

MINUTES OF THE AUGUST 3, 2009
MEETING OF THE
INTERIM FINANCE COMMITTEE
LEGISLATIVE COUNSEL BUREAU
Carson City, Nevada

Cochair Bernice Mathews called a regular meeting of the Interim Finance Committee (IFC) to order on August 3, 2009 at 9:40 a.m. in Room 4100 of the Legislative Building. The meeting was videoconferenced to the Grant Sawyer Office Building in Las Vegas and to Great Basin College in Elko. [Exhibit A](#) is the agenda, [Exhibit B](#) is the guest list, and [Exhibit C](#) is the meeting packet. All exhibits are available and on file at the Fiscal Analysis Division of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator Bernice Mathews, Cochair
Assemblyman Bernie Anderson for Assemblywoman Barbara Buckley
Assemblyman Marcus Conklin
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman James Settelmeyer for Assemblywoman Heidi Gansert
Assemblywoman Debbie Smith
Senator William J. Raggio
Senator Randolph Townsend

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Steven Horsford, Cochair
Assemblyman Morse Arberry Jr., Vice Chair
Assemblyman Moises (Mo) Denis
Assemblyman Joseph (Joe) P. Hardy
Assemblyman Joseph Hogan
Assemblywoman Marilyn Kirkpatrick for Assemblywoman Ellen Koivisto
Assemblywoman April Mastroluca for Assemblywoman Sheila Leslie
Assemblywoman Kathy McClain
Assemblyman John Ocegüera
Senator Bob Coffin
Senator Joyce Woodhouse

COMMITTEE MEMBERS PRESENT IN ELKO:

Senator Dean Rhoads

COMMITTEE MEMBERS EXCUSED:

Assemblywoman Barbara E. Buckley
Assemblywoman Heidi Gansert
Assemblywoman Ellen Koivisto
Assemblywoman Sheila Leslie

LEGISLATIVE COUNSEL BUREAU STAFF IN CARSON CITY:

Lorne Malkiewich, Director, Legislative Counsel Bureau
Brenda J. Erdoes, Legislative Counsel
Eileen O'Grady, Chief Deputy Legislative Counsel
Gary L. Ghiggeri, Fiscal Analyst, Senate
Steve Abba, Principal Deputy Fiscal Analyst
Tracy Raxter, Principal Deputy Fiscal Analyst
Sherie Silva, Interim Finance Committee Secretary
Tracy Battisti, Secretary, Fiscal Division

LEGISLATIVE COUNSEL BUREAU STAFF IN LAS VEGAS:

Mark W. Stevens, Fiscal Analyst, Assembly

Cochair Mathews called the meeting to order at 9:43 and asked for a roll call.

A. ROLL CALL

Lorne Malkiewich, Director, Legislative Counsel Bureau and Secretary of the Interim Finance Committee, called the roll by location, beginning with Las Vegas. Mr. Malkiewich announced a quorum of each House was present.

*B. WORK PROGRAM REVISIONS IN ACCORDANCE WITH
NRS 353.220 (5) (b). INFORMATIONAL ONLY – REQUIRED EXPEDITIOUS
ACTION WITHIN 15 DAYS.

1. **Department of Conservation & Natural Resources – Forestry Division – FY 2010** – Addition of \$288,947 in Southern Nevada Public Land Management Act (SNPLMA) Grant funds to allow Nevada Division of Forestry (NDF) crews to perform fuels reduction and conservation work that will reduce wildland fire threats to the state. Requires Interim Finance approval since the amount added to the U.S. Bureau of Land Management SNPLMA Grant category exceeds \$50,000.
Work Program #C14336
2. **Department of Conservation & Natural Resources – Forestry Division – FY 2010** – Addition of \$567,350 in United States Forest Service (USFS) 2009 American Recovery and Reinvestment Act (ARRA) Stimulus Grant funds to complete the Lincoln County Forest and Rangeland Health Enhancement Project.

Requires Interim Finance approval since the amount added to the USFS 2009 ARRA Stimulus category exceeds \$50,000. **Work Program #C15474**

3. **Department of Conservation & Natural Resources – Forestry Division – FY 2010** – Addition of \$2,573,543 in Emergency Supplemental Hazardous Fuels Reduction Grant funds and deletion of \$66,937 in Federal United States Forest Service (USFS) Fuels for Schools funds to allow Nevada Division of Forestry (NDF) staff and cooperators to improve public safety on state and private lands and reduce the risk of wildfires. Requires Interim Finance approval since the amount added to the USFS Fuels Reduction-Emergency category exceeds \$50,000. **Work Program #C15479**

Gary Ghiggeri, Senate Fiscal Analyst, announced that the three work programs from the Division of Forestry had been submitted as 15-day emergency items. They had been provided for the Committee's information and questions if necessary. There were no questions.

*C. APPROVAL OF GIFTS, GRANTS, WORK PROGRAM REVISIONS,
ALLOCATION OF BLOCK GRANT FUNDS AND POSITION CHANGES IN
ACCORDANCE WITH CHAPTER 353, *NEVADA REVISED STATUTES*.

Mr. Ghiggeri reviewed the items included in Item C and indicated the items to be considered by the Committee were as follows:

Items 1, 7, 9, 18 and 19.

Cochair Mathews asked if Committee members wished to add any items to the list; there were no requests.

SENATOR TOWNSEND MOVED FOR APPROVAL OF THE
REMAINING WORK PROGRAMS UNDER AGENDA ITEM C.

SENATOR RAGGIO SECONDED THE MOTION.

THE MOTION CARRIED.

1. **Governor's Office – State Energy Office – FY 2010** – Addition of \$3,471,400 in American Recovery and Reinvestment Act (ARRA) of 2009 State Energy Program funds to ~~hire ten state positions to~~ **accomplish phase one of hiring, which includes three new positions to** coordinate the following activities: retrofit state buildings; efficient and renewable energy for schools; energy efficient traffic signals; alternative fueling infrastructure; a revolving loan; engineering, feasibility, permitting, environmental impact studies (EIS) and project implementation; and energy conservation code adoption. Requires Interim Finance approval since the amount added to the Personnel category exceeds \$50,000. **Work Program #C15699 REVISED JULY 24, 2009**

Hatice Gecol, PhD, Director of the State Energy Office (SEO), introduced Evan Dale from the Division of Administrative Services, which was responsible for the financial activities of the Energy Office, and Pete Konesky, Energy Engineer, who would be providing information about the work program. Andrew Clinger, Director of the Department of Administration, was also present at the testimony table. Copies of the State Energy Office's presentation were distributed to Committee members ([Exhibit D](#)).

Dr. Gecol was pleased to inform the Committee that the U.S. Department of Energy had awarded the second portion of the State Energy Program (SEP) American Recovery and Reinvestment (ARRA) funds. The second portion represented 40 percent of the funds, which now totaled \$13,885,600. The award was announced on July 27, and based upon the information received, the work program had been revised. However, Dr. Gecol understood that the work program had not been submitted to the Fiscal Division, and thus the Energy Office was requesting that the work program be amended from \$3,471,400 to \$17,357,000, which included the 40 percent of ARRA State Energy Program funding. She indicated that Evan Dale would explain the amendment to the Committee.

Cochair Mathews remarked she had asked Mr. Clinger to come to the testimony table in the event Committee members had questions for the State Budget Office.

Evan Dale, Division of Administrative Services, reviewed the information provided by Dr. Gecol. The work program on the agenda was for the first 10 percent of the ARRA SEP funds. An additional 40 percent of the award was now available, and the request was to amend the work program to authorize the State Energy Office to receive the additional 40 percent, \$13,885,600, and to allocate \$3,191,410 into category 8 to start seven programs; the remaining funds, \$10,694,190, would be allocated to reserves. The total of the request to receive federal grant money was \$17,357,000.

Cochair Mathews asked if the amended request was in writing, remarking it was difficult for the Committee members to follow the numbers. Mr. Dale replied that he had a written document, but copies needed to be made for the Committee members.

Senator Townsend asked, of the amended figure which would add the additional 40 percent, if it was expected that portion would be reviewed by the Committee at this meeting and authorized, or if it was just to be accepted. He noted the Committee would be considering the original request for 10 percent, or \$3,191,410, which was basically for administrative costs. The second portion was the portion that would actually go to school districts and other programs in the private sector, and he questioned whether the Committee would be reviewing and acting upon allocation of those funds at this meeting or if the funds would be put in reserve until the Committee had the opportunity to review the allocation of those funds.

Mr. Dale replied the request was for approval to use approximately \$3.1 million of the additional \$13,885,600 to start work on the SEO's seven programs and to allocate the balance of approximately \$10,000,000 to reserve.

Assemblyman Conklin asked the exact purpose of the reserve. Mr. Dale replied the reserve was money that would be brought before the IFC in the future with a plan for use of the funds.

Mr. Dale indicated he had completed his portion of the presentation, although he was going to review the allocation of the \$3.1 million among the seven programs; however, his written information had been taken by staff for copying.

Noting that this matter was of great importance, Cochair Mathews said the Committee would wait for copies of Mr. Dale's document, which were being made for the Committee members in Carson City and Las Vegas. She requested that in the future, agencies bring sufficient copies of any financial and numerical documents for distribution to the members.

Assemblywoman Kirkpatrick noted that of the \$13,885,600, the agency was requesting that \$3.1 million go to offset the work programs. She had thought 10 percent was the original amount requested; it appeared to her that 20 percent was being requested for start-up costs as opposed to 10 percent. She asked specifically what the differences would be from the work program submitted under this agenda item.

Mr. Dale replied that 10 percent was the original amount the agency was authorized to receive, which was the current amount requested and represented 10 percent of a total of \$34,714,000. However, the second phase was approved by the Department of Energy last week, which represented 40 percent of \$34,714,000 and, he further explained, the 40 percent was the additional \$13,885,600 being requested through an amendment at this meeting. Of the \$13.8 million, roughly \$10 million would be placed in reserve, and \$3.1 million would be allocated to category 8 to actually begin work on some of the projects. He reiterated that the Office of Energy had seven projects in the program, and he began to outline how the \$3.1 million would be allocated among the seven projects:

- Retrofit of State Buildings - \$7 million total; \$700,000 currently being requested for allocation.
- Energy Efficiency and Renewable Energy for Schools K-12 - \$7,500,000 total; \$750,000 being requested for allocation.

Senator Horsford requested a copy of the document being read from; testimony was suspended until copies could be made and distributed ([Exhibit E](#)).

Assemblywoman Kirkpatrick said she did not believe she had received an answer to her question, and she wished to rephrase it for clarification. She understood that currently 10 percent was being allocated for administrative costs, but she wondered why the funds were being requested when staff was not in place to begin projects. Why was the 10 percent needed now? She asked if six weeks would make a difference. Assemblywoman Kirkpatrick added that she had worked on many of the energy issues, and she wanted everything implemented as quickly and efficiently as possible.

However, she didn't understand why the funds could not stay in reserves until staff was in place.

Mr. Dale responded that the Director of the Office of Energy believed that prior to the September IFC meeting, she would need to get some requests for proposal (RFP) out and possibly issue some contracts to get started on programs, in addition to hiring administrative staff.

Senator Raggio said he would like to have the information pulled together. He noted that the whole plan had been approved, as well as the various categories referenced earlier. First, the Committee understood the proposed plan for \$34-plus million would become available to the state. Since the agency was seeking to augment the request at this meeting, Senator Raggio thought it would be helpful to understand the plan for allocation of the initial 10 percent, plus the additional 40 percent. However, it appeared to him the request was for allocation of something in excess of \$3 million. He asked Mr. Dale to explain what the immediate spending proposals were to utilize the first 10 percent and the initial \$3-plus million from the second phase.

Mr. Dale replied the first 10 percent would be used to hire three additional staff and establish their offices so they could begin organizing the seven programs outlined by Dr. Gecol.

Senator Raggio asked if hiring three people was considered an initial hiring phase; he thought the original request was for ten employees. Mr. Dale responded that was correct; ten employees were proposed to eventually be hired.

Senator Raggio asked how the agency had arrived at the need for three employees at this time, when the plan was to eventually hire ten. Was that number still valid even with the 40 percent of funding that would now be available?

Peter Konesky, State Office of Energy, explained the first 10 percent was allocated based on a fairly simple plan submitted to the federal government, with the funding to be used to staff the office, prepare the specific detailed plan and provide necessary office equipment and supplies. He offered to answer questions regarding those specific items.

Senator Raggio asked if the 10 percent would just cover the three positions and if that expenditure would utilize the full 10 percent.

Mr. Konesky replied that the 10 percent would cover those costs, and he noted the amount would be a three-year allocation since the personnel were being hired for a three-year program.

Senator Horsford asked what the total cost of the three positions would be over the three years. It was his understanding there was a reserve of the administrative portion of the 10 percent, and the Committee was only approving expenditure of 3 percent plus

some operational expenses now, and any future expenses for administration would have to come before the IFC for approval at a future meeting.

Andrew Clinger, Director of the Department of Administration, explained that the work program before the Committee brought in the initial 10 percent: \$303,574 would go toward personnel expenses; \$202,369 would go toward other costs; and the balance of \$2,965,457 would go to reserve. Authority to spend that amount would require IFC approval in the future. Mr. Clinger further explained that the amendment described by Mr. Dale was to increase the amount that was received by the Department of Energy, which was \$17,357,000, and it was proposed that \$3.1 million be put into programs before the September IFC meeting.

Senator Horsford asked if the three positions had gone through the Department of Personnel process; he wondered why the salary grades seemed to be high. In two instances, the Program Administrator positions were grade 44, which could have a range higher than the amount the Executive Director was paid. He asked if the positions had been audited to determine the minimum qualifications, position descriptions, and salary levels that should be assigned.

Mr. Clinger asked that Peter Long from the Department of Personnel respond to Senator Horsford's questions.

Peter Long, Department of Personnel, indicated that the department had just started a review of the three positions; NPD 19s were received on Friday, which would allow the review to begin. The salaries were based on what the Energy Office believed it would take to recruit qualified individuals to fill the positions. However, Mr. Long wanted to point out, during the review the department would look at the duties assigned to the positions, as well as the knowledge, skills and abilities and minimum qualifications. At this point, he could not say that the salaries submitted were appropriate.

Senator Horsford affirmed that the review process would be completed before the positions were actually filled and if the salaries, job functions, and qualifications needed to be changed, they would be amended through the review process.

