

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

**Seventy-Fourth Session
March 22, 2007**

The Assembly Committee on Ways and Means and the Senate Committee on Finance, Joint Subcommittee on General Government was called to order by Chair Bob Beers. at 8:09 a.m., on Thursday, March 22, 2007, in Room 2134 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

SENATE COMMITTEE MEMBERS PRESENT:

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

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Assemblywoman Kathy McClain, Chair
Assemblyman Tom Grady
Assemblyman Joseph P. (Joe) Hardy
Assemblyman Joseph Hogan
Assemblywoman Ellen Koivisto
Assemblyman David R. Parks

STAFF MEMBERS PRESENT:

Mark W. Stevens, Assembly Fiscal Analyst
Larry Peri, Principal Deputy Fiscal Analyst
Rick Combs, Program Analyst
Sarah Coffman, Program Analyst
Christine Bashaw, Committee Secretary
Patricia Adams, Committee Assistant



Chairman Beers asked whether there was a need to hear budgets out-of-order and William Maier, Deputy Director and Administrative Services Officer, Department of Business and Industry, stated Mendy Elliot, Director, Department of Business and Industry, asked to be present for the Insurance Division hearing and should arrive in a couple of hours.

Chairman Beers said the Department of Agriculture would be heard first.

Chairman Beers took a short break to reorganize and then began the budget on Department of Agriculture.

DEPARTMENT OF AGRICULTURE
ADMINISTRATION (101-4554)
BUDGET PAGE-1

LIVESTOCK INSPECTION (101-4546)
BUDGET PAGE-35

Chairman Beers opened with Budget Account (BA) 4554, Administration, and asked how the cost allocations were coming along. Rick Gimlin, Acting Director, Department of Agriculture, answered that the Department, after meeting with Chairman Beers's staff and the Budget Division, had incorporated the changes the Subcommittee recommended, but still had some discrepancies to correct. Mr. Gimlin continued that the Department was still working on the statewide allocation plan, purchasing cost assessment, and the Attorney General (AG) cost allocation plan.

Chairman Beers asked whether the revised cost allocations had caused any fiscal hardships to the supporting budget accounts. Mr. Gimlin answered because of the reallocation of costs, the reserve in Livestock Inspection, BA 4556 had dropped further which had been a concern for a long time. Mr. Gimlin also mentioned the reserve in BA 4551, Weights and Measures was low, but the account could accommodate the low reserve this biennium. Chairman Beers asked Mr. Gimlin to address the low reserves when reviewing those budget accounts.

Chairman Beers had heard concerns that "no one was going to take a dead cow to Galletti Way for autopsy" and questioned the location of the Capital Improvement Project (CIP) for the new Agriculture headquarters. Mr. Gimlin answered that the location for the CIP was in Sparks and was based on the available state land. Mr. Gimlin continued the Department served the rural community but was shipped a large percentage of agricultural business. The Department of Agriculture lab was in Elko and was a state-of-the-art facility that ranchers could access.

Chairman Beers asked whether there were satellite facilities in rural areas. Mr. Gimlin answered there was a seasonally staffed office in Winnemucca and a new building in Elko which should be fully operational by the end of March 2007.

Chairman Beers inquired whether Mr. Gimlin was confident in the amount of operating expenses in the budget for the new headquarters, and Mr. Gimlin answered yes.

Chairman Beers asked about the one-time appropriations for computers, replacement vehicles, and Department of Information Technology (DoIT)

services. Mr. Gimlin said the Department relied upon its own staff to maintain computers and followed the DoIT equipment replacement schedule. Mr. Gimlin stated that the Las Vegas office was replacing a phone system. Chairman Beers commented the one-time DoIT services were to set-up technology in the new building.

Chairman Beers asked whether Department of Agriculture budgets were scheduled to be heard again because of a revision to the revised cost allocation.

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, stated the plan was to bring the revisions to the Subcommittee at closing, and if the Subcommittee accepted the revisions, the budget would close. Otherwise, staff would go back and answer any question the Subcommittee had and bring further changes, if necessary, back to the Subcommittee for closing. Chairman Beers expressed concern that if the revised allocations took a sub-agency into a negative fund balance, it would be more than a routine closing decision. Mr. Stevens stated if that were the case, the account would need to be brought back before the Subcommittee for discussion before closing. Mr. Stevens noted that Mr. Gimlin had indicated Livestock Inspection was a concern, and it did not appear that the expenditure level recommended for this budget could be maintained during the 2009-11 biennium because the Department was spending all the brand rerecording fees, which were collected once every four years. Mr. Stevens did not know the effect the new cost allocation plan had on the Livestock Inspection budgets. Once the effect was known, the Subcommittee would have to review the budget and, if necessary, determine how to either increase revenues or decrease expenses.

