**MINUTES OF THE**
**SENATE COMMITTEE ON FINANCE**

**Seventy-sixth Session**
**April 20, 2011**

The Senate Committee on Finance was called to order by Chair Steven A. Horsford at 9:05 a.m. on Wednesday, April 20, 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:**

Rex Goodman, Principal Deputy Fiscal Analyst
Mark Krmpotic, Senate Fiscal Analyst
Heidi Sakelarios, Program Analyst
Marian Williams, Committee Secretary

**OTHERS PRESENT:**

Stacey Crowley, Director/Acting Commissioner of Energy, Nevada State Office of Energy, Office of the Governor
Robert Nellis, Energy Program Manager, Nevada State Office of Energy, Office of the Governor
Stephanie Day, Deputy Director, Budget Division

CHAIR HORSFORD:
Today we are handling the budget closings for the Governor's Office of Energy Conservation, the Renewable Energy & Energy Efficiency Authority and the Renewable Energy, Efficiency and Conservation Loan. We will also hear two bills.

MARK KRMPOTIC (Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):
The closing packet before you (Exhibit C) lists three budget accounts, the Governor's Office of Energy Conservation, the Renewable Energy & Energy Efficiency Authority and the Renewable Energy, Efficiency and Conservation Loan. We will begin with budget account (B/A) 101-4875, the Renewable Energy, Efficiency and Conservation Loan. We are seeking decisions in this account before we close the other accounts.

ELECTED OFFICIALS

Renewable Energy Efficiency and Conservation Loan, — Budget Page ELECTED-48 (Volume I)
Budget Account 101-4875

HEIDI SAKELARIOS (Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):
The first account we will be closing today is B/A 101-4875, Renewable Energy, Efficiency and Conservation Loan. This account is found in your closing packet on page 13 (Exhibit C). The 2009 Legislature authorized the creation of this account in order to establish a revolving loan fund to grant low interest loans to renewable energy systems. The initial funding placed into the revolving loan fund came from the American Recovery and Reinvestment Act of 2009 (ARRA) and totaled approximately $8.2 million.

The first item included in your closing packet is with respect to the loans issued through the revolving loan fund. The agency indicates that the average loan amount requested by borrowers is approximately $1.3 million. However, the agency works with borrowers to try to reduce the amount of the loan to the greatest extent possible. This has resulted in a reduction in the average loan amount being awarded to approximately $870,000. The agency indicates that the range of loans granted to date range from $42,930 to nearly $1.5 million. Loan repayment terms are negotiated based on the size and scope of the project and range from 6 months to 12 years. Most loans have a 42-month term for repayment.

Loan fees and title escrow fees are currently paid through the ARRA funds which have been designated for administrative costs. According to the *Executive Budget*, this practice is expected to continue through April 2012, when the administrative funds for the ARRA grant expire. Beginning in May 2012, the fees will be paid out of the interest earned through the repayment of loans. During the budget hearing, the Committee noted that, traditionally, borrowers are responsible for paying closing costs on loans and asked the Agency if it was aware of any requirements that would prohibit the State from transferring this financial responsibility to the borrowers. The Agency has responded that they are unaware that there are any requirements through ARRA that would prohibit charging the title and escrow fees directly to the borrowers. Requiring the borrowers to pay the title and escrow fees, rather than the State, would decrease expenditures for loan administration and increase the revenue available for future loans.

The Committee may wish to ask the Agency to explore the possibility of modifying the policies and procedures for granting loans to require borrowers to pay escrow costs. The Committee may also wish to issue a letter of intent directing the Agency to report to the Interim Finance Committee (IFC) in December 2011 on the outcome of this examination.

In the April 18, 2011 meeting of the IFC, Staff noted that the agency routinely authorizes loans beyond the amounts approved by the Legislature or the IFC. It was Staff's understanding at the time this closing document was prepared that the agency intends to continue obligating loans in the current fiscal year beyond budgetary authority. During the IFC meeting on April 18, 2011, the Agency was instructed to revisit the process used for awarding loans and to submit a proposal that would allow the Agency to continue to meet its goals of issuing loans as quickly as possible without overobligating the loan account and to devise a strategy that would allow the loans to be issued without requiring repeated work programs to be submitted to the IFC. The IFC indicated a willingness to consider a bill amendment to implement the Agency's proposal.

Based on discussions during the IFC meeting on April 18, 2011, the Committee may wish to give the Agency clear direction on the policy of not obligating loans beyond authorized amounts. The Committee may also consider issuing a letter of intent requiring the Agency to report to the IFC on a semiannual basis during the 2011-2013 biennium, beginning in January 2012, on the loans that have been issued to date, the amount of interest and principal paid to the State by borrowers and the funding available for new loans.

CHAIR HORSFORD:
We need to clarify with the Agency the possibility of modifying the loan grant policies and procedures to require borrowers to pay escrow costs. Is this something the agency has prepared?

STACEY CROWLEY (Director/Acting Commissioner of Energy, Nevada State Office of Energy, Office of the Governor):
We took the comments from the hearing into consideration and changed our contract to state that applicants shall pay all closing fees.

SENATOR LESLIE MOVED TO ISSUE A LETTER OF INTENT DIRECTING THE AGENCY TO REPORT TO THE IFC IN DECEMBER 2011 ON THE OUTCOME OF AN EXAMINATION OF THE POSSIBILITY OF MODIFYING LOAN GRANTING POLICIES AND PROCEDURES TO REQUIRE BORROWERS TO PAY ESCROW COSTS; AND TO ISSUE A LETTER OF INTENT FOR THE AGENCY TO REPORT TO IFC ON A SEMIANNUAL BASIS DURING THE 2011-2013 BIENNIUM, BEGINNING IN JANUARY 2012, TO REPORT ON THE LOANS THAT HAVE BEEN ISSUED TO DATE, THE AMOUNT OF THE INTEREST AND PRINCIPAL PAID TO THE STATE BY BORROWERS AND THE FUNDING AVAILABLE FOR NEW LOANS.

