

**MINUTES OF THE  
SENATE COMMITTEE ON FINANCE**

**Seventy-Seventh Session  
February 5, 2013**

The Senate Committee on Finance was called to order by Chair Debbie Smith at 8:04 a.m. on Tuesday, February 5, 2013, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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 Debbie Smith, Chair  
Senator Joyce Woodhouse, Vice Chair  
Senator Moises (Mo) Denis  
Senator David R. Parks  
Senator Pete Goicoechea  
Senator Ben Kieckhefer  
Senator Michael Roberson

**STAFF MEMBERS PRESENT:**

Mark Krmpotic, Senate Fiscal Analyst  
Alex Haartz, Principal Deputy Fiscal Analyst  
Annette Teixeira, Committee Secretary

**OTHERS PRESENT:**

Robert J. Halstead, Executive Director, Agency for Nuclear Projects, Office of  
the Governor  
Joseph C. Strolin  
Caren Cafferata-Jenkins, Executive Director, Commission on Ethics  
A.G. Burnett, Chair, State Gaming Control Board  
Brian Duffrin, Chief, Administration Division, State Gaming Control Board

**Chair Smith:**

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

**Mark Krmpotic (Senate Fiscal Analyst):**

The first order of business today will be the Senate Committee on Finance Standing Rules for the 2013 Legislative Session ([Exhibit C](#)). Each Committee member has been provided a copy of the rules. Please note an addition to Rule No. 14 which was originally approved for the Senate Committee on Finance in the 2011 Legislative Session. The new language indicates that the person proposing an amendment should make every effort to provide a copy to the Committee staff 24 hours in advance of the scheduled hearing date for the bill. The intent is to give ample time to Committee and Legal staff to adequately review the amendment. This encompasses third-party requests to amend bills being heard in Committee.

SENATOR KIECKHEFER MOVED TO ADOPT THE REVISED RULES.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

**Mr. Krmpotic:**

The next item relates to budget reviews for full committees, subcommittees and Legislative Counsel Bureau Fiscal Analysis Division Staff. The handout titled "Budget Closing Recommendations To Be Developed By The Full Committee" ([Exhibit D](#)) shows all budgets 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 2013-2015 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. The money committees base Staff closing recommendations on past budgets closed by Staff and Staff's determination that there are no significant issues for consideration. If committee members wish to have any budget accounts heard in subcommittees or full committees, versus a Staff closing, please advise Staff within the next couple of weeks.

The handout entitled "New Budget Accounts Created by the 2011 Legislature Or Included for the First Time in the 2011-2013 Executive Budget" ([Exhibit E](#)) provides resource information regarding new budget accounts.

The next item, "2013 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.

The Committee has also been provided a copy of the "2013 Session Finance Subcommittee Assignments" ([Exhibit G](#)). A tentative calendar through the end of March 2013 has been developed. Each of the budget accounts in State government will be heard at least once by the end of March 2013.

A copy of the "Fiscal Analysis Division Agency Assignments – January 2013" ([Exhibit H](#)), showing the areas of responsibility assigned to each analyst, has been provided. The analysts are a valuable resource throughout the subcommittee and full committee hearings.

Next is an example of the "Senate Committee on Finance Progress Report" from the 2011 Legislative Session ([Exhibit I](#)). An updated report will be provided 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. The Committee members will receive a report prepared by Staff the day before the Committee meeting to assist them in reviewing the budget.

**Chair Smith:**

I would like to remind everyone who follows us on social media that this Committee has a Twitter handle, which is #NVSENFİN. You will be able to get up-to-date information on this site. We will be providing information regarding when budgets are heard, when meetings are held and facts about what is going on within the Committee.

We will now move to the budget hearings for the Agency for Nuclear Projects.

ELECTED OFFICIALS

NUCLEAR PROJECTS OFFICE

**Robert J. Halstead (Executive Director, Agency for Nuclear Projects, Office of the Governor):**

I will begin my presentation today by giving an update on the status of the U.S. Department of Energy's (DOE) Yucca Mountain Nuclear Waste Repository project. I have provided you with the "Report and Recommendations of the Nevada Commission on Nuclear Projects" ([Exhibit J](#)) and a summary of the fiscal year (FY) 2014-2015 biennial budget for Nuclear Projects ([Exhibit K](#)). The report provides details and documentation on the project. The twenty-fifth anniversary of the passage of the Nuclear Waste Policy Act of 1982 and amendments was on December 22, 2012. Yucca Mountain was designated as the only candidate site for the National high-level nuclear waste repository. Today, Nevada is in the strongest position in 25 years to defeat the proposed repository at Yucca Mountain. We still face serious legal and political challenges. The DOE began termination of the Yucca Mountain project in February 2010, when it attempted to withdraw its license application from the Nuclear Regulatory Commission (NRC). The NRC did not allow the DOE to withdraw its application, but suspended the licensing proceeding because Congress did not appropriate funds. Subsequently, Congress provided zero appropriations for DOE and for the NRC for Yucca Mountain in federal fiscal year (FFY) 2012-2013 in a continuing resolution. The NRC licensing proceeding has not been terminated, but it has been suspended.