Senator Rhoads stated the fiscal year (FY) 2006 Legislative Audit report indicated that the agency could have collected an additional \$50,000 in livestock head tax. Mr. Gimlin said the Department had taken some measures to increase the collection of head tax by reviewing procedures; however, because of wildfires last year, there was concern that there might not be enough forage in the State for livestock. Senator Rhoads questioned how the \$50,000 amount was determined. Mr. Gimlin thought the audit used figures from Nevada Agriculture Statistics Services which predicted the number of livestock in the State, and extrapolated a revenue difference from that number. Mr. Gimlin stated that not all livestock were in Nevada the entire year, and head taxes on those livestock were prorated.

Senator Rhoads also questioned the \$32,000 that should have been collected during the brand renewal period. Mr. Gimlin answered that the result of the audit identified collection procedures that had not been fully documented, but he believed there was a Bill Draft Request (BDR) that organized procedures.

Chairman Beers stated Chapter 575 of the Nevada Revised Statutes (NRS) was amended to maximize the head tax because of concerns with the agency's reserve level and the effects of the new cost allocation. In response to a question asked by Senator Beers, Mr. Gimlin answered that Senate Bill 47 would remove references to where the livestock was located, which created confusion because all livestock in Nevada were subject to head tax.

Assemblywoman McClain questioned whether this was the reason that some fees were being waived. Mr. Gimlin answered the intent of S.B. 47 was to ensure the Department was able to collect head tax. Mr. Gimlin stated that regarding the waiving of certain brand registration fees, there were different areas where past procedures were to waive those transfer fees, but the

procedures had not been fully documented and did not follow law. Mr. Gimlin reiterated that the Department had a Bill Draft Request (BDR) to codify its transfer fee policy. Ms. McClain wanted to make sure livestock fees were fairly collected. Mr. Gimlin stated he would provide the Subcommittee with written examples of reasons the fees were waived.

Chairman Beers asked for a description of the process for assessing and collecting head tax. Mr. Gimlin stated that a declaration was sent to known owners of livestock which had to be completed and returned to the Department. The Department then sends a bill for head tax to the owners, which covers cattle, horses, swine, goats, and sheep. There was a different tax rate per animal. Mr. Gimlin continued that there was no positive verification method in place, but staff compared the declarations to past declarations to identify discrepancies.

Chairman Beers stated that the revenue collected from the head tax was expected to decline and noted NRS.575.150 required the Department to estimate the number, kind, and classification of all livestock and sheep owned by any person failing to return the form for declaration of livestock. Chairman Beers asked how many forms were not returned and how many estimates were included in billings, and Mr. Gimlin answered that he did not know. Chairman Beers referred to NRS 575.230, which said a brand inspection clearance certificate must not be issued to a person delinquent in the payment of a tax, and asked whether Mr. Gimlin knew how many brand inspection clearance certificates were not issued because of tax delinquency. Mr. Gimlin did not know whether the Division of Livestock Inspection tracked those occurrences or whether the statute was being followed.

Assemblyman Grady stated the head tax used to be collected through the county assessor who could check on livestock. Therefore, income for the Department was probably much higher because there was a check and balance on livestock tax collections. Mr. Grady believed that Mr. Gimlin could not provide answers to the Subcommittee because there was no follow-up once the declaration was received; therefore, the tax was collected using an honor system, which was not working. Mr. Gimlin responded that Mr. Grady was correct.

Chairman Beers disclosed that if the reserve fell too low, a position in the livestock inspection account would have to be eliminated. He said that if there was not a check and balance on the collection of tax, a tax increase could also increase the underreporting.

Chairman Beers noted that the audit reported the Department undercollected brand fees in FY 2004 by an amount equal to the reserves and asked what was being implemented to ensure brand renewal fees would not be improperly waived during the upcoming brand renewal period. Mr. Gimlin referred to BDR 50-622 [S.B. 486] on brand transfer fees which would clarify exemptions. In response to a question from Chairman Beers, Mr. Gimlin responded brands were up for renewal in FY 2008.

Chairman Beers asked whether any of the additional revenue described in the audit was included in the 2007-09 budget. Mr. Gimlin responded he did not think it was, and Chairman Beers asked whether some additional revenue should be included. Mr. Gimlin thought part of the additional revenue could be included in the livestock inspection account, but said some of the revenue reduction was due to wildfire issues. Mr. Gimlin stated that because the cost allocation

schedule was being reviewed, the Department needed to find revenue wherever possible. Chairman Beers asked whether the Department would be revising the projected revenue in the livestock account, and Mr. Gimlin believed a budget amendment would be sent to the Budget Division.