MR. KRMPOTIC:
The first issue does not seek any decisions regarding the actual budget. This is acting on Staff's suggestions regarding letters of intent, the first letter of intent regarding the payment of escrow costs by borrowers and the second letter of intent regarding reporting to IFC. No budget decisions are being made in this first item.

SENATOR PARKS:
Would this be a semiannual report? Would the report show all the loans and the status of all the loans?

CHAIR HORSFORD:
Yes.

Are we in compliance with all of the ARRA regulations, such as Davis-Bacon? Are the entities that are contracted for these projects in compliance with all applicable federal rules?

ROBERT NELLIS (Energy Program Manager, Nevada State Office of Energy, Office of the Governor):
Recently, our office conducted a weeklong visit to projects throughout the State, some of which included revolving loan recipients. In that visit, we verified Davis-Bacon compliance, Buy American compliance and Environmental Protection Act compliance.

CHAIR HORSFORD:
If a project is not in compliance, do you rescind its loan?

MR. NELLIS:
Fortunately, we have not found anyone who is not in compliance. We have procedures for mitigation and to take back loans if needed.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. SAKELARIOS:
The next decision unit from B/A 101-4875 is E-175, the utilization of Interest Income for Administrative Costs.

E-175 Economic Development — Page ELECTED-48

The Governor recommends transferring interest income paid by loan recipients totaling $51,777 in fiscal year (FY) 2011-2012 and $255,241 in FY 2012-2013 from this account to the NSOE Administration account, B/A 101-4868, for expenditures associated with administration of the loan fund.

Governor's Office Energy Conservation — Budget Page ELECTED-30 (Volume I)
Budget Account 101-4868

This decision unit is associated with decision unit E-490 in B/A 101-4868, which changes funding for two energy program manager positions in FY 2011-2012 and FY 2012-2013 and one energy outreach coordinator position in FY 2012-2013.

E-490 Expiring Grant/Program — Page ELECTED-33

The Committee may recall from the budget hearings that the *Executive Budget* anticipates that revenue from the interest earned through loan repayments will total $130,812 during the 2011-2013 biennium. Based on this projection, the revenue from the interest earned through loan repayments would not be sufficient to fund the original recommendation in this decision unit. The Agency would have to utilize anticipated reserves earned during FY 2010-2011.

However, based on updated NSOE Loan Amortization Schedules provided by the agency, the interest earned through loan repayments will exceed the amount included in the *Executive Budget*. According to the revised revenue projections, the Agency would earn $205,482 in FY 2011-2012 and $250,087 in FY 2012-2013 in interest through loan repayments. These amounts would be sufficient to meet the expenditures included in the Governor's recommended budget without utilizing any of the reserve. Staff has incorporated the additional interest revenue earned through loan repayments into the closing document.

On April 5, 2011, the Budget Office submitted a budget amendment recommending restoration of a management analyst II position that was originally recommended for elimination on April 30, 2012, when the ARRA funding expired. The budget amendment also recommends funding this position and related operating expenditures with revenue from the interest earned through the repayment of loans beginning on May 1, 2012, and continuing through FY 2012-2013. This would result in an increase of $10,245 in the interest income being spent in FY 2011-2012, and $60,492 in FY 2012-2013. A technical adjustment has been made in this account to include revenue for the management analyst II position in the transfer to B/A 101-4868, should the Committee approve the budget amendment.

*Nevada Revised Statutes* (NRS) 701.590 provides that the money in the fund, including repayments of principal and interest on loans, may be used only to make loans to renewable energy systems for the construction of renewable energy projects. The NRS does not currently include a provision that would allow the utilization of this revenue for administrative costs. In preparation for the budget closing hearing, the Agency was asked to provide additional information regarding the rationale used to recommend the utilization of interest for these expenses. The Agency responded that the Governor's recommendation is consistent with current statute and ARRA funding requirements. The Agency also noted that clarification is being sought through Senate Bill (S.B.) 60 which would allow the Agency to utilize revenue from the interest earned on the prepayment of loans for costs associated with administering the loan fund. Senate Bill 60 is included on your agenda for today's meeting.

**SENATE BILL 60 (1st Reprint)**: Revises provisions relating to the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans. (BDR 58-410)

Does the committee wish to approve the Governor's recommendation, as amended, to transfer $52,484 in FY 2011-2012 and $198,867 in FY 2012-2013 of the interest income earned through loan repayment from this account to B/A 101-4868 for expenditures associated with administration of the loan fund, subject to the approval of the provisions of S.B. 60 allowing this expenditure?

SENATOR RHOADS MOVED TO APPROVE THE GOVERNOR'S RECOMMENDATION, AS AMENDED, TO TRANSFER THE INTEREST INCOME EARNED THROUGH LOAN REPAYMENT FROM B/A 101-4875 TO B/A 101-4868, SUBJECT TO THE APPROVAL OF THE PROVISIONS OF S.B. 60; AND TO AUTHORIZE STAFF TO MAKE ANY TECHNICAL ADJUSTMENTS.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. SAKELARIOS:

Fiscal Staff met with representatives from the Budget Division and the NSOE on April 12, 2011, at which time the agency indicated it was necessary to revise the funding allocation for several positions within their budget account. These revisions increase the number of personnel recommended to be funded with the interest earned through the repayment of loans. According to the fund maps used to develop the *Executive Budget*, recommended interest revenue earned through the repayment of loans was to partially fund two positions in FY 2011-2012 and partially fund four positions in FY 2012-2013. The amended fund maps recommend partially funding three positions in FY 2011-2012 and fully funding two positions and partially funding two positions in FY 2012-2013. These changes adjust the administrative expenditures. The amounts included in the Governor's recommended budget totaled $51,777 in FY 2011-2012 and $255,241 in FY 2012-2013. With the fund map changes for the positions, this would reduce the expenditures to $43,889 in FY 2011-2012 and increase the expenditures to $351,212 in FY 2012-2013. This results in an overall adjustment of $88,083 during the 2011-2013 biennium and would decrease the interest revenue that would have been available to fund new loans.