Mr. Long responded that once the positions were approved by the Committee, the Energy Office would have the ability to fill them with emergency appointments. Should the office not do that, the positions would not be filled until they were classified and the recruitment process was complete.

If the salaries were approved by the Committee as requested, Senator Horsford asked, would the Department of Personnel make modifications if it determined the salaries were higher than what they should be based on the review process? He wondered if through Committee approval of the requested salaries the agency would be authorized to pay the amounts requested.

Mr. Long replied that the Personnel Department would submit its grade and salary recommendations to the Budget Office, and if the review resulted in lower salaries, the Budget Office would make the required adjustments

Assemblyman Conklin said he understood from Mr. Clinger's review of the modified programs, category 1, Personnel, was \$303,574, and the remainder of the work program, which was \$202,368.96, would go toward operating expenses. He asked if \$202,000 in operating expenses would be necessary. He noted the request was for nine executive work stations, but only three persons were scheduled to be hired; deleting six work stations would result in savings of \$18,000.

Mr. Clinger replied Assemblyman Conklin was correct. Based on the current request before the Committee for three positions, the number of work stations could be reduced to three. At a later point, the Energy Office could approach the IFC for approval of work stations for the other six positions.

Assemblyman Conklin asked if there were other items listed in category 8 that would be reduced as a result of the decrease in the number of staff being hired at this time.

Mr. Dale replied that the number of cell phones, two secretarial work stations, and laptop computers could perhaps be reduced. He said he would be happy to work with Fiscal staff to make those and other possible reductions.

Cochair Mathews agreed that Mr. Dale should work with Fiscal staff to revise the work program numbers.

Senator Horsford had a question regarding the function of the Outreach position; he wondered if approval of the position was needed at this meeting. It was his understanding that a position was previously funded by the General Fund in 2007 that went unfilled; he questioned why a new position was necessary when the old position had not been filled.

Mr. Konesky replied that initially the programs were supposed to be kept separate. The previous position was for the State Energy Program Formula grant, which was an ongoing program over the last 20 years, and some of the funding from the state-funded portion of those programs balanced forward continually. The agency had been told to supplement activities and not supplant; existing positions could not be used indiscriminately – the funding must be kept separate. Mr. Konesky went on to explain the reason and need for the Outreach position was the visibility required to the public as mandated by the federal government. It would be a very effective means of communicating with everyone in the state, which was a major reason the position was so important. He added that visibility seemed to be paramount in the eyes of the federal government, and the position would provide that visibility.

Senator Horsford asked if the agency would be going forward to fill the initial position.

Mr. Konesky responded that the other three positions for the SEP Formula grant program were in the process of being filled at the current time. The Administrative Assistant had been approved; the Grants and Project Analyst was being interviewed; and 23 candidates were being evaluated for the Renewable Energy position.

Senator Horsford observed the two Program Administrator positions were obviously critical to implementation and oversight of the funds, as well as the programs identified in the plan. He asked what process was being used to quickly identify qualified candidates to fill those positions.

Mr. Long replied the process was just beginning. The agency might be looking at people who were qualified to fill those jobs, but until classifications were developed, recruitment could not be conducted. The only avenue to fill those positions quickly would be through emergency appointments. Mr. Long added that if everything went smoothly, classifications for the positions would be completed within about 45 days.

Senator Horsford expressed concern that 45 days seemed like a long period of time, especially in light of the use of stimulus dollars. He believed there had to be a process that could move more expeditiously, and he asked that whatever process was used, that it be done in a way that the Committee could receive a status report of positions at the September IFC meeting. Senator Horsford reiterated that the positions were critical to carrying out the functions of the stimulus funds, and the state was aware in April that the positions and functions were coming. He stressed that the process needed to move more quickly.

Mr. Long clarified that an emergency appointment could be made immediately if the Committee approved the funding at this meeting. He was referring to the fact that it would take 45 days to develop class specifications for the positions, for recruitment to be conducted, and appointments to be made through the normal process.

Assemblywoman Smith suggested it would be helpful if Mr. Long could walk the Committee through the emergency appointment process.

Mr. Long explained that an emergency appointment was defined in both statute and regulation as an appointment not requiring compliance with NRS Chapter 284, so the normal recruitment process was not conducted. An applicant could be hired regardless of his minimum qualifications and placement on certified lists; the appointment would last for only 60 working days in a calendar year. He said an appointment in this situation, depending on holidays and weekends, would last for 2-1/2 to 3 months. Mr. Long anticipated that class specifications could be developed, recruitment conducted, and someone hired within that timeframe.

Assemblywoman Smith clarified that the emergency appointment could be made immediately; the classification and recruitment process for the actual position would begin; and upon completion of the process, the individual would be recruited and hired. However, the temporary appointee would not be guaranteed the position.

Mr. Long affirmed that Assemblywoman Smith was correct in her analysis.

Mr. Clinger added that obviously, under an emergency appointment provision, it was desirable to appoint someone who would meet the minimum qualifications once the specifications were established.

Cochair Mathews remarked that was not what she understood from Mr. Long's comments; it was possible to appoint someone totally unqualified in an emergency situation.

Mr. Clinger replied that was true, which was why he wanted to clarify that the anticipated specifications and minimum qualifications would be considered when making an emergency appointment in order to avoid hiring someone new once the specifications were in place.

Assemblywoman Smith said she appreciated that fact; she just wanted to clarify there were no guarantees. She asked how the salary was established for an emergency hire and how it would correlate to the position when it became classified. How would the Committee allocate the correct amount of funding in the budget approval process?

Mr. Long said he could not speak to the budget side, but the amount allocated may not ultimately be the salary range set. The ultimate salary would be at the grade that would be established based on duties and minimum qualifications, and it could be the same as allocated by the Committee or it could be more or less. Mr. Long assumed that when a position was established at a particular salary level, the budget would be adjusted. In the interim, the emergency appointment could be hired at a salary level approved at this meeting if that was the Committee's desire.

Addressing Mr. Ghiggeri, Assemblywoman Smith asked if the Committee were to approve the funding for the positions under the emergency hire provision, how the amount would be determined.

Mr. Ghiggeri replied it would be staff's recommendation that if the Committee approved the three positions as requested in the work program and the additional funding that was presented to the Committee, \$3.1 million, some operating costs should be reduced from the initial \$202,000, not only the equipment that was alluded to earlier, but also some state-owned building rent and worker-driven costs. Mr. Ghiggeri recommended that the approval of the three positions be contingent upon staff's review with the Administration for appropriate reductions to the initial \$202,000 requested for operating costs. The amount reduced would be placed in reserve for review by the Committee at a later date should the agency come forward to request additional positions. Mr. Ghiggeri also recommended that a report be provided at the September 17th IFC meeting as to the outcome of the emergency appointments and new hires and salary levels determined.

Assemblywoman Kirkpatrick asked if the three positions plus the three vacant positions were hired, if those state workers would have work to do between now and the next IFC meeting. She was concerned that if the \$3.1 million from the 40 percent was approved, the new employees would not have anything to do over the next six weeks. Also, she added, it could be difficult to hire six positions, as well as get the employees housed and equipped, within that timeframe. She questioned how the \$3.1 million would be used if the RFP process was not started by then. She did not understand why extra funding was required to get things rolling, since the RFP would likely still be out in six weeks. She questioned what the RFP process was and what the needs were in each category.

Mr. Dale said Mr. Clinger had pointed out that on page 73 of the meeting packet ([Exhibit C](#)) there was a list of the seven programs recommended by the Office of Energy, as well as the budgets for each of those programs. This was the money to be spent exclusive of the administrative costs associated with the ARRA program. He said the \$3.1 million being questioned was approximately 10 percent of the budget for each of the seven programs. Mr. Dale said that Director Gecol felt that RFPs could possibly be issued before the September IFC meeting and contracts awarded that would use some or all of the \$3.1 million. He indicated that the money most likely would not be spent, but authority was needed to award any contracts. He hoped he had answered Assemblywoman Kirkpatrick's question.

Assemblywoman Kirkpatrick said she understood that RFPs had to be out for some time to allow bidder participation. She was concerned that during the 2009 Legislative Session there were attempts to spend funds before they were allocated, and she did not want that to happen again. She was personally uncomfortable with the \$3.1 million and would hesitate to support it without a more detailed plan, unless there were already potential RFPs, which would violate the process for purchasing contracts.

Mr. Clinger replied the request was for authority to spend at least 10 percent of the funding in each category before issuing any RFPs. He stated it certainly was not the intent to issue RFPs without the Committee's authority to spend the funds.

Assemblywoman Kirkpatrick asked how long the RFPs would be out before they would be awarded. Did the agency have a process in place and a timeframe for issuance of the RFPs? She said her constituents had been asking her where the stimulus funds were, and she was unable to answer them because she had not seen any RFPs. She wanted to understand the issue clearly so she could explain it correctly to her constituents.

Assemblywoman Smith clarified that at this meeting, the Committee was simply authorizing the agency to hire the positions; the other money had been received and would be set aside to start programs. She explained the programs could not be started until the positions were filled, so the mechanism for authorizing the three positions and the related operating costs needed to be approved by the Committee. The agency would return to the next IFC meeting to actually begin implementing the programs. She asked Mr. Clinger if she had articulated the issue correctly.

Mr. Clinger reiterated that the request was for approval of \$3.1 million to not only hire the positions, but also to begin RFPs for some of the programs before the September IFC meeting.

Assemblywoman Smith affirmed that until the funds were authorized and the positions filled, there would be no funding available to implement the programs.

Mr. Clinger replied Assemblywoman Smith was correct, again stating that the request was to expedite the process to hire the positions and also give authority to spend funds on the programs so that RFPs could be issued. He cautioned that a delay until the September meeting would mean that RFPs would not be issued until after September. He wondered if the Committee would want to provide an alternative method in the middle.

Assemblyman Conklin asked if there was a statutory or regulatory requirement that IFC approval was needed to begin an RFP, or if the agency had the authority to issue an RFP prior to IFC approval.

Mr. Clinger said he was not aware of a specific statutory prohibition other than the Budget Act. It would not be proper to issue an RFP and expend funds before obtaining IFC authority. He was not sure whether the RFP process could be started before the actual authority was granted. If the Committee would approve the request with instructions to go ahead and begin the RFP process but not expend any funds until September, it would certainly help to expedite the process.

Assemblyman Goicoechea indicated he was very concerned. The funding was in place to hire the three positions, but the issue was salaries; no job descriptions or duties had been defined. It did not seem an unusual request to use the additional 10 percent to proceed with planning and design; that would make sense. However, he was very apprehensive; he realized that the process needed to move forward, but there had been no progress on the initial phase, which was to put the three positions in place. What were the job descriptions? What criteria would be used for selection? He added the only issue being discussed was money.

Mr. Konesky recalled there had been earlier discussion concerning the three positions and three additional positions. He wanted to clarify that the three positions the agency was currently in the process of hiring were for the SEP Formula grant, which was a totally different project from the SEP ARRA activity. There were two parallel ongoing activities, and the monies could not cross boundaries. Mr. Konesky explained the SEP program had already been approved in the budget process, so the current discussion was strictly concerning the ARRA activity. Some initial activity had been started on the RFPs through communication with some of the participants, e.g., the school districts, asking them to start getting their programs together. The agencies involved in the transportation project had also been requested to begin gathering their information so that when an RFP was issued, the responses could be rapid. Mr. Konesky said there would be 85-89 different entities involved; there were 17 school districts alone.

Senator Horsford said he was getting a clearer picture of the Energy Office's request – the three positions under the ARRA, with the caveats of the personnel process and some cap on the amount the Committee would be comfortable with going forward so that the positions were not at a higher level than they should be. Ten percent of the program dollars (\$13.7 million) was \$1.3 million, and he suggested that the seven program categories be prioritized as to where the dollars should be spent. He felt there was a need to at least move the process forward, whether it was by starting the RFP process and allowing the agency to return to the September 17th IFC meeting, or to the extent possible, get the dollars on the street. He noted that three of the seven areas were legislatively directed. The retrofit of state buildings and the energy efficiency and renewable energy programs for schools were specified in S.B. 152, and there was supposed to be a plan with projects identified within 90 days of passage of that bill. Senator Horsford believed those activities could move forward. The third program was the building code plan, which Assemblywoman Kirkpatrick had worked on, and he thought it was important to begin the process around the building codes and regulations as well.

Continuing, Senator Horsford said it seemed to him that the other elements would require additional capacity and expertise to implement. Rather than rushing to put the dollars on the street without knowing how it would be done, he believed those programs should be brought back to the September 17th meeting with more thorough plans from the Energy Office. In summary, the three areas he felt comfortable with giving authority to expend the 10 percent of the 40 percent program dollars were the retrofit of state buildings, the energy efficiency and renewable energy programs for schools, and the building code plan.

Senator Horsford had two final concerns. He did not understand the formula for the school funding. It was allocated among the districts equally, and he questioned the rationale for that formula approach. He also wanted it on the record that the projects for the retrofit of state buildings and energy efficiency and renewable energy for schools must follow the process required in S.B. 152, whereby the projects would be identified by the local school districts, there would be a vetting process involving the Energy Office, and ultimately grants would be issued to those districts and/or public agencies. He requested that someone clarify how the process would be handled.

Mr. Konesky responded that the reason for allocation of equal portions to the school districts was to attempt to make the funding available across the state to as many people as possible. If the formula had been based on population or school building quantity, two school districts would have received all of the funding. The rural school districts were usually those with the lowest tax base to fund their activities, and providing equal amounts would alleviate some of the difficulties in the rural districts.

Assemblywoman Kirkpatrick wanted the record to reflect that the state would partner with the performance contracts used by the rural schools in order to benefit the rural counties with lower tax bases.

Assemblywoman Smith requested that the discussion focus on one subject. She suggested that the salary issues and positions be resolved and programs could then be discussed; she had several questions in that area as well. If the salaries were connected to the programs, she asked if the state would have an obligation to the federal government to work on all seven programs. She agreed with Senator Horsford's suggestion to prioritize if possible, but she wondered what the state's obligation was, since funding was received based on the seven programs.

Robin Reedy, Chief of Staff, Governor's Office, testified there had been different discussions on different portions of the program, and Senator Horsford had made several of the points she had planned to discuss. She said it was very difficult to get participants to respond to RFPs if they did not think money was available. Responding to an RFP cost vendors time, energy, salaries and paper, so if money was not available, there would be a limited response.