The U.S. Court of Appeals for the District of Columbia is considering a case, which could force the NRC to resume the Yucca Mountain licensing, proceeding as early as this week. As of today, they have not heard the case or rendered a decision. The lawsuit was filed by Aiken County, South Carolina, the site of a DOE defense facility; by the states of South Carolina and Washington; and their supporters, which include the Nuclear Energy Institute, the National Association of Regulatory Utility Commissioners and Nye County, Nevada. The State of Nevada is prepared for the resumption of this licensing proceeding. The NRC and the DOE now have limited appropriations from past fiscal years. No additional funds have been appropriated for Yucca Mountain. The relicensing of Yucca Mountain would likely mean a 4-year legal battle. Meanwhile, the bipartisan Presidential Blue Ribbon Commission on America's Nuclear Future, which was established about 3 years ago, issued its final report in January 2012. After review of the nuclear waste program, they recommended a consent-based site-selection process for future repository and interim storage facility sites. Due to the unhappiness over the handling of the Nuclear Waste Policy Act and amendments, the program was taken out of the DOE. The

program is now voluntary. The Commission also adopted an extensive list of proposals that came from the State of Nevada, endorsed by the Western Interstate Energy Board, for improving the safety and security of nuclear waste transportation.

In January 2013, the DOE published an implementation strategy for taking those recommendations forward. New federal legislation will be required to enact most of the recommendations. We expect some consideration of those recommendations beginning in the U.S. Senate in the current session of Congress. For the first time in 30 years, serious efforts are underway nationally to find solutions to the nuclear waste problem that do not involve Yucca Mountain.

I would like to acknowledge the fact that there are many members on this Committee who not only have expertise on the budget process, but also know these issues very well. Senator David Parks is Chair of the Legislative High Level Waste Committee and Senator Pete Goicoechea represents Senate District No. 19, which not only includes the Yucca Mountain site and the Nevada National Security Site (NNSS), but also hundreds of miles of current transportation routes and potential highway transportation routes for a railroad that the DOE proposes to build. The rest of the members of this Committee are from Clark County, where it is understood that the County would be heavily affected by transportation if Yucca Mountain were to move forward. The County is already affected by nuclear material shipments to the NNSS. The 2010 census data indicates that more than 200,000 residents of Clark County, or one out of every nine residents, lives within one-half mile of the routes that the DOE has proposed to use for Yucca Mountain. Almost 500,000 residents of Clark County live within, or near, the routes of transportation currently used for nuclear material shipments.

Our Agency is requesting approximately \$1.22 million for FY 2013-2014 and \$1.22 million for FY 2014-2015. This is a flat budget request although it reflects a small decrease of about 4 percent from our current FY 2012-2013 work program levels, and a slight increase of about \$150,000 over the base year, FY 2011-2012. We are proposing no new programs and only one area of enhancement under decision unit E-710, for the replacement of some computer equipment. Our Website is one of the premier sites for information in the Country. In order to maintain this information, we propose to replace one of our old laptops and a server in each year of the biennium.

E-710 Equipment Replacement — Page ELECTED-47

Our Agency's budget for licensing was cut by more than 60 percent, or approximately \$975,000, during FY 2010-2011, and in the 26th Special Session. Additional budget cuts in prior years have occurred as well. It is critical the Agency be funded at an adequate level to carry out its responsibilities and successfully challenge the Yucca Mountain license application. We must participate in providing information that will assist in the enactment of federal legislation that will take the waste program beyond Yucca Mountain. We must be prepared to engage fully in contesting the licensing application, whether it goes forward at a reduced level, or at a full level. The State has a strong technical case against Yucca Mountain. It has an excellent chance of prevailing if the licensing proceeding goes forward.

The State funds we are requesting for the coming biennium are sufficient to permit the Agency to deal with the current reduced level of activity in the federal program. At the same time, if the court orders the licensing proceeding to go forward, it may attach conditions in that court order. There could be additional Congressional appropriations. The budget we are requesting would not be sufficient if there was a full resumption of licensing. In that event, the Agency would need to request additional funds from the Legislature or from the Interim Finance Committee (IFC).

**Chair Smith:**

Do we have enough money to defend ourselves? We are aware that your budget is reduced. We are concerned about having sufficient funding because we know that the case will be expensive to defend. Do you expect there to be any kind of activity, actions or answers while we are still in Session?

**Mr. Halstead:**

We have continued to work with our legal team and the Nevada Office of the Attorney General (AG). We have prioritized our contentions and are prepared to act immediately on the initial motions we would need to file with the NRC. We should be hearing within the next few weeks, as several related nuclear waste cases have been resolved.

**Chair Smith:**

Have you been working on a contingency budget in the event that the ruling results in the need for more funds?

**Mr. Halstead:**

Yes. We know that the DOE plans to spend between \$100 million and \$250 million prosecuting this license application. We have learned that we can defend the case with a lot less funding. At this point, if the licensing went for 4 years, and federal funding is provided to the DOE and the NRC, we would expect significant federal funding, particularly with Senator Harry Reid as the majority leader in the U.S. Senate. Even a 4-year budget would be around \$9 million a year, anticipating that \$4 million a year would be provided in federal funds. Our working assumption is that our Agency would need to ask for an additional \$1.5 million to \$2 million a year. We anticipate the AG would ask for a similar amount.

