

**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  
March 1, 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, March 1, 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 McClain, Chair  
Mr. Morse Arberry Jr.  
Mr. Lynn C. Hettrick  
Mr. Joseph M. Hogan  
Ms. Ellen M. Koivisto  
Mr. Bob Seale

**GUEST LEGISLATORS PRESENT:**

Senator Dennis Nolan, Clark County Senatorial District No. 9  
Senator Michael A. Schneider, Clark County Senatorial District No. 11

**STAFF MEMBERS PRESENT:**

Joyce Garrett, Program Analyst  
Bob Guernsey, Principal Deputy Fiscal Analyst  
Mark Stevens, Assembly Fiscal Analyst  
Sandra Small, Committee Secretary

**OTHERS PRESENT:**

Gail J. Anderson, Administrator, Real Estate Division, Department of Business and Industry  
James F. Nadeau, Nevada Association of Realtors  
Carol Tidd, Commissioner, Division of Financial Institutions, Department of Business and Industry  
Scott E. Bice, Commissioner, Division of Mortgage Lending, Department of Business and Industry  
Audrey Brooks-Scott, Management Analyst, Division of Mortgage Lending, Department of Business and Industry  
Carla Watson, Budget Analyst, Budget Division, Department of Administration  
Grant Reynolds, Information Systems Specialist, Director's Office, Department of Business and Industry

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William J. Maier, Administrative Services Officer, Director's Office, Department  
of Business and Industry  
Nancyann Leeder, Nevada Attorney for Injured Workers, Department of Business  
and Industry

Chair Beers:

Today we will review budgets for the Department of Business and Industry.

## BUSINESS AND INDUSTRY

B&I, Real Estate Administration – Budget Page B&I-68 (Volume II)  
Budget Account 101-3823

GAIL J. ANDERSON (Administrator, Real Estate Division, Department of Business  
and Industry).

The Real Estate Division has jurisdiction over seven chapters of license law. *Nevada Revised Statute* (NRS) 116 is relevant to the community association managers; NRS 119 covers the sale of subdivided land; NRS 119A relates to timeshare development projects which include timeshare agents and timeshare representatives as licensees; NRS 645 pertains real estate licensees that includes brokers, broker-salesmen, salesmen, property managers, owner developers and qualified intermediaries who do Internal Revenue Code 1031 land exchanges. The NRS 645C pertains to real estate appraisers and NRS 645D involves inspectors of structures, commonly known as home inspectors.

Budget account (B/A) 3823 is a General Fund appropriation budget. This B/A has 30 full-time employees and one part-time position. This B/A funds licensing; compliance; projects which include timeshares, subdivided land sales and membership campgrounds; appraisals; inspector of structures and the legal sections of the Division. The Real Estate Commission and the Commission of Real Estate Appraisers operate out of this fund. The legislative and regulation work, including cases on appeal, and the information systems specialist are also in this budget. All the real estate licensing and accrediting fees are deposited into the General Fund. Several specific programs have fees that are deposited directly into the administration budget. These are the timeshare agents and representatives with fees over \$600,000 in fiscal year (FY) 2004; the timeshare filing fee; the permits to sell; the examination fees with fees over \$1.4 million in FY 2004; the property management permit fees; some administrative charges and a cost allocation from two self-funded budget accounts. The total revenue in B/A 3823 in FY 2003 was \$3 million and in FY 2004 \$3.6 million. The Division operates on the revenues coming into B/A 3823 plus a General Fund appropriation. The real estate licensing fees into the General Fund in FY 2004 were \$2.6 million.

The performance indicators, as shown in our handout, Real Estate Licensees, ([Exhibit C](#)), show the licensing growth.

CHAIR BEERS:

I would like to interrupt your presentation so Senator Nolan can comment before he returns to another committee hearing.

SENATOR DENNIS NOLAN (Clark County Senatorial District No. 9):

I want to explain my own experience. Three years ago I got in a line that wrapped around the lobby. There were two windows. I thought I had everything I needed to get my license processed; however, the Web site had not been updated. As a consequence, I did not have all the information required and had to go through the process of waiting in line again. I talked with several people in those lines; some were there for the third or fourth time. When I recently passed the broker's test, I dreaded the thought of that long line. I called three different times to make sure I would have everything needed the first time through the line. It is difficult to get through on the phone because the staff is helping at the counter. If someone is sick, there is only one person at the counter.

The Division processes about 300 real estate licensees each month in Clark County. Every one of those people have to process their license through that little portal. It is not a good experience. I went to the Web site to check the requirements. Again, I did not have everything I needed. At that point, I went to Ms. Anderson and let her know of my frustration. This Division is not capable, with the resources available, to competently handle the workload. I am not disparaging Ms. Anderson. The Division is in desperate need of updating their Web site and additional people behind the counter. A month after my experience, I got a call from the Greater Las Vegas Association of Realtors (GLVAOR) who wanted my help as a Senator.

CHAIR BEERS:

Typically, when a Division needs help, we raise fees. In this case the fees, about \$4 million in FY 2006 and in FY 2007, go into the General Fund. We then give the Division a General Fund appropriation of about \$1.2 million.

SENATOR NOLAN:

I am sure the licensees would be happy to pay any fee enhancement to avoid the waiting experience. The GLVAOR polled their members who said they were willing to pay more if that results in efficiencies.

JAMES F. NADEAU (Nevada Association of Realtors):

Fees probably do not need to be raised because the licensees are currently paying more than their share. The fees generate about \$3 million and the Division's budget is about \$1.2 million. Page 1 of General Fund Revenues -Economic Forum December 1, 2004 Forecast ([Exhibit D](#)) indicates the licensing and fee amounts generated in FY 2001 through FY 2004 and projected fees for the FY 2005 through FY 2007 biennium. We need to reallocate more of that money to the Division so it can adjust to the significant growth of the industry. The housing industry is a huge economic boost to this State. The Division needs adequate support both in front of and behind the counter. It takes six to twelve weeks from the time of application until a license is issued. That is a result not only of insufficient staff, but because all application fingerprints have to go through the central repository which also has significant budgetary problems. The best timeline, from real estate school to getting the first check, is six months. That is a long time without a paycheck. There are efficiencies that can be implemented. There is money in licensee fees and transfer taxes. This is a good time to fund the Division as it has requested.

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CHAIR MCCLAIN:

Would you give us more information about the 2.5 positions in the Governor's budget and the integrated licensing and data system implementation timeline?

Ms. ANDERSON:

One of the positions is an administrative assistant I for the Las Vegas office licensing section. It is designed as a training position. This level can perform data entry, telephone answering and backup on the front counter. The requested administrative assistant III position will be for the legal administrative section. This administration budget has the Real Estate Commission and the Commission of Appraisers of Real Estate. The legal section cannot keep up with the postings, agendas, minutes plus the regulatory and legislative work. We would like to implement an advisory review committee for real estate similar to what we currently have for appraisers. This is an informal conference process outlined in our law that would help move caseload.

