

**MINUTES OF THE  
JOINT SUBCOMMITTEE ON GENERAL GOVERNMENT  
OF THE SENATE COMMITTEE ON FINANCE  
AND THE ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-third Session  
February 15, 2005**

The Joint Subcommittee on General Government of the Senate Committee on Finance and the Assembly Committee on Ways and Means was called to order at 8:07 a.m. on Tuesday, February 15, 2005. Chair Bob Beers presided in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**SENATE COMMITTEE MEMBERS PRESENT:**

Senator Bob Beers, Chair  
Senator Dean A. Rhoads  
Senator Bob Coffin

**ASSEMBLY COMMITTEE MEMBERS PRESENT:**

Ms. Kathy A. McClain, Chair  
Mr. Morse Arberry Jr.  
Mr. Lynn C. Hettrick  
Mr. Joseph M. Hogan  
Mrs. Ellen M. Koivisto  
Mr. Bob Seale

**STAFF MEMBERS PRESENT:**

Joyce Garrett, Program Analyst  
Bob Guernsey, Principal Deputy Fiscal Analyst  
Mark W. Stevens, Assembly Fiscal Analyst  
Michael Archer, Committee Secretary

**OTHERS PRESENT:**

Sydney H. Wickliffe, CPA, Director, Department of Business and Industry  
Bill Maier, Administrative Services Officer, Department of Business and Industry  
Doug Walther, Deputy Director, Department of Business and Industry  
Patricia Morse Jarman, Commissioner, Consumer Affairs Division, Department of Business and Industry  
Lorraine T Newlon, Business Manager, Consumer Affairs Division, Department of Business and Industry  
Julie Contreras, Commissioner, Local Government Employee Management Relations Board  
Alice A. Molasky-Arman, Commissioner, Division of Insurance, Department of Business and Industry  
John R. Orr, Deputy Commissioner, Division of Insurance, Department of Business and Industry

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CHAIR BEERS:

Today we will hear budgets from the Department of Business and Industry (B&I).

## BUSINESS AND INDUSTRY

Business and Industry Administration – Budget Page B&I-27 (Volume II)  
Budget Account 101-4681

SYDNEY H. WICKLIFFE (CPA, Director, Department of Business and Industry):

Our budget for this biennium will be about the same as in past years, though we have additional requests for replacing some equipment and expanding our videoconferencing capability. The videoconferencing equipment we put into place three years ago paid for itself in about six months. This has been so successful, our videoconferencing room is regularly in use.

We want to centralize our B&I personnel staff. To accomplish this, we will move five vacant positions out of our divisions and into the B&I director's office. One filled position has already transferred to the director's office giving us an existing personnel staff of three people. The Department has 665 employees that generate a great deal of personnel work. The people who perform this work are doing it in addition to their primary duties within the agencies. As a result, they are not properly trained or sufficiently skilled. Under our plan, a few people, fully trained in all aspects of personnel business, will handle this workload more efficiently.

CHAIR McCLAIN:

Most state departments operate by designating one personnel employee for every 100 employees; your plan will change this ratio to about one for every 75 employees. Why do you need eight people to handle the personnel workload?

Ms. WICKLIFFE:

Our Department consists of 16 agencies with 30 budget accounts and 86 different job classifications. The complexity of our personnel work requires more staff.

CHAIR McCLAIN:

Why do you think it would be more efficient to have your personnel staff centralized? Do you have space in the director's office for these people?

Ms. WICKLIFFE:

We have asked for extra space in the Grant Sawyer State Office Building in Las Vegas so they can be properly supervised by the personnel manager there. However, one position will stay in the director's office in Carson City.

CHAIR BEERS:

Will your rent expenses increase in your Las Vegas office?

Ms. WICKLIFFE:

If there is no additional space available in the Sawyer Building, we have a large conference room in the director's office that can house the new staff.

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CHAIR BEERS:

Will you partition that room to allow for confidentiality? Will there be training costs for these new positions?

MS. WICKLIFFE:

We will put cubicles in the conference room and one room will have a door that closes for confidentiality. The training costs will be minimal since the personnel manager will train these employees.

CHAIR BEERS:

Since nearly 20 percent of the B&I director's office operating costs are supported by the General Fund, and these positions currently are not part of the General Fund, will moving them to the director's office increase General Fund support to that office?

MS. WICKLIFFE:

You are correct. The positions come from self-funded agencies; the benefit will be spread over all agencies in B&I, some of which are funded by the General Fund. We conducted a survey to determine the amount of personnel work currently being performed by other employees and found it equates to the work of 6.2 people. This does not include the two people now doing full-time personnel work. Since we are asking for only six people, that 0.2 percent of a position would account for some savings. The efficiency and improved service would more than make up for the additional costs to the General Fund.

CHAIR BEERS:

Our fiscal staff has calculated that cost to be about \$550,000 over the biennium.

CHAIR MCCLAIN:

How long have those five positions been vacant? If you use them for centralizing your personnel staff, will your agencies be asking that the jobs be filled again later?

MS. WICKLIFFE:

The State Dairy Commission is providing three of the positions. The new Dairy Commissioner has realigned his staff and automated the workloads. As a result, he determined he could manage without these positions. The Division of Industrial Relations (DIR) has full-time personnel positions; therefore, they will be performing in the same type of work they are now doing, only in the director's office. The Taxicab Authority also realigned work duties and can spare one position.