**Chair Smith:**

Please keep our Fiscal Staff informed as to the outcome of the decision on the case.

**Senator Kieckhefer:**

Will we be able to adequately defend ourselves in the lawsuit with \$9 million versus the \$200 million the federal government potentially has for its case?

**Mr. Halstead:**

We do not know the exact details of the budget planning done by the federal government. They have access to law firms that have represented the nuclear industry. Their cost for legal services has been estimated between \$80 million and \$120 million. In addition, the number of expert witnesses is extensive. The license application they filed with the NRC, and the associated Environmental Impact Statement (EIS) for the Yucca Mountain Repository, is very detailed. This is the largest EIS under the National Environmental Policy Act of 1969. Between their staff and their consultants under contract from national laboratories, particularly from Sandia National Laboratories and other outside contracts with individuals having particular expertise in environmental impact studies, they will have no trouble spending that money. We have managed our resources well. We have retained only the people we thought were key technical issue coordinators. We have obtained two dozen key experts for the defense.

**Senator Goicoechea:**

Realistically, \$9 million will not provide much of a defense.

**Joseph C. Strolin:**

I was formerly employed by the Agency for Nuclear Projects and I have been involved with the licensing and litigation since we were in the licensing process 2 years before the DOE decided to suspend the program. The Agency's staff equipped themselves well in the 2 years we were in the adjudication process. We do not need to match the DOE in funding to be successful. One of the benefits of an intervenor status is that proof of safety is the applicant's responsibility. The Agency's job is to raise creditable issues with a competent legal team. We have done that effectively. We need to engage in the same manner as we did before the suspension of the project.

**Chair Smith:**

We will now move to the Commission on Ethics budget.

ELECTED OFFICIALS

COMMISSION ON ETHICS

Commission on Ethics — Budget Page ELECTED-249 (Volume I)  
Budget Account 101-1343

**Caren Cafferata-Jenkins (Executive Director, Commission on Ethics):**

The Commission on Ethics has been in existence for 35 years. We have not been able to accomplish the tasks that the Commission was set forth to do. I will refer you to the "Nevada Commission on Ethics, 2011-2012 Annual Report of the Executive Director" ([Exhibit L](#)) and an "Expanded Program Narrative" ([Exhibit M](#)).

There are four things the Commission has to accomplish. Our first duty is to provide advice. The Commission is here to advise the 100,000 elected officials and nonelected officials. Secondly, we provide first-party advice and support. We accept requests for opinions from any person elected, appointed or employed by the government in the State. In a confidential manner, we provide advice about their past conduct or even their contemplated conduct. Our opinions are used when individuals are questioned about their conduct.

We also respond to complaints from the public about the conduct of public officers and employees. We resolve the majority of these circumstances by applying *Nevada Revised Statutes* (NRS) 281A. Even if the individuals are



perceived to have violated the law, we will investigate. Only a minimal level of creditable evidence is necessary to start an investigation. Two members of the Commission must find that there is just and sufficient cause to hold a public hearing. If just and sufficient cause is not met, the incident will be resolved confidentially. If we hold a public hearing and there is not a preponderance of evidence, we can find that a violation does not exist. This is a public process where an individual can actually clear his or her name. If we find a preponderance of evidence that shows there was a violation, and if that violation is found to be willful, the Ethics Commission has the ability to financially sanction the individual. This fine can be up to \$5,000 for the first willful violation, up to \$10,000 for the second violation, and up to \$25,000 for the third violation. The average sanction imposed is \$1,000 for the first willful violation. There are individuals that use their positions in government to benefit their private interest. In the majority of cases, individuals are not aware that they have violated an ethics law. If it is an inadvertent, yet willful violation, the sanctions imposed are nominal. In the history of the Commission, the smallest sanction imposed was \$15. The largest sanction was \$15,000. The only other penalty that we may use is to refer the individual for removal from office. That happens automatically on the third willful violation. It can happen after the first violation, if the conduct is egregious enough.

Lastly, we offer outreach and education to the public, public employees and public officers asking for advice on issues. Although I am a lawyer, I do not give legal advice. I direct them for guidance to the resources available for assistance, such as, the NRS, contracting provisions, statutes and cases that have already been decided by the Commission. This is a great way to alleviate requests for advisory opinions.

During the 2011 Legislative Session, the Commission asked for two positions to add to its current staff of five statewide. At that time, the Governor would not allow the two positions to be included in our budget request. However, when the budget was presented to the Legislators, we were questioned as to why it was not included. Due to the denial of the two positions, we ended up going to the State Contingency Account during the interim and requesting \$65,000 to cover a contracted attorney for 5 months. We were 2 years behind in issuing our opinions. When our opinions are not issued in a timely manner, the public cannot be on notice of the way we are applying our laws and those opinions are not available for guidance for future acts. Therefore, we get many more

first-party requests for opinions and many more complaints of potential violations. The Board of Examiners and the IFC approved the funding.