We have requested a counter remodel for the Las Vegas office due to an Americans with Disabilities Act issue.

CHAIR BEERS:

If the Committee decided to double the number of windows from two to four, can you do that in your existing square footage?

Ms. ANDERSON:

I have not had a contractor look at that, but probably not due to the way the office is currently configured.

CHAIR BEERS:

I misspoke earlier with respect to the \$4 million in fees deposited in the General Fund; I said we give the Division \$1.2 to spend. I now see we take \$650,000 of that back. We actually give \$550,000 of the \$4 million the Division collects. There may be room here to spend some money to improve the services.

Ms. ANDERSON:

The \$650,000 is the examination reversion money. The examination fees, \$1.4 million in FY 2004, all comes into the administration B/A 3823. We use that to pay the invoice from the testing service, then the balance is transferred quarterly into the General Fund.

CHAIR BEERS:

We would have to move quickly to make any changes in this budget. This is the end of a long budget process. I am hearing your licensees pay a lot of money in licensing and testing fees and are not getting good service for it.

Ms. ANDERSON:

We are doing the best we can. We have some limitations.

CHAIR BEERS:

Will the online offerings help?

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Ms. ANDERSON:

The online offerings should help with licensing renewals. We will not have the capacity in the initial phase to process online original license applications because of the fingerprinting and other original document paperwork required. We are part of the project for the State payment engine to enable the use of credit cards. We also have to determine how to handle the user fees or transactional fees for credit cards. The system implementation should go online internally some time this spring. We will need a few additional weeks before we go live to the public, but that will happen before the end of FY 2005. I am not sure of our status with the State payment engine. It may be the beginning of FY 2006 before we can go online with renewals.

We do have an allocation from the Real Estate Commission's research and development fund to perform an overhaul of the Web site. My deputy, Ms. Lisa Young, is handling this project. It would pair up with going live with the new system. Going online will help, but we will still be processing original documents that must be brought into the office.

CHAIR BEERS:

Do you anticipate July 2005 or July 2006 for online renewal capability?

Ms. ANDERSON:

We expect implementation at the beginning of FY 2006.

CHAIR BEERS:

How soon could you come back to us with an expansion of three or four windows, including the remodeling and personnel requirements?

Ms. ANDERSON:

The Department of Buildings and Grounds was not able to give a timely bid for the counter remodel. I will make a phone call today. Perhaps their schedule is better than it was a few months ago.

SENATOR COFFIN:

The Real Estate Division is in the Bradley Building. It is a tough building to remodel. Perhaps the Division should consider moving or moving some other agency out. The Bradley Building is close to the GLVAOR, so it is a good location. We could possibly make some changes in the Capital Improvement Program process.

CHAIR MCCLAIN:

What do you think the window activity will be once the registration is online?

Ms. ANDERSON:

The southern Nevada office receives 25-30 new applications a day. Online service is expected to drop the window applications by 30 to 40 percent.

CHAIR BEERS:

Is it possible to mail in a renewal?

Ms. ANDERSON:

Yes, you can mail in renewals.

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CHAIR BEERS:  
Do people prefer to mail in their renewal?

Ms. ANDERSON:  
Yes, but on the last day of the month, if the licensee has put off the continuing education, renewals come to the counter at the last minute.

CHAIR BEERS:  
Will the online renewal system show the continuing education credits?

Ms. ANDERSON:  
Yes, it will. We are working with the education providers to upload, by disk or electronically, the licensee information.

CHAIR BEERS:  
You have a startling increase in licensees. Your performance indicators show a moderate future growth. What caused the spike and why do you anticipate a slow down?

Ms. ANDERSON:  
I used an 8-percent increase. To continue the 15- to 18-percent increase did not seem reasonable. I do not know what is going to happen. The performance indicators do not show the original applications have increased 59 percent from FY 2003 to FY 2004. The market in this State has been so good. We get licensees from other jurisdictions. It is part of our growing population. The commercial and residential markets are expanding. We do not anticipate another 59-percent increase in new applicants. We have statistics in FY 2004 indicating 21 percent of real estate salesmen do not renew and 10 percent of the brokers do not renew. Timeshare agents represent over \$600,000 in revenue. We have major internationally traded corporations building timeshare developments, multiuse developments and condominium developments. Timeshare agents have a 24-percent nonrenewal rate. It is not a career path. Eighty-one percent of timeshare representatives, who are registered but not licensed, do not renew. Their job is to invite people to come to timeshare presentations. The timeshare licensing base has stayed around 10,000 agents and representatives which means there is continual licensing.

CHAIR BEERS:  
Is this licensing performed in person?

Ms. ANDERSON:  
Yes. Sometimes the project broker will bring in a packet with 200 applications to be processed.

CHAIR McCLAIN:  
Do all of these people need to be fingerprinted?

Ms. ANDERSON:  
The timeshare agents do, but not the representatives.

CHAIR BEERS:

Do you believe the spike in the number of applicants can be attributed to the property values in Las Vegas?

Ms. ANDERSON:

The property values are a result of the market and a low inventory. We have an increase in our compliance complaints because of the market. Things happen so fast that people have complaints about how their offer was handled.

CHAIR BEERS:

Is there a significant increase in the inventory? Are more new homes expected to be on the market?

Ms. ANDERSON:

Yes, inventory has increased. The market has stabilized.

CHAIR BEERS:

Are you seeing any stabilization in your licensee count?

Ms. ANDERSON:

We are getting a significant number of new licensees. My estimates may be low, but FY 2003 through FY 2004 was astounding, I do not believe it is a good basis for making projections. Two years from now I should be able to tell you if the number has stabilized.

CHAIR BEERS:

Why has the transfer from the Real Estate Division to the Administration Fund gone up?

Ms. ANDERSON:

We have an internal allocation plan. The transfer has gone up because of the administrative services received by the two self-funded budget accounts. I did a cost allocation based upon the involvement of the six administrative positions in the Administration Fund.

CHAIR BEERS:

The *Executive Budget* shows testing fees at \$1.6 million for each year of the biennium. The performance indicator for examinations is going up in both fiscal years. How can that be?

Ms. ANDERSON:

I had a discussion with the budget analyst regarding this. We decided to stay with the base number and adjust the \$1.6 million. In FY 2004, we completed the transition of all of our examination programs to the testing service. The Division has done timeshare, inspector and association management testing. All examinations have been developed by the testing service. The testing revenue comes into B/A 3823. I wanted to be conservative with the projections made.

CHAIR BEERS:

Should we look at adjusting your performance indicators to reduce your FY 2007 projection to your FY 2006 projection?

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Ms. ANDERSON:

I did the performance indicators before working with the budget analyst. We may need to change the FY 2007 projection.

CHAIR BEERS:

Do you think there will be more examinations in FY 2007 than in FY 2006?