Chairman Beers asked Mr. Stevens whether the Department could submit changes and work them into the closing. Mr. Stevens responded that the changes could be handled that way or however the Subcommittee directed, but there needed to be comments from the Budget Division. Chairman Beers asked Mr. Gimlin when changes to livestock fees could be given to the Budget Division. Mr. Gimlin stated he needed to speak with Jim Connelley, Livestock Inspection Division, and agreed to submit changes by Tuesday, March 27, 2007.

Chairman Beers asked that Mr. Gimlin report back to the Subcommittee in regard to the number and dollar value of the estimates in lieu of returned head tax forms. Mr. Gimlin agreed.

Chairman Beers indicated that based on the revenue projections, the reserve would be too low at the end of the 2009-11 biennium. Chairman Beers suggested that instead of reducing the improper waivers of brand inspections or increasing head tax, the Department should reduce expenses in anticipation of lower revenue the next four years.

Mr. Gimlin stated that the major revenues for the livestock account were brand rerecording and livestock inspections fee and noted that the intermittent inspectors, while comprising a large portion of expenditures in the livestock account, were also responsible for generating a large amount of revenue. Mr. Gimlin continued that a base reduction in the livestock account would involve full-time staff, which would save approximately \$90,000 to \$110,000 over the biennium. Chairman Beers recognized that was the amount the Subcommittee felt could provide an adequate reserve. Mr. Gimlin considered another option would be to approach the Board of Agriculture and raise fees. Chairman Beers felt that raising fees structure would not increase revenue because there was not enough controls over the revenue collection process; however, implementation of proper controls might resolve the reserve issue.

Senator Rhoads asked when fees were last increased, and Mr. Gimlin thought the fee increase for brand rerecording was effective in 2004. Senator Rhoads clarified he was interested in fees per head, and Mr. Gimlin replied the last increase was about two years ago.

Chairman Beers stated the Livestock Division Administrator had three out-of-state conferences scheduled in the 2007-09 biennium that had not been attended in the past. Mr. Gimlin agreed and stated the administrator had not been able to attend because of lack of funds.

Ms. McClain asked what the California Rural Crime Prevention Task Force meetings had to do with livestock. Mr. Gimlin replied meetings were attended on a regular basis, and the task force focuses on rural crime issues. Because California was a larger state with greater resources, the Department attends task force meetings to learn better methods of dealing with livestock-and-crime related issues as they relate to rural areas. Ms. McClain wondered whether Mr. Gimlin was referring to cattle rustlings. Mr. Gimlin answered that was one problem, but there was also a problem related to the modification of brands and new scams in the livestock industry.

Chairman Beers referred to decision unit E807 which proposed raises above the cost-of-living-adjustments (COLA) and step increases for 2.5 full-time-equivalent (FTE) deputy brand inspector 2 positions. This three-grade increase was not recommended by the Department of Personnel. Mr. Gimlin stated that request was not submitted to Personnel, but noted the deputy brand inspector positions were category 2 peace officers in the performance of their duties, and there was a salary adjustment in E812 that would increase the pay grades of those sworn officers. Chairman Beers was surprised to see the pay grade changes in the Governor's recommended budget, which rarely included such changes. He questioned why this change was not submitted to Personnel. Mr. Gimlin did not have the answer. Chairman Beers asked that information be presented on Tuesday, March 27, with the other revisions.

Mr. Grady referred to E807 and questioned whether the deputy brand inspectors really should be peace officers. Mr. Gimlin replied inspectors have had peace officer status for a long time. Mr. Gimlin said the positions were to check animal health certificates and insure that unwanted plant pests were kept out of Nevada, but it had never been the intent for the inspectors to stop people because of a broken tail light.

Chairman Beers closed the hearing on BA 4554 and BA 4546 and opened the hearing on BA 4537.

In a response to a question from Senator Rhoads, Mr. Gimlin replied there were two applicants for the position of Director and a decision would be made on or before April 8, 2007.

DEPARTMENT OF AGRICULTURE
GAS POLLUTION STANDARDS (101-4537)
BUDGET PAGE-9

Chairman Beers commented on the tremendous progress on the cost allocations. Rick Gimlin, Acting Director, Department of Agriculture, stated the meeting of March 14, 2007, was extremely productive and many questions were answered.

Mr. Gimlin stated the gas pollution account tested fuel samples statewide and insured the fuel met established standards. There were two labs, Las Vegas and Sparks, staffed by two chemists per lab.