Mr. Konesky said the Energy Office had been involved in a number of activities on the personnel issue, including looking briefly at salaries in surrounding states: Colorado was higher; Utah was less; and Arizona and California were considerably higher. He added that candidates in these categories were in great demand at this time. He believed the proposed salaries were reasonable considering today's environment, but the Committee would have the final say.

In response to Assemblywoman Smith's question, Mr. Clinger explained that of the three positions requested, two positions, the Energy Efficiency and Energy Conservation Program Administrator and the Renewable Energy Program Administrator, were at grade 44, step 8, which was equivalent to \$93,187 annually. The other position was requested at grade 42, step 8, which was \$84,981 annually.

Assemblywoman Smith asked Mr. Clinger to clarify that 20 percent of the Executive Director's salary would come from ARRA funds when the position was funded from General Funds.

Mr. Clinger replied that the 20 percent portion of the Executive Director's salary was to be funded from ARRA funds, which would amount to approximately \$23,173. That same amount would have to be reserved and reverted from the General Fund, which would essentially be a savings to the state.

Cochair Mathews asked if someone was prepared to make a motion on the first portion of this issue so that the Committee could move forward.

SENATOR HORSFORD MOVED APPROVAL FOR THE ENERGY OFFICE TO MOVE FORWARD WITH THE THREE POSITIONS, WITH THE SUGGESTION THAT QUALIFIED INDIVIDUALS BE PLACED ON EMERGENCY APPOINTMENT AND THAT THE PERSONNEL PROCESS BE COMPLETED.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

Senator Horsford said he was not comfortable with grade 44; the \$93,000 was an average amount, and the range extended beyond the salary of Executive Director. Based on the functions that were outlined by the Energy Office, he understood the position was to provide oversight to carry out the programs, and he thought grade 44 was too high. He asked staff what the appropriate grade level would be, not to exceed a certain amount. He wanted the salary to be competitive and qualified people to do the work, but he did not want to over-compensate, based on the functions or the position descriptions as currently outlined.

Assemblywoman Smith said she had been discussing the issue with staff, and it appeared that the Committee would have to trust the Department of Personnel to determine the salary levels, based on the job duties. The funding would then be adjusted commensurate with the recommendations, and any excess amount funded by the Committee would be reverted.

Senator Raggio said he thought he understood the motion, but he was not clear whether the motion was suggesting a salary cap. He agreed that no one wanted to authorize unwarranted salaries; however, he had heard testimony on salaries of similar positions in adjoining states. He would not want the motion to limit the ability to make emergency appointments with qualified people to be considered. Senator Raggio reiterated he didn't understand the statement concerning a cap on the salary; it was his understanding that the Department of Personnel would submit a recommendation for consideration by the Committee at the next meeting. He again asked if there was a cap intended in the motion.

Senator Horsford clarified that the request from the agency was a grade 44, which had a range of between \$67,000 and \$102,000; the higher range was more than what was paid to the Executive Director. As part of his motion, the Personnel Division was to be directed to complete its process and come up with the proper level of pay based on the functions, the job description and the qualifications for the position, but the decision would not rely on the Energy Office's request alone. He agreed the Department of Personnel knew the personnel aspects best.

Senator Raggio said he understood. He asked at what level the emergency appointments would be paid in the interim.

Senator Horsford replied he would defer the question to staff.

Mark Stevens, Assembly Fiscal Analyst, said he would assume the salary would be set by the Department of Personnel; the classification process would go forward, and the interim salary would be modified if it needed to be based on the results of the study conducted by the Department of Personnel.

Senator Raggio remarked he thought that would be appropriate.

Assemblyman Anderson asked the Department of Personnel if, in determining the temporary salary, the department would take the existing formula into consideration. However, in listening to the questions in terms of the demand for this particular job description, the salary may be set at a level beyond the normal temporary salary. He asked how the market demand would be factored into this particular situation.

Mr. Long replied that, unfortunately, the department's methodology did not allow consideration of what the market paid. The study would look at what positions in state service were performing similar levels of duties and had similar responsibilities and minimum qualifications. The market would have no influence on the salaries.

Based on Senator Raggio's earlier questions and concerns with wanting someone who would be competent to assume responsibility for this area, Assemblyman Anderson wanted know how that would be accomplished. He was not willing to say find the best person and hire him for whatever the salary would be, even if it was more than the salary paid to the Governor or other state administrators.

Mr. Long explained that in the past, the Department of Personnel had recommended a grade, and if there were recruitment and retention issues based on that grade, the Legislature had authority to adjust the grade, including to a higher salary.

Assemblyman Anderson's understanding was that if the position was filled temporarily and the agency came to the September IFC meeting with a recommendation for a permanent salary, the Committee would be able to make the adjustment with full knowledge.

Mr. Long affirmed Mr. Anderson was correct.

Assemblywoman Smith wanted to clarify in the motion that the Budget Division would continue to work with Fiscal staff on the operating costs. In addition to changing the operating and support costs from ten positions to three, it was also necessary to look at the equipment and office furniture to ensure there was no excess equipment. She questioned why it would be necessary to buy new office furniture and equipment when there had been so many positions eliminated in state government. She requested the Budget Division work with the Fiscal Division to hone those expenditures down as far as possible.

Assemblywoman Smith added that she wanted to add the 20 percent reversion from the General Fund into the motion to clarify that the \$23,173 ARRA portion of the Executive Director's salary would be included as part of the Committee's action.

Senator Horsford accepted Assemblywoman Smith's amendment. He also wanted it on the record that the Energy Office would provide a status report to the Interim Finance Stimulus Oversight Committee on both the staffing and programming.

Cochair Mathews requested that Senator Horsford restate his motion as amended.

SENATOR HORSFORD MOVED FOR APPROVAL OF THE THREE POSITIONS, WITH THE PERSONNEL DIVISION DETERMINING THE RATES; THE ENERGY OFFICE WORKING WITH FISCAL STAFF ON THE OPERATIONAL COSTS, REDUCING THE REQUEST AS APPROPRIATE FROM TEN TO THREE POSITIONS AND FINDING ANY OTHER COST SAVINGS AS APPROPRIATE; THE 20 PERCENT ARRA ALLOCATION OF THE EXECUTIVE DIRECTOR'S SALARY TO BE REVERTED FROM THE GENERAL FUND; AND REQUIRING STATUS REPORTS TO THE STIMULUS OVERSIGHT COMMITTEE.

Mr. Long clarified that the Department of Personnel would not be able to determine the emergency salary rates; it would only determine the rates once the positions were classified. He recommended that the rates be set five or ten percent below what the Executive Director was making, and then they could be adjusted up or down from there.

Senator Horsford said he would be comfortable with Mr. Clinger's suggestion that the rate not exceed \$93,000, which was the average, until the formal rate could be established by the Personnel Division.

Mr. Clinger said the request was for the mid-point of the range; the annual salary for two of the positions would be \$93,187, and one was at \$84,981, which was the mid-point of each salary range and the amounts for which expenditure authority was requested. He asked that the motion include not exceeding those annual salaries.

Senator Horsford was agreeable to Mr. Clinger's request.

Senator Townsend, referring to the third position, the Outreach Coordinator, quoted from the agency's presentation, "...is responsible for creating and maintaining the website related to the ARRA energy funding outreach and communications and public education related to energy efficiency and energy conservation." He asked if that position had been analyzed. He did not understand the duties of the position, whether it was going to be a webmaster for \$84,000 a year or if the position was going to outreach to do the RFPs. He asked for clarification of the position's duties.

Mr. Konesky replied that one of the criteria through ARRA funding was that there must be visibility for everyone. The website was only one part of the job; the individual would be working on public outreach to the public, the school districts, and the various county commissioners and city councils relating to renewable energy and energy efficiency. Mr. Konesky said all reports and activities relating to ARRA funding requirements needed to be available to the public, and reports were weekly, quarterly, or monthly. It was going to be a large load on the office and the personnel to meet the reporting requirements and the visibility that was required by the ARRA.

Senator Townsend asked if the position would serve as the liaison with the federal government to ensure the state was meeting all requirements of the funds.

Mr. Konesky replied Senator Townsend was correct; that was part of the position.

Senator Townsend asked if the motion included the additional ARRA funds just awarded for program activities such as the retrofit of state buildings, schools and revised building codes.

Mr. Konesky replied Senator Townsend was correct.

Senator Townsend remarked if that was not the case, he was not sure why the position would be needed, adding that the position would need to be the most accountable of all staff. As stated by the Majority Leader, the single most important part of the program was to get money on the street to hire people to do those jobs. This individual would need to be the cornerstone toward that goal. Senator Townsend commented that if the purpose of the position was to build a website, the Legislative Counsel Bureau website staff would be able to do it for a lot less money. He wanted assurance that the person would be accountable.

Cochair Mathews thanked Senator Townsend for his remarks and then called for a vote on the motion.

THE MOTION CARRIED.

Senator Raggio asked how soon emergency appointments could be made. He assumed the agency had some individuals in mind, and he would like to see the process expedited.

Dr. Gecol said it was the agency's intention to advertise the positions in the newspaper for one week and have staff on board in eight or nine days.

Senator Raggio said he was concerned whether there were people well qualified and available to fill the positions.

Cochair Mathews thanked Senator Raggio for his remarks. She announced that the Committee would move to the program funding.

Assemblywoman Smith said she was not sure if she had received an answer to her previous question regarding prioritizing the positions to address three programs out of seven and whether that would meet the intent of the federal government.

Mr. Konesky replied there would have to be activity on all seven programs. However, the programs would be prioritized; RFPs for the first programs available would be out as soon as possible. The first programs would probably be the state building retrofits and the school activities; the third program would be transportation, followed by the building codes project. Within six months after the award, the federal government would send on-site auditors, and the additional 50 percent of available funding would be based on what the auditors report back to the Department of Energy (DOE). Mr. Konesky said

that one of the difficult challenges for the office would be to show adequate progress in the area being reviewed for approval of the next grant of 10 to 20 percent, with the following grant being 30 to 40 percent. It would be incumbent on the office to be able to show adequate movement and projects on the ground and jobs created and saved, within the cost limitations given by the federal government. It would be necessary to prove 10 million source BTUs saved for every \$1,000 spent, which would be part of the challenge and part of the hoops that would have to be jumped through by people proposing programs.

Assemblywoman Smith asked if Mr. Konesky was saying that all seven categories would be evaluated in six months.

Mr. Konesky replied she was correct; that was the agency's understanding.

Senator Horsford said he understood where Assemblywoman Smith was going with her questions. Based on the requirements and reporting, activity would have to be shown in all the different areas. He was concerned if the agency tried to do everything half well done, there would be nothing good to show. It seemed to him that if significant progress could at least be shown in two or three areas, then activity and progress could be reported in the other areas that required additional time. From what he had read in the plan, the funds had to be obligated within the first 18 months and expended fully within three years. Senator Horsford said he knew it was important to get the money out, but it needed to be done in a prudent and effective manner that would produce the best impact as far as jobs and economic recovery were concerned. He reiterated that he understood Assemblywoman Smith's point and that some activity would have to be shown in every category of the seven.

Assemblywoman Smith remarked that the Committee would meet again in September, and probably in October and November, and if steady progress was being made in all programs, that would make sense. She wanted to make sure that if there was an October reporting deadline, the state would be meeting all of the requirements if only three programs were prioritized. She was in agreement with the idea of prioritizing; she was just concerned about the timeframes.

Mr. Konesky said the Energy Office agreed with prioritization; the challenge would be multi-tasking. When there was a delay for one reason or another, another activity could be pursued. The agency was not yet sure of the criteria, as the federal plan was in process; results in other states that had auditors on site were being monitored. The state of Arizona was a selected state, and it had to provide office space for three on-site auditors full-time. The whole program since February had been in evolution; questions arose, responses were received which raised more questions, and the federal government's staff working on program activities was probably as stressed, if not more, as the states. There were going to be 31 or more stimulus packages released, and the federal employees were trying to do a job, just as the states were.

Assemblywoman Kirkpatrick thought that during the 2009 Session, some potential areas were identified within each of the categories which could move faster. For example, she thought within the school system, there were some ideas on how to work together to do better in the area of performance contracting. The schools already had a plan, and she recalled that the state had some programs in place. Utilizing the Sure Bet program, the community college saved \$24,000 by changing out its light bulbs, which met the BTU requirement. Assemblywoman Kirkpatrick reiterated that she thought there was an existing list of activities. She believed it would be more efficient to choose some programs to work on and get rolling than to have seven programs with no progress. She wanted to understand why the projects had been brought together and a list made when now they apparently didn't mean anything.

Senator Townsend believed that the Majority Leader and Assemblywoman Kirkpatrick were correct about focus dollars. He wondered if the Energy Office could contact the federal government to clarify whether the stimulus dollars could be focused on three priorities that would create a return on activities that were already known as best practices. Senator Townsend did not dispute Mr. Konesky's assertion that activity was required on all seven programs, but he thought perhaps a phone call to the Department of Energy might prove beneficial. He suggested contacting Senator Reid's office might also be helpful.

Mr. Konesky replied the agency had the State Plan that was part of the application, which included the timelines and activities, along with a ramp-up plan that was a part of the solicitation responded to by the Energy Office. He thought that information had been included in the work program.

Ms. Reedy from the Governor's Office approached the testimony table and stated that the work program was submitted in order to get the State Energy Office responding to the stimulus program. A plan was submitted to the federal government, the federal government had approved the plan, which included seven programs. She said the Administration would like the ability to focus on what was out there and get money out the door. Ms. Reedy said if the Committee were to limit the program by proposing to prioritize different projects, and someone approached the Energy Office with a shovel-ready project that was approvable, the office would have its hands tied. She recognized the Committee needed to look at all the dollars, but she requested approval of the work program as submitted.

Cochair Mathews thanked Ms. Reedy, adding that everyone was under the gun on the stimulus funding, but there were going to be questions.

Dr. Gecol referred the Committee to the Nevada State Plan included in the meeting packet. She explained the State Plan was developed based on the legislation passed and the recommendations given by the Governor and several legislators and other stakeholders. Dr. Gecol said the seven programs would implement the projects previously discussed, and each program had implementation steps, as well as a timeline, and certain stakeholders needed to be incorporated. Dr. Gecol said the state

was bound by this contract with the Department of Energy, which approved the plan. If changes were made, the state would be put at a disadvantage because further approval would be needed for any amendments to the application, and the process would have to be started over. The questions that had been asked were addressed in the implementation and timelines of the programs.