Ms. ANDERSON:

I do not know. At the time, I was working with an 8-percent increase.

B&I Common Interest Communities – Budget Page B&I-87 (Volume II)  
Budget Account 101-3820

Ms. ANDERSON:

Fees collected annually from each registered home owner's association, filing fees for the Alternative Dispute Resolution (ADR) program and interest fund this account. The budget supports the Office of the Ombudsman for Common-Interest Communities and the Commission for Nevada Common-Interest Communities. This program grew in jurisdiction, scope and staffing with the passing of S. B. No. 100 of the 72nd Legislative Session. This budget has 13 full-time employees and has a 5-member commission. The graph shown on Homeowners Association Registration Statistics, ([Exhibit E](#)), does not match the FY 2004 workload indicators for the number of registered associations and registered units. It was updated in February 2005. It gives a picture of the number of associations and units in the State.

This program is requesting two notaries and additional advertising. We need to do more public advertising in terms of the services and educational programs we offer. We do not have a mailing list of licensees. Our newsletter is mailed to 6,000 entities, including the officers registered for the associations and the association managers. We do not mail to thousands of public members since the newsletter is available on the Web site. The Commission requested a training officer for this program to deliver, develop, manage and coordinate the education programs for home owners and executive board members. The training officer will review and monitor the education programs, develop and issue public service announcements, and formulate and design written and electronic information formats. The field officers have been doing some training, but the caseload is so high, it is hard to get them to do evening presentations. We want to experience another two years to review other personnel needs.

The reserve balance at the end of FY 2004 was \$2.1 million. This program was not fully staffed until May 2004. The Commission has yet to hold any disciplinary hearings which will be longer than the Commission meetings. That will also include legal, court reporter, transcription, legal notice and travel related costs. The ADR subsidy program was funded in FY 2004 with \$300,000 for the biennium. This is not shown in the base budget for FY 2006 and FY 2007. The program was not up and running. The Commission had to adopt regulations concerning the criteria for subsidy funding. The regulations were adopted at the end of the fiscal year and are currently with the Legislative Counsel Bureau (LCB).



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CHAIR BEERS:

Is it your agency's belief there are 240 claims that should be mediated? In FY 2004, you mediated 113 claims. Are there 100 out there that are going to court rather than mediation? Why is the passing of regulation increasing the number of disputes needing to be mediated?

Ms. ANDERSON:

One must go through mediation before going to court. There are costs involved with the ADR program. Some individuals who come into the office say they cannot afford to go through mediation. The Real Estate Division charges a \$50 filing fee plus there are costs for the mediator. Statutory authority was established for the Commission to develop a program to subsidize ADR so that individuals could seek a subsidy to go through dispute resolution. The cost is preventing some people access to mediation.

CHAIR BEERS:

Does that mean the Division is going to pay home owner's expenses in mediation? That would increase the number of mediation cases.

Ms. ANDERSON:

That is correct.

CHAIR BEERS:

When will that start?

Ms. ANDERSON:

We can publicize the program when the regulations are filed. The regulations include who may apply and a cap on the amount paid to the mediator.

CHAIR MCCLAIN:

Would you describe a typical complaint that goes to mediation?

Ms. ANDERSON:

Typically, complaints relate to the home owner's association governing documents.

CHAIR MCCLAIN:

Does it take \$500 to settle something like that? What has the Commission done? Have they been in existence two years?

Ms. ANDERSON:

The Commission was appointed October 2002. During their first year, they worked on developing regulations and reviewing current regulations. The Division presented reports to the Commission with all the statistics the Commission is required to gather, such as interventions, mediations and foreclosures. The Commission has been through two different training programs, including one mock hearing. They have a 10-case docket at the Attorney General's office and more that are in the real estate compliance section preparing for hearing.

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CHAIR BEERS:

I am familiar with a couple of disputes that were ludicrous on their face. If anyone can sign up to spend the Division's money on baseless disputes, will we have any money left for training?

Ms. ANDERSON:

People are emotional when it comes to their homes and property. I do not work in investigation and I do not take calls. I cannot tell you particular scenarios. The investigators who deal in this area feel overwhelmed with the intensity of feelings. We are there to try to get those things resolved. We try to do it at the ombudsman level. We intervene, get the facts, talk to people and try to get the situation resolved

CHAIR BEERS:

Is there any type of barrier to filing frivolous mediation? Will you pay both sides of the mediation?

Ms. ANDERSON:

Yes, the criteria is that both parties are eligible for up to a \$500 cap.

CHAIR BEERS:

What is the average cost of the 113 mediations in FY 2004?

Ms. ANDERSON:

It was \$500 to \$800 per party.

CHAIR BEERS:

There is, presumably, some financial participation on the part of the participants. Is this something you are directed to do by statute?

Ms. ANDERSON:

Yes, the authority to subsidize is in statute. The regulation states \$500.

CHAIR BEERS:

Could you have used \$250 in the regulation?

Ms. ANDERSON:

That is correct.

CHAIR McCLAIN:

Looking at some of these proposals, it seems you are looking for a way to spend. I do not see any dire need for any of the proposals.

Ms. ANDERSON:

The Commission has asked me to bring these things to you. However, the Commission does wish to study the effect of ADR.

CHAIR BEERS:

The Commission wants to use the reserve to study the effectiveness of ADR, \$25,000, develop and produce videotaped education for board members, \$40,000, and increase the ADR subsidy. What does "increase the ADR subsidy" mean? Does it mean increase the subsidy from \$500 to \$800?

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MS. ANDERSON:

No, it means to increase the number of people who can be served if there is a need for it.

CHAIR BEERS:

Do you anticipate, with free mediation, you will develop a waiting list?

MS. ANDERSON:

We anticipate a significant increase in the use of ADR.

CHAIR BEERS:

The Commission also wants to use the reserve to establish a home owner's recovery fund, \$50,000. The total for reserve expenditures is \$300,000 each year. The reserve is \$2 million.

MS. ANDERSON:

That is correct.

SENATOR MICHAEL A. SCHNEIDER (Clark County Senatorial District No. 11):

The Commission has worked diligently since the Governor appointed them in November 2003. The Commission oversees association managers and had to write regulations to do that. The association management industry has been upgraded. They are now licensed. They handle millions of association dollars. The reserve money would be used to allow people to have due process in a court-like system. Each side in a court dispute would spend thousands of dollars. Judges do not want to hear home owner disputes or listen to neighborhood arguments. You have heard stories about Phoenix, Detroit and southern Florida where home owners have pulled guns and shot people at association meetings. It has happened in Las Vegas. A man left his condominium association meeting, went to his condominium, got a gun, came back and shot a person. People get upset. We can get people in to settle their problems. On March 9, 2005, I will be in California at a meeting with a legislative committee interested in copying what Nevada is doing. We are leading the nation. Everything built today has a home owner's association. There are 80 high rises on the drawing board in Las Vegas. There will be huge problems with home owners' associations. The associations are getting more and more complicated.

