manufacturing and distributing side. There is concern about our being able to adapt and handle the workload with reduced staff.

The final budget reductions shown on page 18 of [Exhibit J](#) pertain to the elimination of administrative positions, resulting in increased workload for the remaining staff.

In the last six to eight years, gaming has changed dramatically. Historically, the impact of international casinos has been fairly small. Now, there are large casinos in Macau and Singapore and several projects under development. Our licensees are becoming increasingly involved in foreign operations, adding costs and investigative tasks for the Board that did not exist previously.

There is increasing interest in Internet gaming. Nevada has much to learn in this area. The Board is making efforts to ensure staff receives as much training as possible. There have been constraints, however, considering the limited travel budget and limited staff time that can be dedicated to this effort. We must build upon our expertise in this area in order for Nevada to remain competitive.

Page 19 of [Exhibit J](#) shows dramatic changes in the gaming industry between 1991 and 2011. In 1991, Atlantic City was Nevada's only true gaming competition in the United States. Today, gaming is present in every state except Utah and Hawaii. Slot machines were discrete, stand-alone devices with no networking. International jurisdictions were modest and tightly controlled. Now, there are mega resorts in several foreign countries with many new projects underway. Complex technologies have been introduced into the marketplace. Advances have been made in the linking of gaming systems and mobile gaming devices within casinos. There is an ever-increasing interest in sports wagering. To compete, Nevada must stay abreast of advances in technologies.

CHAIR HORSFORD:

Can you explain the specific options developed by the Board for adding or increasing fees?

MR. LIPPARELLI:

At the close of the Twenty-sixth Special Session, the Board was asked to seek funding alternatives to fill the 60 percent gap in the Board's costs not covered by fee structure. The Board came up with four proposals related to increases in slot fees as shown in the handout, Proposed Alternatives to Increase Gaming Device Fee Collections ([Exhibit K](#)). The goal is to make the Board completely funded by industry fees. The Board needs to collect \$28 million to pay the difference between what is paid by industry and what is paid by the General Fund. Each of the four alternatives is capable of accomplishing this goal. All four options involve substantial increases in the annual and quarterly slot fees.

In addition to these, the Board presented fee options for other areas which I do not have with me today. If any of those options were chosen, the \$28 million would be reduced respectively dollar for dollar.

CHAIR HORSFORD:

Does that include the proposed \$5 fee charged to employees when they change their place of employment?

STACY WOODBURY (Chief, Administration Division, State Gaming Control Board):  
No. The \$5 change-in-employment fee is separate.

CHAIR HORSFORD:

Has the Board recommended the option they believe is most viable?

MR. LIPPARELLI:

No. The Board only analyzed how to administer the fee increases without adding significant cost to the Board. A fee increase of this type does not require additional staff. The Board simply changes the rate of the fee collected.

The Board circulated the proposed fee structure to the industry and received only eight individual comments. Four out of the eight did not want any increases in fees. The smaller properties said if there must be an increase, they preferred Alternative No. 4 in [Exhibit K](#).

CHAIR HORSFORD:

Why did the Board choose a survey of industry representatives rather than continuing the public workshops?



MR. LIPPARELLI:

We thought people would be more forthcoming with information about the fee structure in a survey rather than in a public setting.

CHAIR HORSFORD:

If the fees were applied, what percentage of the Board's costs would be covered by fees?

MR. LIPPARELLI:

If any one of the four proposals were adopted, the Board would be funded completely by industry fees. Currently, 60 percent is paid by the General Fund and 40 percent is paid by employee registrations and investigation fees.

CHAIR HORSFORD:

Has the Board had a discussion regarding the pros and cons of a self-funded Board?

MR. LIPPARELLI:

Not to my knowledge.

CHAIR HORSFORD:

How does the \$5 fee for recording a change of employment work?

MR. LIPPARELLI:

Employees who change their employment locations pay a \$5 fee to the Board. The fee could be larger if a processing fee is assessed. The Board favors a credit card payment system over processing checks and money orders because it is less costly and cumbersome to administer. The Board is working on the procedures and will decide whether it makes sense to charge a processing fee.

SENATOR LESLIE:

Is there a basis for the \$5 fee? I heard it could be \$5 to \$10 depending on whether a processing fee is assessed. How will the processing fee be determined?