Chairman Beers stated the performance indicators said there were 36 fuel standard violations reported in 2006 and questioned the type of violations. Mr. Gimlin replied most violations were water in the fuel. Chairman Beers asked where northwest Nevada received its fuel. Mr. Gimlin said he was not certain.

Chairman Beers moved on to E720 and questioned the request for alternative fuel chromatographs and was concerned there were not enough alternative fuel retailers to warrant two chromatographs. Chairman Beers asked what percentage of the alternative fuel vehicles in the State were owned by the government. Mr. Gimlin replied that Vernon Miller, Senior Chemist, provided information that there were 1,159 total registered alternative fuel vehicles which used compressed natural gas and liquid petroleum gas (LPG) in Clark and Washoe Counties. Eighty-one percent of those vehicles were model year 1996 or newer, and 19 percent were 1995 or older. Mr. Gimlin continued that only

two LPG fueled vehicles were registered, and they were in Clark County. Chairman Beers commented that there was not a breakdown of the ownership of the vehicles. Mr. Gimlin continued there were 464 vehicles that were propane-dedicated, and the majority of those were owned by taxicab companies. Mr. Gimlin believed the 464 vehicles were in addition to the 1,159 vehicles previously mentioned.

Chairman Beers asked how many fueling stations there were because the Department monitors the practices of the fueling stations and the quality of the fuel. Chairman Beers questioned the number of times per year a gas station was tested. Mr. Gimlin answered that the Department had sampled every station at least once per year, sometimes twice. Chairman Beers suggested that if each station were sampled twice and there were a dozen alternative fueling locations between the two ends of the State; there would be 24 samples a year. He asked how much the chromatographs cost. Mr. Gimlin stated the chromatograph purchased cost \$67,000 to \$68,000. Chairman Beers asked whether the 24 samples could be sent to California and tested through a contract. Mr. Gimlin stated that he would find out.

Assemblywoman Koivisto divulged that the research center at University of Nevada, Las Vegas (UNLV) had this kind of equipment, and she was reasonably sure that University of Reno (UNR) also had the testing equipment. Chairman Beers asked Mr. Gimlin to research whether samples of alternative fuel could be contracted out for testing by a university or another state.

Chairman Beers closed BA 4537 and opened BA 4540.

DEPARTMENT OF AGRICULTURE
PLANT INDUSTRY (101-4540)
BUDGET PAGE-15

Chairman Beers commented that the performance indicators for budget account (BA) 4540 were good. He noted the deferred maintenance and construction projects [M425 and M750] and questioned the reason for the relocation of the main entrance of the Galletti Way facility. Mr. Gimlin replied that it was a safety issue, the entrance was to be rearranged so entering and exiting the facility would not be hazardous.

Chairman Beers asked whether this was the location of the new agriculture administrative headquarters. Mr. Gimlin replied no, this facility was across from Department of Motor Vehicles (DMV) office.

Chairman Beers continued that according to the deferred maintenance schedule prepared by the State Public Works Board, deferred maintenance and construction costs totaled \$150,080; however, the budget recommended \$159,026, which was a difference of \$8,946, and Chairman Beers asked whether Mr. Gimlin knew the reason for the difference. Mr. Gimlin explained the budget request was originally submitted as one unit [M425], but in an effort to meet the expenditure cap, the decision unit was split into maintenance and construction decision units. The Department had requested \$150,080 in fiscal year (FY) 2008 and \$16,952 in FY 2009 for maintenance and construction in M425. Mr. Gimlin admitted there was no documentation for the \$15,127 in deferred maintenance in FY 2008. Chairman Beers asked for an explanation from the Budget Division, and Deborah Byberg-Reed, Budget Analyst, Budget and Planning Division, Department of Administration, explained the analyst who

had created this budget had retired, so she would have get back to the Subcommittee.

Chairman Beers referred to the Capital Improvement Project (CIP), which included a warehouse, and expressed the Subcommittee's concern the new Agriculture headquarters was going to render the Galletti Way facility obsolete. Mr. Gimlin explained the new project was not intended to replace the Galletti Way facility. The Agriculture headquarters would include covered parking for vehicles, two large storage areas for files, a greenhouse, and a place to mix strychnine bait. Chairman Beers asked and Mr. Gimlin replied that the Department felt it needed both facilities. Chairman Beers commented that previously Mr. Gimlin had testified the Department had decided to build the headquarters on existing State-owned land, but noted the Galletti Way property had greater market value per acre than land further out of town, which would have been more convenient for rural constituents. Mr. Gimlin replied the land was provided to the Department of Agriculture by the Department of Health and Human Services (DHHS), who originally owned the land. The office for the Division of Weights and Measures was built on the Galletti Way property in 1971.