I have included our 2012-2013 biennium "Actual Requests for Opinion" ([Exhibit N](#)). The contracted position joined our Commission counsel and completed our backlog of 54 opinions. In those 5 months, 44 of the 54 opinions were completed. However, ten additional requests for decisions were received during that time. We currently have only two opinions out of the original 64 decisions received. The chance of us having a backlog again is likely without an additional attorney. We are requesting an associate counsel in our enhancements. The position will also benefit our current staff in rendering opinions without fatigue. The new position will primarily be working on the development of evidence, the investigation and the presentation to the Panel and to the Commission. This will allow the Commission to be prepared for possible investigations going forth in the court system.

**Chair Smith:**

How does this position fit into the evaluation that you and the counsel did of the workload? In your performance indicator, it does not appear that the numbers improve with the new position. Does the workload decrease?

**Ms. Cafferata-Jenkins:**

Those performance measures are projections and do not include the new position. We are desperately in need of the position. Without an associate counsel, the time between the date a hearing is held, and the time an opinion is issued, is likely to continue to exceed 120 days.

**Chair Smith:**

Since the performance projection you presented today does not include this new position, please provide our Staff with the Performance Indicator including this new position. The update should also reflect your pending cases.

**Ms. Cafferata-Jenkins:**

The Commission's goal is for decisions to be issued within 40 days. Our objective will be achieved with the addition of staff requested in decision unit E-250.

Performance Indicators shown for the 2013-2015 biennium do not project for FY 2012-2013. Our actual caseload for FY 2012-2013 was 115. Our projections for FY 2013-2014 are incorrect. We are hoping for a ratio of two-thirds advisory and one-third requests for opinion by the public. The Commission's intent is to maintain and enhance the public trust in government. I would ask you to eliminate the projections on our exhibits presented today. We do not know what to project. We are focusing on the delay of decisions. Several of the most recent requests have been withdrawn due to our opinions being generated and shared with the public in a timely manner.

**Chair Smith:**

Please give us an update on your caseload as of today.

**Ms. Cafferata-Jenkins:**

The Governor's Office required a study of our efficiency and effectiveness. As a result, we streamlined a number of processes by requiring the applicant to do more of the preparation. This enabled our investigators to use telephone and email instead of traveling to the site of the request. The forms used for the request for opinions have been updated. As a result, the second position that was requested in 2011 is not needed. We received four pages of recommendations from the contract attorney on how we might do things differently. For example, in a first-party opinion request, a written outline based upon precedent is provided in advance. The Commissioners review that as a framework and then approve or revise it. In an advisory role, this approach works well.

**Chair Smith:**

Do you expect to be able to fill this position immediately?

**Ms. Cafferata-Jenkins:**

We are requesting that the position be approved effective July 1, 2013, as referenced in decision unit E-226. The Governor did not approve salary adjustments for the professional staff in our budget this Session. Please refer to the handout "2011 Unclassified Salary Comparisons" ([Exhibit O](#)). The salary comparisons on this exhibit show that the Ethic Commission's Executive Director and Commission Counsel are some of the lowest paid unclassified salaries in the State for comparative agencies. We are not a licensing board. The licensing boards' executive directors, and other professional staff, are classified at a certain level and the other commissions and staff are at a different level.

Our Commission Counsel has no supervisor. She acts independently and is required to apply the legal knowledge of a senior-level deputy attorney general, or higher. No attorney general is allowed to staff a committee, department or agency unless there is a senior deputy, yet our Commission Counsel is at an entry-level deputy attorney general position salary. The Executive Director of the Commission on Ethics is paid more than \$40,000 a year less than her judicial equivalent at the Commission on Judicial Discipline. The caseload and support available in the Judicial Branch is much higher. I ask that you consider the salary comparisons that I have provided to you. The Legislature has to acknowledge and adopt the spread of the State and local share of our budget. Based on the prior 2 fiscal year requests, the current split is 26 percent State and 74 percent local government funding. Based on the last 2 fiscal years, that proportion has changed to 31 percent State and 69 percent local. This breakdown is provided to you in [Exhibit M](#).

E-226 Efficient and Responsive State Government — Page ELECTED-251

**Chair Smith:**

You are requesting an increase in your travel budget in decision unit E-226. You state this is due to the need for the Commissioners and support staff to be physically present at meetings rather than videoconferencing. Please explain.

**Ms. Cafferata-Jenkins:**

Our practice has been for our Commissioners to be in the same room as the witnesses when we have a hearing that has testimony, evidence and adjudication of creditability. It is primarily to observe the witness's demeanor, and the reaction of the audience and counsel. This cannot be accomplished with videoconferencing. Our travel budget is enhanced to allow the Commissioners to attend 8 out of our 12 meetings. We have added John Carpenter to take John Marvel's place on our Commission. Mr. Carpenter lives in Elko, which has caused a significant increase in travel expenses.

**Chair Smith:**

You are also requesting court-reporting services in your budget. What is the basis for this?

**Ms. Cafferata-Jenkins:**

Litigation Services has the State contract. We do not negotiate their rate. Our meetings need to be transcribed. We use our transcription to correctly represent

the Commission's position on our opinions. This is outlined in decision unit E-227.

E-227 Efficient and Responsive State Government — Page ELECTED-252

**Chair Smith:**

Is the increase due to longer meetings than in the past?