If the Legislature deems the use of interest revenues to pay administrative costs allowable, Staff suggests the proposed allocation revisions are reasonable. Does the Committee wish to approve the reallocations subject to the approval of the provisions of S.B. 60 allowing this expenditure?

CHAIR HORSFORD:
Please explain the responsibilities of these positions. Why are they needed? Why do you want to spend the money on staff instead of putting the money into the revolving loan program itself?

MS. CROWLEY:
These positions help manage the program. The energy program manager oversees the program and the intent of the program to ensure that the loans are being applied to the correct projects and all of the applicable conditions are being met. The management analyst works with the applicants to ensure that all the details of the application are in line.

CHAIR HORSFORD:
Why are these positions not included in the grant itself? These positions are typically allowable program related administrative costs under federal grants. Why are these not considered program related costs?

MS. CROWLEY:
They are considered program related costs through the ARRA funding sunset date. Once the grant's sunset date passes, it is up to the Agency to determine how to fund those positions. We are asking that a portion of the interest be used to fund these positions.

CHAIR HORSFORD:
That is reasonable.

SENATOR LESLIE MOVED TO APPROVE THE REALLOCATION OF INTEREST REVENUES TO PAY ADMINISTRATIVE COSTS, SUBJECT TO THE APPROVAL OF THE PROVISIONS OF S.B. 60.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. SAKELARIOS:
I want to bring to your attention some revised revenue projections and adjustments to the reserve category. The *Executive Budget* anticipates loan repayments of approximately $2 million in each year of the 2011-2013 biennium and interest on loan repayments of $66,032 in FY 2011-2012 and $64,780 in FY 2012-2013. Based on the revised Loan Amortization Schedules provided by the Agency, the projected loan repayments would total $1.7 million in FY 2011-2012 and $3.5 million in FY 2012-2013. The interest payments would total $205,482 in FY 2011-2012 and $250,087 in FY 2012-2013. If the Committee approves the technical adjustments to increase the transfer to the NSOE account for administrative and operational costs described above, the funding available for loans will total $1.9 million in FY 2011-2012 and $3.5 million in FY 2012-2013. Staff has adjusted the revenue and expenditure projections for loan repayments and interest earned on loan repayments, as well as the expenditure authority for new loans in each year of the 2011-2013 biennium, based on the revised projections provided by the Agency.

Additional technical adjustments have been made to align the transfer from this account to B/A 101-4868 for administrative costs related to the loan fund; to reduce the reserve in this account to an amount equal to 60 days of operating costs to be paid through the NSOE account and to reserve sufficient revenue for administrative expenditures in FY 2012-2013. The reserve amount in FY 2011-2012 has been increased to ensure that sufficient funding is available for projected administrative costs in FY 2012-2013.

Does the Committee wish to approve the other items with the adjustments recommended by Staff?

SENATOR DENIS MOVED TO APPROVE THE OTHER ITEMS WITH THE ADJUSTMENTS RECOMMENDED BY STAFF; AND TO AUTHORIZE STAFF TO MAKE ANY NECESSARY TECHNICAL ADJUSTMENTS.

SENATOR LESLIE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. SAKELARIOS:
The next budget account for closing is B/A 101-4868, the Governor's Office of Energy Conservation, which is located on page 1 (Exhibit C) of your closing package.

Governor's Office Energy Conservation — Budget Page ELECTED-30 (Volume I)
Budget Account 101-4868

The first item for consideration today is the elimination of ARRA funded positions in the Base Budget. During the 2009-2011 biennium, the IFC approved an additional nine FTE positions. Seven of the nine positions were funded through the ARRA grant. These positions are listed in your closing document on pages 3 and 4. The ARRA SEP grant ends on April 30, 2012, and the ARRA Energy Efficiency and Conservation Block Grant ends on September 30, 2012. These positions will no longer be supported through these federal funds because the federal funds are ending. Therefore, the Governor proposes to delete five FTE positions from the Base Budget in FY 2011-2012, effective April 30, 2012, and two FTE positions from the Base Budget in FY 2012-2013, effective September 30, 2012. The *Executive Budget* includes layoff costs totaling $12,914 in FY 2011-2012 and $16,495 in FY 2012-2013.

The Committee should note that decision unit E-490 recommends restoration of three of the positions recommended for elimination and a budget amendment has been submitted to recommend restoration of a forth position.

E-490 Expiring Grant/Program — Page ELECTED-33

On April 13, 2011, the Budget Division provided revised layoff projections for these positions. According to this information, the terminal annual leave and terminal sick leave costs for these five positions total $15,595 in FY 2011-2012 and $17,304 in FY 2012-2013. Technical adjustments have been made based on the revised layoff costs.

Only one of the two positions funded through the NRI grant has been established, the program manager position. The Agency indicates that the outreach coordinator position that was initially authorized by the IFC will not be established. The Agency has determined that these duties can be performed by existing staff.

Does the Committee wish to approve the elimination of the seven ARRA funded positions during the upcoming biennium in the Base Budget as recommended by the Governor? Does the Committee wish to approve the Agency's recommendation not to establish the outreach coordinator originally requested for the Nevada Retrofit Initiative grant? Does the Committee wish to approve the technical adjustments for layoff cost projections as recommended by Staff?

CHAIR HORSFORD:
We will also discuss the restoration of three positions recommended for elimination in the Base Budget before we take a vote.