ASSEMBLYMAN HETTRICK:

In the past, people have spent thousands to go to court. Now we are being asked to supplement the costs. Will this rise to the point where the Division pays all the costs? Should we write the regulation to allow the parties to address a situation, but the loser pays or pays something? I wonder if the arbitration would end if people have to pay.

SENATOR SCHNEIDER:

I appreciate your concern. The home owner's association board has money. The home owner struggles to make monthly payments. The board can attack a home owner. That is why we decided on the subsidy. The money is being generated. We should get the money into a system like this rather than letting the home owner get crushed. I do not think the system will spin out of control. Once decisions come down from this Commission, other home owners with the

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same problem will know what to expect. The ombudsman can relate previous Commission rulings.

ASSEMBLYMAN HETTRICK:

Assuming we use a subsidy, the Commission should use the newsletter to relate Commission rulings. The newsletter should be mailed directly to the home owner rather than waiting for the home owner to come to the ombudsman. We need to use the rulings as a preventive measure.

SENATOR COFFIN:

Who is doing the arbitrating?

MS. ANDERSON:

Mediators apply to work in the program. We get evaluations from the parties involved. The non-prevailing party shows its unhappiness in the evaluation process. We monitor the effectiveness of the mediators in terms of timeliness and getting through the process.

CHAIR BEERS:

What is the billing rate for the mediators?

MS. ANDERSON:

I do not know.

CHAIR BEERS:

Is it possible to negotiate a billing rate? I like the concept, but perhaps we could make our money go farther. It would be an incentive to get the job done quickly. Senator Schneider, what do you think?

SENATOR SCHNEIDER:

It is always good to shop around for a good price. In 1997, we set the fee at \$3 per door. It is still the same fee. I do not believe we need an increase. I think the Division is running an efficient operation. California is talking about an \$11 or \$12 fee.

CHAIR MCCLAIN:

Are Commission proposals in the budget yet?

MS. ANDERSON:

No, they are not.

The Division is not looking for ways to spend money. I asked the Commission what they would like and this is what they gave me. We are utilizing the reserves rather than raising fees. It would take a regulation to raise the fees. We are going to keep the fees at \$3 for a number of years. The Governor's *Executive Budget* will cost \$3.82 per unit.

CHAIR MCCLAIN:

Can the Commission do what it wants without anyone's approval?

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Ms. ANDERSON:

The Commission would need a bill draft request (BDR) or go to the interim finance committee (IFC) to get approval to enhance its budget.

Mr. HETTRICK:

Does the \$3.82 include the ADR?

Ms. ANDERSON:

The \$3.82 does not include the ADR.

Mr. HETTRICK:

Will the \$3.82 rise to cover the ADR?

Ms. ANDERSON:

If the ADR subsidy is restored, the cost will be just over \$4 per unit.

Chair BEERS:

Is the ADR in your budget?

Ms. ANDERSON:

The ADR is not carried forward from the Base Budget year. It will have to be addressed.

Chair BEERS:

Is that going to happen in an off-year budgeting process through IFC?

Ms. ANDERSON:

It appears it will because the regulations have not been put in place.

Chair McCLAIN:

How many new units will come online in the next two years?

Ms. ANDERSON:

We projected an 8-percent growth. It depends on how many of the condominium units actually are built.

Chair McCLAIN:

Did you get any numbers from planning departments?

Ms. ANDERSON:

No, I did not.

Chair BEERS:

The licensing and fees are \$900,000 for FY 2004. You are projecting \$821,000 for FY 2006 and \$899,000 for FY 2007. Is this where we would see the \$3 per unit income?

Ms. ANDERSON:

That is correct.

Chair BEERS:

Why is it going down?

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MS. ANDERSON:

We used the FY 2005 work program number to project the licensing and fees revenue. The actual for FY 2004 is greater than the FY 2005 number we used.

CHAIR BEERS:

The FY 2004 actual is about 20 percent greater. Should we adjust the projected revenue going forward?

MS. ANDERSON:

I would like to discuss this with our budget analyst.

MR. HETTRICK:

If we wait for IFC, rather than approving a request now, we have the advantage of seeing the regulations, growth numbers and caseloads. That would be more appropriate than trying to do it now.

CHAIR BEERS:

What is the time frame for these regulations?

MS. ANDERSON:

The draft regulations are with LCB now.

CHAIR BEERS:

Staff, I think we need to talk about how to reconfigure the office and increase the level of service in the Real Estate Division.

CHAIR MCCLAIN:

Ms. Anderson may want to contact the local governments and get decent counts on new units coming online.

CHAIR BEERS:

What process do you use to project new units?

MS. ANDERSON:

I use the 8-percent growth number we get from the State.

B&I, Financial Institutions – Budget Page B&I-97 (Volume II)  
Budget Account 101-3835

CHAIR BEERS:

Two years ago we made this a self-funded budget.

CAROL TIDD (Commissioner, Division of Financial Institutions, Department of Business & Industry):

I have revised all of the performance indicators for the Division as shown in the handout, Financial Institution Division's 2005 Goals ([Exhibit F](#)). This Division conducts the safety and soundness exams for all the financial institutions in the State. We have examination requirements under the statutes. We are in the midst of fine-tuning our licensing and renewal process. We do the process manually and are not requesting a computerized system to do the licensing at this point. We are looking for technology to satisfy our needs. We want to get more information on our Web site and expand staff training. There are

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organizations that certify a state financial institution's division which gives the division credibility. We are one of only six states that does not have that certification. We are attempting to get all of our examiners credentialed through the Conference of State Bank Supervisors and/or the National Association of State Credit Union Supervisors.

We are sponsoring this year, with the Treasurer's office, a program that will conduct presentations to high school seniors and college freshman about credit cards. We have had discussions with Assemblywoman Barbara Buckley on payday loan education. Payday loans are a large area we regulate. We are working on an expansive bill draft to get our regulations in sync. We are also dealing with employee growth by getting a succession plan in place inside the Division. We are working to fill our vacant positions with high-potential staff. We have hired a couple of strong people who bring a lot of experience. We are requesting additional staffing.

CHAIR MCCLAIN:

How do your institutions feel about your Division being self-funded? Is there enough cash flow to cover your operations?

MS. TIDD:

The representative from the Nevada Bankers Association asked if we are getting enough money. The institutions are supportive of what we are doing. Last fall we started billing out our Certified Public Accountant (CPA) expenses, which is allowed in our statutes. The CPA looks at financial statements of new applications and the payday lenders on an annual basis.

SENATOR COFFIN:

My family owns more than 1 percent of a State-chartered bank. It is a public company and my wife is on the board of directors of that bank. I need to make this disclosure.

CHAIR BEERS:

You indicated, on February 2, 2005, you would bring us a revised projection on fee revenue.