MR. LIPPARELLI:

There is a statutory basis in S.B. No. 83 of the 75th Session allowing the Board to charge a fee when there is a change in employment. The Board is in the process of evaluating the need for, and amount of, a processing fee.

SENATOR LESLIE:

Do employees have to pay a fee to get another work card if they are moving their employment from one city to another?

MR. LIPPARELLI:

No. A new work card is no longer required. Employees have the ability to travel statewide with their employee registrations.

SENATOR LESLIE:

Please explain the increased fee for processing applications.

MS. WOODBURY:

In the Twenty-Sixth Special Session, the Board's charge for investigating an applicant increased from \$80 an hour to \$135 an hour. Additionally, it was decided there would be a charge for time spent processing the initial and final reviews. Previously, this was a free service.

SENATOR LESLIE:

Will there be an increase in the hourly fee as well as new charges for certain parts of the process?

MS. WOODBURY:

Yes, that is correct.

MR. LIPPARELLI:

The increase in the application investigating fee is substantial. I have already had requests from the industry for meetings to determine ways to minimize the impact of these fees by considering organizational changes. Others expressed a concern that the increased costs may make it impossible for new businesses to get into the industry.

SENATOR LESLIE:

Do you have any information showing how application fees have increased over time?

MR. LIPPARELLI

No, but I can get that information for the Committee.

SENATOR LESLIE:

Nevada has always taken pride in being a leader in the gaming industry with excellent regulation. People who come to Nevada can rest assured that the proper gaming regulation is in place and that everything is fair and aboveboard. I am concerned, not only about the impact of the cuts, particularly in auditing, but also about Nevada being behind in Internet gaming. Has there been any discussion at the Board level about using some of the new fees to assist in these areas and make sure Nevada continues as a leader?

MR. LIPPARELLI:

I welcome and support this concept. Europe has progressed with their regulatory framework. Nevada has tried to learn from their experiences but has not been able to actively participate because of lack of funds.

SENATOR LESLIE:

Can you submit an outline of what would be necessary to proceed in this direction to strengthen Nevada's regulatory scheme?

MR. LIPPARELLI:

Yes.

SENATOR RHOADS:

Does the Governor's budget include the \$28 million dollars projected in the four proposed alternatives to increase gaming device fees as shown in [Exhibit K](#)?

MR. LIPPARELLI:

No.

CHAIR HORSFORD:

Is the new employee fee for changing employment locations included in the Governor's budget? What is the total amount projected for that collection?

MS. WOODBURY:

Yes, it is included. The \$5 fee is expected to raise about \$61,000 per year.

CHAIR HORSFORD:

How much revenue is expected from increasing fees in the application review process?

MS. WOODBURY:

This increase is substantial because the hourly rate for investigating an applicant increases from \$80 to \$135. Revenues depend upon who is being investigated and the length of time required. During the Twenty-sixth Special Session discussions, an increase of \$4 million a year was anticipated. We are roughly on target so far in FY 2010-2011.

MR. KRMPOTIC:

The fees were proposed to be increased and were built into the legislation of the Twenty-sixth Special Session. Thus, there was corresponding authority to increase the fees that went along with the General Fund decrease. It is in the millions of dollars. From what Staff can tell, the fee increase approved and anticipated in the Twenty-sixth Special Session has been incorporated into the Gaming Control Board's budget as authorized revenue.

MR. LIPPARELLI:

Although the potential for higher fee collections is in the budget, we are actually seeing a lower aggregate activity resulting from less hiring, fewer employees moving from one job to another and fewer registrations resulting in reduced fee collections.

SENATOR CEGAVSKE:

Do you have anything reflecting the gaming revenue over time and the number of businesses that have been lost?

MR. LIPPARELLI:

Yes, I can provide information for the last four to five years. There have been reductions in each of the core areas in which the Board collects fees. This is caused, in part, by a lower number of units contributing to the revenue, fewer slot machines, fewer licensees and lower overall gaming revenues.

SENATOR DENIS:

In the future, whenever percentages are used in documents, please include numbers with the percentages given so I may put the information into perspective.