ASSEMBLYMAN HETTRICK:

What will happen to funding for people previously paid by sources other than the General Fund?

MS. WICKLIFFE:

The agencies will have a higher intra-agency cost allocation assessment than they did before.

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ASSEMBLYMAN HETTRICK:

Is this a transfer of funds out of other budgets into the director's office budget to make up the General Fund portion?

BILL MAIER (Administrative Services Officer, Department of Business and Industry):

Yes. In the case of the Dairy Commission, as an example, the allocation will increase to offset the three positions they are losing. This will result in an increase in the reserve. The DIR will also experience an increase in the allocation. I do not know the exact amount, but will provide it to you. Any surplus becomes a reduction to the particular cost allocation fund. The Taxicab Authority has a reserve account which would return to their reserve.

CHAIR BEERS:

Will the Dairy Commission reserve go from about \$500,000 to about \$1.5 million by the end of fiscal year (FY) 2007?

MARK W. STEVENS (Assembly Fiscal Analyst):

There will be an addition to the General Fund of about \$130,000, but we have to look at it budget by budget. Since these positions will now be in the director's office, the reduction is cost allocated out to all budgets within B&I. All positions being transferred are from non-General Fund agencies; therefore, if there is an addition to the General Fund of \$130,000, and we cost allocate this out to other agencies, there is a savings in those other funds.

CHAIR BEERS:

How does your plan affect service already provided by the Department of Personnel?

MS. WICKLIFFE:

It is not a duplication of services, but rather a similarity in services. Training will be geared to the specific needs of employees. We hope to eventually branch out into reclassification and other functions. This will lessen the burden of the Department of Personnel. They are in favor of our adopting this plan.

CHAIR BEERS:

I do not see a significant change in the scope of the overall duties being performed.

MS. WICKLIFFE:

We can provide better service by doing this.

CHAIR BEERS:

If one of your employees needed a W-2 form replaced, would they go to the B&I personnel staff or the Department of Personnel?

MS. WICKLIFFE:

They would get a quicker response if they asked the person within our Department. They could always ask the Office of the State Controller or the Internal Revenue Service as well.

CHAIR BEERS:

I can see wanting to separate the human resources (HR) functions from the accounting work, but I am troubled by the duplication of work these positions would have with the Department of Personnel. Your ratio of HR to non-HR personnel is about 50 percent higher than it is elsewhere in the state. The HR functions are being funded part time out of non-General Fund agencies and you are now going to bring these identical functions in to a centralized location. If people your personnel staff will be servicing are not paid out of the General Fund, perhaps we need to look at a separate allocation for your personnel function that fully allocates these costs across all agencies using this service.

MR. MAIER:

Our allocation now is based on a full-time equivalency (FTE) for the number of employees at each agency. What you are suggesting is that we develop an allocation based on the actual workload for each agency. The General Fund agencies would still pay their share. However, if a General Fund agency is a small agency, and with a few transactions, the allocation would be based on that, rather than the number of employees.

CHAIR BEERS:

What percentage of B&I agencies are funded by the General Fund?

MR. MAIER:

About 18 percent.

CHAIR BEERS:

What would a General Fund agency, like the Local Government Employee Management Relations Board, do regarding its HR issues?

MR. MAIER:

That agency only has two employees. An executive secretary within that agency handles their HR issues.

CHAIR BEERS:

You currently have two personnel employees in the B&I director's office. The funding for those positions is allocated at 20 percent from the General Fund and 80 percent from the intra-agency cost allocation assessment. Who are they now servicing?

MR. MAIER:

One position, located in the director's Carson City office, provides direct service for the Real Estate Division. The other agencies process their own personnel transactions and, if they have questions, contact the personnel employees in the director's office for assistance.

CHAIR BEERS:

The B&I director's office in Carson City will be moving to the new State Department of Conservation and Natural Resources building this summer. Does your budget request for videoconferencing equipment account for the fact that the new building has centrally-located videoconferencing equipment available to you?

DOUG WALTHER (Deputy Director, Department of Business and Industry):

Our proposal is for a system which is smaller, portable and can be used anywhere there is an Internet connection. We are trying to increase flexibility in where we hold videoconferences. We are a minority tenant in that new building and will be competing with other agencies for use of the equipment. We are experiencing high demand for videoconferencing and can barely accommodate those needs.

CHAIR MCCLAIN:

How can you justify the salary increases in your unclassified positions, particularly the 42.6-percent increase in the deputy director of Administration and personnel manager positions?

MS. WICKLIFFE:

There is great disparity between the salaries paid to various managers. The deputy director position is essentially an HR manager. In looking at comparable salaries, we determined the amount we are requesting is appropriate for someone with the knowledge and skills required for the job.

CHAIR MCCLAIN:

Are employees, who have been working for inequitable salaries, qualified for those positions? Please provide more information in writing about this.

CHAIR BEERS:

What is the turnover rate in the last six years of both your classified and unclassified employees?

MS. WICKLIFFE:

I do not have that information at this time, but will provide it to you.

CHAIR BEERS:

We will now discuss Industrial Development Bonds.