MS. SAKELARIOS:
The Governor recommends restoring three FTE positions that were recommended for elimination in the Base Budget due to the expiration of ARRA funding. These positions include two energy program manager positions and one energy outreach coordinator. The Governor recommends restoring the positions utilizing interest earnings from the repayment of loans which we discussed in the last budget account. The restoration of these positions will cost a total of $42,239 in FY 2011-2012 and $138,375 in FY 2012-2013. In addition, included in this decision unit are federal funds totaling $80,559. The Agency indicates that the duties of these positions will not change substantially as a result of the change in their funding source.

On April 5, 2011, the Budget Division submitted a budget amendment that recommended restoring a fourth position which was originally recommended for elimination in the Base Budget. This position is a management analyst II which is now recommended to be funded through the interest income earned from the repayment of loans. This would result in an increased expenditure of $10,245 in FY 2011-2012 and $60,492 in FY 2012-2013 to fund the position that will be effective May 1, 2012. The Agency indicates that the duties of this position will remained unchanged, despite the change in the funding source.

Staff has made technical adjustments to ensure the expenditures in this account for the restoration of the positions recommended by the Governor in decision unit E-490 and the budget amendment match the transfer from the B/A 101-4875. The technical adjustments are included in your closing documents, Exhibit C.

As discussed previously, NRS currently indicates that the money in the fund must be used only to make loans to renewable energy systems for the construction of renewable energy projects. Senate Bill 60, as amended, includes language to allow this to occur.

Does the Committee wish to approve the Governor's recommendation, as amended, to restore the four positions, two energy program manager positions, one energy outreach coordinator position and one management analyst position, which were recommended for elimination in the Base Budget, subject to the approval of the provisions of S.B. 60? Does the Committee wish to approve the technical adjustments made to align the expenditures in this account with the transfer from the loan account as recommended by Fiscal Staff?

CHAIR HORSFORD:
Will the layoff costs be covered by the grant itself?

MS. CROWLEY:
Yes, those costs are covered by the grant.

SENATOR KIECKHEFER:
Are these positions classified or nonclassified?

MS. CROWLEY:
They are classified positions.

SENATOR KIECKHEFER:
Why were classified employees hired when they were funded with one term grant money?

MS. CROWLEY:
That is a good question. I do not know the answer. I am not sure if that is how it was set up.

STEPHANIE DAY (Deputy Director, Budget Division):
We have a number of federally funded positions that are in the classified State service. It is understood that if the grant goes away, the position goes away.

SENATOR KIECKHEFER:
We were aware that this was a onetime grant and now we must deal with $32,000 in layoff costs. Hiring classified employees who would be laid off when the grant ran out does not seem like the correct way to use classified service.

MS. DAY:
The costs would still exist whether they were classified or nonclassified employees. If we had used a temporary service, we would not have these terminal leave costs.

SENATOR KIECKHEFER:
If these employees were nonclassified, would you have these costs?

MS. DAY:
Nonclassified, unclassified and classified service all have the same terminal leave costs, so their annual leave would be cashed out. Any State employee who has ten years of service or more also gets sick leave cashed out. Only employees hired through a temporary agency would not have the State terminal leave cash-outs.

SENATOR LESLIE MOVED TO APPROVE THE ELIMINATION OF THE SEVEN ARRA FUNDED POSITIONS AS RECOMMENDED BY THE GOVERNOR; TO APPROVE THE AGENCY'S RECOMMENDATION NOT TO ESTABLISH THE OUTREACH COORDINATOR; TO APPROVE THE GOVERNOR'S RECOMMENDATION, AS AMENDED, TO RESTORE THE FOUR POSITIONS RECOMMENDED FOR ELIMINATION, SUBJECT TO THE APPROVAL OF THE PROVISIONS OF S.B. 60; AND TO AUTHORIZE STAFF TO MAKE ANY TECHNICAL ADJUSTMENTS.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. SAKELARIOS:

Budget Amendment A00259A, submitted on April 5, 2011, includes a new line item, decision unit E-806, which recommends increasing the Director's salary from $118,138 in FY 2011-2012 and $119,799 in FY 2012-2013, as recommended in the Executive Budget, to $137,624 in FY 2011-2012 and $139,386 in FY 2012-2013.

E-806 Balance Forward From Previous Year

This adjustment aligns the Director's salary with the Nevada Renewable Energy and Energy Efficiency Authority (REEEA) Commissioner's salary. The budget amendment recommends utilizing property tax abatement revenue transferred from the Renewable Energy and Energy Efficiency Authority account in decision unit E-900, totaling $19,486 in FY 2011-2012 and $19,587 in FY 2012-2013, to pay for this salary increase.

<u>Renewable Energy and Energy Efficiency Authority</u> — Budget Page ELECTED-41 (Volume I)
Budget Account 101-4869

E-900 From REEEA to Energy — Page ELECTED-45

According to the Nevada Executive Budget System, the budget amendment reclassifies the Director's position to a Commissioner position. However, the Budget Division indicates the intent of the decision unit is to increase the salary of the Director position, not to reclassify the position. The Committee should note that this is a new decision unit and it has not been discussed during prior budget hearings.

The Committee may wish to have the Budget Division confirm that the decision unit is intended to increase the salary, but not reclassify the position. Additionally, does the Committee wish to approve the Governor's budget amendment to increase the salary for the Director position by $19,486 in FY 2011-2012 and $19,587 in FY 2012-2013?

CHAIR HORSFORD:
Can you confirm that the intent is to increase the salary, not to reclassify the position? What is the justification for this increase?

MS. DAY:
It is our intent to increase the salary, but not to reclassify the position. The duties of the Commissioner will be assumed by this position. This position has combined all the duties of the REEEA office and the Energy Office. We feel that it is more appropriate for the salary to be increased to that of the previous Commissioner, but to leave the position titled as the Director of Energy.