CHAIR HORSFORD:

In addition to the concerns about cutbacks in audit, inspection and Nevada's ability to keep up, I am concerned about the time it takes to bring technology to

the market. I have met with a number of gaming manufacturing operators who confirm we have the best, most thorough, system in the world. This budget shows a 33 percent staff reduction by eliminating two unclassified technicians. Please explain the process and important functions these technicians perform in testing new products so I may understand the impact of this reduction.

MR. LIPPARELLI:

Nevada gaming laboratories perform at a very high and effective level and better than private laboratories. There are two general areas: product modifications and new technology.

New games, or updates to games, are the most common type of product modification. When product modifications are submitted, they are checked in the same day. There is no delay in testing. If a manufacturer submits an approvable product, they receive their letter within 30 days at a cost less than a private laboratory would charge.

New technology usually involves a new operating system which all manufacturers have. They update their systems, some every two to three years and others every four to five years. It can take almost one year to complete an entire approval cycle. Field trials can last as little as 30 to 60 days, or as long as 180 days. If the process is extended beyond 60 days, it is because there are problems with the technology. The largest consumption of time for getting a product approved is when deficiencies are identified during the initial analysis. The industry is notified and we must then wait for them to respond. The length of time the manufacturer takes in getting back to us on deficiencies plays a large role in overall processing times. The time to recompile computer codes to address the shortcomings of the submission can consume 90 to 120 days.

CHAIR HORSFORD:

Maintaining the integrity of our product is important. Technology can move faster than our regulatory processes. I am concerned about losing Nevada's competitive advantage.

I would appreciate suggestions of ways we can support you in that regard. One of them may be not cutting back gaming lab funds. I would like to consider the creation of an entrepreneurial benefit to having programs reviewed and approved in Nevada. Nevada's regulatory stamp of approval is desired to

validate products all over the world. There is a competitive benefit for Nevada in this regard.

MR. LIPPARELLI:

Nevada laws dissuade entrepreneurs from coming here to design their products. Nevada has high barriers for entry. A methodology should be constructed to encourage entrepreneurs to come here to develop their products. They could either get licensed or work through a licensed manufacturer for the distribution of their product. It would be a boon to employment, a boon to entrepreneurialism and also send the message that Nevada is a place you can come, set up shop and pursue your dreams as an entrepreneur. Today, you cannot come to Nevada and design a product without tripping over laws that were designed in 1975, when no other jurisdiction in the country allowed gaming.

CHAIR HORSFORD:

I appreciate your comments. Could you please provide written recommendations for legislation that we can enact this session addressing some of these issues? Gaming plays an essential role in Nevada's economy. This is about helping to grow an already strong sector in new and dynamic ways. We need to be on the leading edge of the emerging side of gaming that is apart from the traditional form.

SENATOR RHOADS:

Do you think having to cut expenses over the years and now having to make further reductions has affected the Board's ability to raise revenues? Will revenues decrease because you no longer have the workforce you once had?

MR. LIPPARELLI:

The primary concern is more downstream in the audit area. We have had virtually a flawless record up to this point. However, one complicating factor is the increasing numbers of unscheduled audits resulting from bankruptcies.

SENATOR CEGAVSKE:

Regarding the licensing application fees, could you show us a history of those compared to where we are today? There has been a recommendation for increasing the cost for those applying for a license.

MR. LIPPARELLI:

Yes. That information is readily available.

CHAIR HORSFORD:

We will move to the Commission on Ethics, B/A 101-1343.

## ELECTED OFFICIALS

### Commission on Ethics — Budget Page ELECTED-199 (Volume I) Budget Account 101-1343

CAREN JENKINS (Executive Director, Commission on Ethics):

A number of changes have been made within the Commission on Ethics resulting in cost savings: the Las Vegas office has been closed; the legal research assistant II was moved from Las Vegas to Carson City; an investigator who remained in Las Vegas was moved to a smaller office space in the Grant Sawyer State Office Building; a new rental location was procured for the Carson City office at a lower rate than the previous lease funded during the 2009-2011 biennium, the Commission is traveling less and doing more video conferencing and operations have been tightened up and streamlined.