Cochair Mathews said it was not the Committee's intention to change the plan, but members did have questions concerning the implementation of money and questions needed to be answered for the next IFC meeting. The plan would not be changed; the Committee just needed to know how the dollars would be spent and if they had to be spent today. She called for a motion.

Senator Raggio remarked that the DOE had approved the State Plan. The work program included a request that 10 percent of the second award be utilized in the manner which essentially, except in one area, amounted to 10 percent. Rather than substituting the Committee's judgment, Senator Raggio believed it would be prudent to authorize the agency to proceed with programs and utilization of the 10 percent in the areas indicated. He thought the agency had a direction from the Committee as to which of the seven areas were considered the most important. He added that the Committee would like to see some significant progress in the areas that were articulated by Senator Horsford and Assemblywoman Kirkpatrick.

SENATOR RAGGIO MOVED THAT THE WORK PROGRAM AS REQUESTED BE APPROVED AND THAT THE AGENCY SUBMIT A PROGRESS REPORT ON THE RFPS AND PROGRAM ACTIVITIES AT THE SEPTEMBER INTERIM FINANCE COMMITTEE MEETING.

SENATOR TOWNSEND SECONDED THE MOTION.

Senator Horsford wanted to commend the Energy Office on the tremendous progress in the formation of the plan. However, it had taken too long. It was known in April that the state would be receiving \$38 million and that a plan had to be submitted. He believed there had been attempts to submit a plan, but based on the inadequacy of those plans, they were rejected by the Department of Energy. Senator Horsford said one of the reasons for the lengthy discussion at this meeting was that the Committee wanted to know the thoughts, opinions, and stakeholders that were included in the plan.

Secondly, Senator Horsford believed there were some missing stakeholders in some parts of the plan. He would submit something in writing to be included in the record that he hoped the Energy Office would consider as the plan was implemented. There was no mention of economic development in the plan and there was no mention of the Department of Employment, Training and Rehabilitation (DETR) in the plan. There were demonstration projects that Assemblyman Hogan had been working on for some time with the Department of Transportation that could be a key element in the delivery of the programs as outlined. If light bulbs were going to be replaced, it was incumbent that all people who were qualified to perform that work were available and aware of the

opportunities. He remarked this was not an economic recovery plan for a few select individuals.

Continuing, Senator Horsford said the implementation timelines were a good first step, although he had questions, as did Assemblywoman Smith, as to the ability for the plans to be modified during the process. What would happen if a major milestone were missed? Who would be accountable? Could it be made up in the next reporting period? Those were very legitimate questions and not just ones for which the Energy Office had to be accountable, but the Governor and those involved in the decision-making as well.

Senator Horsford said part of the reason there were so many questions was because this would be the new energy economy that would take the state out of the economic situation currently being faced, with both energy costs and unemployment levels up. If there was not a strategic plan in place that showed in great detail how energy consumption could be reduced and people put to work, then all of the objectives as required by the federal stimulus plan would not be achieved.

Senator Horsford was in support of the motion to provide the agency with latitude, with the caveat that the 10 percent in the seven program areas needed to be expended in a thoughtful, deliberate, strategic manner. The fact that there was not even staff on board to carry out the functions was disturbing; the infrastructure needed to be in place. Much of the implementation had to be done in coordination with other agencies. A lot of the responsibility for this plan would be carried out by the Renewable Energy and Energy Efficiency Authority, which was to be established by October 1. Other agencies, NDOT, Economic Development and DETR, would have specific roles. He urged all parties to work together to make the program the success that it should be for the state of Nevada and the citizens who were going to depend on it.

Cochair Mathews thanked Senator Horsford for his comments.

Assemblywoman Smith spoke in support of Senator Raggio's motion, and she agreed with Senator Horsford's comments. She believed that with the number of IFC meetings and the Stimulus Oversight Committee, which the Energy Office undoubtedly would be appearing before, very good reporting would exist. It appeared that there were absolute performance measures in the application. The Committee would need to see those and the progress on the benchmarks; that was very critical to her. She believed part of the reason for the present situation was that the personnel work was not done over the last several months. It was known that additional positions would be hired, and yet emergency hiring provisions were now necessary. She said if the original request was for ten positions and now it was three, it was safe to assume more positions would be filled. She stressed that the Committee should not be back in this position when it came time to hire additional positions. She suggested the agency begin working with the Personnel Department to figure out the future staffing so that it would be done in the correct manner and the Committee would not spend an inordinate amount of time discussing salaries down the road.

Cochair Mathews called for a vote.

THE MOTION CARRIED.

(Assemblyman Settlemeyer was not present for the vote.)

Senator Raggio requested that the Energy Office submit a special report at the next IFC meeting on how the office would work with NDOT, DETR, and Economic Development. As stakeholders, they were logical participants in the program.

2. **Governor's Office – Renewable Energy and Energy Efficiency Authority – FY 2010** – Addition of \$250,000 in transfer from Public Service Commission to establish the Renewable Energy and Energy Efficiency Authority program in fiscal year 2010 pursuant to A.B.522 and S.B.358 of the 2009 Legislative Session. Requires Interim Finance approval since the amount added to the Personnel Services category exceeds \$50,000. **Work Program #C15806**

Refer to motion for approval under Item C.

3. **Department of Administration – Purchasing Division – Commodity Food Program – FY 2010** – Addition of \$200,526 in Federal Emergency Food Assessment funds under the American Recovery and Reinvestment Act (ARRA) to purchase food storage equipment for local non-profit distribution centers that receive commodity foods. Requires Interim Finance approval since the amount added to the Emergency Food Assistance category exceeds \$50,000. **Work Program #C15575**

Refer to motion for approval under Item C.

4. **Department of Administration – Purchasing Division – Commodity Food Program – FY 2010** – Addition of \$118,940 in Federal State Administrative Expenses and \$31,144 in Federal Receipts to upgrade computer program tracking food inventory and supplies system and to balance forward authority for the food distribution program on Indian Reservations. Requires Interim Finance approval since the amount added to the State Administrative Expense category exceeds \$50,000. **Work Program #C15606**

Refer to motion for approval under Item C.

5. **Nevada System of Higher Education–WICHE Loan and Stipend – FY 2010** – Transfer of \$161,108 from the Allied Health Grant category to the Operating category and \$694,636 from the Stipends category to the Operating category to modify revenue coding and to comply with the intention of the 2009 Legislature to place the administration of the WICHE program under the control of the Nevada System of Higher Education. Requires Interim Finance approval since the

amount transferred to the Operating category exceeds \$50,000. **Work Program #C15787**

Refer to motion for approval under Item C.

6. **Nevada System of Higher Education – WICHE Administration – FY 2010 –** Transfer of \$144,023 from the Personnel Services category to the Operating category, \$982 from the Out-of-State Travel category to the Operating category, \$6,725 from the In-State Travel category to the Operating category, \$160,456 from the Operating Expenses category to the Operating category, \$1,722 from the Information Services category to the Operating category, \$73 from the Training category to the Operating category, and \$49 from the Purchasing Assessment category to the Operating category to comply with the intent of the 2009 Legislature to move the administration of the WICHE program under the control of the Nevada System of Higher Education. Requires Interim Finance approval since the amount transferred to the Student Loan Operating category exceeds \$50,000. **Work Program #C15800**

Refer to motion for approval under Item C.

7. **Department of Business and Industry – Housing Division – Weatherization – FY 2010 –** Addition of \$10,466,951 in American Recovery and Reinvestment Act of 2009 (ARRA) funds to provide weatherization assistance to eligible households. Requires Interim Finance approval since the amount added to the ARRA - Subgrantees category exceeds \$50,000. **Work Program #C15817**

Senator Horsford said Item 7 requested funding from the ARRA program for the weatherization assistance program. As the members of both the Senate and Assembly would recall, there had been extensive work on the program during the 2009 Session. Senate Bill 152, which was the Green Jobs Initiative, spelled out in great detail the manner in which dollars were supposed to be awarded, as well as the training elements and opportunities. Senator Horsford said that since the bill was approved by the Legislature and signed by the Governor, there had been ongoing discussions with stakeholders throughout Nevada, including the American Building Contractors Association (ABC); the apprenticeship programs, both union and non-union; the community colleges statewide; the Department of Employment, Training and Rehabilitation (DETR); and the Housing Division, among others. Unfortunately, there were still unresolved issues that the stakeholders were trying to work through. He remarked that after all of the efforts by the Legislature, it was very troubling to not have agencies follow state law. A lot of time, energy and effort had been expended, but unfortunately there were still disagreements on how to proceed. Senator Horsford said that because a consensus had not been reached, upon completion of testimony and discussion, he would be prepared to move that the item be suspended until the September 17th IFC meeting.

Cochair Mathews asked Senator Horsford if he had discussions with all of the parties prior to the IFC meeting.

Senator Horsford replied that he had, and he had also talked with Business and Industry Director Diane Cornwall over the weekend. He indicated meetings with the Housing Division Administrator had taken place during the morning while IFC was deliberating on other items, but unfortunately, again there was disagreement on whether the provisions of Senate Bill 152, which was passed, signed by the Governor, and effective upon passage and approval, applied. Until agreement could be reached with the Housing Division on that principal point, Senator Horsford was not prepared to support the request for funding. He believed it would be better to wait and do it right than do it in a manner that did not support 25 percent of the workers, particularly in the construction industry, who were out of work and could benefit from the opportunities this program could provide.

Cochair Mathews asked the agency representatives to explain their position and the reasons the matter could not move forward.

Diane Cornwall, Director, Department of Business and Industry, replied a few issues needed to be put on the record so that everyone would be aware of the end result if this item was held. She requested that the Committee hear testimony from staff.

Chas Horsey, Administrator of the Housing Division, introduced Hilary Lopez, Supervisor of Federal Programs for the state's Housing Division. Mr. Horsey said that on a number of occasions during the 2009 Session, the division had testified in support of Senate Bill 152. He thought then, as he did now, that it was a good law in concept. However, the Housing Division would have the responsibility of answering to the public and to Washington, D.C. as to whether or not the funds were spent or reverted to another state. He said he had articulated his concerns to the Legislature several times, and again that morning to Senator Horsford. His agency had the responsibility of implementing most of the provisions of S.B. 152, i.e., getting homes weatherized with the additional funds, and he recommended that the current delivery system be utilized to its fullest. Five non-profit organizations had been working with the Housing Division for a number of years, and he believed the division should continue to utilize their expertise as the funding and expending of ARRA occurred, and that the new groups and cooperatives could be utilized when they were ready. Mr. Horsey said there was open disagreement as to whether or not those entities had developed the required training curriculum. His concern was not just with the intent of S.B. 152; he believed that because the ARRA funds had a very short fuse attached to them by the President and Congress, the current delivery system of five non-profits should be utilized to the maximum until the additional entities with the expertise could be brought on board.

Cochair Mathews affirmed that Mr. Horsey was not talking about sole source; the non-profit agencies he referred to had worked with the Housing Division for several years. Mr. Horsey replied she was correct.

Ms. Cornwall requested that Hilary Lopez outline the process that was utilized and the current status in order to provide a better understanding to the Committee.

Cochair Mathews asked if there was room for other entities to participate, or if only the five non-profits would be involved.

Mr. Horsey reiterated the program would start with the five non-profits, but there would be a chance for others to join.

Hilary Lopez, Housing Division, testified the information provided to the Committee outlined two things: \$2.6 million to cover a portion of administrative costs in terms of ramping up the program to get moving forward, as well as additional funding for training and technical assistance, including \$1.75 million that would be set aside for the non-profit collaboratives as they were identified, as detailed in S.B. 152. The division could actually contract with them to provide the training services. In addition, the remainder of funds would be provided to the five sub-grantee agencies to administer the back end of the weatherization program, with interim contracts with contractors, who would be responsible for complying with the workforce provisions of S.B. 152. Ms. Lopez explained one of the major sticking points in the ongoing discussions was how the process would work and who would be a sub-grantee versus the network the division was currently working with, the five non-profit sub-grantees. A request for proposal (RFP) had been released prior to the passage of S.B. 152; it was publicly noticed and responded to by numerous entities. Those responses were evaluated by an outside committee, which then selected the five groups to move forward as sub-grantee partners. Those were then included in the State Plan that was submitted to the Department of Energy for its approval.

Cochair Mathews asked if the division wanted to hire the five entities based on the premise that S.B. 152 had not passed in order to utilize the existing process and then possibly comply with the provisions of the bill next year.

Ms. Lopez replied the division had issued the RFP to find the sub-grantees, and they in turn then contracted with contractors. The intent was that the contractors would comply with the workforce requirements of S.B. 152; however, there had been some discussion concerning how open the process was to those contractors. She believed that was the major issue.

Cochair Mathews said she also believed that was the problem. She asked if the division was requesting the Committee to agree with the work the Housing Division had completed prior to passage of S.B. 152.

Mr. Horsey said the RFP process and committee evaluations were done in April 2009.

Cochair Mathews indicated the Committee was stating that S.B. 152 was the current law, and the Housing Division should comply with its provisions. However, the division

wanted to start with the RFP and complete the process prior to passage of the bill. She asked Mr. Horsey if that was the intent of the division's request.

Mr. Horsey replied he could see the Cochair's interpretation, but the delivery system was selected based upon past performance.

Assemblywoman Kirkpatrick said the conversation was exactly the same as was held in committee during the 2009 Session about moving forward with the program prior to passage of S.B. 152. She had specifically asked for deletion of the Housing Division's ability to have the weatherization program, because it was difficult to obtain information from the division. She said she would probably not be at the September IFC meeting, but she agreed the item should be delayed. The Senate Committee on Energy, Infrastructure and Transportation minutes would reflect the many hours of discussion as to how the process would work. Assemblywoman Kirkpatrick had told Mr. Horsey and Ms. Lopez at that time there would be a problem in the future, and now it was a problem. She said they were railroading the RFPs to get them done before the legislation passed, which was why she tried to remove the program from the Housing Division and put it into a different agency within A.B. 522. Assemblywoman Kirkpatrick said she wanted to have her opinion heard, and she would prefer the item be delayed.

Assemblyman Grady asked where the five entities were located.

Mr. Horsey said one was located in Las Vegas, HELP of Southern Nevada; the Community Services Agency was in Washoe County; there were two rural representatives, Nevada Rural Housing Authority (NRHA) and Rural Nevada Development Corporation (RNDC); and the fifth was Neighborhood Services of Henderson.