MS. TIDD:

You asked a question that we have been researching. We will be revising the revenue projections based on the revised performance indicators within the next few days. The revised revenue figures will tie to the performance measures listed in [Exhibit F](#).

CHAIR BEERS:

Will you have it within the next week?

MS. TIDD:

Yes, we will.

MR. HETTRICK:

The problem with the performance indicators is that you are still counting things. Counting things does not give us enough information. What we would like to see is something like violations per exam, not how many institutions

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there are. We would like to see hours per exam, cost per exam, things that tell us how you are operating.

Ms. TIDD:

I can give you an update. The handouts you received February 1, 2005, show an average number of hours per examination. That information is not in [Exhibit F](#).

MR. HETTRICK:

Staff capsulized what you gave them for your performance indicators. It says complaints and investigative time works out to be about 2.5 hours per issue. That should be a performance indicator. If it changes, you know where staff is needed and if staff is working effectively. It helps us know that when we provide funding, it is spent effectively. That is what we are trying to determine. Counting the number of institutions does not tell us anything about effectiveness.

Ms. TIDD:

I have that information and will share it with you. You are looking for the number of hours per exam and number of violations per exam.

MR. HETTRICK:

We need to know if it is necessary to do these exams every 12 months and in some cases every 18 months. If we find out that you do an institution examination every 18 months and spend 40 hours to find no violations, we might extend the examination period to every 24 months. If we find that every time you do a 12-month exam you find four violations, we may say you need more people doing those rather than the 18-month exams. We need to know we are effectively spending money.

CHAIR BEERS:

You have had two full-time positions on loan to the new Mortgage Lending Division. You are proposing transferring those positions out of the Financial Institution's budget and into Mortgage Lending. You want to add five new examiner IIs.

Ms. TIDD:

That is correct.

CHAIR BEERS:

How did you arrive at the number five?

Ms. TIDD:

We took the average number of hours per licensee per exam and the average number of hours for an examiner on a billable basis. Then we took the projected growth for each licensee group and the average number of billable hours per examiner to determine the number of examiners needed. We also took into account training time for new employees. Bank examiners have to go through the Federal Deposit Insurance Corporation (FDIC) school.

CHAIR BEERS:

How many examinations will you perform this year?



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Ms. TIDD:

The new performance indicators, [Exhibit F](#), show 36 depository institution examinations and 805 examinations of non-depository institutions. The depository institutions are the banks, credit unions and industrial loan charters. The non-depositories are the rest of our licensees, such as the payday lenders, installment loan companies, debt adjusters and money transmitters.

CHAIR BEERS:

What kind of percentage increase in examinations will the five new examiners give you?

Ms. TIDD:

It would be about a 30-percent increase.

CHAIR BEERS:

What is the reason for the examinations?

Ms. TIDD:

We have not been meeting the statutory requirement for exams on an annual basis. We must get into compliance. Our complaint numbers are increasing. We cannot help people with complaints about national banks, but we are spending time on complaints and investigations of unlicensed activity.

CHAIR BEERS:

Are you planning to raise fees?

Ms. TIDD:

We are requesting the ability to raise fees in our BDR. The fees have not changed in several years.

CHAIR BEERS:

Your Attorney General cost allocation has increased.

Ms. TIDD:

There is a two-year lag in the cost allocation. We are paying for the last biennium in this budget. I am not clear if all the Mortgage Lending activity is split from Financial Institutions. I can look into that detail.

MR. HOGAN:

One of your new performance indicators, [Exhibit F](#), is a count of complaints and investigation requests. What data did you have to make this projection and can you tell us how quickly you are able to resolve complaints?

Ms. TIDD:

We are working on getting the data captured. I spoke with the two supervisory examiners who see all the complaints. Complaints vary, but a typical complaint with payday lenders is that the lender loaned more than one-third of net income allowed by statute. The borrower argues they should not have to pay back the excess. We are getting complaints about check stop payments. Checks received are deposited and checks written against that amount result in overdrafts. Examinations show annual percentage rates are calculated incorrectly and records are not complete. Some people want us to clean up their credit reports.

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We cannot do that. We give the company complained against ten days to respond. Usually the response takes care of the situation. We will capture more information in our database including what the complaint is about, whom it is against, and resolution information.

MR. HOGAN:

As you develop the performance indicators, it would be helpful to show the outcomes and promptness of resolution. Outcomes will be of particular interest. You apparently regard many of the complaints as not valid.

MS. TIDD:

We take a look at all complaints and give every one a fair chance. Many times the borrower is trying to get out of paying back the loan.

MR. SEALE:

I want to disclose that I am an officer and sit on the board of directors of a trust firm in Nevada. What portion of the depository firms are examined by a federal agency?

MS. TIDD:

All of them. We have three Federal Reserve banks and the rest of our banks are FDIC banks. We either do the exams jointly with the Federal Reserve or the FDIC.

MR. SEALE:

Are these exams substantially the same as the federal exam?

MS. TIDD:

We conduct a joint exam. We have a team in the bank at the same time the Federal Reserve or FDIC does. There is an examiner in charge on both the State's and federal government's side.

MR. SEALE:

When the examination is done, is a joint report issued?

MS. TIDD:

Yes, it is issued as a joint report.

CHAIR BEERS:

I am looking back at Mortgage Lending and both the AG and State cost allocations are eliminated. The concern now is that Financial Institutions is picking up Mortgage Lending's share.

MS. TIDD:

I will look into that.

MR. HETTRICK:

Are you saying that if we did not do the examinations, the federal government would and issue the same report?

Ms. TIDD:

We are familiar with the Nevada banks. We get complaints about the banks and work with the bankers on an ongoing basis. We do need the local representation on the examinations. It is done this way around the country. You may see independent exams issued by the FDIC. Our goal is to get this State commissioned and certified. Then we would be able to do independent exams. The FDIC brings in people from San Francisco, Los Angeles or Phoenix. The whole idea of dual chartering is having the local regulators involved.

MR. HETTRICK:

It seems redundant to me. I do not know why we are paying for it if the federal government will do it. Do the FDIC exams occur annually?

Ms. TIDD:

If the bank is rated one or two and there have not been any major issues, the FDIC has the ability to take the bank to an 18-month schedule.

MR. HETTRICK:

Do you perform every exam jointly?

Ms. TIDD:

There are a few exams, as requested by the FDIC, that are done independently. That gives us more time on the non-depositories.

MR. HETTRICK:

I just came back from Washington, D.C. The federal government told us they are going to push Medicaid expenses down to the state level. The federal government is regulating these banks. If they are going to make the states responsible for Medicaid, I am of the opinion they should regulate banks.

Ms. TIDD:

As part of the dual chartering process, when a new bank comes to us, they must have both the FDIC's and the State's approval.

MR. HETTRICK:

It is the same approval. You are not going to deny them if the FDIC approves them.

Ms. TIDD:

We have that potential if we are aware of something amiss. We just had a situation with a bank application where the State pulled the plug before the FDIC did. It was a bank that never got the doors open, but we did have the application.