**Ms. Cafferata-Jenkins:**

The normal length of our hearings is 2 days. The two-member panels we conduct need to be reported as well. Because of the constraints on our budget, I recommended that we audio record our two-member panel proceedings. When that panel determines that it is appropriate for the matter to go forward to a hearing, we use the recorded testimony and have it transcribed. However, the transcription costs are more than twice the initial court reporting. It is better to have the transcription from the beginning to avoid the extra cost.

I would also like to clarify that we used funds from the Contingency Account for our contract counsel position. Had the position been approved in 2011, it would have cost the State less. The State's contribution to the Ethics Commission's Annual Budget was \$152,000. Had the associate counsel position been approved in 2011, the State would have paid 26 percent of the salary. This would have been less than the \$65,000 we paid for the temporary associate counsel. We have no ability to go back to the counties for the local share after the Legislature approves the budget.

**Senator Goicoechea:**

I am concerned that if we get too many requests from the local government side, it will cost them more money and the State pays less. My concern would be that we do not want to deter people from coming forward and asking for an opinion. Either the Nevada Association of Counties (NACO) or the League of Cities needs to be notified that every time they ask for an opinion from the Ethics Commission it actually drives up the cost. We should be cautious.

**Ms. Cafferata-Jenkins:**

We are concerned about local governments being overburdened as well. When we look at the requests that we receive from NACO and the League of Cities, the need is great. Proportionately, there have been more State requests in the

last 2 fiscal years. The local governments respond well to our efforts and are grateful. Very few of the local governments complain about the assessment, because they receive a lot of value for their money.

**Senator Goicoechea:**

I just caution you to ensure that we are not biased or they will stop coming to you.

**Chair Smith:**

We will now move to the State Gaming Control Board budgets.

**A.G. Burnett (Chair, State Gaming Control Board):**

I will be reviewing the "Nevada Gaming Control Board and Commission Senate Finance Committee Budget Overview," ([Exhibit P](#)).

The Board investigates applicants and audits licensees, makes licensing recommendations, enforces gaming laws and collects licensing fees and gaming taxes. The Gaming Control Board has a full-time staff of over 400 people. Budget Account (B/A) 101-4061 consists of our request from the General Fund, which is approximately 62 percent of our budget. Another account is funded by the investigative fees derived from our Investigations Division and our Gaming Technology Lab and comprises approximately 38 percent of our budget. The Nevada Gaming Commission is comprised of five part-time members who are the final authority on gaming licensing matters. Our recommendations at the Board level go to the Commission and they have the final approval. In the disciplinary context, the Board acts as a prosecutor and the Commission acts as the judge and jury.

COMMERCE AND INDUSTRY

GAMING

GCB - Gaming Control Board — Budget Page GAMING CONTROL BOARD-9  
(Volume I)  
Budget Account 101-4061

There are six divisions contained within the Board: the Administration Division, Audit Division, Enforcement Division, Investigations Division, Tax and License

Division and Technology Division. Technology and Investigations generate revenue for the State.

The regulatory issues that we have encountered over the last 8 to 10 years are more complex. Corporate structures come in to Nevada from private equity investments. Since 2008, we have seen high-level financing transactions that have been restructured to avoid bankruptcies. We still have had a series of bankruptcies occur. Currently, that trend has slowed and hopefully we will no longer see any bankruptcies.

Gaming has expanded worldwide. Part of our statutory duty is to ensure that our foreign gaming statutes are complied with. We essentially assist and advise other regulators overseas. We are requesting a host fund in order to host dignitaries from overseas.

Internet gaming is becoming a large topic of discussion. In addition to Internet gaming, mobile gaming on hand-held devices and sports wagering on mobile phones are areas we are regulating. Gaming kiosks have also appeared. We are working with the independent testing labs (ITL) pursuant to A.B. No. 279 of the 76th Session. This bill allowed independent testing labs to be used. There are new federal and international issues and our staff has had to come up to speed quickly regarding Internet gaming.

The two main budgets, B/A 101-4061 and B/A 244-4063, consist of the Board's General Fund and Investigation Fund accounts. Together, they total approximately \$84 million. The Commission's budget account, which is B/A 101-4067, is comprised of approximately \$700,000. The total of all budgets is \$84.7 million.

GCB - Gaming Control Board Investigation Fund — Budget Page GAMING  
CONTROL BOARD-21 (Volume I)  
Budget Account 244-4063

GCB - Gaming Commission — Budget Page GAMING CONTROL BOARD-17  
(Volume I)  
Budget Account 101-4067

Today we have almost 3,000 gaming licensees, of which almost 2,000 are restricted licensees with 15 or fewer gaming devices. The larger casinos and

resorts, with non-restricted licensees, number 443. We also have an additional 430 licensees consisting of manufacturers, distributors and slot machine route operators.

We have outlined our Priorities and Performance Based Budgeting figures. We have offices in Carson City, Elko, Las Vegas, Laughlin and Reno. Our employees number 407. We have a part-time senior research analyst assigned to assist the Gaming Commission. Included within those numbers are the three full-time Gaming Control Board members. The five part-time Gaming Commissioners are excluded from those numbers. Our unclassified regulatory staff has increased from approximately 301 full-time (FTE) employees over time to 342.51 FTEs. We have 342.51 projected full-time unclassified employees and 75 classified employees, for a total of 407.51 FTEs.