Assemblyman Grady said he agreed with Assemblywoman Kirkpatrick that there had been considerable disagreement during the legislative session, and Mr. Horsey had insisted his division was the only one that could administer the program; some members of the committee did not agree with him. Assemblyman Grady commented that it appeared the division was again trying to corral everything into one department.

Senator Horsford indicated that Danny Thompson from the AFL/CIO was in Las Vegas to testify.

Danny Thompson, representing the Nevada American Federation of Labor-Congress of Industrial Organizations (AFL/CIO), testified from Las Vegas it was very clear after a three-hour meeting and meetings previous to that morning's meeting that the agencies at the testimony table did not plan to conform to the provisions of S.B. 152, but instead wanted to utilize the existing Universal Energy Charge (UEC) sub-grantees currently in place. Mr. Thompson explained the UEC program was a program of its own, and the stimulus funds had very specific strings attached; they were two totally separate programs. He urged that the funding not be approved until such time as the Housing Division agreed to comply with the provisions of S.B. 152, which was currently the law.

Cochair Mathews stated that all parties and stakeholders needed to come to some agreement as to what the current law was.

Senator Townsend said he understood the issue very well, and he respectfully disagreed. He believed the Housing Division had in fact made a good-faith effort, not knowing if S.B. 152 was going to pass and what it would entail. He said neither side was at fault; there was a legitimate disagreement with regard to the provisions of S.B. 152 as to who they affected and how they were implemented. Senator Townsend said the fact was there were individuals currently out of work who would not be working to weatherize people's homes if the item was delayed. Maybe it was not a big issue in northern Nevada, but he was sure there were people in southern Nevada who could use weatherization and there were shovel-ready projects ready to go. He would be amazed if a vote was delayed because agreement could not be reached on how to move forward; he was perplexed that money could not be put on the street and made available to people in need.

Cochair Mathews remarked there had been sufficient time since the legislative session for the parties to reach an agreement.

Assemblyman Goicoechea wanted to clarify that the discussion involved using about \$10 million, or approximately one-third of the total weatherization funding, to get the program started. The disagreement could be resolved before making further decisions on the remaining \$20 million to ensure the funds would go to the appropriate places and the right people.

Cochair Mathews questioned why the Committee should not wait and approve all of the funding at once to ensure that all parties were in agreement. She was concerned that the Housing Division had indicated it would comply with S.B. 152 for two-thirds of the funds in the future, but was not willing to comply with the law for the first third.

Senator Horsford said he was sensitive to the fact that delaying the funds impacted those who needed the weatherization, as well as the individuals who would be trained to perform the work. He noted that Senator Townsend, as the former chair of Commerce and Labor Committee, was aware the program had had its challenges when it was a state-level program with only \$3 million of funding. There was now \$38 million of funding, and a state law was passed, but the agency did not want to follow the law. Senator Horsford was disturbed that many meetings had taken place with the Housing Division and all of the stakeholders, some of which he had attended, and representations made at one meeting were not followed through at the next. Unfortunately, for that reason, the dollars could not be awarded at this meeting.

SENATOR HORSFORD MOVED TO DEFER ACTION ON ITEM 7
AND THAT IT BE PLACED ON THE SEPTEMBER 17, 2009, IFC
AGENDA.

THE MOTION WAS SECONDED BY ASSEMBLYWOMAN SMITH.

Senator Townsend said he was very familiar with the law, since he had been present at all of the hearings and had worked directly with the sponsor. However, he reiterated that he was aware the Housing Division had worked in good faith before the bill was passed to try to do the right thing. He was more aware than anyone else present of the history of problems with the agency, but there had been changes in staff and the agency was moving in a positive direction. In the spirit of compromise, he suggested that a portion of the funding could be awarded to allow the agency to move forward with getting money on the streets. Senator Townsend said he would not vote for the motion as currently stated, because there was money allocated by the federal government specifically to put people to work and to weatherize homes. He did not believe it was appropriate for the Committee to delay expenditure of those funds. He recommended that the Committee should immediately fund a portion of the funds. This had been an important issue to him for the past 30 years. Again, he said he wanted to see some money placed in the hands of people who needed it.

Cochair Mathews remarked that she, as the Cochair, recognized Senator Townsend as an expert in the area; he was at the forefront on these issues. Her only concern was there were individuals who had not responded when they should have during the legislative session, and consequently she did not want the money distributed in a piecemeal manner. She did not believe one more month would make a difference.

Senator Horsford wanted to clarify for the record that the existing UEC weatherization program was moving forward; those dollars had been awarded to the existing providers, so weatherization projects would continue under the UEC program. Deferring the item would not hold up individuals currently in the pipeline. The issue was one of following the process as the Legislature and the Governor had intended.

Assemblywoman Smith remarked this was a huge step in the whole process, and it had to be done right; the public would be watching to make sure it was done right. She had been contacted by people in the private sector who were unhappy about the issue. The process should not go forward with anyone upset or feeling they were excluded. Assemblywoman Smith said she absolutely wanted to see the jobs get on the street, but it had to be done right, with the taxpayers believing the process was fair, followed the law and made sense. With that in mind, she felt the Committee would be better off to make sure that all of the problems were resolved with a large coalition of people, including unions, the private sector, and agencies working together.

Cochair Mathews called for the question. Senator Raggio requested a roll call vote.

THE MOTION CARRIED.

(Senator Raggio, Senator Rhoads and Senator Townsend voted nay.
Assemblyman Goicoechea, Assemblyman Hardy and Assemblyman
Settelmeyer voted nay.)

8. **Department of Health and Human Services – Director's Office - Problem Gambling – FY 2010** – Addition of \$140,000 in Balance Forward from Previous Year funds to award grants and/or contracts for services to state agencies, political subdivisions and education institutions to provide programs for the prevention and treatment of problem gambling. Requires Interim Finance approval since the amount added to the Problem Gambling Grants category exceeds \$50,000. **Work Program #C40252**

Refer to motion for approval under Item C.

9. **Department of Health and Human Services – Director's Office – Indigent Supplemental Account – FY 2010** – Addition of \$100,000 in Balance Forward from Previous Year funds to increase the contract for the National Association of Counties in the Operating category. Requires Interim Finance approval since the amount added to the Operating category exceeds \$50,000. **Work Program #C40255**

Mike Torvinen, Deputy Director for Fiscal Services, Department of Health and Human Services (DHHS), explained the work program was to balance forward \$100,000 of Indigent Accident and Indigent Supplemental account funding to fund activities performed under contract with the department and the Nevada Association of Counties (NACO). The money would help fund NACO's administrative budget.

Shawna Derousse, Fiscal Officer for the DHHS Director's Office, said she would be happy to answer any questions concerning the work program request. She noted that Jeff Fontaine, Executive Director of NACO, was also present to answer questions.

Cochair Mathews asked why the agency wanted to give \$100,000 to NACO at this time. She thought NACO was giving money to the state.

Ms. Derousse replied NACO was giving money to the state. In fiscal year 2009, approximately \$25 million was reverted from the NACO fund that would have otherwise gone to pay the hospitals for the Indigent Accident and Indigent Supplemental account. Excess funds of \$100,000 came into the account after the reversion. She explained there were still administrative duties that NACO would provide; there were claims to process and services to be provided to the hospitals. The \$100,000 would help fund those activities.

Assemblyman Goicoechea said he thought the rationale in the Ways and Means subcommittee was to ensure the contract would continue and there would be an ongoing tabulation of the claims against the various counties that would in fact be referred back to the hospitals. He said during deliberations in the subcommittee, it was the feeling this would be the only method to ensure that the Indigent Accident Fund, as well as the Supplemental Indigent Fund, would be maintained and kept in place. Although the program was expensive, Assemblyman Goicoechea noted that the funds were coming from payments made by the local governments, adding that the state had

taken \$25 million from local governments to fund the FY 2009 General Fund revenue shortfall.

Assemblyman Grady said he would like to hear from Jeff Fontaine. He realized the state had taken \$25 million, but he questioned why NACO needed \$100,000 for a contract that was no longer in existence.

Jeff Fontaine, Executive Director, Nevada Association of Counties, stated that the actual amount of money swept from local governments in 2009 was \$25 million, but the total was \$50 million over the biennium. He recalled that during the subcommittee hearings on this particular budget, NACO was asked to work with the hospitals, counties, and the Department of Health and Human Services to come up with a way to address the fiscal impacts, as well as the various liability issues, associated with the sweep of those funds. The counties were mandated to provide indigent medical services, and for over 25 years, this fund had held counties harmless. Mr. Fontaine said when the fund was swept, the issue was opened up to potential lawsuits and liability issues, not to mention the uncompensated care. It was basically agreed among the hospital association and counties represented by NACO that it was beneficial to keep the program going, to process the claims as if money were available, and to work with the various counties to address their concerns about liability. He recalled that before the indigent fund existed there were lawsuits, but there was now a handshake agreement to try to prevent lawsuits, which was where NACO would become involved in working with the counties and hospitals to prevent lawsuits from occurring.

Assemblyman Goicoechea wanted to make sure the Committee understood that even though the fund was swept, presently under the Indigent Accident Fund, the county was only responsible for the first \$3,000 of the liability, and the hospital association would be responsible for the balance. He said a continued tabulation was needed; there must be a record of the fund. The same was true with the Indigent Supplemental account, for which he believed the county was responsible for the first \$25,000.

Assemblywoman Smith asked why the Committee was being requested to approve a lump sum rather than an amount that correlated to what was being processed and paid. She wondered if the amount to be paid out was not yet known, why a lump sum was necessary for the processing.

Mr. Fontaine replied the amount was not based on what was being paid out; it was based on the number of claims being processed. Even though there might not be funding to pay claims, claims were still being processed. The other issue was that he was getting many questions, e-mails, and requests from the counties as to what they should do since they did not have a fund to pay claims. Mr. Fontaine reiterated that the request was not based on how much was being paid out, but a lot of technical assistance was involved, in addition to the number of claims being processed.

Assemblywoman Smith said she understood and appreciated Mr. Fontaine's remarks. Her thought was if the request was approved, a different method should be adopted moving forward based on some cost allocation versus a lump sum allocation.

Cochair Mathews called for a motion.

ASSEMBLYWOMAN SMITH MOVED FOR APPROVAL.

ASSEMBLYMAN GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED.

(Senator Horsford was not present for the vote.)

10. **Department of Health and Human Services – Director's Office – Healthy Nevada Fund – FY 2009** – Addition of \$57,000 in Transfer from the State Treasurer Tobacco Settlement funds to increase the revenue and expenditure authority for the Disability Rx Program for State Fiscal Year 2009. Requires Interim Finance approval since the amount added to the Disabled Rx Program category exceeds \$50,000. **Work Program #C40258**

Refer to motion for approval under Item C.

11. **Department of Health and Human Services – Aging and Disability Services Division – Aging Federal Programs and Administration – FY 2010** – Addition of \$138,810 in Federal Aging and Disability Resource Center (ADRC) Grant funds to design and implement a management information system that will provide reliable information on long term care options throughout the state along with associated costs. Requires Interim Finance approval since the amount added to the ADRC Grant category exceeds \$50,000. **Work Program #C40934**

Refer to motion for approval under Item C.

12. **Department of Health and Human Services – Aging and Disability Services Division – Aging Federal Programs and Administration – FY 2010** – Addition of \$305,790 in Medicare Improvements for Patients and Providers Act (MIPPA) grant funds to make changes that will improve beneficiary access to preventive and mental health services, enhance low-income benefit programs, and maintain access to care in rural areas. Requires Interim Finance approval since this is a new governmental grant in excess of \$100,000. **Work Program #C40927**

Refer to motion for approval under Item C.

13. **Department of Health and Human Services – Division of Mental Health and Developmental Services – Southern Nevada Adult Mental Health Services – FY 2009** – Transfer of \$22,141 from the Information Services category to the Reserve for Reversion category. This work program records the reduction of the Department of Information Technology (DoIT) Planning Assessment for fiscal year 2009 to properly account for savings realized from DoIT waiving the fourth quarter billing. Requires Interim Finance approval since the cumulative amount deducted from the Information Services category exceeds ten percent of the legislatively-approved level for that category. **Work Program #DOIT3161**

Refer to motion for approval under Item C.

14. **Department of Health and Human Services – Child and Family Services Division – Community Juvenile Justice Programs – FY 2010** – Addition of \$71,990 in American Recovery and Reinvestment Act (ARRA) of 2009 funds awarded by the Governor's Workforce Investment Board for juvenile work force improvement programs. Requires Interim Finance approval since the amount added to the DETR Workforce Investment ARRA Funds category exceeds \$50,000. **Work Program #C15559**

Refer to motion for approval under Item C.

15. **Department of Health And Human Services – Child and Family Services Division – Juvenile Correctional Facility – FY 2010** – Addition of \$104,321 in American Recovery and Reinvestment Act (ARRA) of 2009 funds awarded by the Governor's Workforce Investment Board for juvenile work force improvement programs. Requires Interim Finance approval since the amount added to the DETR Workforce Investment ARRA Funds category exceeds \$50,000. **Work Program #C15566**

Refer to motion for approval under Item C.

16. **Department of Health and Human Services – Child and Family Services Division – Caliente Youth Center – FY 2010** – Addition of \$126,000 in American Recovery and Reinvestment Act (ARRA) of 2009 funds awarded by the Governor's Workforce Investment Board for juvenile work force improvement programs. Requires Interim Finance approval since the amount added to the DETR Workforce Investment ARRA Funds category exceeds \$50,000. **Work Program #ARRA3179**

Refer to motion for approval under Item C.

17. **Department of Health and Human Services – Child and Family Services Division – Nevada Youth Training Center – FY 2010** – Addition of \$110,724 in American Recovery and Reinvestment Act (ARRA) of 2009 funds awarded by the Governor's Workforce Investment Board for juvenile work force improvement programs. Requires Interim Finance approval since the amount added to the

DETR Workforce Investment ARRA Funds category exceeds \$50,000. **Work Program #WIF3259**

Refer to motion for approval under Item C.

Cochair Mathews announced that Items 18 and 19 would be heard together.