Industrial Development Bonds – Budget Page B&I-37 (Volume II)  
Budget Account 101-4683

MR. WALTHER:

I have prepared a handout titled Private Activity Bonds, Office of Business and Planning, Fiscal years 2004 and 2005 ([Exhibit C](#)). Private activity bonds are used to stimulate economic development in Nevada. This program essentially implements federal tax provisions that exempt the interest on certain types of bonds for certain types of activities. The federal tax code provides that these bonds must be issued by a public entity. The B&I deputy director's office performs the functions required by the federal tax code to ensure these bonds are issued for the proper activities. Page 1 of [Exhibit C](#) lists the bonds issued during the last biennium and those we expect to issue before July 1, 2005. These represent our three main areas of projects and activities. The first area is manufacturing which issues smaller bonds with the intent to allow in-state manufacturers to expand and create new jobs, or bring new businesses into the state. The second types of projects are called finance-qualified projects by non-profit groups. This includes health care, senior living and transportation.

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The final category relates to solid waste projects intended to reduce solid waste and land fills, help with recycling and other beneficial purposes.

CHAIR MCCLAIN:

Do we have any renewable energy projects on the drawing board? Where is the Las Ventanas continuing-care retirement community located?

MR. WALTHER:

Renewable energy is a category of projects we put into law as the result of A.B. No. 661 of the 71st Session. This encouraged utilities to purchase a certain amount of renewable energy. We saw this as an opportunity to assist in that effort and had the bill amended accordingly. However, the federal tax code does not recognize that type of project as a tax-exempt activity. Although I can issue these bonds, they would be taxable. We have been looking into ways to get these projects working. One idea is to partner them with a nonprofit company or municipality. We are trying to get the federal tax code amended to include these projects.

The Las Ventanas continuing care retirement community is in the Summerland area of Las Vegas.

CHAIR MCCLAIN:

Do you anticipate more retirement community projects?

MR. WALTHER:

I believe we will in the next biennium.

ASSEMBLYMAN SEALE:

This is a great program. Why does your budget project fewer of these bonds being issued?

MR. WALTHER:

I tend to be conservative in making these projections because this area is subject to unpredictable economic conditions and interest rates. Over the life of the program things have fluctuated. For a few years we issued no bonds because of recession or low interest rates.

ASSEMBLYMAN SEALE:

Are the criteria for qualifying for these bonds too stringent?

MR. WALTHER:

Nevada has more complex requirements than other states. We have made an effort to remedy this. We have created a mini-bond program which is a direct purchase program where we define the transaction as one that sells the bonds to an institutional investor. We then have the investor service his own loan, using prepackaged documents. These transactions can be significant. While Nevada does not have any legal or moral responsibility for these bonds, the state should be involved in its promotion. Over the years the Legislature has chosen to exercise oversight of this process.

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ASSEMBLYMAN SEALE:  
How do you market these bonds?

MR. WALTHER:  
The most effective form of marketing is partnering with economic development authorities throughout the state. We administer the state's volume cap and are communicating regularly with entities about their volume cap allocation. We have focused our advertising in business journals and intend to conduct a direct-mailing campaign to all manufacturers in Nevada.

ASSEMBLYMAN HETTRICK:  
Why do you carryforward a reserve of \$1 million and only have operating costs of \$138,000? If we are going to issue fewer bonds, can we use the reserve money and lower the fees to stimulate economic development?

MR. WALTHER:  
The fees are in the lower tier of fees nationwide for this type of program. I do not think the fees are discouraging anyone from this program.

ASSEMBLYMAN HETTRICK:  
We have \$1 million in reserve doing nothing; we should let it work for us to create economic growth.

MR. WALTHER:  
I do not think lowering fees and giving money back is the way to go. The reserve needs to be fairly large because of the size of these transactions and the fact there are long-term bonds outstanding.

ASSEMBLYMAN HETTRICK:  
The state has no obligation to pay the bonds.

MR. WALTHER:  
While we have no obligation to pay the bonds, we are subject to audit by the federal government on the transactions. An audit on a major transaction would involve a great deal of bond counsel time as well as my time. Even though we have no legal or moral obligation to pay the bonds, if there is litigation related to the bonds, we could be a critical party to that action.

ASSEMBLYMAN HETTRICK:  
We do not have any liability on litigation and the audit would be paid for by the federal government. We should be getting more return on this reserve money.

MR. WALTHER:  
We have had discussions with the staff at the Commission on Economic Development about partnering on the projects that would use some of the reserve money, perhaps hiring a consultant to target California to bring business to Nevada. We did not reach a point in those discussions where we could submit a proposal at this time. We may have a proposal to use some of that reserve money for future economic activities.

ASSEMBLYMAN HETTRICK:  
I would like to see a proposal before we close this budget.



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MR. WALTHER:

I will try to submit a proposal before we close the budget this session.

CHAIR BEERS:

How much of your time is now spent on this?

MR. WALTHER:

I do not have an exact figure because it fluctuates, but I would estimate it is about 50 to 60 percent of my time.

CHAIR BEERS:

How are you allocated for your time?

MR. MAIER:

The allocation for Mr. Walther's time is based on the allocation for the office as a whole. In the past, the bond program had one full-time employee assigned to it. However, the revenue was not constant enough to support a full-time position. The amount of time Mr. Walther now spends on this work depends upon the amount of revenue available.