Chairman Beers asked whether Mr. Gimlin had been working with staff to revise revenue projections in this account. Mr. Gimlin answered yes and said there would be a budget amendment to the Budget Division by close of business on Monday, March 26, 2007. Chairman Beers stated a revised projection for pest control operator licenses reduced revenue from the current fiscal year estimate of \$277,610 to \$272,495. The Executive Budget originally had the figure at \$281,225, and Chairman Beers asked why pest control operator licenses were being reduced this year. Mr. Gimlin replied the figure from The Executive Budget might have been incorrect; therefore, he reviewed all accounts and reviewed how cost allocations affected the administration account. Chairman Beers asked what cost allocations had to do with the revenue projections. Mr. Gimlin answered that when he reviewed the cost allocations, if there were cost allocation increases to BA 4540 he would not be able to offset those increases with General Funds, revenue estimates had to be correct to fund any additional increases as a result of the cost allocation plan.

Chairman Beers noted that the number of pest control operators in the State changed independently of the internal cost allocations. Mr. Gimlin agreed, and said he had misspoken, but his intent was to ensure the revenue estimates were based on growth in volume or a change in fees. Mr. Gimlin noted in this case that there was no change in fees, so the growth was due to volume. It was not Mr. Gimlin's intent to say the agency was going to raise the revenue figure to offset cost allocations, but he wanted to make sure the revenue figures were correct.

Chairman Beers asked whether the current work program figure for pest control operator licenses was accurate. Mr. Gimlin thought the figure was accurate. Chairman Beers commented the work program estimate was approximately 6 percent higher than the FY 2005-06 actual, but the budgeted amount for FY 2007-08 was lower. Mr. Gimlin replied that was correct, so the Department submitted a budget amendment to the Budget Division based on the past revenue history. Chairman Beers commented the revised revenue projections for FY 2008 for pest control operator licenses was lower than this years' work program estimate which meant that instead of consistent annual increases, revenues would go down in FY 2008 before going back up in FY 2009.

Chairman Beers requested that Mr. Gimlin review the projections and work with staff to produce better revenue projections.

Chairman Beers referred to the 2006 legislative audit which indicated that an additional \$50,000 in nursery fee revenue could be collected by the Plant Industry Division from unlicensed landscapers and nurseries. Mr. Gimlin replied the audit estimated there were over 400 companies that could have provided license revenue. Chairman Beers interjected that the audit identified approximately 800 additional businesses that would likely meet the requirement for obtaining a nursery license, but the audit estimated the Division could get licenses fees from 400 businesses. Mr. Gimlin continued that the revised revenue projection included approximately \$30,000 and the Division would work with the contractors' board to increase discovery of unlicensed businesses. Chairman Beers asked whether Mr. Gimlin believed he had increased the figures to bring some of the 800 additional businesses into compliance. Mr. Gimlin replied the Department had started many active discovery procedures, but had to make sure the discovered nurseries were inspected. Chairman Beers asked Mr. Gimlin whether there appeared to be a randomly generated set of revenue projections for BA 4540, and Mr. Gimlin agreed. Chairman Beers said that was all the Subcommittee needed to know and would expect better revenue projections in the next budget process.

Chairman Beers stated position control number (PCN) 27 appeared to have been funded from fees in the 2005-07 biennium but changed to General Fund in the 2007-09 biennium and should this be corrected. Mr. Gimlin believed that the position had been a General Fund position, but in the cost allocation in FY 2005 the position was perhaps erroneously switched to being funded 100 percent from nursery fees. In response to a question from Chairman Beers, Mr. Gimlin answered the Department's preference was that the position remain a General Fund position.

Chairman Beers referred to E812 which was a three-grade pay increase for peace officers within the Plant Industry Division which had been approved by the Personnel Department.

Chairman Beers asked whether the vehicles requested through the one-time General Fund appropriation would be alternative fuel vehicles. Mr. Gimlin replied he thought the vehicles could use alternative fuel and Chairman Beers asked Mr. Gimlin to find out for certain.

Chairman Beers closed BA 4540 and opened BA 4545.

DEPARTMENT OF AGRICULTURE
AGRICULTURE REGISTRATION/ENFORCEMENT (101-4545)
BUDGET PAGE-28

Chairman Beers asked what amount the Department recommended as the optimum amount of reserve for this account. Mr. Gimlin replied that some registration fees were increased to provide State funds to offset the potential loss of U.S. Environmental Protection Agency (EPA) program grants that provided approximately \$350,000 annually and supported three positions plus operating expenses. Mr. Gimlin stated there was talk that the EPA funds would be cut. Mr. Gimlin continued that fees were also increased to potentially replace equipment in the pesticide, fertilizer, and antifreeze labs. There had been no new equipment purchased because of lack of space at the Reno facility, but Mr. Gimlin expected to purchase some equipment for this account in

FY 2009. Chairman Beers asked when the Agriculture building was expected to open, and Mr. Gimlin answered that it would open around March 31, 2009.