MR. HETTRICK:

It still seems to me we are duplicating efforts or saving the federal government half the money. We put our team in with their team. We issue a joint statement. I think we should look at this.

SENATOR COFFIN:

I would prefer calling the State rather than the federal government when I have a complaint.

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Ms. TIDD:

The national bank complaints go through the Office of the Comptroller of the Currency. It has been described as a black hole. We regulate 24 banks, 12 credit unions and 6 industrial loan charters. The vast majority of entities we regulate are non-depositories. If you look at where we are spending our time, it is away from the banks. The dual chartering process brings in local involvement. I see where you are coming from, but there is an advantage to having local involvement.

SENATOR COFFIN:

The Securities and Exchange Commission (SEC) has some control over many of these banks if they have any public issuance of debt or stock.

Ms. TIDD:

The SEC comes in when a stock offering occurs.

SENATOR COFFIN:

The Sarbanes-Oxley Act of 2002 has put the greatest onus on the SEC. My biggest concern with banks is not getting our checks back. The banks said they were saving us money; then they started charging us for not sending our checks. It is called a bank storage fee. Do you get many complaints about that?

Ms. TIDD:

There was some concern about people losing their float.

SENATOR COFFIN:

It is a surprise to some people when a check clears the bank the same day it is written.

Division of Mortgage Lending – Budget Page B&I-121 (Volume II)  
Budget Account 101-3910

SCOTT E. BICE (Commissioner, Division of Mortgage Lending, Department of Business and Industry):

I would like to clarify that we do have a \$225,000 expense for the AG's office in our budget.

AUDREY BROOKS-SCOTT (Management Analyst, Division of Mortgage Lending, Department of Business and Industry):

The cost allocations are in error. The budget office is aware of the error in the budget.

CARLA WATSON (Budget Analyst, Budget Division, Department of Administration):

We need to make adjustments. Next week we will look at the details of the cost allocation to resolve this problem.

MR. BICE:

The A.B. 490 of the 72nd Session created the Division of Mortgage Lending. We cover three licensee groups: escrow companies, mortgage brokers, and mortgage bankers. Due to the growth of the real estate market and low interest rates, almost every category in the initial planning has more than doubled. For

example, we expected to license 4,000 agents; we are at 7,600 right now. There were 500 lenders and we now have about 1,341. Therefore, the revenue is much higher than expected. I have provided a handout, Mortgage Lending Division, ([Exhibit G](#)), which supplements the information I am giving you today.

Our reserve balance is \$2.3 million. We record licensing fees when they are received. Licensing became effective July 1, 2004, for individual agents. We expense investigative costs as we go and have an outstanding amount of \$450,000. A six-month operating reserve of \$850,000 is prudent. Combining just those two amounts, we need \$1.3 million, leaving a \$1 million reserve. We run hearings for agent denials. We license upon receipt of completed information and deny after the fact. We anticipate 10 percent will go to hearing. Those hearings will cost the Division about \$228,000 annually. In the past, Financial Institutions had formidable investigative expenses, such as litigation expenses and conservatorship actions. Those expenses could easily run in the \$200,000 range. We can do many things with that reserve. We could eliminate the AG assessment and CPA expense. We could have education programs and public service information on such things as trust-deed investing. Approximately 40 of our mortgage brokers are private moneylenders; the majority are institutional home-loan lenders. It is important to consider education programs about doing due diligence before investing and fraudulent schemes. Nevada ranks number one, two or three in the top fraud origination states. Our Division spends a lot of time on these fraudulent scams. We continue to get new licensees; the business is robust. We have put the industry on notice that we do not condone unlicensed operations.

CHAIR BEERS:

It appears you are increasing your ongoing expenses to a level greater than your reserve and income. Does this mean you will raise fees?

MR. BICE:

No, the plan is not to raise fees. We have a BDR that addresses exams but does not raise fees. I am trying to address meaningful uses of that reserve.

CHAIR BEERS:

Are any of your suggestions in your budget?

MR. BICE:

No, they are not.

CHAIR BEERS:

Your reserve is increasing \$550,000 from FY 2005 to FY 2006 and then another \$800,000 in FY 2007. From that, we subtract \$225,000 in AG fees and the \$450,000 in unpaid investigative costs. That leaves you spending more than you are taking in because your reserve will then go down. Is that right?

MR. BICE:

The \$450,000 is a one-shot expense. This amount was recognized in FY 2004 as income and needs to be removed from FY 2005.

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CHAIR BEERS:

Your licensees have paid this money. You are spending it on fingerprint cards and other investigations that you have not paid for yet. Why is that a onetime cost?

MR. BICE:

It is a onetime cost because we pay as we go.

CHAIR BEERS:

Should the investigative costs be in the FY 2005 work program?

MR. BICE:

We were trying to get a work program to the March IFC, but did not meet the time limit.

CHAIR BEERS:

Your FY 2005 work program shows \$277,000 which is double the FY 2004 actual for investigative expenses. Does that include any of the \$450,000 or is it because the number of licensees is increasing?

MR. BICE:

The licensee numbers are high. I think the reason is partially timing.

CHAIR BEERS:

Are you saying the \$277,000 budgeted investigative expense is actually going to be \$477,000 and you are going to IFC for authorization?

MR. BICE:

That is correct.

CHAIR BEERS:

Are you saying you have budgeted \$111,000 for both FY 2006 and FY 2007?

MR. BICE:

The requirement to license all agents as of July 1 had a significant impact. There was an initial rush to license.

CHAIR BEERS:

Do you know of any other numbers that may exceed your budgetary authority?

MR. BICE:

No, unless growth is higher than we anticipate.

CHAIR BEERS:

Do you think you have accurately projected the number of licensees and the revenue and expenses they will generate?

MR. BICE:

We have made the best estimate we can. It is tough to consider what the state of the industry might be. We are assuming a 10-percent growth. It could be more or less.

CHAIR BEERS:

Did we write a law that combines companies that attract investors and loan that money out, and mom and pop brokers who market residence owners to finance and refinance residences and then turn the loan over to another company?

MR. BICE:

They are both licensed under NRS 645B as mortgage brokers. There are different requirements for people who are doing private money lending via investor funds. There are certain disclosures required.

CHAIR BEERS:

What risk to the public exists from the people who go out and market and then turn it over to a mortgage lender?

MR. BICE:

The \$5 billion annual amount said to be in mortgage fraud is from single-family lenders, not the people taking in investors' money. There are no fraud statistics involving people taking in investors' money and lending it out in trust deeds. We know from experience there are certain fraudulent operators who cost the public \$20 million or \$40 million at a crack. Based on my experience, over 23 years, the actual amount of fraud is higher on the single-family lenders than on people lending investors' money.

CHAIR BEERS:

How does that fraud take place?