The Commission has greatly heightened outreach and education efforts. However, this increased awareness in ethics and government laws has caused more work for the Commission. The Commission responded to almost 50 additional requests for opinions (RFOs) this biennium, almost a 50 percent increase over the prior biennium.

Reduction of wait times for RFOs has been a priority. The Commission has reduced wait times for an RFO determination and has also reduced the time between when an RFO is received and the time it goes to public hearing. The goal is to absolve a public officer from allegations quickly, before they damage the public image, especially if there is no evidentiary basis for the allegations. The Commission is equally committed to quickly resolving an RFO in which violations are found, so steps can be taken to sanction or remove the individual from office.

The Commission has fallen behind in writing opinions. The hearing is held, and a determination is made; however, the written opinion is not done in a timely manner because of having to address the next crisis. In one case, the

First Judicial District Court ordered the Commission to issue an opinion in writing because the written opinion that triggers the appeal process had not been done even though the actual determination was made nine months earlier.

The Commission has not been able to stay current on updating the annotations to the *Nevada Revised Statutes* or the *Ethics Opinion Digest* since 2004. As a result, the public is not getting timely information on the published opinions and interpretation of the law.

Please refer to the handout entitled Nevada Commission on Ethics Statistics, 2011 Legislative Session ([Exhibit L](#)) which shows the Commission's workload for FY 2007-2008 through January 1, 2011. These statistics do not include RFOs outside the jurisdiction of the Commission on Ethics. The 138 expected RFOs for FY 2010-2011 was based on doubling the RFOs received during the first six months of this fiscal year. The average days from filing the RFO to the issuance of an advisory opinion improved from 41 days in FY 2007-2008 to 22 days through January 1, 2011. The statute allows for 45 days.

The average days between the public filing of an RFO and the time the hearing is held has decreased from 215 days in FY 2007-2008 to an average of 106 days through January 1, 2011. This spans from the request being filed, the completion of the investigation, the panel hearing, and the occurrence of the formal hearing. This is a fairly fast track compared to the judicial system.

There are a number of RFO cases where an opinion has been issued, but the written opinion has not yet been completed. On July 1, 2009, there were five outstanding opinions waiting to be written. As of January 1, 2011, 16 opinions were waiting to be written. Other than the transcript of the proceedings, there is no resource for the public to know the current state of the law.

The workload is increasing while the projected budget is decreasing. The Commission's current annual budget for FY 2010-2011 is \$590,287 which is a 13 percent decrease from FY 2007-2008. However we have had a 45 percent increase in our workload.

Statute requires the State and local cost share be adjusted every Legislative Session based on the number of cases received in each jurisdiction. The current cost share legislatively approved for FY 2009-2010 and



FY 2010-2011 is 35 percent by the State and 65 percent by local governments. The actual experience in FY 2009-2010 and FY 2010-2011 has been that 26 percent of the RFOs pertained to State executive and legislative officers and 74 percent have come from local governments. As a result, our recommendation is to change the share of costs to 26 percent State support and 74 percent local government support for the upcoming 2011-2013 biennium.

In decision unit E-710, the Governor's budget includes replacement equipment funding for a new computer server in FY 2011-2012 and antivirus software. The Commission has a stand alone server that is not part of the Department of Information Technology system.

#### E-710 Equipment Replacement — Page ELECTED-201

The 2011-2013 biennium budget includes funds to adjust the Commission Investigator's salary to comparable levels within Nevada State Government.

Additionally, I have been authorized by the Department of Administration to bring up a request for a budget amendment. Specifically, the request is to change the vacant legal research assistant II position from classified to unclassified. The Director of the Department of Administration reports this will save approximately \$10,000. Currently, all other positions within the Commission are unclassified.

On page 2 of [Exhibit L](#), I have provided the costs and benefits for adding two new positions, one unclassified deputy commission counsel and one unclassified senior investigator, to the Governor's budget. These positions are not included in the Governor's budget for FY 2011-2013.

SENATOR DENIS:

Are specifics available regarding the location of the RFO activities?

MS. JENKINS:

I do not have the current fiscal year activity by area. In FY 2007-2008, the State to local government proportion of requests was 40 to 60. In FY 2008-2009 and FY 2009-2010 the proportion of requests was 35 to 65. It is shifting more to local government requests rather than State government RFOs.