Chairman Beers closed BA 4545 and opened BA 4550.

DEPARTMENT OF AGRICULTURE
VETERINARY MEDICAL SERVICES (101-4550)
BUDGET PAGE-45

Chairman Beers asked whether Veterinary Medical Services was moving to Reno after the new facilities were built. Mr. Gimlin answered yes. Chairman Beers asked and Mr. Gimlin answered that the agency had two facilities, one currently in Reno and the second that was just being completed in Elko.

Chairman Beers stated that M304 funded the Cost-of-Living-Adjustments (COLA) with federal funds, but M300 and E813, the fringe benefits and equity adjustments, were not federally funded. Chairman Beers asked why the three decision units were being funded differently. Mr. Gimlin commented that out of the ten positions in the account, one position was entirely federally funded, and some seasonal positions had federal funds associated with them. Mr. Gimlin stated it would be appropriate to review M300 and fund fringe benefit adjustments partially with federal funds, but he noted the four positions affected by E813 were supported by General Funds. Chairman Beers questioned whether the E813 adjustments were approved by the Personnel Department and Mr. Gimlin believed they had been.

Chairman Beers referred to M303, which reclassified a computer network specialist 2 to an information technology (IT) professional 3 and questioned whether this was a managerial position. Mr. Gimlin did not know, so Chairman Beers asked Mr. Gimlin to find out and report back the number of positions the reclassified position would directly supervise.

Senator Rhoads questioned the procedures regarding cattle trucks stopped at the California/Nevada border and the authority of the veterinarians to inspect cattle trucks. Mr. Gimlin believed that stops had to do with animal health certificates and said the state Veterinarian had quarantine powers.

Chairman Beers closed BA 4550 and opened BA 4551.

DEPARTMENT OF AGRICULTURE
WEIGHTS & MEASURES (101-4551)
BUDGET PAGE-53

Chairman Beers asked whether the bar code verification team was moved to the Weights and Measures account a couple of sessions ago and Mr. Gimlin replied it was but the program did not produce revenue.

Chairman Beers stated the Subcommittees concern with this account was S.B. No.165 of the 73rd Legislative Session made BA 4551 self-funded. The budget eliminated all General Fund appropriations for the next biennium, but the reserve balance at the end of the biennium equated to less than ten days worth of the agency's expenditures. Mr. Gimlin agreed that this reserve was extremely low and admitted petroleum inspection fee revenues were incorrect. He would submit a budget amendment to use Department of Motor Vehicles (DMV) projections.

Chairman Beers asked whether the reserve, after the budget amendment and cost allocation revisions, would be \$24,434 at the end of the biennium. Mr. Gimlin agreed, but said the reserve was still low. However, Mr. Gimlin believed the cash flow needs could be met because the petroleum inspection fees were collected by DMV and transferred to this budget account within the first 90 days of the fiscal year.

Chairman Beers asked what the optimum reserve level for the agency was for cash flow purposes. Mr. Gimlin responded the reserve level should be approximately \$80,000 to \$130,000 each year.

Chairman Beers remarked that decision unit E710 had one vehicle that was replacing a 1992 vehicle with 145,000 miles, but the request had been eliminated to increase the reserve level. Mr. Gimlin replied that was correct, but the vehicle requested did not produce revenue.

Chairman Beers's final concern was that the revisions to the cost allocations could make the reserve negative. Mr. Gimlin commented that he reviewed the methodology in the Statewide Cost Allocation Plan (SWCAP), and the amounts would remain at a reasonable level.

Chairman Beers closed BA 4551 and opened BA 4600 and BA 4556.

DEPARTMENT OF AGRICULTURE
MORMON CRICKET & GRASSHOPPERS (101-4556)
BUDGET PAGE-66

PREDATORY ANIMAL & RODENT CONTROL (101-4600)
BUDGET PAGE-71

Chairman Beers stated that there were no major concerns with these budgets and closed the hearing on the Agriculture budgets.

DEPARTMENT OF BUSINESS AND INDUSTRY
INSURANCE EXAMINERS (223-3817)
BUDGET PAGE-14

Chairman Beers opened the hearing on budget account (BA) 3817. Chairman Beers questioned why there was an increase of approximately 67 percent in the cost allocation transfer from this account to the Insurance Regulation account (BA 3813). Sally Elloyan, Deputy Commissioner of Insurance, Insurance Division, Department of Business and Industry, believed the Subcommittee would see increases in all budget accounts and referred to the meeting of March 8, 2007, regarding cost allocation in BA 3813. Chairman Beers remembered this discussion.