- 18. Department of Motor Vehicles – REAL ID – FY 2010** – Transfer of \$225,960 from the Operating category to the FY 2009 Grant category, \$82,705 from the Equipment category to the FY 2009 Grant category, \$11,540 from the Public Awareness Campaign category to the FY 2009 Grant category and \$8,494 from the Information Services category to the FY 2009 Grant category to isolate expenditure authority for tracking purposes. Requires Interim Finance approval since the amount transferred to the FY 2009 Grant category exceeds \$50,000. **Work Program #C15540**
- 19. Department of Motor Vehicles – REAL ID – FY 2010** – Addition of \$1,350,000 in Federal Department of Homeland Security (DHS) Demonstration Grant funds and \$1,142,240 in Federal DHS Security Hub Testing Grant funds and deletion of \$342,240 in Federal DHS FY 2009 Grant funds to balance forward a portion of remaining fiscal year 2009 authority. Requires Interim Finance approval since the amount added to the DHS Demonstration Grant category exceeds \$50,000. **Work Program #C15760**

Deborah Cook, Chief of Administration, Department of Motor Vehicles (DMV), referring to item 18, work program C15540, said that half way through the 2009 Legislative Session, the DMV was notified that it would be receiving an additional grant. The funding in the REAL ID budgets was changed, and during that process, the revenues were changed when the budgets were closed. She said the work program represented the expenditure side and would bring it in line with the revenue funding.

Assemblywoman Smith asked Ms. Cook to explain the status of the PASS ID Act. She had just come from a national conference at which there was a lot of discussion about the act, and she would like an update as to how it would affect what Nevada was doing with REAL ID.

Edgar Roberts, Director, Department of Motor Vehicles, explained that S1261, known as PASS ID, was introduced on June 15, 2009. Since the introduction, one hearing had been held by the Committee on Homeland Security and Governmental Affairs; the measure had passed the Senate and was awaiting the House. If PASS ID was not passed by Congress, existing law would remain and Nevada must meet material compliance by January 1, 2010, which was less than five months away. Mr. Roberts said regardless of whether REAL ID remained or PASS ID was passed, Nevada could be required to implement security and issuance standards for driver's licenses and identification cards. He said the department was continuing to move forward to meet

existing law requirements by January 1, 2010, and would be prepared to implement PASS ID if the new law was passed.

Cochair Mathews remarked she understood from the national news that the PASS ID Act was going to be passed with no problem.

Mr. Roberts explained that PASS ID had the same requirements as REAL ID – there were 18 benchmarks ([Exhibit F](#)). However, two of the benchmarks were different in PASS ID. One was no longer required, and the other modified the impact. Benchmark 17, commit to full compliance by May 11, 2011, was modified by PASS ID by requiring that states begin issuing compliant driver's licenses and identification cards one year after final regulations and to implement enrollment five years afterwards. Mr. Roberts said the result was that full implementation would be on track in year 2016, as opposed to December 2017 under REAL ID. He explained the change would allow states to become fully compliant by no later than 2016. The department would be on target to meet the original deadlines of becoming fully compliant by 2011.

The second change in PASS ID, Mr. Roberts continued, was the printing of the words "Not for REAL ID Purposes" on the standard driver's license and I.D. cards. PASS ID only required the department to print Department of Homeland Security approved markings.

Assemblyman Anderson said that several of his colleagues had voiced concerns with the REAL ID Act for some time. Many of the states had not complied with the act, other than Nevada, which had made some effort. He asked what would happen to the monies already allocated from the federal government if the REAL ID Act was not enacted and PASS ID was. Would the state be able to utilize those funds to implement the provisions of PASS ID?

Debbie Wilson, Management Analyst assigned to the REAL ID program for the Department of Motor Vehicles, replied there were currently 14 states ready to be compliant on January 1, and 13 additional states were moving in that direction with possible minimal delays. As far as the funding received to date, Ms. Wilson said all of the funds could be and would be used toward PASS ID should that bill pass. Regardless, the program was to implement a secure issuance process for driver's licenses and identification cards in Nevada.

Assemblywoman Smith asked the status of the Highway Funds that were approved by the 2009 Legislature for implementation of REAL ID.

Ms. Wilson responded that the Highway Funds were requested because federal funds could not be used to pay some expenses relating to implementation. For example, federal funding could not be used to pay for legislative costs, regulation hearings and similar activities. Federal funds could not be used to pay another federal agency, so Highway Funds were requested to pay the verification costs for those documents that needed to be verified through the Social Security Administration and Department of

Homeland Security. Ms. Wilson said the Highway Funds were still required for implementation, regardless of whether it would be REAL ID or PASS ID.

Assemblywoman Smith asked if the database requirement, access to certain information, was not a huge piece of what the state had to fund. She thought that was changing under PASS ID. From the information available on line, the two acts appeared to be quite different with regard to access to information.

Ms. Wilson replied that the original PASS ID Act requested that verification of birth certificates not be required, because the system was not fully implemented. However, with the recent passage through the Senate, there was an amendment to the PASS ID bill to put that requirement back into the act. Therefore, the state would still be required to verify through the Social Security Administration for a Social Security member, through the Department of Homeland Security for any immigration documentation or documents issued by the Department of Homeland Security, and all birth certificates would need to be verified as well. Ms. Wilson said those systems would still be in place, and states would need to verify that information before issuing a driver's license or identification card. She reiterated there had been amendments to the PASS ID in final passage by the Senate.

Cochair Mathews remarked that it was reported on ABC news that the certified birth certificate would no longer be required. She asked if that was true.

Ms. Wilson replied that it was not true; the birth certificate would be required. However, the amendment that was passed included a request for funding to assist states with getting their birth verification systems up and running and in place. The state would be verifying birth certificates through an organization called the National Association for Public Health Statistics and Information Systems (NAPHSIS).

Cochair Mathews suggested that the conflicting information needed to be clarified. Ms. Wilson had copies of the amendments to the bill that could be forwarded to Committee members. Cochair Mathews asked Ms. Wilson to forward just the summary of amendments.

Assemblywoman Smith said she was still concerned with taking action when the status of REAL ID legislation was not known; the Legislature had always expressed concern over the issue. She wondered what the impact would be to defer the item until the September meeting when the status of the legislation might be known.

Ms. Wilson reiterated that REAL ID was the current law, and PASS ID would make revisions to the REAL ID Act. If PASS ID did not pass, REAL ID would still be on the books and need to be implemented, and the implementation date was January 1. The state was on track to comply with the deadline. She noted that Committee members had received a copy of the 18 benchmarks ([Exhibit F](#)) of REAL ID and PASS ID. She reiterated that all but two of those benchmarks remained and would not be eliminated.

Ms. Wilson also noted that federal funding received had to be spent within a three-year period, and DMV was one year into that timeframe. She indicated that the agency needed to continue on the implementation track to ensure that the REAL ID requirements, as well as the PASS ID requirements, would be met, regardless of which bill would ultimately be law.

Cochair Mathews affirmed that regardless of PASS ID, the state still needed to comply with REAL ID and implement the 18 benchmarks.

Assemblyman Settlemeyer asked what would occur if Nevada was not in compliance with REAL ID.

Ms. Wilson said she had asked that question at a recent conference. The reply was that REAL ID was a law, and Transportation Security Administration (TSA) must uphold that law. At this point, it would be law that if the state was not in material compliance by that date, or if an individual did not have a REAL ID driver's license or identification card, other acceptable documentation would be required. An existing driver's license would not be acceptable to board a commercial aircraft after January 1.

Cochair Mathews said Nevada's worry was that the state would lose transportation money if it was not in compliance. She asked why PASS ID was necessary.

Ms. Wilson replied that many governors did not believe it was practical. It was very costly to some states. There were some states that did not have the advanced IT systems that Nevada had, which had made the program much more cost effective to implement versus other states. She said the major problem for many of the governors was the cost to implement the program, based on the size of the state or the state's IT system. Nevada was in a very good position with its IT staff and was in a better position to implement the program timely and relatively inexpensively.

ASSEMBLYMAN ARBERRY MOVED FOR APPROVAL OF ITEMS
18 AND 19.

SENATOR TOWNSEND SECONDED THE MOTION.

As part of the motion, Assemblywoman Smith requested that the department report back at the September IFC meeting concerning the full status and what the cost implications would be if there were changes.

Assemblyman Arberry agreed to amend his motion to include a progress report from the department at the September meeting; Senator Townsend agreed.

THE MOTION CARRIED.

(Senator Horsford was not present for the vote.)

20. **Department of Conservation and Natural Resources – Forestry Division – FY 2010** – Addition of \$400,000 in Federal United States Forest Service (USFS) Consolidated Payment Grant (CPG) 2007 funds, \$600,000 in Federal USFS CPG 2008 funds, \$100,000 in Federal USFS CPG 2005 funds and \$400,000 in Federal USFS CPG 2006 funds to establish FY 2010 authority in order to maintain fire protection efficiency and effectiveness on non-federal lands and promote stewardship for private lands by providing financial, technical and educational support for the enhancement and health of trees and other natural resources. Requires Interim Finance approval since the amount added to the Consolidated Payment Grant (CPG) 2008 category exceeds \$50,000. **Work Program #C15475**

Refer to motion for approval under Item C.

21. **Department of Conservation and Natural Resources – Forestry Division – FY 2010** – Addition of \$240,000 in Federal United States Forest Service (USFS) Fuels Reduction Grant funds to develop and maintain efficient and effective fire protection services through the Nevada Cooperative Fire Program. Requires Interim Finance approval since the amount added to the Fuels Reduction Grant category exceeds \$50,000. **Work Program #C15480**

Refer to motion for approval under Item C.

*E. REQUEST FOR ALLOCATION FROM THE IFC CONTINGENCY FUND (NRS 353.269).

1. OFFICE OF THE GOVERNOR – Request for ~~\$281,177~~ **\$257,709** to comply with American Recovery and Reinvestment Act (ARRA) of 2009 reporting requirements **(revised by Budget Division on July 24, 2009)**.

Mr. Clinger explained that Item E-1 was a request for an allocation from the IFC Contingency Fund in the amount of \$257,709 to hire an American Recovery and Reinvestment Act (ARRA) Coordinator within the Governor's Office, as well as an assistant for that position. The purpose of the request was to provide a single point of contact for the ARRA, and this person would also act as a liaison not only to the Governor, but the Legislature, the Interim Finance Committee's ARRA subcommittee, and the press. Mr. Clinger said the Coordinator would represent the state at ARRA meetings in Washington, D.C. with the Vice President and federal agencies; receive ongoing training on ARRA implementation and reporting requirements through various webinars, conference calls, conferences, and other methods; report back to the state agencies on the requirements; and coordinate training efforts with the agencies.

Mr. Clinger said the Coordinator would also assist state agencies with any ARRA issues and roadblocks encountered; assist with tracking grants and awards; coordinate training of state agencies and sub-recipients on reporting; track state agency reporting, including Section 1512 reporting to FederalReporting.gov, and other reports made

directly to state agencies; and ensure reconciliation agency data through Recovery.gov and the state's ARRA data system and website. This person would also act as a liaison to the technical committees on reporting and the website; and manage information for the state's website, including the Section 1512 reporting information, as well as the non-1512 information and non-financial information. This individual would coordinate information on agency web pages so that the state, agency, and federal websites would have the same consistent information; coordinate with and provide information to the Federal Recovery Accountability and Transparency Board; manage the coordinators of other task forces and other topics, such as Broadband and Health Information Technology. In addition, this person would work with local governments, sub-recipients, and national and state organizations on ARRA information and issues.

Continuing, Mr. Clinger said the ARRA Coordinator position was requested at a salary of \$125,783, which was 1.4 percent less than the other directors were making; it would essentially be a cabinet-level position. Once furloughs were implemented for the position, the salary would drop to approximately \$120,000. The Administrative Assistant position was requested at \$56,265, which was consistent with other unclassified Administrative Assistants. In addition to the requested positions, there were requests for in-state travel in the amount of \$5,724 and out-of-state travel of \$3,768. There were also various operating costs and \$50,000 to develop an ARRA tracking and reporting system. Mr. Clinger explained the system was not just a web page; it would track the ARRA awards given to any recipient in the state, not only to state agencies, but money that would flow outside of the state as well, in an attempt to capture all of the ARRA funds coming into the state; and track the quarterly reports under Section 1512 for all recipients. In addition to those requirements, consideration was being given to a GIS mapping system to see ARRA spending by county, city, congressional district, and state senate and assembly districts. In addition, the system would create and maintain a mechanism to download information from the Recovery.gov website to coordinate posting of that information on the state website and would maintain a data house of information that would serve the reporting requirements of all Nevada recipients of ARRA awards, elected officials, other governmental stakeholders and non-governmental organizations.

Assemblywoman Smith asked why the request was not made during the legislative session.

Mr. Clinger replied part of the reason was the ARRA was passed on February 17, which was after the Governor had completed his budget. Most of the ARRA guidelines did not come out until recently; the guidelines on the Section 1512 reporting requirements were not released until June 22. In addition, there was a lack of realization of what was going to be involved in tracking funds and coordinating information. He said early on it was thought these functions could be performed by representatives of the various departments, as well as representatives from the Governor's Office, but it became apparent through the process that individuals working part-time would simply not suffice to adequately maintain and coordinate the type of data that needed to be maintained.

Assemblywoman Smith said that on one hand, the duties appeared to be more than one job. On the other hand, she was concerned with the individual being at a salary level close to a department head. She thought the position seemed to be more of a technical person who would understand data; be able to provide technical assistance to the various agencies; collect that data; and make sure reporting requirements were being met. She asked Mr. Clinger if consideration had been given to housing the position in a more appropriate location, either in the Budget Office or in the Controller's Office, where that type of work was more commensurate with what it seemed to her the duties entailed.

Mr. Clinger said consideration was given to the idea of putting the position in the Budget Office, but that was not done because of the Governor's Office's ability to hire non-classified positions without going through the personnel process. The main reason for placing it in the Governor's Office was to expedite filling the position. He said the salary was set at the higher level because the margin of error for this person would be very small, as well as the requirement of the position to coordinate with all of the different department directors and local government entities at a very high level. The feeling was that the position should be at a high level to represent the entire state.

Assemblywoman Smith said she did not disagree with Mr. Clinger's statements. However, she was also concerned with the level of salary when other department heads were responsible for agencies with many employees, sometimes hundreds. She thought that issue should be determined by the Department of Personnel. She would be inclined to utilize an emergency hire if the position were placed in another agency. She would also recommend the position be placed in another agency that performed similar work that would be more appropriate, as well as being disconnected from the politics or day-to-day involvement with the provisions of ARRA.