SENATOR DENIS:

You mentioned that you closed the Las Vegas office. I am wondering whether more cases are from southern Nevada versus northern Nevada and how the location change will impact the closing of cases.

MS. JENKINS:

The location of the Commission staff is not important considering most of our communication is done by telephone, Internet and facsimile. It is rare for the public to visit our offices. The Las Vegas office was expensive and duplicative and without a direct benefit to the public. The investigator remains in Las Vegas. He is housed in the Grant Sawyer State Office Building. The Commission has rented a 199 square foot room within the State Controller's Office. Money is included in the budget for the investigator to travel to northern and rural Nevada, when necessary. I travel throughout Nevada every other month to complete presentations and answer questions on the Ethics in government law.

SENATOR DENIS:

You have provided that education program information as part of your performance indicators. Please be sure to include the actual numbers related to all percentages provided.

MS. JENKINS:

I will do that. Would you like a breakout by county or city?

SENATOR DENIS:

A breakout of activity by county would be helpful.

SENATOR KIECKHEFER:

Did you request the additional positions outlined in [Exhibit L](#) in the agency budget request, and when you went to the Budget Office? If so, what was the response?

MS. JENKINS:

No. The emphasis has been on making budget reductions. I have had to fight to keep the staff we have.

CHAIR HORSFORD:

Regarding the request to reclassify the legal research assistant II position from classified to unclassified, has the person in the position agreed to this change?

MS. JENKINS:

The position is currently vacant. If the position were filled prior to July 1, 2011, it could be filled with a temporary appointment through June 30, 2011, and then a permanent appointment as unclassified effective July 1, 2011.

CHAIR HORSFORD:

We will now move to the budget hearings for the Agency for Nuclear Projects, B/A 101-1005.

## ELECTED OFFICIALS

### High Level Nuclear Waste — Budget Page ELECTED-25 (Volume I) Budget Account 101-1005

JOSEPH C. STROLIN (Acting Director, Agency for Nuclear Projects, Office of the Governor):

The Agency for Nuclear Projects is located within the Governor's Office. A seven-member Commission on Nuclear Projects, appointed by the Governor, oversees the Agency and makes recommendations to the Governor and Legislature on matters concerning the high-level nuclear waste program.

I have provided you with the 2010 Report and Recommendations of the Nevada Commission on Nuclear Projects, A summary of Key Points ([Exhibit M](#)). I will begin with an Agency overview and then follow with specifics on the status of the high-level nuclear waste site at Yucca Mountain.

The Agency's primary role has been the oversight of the Yucca Mountain project. More recently, there has been heavy involvement with the licensing proceedings that have been ongoing since 2008. Additionally, the Agency has over the years assumed some responsibilities at the direction of various governors for overseeing activities of the Nevada Test Site, specifically in the areas of natural resource damage assessments, claims resulting from past contaminations at the Test Site and for transportation of various types of radioactive wastes that periodically go through Nevada and require oversight by State agencies.

The Agency, by statute, is comprised of two divisions; the Technical Programs Division and the Planning Division. The Planning Division administrator position is vacant and the proposal is to keep it vacant pending what happens with the licensing and whether or not the Yucca Mountain project goes forward.

The Yucca Mountain project remains in limbo. It is, however, far from dead. In February 2010, the Department of Energy (DOE) moved to withdraw the license application it had filed with the Nuclear Regulatory Commission (NRC) for a construction authorization for Yucca Mountain. This was in response to a commitment by the current United States Presidential Administration to end the project based on work that U.S. Senator Harry Reid had done over the years with the incoming President and his new Administration. In short, it was the fulfillment of a campaign commitment made by President Obama stating that if elected, he would terminate the Yucca Mountain project.

In June 2010, the Atomic Safety and Licensing Board denied the DOE's motion to withdraw its Yucca Mountain license application, saying it was not consistent with the Nuclear Waste Policy Act of 1982, the federal law governing the Yucca Mountain project, and that the DOE did not have the legal authority to withdraw that application. The DOE appealed this decision to the full NRC. As of today, NRC has not acted on that appeal.