Chairman Beers stated in this account an administrative fee was established and, historically, had been 50 percent of the examiner's daily compensation rate for conducting an examination. Chairman Beers asked with the change in cost allocation were the fees going to be increased. Alice Molasky-Arman, Commissioner of Insurance, Insurance Division, Department of Business and Industry, stated she was going to provide some history regarding the administrative component of the examination expense. This administrative component had always been a portion of the examination expense charged to the examinee. Ms. Molasky-Arman continued that in 1976, the fee was

approximately 35 percent and by the 1990s the component had been increased to 100 percent, and later there was legislative direction that the fee should not exceed 50 percent. Chairman Beers restated his question, and Ms. Elloyan answered that 50 percent was adequate and explained that 160 scheduled examinations should address the increases in cost allocations.

Chairman Beers asked whether the increased productivity was reflected in the budgeted revenue amount, and Ms. Elloyan did not know the answer and did not know what the revenues were to date. Chairman Beers quoted examination fees in fiscal year (FY) 2006 were \$2.25 million, work program for this year was \$2.83 million, and the budget was \$2.876 million. Ms. Elloyan replied the Division had conducted twice the number of market conduct examinations projected in FY 2007, but she did not know the revenue generated. Rick Combs, Program Analyst, Fiscal Analysis Division, stated he would compile a list of questions for this budget for the agency and would allow a week and a half for response.

Chairman Beers said the Division had engaged specialists whose services were billed at more than cost so that projected examination fee revenues exceeded examination expenditures by \$554,051 in FY 2008 and by \$366,965 in FY 2009. Chairman Beers asked whether the division had the statutory authority to charge insurance companies for more than the actual costs incurred to retain the services of specialists.

Ms. Molasky-Arman indicated that the differences between examination fee revenues and examination expenditures reflected the results of problems with the receipt of revenues rather than charging insurers for more than the actual costs incurred to retain specialists. Chairman Beers stated that if this were a timing issue, it would correct itself in the next period. Ms. Molasky-Arman stated there were problems with receipts where examinees might have objected to the cost; for example, there was currently a \$43,000 receivable in excess of 90 days from the due date. Chairman Beers clarified that the expenses would be reported in FY 2006, but the revenue had not been reported. Ms. Molasky-Arman agreed and stated there were also insurers who had become insolvent and accounting differences because of the posting of expenses of the internal expert staff that may have performed the examinations. Ms. Molasky-Arman said she would often assign lead actuaries to perform an actuarial examination as part of an examination. Chairman Beers asked why this would be an issue. Ms. Molasky-Arman replied this would be an examination charge to the examiner. Chairman Beers asked whether the 50 percent administration fee was added when internal division staff conducted examinations. Ms. Molasky-Arman answered yes, and Chairman Beers asked whether this could be found in a subcategory actuarial cost and be mistaken for a contract.

Chairman Beers restated the issue was the examination expenses and revenue were not in balance and asked whether part of the problem was the use of internal Division employees to conduct examinations and whether an actuary's costs would be reflected as an examination expense. Ms. Molasky-Arman replied they would not. Chairman Beers said, therefore, the revenue would be recorded but not the expense. Ms. Molasky-Arman continued and said the actuary was not the only type of Division employee involved in market conduct examinations, which also require supervisory review of the examiners work and that experts on life and health or property and casualty insurance were also used. Chairman Beers asked how the cost of the outside contractors would be

included. Ms. Molasky-Arman replied the cost of the contract examiners were billed to the examinee.

Chairman Beers asked for comments regarding the projected performance indicators and the actual results for FY 2006. Ms. Molasky-Arman stated that to address the problems shown by the performance indicators the corporate and financial sections had established a monitoring system to make sure examinations were performed within the timeframe required. Ms. Molasky-Arman received a report which listed all domestic insurers, the date of their next examination, and the examination period.

Ms. Elloyan added this was a direct result of the Legislative Counsel Bureau (LCB) audit, and the Division had submitted a plan of corrective action.

Chairman Beers closed BA 3817 and opened BA 3818.

DEPARTMENT OF BUSINESS AND INDUSTRY
CAPTIVE INSURERS (101-3818)
BUDGET PAGE-17

Chairman Beers said there had been concern regarding the reserve balance but the work program approved by the Interim Finance Committee the previous day corrected the problem.