There is a General Fund appropriation for B/A 101-4061 in decision unit E-230. The other funds represent the revenue derived from the Investigations Division, the Technology Division and various other small sources. We have added some percentage numbers on page 8 of [Exhibit P](#) to show General Fund revenue. The remaining percentage has been self-funded, beginning in the 2007–2009 biennium. This is roughly a 70/30 split. Today, approximately 62 percent comes from the General Fund and 38 percent comes from our own revenue. The trend is to shift away from the General Fund and to continue our operations on a self-funding basis as much as possible. The majority of our revenue, 87 percent, comes from Clark County. The total amount of revenue collected statewide was \$864,621,791 for FY 2012-2013.

The first operating enhancement, decision unit E-230, which appears in both B/A 101-4061 and B/A 101-4067, requests an increase in travel and training budgets for both the Board and the Commission members. Due to the continued operation in the international gaming environment and the new technology, our staff's training needs have increased. The majority of the out-of-state travel requests are for meetings with other jurisdictions at their locations and for attending conferences around the world. Some of the gaming groups are located in North America with the majority located overseas. Many of the groups focus on international gaming. One of the largest groups is called the International Association of Gaming Regulators (IAGR). I serve on the IAGR Board as a member of the Board of Trustees and as treasurer of that body. There is an interim meeting this week at a conference called International Casino Exhibition in London. I will not be attending due to other business, as well as financial



constraints. Commission members are frequently asked to speak at conferences around the world. Unless the conference can pay for members' travel and associated costs, members have not been able to attend. The in-state travel consists of Gaming Commission meetings in northern Nevada. For the last 2 years, the Gaming Commission has been meeting solely in Las Vegas as requested. However, we are asking for an enhancement to permit the Commissioners to travel at least six times a year to their bi-monthly meetings in Carson City.

E-230 Efficient and Responsive State Government — Page GAMING CONTROL BOARD-11

E-230 Efficient and Responsive State Government — Page GAMING CONTROL BOARD-18

**Chair Smith:**

Could videoconferencing save travel expenses, especially for Gaming lab staff?

**Mr. Burnett:**

We are using videoconferencing availability whenever we hold regular scheduled meetings. The meetings are broadcast live in the office-site location. The public is welcome to attend. We also have video technology that enables us to hold Board meetings internally. The request addresses the ability of the Commissioners to physically attend meetings in Carson City.

**Chair Smith:**

It appears that you did not spend all of the money you were authorized for either in-state or out-of-state travel in your last budget.

**Mr. Burnett:**

It is correct that we did not spend all the travel funds allocated in our last budget. Any revenue that was not used was reverted to the General Fund. Included in the request are some self-derived revenues, specifically \$106,000 from lab fees. This will enable our technology staff to travel as well.

**Chair Smith:**

Why are you reverting money, then requesting revenue for this biennium? What is happening now that you did not do in the 2011-2013 budget?

**Brian Duffrin (Chief, Administration Division, State Gaming Control Board):**

The utilization of videoconferencing equipment has been beneficial. However, as our Commissioners' terms expire, the Governor appoints the replacements. Since they can come from anywhere in the State, we would like to have the ability for those Commissioners to travel to meetings. Our internal auditors also travel throughout the State on a yearly cycle.

**Chair Smith:**

Please provide further clarification on out-of-state travel.

**Mr. Duffrin:**

Part of the out-of-state travel is for our Audit Division staff. Also, the lab engineers and the Chief of the Technology Division meet with different regulatory bodies and licensees located outside of the State.

**Mr. Burnett:**

Former Senator Randolph Townsend, who is located in northern Nevada, is a perfect example of some of the costs Commission members incur. He must travel down to southern Nevada or attend meetings by videoconference. He pays the expenses himself. Recently, Senator Townsend attended a gaming conference in Singapore, which he paid for himself.

The next decision unit is E-237 for outlining imaging services. The Enforcement Division within the Gaming Control Board requires the imaging services. Imaging Services consists of outsourcing the imaging of hard copy documents.

E-237 Efficient and Responsive State Government — Page GAMING CONTROL BOARD-12

**Chair Smith:**

Why are we outsourcing if it is costing us more money?

**Mr. Burnett:**

We do not have the means to accommodate imaging internally.

Our Website has been transferred to a separate server at the State Division of Enterprise Information Technology Services system. To eliminate the Web hosting, we are reverting approximately \$2,000 in decision unit E-244.

E-244 Efficient and Responsive State Government — Page GAMING CONTROL BOARD-13

We are requesting a host fund in decision unit E-225 pursuant to the *State Administrative Manual* rather than the *Nevada Revised Statutes*. It assists the agencies with hosting delegates from other jurisdictions. It would be funded by our investigative fees and used to cover qualifying expenditures for visiting dignitaries during the 2013-2015 biennium. Among the jurisdictions that previously visited us were representatives from the government of Singapore and the Singapore Casino Regulatory Authority, the government of Taiwan, the Western Cape in South Africa, the Han-Ting Wei Gambling Commission, the National Indian Gaming Commission, the Bahamas, the Malaysia Ministry of Finance, the Japanese Consulate General, the Israeli Tax Authority and the government of Bulgaria. They were hosted primarily in Las Vegas. We are simply asking for water and coffee for these meetings. Our employees have been paying for some of these items.