Testifying from Elko, Senator Rhoads said he noticed the in-state travel did not include funds for rural Nevada; only travel to Las Vegas was designated.

Mr. Clinger said it was envisioned that the individual would have to travel over the entire state, but it was difficult to put together a travel plan for a new office. One trip a month to Las Vegas was estimated, but one could certainly be a trip to rural Nevada. The final budget would be determined once the position was in place.

Mr. Dale added that the request included approximately \$2,000 in each fiscal year for motor pool mileage, and it was envisioned that some of that vehicle travel would be to the rural areas.

Senator Horsford said he agreed with several of the questions raised by Assemblywoman Smith. He also believed that it was a critical position and one that the state should have for the purposes of reporting and compliance, adding that the position needed to be implemented in a manner that would ensure the most qualified and capable person would be recruited and hired, and that the individual be supported in a manner that ensured reporting and compliance were achieved. Senator Horsford said

he had distributed to Committee members an alternative proposal which outlined additional ways in which to accomplish this ([Exhibit G](#)).

First and foremost, Senator Horsford believed the position should be located in the Budget Office. Based on his preliminary research, he believed the position would be in line with a Budget Analyst V position within the Budget Office, which would be commensurate with other supervisory budget-level positions, based on the deliverables that the position must perform. At a grade 43 level, the salary would be between \$64,700 and \$97,500. Senator Horsford said the responsibilities would include making sure that data was collected from the various agencies and compliance reports were submitted. It was his understanding that reports were to be submitted to individual federal agencies, as well as to [Recovery.gov](#), which was through the Office of Management and Budget (OMB), so there were multiple reporting requirements.

In addition to reporting and compliance, Senator Horsford believed there should be performance-related functions, because there were deliverables in the plans that the agencies had submitted that must be achieved in order for all of the dollars to ultimately come to Nevada. If the state failed to achieve a certain requirement based on a plan or missed a performance category in a reporting period, the next award would be in jeopardy, which would then put everything at risk. He strongly encouraged that as a component of the position, the responsibility of reporting on performance measurements be added, based on the ARRA requirements.

Senator Horsford hoped there would be some discussion concerning the suggestions in his document. Ultimately once the position was approved, whether it was located in the Budget Office or some other appropriate location, the accountability, compliance and performance reports should be submitted both to the Governor's Office and the IFC Subcommittee on Stimulus Oversight so that the Legislature would be aware of what was or was not being done.

Assemblyman Settlemeyer asked that since the reporting and accountability requirements were mandated by the American Recovery Act, if there was a possibility the funding could be considered a loan and then ultimately paid back to the state through the act.

Mr. Clinger said his office was investigating that possibility. There were two methods for recovering the costs, as outlined in a May 11 bulletin from the Office of Management and Budget. Mr. Clinger's office was looking at the potential of using billed services; the services for the office would be billed back where appropriate to the recipients of the ARRA grant funds, thereby paying back the allocation. Mr. Clinger did not believe the amount would be paid back in full; it would depend on whether the grant allowed administrative costs. He said there was a bill in Congress that essentially would have allowed administration costs in the ARRA grant funds, but he was not sure of the status of the bill. Currently there were ARRA grants that did not allow administrative costs. Mr. Clinger said it was his intent to use billed services to try to recoup as much as possible.

Assemblywoman Kirkpatrick said the reason the Stimulus Oversight Subcommittee was put in place was there were going to be so many different avenues. She asked Mr. Clinger what other states were doing; how soon the position would be filled; and if the individual would be responsible for reports that had already been filed over the past four months.

Mr. Clinger said he had looked at other states as far as new staff they were hiring to coordinate ARRA. Briefly, Arizona hired 4, Colorado hired 2.5, Florida 1, New York 1, Utah 1, Washington 1, Vermont 1, North Carolina 3, Michigan 2, and New Hampshire 5. Some states were using existing staff or a combination of existing and new staff, but several states were hiring all new staff. He said there were multiple locations for the offices, although typically they were in the governor's office or the budget and planning division.

Assemblywoman Kirkpatrick asked again how the reports that had already been filed would be provided to the Coordinator and how soon the position would be filled. She wondered if there was someone in mind.

Mr. Clinger replied there was no person in mind at this time. The first Section 1512 reports were due October 10, so it was the intent to fill the position in time to help coordinate those reports. Any reports that had been submitted directly to federal agencies would be reviewed after the fact to verify the information was accurate.

Assemblyman Hogan said it seemed to him that timing was critically important in this placement. There had been much discussion about the amount of time required to do appropriate recruiting and find the right persons. He noted that some of the states were using existing staff; he wondered if that could be explored quickly. There were tremendous reservoirs of serious experience in reporting systems and systems of accountability already existing in the Budget Office and the Controller's Office. He thought an interim team could be gathered to get the reports going before the crucial October date. If that were done to deal with the interim problem, it was possible that an excellent team of people who already knew the procedures, organizational structure, and operations of the state could be put in place, which would save time training a new person to understand how state government operated. He asked if there had been consideration of assembling a team of experts already on the payroll and, if not, whether it could be considered.

Mr. Clinger said an ARRA team was already in place, which met every Monday with representatives of the Governor's Office and the various state agencies. In addition to those meetings, meetings were held every other Monday in the Controller's Office with staff specifically dealing with the reporting requirements, along with representatives from the Budget Office and various state agencies. Mr. Clinger said those groups would be available to support the position, but it was critical to have one individual who would be accountable and responsible for not only the reporting activity, but the website and information to the public as well.

Assemblyman Hogan remarked that when the position description was reduced to an individual to provide oversight, which might be an accurate characterization of what was needed, it extended the proposition that perhaps the head of either the Budget Office or the Controller's Office could assume the responsibilities with the addition of one more staff member. He suggested there might be some economies available that would also provide for a fully expert team operating under an agency head who was already familiar with the problem. Having that structure in place raised the question of whether to spend the time for recruitment and training to set up a new entity in the Governor's office rather than use existing resources. If there were no serious reasons not to use existing resources, he thought it would be a good way to proceed and have the office together and responsibilities assigned in a much shorter period of time.

Cochair Mathews thanked Assemblyman Hogan for his remarks and Senator Horsford for his proposal. She liked the idea of placing the position in either the Budget Office or the Controller's Office rather than with the Governor or the Legislature. There were existing staff well versed in reports and budgets, and she did not see a need to hire someone else. She recommended the function be placed in the Budget Office; any individual to be hired would have multiple questions, and those questions could be readily answered in the Budget Office or the Controller's Office.

Mr. Clinger said he would lobby for the Budget Office. Part of the reporting requirements under Section 1512 was that the Governor would have to sign certain assurances that those reporting requirements would be met, and as an agency reporting directly to the Governor, it would be appropriate that the Budget Office would ensure compliance with the Section 1512 requirements.

Assemblywoman Smith asked if the position was hired in the Budget Office, whether it could be filled through the same emergency procedures discussed earlier, and then the position could go through the personnel classification process.

Mr. Clinger said it could, although Senator Horsford's recommendations negated the necessity to create a new classification since the Budget Analyst V classification already existed.

Mr. Ghiggeri noted that an Executive Assistant position was also requested. He questioned whether the Committee wanted a new clerical position in the Budget Division or if the Budget Division could absorb the additional assignments. There was also equipment and travel included in the request, and he asked if the Committee wanted to approve those items as submitted or if the Committee wanted to make adjustments.

Cochair Mathews remarked the Budget Office was already busy, and in light of that fact, she believed an administrator and assistant should be hired. That was her opinion; she welcomed further comments.

Assemblyman Conklin asked if the Cochair was suggesting that the position be located in the Budget Office, along with an Administrative Assistant.

Cochair Mathews said her intent was not that the position necessarily be located in the Budget Office; whether it was located in the Budget Office or the Controller's Office, she believed a support position would be needed.

Assemblyman Conklin said his only concern was with the Budget Analyst V position's salary range, considering the many tasks required. The job description included such activities as real time measurements for state agencies, including multiplier effects and some economic analysis. He was skeptical that a candidate could be found for the position at a Budget Analyst V level. It might be possible since the economy was down, but the question would be whether that person could be retained for three years as the economy began to improve.

Cochair Mathews commented Assemblyman Conklin had made a good point.

Assemblywoman Smith speculated that equipment and operating costs could be reduced, since the position would be housed in existing offices and excess equipment and furniture should be available from positions that had been eliminated.

Assemblyman Anderson questioned if the position was going to be moved to Mr. Clinger's office, whether all of the proposed monies allocated to this particular budget would be moved to his office. He asked if the funding would be sufficient to cover the expenses of the additional responsibility.

Mr. Ghiggeri said the request as presented and approved by the Board of Examiners provided for an ARRA Reporting Officer and Executive Assistant. There had been discussion concerning a Budget Analyst V, which was one position, and whether the Committee wanted to have clerical support for that position. He said both of those positions would be funded at a lesser amount than what was recommended by the Board of Examiners, so the dollar amount of \$257,709 would be reduced based upon calculations that would have to be made following the meeting. Mr. Ghiggeri pointed out that the funding amount was just for fiscal year 2010; another request would have to be presented at a future IFC meeting for fiscal year 2011. He said in whatever motion was made, staff would like to have the flexibility to work with the Budget Division to arrive at a dollar amount for a Budget Analyst V, clerical assistance, equipment, and other expenses. The Committee should also be aware that included in the budget was \$50,000 for preliminary work, which would result in an additional IFC allocation request at a future meeting.

Assemblyman Anderson asked if those additional dollars would be true through 2011 even if the Committee adopted the budget as it was presented initially.

Mr. Ghiggeri replied the amount would probably be somewhat less for 2011. The unknown amount was the cost of developing the website and all of the reporting software.

Cochair Mathews asked for further comments.

Senator Raggio asked if it was advisable that the position be a classified position. He had some concern with that, particularly considering the special nature of the position and if the performance was inadequate. He stressed that the position was very important and would require superior performance to remain in compliance. It was known that trying to remove a person from a classified position was difficult. He was skeptical that the position should be classified, but he would defer to Mr. Clinger.

Mr. Clinger said he did not disagree. If he had the ability to do it, he would have initially requested the position be an unclassified position within the Budget Division. However, based on past experience in dealing with positions in the interim, it was his understanding that a new unclassified position could not be requested; the position would have to already exist in the unclassified pay bill. He agreed with Senator Raggio's observation that there were challenges with a classified position because there were certain job functions that the position must perform to be in that classification. The position would actually become a Budget Analyst with additional duties. This position would not only have to perform regular Budget Analyst duties, although at a much lower scale than the current analysts, it would have to take on the additional responsibilities of ARRA to make it work within the classified system.

Senator Raggio asked if Mr. Clinger was saying that it was not legal or feasible to make it an unclassified position. He asked if it would be a non-classified position in the Governor's Office, and Mr. Clinger replied he was correct.

Senator Raggio reiterated that he was nervous about the position being classified, since it was a very important position. He indicated that no one had suggested that he voice his concerns; they were his own opinions.

Senator Horsford said that because it was such an important position, it was essential that there be formal qualifications for the position. The accounting background, administrative skills, understanding of federal OMB requirements, as well as the federal ARRA requirements, were very important skill sets. He understood that the Governor had the prerogative to appoint anyone without regard to qualifications, but this matter was about the state's interest and ensuring that the state would be in compliance with federal dollars which, if not managed properly, the state could be on the hook for and/or lose. He believed it was more important to follow the process through the Budget Office or the Controller's Office in the classified system that would guarantee that the individual hired had the basic qualifications to do the job. Senator Horsford said he was very clear on the difference between a classified and unclassified position, and he believed that based on the state's interest, it was necessary to move in the other direction.

Continuing, Senator Horsford said there was a separate request for \$50,000 for the development of a system, which he had been told the Controller's Office might already have or could be modified. The person hired would not develop the performance benchmarks; he would establish a system for those performance measurements to be captured and reported. He stressed the importance of having the right leader in place who would know how to use the resources available to perform the job and the job functions.

SENATOR HORSFORD MADE A MOTION TO RECOMMEND THE POSITION, AS DESCRIBED IN HIS WRITTEN PROPOSAL, BE PLACED AS A CLASSIFIED POSITION IN THE CONTROLLER'S OFFICE, WITH THE SPECIFICATIONS AS LISTED, IN THE EVENT THE BUDGET DIRECTOR BELIEVED IT SHOULD BE UNCLASSIFIED AND DID NOT WANT THE POSITION IN THE BUDGET OFFICE.

THE MOTION WAS SECONDED BY ASSEMBLYWOMAN SMITH.

Senator Horsford added that the Controller's staff would work with the Fiscal Division staff on any necessary operating expenses. Also, he would support the additional Administrative Assistant position if it was actually necessary, but that it be at a level warranted and if there were adequate resources.

Cochair Mathews asked Senator Horsford to clarify that the intent of the motion was to place the position in either the Budget Office or the Controller's Office.

Senator Horsford replied he would recommend that it be placed in the Controller's Office, since he understood from the Budget Director that there may be some dispute as to whether it should be an unclassified position in the Governor's Office, and he would not want to place the Budget Director in a compromising position based upon who he reports to. Senator Horsford said he believed the Controller had a role as far as coordination and payment of bills, and therefore placement of the position in that office would be more than adequate.

Mr. Clinger, clarifying his earlier response, said that a classified position would work if that was the desire of the Committee. He believed it was important that the individual be under the Governor at some level, since the Governor was ultimately the official responsible for the Section 1512 reporting requirements. In addition, earlier comments had been made that the position may require someone with an economic background, and there were presently two economists on staff in the Budget Office. Therefore, the positions were already in place to support the new position with regard to the other functions.

Assemblyman Goicoechea said that regardless of whether the position was classified or unclassified, it would need to be placed in the Budget Office. The Governor had signed the certification for the ARRA funds, and Assemblyman Goicoechea believed placing

the position in the Controller's Office and removing the Governor's Office from the process would not be appropriate. He recommended amending the motion to place the position in the Budget Office as a classified position, with support staffing and travel and operating funds.

Cochair Mathews stated there was a motion on the floor. Assemblyman Goicoechea was suggesting that the correct placement of the position would be in the Budget Office, and she asked Senator Horsford if he would be amenable to amending his motion. She added there would be more discussion to follow.

Assemblyman Goicoechea asked Senator Horsford if he would consider a friendly amendment to his motion.

Senator Horsford replied that had been his original proposal, but based on the discussion that had just ensued, it sounded like there was not full agreement. He said he would not agree to the friendly amendment at this time.