CHAIR HORSFORD:
I worked on the bill that created the authority and I am familiar with the functions of the Commissioner. I do not disagree with merging these functions under the Energy Office for the purpose of streamlining based on the challenges we are facing as a State. However, some of the functions that the Commissioner was assigned were previously under the Energy Office. There were new functions, such as the task forces and the development of State plans, but these duties are not so different from the work of the office now. Because of this, I am having a hard time understanding the justification for the budget amendment request.

MS. DAY:
The duties of the two offices being combined, we feel, justifies the increase in the salary.

CHAIR HORSFORD:
When teacher pay will be reduced by 10 percent to 12 percent, I cannot agree with this proposal.

MS. DAY:
We are eliminating one of the two positions.

CHAIR HORSFORD:
I disagree.

> SENATOR LESLIE MOVED TO NOT APPROVE THE GOVERNOR'S BUDGET AMENDMENT TO INCREASE THE SALARY FOR THE DIRECTOR POSITION.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CEGAVSKE AND RHOADS VOTED NO.)

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MS. SAKELARIOS:

Item four includes two decision units which recommend the elimination of one position in each decision unit. The Governor recommends the elimination of one renewable energy analyst position in FY 2012-13 through decision unit E-606.

E-606 Staffing and Operating Reductions — Page ELECTED-34

The elimination of this position results in a net reduction totaling $68,912 in FY 2012-2013 which includes terminal annual leave and terminal sick leave costs of $8,399. This federally funded position is being recommended for elimination because the workload has been completed and future funding from this grant source is uncertain. Based on revised layoff cost projections provided on April 13, 2011, a technical adjustment has been made to reduce the layoff costs to $3,807. The revision results in the removal of terminal sick leave from the calculation.

The Governor also recommends the elimination of one energy program manager position in FY 2012-2013 which results in a General Fund reduction of $92,649. Layoff costs total $18,805 and are funded through the Governor's recommended one-shot appropriation for layoff costs. The agency indicates that the duties performed by this position have been completed and the position is no longer necessary.

Does the Committee wish to approve the Governor's recommendation to eliminate one renewable energy analyst position and one energy program manager position, with the adjustments recommended by Staff?

SENATOR LESLIE MOVED TO APPROVE THE GOVERNOR'S RECOMMENDATION TO ELIMINATE ONE RENEWABLE ENERGY ANALYST POSITION AND ONE ENERGY PROGRAM MANGER POSITION, SUBJECT TO THE APPROVAL OF THE PROVISIONS OF S.B. 60; AND TO AUTHORIZE STAFF TO MAKE ANY NECESSARY TECHNICAL ADJUSTMENTS.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. SAKELARIOS:
The next item is the use of the Tax Abatement Program revenue to offset General Fund appropriations to the NSOE account. The *Executive Budget* recommends the transfer of the Tax Abatement Program and other activities from the Renewable Energy and Energy Efficiency Authority (REEEA) account to the NSOE Administration account. The transfer includes real property tax revenue totaling $1,307,885 in FY 2011-2012 and $1,916,389 in FY 2012-2013, and federal funds totaling $39,005 in FY 2011-2012 and $305,667 in FY 2012-2013. Senate Bill 426 has been introduced and would implement changes in statute to enable this transfer.

**SENATE BILL 426**: Makes various changes related to energy. (BDR 58-1156)

The Legislative Committee for the Fundamental Review of Base Budgets of State Agencies recommended consideration of the use of revenue earned through the Tax Abatement Program to offset General Fund appropriations in the NSOE Administrative account. Currently, the property taxes collected from facilities receiving abatements are divided as follows: 45 percent is deposited in the General Fund and 55 percent is distributed to local government entities. Beginning on July 1, 2011, the 45 percent of property taxes collected, which are currently deposited in the General Fund, will be deposited in the Renewable Energy Fund which is administered by the Energy Commissioner. Chapter 701A.450 of the NRS requires that not less than 75 percent of the money in the fund must be used to offset the cost of electricity to retail customers of a public utility that is subject to the portfolio standard established by the Public Utilities Commission (PUC).

However, the statute is not specific about how the remaining 25 percent of the funds may be spent, other than to allow the Commissioner to establish other uses of the money through regulation. It appears that the Commissioner has the authority to establish regulations authorizing utilization of a portion of the funds in the trust fund to replace the General Fund appropriation in the NSOE budget account. The Legislature may wish to consider statutory changes directing the revenue in the fund be used to support NSOE. This change could become effective July 1, 2011.

Does the Committee wish to initiate statutory changes directing property tax revenue to the NSOE for administrative and operational expenditures?

CHAIR HORSFORD:
Why are we doing this as a budget and not as a policy? Where are the other options? This is not the only revenue option. There are sources of revenue other than this one and I am not hearing the broad discussion of those options. I am only hearing one option and I do not like being presented with only one option.

MS. CROWLEY:
Our office has been reviewing all the options that we could find for possible sources of revenue for NSOE. We had a meeting last week with the Budget Division and the Governor's Office to go over those options. There are five or six options. Some of these options include mill assessment fees and other fees. At this time, this was not considered a viable option, but we do understand that this is an issue and we are open to looking at all possibilities. We understand that our revenues are less than what they should be.

CHAIR HORSFORD:
Why is the mill assessment not an option? We are not at the cap for what is allowed to be assessed. The PUC has the authority. I do not understand the limitation. This is just one of other options that could be explored.

MS. DAY:
The reason we chose this revenue source is because it is revenue that was already in the REEEA office. We are open to other revenue options, including the mill assessment.

CHAIR HORSFORD:
How much money do we need?

MS. SAKELARIOS:
Based on fiscal notes prepared by the Department of Taxation, at the time the abatements were approved, the projected revenue for NSOE totaled $1.65 million in FY 2011-2012 and $1.63 million in FY 2012-2013. These amounts are slightly higher in the first year and slightly lower in the second year, than the amounts included in the *Executive Budget*. This results in a reserve balance of $492,509 at the end of the biennium. The Agency indicates that it has not yet identified priorities or projects to be funded with the reserve. It appears that there is sufficient reserve in this account through the tax abatement revenues to offset the General Fund in this account which currently totals $205,633 in FY 2011-2012 and $260,247 in FY 2012-2013.