This is a trust account and the fees that come in for the bonds are supposed to be held in trust only for the bond program. The other source of revenue in that account is from the distribution of the volume cap which is the assignment of the federal tax exemption throughout the state. It is an associated fee of \$500 for every \$1 million. The other flow of revenue comes from the Las Vegas Monorail Revenue Bonds which contains language general enough to allow it to be applied to the administrative cost of the office in the amount of \$50,000 per year. That amount has been built into our budget, but as of this time the cash has not arrived.

CHAIR BEERS:

How much is that?

MR. MAIER:

We had originally estimated a transfer of \$116,000, but again, the \$50,000 in monorail bond money has not arrived.

MR. WALTHERS:

The \$50,000 in monorail bond revenue is to commence in the year of final acceptance of the system by the owners. The owners are paying the money and they have not formally accepted. It should come soon.

MR. MAIER:

The \$50,000 is an annual amount that will be paid over the next 40 years.

CHAIR BEERS:

Please provide ideas on how we can assist the other economic development agencies. We will close the hearing on this budget and now review the budget of the Consumer Affairs Division.

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Consumer Affairs – Budget Page B&I-61 (Volume II)  
Budget Account 101-3811

PATRICIA MORSE JARMAN (Commissioner, Consumer Affairs Division, Department of Business and Industry):

Please refer to the handout of my opening statement ([Exhibit D](#)). The Division of Consumer Affairs has 18 full-time employees located in two offices, one in Reno and one in Las Vegas. Our mission is to address growing consumer needs and fraudulent activity in Nevada. We currently have more than \$17 million in sureties from the businesses that regulate, register, and collect fees from the public in advance for services rendered. We work closely with the Office of the Attorney General (AG) to obtain civil and criminal remedies for egregious violations. In 2004, we hosted the National Association of Consumer Agency administrators conference in Las Vegas. This year we will be hosting a delegation from Guandong, China, who are interested in learning about consumer laws, policies and procedures in Nevada.

CHAIR BEERS:

During the interim, the Division of Consumer Affairs was audited and the findings indicated some categories were recorded as revenue items rather than negative expenses. Are your accounting practices now in order?

LORRAINE T. NEWLON (Business Manager, Consumer Affairs Division, Department of Business and Industry):

During the audit it was discovered that \$15,000 had been recorded as revenue instead of negative expenses. That was an accounting mistake. Since then, auditors have reviewed our procedures and found no problems.

CHAIR BEERS:

Had the audit not occurred, you may have gone over your spending authorization for those two expense accounts. Do you have a system in place to ensure you do not exceed your authorized amount?

Ms. NEWLON:

Yes, we do.

ADMINISTRATION

Information Technology Projects – Budget Page ADMINISTRATION-34  
(Volume I)

Budget Account 101-1325

E-281 Maximize Internet and Technology – ADMINISTRATION-38

Ms. JARMAN:

Our current computer system is requiring technicians from the Department of Information Technology (DoIT) to come to our office three or four times each week for repairs. We cannot implement new programs or use current technology because our system is too old. Funding for our proposed system is in the DoIT budget.

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In decision unit E-281, of the Department of Administration's Information Technology Projects budget account, we are requesting funds for a new database system to replace our outdated model.

CHAIR BEERS:

You want a commercial off-the-shelf system for tracking in Consumer Affairs. Is this the same system used by the Real Estate Division?

MS. JARMAN:

That was offered to us, and it seems to be working well for the Real Estate Division. We have not seen it work yet. We would like to have a totally consumer-friendly system.

CHAIR BEERS:

Will the plan to use a variation of the Real Estate Division system change the amount of the budget request for your technology solution?

MS. NEWLON:

No. We assumed we would use the same system.

CHAIR MCCLAIN:

Please justify your salary increase request for the unclassified position.

MS. JARMAN:

I am paid about \$17,000 less per year than other Commissioners and Administrators of Consumer Affairs throughout the country with the same size staff.

CHAIR BEERS:

Has DoIT looked at your request for the replacement equipment described in decision unit E-710?

E-710 Replacement Equipment – Page B&I-64

MS. NEWLON:

I believe they have.

CHAIR BEERS:

Why do they want to use Novell Netware 6 rather than Windows? Who provides your technical support?

MS. NEWLON:

We currently have Novell in place. Our technical support is provided by DoIT.

CHAIR BEERS:

We will now close the budget on the division of Consumer Affairs and open the hearing on the budget for the Employees Management Relations Board.

B&I, Employees Management Relations Board – Budget Page B&I-216  
(Volume II)

Budget Account 101-1374

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JULIE CONTRERAS (Commissioner, Local Government Employee-Management Relations Board):

The Local Government Employee-Management Relations Board (EMRB) hears and decides all prohibited labor practice disputes between local government, employers and employee organizations. The EMRB is currently comprised of two full-time unclassified employees and three board members who hear and decide all prohibitive practice charges.