E-225 Efficient and Responsive State Government — Page GAMING CONTROL BOARD-11

We are requesting the funds in decision unit E-236, so our Enforcement Division staff can conduct confidential and covert investigations to determine if there are ongoing regulatory gaming violations. The covert fund is utilized to pay for some of those costs and expenses.

E-236 Efficient and Responsive State Government — Page GAMING CONTROL BOARD-12

We are asking for a reduction in the Gaming Lab staff. Revenue is going back to the fund in accordance with A.B. No. 279 of the 76th Session. This was a transfer from the internal lab environment to ITL.

**Chair Smith:**

Please provide us with a brief update on the change from internal lab testing to ITL.

**Mr. Burnett:**

We enacted regulations in order to regulate the ITL. To date, we have two approvals of ITL. One company is Gaming Laboratories International and the

other company is BMM International. They have been steadily working for the Board. They test to the Nevada required certification standards for products deployed in Nevada. Instead of conducting that testing on a full-time basis, our lab certifies the testing the ITL has completed. We have streamlined our Technology Division, so our in-house certification testing of the ITL work is essentially 5 days in the lab. This has allowed us to request a reduction in staff as outlined in decision unit E-235.

E-235 Efficient and Responsive State Government — Page GAMING CONTROL BOARD-11

**Chair Smith:**

Were those employees able to transition to the private sector as we were assured they would be able to do?

**Mr. Burnett:**

Some of the employees transitioned to the ITL, some transferred to private industry and some went to other agencies within the State.

**Chair Smith:**

Do you anticipate that you will be eliminating more positions as time goes on?

**Mr. Burnett:**

No. We do not anticipate doing that. We have cut staff in the Technology Division. I can provide you with a breakdown of what the Technology Division does. The Division has restructured itself. In addition to certifying the ITL, our Technology Division is focused on new, emerging technologies, such as cybercrime, enforcement, and Internet gaming.

Page 13 of [Exhibit P](#) provides an overview of our activities pursuant to the State's replacement schedule in decision unit E-712. This is to replace computer software and hardware within the Board.

E-712 Equipment Replacement — Page GAMING CONTROL BOARD-14

Some unclassified changes to positions have already occurred. The changes took place during the previous biennium and all of them are revenue neutral. There is no fiscal impact.

**Chair Smith:**

How does the human resources manager position relate to the district manager?

**Mr. Burnett:**

This was just a retitling of the district office manager position to human resources manager, because the job duties changed. He is located in Carson City and the change in title is to reflect that he is serving as our human resources manager.

We have a proposal for a one-time appropriation. The main computer program is based on COBOL, which stands for Common Business Oriented Language and is nearly 30 years old. The Board created it in-house to handle record keeping. Our record keeping is important and at times confidential. We need to migrate off this system. We have attempted to do so, but the need has become more urgent.

**Chair Smith:**

What will the cost be over the life of the migration project?

**Mr. Burnett:**

Page 21 of [Exhibit P](#) shows a summary of costs we anticipate. We expect that we will be coming back to you with additional requests. The cost and workload of the project is large.

**Chair Smith:**

While we see what you have for this biennium, do you have a projection for the length of time and the cost for the entire project?

**Mr. Burnett:**

I will get the projection to you for the next biennium. It will require \$2 million for consultants' time and travel expenses projected to the next biennium. One million filings, 100,000 amendments, the conversion of 800 software programs and 1.4 million lines of code, 780,000 personal data records and over 84,000 confidential enforcement reports need to be migrated over to a new software system. While we have staff working on it, it would take our current staff approximately 10 years to complete the project. That is why we need the consultants.

**Senator Denis:**

Will you need to accomplish all of these goals before implementing the new system? Alternatively, can you implement the new software, and then run two systems until you have completed the conversion?

**Mr. Burnett:**

Yes, that is what we are currently doing. Our Technology Division is steadily working on converting old data. We have two systems in place now.

**Senator Kieckhefer:**

Is the new system currently in use? Does the cost of the migration include the removal of the old system? Will there be a greater appropriation in the biennium? How much time is needed? Is the total cost \$2 million per biennium?

**Mr. Burnett:**

Yes. The \$2 million goal is correct in accordance with our estimates. It will be a 4- to 6-year project. We do not have the program running for the migration, but we do have two software components at the Board. One is a modern system, and the other is the COBOL system. Our agents are currently using both systems. The number of agents who understand the old system is dwindling rapidly. Our Technology Division staff is limited in maintaining the old system. They are retiring and it is difficult to find consultants with a working knowledge of COBOL.

Budget Account 101-4067 is a \$700,000 request for the 2013-2015 biennium. The Commission has no staff other than a part-time senior research analyst. We have an executive secretary who shares time between the Board and the Commission. On page 8 of [Exhibit P](#) there is a chart showing funding sources for both the Board and the Commission.