CHAIR HORSFORD:
How quickly can your office meet with our Staff to evaluate the other options? Without the evaluation of those particulars, I would not be comfortable following this recommendation alone. I am not saying that this should not be considered, but I would like it to be considered along with other options, including the mill assessment.

MS. DAY:
We will meet with your Staff this week. The options will be explained in a White Paper.

CHAIR HORSFORD:
Mr. Krmpotic, can we hold decision item five until Staff has met with the Budget Office?

MR. KRMPOTIC:
It would be a matter of reviewing the options and presenting them to the Committee. It is possible that we could bring this back for a hearing on Friday, but I ask that Staff hold off until I have a chance to speak with Ms. Sakelarios. We will then look at the options developed by the Agency.

CHAIR HORSFORD:
Without objection, we will hold item five and bring it back as soon as those options are provided and our Staff has the chance to put them in a format for the Committee's consideration.

MS. SAKELARIOS:
Decision unit E-500 recommends the establishment of four new expenditure categories within the administration account to track expenditures transferred from B/A 101-4869.

E-500 Adjustments to Transfers — Page ELECTED-34

This recommendation appears reasonable, as it allows for tracking of expenditures specifically linked to the property tax abatement program.

Decision unit E-710 recommends funding for antivirus software totaling $120 in FY 2011-2012 and $64 in FY 2012-2013.

E-710 Equipment Replacement — Page ELECTED-36

Additionally, decision unit E-800 recommends federal funding reductions totaling $1,798 in FY 2011-2012 and $2,032 in FY 2012-2013 for cost allocation expenditures.

E-800 Cost Allocation — Page ELECTED-37

This recommendation appears reasonable.

Does the Committee wish to approve the other items as recommended by the Governor?

SENATOR LESLIE MOVED TO APPROVE OTHER CLOSING ITEMS AS RECOMMENDED BY THE GOVERNOR; AND TO AUTHORIZE STAFF TO MAKE ANY TECHNICAL ADJUSTMENTS.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. SAKELARIOS:
There is one other technical adjustment which has resulted in a General Fund reduction in the Governor's recommended budget. Staff met with representatives from the Budget Division and the NSOE on April 12, 2011, at which time Fiscal Staff received revised fund maps for the upcoming biennium. The revised fund maps reflected a General Fund shortfall of $1,892 in FY 2011-2012 and a General Fund surplus of $22,321 in FY 2012-2013. Staff made technical adjustments to align revenues with expenditures for the upcoming biennium, based on the revised fund maps. These technical adjustments are included in the closing documents. Through these technical adjustments, fund mapping errors were identified and corrected which resulted in a General Fund reduction of $502 in FY 2011-2012 and $23,799 in FY 2012-2013.

Does the Committee wish to approve the technical adjustments recommended by Fiscal Staff, resulting in General Fund reductions of $502 in FY 2011-2012 and $23,799 in FY 2012-2013?

SENATOR LESLIE MOVED TO APPROVE THE TECHNICAL ADJUSTMENTS RECOMMENDED BY STAFF.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. SAKELARIOS:
The final account to be closed today is B/A 101-4869, the Renewable Energy and Energy Efficiency Authority (REEEA). This account begins on page 9 of Exhibit C. Many of the items included in the *Executive Budget* in this account have already been addressed in the previous account. The Governor recommends the elimination of the REEEA account, including the elimination of three positions during the 2011-2013 biennium. This proposal would result in a federal fund reduction totaling $688,162 in FY 2011-2012 and an increase in ending reserves in FY 2012-2013 of $546,675. Two of the positions recommended for elimination are currently vacant, including the Nevada energy commissioner and one executive assistant. The third position recommended for elimination is a management analyst II.

A budget amendment was submitted on April 5, 2011, requesting the restoration of the management analyst II position and additional funds for the ARRA building codes expenditure category. The restoration of the position totals $48,724 in FY 2011-2012 and the funding identified for the building codes expenditure category totals $19,606 in FY 2011-2012. Although the Agency previously testified that it was able to absorb the duties performed by this office with no negative impact to customers, it has since reconsidered and indicated that this position is necessary to continue the duties related to the International Energy Conservation Code requirements included in ARRA. This position will still be recommended for elimination on April 30, 2012, when the ARRA grant ends. Extending this position for an additional year will increase the anticipated layoff costs to $16,296.

Does the Committee wish to approve the Governor's recommendation to eliminate the Nevada energy commissioner and executive assistant positions in this budget account? Does the Committee wish to approve the budget amendment to restore the management analyst II position through April 30, 2012 and transfer the position to the NSOE?

SENATOR LESLIE MOVED TO APPROVE THE GOVERNOR'S RECOMMENDATION TO ELIMINATE TWO POSITIONS IN B/A 101-4868; TO APPROVE THE BUDGET AMENDMENT TO RESTORE THE MANAGEMENT ANALYST II POSITION; AND TO AUTHORIZE STAFF TO MAKE ANY NECESSARY TECHNICAL ADJUSTMENTS.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. SAKELARIOS:
Additionally, the Governor recommends the transfer of the tax abatement program and all other duties from this office to the NSOE. The transfer includes real property tax revenue totaling $1,307,885 in FY 2011-2012 and $1,916,389 in FY 2012-2013 and federal funds totaling $39,005 in FY 2011-2012.

Does the Committee wish to approve the Governor's recommendation to consolidate REEEA with NSOE?

SENATOR RHOADS MOVED TO APPROVE THE GOVERNOR'S RECOMMENDATION TO CONSOLIDATE REEEA WITH NSOE; AND TO AUTHORIZE ANY TECHNICAL ADJUSTMENTS.