E-326 Services at Level Closest to People – Page B&I-218

E-327 Services at Level Closest to People – Page B&I-218

E-710 Replacement Equipment – Page B&I-218

E-811 Unclassified Changes – Page B&I-219

Decision unit E-326 requests funds for envelopes and business cards from the state printing office which we were unable to buy in the past due to budget cuts. Unit E-327 is necessary to reprint the *Nevada Revised Statutes* (NRS) for 2005. Decision unit E-710 is to replace computer equipment. We have old computers and my computer's operating system is not compatible with my secretary's system. Unit E-811 changes the pay for unclassified positions to make them consistent and equitable with other positions.

ASSEMBLYMAN SEALE:  
What does the EMRB do?

Ms. CONTRERAS:  
The NRS provides public sector employees, including counties, cities, school districts, police and fire departments, with collective bargaining rights. The EMRB renders decisions in many situations. For example, if there is an allegation of bad faith during collective bargaining, or if there is an allegation of unfair treatment of an employee, charges can be brought to the Board. Also, the EMRB holds hearings to recognize new employee organizations being formed.

ASSEMBLYMAN HETTRICK:  
I would like to see you change your performance indicators. Merely telling us the number of employees you represent, without telling us specifically what you have accomplished, does not help us decide how much funding you require. Also, why do we need to reprint the NRS when it can be obtained very inexpensively on CD?

Ms. CONTRERAS:  
I will look into that.

CHAIR BEERS:  
What does the other EMRB employee do?

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Ms. CONTRERAS:

My secretary is the other employee. She handles all accounting, personnel and payroll functions, as well as issuing notices of hearings.

CHAIR BEERS:

Where is your office? How big is your Board? How do they get appointed and how often do they meet?

Ms. CONTRERAS:

Our office is in Las Vegas and both employees work there. We have a three-member Board, appointed by the Governor for four-year terms. Board members meet when hearings are necessary. We average two to three hearings each month. They are paid \$80 per meeting day and receive per diem and travel expenses.

CHAIR McCLAIN:

Do you videoconference these hearings to avoid travel expenses for Board members?

Ms. CONTRERAS:

We are going to start videoconferencing our Board meetings. The actual hearings cannot be videoconferenced because they require witness testimony and exhibits. The hearings are held where the people filing the complaint are located.

CHAIR BEERS:

It would probably help the committee to understand what you do if you could give us a short, written synopsis of the 13 cases the EMRB completed in FY 2004.

Ms. CONTRERAS:

I will do that.

ASSEMBLYMAN HOGAN:

The performance indicators seem to show there are a consistently larger number of cases pending than those completed. Do these figures represent a backlog of work?

Ms. CONTRERAS:

Since each case must first go through arbitration, many stay in this deferred status a long time. While much of the bottleneck is produced waiting for arbiters to hear and then make decisions on these cases, we also have a backlog at EMRB. We are out of travel funds and have had to reschedule our current cases until July when our funding returns and our Board members can again travel.

ASSEMBLYMAN HOGAN:

Have you requested additional funding?

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Ms. CONTRERAS:

We requested additional funding, but it was taken out of our budget request. We are trying to move funds from our DoIT expenditures to cover some of the shortfall. This will enable us to hold one or two more hearings.

CHAIR BEERS:

Did you approach the administration with a request for supplemental funding for travel?

Ms. CONTRERAS:

No; however, we are seeking additional funds.

MR. STEVENS:

The Interim Finance Committee (IFC) cannot allocate funds during session; it will have to be done by a bill.

ASSEMBLYMAN HETTRICK:

You obviously have no reserve funds. Can you charge a fee for the filing of cases?

Ms. CONTRERAS:

There are no fees charged at this time. We have looked into charging fees, but in order to support the agency, it would have to be a significant amount. Some of the unions represented by the statute consist of only three or four employees. For a small union or association, a large fee would be a heavy financial burden. We have considered charging a per capita-based fee for both the employer, union or association.

ASSEMBLYMAN HETTRICK:

If you could charge an adequate fee to cover your in-state travel costs, then you could hold your hearings more frequently and reduce your backlog. Your per capita-based fee idea may be a good one.

Ms. CONTRERAS:

I agree.

CHAIR BEERS:

We will now discuss the Division of Insurance budget.

B&I, Insurance Regulation – Budget Page B&I-1 (Volume II)  
Budget Account 101-3813

ALICE A. MOLASKY-ARMAN (Commissioner, Division of Insurance, Department of Business and Industry):

Budget account 101-3813 is the Nevada Division of Insurance general operations account, and our only account containing General Fund appropriations. This budget account covers 90 percent of our employees and pays all shared costs subject to an allocated reimbursement schedule. The adjusted Base Budget for this account requests revenue and expenditure levels approximately the same as those experienced in the base year. The notable exception is a 15-percent increase in General Fund support. This increase is necessary to offset the 11-percent increase in base personnel costs and

elimination of the onetime transfer of administrative fees which was required during the last biennium to help with the state's revenue shortfall. The maintenance decision units recommended by the Governor include inflationary items and the proposed employee pay increases. We have requested a number of enhancements to this budget account, all are driven by the need for us to keep pace with the rapidly growing and changing insurance marketplace.