**Chair Smith:**

Please provide us with an overview of this budget account and the benefits of the conference that you will be attending in Oslo, Norway.

**Mr. Burnett:**

The International Association of Gaming Advisors (IAGA) is a gaming attorneys group. The IAGR is a gaming regulators group. They are both international bodies. Because Nevada is the premier gaming regulatory jurisdiction in the world, they always wish to have a Nevada presence. I am the secretary and

treasurer for IAGR and I serve on the board of trustees. There is usually a Gaming Control Board member on the board of the IAGR, which has a yearly meeting have recommended Lake Tahoe or Las Vegas as meeting sites, but this year the meeting is in Oslo, Norway. Gaming control membership around the world is large, but I am in the minority in North America as far as members.

We try to encourage funding from the conference. The last conference attended was in South Africa in November 2011, which was paid for by the University of Nevada, Las Vegas (UNLV) and Bo J. Bernhard, member of the UNLV Center for Gaming Research.

The Gaming Control Board Investigation Fund is B/A 244-4063. The Board derives other funds for various activities, including investigative costs and expenses. When an applicant files for a gaming license or approval in the State of Nevada, that application is responsible for paying all costs associated with the investigation. There are Gaming lab fees, publication sales, training fees, and copy charges.

**Senator Kieckhefer:**

Where is Nevada with Internet poker and how are we positioned to act? Will we be receiving any funding from the federal government?

**Mr. Burnett:**

After the last Legislative Session, some statutory amendments were made to interactive gaming. One was a mandate that the Board and the Commission promulgate regulations for Internet gaming. We have done that. Over the last 2 years, the Board has worked diligently to enact a completely new subset of regulations that cover interactive gaming. The regulations eventually would be similar to regulating a land-based casino. Many of the same auditing and accounting functions exist. Functions regarding the geographical location of players, player protection and the security of players funds, exist in NRS 463 and Nevada Gaming Commission Regulation 5A. The regulations today are up and running as law. We have also conducted several licensing investigations of both the operators of interactive gaming Websites and their affiliates, in addition to other service providers to the interactive gaming space. Approximately 20 licensees have been approved to go live with interactive poker on an intrastate basis. Interstate gaming is still a somewhat gray area. We hope your approval of Assembly Bill 5 will enable the Governor to go forward with agreements with other States or other jurisdictions to share player liquidity.

With the lack of federal oversight, framework and previous opinions from the Department of Justice, Internet gaming in the U.S. is illegal. States are going to go their own way and enact legislation across the Country to enable those states to go live. As regulators, I feel comfortable in both scenarios. If there is only Internet gaming on an intrastate basis, we can regulate it. Alternatively, if there is Internet gaming that goes live on an interstate basis, or worldwide, I feel confident that those entities we have licensed will be regulated the same as our physical casinos.

**ASSEMBLY BILL 5**: Revises provisions governing interactive gaming.  
(BDR 41-331)

**Senator Denis:**

What is the urgency?

**Mr. Burnett:**

I am in agreement with the Governor's recommendation. Every day I receive emails and tweets from colleagues in various jurisdictions around the Nation and the world inquiring what Nevada is going to do. Internet gaming is being looked at around the world. Other state legislatures, governments and foreign governments will be considering it as well.



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**Chair Smith:**

There being no further business before this Committee, this hearing is adjourned at 10:18 a.m.

RESPECTFULLY SUBMITTED:

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Annette Teixeira,  
Committee Secretary

APPROVED BY:

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Senator Debbie Smith, Chair

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

<b><u>EXHIBITS</u></b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness / Agency</b>	<b>Description</b>
	A	1		Agenda
	B	2		Attendance Roster
	C	2	Mark Krmpotic	Senate Committee on Finance Standing Rules 2013 Session
	D	13	Mark Krmpotic	Budget Closing Recommendations To Be Developed
	E	2	Mark Krmpotic	New Budget Accounts Created by the 2011 Legislature or included for the First Time in the 2011-13 Executive Budget
	F	1	Mark Krmpotic	2013 Session Joint Subcommittee Assignments Senate and Assembly
	G	1	Mark Krmpotic	2013 Session Finance Subcommittee Assignments
	H	1	Mark Krmpotic	Fiscal Analysis Division Agency Assignments January 2013
	I	1	Mark Krmpotic	Senate Committee on Finance Progress Report as of March 21, 2011 DAY 43 of the 2011 Legislative Session
	J	127	Robert J. Halstead	Report and Recommendations of the Nevada Commission on Nuclear Projects

	K	4	Robert J. Halstead	Nevada Agency for Nuclear Projects FY 2014-2015 Biennial Budget
	L	36	Caren Cafferata-Jenkins	Nevada Commission on Ethics 2011-2012 Annual Report
	M	4	Caren Cafferata-Jenkins	Expanded Program Narrative
	N	1	Caren Cafferata-Jenkins	State of Nevada Commission on Ethics Actual Requests for opinion for the 2012-2013 Biennium
	O	2	Caren Cafferata-Jenkins	2011 Unclassified Salary Comparisons
	P	22	A.G. Burnett	Nevada Gaming Control Board, Nevada Gaming Commission, Senate Finance Committee Budget Overview