SENATOR DENIS SECONDED THE MOTION.

CHAIR HORSFORD:
Having been a proponent of the creation of REEEA, I support this merger based on the circumstances and the need to streamline functions within NSOE. I know the Director well and I feel that she is more than capable of performing all the functions. I think NSOE has been enhanced in its structure since two years ago, primarily from federal resources that were used to help us as a State improve our infrastructure for the Energy Office. This is something that we did not have in place before that federal investment. We have helped a number of private sector companies establish their projects. We have helped establish these codes which are now a part of the process for constructing buildings and to be in compliance with energy efficiency regulation. The NSOE Director has taken on the task of assessing all the State buildings and working with them to identify energy efficiency so that we can reduce costs. We have provided support to local school districts regarding retrofitting buildings for energy efficiency and conservation. The objectives of energy efficiency and renewable energy have been realized. We are not merging this function because there is a lack of need. We are merging these offices because it makes the most sense going forward based on the infrastructure that we now have in place. I am confident that the Director and her staff will continue to move these initiatives forward. I

appreciate that you have recognized that renewable energy is one of many components that fall under your office.

THE MOTION CARRIED UNANIMOUSLY.

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MS. SAKELARIOS:
There are three items included under other closing items. Decision unit E-252 recommends reserve reductions of $30,000 in each year of the 2011-2013 biennium to fund a contractor to audit the documents submitted annually by participants in the Tax Abatement Program to determine whether recipients are in compliance with the eligibility requirements for the abatement.

E-252 Economic Working Environment — Page ELECTED-43

Participants are required to submit compliance reports throughout the tax abatement period, which extends up to 20 years, not only for themselves, but for contractors and subcontractors who are working for them. This decision unit is recommended for transfer to B/A 101-4868 in Decision Unit E-900.

Governor's Office Energy Conservation — Budget Page ELECTED-30 (Volume I)
Budget Account 101-4868

E-900 From REEEA to Energy — Page ELECTED-37

This recommendation appears reasonable.

Decision unit E-710 recommends expenditures for antivirus software which are then eliminated in decision unit E-225.

E-710 Equipment and Replacement — Page ELECTED 45

E-225 Reduce Duplication of Effort — Page ELECTED-43

Decision Unit E-225 eliminated the staff in this account. The budget amendment does not appear to recommend restoration of this expenditure for the one position that has been approved for restoration, therefore Fiscal Staff recommends a technical adjustment to restore funding for antivirus software for one FTE.

Decision Unit E-800 recommends reductions totaling $980 in FY 2011-2012 and $1,357 in FY 2012-2013 for the cost allocation within the Department of Administration. This expenditure is recommended to be transferred to B/A 101-4868 in decision unit E-900. This recommendation appears reasonable.

E-800 Cost Allocation — Page ELECTED-45

E-900 From REEEA to Energy — Page ELECTED-45

Does the Committee wish to approve the other items recommended by the Governor with the technical adjustments recommended by Staff?

> SENATOR PARKS MOVED TO APPROVE THE OTHER ITEMS RECOMMENDED BY THE GOVERNOR; AND TO AUTHORIZE STAFF TO MAKE ANY NECESSARY TECHNICAL ADJUSTMENTS.
>
> SENATOR DENIS SECONDED THE MOTION.
>
> THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HORSFORD:
We will now close the budget hearings on these items. We have completed all but one of our budget accounts. We will recess until the call of the chair in order to hear S.B. 60 and S.B. 426.

We are in recess at 10:02 a.m.

CHAIR HORSFORD:
This meeting is called back to order at 5:52 p.m. We will open the hearing on S.B. 60.

MS. CROWLEY:
This bill attempts to expand upon the successful revolving loan fund program that was started with ARRA funds. We hope to continue this fund on an ongoing basis. Currently, the revolving loan fund program offers low interest loans to renewable energy projects. With this bill, we hope to expand the potential project types to include energy efficiency and energy conservation loans. These loans would have the same requirements and follow the same application process.

Over the past several months, we have been able to expand the revolving loan fund using several sources including unused administrative costs and shift around some unused ARRA funds. The revolving loan fund is up to about $11.4 million. All of the initial ARRA funds have been expended and we hope to continue this program.

There were amendments that were heard in the Senate Committee on Commerce, Labor and Energy. These amendments are included in the most recent printing of the bill.

CHAIR HORSFORD:
Please provide some examples of the types of programs that would fall under energy efficiency or conservation. Senator Hardy had a bill that expanded the scope of another bill to include energy efficiency beyond renewable energy. Why are we moving in this direction?

MS. CROWLEY:
I am not familiar with Senator Hardy's bill.

We imagine these projects as fairly large scale for energy efficiency and conservation. For example, if there was a mechanical system that could be developed or manufactured in the State that would improve industrial and large commercial-scale energy efficiency, we imagine that this type of project would be a good use of funds. This bill also includes the manufacturing of the components of renewable energy systems. Numerous industry leaders have spoken about coming to Nevada. Companies that produce high efficiency mechanical equipment and solar cells could come to this State and low interest loans would be available to them.

Lighting is a big energy consumer and we have seen a lot of success with the ARRA funds going through the State buildings and schools which has saved them money on energy costs.

We would develop criteria to ensure that these projects are significant. Our loans average between $800,000 and $1.3 million. These are significant projects. We would not use these funds for smaller items.

CHAIR HORSFORD:
When we use the term “larger,” does it apply to energy conservation, energy efficiency and renewable energy systems? Will you define those conditions in section 8, subsection 7?

MS. CROWLEY:
Yes, the term “larger” applies to all three. This section is based on comments we heard from Legislators. We will define those conditions to ensure that we are working on larger, more significant projects.

SENATOR KIECKHEFER:
Because these are revolving loans, must they comply with ARRA language even though it expires?

MS. CROWLEY:
Yes, we are required to comply with the ARRA language.