Cochair Mathews again indicated there would be further discussion and called on Senator Raggio to speak.

Senator Raggio recalled he had asked the question about whether the position should be an unclassified or classified position; he was not speaking for Mr. Clinger. He said he would not support the motion if the position was to be placed in the Controller's Office. He stated that it would be unfortunate for the issue to involve personalities. The Governor was the official who had to sign all certifications, and Senator Raggio said he would be hesitant if he were the Governor to sign the certifications if he did not have control over the process at some level. He reiterated that he would vote against the motion unless the position was placed in the Budget Office.

Senator Horsford said he was still comfortable with his motion as stated and would not accept the friendly motion.

Assemblywoman Smith indicated she did not see the decision as a personality issue. She believed it was a decision to place the position where the individual could best function and, quite frankly, if the state failed to fulfill the reporting or other ARRA requirements, the citizens of the state would see state government as failing; they would not blame one particular office. She said it was incumbent on the Committee to ensure the work was done and that it was done properly and reported correctly. She saw the issue as an opportunity for cooperation among offices that would have to take place; every single agency was going to have to work together to complete the process, from the Governor's Office to every agency that the Governor's Office oversaw to the other elected offices. She reiterated that it was an opportunity for everyone to work together to place the position in a location where the accounting experience would be very valuable. In her conversations with the State Controller, Assemblywoman Smith said Ms. Wallin had spent a great deal of time working on the issue and was very knowledgeable, as was the Budget Office.

Assemblyman Conklin said he agreed with Assemblywoman Smith. The Governor's Office and Administration had put the plans together and requested the funds under certain conditions and promises and had the job to dutifully proceed based on those plans. He noted that this was seen in all types of government and business, with one department responsible for executing and another responsible for auditing. Very rarely would the same office be responsible for all functions. He said that in this case, having some separation of powers and having a watchful eye separate from the executing entity would probably be prudent. Assemblyman Conklin concurred with Assemblywoman Smith that everyone should be working together to ensure that the reporting would be accurate and some sort of oversight existed at all levels. He would support the existing motion.

Cochair Mathews called for the end of discussion and a roll call vote.

THE MOTION CARRIED.

(Senator Raggio, Senator Rhoads and Senator Townsend voted nay.
Assemblyman Goicoechea, Assemblyman Grady, Assemblyman
Hardy and Assemblyman Settelmeyer voted nay.)

Assemblywoman Smith clarified that the staff would have authority to adjust the salaries for both positions.

Cochair Mathews added that the total amount for travel would be reviewed as well.

2. OFFICE OF THE GOVERNOR – Request for \$251,220 to fund a project manager to coordinate statewide ARRA health information technology planning with stakeholders and write applications for competitive ARRA information technology grants **(received from Budget Division on July 24, 2009).**

Mr. Clinger explained Item E-2 was a request from the IFC Contingency Fund for \$251,220 to hire a health information technology project manager to manage the health information technology aspect of the American Recovery and Reinvestment Act, as well as to provide funding for a grant writing component to hire outside grant writers for the health information technology grant. He said the health information technology grant application would be complex and costly to write; the application would include multiple components, planning, health information exchange, implementation, as well as education components and potential grant or loan funds. Mr. Clinger said it appeared likely that the state would be asked to prepare one grant application for two phases of work, both planning and implementation, which would require upfront work to write the implementation portions of the grant proposal. It was also anticipated that the application turnaround time would be extremely short.

Assemblywoman Smith said she was curious why the position would not exist within the Department of Health and Human Services (DHHS). The relationships were there, as

well as the knowledge about health information technology. She wondered if that would be a possibility.

Mr. Clinger replied that the same reasons existed for creating the position in the Governor's Office as for the previous positions, i.e., the flexibility through the use of non-classified positions to set a salary and expedite the hiring of a project manager.

There being no further questions, Cochair Mathews called for a motion.

Assemblywoman Smith believed it would be appropriate for the position to be housed in the Health and Human Services Director's Office. She requested that Mr. Willden comment.

Mike Willden, Director, Department of Health and Human Services, said that when looking at the placement of the position, not only was the salary issue and the hiring process a consideration, but as earlier indicated by Senator Horsford, there were also a number of players involved in the ARRA issues with regard to the health information technology. Mr. Willden explained the issue did not just involve Medicaid or public health; there were many other agencies and a number of concerns involved, including economic development, workforce development, and significant legal issues – personal health information had to be protected. He said there had been discussion about at what level in government the position should be placed, but if the desire was that the office be placed in the Director's Office, his office would certainly be capable of coordinating those activities. Mr. Willden noted that he reported directly to the Governor, and communications had been ongoing for several months. He stressed that most important to him as Director was to get the position and application moving forward; the deadline could conceivably be very short, and the position needed to be authorized and funded in order to provide coordination.

Assemblywoman Smith remarked Mr. Willden had made her case; his department had a great reputation for doing good work, and even though there were some outside agencies involved, DHHS had good relationships with a majority of outside agencies as well, e.g., hospitals, physician groups.

ASSEMBLYWOMAN SMITH MOVED THAT THE POSITION BE APPROVED, WITH EMERGENCY HIRING PROVISIONS, AND HOUSED IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

THE MOTION WAS SECONDED BY ASSEMBLYMAN GOICOECHEA.

Assemblyman Hardy asked for clarification of the motion. Was the request for an emergency hire in the Department of Human and Health Services, and would the position be classified or unclassified?

Assemblywoman Smith replied the position would be classified, as was approved for the previous position.

THE MOTION CARRIED.

- *F. APPOINTMENT OF SUBCOMMITTEE TO REVIEW NEVADA'S REVENUE STRUCTURE IN ACCORDANCE WITH SENATE CONCURRENT RESOLUTION NO. 37, 2009 SESSION AND DELEGATION OF AUTHORITY TO THE SUBCOMMITTEE FOR THE DEVELOPMENT OF THE REQUEST FOR PROPOSAL FOR CONSULTANT SERVICES AS REFERENCED IN SENATE CONCURRENT RESOLUTION NO. 37.

On behalf of the Assembly and Assemblywoman Gansert, Assemblyman Ocegura reported the following members were to be appointed to the Subcommittee to Review Nevada's Revenue Structure: Assemblyman Conklin; Assemblywoman Kirkpatrick; Assemblywoman McClain; Assemblyman Ocegura; Assemblyman Stewart and Assemblyman Settlemeyer.

Senator Raggio recommended the appointment of Senator Townsend and Senator Raggio.

Senator Horsford recommended the appointment of Senator Parks, Senator Schneider, Senator Wiener, and Senator Horsford.

Cochair Mathews expressed concern that there were no Democratic members from the northern part of the state on the Subcommittee. Not one of the counties other than Clark had Democratic representation on the Subcommittee. She said the north and the rest of the state should at least have a voice on this important issue. Cochair Mathews acknowledged that she was the only Democratic Senator from the northern part of the state; however, she believed the Subcommittee should be fairly representative of all parts of the state.

Senator Horsford stated that the recommendations were made by leadership, and he acknowledged that Senator Mathews was the only Democratic member in the north, a fact that hopefully would be changed going forward. He was hopeful that the Subcommittee members would be able to represent the opinions and perspectives of all Nevada and not a region of the state.

Cochair Mathews indicated the needs of each region of the state were different; she realized the issue was about the state and not a region. However, she still believed a voice was needed from the north on the Democratic side. She called for a motion to delay discussion of the appointments pending further discussion.

ASSEMBLYMAN ANDERSON MOVED TO DELAY DISCUSSION
UNTIL THE SEPTEMBER 17TH IFC MEETING.

THE MOTION WAS SECONDED BY ASSEMBLYWOMAN SMITH.

Senator Horsford requested a five-minute break. Senator Mathews announced the Committee would recess, and the motion would be on the floor upon return.

The Committee recessed for discussion at 1:40 p.m. Cochair Mathews called the Committee back to order at 2:20 p.m.

Cochair Mathews stated there was a motion on the floor by Assemblyman Anderson and seconded by Assemblywoman Smith.

ASSEMBLYMAN ANDERSON MOVED TO RESCIND HIS PREVIOUS MOTION.

ASSEMBLYWOMAN SMITH AGREED TO RESCIND HER SECOND.

SENATOR HORSFORD MOVED TO EXPAND THE SIZE OF THE SUBCOMMITTEE FROM 12 TO 16 MEMBERS AND THAT 8 MEMBERS BE APPOINTED FROM EACH HOUSE – 5 FROM THE MAJORITY AND 3 FROM THE MINORITY. SENATE DEMOCRATS RECOMMENDED WERE SENATORS WIENER, SCHNEIDER, MATHEWS, PARKS AND HORSFORD.

AS PART OF THE MOTION, ASSEMBLYMAN OCEGUERA ANNOUNCED THE APPOINTMENT OF THE FOLLOWING ASSEMBLY MEMBERS TO THE SUBCOMMITTEE: ASSEMBLYMEN ANDERSON, CONKLIN, OCEGUERA, SETTELMEYER AND STEWART AND ASSEMBLYWOMEN KIRKPATRICK AND McCLAIN. HE DEFERRED THE FINAL APPOINTMENT TO THE MINORITY LEADER, INDICATING THAT NAME WOULD BE REPORTED AT A LATER TIME.

SENATOR RAGGIO SECONDED THE MOTION.

Senator Raggio said the idea of a tax study or tax analysis had probably originated with him, although his name was not on the proposal. His objective was that the state would have a good tax study; that any committee involved would be completely bipartisan; and that the Subcommittee would have equal representation from each party and each house, which he believed to be imperative. Without equal representation, any study emanating from the Subcommittee would not have the full credibility in the public's eye that it would otherwise have. He observed that the increase in the Subcommittee's size might render it unwieldy. He was committed to having a good tax analysis, and this subcommittee would have the opportunity to issue a request for proposal for an independent entity study of the revenue structure as outlined in the resolution. Senator Raggio said the only other member of the Finance Committee who would be qualified to

serve was Senator Rhoads. If the size of the Subcommittee was to be expanded, Senator Raggio recommended Senator Rhoads be appointed, if he was willing to serve.

Cochair Mathews remarked that it did not appear qualifications were a factor in the membership of the Subcommittee. It appeared to her that serving on the Finance or Taxation Committee was not a qualification.

Senator Raggio replied that Senator Rhoads was a long-time member and represented the rural areas; therefore, he recommended him as the third appointment on the Republican side.

ASSEMBLYWOMAN SMITH MOVED FOR CONFIRMATION OF THE APPOINTMENTS AS DESIGNATED BY THE LEADERS OF BOTH HOUSES AND THAT THE SUBCOMMITTEE BE GIVEN THE AUTHORITY TO SET ITS MEETING SCHEDULE AND TO DEAL WITH THE REQUEST FOR PROPOSAL FOR THE CONTRACTOR INVOLVED IN THE STUDY.

Cochair Mathews noted there was already a motion on the floor.

Senator Horsford said he was in agreement with the additions to the motion made by Assemblywoman Smith.

ASSEMBLYWOMAN SMITH CLARIFIED THE MOTION THAT THE COMMITTEE WOULD BE DELEGATING TOTAL AUTHORITY TO THE SUBCOMMITTEE TO DEVELOP AND DISTRIBUTE THE REQUEST FOR PROPOSAL AND MAKE THE SELECTIONS.

Senators Horsford and Senator Raggio agreed with the additions to the original motion.

Senator Raggio asked how the tax study would be funded. He thought there needed to be a discussion as to how the tax study was ultimately going to be funded, noting that the bill that included \$500,000 for the study was vetoed by the Governor. At this point, it appeared funding from the Contingency Fund would have to be considered, and he wanted it on record that funding would be available. He asked Fiscal staff and Legal Counsel if funding would be available for the study and how to proceed.

Mr. Ghiggeri responded it was his understanding that a request would be submitted by the Legislative Commission to the Board of Examiners for an allocation from the IFC Contingency Fund for the study; the request would be made at the next Legislative Commission meeting.

Senator Raggio asked if that would be a permissible request from the Contingency Fund.

Mr. Ghiggeri replied it would be a request from the Contingency Fund by the Legislative Counsel Bureau, which would be permissible because the Legislative Counsel Bureau was funded in the Appropriations Act.

Brenda Erdoes, Chief Legislative Counsel, said she had reviewed the scenario and believed it was within the statutory authority for the IFC to approve such a request.

THE MOTION CARRIED.

Lorne Malkiewich requested clarification that the vacant position in the Assembly was going to be filled based on Assemblywoman Gansert's recommendation; he also noted that the Subcommittee would need a chair, which needed to be decided at this meeting since the Subcommittee would probably meet before the next IFC meeting.

ASSEMBLYWOMAN SMITH NOMINATED SENATOR HORSFORD
TO CHAIR THE IFC SUBCOMMITTEE TO STUDY NEVADA'S
REVENUE STRUCTURE.

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

THE MOTION CARRIED.

G. PUBLIC COMMENT.

There was no public comment.

A written statement in support of the Project Manager for Statewide ARRA Health Information Technology Planning was submitted by Scott Craigie on behalf of Larry Matheis and is hereby made a part of the record ([Exhibit H](#)).

H. ADJOURNMENT

Cochair Mathews adjourned the meeting at 2:32 p.m.

Senator Mathews, Cochair
Interim Finance Committee

Lorne Malkiewich, Director,
Legislative Counsel Bureau and
Secretary, Interim Finance Committee

**EXHIBITS
INTERIM FINANCE COMMITTEE**

Exhibit	Witness/Agency	Description
A	Fiscal Analysis Division Legislative Counsel Bureau	Agenda
B	Fiscal Analysis Division Legislative Counsel Bureau	Guest List
C	Fiscal Analysis Division Legislative Counsel Bureau	Meeting Packet
D	Hatice Gecol, Director State Energy Office	State Energy Program (SEP) American Recovery & Reinvestment Act (ARRA) – Presentation to the Interim Finance Committee of the Nevada Legislature, August 3, 2009
E	Evan Dale, Division of Administrative Services	State of Nevada Modified Work Program Number C15699 – Governor’s Office - Energy Conservation
F	Edgar Roberts, Director Department of Motor Vehicles	REAL ID/PASS ID Benchmarks
G	Senator Horsford	Proposal for ARRA Coordinator Position
H	Scott Craigie on Behalf of Larry Matheis	Written Testimony Submitted for the Record in Support of Project Manager for Statewide ARRA Health Information Technology Planning