As a result of the motion to withdraw the licensing application, three court cases have been filed with the U.S. Court of Appeals for the Ninth Circuit to oppose DOE's proposed shutdown of Yucca Mountain. Until NRC renders a decision on whether the DOE can legally withdraw its license application, these cases are being held in abeyance. Five other court cases are in abeyance pending confirmation of the project's termination. The Court of Appeals has scheduled oral arguments for March 2011. It is possible a decision could be forthcoming sometime this summer.

In the end, what will drive the future of Yucca Mountain, and whether things go forward again, will be what happens in Congress. In the U.S. Senate, under Senator Reid's leadership, the Yucca Mountain program funding is zeroed out. This was done in an appropriation measure passed by the Senate Appropriations Committee. However, with the turnover in recent elections, which resulted in the House controlled by one party and the Senate by the other, it appears likely the House will provide funding for the Yucca Mountain project and the Senate

will likely continue to zero out the funding. If that happens, the determination as to whether funding will be provided will be made in a conference committee. Given the dynamics of a conference committee, it is possible there will be some funding for Yucca Mountain for the foreseeable future.

The Agency does not expect DOE to be successful in the pending litigation. There is a real possibility things could escalate fairly quickly in July or August 2011, depending upon what happens in Congress.

SENATOR LESLIE:  
How does this relate to the budget?

MR. STROLIN:  
The Agency is funded by a mix of the General Fund, State Highway Fund and federal funds.

The General Fund appropriation to the Agency has been reduced by 63 percent from the last biennium. The Agency's staff has been reduced from seven at the beginning of this biennium to the current four full-time staff. Nevada Protection Funds of \$970,000 were approved for each fiscal year of this biennium but then were deleted during the Twenty-sixth Special Session and have been totally eliminated from the 2011-2013 biennium. The Nevada Protection Fund was specifically earmarked for activities related to the State's defense efforts for a high-level nuclear waste site at Yucca Mountain.

The budget proposed for the 2011-2013 biennium is a bare-bones operating budget. The Agency can function and continue to work with reduced funding. The problem will come if the federal government decides to reopen the Yucca Mountain site. If this occurs, additional funds will be needed for the State to participate effectively. The Agency would be forced to come back during the interim and request emergency funding.

SENATOR LESLIE:  
Have you estimated those costs?

MR. STROLIN:  
Yes. On an annual basis, \$9 million would provide a barely adequate amount to participate in the Yucca Mountain licensing proceedings.

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SENATOR LESLIE:

There is really no way to predict whether this will happen. Will you be ready in case it does happen and then come to us for additional monies?

MR. STROLIN:

This is correct.

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CHAIR HORSFORD:

There being no further business before this Committee, this hearing is adjourned at 10:08 a.m.

RESPECTFULLY SUBMITTED:

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Jackie Cheney,  
Committee Secretary

APPROVED BY:

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Senator Steven A. Horsford, Chair

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

## EXHIBITS

**Committee Name:** Committee on Finance

**Date:** February 08, 2011

**Time of Meeting:** 8:00 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Mark Krmpotic	Senate Committee on Finance Standing Rules 2011 Session
	D	Mark Krmpotic	2009 Executive Budget- Preliminary Listing Budget Review- Full/Sub/Staff
	E	Mark Krmpotic	New Budget Accounts Created by the 2009 Legislature or Included for the First Time in the 2011-13 Executive Budget
	F	Mark Krmpotic	2011 Session Joint Subcommittee Assignments Senate Committee on Finance.
	G	Mark Krmpotic	2011 Session Senate Finance Subcommittee Assignments
	H	Mark Krmpotic	Fiscal Analysis Division Agency Assignments- September 2010
	I	Mark Krmpotic	Senate Committee on Finance Progress Report as of March 23, 2009 DAY 50 of the 2009 Legislative Session
	J	Mark A. Lipparelli	Nevada Gaming Control Board Senate Finance Committee Budget Overview February 8, 2011 <b>(Nellis)</b>
	K	Mark A. Lipparelli	Proposed Alternatives to Increase Gaming Devise Fee Collections



	L	Caren Jenkins	Nevada Commission on Ethics Statistics 2011 Legislative Session
	M	Joseph C. Strolin	2010 Report and Recommendations of the Nevada Commission on Nuclear Projects, A summary of Key Points