E-252 Working Environment and Wage – Page B&I-4

E-254 Working Environment and Wage – Page B&I-5

E-256 Working Environment and Wage – Page B&I-5

E-275 Maximize Internet and Technology – Page B&I-6

E-710 Replacement Equipment – Page B&I-6

E-805 Classified Position Reclassifications – Page B&I-7

E-811 Unclassified Changes – Page B&I-7

Decision Unit E-252 requests the tools to combat fraudulent insurance schemes on the Internet. Between 2000 and 2002, Nevadans were defrauded out of \$10 million through unauthorized insurance. We are requesting a new investigative position, an off-network personal computer, dedicated fax and telephone lines. This investigator will search the Web for unauthorized solicitations and will procure policy and other documents which will become evidence used to close down these illegal operations.

To assist us in managing our information systems, we have requested a new computer technician position in decision unit E-254. This position will be responsible for keeping all agency equipment and software operating; train users on new applications; manage the Web site; maintain security at the agency level as well as our national databases. It will also backup the B&I's network technician in maintaining the data and file server.

Records management has always been a problem for the Division. The solution to our problems would be an imaging system. Since this is not a financially feasible option, we will need a file clerk to manage our records. This new position is requested in decision unit E-256.

In FY 2001 we embarked on a three-year plan to replace all the computer hardware which was originally purchased in the 1990s. That year, we replaced one-third of the personal computers (PC) in use. That plan was interrupted in FY 2002 when the Governor froze the purchase of new computer equipment. Last biennium we continued to abide by the Governor's request. It has now become critical that we replace this aging hardware and software before we experience a total system failure. Decision units E-275 and E-710 request replacement of 47 PCs and an overall upgrade to Windows XP. Decision unit E-805 requests the reclassification of three classified positions to achieve

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workplace equity. Decision unit E-811 is the Governor's recommendation for changes to the unclassified positions. We are pleased the long-standing pay and equity has been addressed. We urge you to consider the Governor's recommendation of pay increases for our attorneys when you are finalizing the unclassified pay bill.

CHAIR BEERS:

How do you decide whether to put the new fraud investigator position with the Division of Insurance or with the AG?

MS. MOLASKY-ARMAN:

The AG houses a fraud unit which is also under the authority of the Commissioner of the Division of Insurance. The AG principally handles fraud involving false claims. They do not focus on unlicensed insurer fraud. That has always been the responsibility of the Division. Our investigator takes enforcement and disciplinary measures on an administrative level. The AG fraud effort is through the court system. The fraud unit is funded by a fraud assessment; the assessment is divided between the AG fraud unit and the Division which receives 15 percent.

CHAIR BEERS:

How did you arrive at the estimate of revenue from insurance fraud assessments? Why is that number reduced in the *Executive Budget*?

JOHN R. ORR (Deputy Commissioner, Division of Insurance, Department of Business and Industry):

The statutes require the commissioner to levy the fraud assessment. The statutes also require the commissioner to support the special insurance fraud investigative unit in the AG's office. Procedurally, the AG notifies the deputy commissioner, Department of Insurance, by submitting their budget request for the coming biennium. We divide that budget request by 85 percent to determine the amount of the entire fraud assessment required to fund the AG's activities. As the AG's request goes through this budget process and eventually gets approved, we then have a final hard figure to use. We levy the fraud assessment each year on the first day of June. The 15 percent we retain is used to offset the General Fund amount.

CHAIR BEERS:

According to your performance indicators, the number of licensees is going up at about 10 percent per year. Is the assessment based on dollars per company or dollars per policy?

MR. ORR:

The assessment is based on a sliding scale and is assessed against the companies, not the licensee.

CHAIR BEERS:

Can you fund more of this new investigator position with your AG fraud assessment reserve?



MR. ORR:

That is a possibility. We advised the AG that if its request were to exceed the amount we can raise, using the sliding scale, we would need to go into that reserve.

CHAIR MCCLAIN:

Please explain this new investigative unit and why it will require three people.

MS. MOLASKY-ARMAN:

That investigator will be searching the Internet looking for fraudulent insurance schemes; people soliciting applications over the Internet with false promises for benefits and coverage that will never be paid. These schemes include all types of coverage: car, home owners, health and commercial insurance.

CHAIR MCCLAIN:

What is done when you find fraudulent insurance schemes? What if they are outside the United States? Is it possible for your existing staff to do this investigative work in addition to their other duties?

MS. MOLASKY-ARMAN:

Our goal is to curtail these false insurance activities. If they are outside the United States, there is little we can do. Once our investigator locates criminal activity within the United States, I can issue a cease and desist order. Our staff is tremendously backlogged in casework. Our caseload from FY 2001 through FY 2004 has increased from 255 cases to 477 cases. There were 447 cases open at the end of FY 2001, and in FY 2004 that number increased to 883. Our average caseload per investigator has risen from 224 to 308. Some of these cases can be extremely complicated and require the attention of a number of employees.

CHAIR BEERS:

Is this kind of fraudulent activity primarily in health insurance? Is there much workers' compensation insurance fraud?

MS. MOLASKY-ARMAN:

The major cost is due to fraudulent health insurance plans. But there are other types of insurance fraud, like surety scams, that are also costing the consumer money.

We are proposing legislation this Legislative Session requiring discount health plans to register with our office. There has been a large increase in discount health plans that are often not associated with medical providers.

We have had only two workers' compensation fraud cases in the last two years.

ASSEMBLYMAN HOGAN:

Do we coordinate our insurance fraud investigative efforts with other states? Do you have any plans to provide public information about your investigative efforts, as this might bring forth information from the public?