MR. BICE:

Typically, the fraud we see comes in different ways. Straw buying and flipping is a big scheme right now. Usually a title officer, an appraiser and a realtor collude in this scheme. The straw buying also entails a fraudulent inflated appraisal. The property is flipped to another person after that. That is a common scheme in Las Vegas. We have several cases we are investigating now and are referring out criminally. There are all kinds of mortgage schemes out there; for instance, mortgage elimination, where companies say they can eliminate a mortgage for a fee. When we investigate, we find the fraudulent company operates out of a post office box and cannot be found. Owner-occupancy has also become an issue. It is not uncommon, when we look at books and records, to find five owner-occupied loans to the same person in a 30-day period. You can get 100-percent financing for an owner-occupied loan. I looked at a loan not long ago with a purchase of \$600,000. The borrower got an 80-percent first and a 20-percent second. They used a "stated income loan" and did not provide tax returns or W-2s. The person only needed \$600 to buy this \$600,000 home. As long as the real estate market continues to flourish, people will be able to sell that house in a couple of months.

Since Mortgage Lending has split from Financial Institutions, we have issued about 70 administrative actions for unlicensed activities. Consistent and objective regulation enforcement is imperative. We are doing a good job. Many complaints are time sensitive, maybe a day or a week, to coincide with a loan-closing cycle.

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Nevada ranks in the mid-range for fees, as I indicate in [Exhibit G](#). The trend in the states is to license mortgage agents. Nevada has been doing this since July 2004.

CHAIR BEERS:

The Division is requesting four new positions. The IFC approved three new examiner positions a few months ago. Did you fill those positions?

MR. BICE:

Yes, we did. We are fully staffed.

CHAIR BEERS:

Will the additional four positions bring you to seven examiners?

MR. BICE:

We have seven examiners now. We have six in Las Vegas and one in Carson City. We are requesting an additional examiner in Carson City.

CHAIR BEERS:

Are you requesting one more in FY 2007?

MR. BICE:

The four positions are the one examiner for Carson City, two administrative people and a CPA.

CHAIR BEERS:

Are you still determining what your staffing requirements will be?

MR. BICE:

Yes, we are looking at where we should be with staffing. We are trying to address the frequency of examinations. If you look at our workload performance indicators, [Exhibit G](#), you will see we hope to examine all licensees that were licensed through the year 2003. Our requirement is annually. When we took over, some companies had not been examined since 2000. Since the Division was created, our numbers have increased. There is no way we can make the annual requirement.

CHAIR BEERS:

Are you projecting a 25-percent increase between FY 2005 and FY 2007?

MR. BICE:

Yes, we are. We do not need to annually examine the companies we have rated as a 1 or 2, which is satisfactory. We have had no complaints resulting in action and no diminished financial capacity.

CHAIR BEERS:

Is an annual examination required by law?

MR. BICE:

Yes, it is.



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MR. HETTRICK:  
Do you have a BDR to change that requirement?

MR. BICE:  
Yes, we do.

E275 Maximize Internet and Technology - Page B&I - 124

We intend to piggyback off the Real Estate Division's system. We are fortunate to have a user-friendly Web site. We keep it up to date and post all administrative actions so consumers can see what is happening. We have received 300,000 hits on some of the pages.

MR. ARBERRY:  
I want to disclose that I am in the mortgage lending business and am regulated by this Division.

CHAIR BEERS:  
Will you use Real Estate's server?

MR. BICE:  
No, we will have a separate copy of their system on our server.

CHAIR BEERS:  
Where will it be located?

MR. BICE:  
It will be with the Department of Information Technology (DoIT) in Carson City.

CHAIR BEERS:  
Is there duplicate funding for software in this enhancement? You have \$15,828 for non-DoIT software licensing maintenance and upgrades and \$22,500 for a commercial off-the-shelf (COTS) software license.

GRANT REYNOLDS (Information Systems Specialist, Director's Office, Department of Business and Industry):

We intend to put Mortgage Lending on Real Estate's existing servers. There could be a slight overlap for ongoing maintenance because we can share the same version of third-party software, for example Sequel Server. We can prorate the costs of the shared equipment.

CHAIR BEERS:  
Can you have that information to us in a week?

GRANT REYNOLDS  
Yes, we can.

CHAIR BEERS:  
Can you explain why you are projecting the examination fees will go up substantially in FY 2006 and remain at that level in FY 2007?

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MR. BICE:

We started with four examiners. Within two months, two of them retired. That is one of the reasons our backlog continued to grow. The new examiners, including the ones approved by IFC, had to be trained. The projection is based on having examiners in the field on a full-time basis.

CHAIR BEERS:

Could you explain the differences in your fee revenue budget accounts?

MR. BICE:

There are general ledger codes we are using that are not descriptive. For example, we use an account titled Loan Guarantee Fees. That account really records agent renewal fees. The State's general ledger does not accommodate our specific needs.

CHAIR BEERS:

Have you investigated the possibility of renaming your general ledger accounts?

MR. BICE:

We look forward to working with the Budget Division to rename those accounts.

CHAIR BEERS:

Would you give us a key to these accounts.

MR. BICE:

Yes, we will. The accounts we use were hardcoded. It would be nice to change them.

CHAIR BEERS:

We will be smarter in FY 2007. Your Division is new and experiencing growing pains. You have an AG and State cost allocation which is not yet reflected in your budget. Will you provide a budget revision within a week?

MR. BICE:

Yes, we will.

MR. HETTRICK:

The performance indicators I have seen are back to counting things. We need a comparison, such as violations per licensee, so we can compare year to year if your education programs work. Processed licensing information per staff and exams per examiner would give us an indication for the efficiency of the operation.

B&I, Athletic Commission – Budget Page B&I-206 (Volume II)  
Budget Account 101-3952

WILLIAM J. MAIER (Administrative Services Officer, Director's Office, Department of Business and Industry):

I am here on behalf of Mr. Marc Ratner, Executive Director of the Nevada Athletic Commission.

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CHAIR BEERS:

The budget amendment we received increases your supplemental appropriation to \$18,500. Are you working with staff?

MR. MAIER:

Yes, I am. We need to refine the balance we will have. I promised our budget analyst we would have it today.

CHAIR BEERS:

You know we are unhappy when you overspend your authority.

MR. MAIER:

Yes, I do. In this case, there was a reclassification of positions due to a change in medical requirements for contestants. The added requirements for a magnetic resonance imaging and a magnetic resonance angiography in addition to the full-scale examination from an ophthalmologist required training for staff.

CHAIR BEERS:

Are these costs reflected in the biennium's budget?

MR. MAIER:

Yes, they are.

CHAIR BEERS:

Do you know why the money for the amateur boxing program is going down?

MR. MAIER:

The amateur fund receives 50 cents per ticket; if the event has gross receipts greater than \$5,000, the fund receives \$1 per ticket. The Commission intentionally understates the revenue because it has no way of projecting the number of events. I can try to get some information to better estimate these numbers.