There are opportunities to expand this loan for monies in addition to the revolving monies that happen through ARRA. If we find a grant or a donation, those monies could have different criteria and rules.

SENATOR KIECKHEFER:
What is the purpose of section 8, subsection 5, which states, “The Director shall not loan any money from the Fund to an applicant who has received from any other governmental entity…” It seems that compounding these financing mechanisms would be a way to make expensive energy much more affordable.

MS. CROWLEY:
The language in section 8, subsection 5, was suggested to us. It pertains to the idea that these loans should not be compounded with other forms of rebates or incentives that already exist. I would be happy to discuss changing or removing this section, but it was something that was brought to our attention when the bill was being created and we added that language. Some of these projects have utilized other sources of revenue to make these projects happen, so the idea of not allowing that for energy efficiency or energy conservation loans does concern us.

SENATOR KIECKHEFER:
Of the loans already issued through this program, how many of them would have been disqualified based on this section?

MS. CROWLEY:
We know of three that would have been disqualified. We have made 12 loans in total, and 3 of those would have been disqualified based on this criteria.

MR. KRMPOTIC:
A portion of this bill implements one of the budget decisions that the Committee considered and approved earlier this morning. There is a concern about the language of the bill. Ms. Sakelarios will briefly cover this with the Committee regarding section 8.

MS. SAKELARIOS:
This language indicates that the Director may use the interest earned on the money in the fund to defray the costs and expenses of administering the fund. Currently, the statute states that the money in the fund, which includes repayments of principle and interest on the loans and the interest earned on money in the fund, can be spent on loans. The way this section is currently written, it appears that only the interest on the money in the fund can be spent. In the current budget, that is projected to be $8,000 or less in each year of the biennium. The Governor’s recommended budget proposed spending the interest earned on the repayment of the loans which is a significantly larger amount of money.

CHAIR HORSFORD:
I understand. Director, please provide some suggested options on the one provision regarding adding multiple grants and incentives and we will be ready to take action.

MS. CROWLEY:
Absolutely. We asked the Department of Energy whether they thought using the interest to help with the administrative costs was in line with the ARRA funds. They responded with a letter stating that this was indeed an appropriate use of those funds.

CHAIR HORSFORD:
Please get us a copy of that letter. We will now close the hearing on S.B. 60 and open the hearing on S.B. 426.

MS. CROWLEY:
We are calling S.B. 426 the merger bill. This bill will merge the duties of REEEA with NSOE. This is a fairly large bill because there are sections throughout the NRS that reference the energy commissioner and we are making sure all those are corrected. The general direction of this bill proposes that all of the duties and responsibilities of REEEA will be transferred. There are none that are eliminated from REEEA, but we do move them over.

In section 15, subsection 3 and section 19, subsection 3, the State and Local Government Panel, as well as the New Industry Energy Task Force are new. This bill proposes to allow the Director no more than three additional members to the Panel, or to the Task Force, to represent State or local government agencies or private industry in the field of renewable energy or energy efficiency. We proposed this to allow for flexibility so that the committees can have the representation they need depending on the issues that are in front of them.

In section 34, you can see NRS 331.095 which was originally under the Chief of Buildings and Grounds. We are proposing to take a portion of their responsibility and put it under our office. This will establish a program to track the use of energy in buildings owned by the State and other buildings occupied by a State agency and whose owners comply with the program pursuant to subsection 6. This section of the bill will put this program under our purview. This is important to us because we want to develop a State energy reduction plan to reduce energy consumption by 20 percent by 2015. We believe that if we take this under our control that we can then better exercise the reduction plan and understand the consequences.

CHAIR HORSFORD:
Under section 34, if you identified ways in which to reduce energy for a State building or facility, beyond the provisions in paragraphs (a) through (g), will you have the authority to have that done or will it still go through the State Public Works Board process?

MS. CROWLEY:
The way this bill is written and under current statute, we would still have to go through the State Public Works Board process. We can recommend solutions, ideas and mechanisms, as well as help find grants and other funding, but it would still have to go through the State Public Works Board process at this time.

CHAIR HORSFORD:
I was not suggesting that it should go through that process. We may need to tighten up the language in section 34 to allow for that additional purpose. It would not make much sense for you to identify ways to achieve your goals, but have no way to implement them. Unfortunately, we have not had the best track record in this regard and we have been waiting years for these types of energy improvements. I think your office should be empowered to move these opportunities forward to execution. Please work with Staff to get us language that would ensure that you have that additional authority.

SENATOR DENIS:
I am trying to understand section 34, subsection 1. I know some State agencies do not have control over energy use in their building. How would this apply to them and how would it work?

MS. CROWLEY:
The intent is to start with the buildings the State owns. We have submitted the proposed language to each and every agency along with a spreadsheet of every building property that they own. We are requesting meter numbers and utility bill numbers. We will start there. In terms of properties that we occupy, the bill suggests that contracts entered into after May 28, 2009, shall comply with this program. The idea is that we work with Buildings and Grounds when they go

look at leases to ensure that those property owners are engaged and understand the goals and objectives of this particular statute. This is on my list of things to do when we look at new buildings. At the moment, we are not readily expanding our facility base, but, when we do, we will comply with the statute.

CHAIR HORSFORD:
Director, please provide the new language. We will reschedule both of these bills once we have them. We will now close the hearing on S.B. 426.

With no more business before the Committee, this meeting is adjourned at 6:10 p.m.

RESPECTFULLY SUBMITTED:

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Marian Williams,
Committee Secretary

APPROVED BY:

________________________________________
Senator Steven A. Horsford, Chair

DATE:____________________________________

| EXHIBITS | | | |
|---|---|---|---|
| **Bill** | **Exhibit** | **Witness / Agency** | **Description** |
| | A | | Agenda |
| | B | | Attendance Roster |
| | C | Heidi Sakelarios | Closing Document |