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MS. MOLASKY-ARMAN:

We are a member of the National Association of Insurance Commissioners (NAIC). The NAIC has an antifraud task force which tracks a variety of violations on a national level.

We have embarked on a public outreach program. As a result of support from legitimate insurance associations, we have developed billboards and distributed pamphlets. A recent poll shows public awareness of our antifraud efforts has increased 15 percent in the year since we began this information campaign. Because of funding from IFC, we are now producing radio and television commercials.

ASSEMBLYMAN HOGAN:

Is our enforcement authority comparable to other states with significant fraud problems?

MS. MOLASKY-ARMAN:

Our fraudulent insurance laws are nearly identical to those in other states.

CHAIR BEERS:

In decision unit E-254, are those services currently provided by an outsourced DoIT consultant?

MS. MOLASKY-ARMAN:

The B&I director's office does not have just one individual to assist. Currently, I am using an actuarial that also has talent in computer technology. She maintains our Web site and our important links with the NAIC databases.

CHAIR BEERS:

Please have your administrator work with our fiscal staff on your cost allocation items. How is your Medical Liability Association of Nevada (MLAN) program doing?

MS. MOLASKY-ARMAN:

It is doing well. The MLAN is the second largest medical malpractice carrier of medial liability insurance in Nevada.

CHAIR BEERS:

Is there another medical provider contemplating entering our market?

MS. MOLASKY-ARMAN:

Nevada Mutual Insurance Company is the largest carrier in the state. We have six medical malpractice carriers in the state and we hope others will come to Nevada.

CHAIR BEERS:

Are you keeping track of MLAN's actuarial work so the state does not end up with a financial burden in the next four to five years?

MS. MOLASKY-ARMAN:

Yes, we are closely monitoring MLAN.

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ASSEMBLYMAN HOGAN:

Please tell us more about how MLAN operates and what effect it had on the rates of the other five medical malpractice carriers in the state?

MS. MOLASKY-ARMAN:

In 2002, after the departure of a large insurance carrier from Nevada, we conducted a hearing and learned there was no other insurer willing to insure our 2,400 physicians who were left without coverage. The MLAN was established by statute. It was funded by a \$250,000 loan from the State Board of Examiners which has subsequently been repaid. The Division of Insurance's own actuaries decided on the initial rates. The MLAN is directed by a board and is funded by its own premiums. It contracts a private service to do the underwriting. In the event MLAN experiences a deficit, it is empowered to impose an assessment upon its policyholders. That assessment is limited to 100 percent of the premium. If that does not solve the deficit problem, the board has the power to impose an assessment on all member insurers; essentially all other casualty insurance companies licensed in the state.

SENATOR COFFIN:

Is general contractor's insurance available? Do we have any control over the premiums?

MS. MOLASKY-ARMAN:

We have none. Contractor liability is quite unpredictable and the risks are limitless. Settlements have exceeded premiums of insurers who were prepared to enter the market here. There are some insurers who will renew, but the premium rates are enormous. We have no control over the premiums.

CHAIR McCLAIN:

Please explain the salary increases for the two hearing officers.

MR. ORR:

We now have three insurance counsel and they are classified at a Grade 40. The lead insurance counsel, who is the most senior, earns more for supervising the other two. We are concerned with the Governor's recommendation in the budget for our attorneys. Our classified attorney positions start under \$50,000 per year. It has been a huge recruitment and equity issue within our Division. The unclassified attorney position has a maximum salary of \$87,000, but the Commissioner would generally start an attorney at that rate of pay. The maximum salary for the two lead actuaries is \$111,000, but both of their salaries are in the \$80,000 range.

CHAIR McCLAIN:

Is that the case in all these budget items; that is the maximum proposed?

MR. ORR:

The Governor in his State of the State message introduced the idea of establishing an 11-step system into the unclassified service. Essentially that is what the Commissioner has done. For an unclassified position, unless there is an extreme recruiting difficulty, she hires the person at a salary that will not upset the balance within the workplace and then advances the employee through that unclassified cap to recognize tenure.

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MS. MOLASKY-ARMAN:

For some time the deputy commissioners have been making less than the section chiefs, yet presumably they are in a higher position. These salaries have not seen the kind of adjustment they should have and are not in parity with the deputies or assistant administrators in other agencies.

CHAIR BEERS:

We will now open the hearing on Insurance Examiners.

B&I, Insurance Examiners – Budget Page B&I-10 (Volume II)  
Budget Account 223-3817

MS. MOLASKY-ARMAN:

This budget account is completely funded by insurers' reimbursement of examination expenses and administrative fees added to the cost of every examination. The Division conducts two general types of examinations, one is financial to evaluate solvency, and the other is market conduct examinations to evaluate the extent to which an insurer complies with the fair practice in consumer protection rules imbedded in statute and regulation. We have a number of independent examiners under contract to conduct both types of examinations.

The adjusted Base Budget anticipates higher reimbursement revenue based on the increased number of examinations made possible by engaging several new examination firms. These firms have the resources to conclude examinations more quickly than the sole proprietors we had been using. That allows us to schedule and complete more examinations.