SENATOR COFFIN:

I would like to know the schedule of fights to get a revenue picture. What is coming up in the next six months that is a big gate fight?

MR. MAIER:

I will get that information for you.

SENATOR COFFIN:

I would like to know the Commission's take on an advertisement running nationally on the 'What Happens in Vegas Stays in Vegas' theme. A fighter has been boxed silly and does not have his wits about him; a brain physician is inspecting him after the fight. There is an emotional moment, then the physician invites the press in saying the boxer is great. I think it is a funny commercial, but it is terrible for the image of boxing in Nevada. If this advertisement is off base or untruthful, we should ask that it be pulled.

MR. MAIER:

I will pass that along. The Medical Advisory Board consists of five physicians chaired by Dr. Margaret Goodman. Dr. Goodman has been a ringside physician

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since 1993. The Board takes the image of Nevada seriously. She responds immediately if there is a hint of a problem. I am certain they would feel that is an inappropriate advertisement.

SENATOR COFFIN:

I would like to know today if there have been any attempts to get the commercial off the air. We take the fight game seriously in Nevada. Some advertisements have a bit of truth.

MR. MAIER:

I know Dr. Goodman and Mr. Ratner work hard to establish Nevada as a standard for the nation. The Commission's budget is low, but they provide adequate support and have worked on a book to address boxing standards and help amateur fighters understand the importance of taking care of themselves and how to watch what is happening during a fight.

SENATOR COFFIN:

A powerful Las Vegas agency created this commercial. I think it is in bad taste.

B&I, NV Attorney for Injured Workers – Budget Page B&I-189 (Volume III)  
Budget Account 101-1013

NANCYANN LEEDER (Nevada Attorney for Injured Workers, Department of Business and Industry):

There is a mistake in Performance Indicator No. 2. The FY 2004 should read 3,542 rather than 6,982 requests for Workers Compensation information.

We have learned that E-326 was approved, not denied. A full-time security officer is funded one-half by Nevada Attorney for Injured Workers (NAIW) and the Hearings Division of the Department of Administration is funding the other half. Both agencies are in the same private building without access to Capitol Police.

The NAIW are appointed counsel to represent injured workers who are seeking workers' compensation benefits. We also give advice on rights and responsibilities dealing with workers' compensation and provide general information. We do all the work a trial attorney would do in litigation. We investigate, research and put together documents. Since the State went to a private insurance system, we have been doing more complex and time-consuming cases.

E275, Maximize Internet and Technology – Page B&I-192

This is a request for proposal (RFP). The RFP requested last time came in over budget and we were unable to complete the program.

CHAIR BEERS:

How does what you need differ from what a law office needs?

MS. LEEDER:

About \$175,000 goes to the vendor in the first year and \$7,500 in the second year. About \$16,000 is for the server, with the balance going to DoIT for

expenses. If I were a private law office, I would not have the DoIT expense. When I was in private practice, I would take into account what I saw around me, ask vendors for the best proposal and then choose from those proposals. I would not need the reporting capability necessary for projections required by the Budget Division and others so they can make determinations as to how accurate we are.

CHAIR BEERS:

Let me put my question this way. Functionally, what is different about you from a law office? This COTS system seems expensive to me.

MS. LEEDER:

This particular system has a Legacy component and a conversion component. We have a couple of people who have an interest in computers, but we do not have a technician on staff. We do not have the capability or the staff time to put new data into a new system. We need the Legacy information in order to have the history to provide statistics on our operation. We take into account a lot of past information.

CHAIR BEERS:

Are you talking about something like old cases settled?

MS. LEEDER:

Cases remain on our books for a long time. For instance, we went through a Department of Administration internal audit this past year. The auditors spent approximately six weeks trying to determine performance levels. He tried to correlate the Hearings Division information to our Division. Because the Hearings Division was in the process of changing databases, he did not have Legacy information. We are attempting to keep our Legacy information because cases continue year to year.

CHAIR BEERS:

You cannot access your Legacy information on your old system then access the new information on the new system from the same, or even different, workstations?

MS. LEEDER:

Not with a degree of accuracy. Maybe the information technology people know how to do it. I only know the auditor had a difficult time getting information.

CHAIR BEERS:

What kind of customization needs to be done to your COTS?

MS. LEEDER:

We will not know until after the RFP process and we select a system. We do not anticipate changing codes, but rather making sure the information we have matches the fields in the COTS system.

The auditors told us we should request two additional legal research analysts. We also requested a secretary for Carson City to support the additional analysts and because we experienced a total turnover in staff last year due to workload. The Governor's *Executive Budget* approved one analyst and one secretary.

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CHAIR BEERS:

The caseload growth in your performance indicators is flat.

MS. LEEDER:

The workload has gone up due to the complexity of the cases. That is one reason I gave you calendar year (CY) information in [Exhibit H](#). The calendar year gives you additional information. You can see in CY 2001 we were working on 77 district court cases and CY 2004 we had 97 cases. We have almost doubled the number of Supreme Court cases.

CHAIR BEERS:

I do not see the numbers to which you are referring.

MS. LEEDER:

That is because you have to add the unfinished cases to the opened cases. Motions and discovery went from 600 in FY 2000 to 1,000 documents in FY 2004. Advice calls were at 3,705 in CY 2004. The complexity of cases has increased. The length of time a case is open is longer. During this period, we are talking to clients, meeting with settlement judges or working on some type of document. Our appeals officer cases are more complex with more parties involved, because we have insurers fighting with employers, multiple employers fighting about who is the last injurious exposure, whether they are last injurious exposure, whether the insurer on the hook for employer A should be on the hook for employer B or should it be a different insurer. We have all of these complexities going on at the appeals officer level.

CHAIR BEERS:

The DoIT is concerned that you and your staff will not be able to help with this technology project; they do not think your budget is adequate.

MS. LEEDER:

What DoIT wrote is what is in the budget. The DoIT did not have the staff for program management and quality assurance. They took out the amount we put in at DoIT prices and inserted an amount for a master services agreement. That amount increased to \$93,000. We put in what is necessary in staff time. We devoted a tremendous amount of hours when we worked on the previous RFP. I could not be involved in the evaluation or the discussion of the RFP.

CHAIR BEERS:

Would you provide the Committee with brochures, Web links or literature on a couple of the different COTS solutions you are considering?

MS. LEEDER:

I can give you those we have been able to find. When we first started, we did a market survey. When the request for information went out on the Web, following DoIT procedures, some people responded. When the RFP went out, none of those people responded.

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CHAIR BEERS:  
There being no further business before the Committee, we are adjourned at  
11:07 a.m.

RESPECTFULLY SUBMITTED:

\_\_\_\_\_  
Sandra Small,  
Committee Secretary

APPROVED BY:

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

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

APPROVED BY:

\_\_\_\_\_  
Assemblywoman Kathy McClain, Chair

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