E-275 Maximize Internet and Technology – Page B&I-12

Enhancement unit E-275 will allow us to purchase licenses for TeamMate which is proprietary software recommended for financial analyses and examinations by the NAIC. The request would license the seven Division staff members involved in financial analyses and examinations.

E-802 Cost Allocation – Page B&I-12

Decision unit E-802 is an accounting adjustment consistent with the Division's internal cost allocation plan. The reserve in this account, a cause for concern last session, has recovered as expected and will be at a healthy level by the end of the biennium.

CHAIR BEERS:

How do you determine your proper reserve level?

MR. ORR:

That is based on how long the Division will typically have to wait to be reimbursed for the examinations by the insurance companies. It is usually three to four months. Our reserve should cover our operating costs for at least that amount of time.

CHAIR BEERS:

That length of time seems excessive. Perhaps we should set up a statutory 2- to 3-percent finance charge that begins 16 days after not receiving the reimbursement from the insurance companies. Do you think that would accelerate your collection?

MR. ORR:

It would accelerate our collections, but it would also increase premiums.

CHAIR BEERS:

How would paying in a timely manner increase insurance premiums?

MR. ORR:

We have one person who processes these billings. Our commitment is to the sole proprietor examiners who are living paycheck to paycheck. We try to process payment to them in four days. We then bill the insurance companies for the examinations on a monthly basis. It usually takes about 30 days for an insurance company to receive our bill, and a company may take another 30 days to pay us. If another accounting issue arises during those transactions, it can set the billing to the insurance companies back even further. It is not unusual for us to be collecting money 90 days after we have paid it to a sole proprietor examiner.

CHAIR BEERS:

We are concerned about the size of your reserve. We are also concerned about performance indicators 4 and 5 for FY 2003 and FY 2004 on page B&I-10. Why was the number of these examinations less than projected?

MR. ORR:

We experienced some exceptionally complex examinations during that time which took longer than usual to complete. We also had significant turnover in our corporate and financial sections which are the sections responsible for examinations. We are now fully staffed in these sections and hope to reach our goals for the coming biennium.

CHAIR BEERS:

Please examine your performance indicators and see if there is a better performance measure than just the number of examinations, possibly one that takes into account the complexity level of the examinations. Let us know what you decide.

MR. ORR:

We will do that.

CHAIR BEERS:

We will now close the hearing on budget account 223-3817, and open the budget on Captive Insurers. Performance indicator number 2 on page B&I-14 shows the number of licensees is expected to grow significantly. What is driving that growth, and will this result in new staffing requirements?

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B&I, Captive Insurers – Budget Page B&I-14 (Volume II)  
Budget Account 101-3818

MS. MOLASKY-ARMAN:

We have permission from the IFC to retain a Captive Insurers program administrator to manage this program. Unfortunately, we are in competition with the other states and have not been able to fill this position. The people we would like to hire are being offered anywhere from \$25,000 to \$50,000 more by other states than we are prepared to offer. I am dedicated to finding someone who will represent Nevada. It is estimated each captive insurance company we bring to this state will result in a \$250,000 boost to the economy. Currently we are dividing duties for this program among our staff. We are developing marketing materials and are working with the Commission on Economic Development and Tourism.

CHAIR BEERS:

I would like to disclose that I am involved in a captive insurer, but derive no compensation from it.

SENATOR COFFIN:

I wish to disclose that I have been a licensed insurance agent since 1969. I will be participating and voting on these issues unless it is something that affects me personally.

CHAIR BEERS:

We will now close the hearing on budget account 3818 and hear the budget on Insurance Education and Research.

B&I, Insurance Education & Research – Budget Page B&I-141 (Volume II)  
Budget Account 101-3824

CHAIR MCCLAIN:

This budget provides funding for the training of staff, insurers, consumers, licensees and legislators. What kind of training is provided to legislators?

MS. MOLASKY-ARMAN:

I believe this refers to the cost of various reports provided to the Legislature.

CHAIR BEERS:

Why is the reserve so high? Do you think we need to reduce the renewal fee amount?

MR. ORR:

In the 2001 Legislative Session there was an unintended consequence of increasing the frequency and the number of people paying the insurance recovery fee. That fee is \$15 and has never changed because it was provided by statute; however, the amount of revenue it generated has risen. We would not argue against a reduction in that fee, but that is not part of our proposed legislation this year. It appears that a recovery fee of \$10 would not only fund this account, but would also generate enough money to keep the Insurance Education and Research account solvent.

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CHAIR BEERS:  
Would you work that fee change into your proposed legislation?

MR. ORR:  
We are past the point of amending the bill, yet we would not object to a Subcommittee amendment.

MS. MOLASKY-ARMAN:  
Our bill has a fiscal note, so it will be heard by this Subcommittee again.

CHAIR BEERS:  
Is COSMOS, your primary database software, working well?

MS. MOLASKY-ARMAN:  
It is working well.

CHAIR BEERS:  
We will reschedule the Real Estate Division budget hearing for another day. This meeting is adjourned at 10:55 a.m.

RESPECTFULLY SUBMITTED:

\_\_\_\_\_  
Michael Archer,  
Committee Secretary

APPROVED BY:

\_\_\_\_\_  
Senator Bob Beers, Chair

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

\_\_\_\_\_  
Assemblywoman Kathy A. McClain, Chair

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