Senator Coffin asked whether the list of captive insurers was still increasing. Alice Molasky-Arman, Commissioner of Insurance, Insurance Division, Department of Business and Industry, responded that the growth in captive insurers had been very dramatic. The growth demonstrated efforts the Division had put forward. Senator Coffin asked the amount of revenue collected from captive insurers. Ms. Molasky-Arman replied the Division received insurance premium tax from the captive insurers, although the tax rate was considerably less than for other insurers. Ms. Molasky-Arman continued that the Division of Insurance received 25 percent of the premium tax from captive insurers for support of its services; however, Nevada benefits from the economic development that results from the establishment of these businesses in the State. Ms. Molasky-Arman said it was estimated by an economist that for every dollar of income generated by the captives there was approximately 4 percent increase in economic advantages to the State.

Senator Coffin questioned what warranty, expressed or implied, was there when a person carried a Nevada captive insurers certificate. Was there adequate indemnity? Ms. Molasky-Arman replied captives were self-insurers and were owned by the persons being insured. Pure captives were major business enterprises that set up a separate company to transfer the risk to that company. Senator Coffin asked for examples and Ms. Molasky-Arman provided examples that included MGM, Mirage, Harrah's, and Jacobs Engineering. Senator Coffin explained that with the growth of this industry, the Subcommittee wanted to be comfortable with awarding captive insurer licenses. Ms. Molasky-Arman gave an example of another kind of captive which was an association captive, those were formed for the purpose of acting as a risk retention group across the nation. Risk retention groups were enabled through the federal Risk Retention Act. Ms. Molasky-Arman continued that these companies required that all policy holders be owners and that all owners be policy holders and were established to provide professional liability coverage. The Division required every risk retention group to notify and disclose to every owner the nature of the organization and that they were self-insured and not

covered by the Nevada Insurance Guarantee Association. Senator Coffin recapped that every member of a captives group knows he was personally or corporately responsible if the captive insurer fails. Ms. Molasky-Arman answered that condition would depend on the kind of company that was established by the risk retention group.

Chairman Beers stated The Executive Budget did not include a separate revenue line item for administrative fees, so he asked whether this was included in the examination fee revenue. Sally Elloyan, Deputy Commissioner of Insurance, Insurance Division, Department of Business and Industry, replied yes, however, based on an opinion from Brenda Erdoes, Legislative Counsel, Legal Division, the Insurance Division would not be allowed to include a flat administrative fee for captive examinations, but if the Insurance Division could demonstrate actual cost to the agency involved in the examinations, that would be an allowable expense. Ms. Elloyan added that was a great resolution to the issue. Chairman Beers agreed and added Ms. Elloyan might consider requesting legislation to allow charging 50 percent of the expenses.

Chairman Beers rephrased his question and asked whether there were any add-ons to examination fees included in the examination fees revenue line item. Ms. Elloyan said she would review the work papers and would provide that information, but she believed such add-ons were included.

Chairman Beers asked to have this information broken out in the budget within ten days. Ms. Elloyan answered that in anticipation of this question she had reviewed billings for fiscal year (FY) 2006 and FY 2007 and the administrative fee amounts were not large. Chairman Beers asked for administrative fees to be separated from the next biennium, and Ms. Elloyan agreed and said that in discussions with Rick Combs, Program Analyst, Fiscal Analysis Division, it was agreed that a general ledger (GL) account would be created to account for any administrative costs associated with examinations.

Chairman Beers asked whether the Division was going to conduct all the examinations for the new captive insurers. Ms. Molasky-Arman explained the examinations were conducted by contracted examiners. The corporate and financial section, which is the section that reviews other examinations, performs the supervisory reviews of the contracted examiners. Chairman Beers asked whether that section's time should be transferred to the insurance regulation line item in expenditures. Ms. Molasky-Arman agreed there could be a modification of insurance regulation expenditures because of the intensity of the work performed by the corporate and financial section.

Chairman Beers asked whether there should be a transfer of expenses from BA 3817 to BA 3818 to reflect the amount of examiners' time that is being used for examinations of captive insurers because the revenue remains in the captive insurers account. Alternatively, the Division could transfer captive insurers' revenue to BA 3817. At present, money was received in one account and work performed in another. Ms. Molasky-Arman said that BA 3817, Insurance Examiners, had a transfer to BA 3813, Insurance Regulations, to recognize that staff of the Division of Insurance was performing part of the regular examinations. Ms. Elloyan clarified the transfer from BA 3817 to BA 3813 was just the interagency cost allocation. There was one team in the corporate and financial section that was funded by BA 3813. For a traditional insurer, those examinations were funded and reimbursed by BA 3817, which had a cost allocation line item that transferred funds from BA 3817 to BA 3813. In addition, there were other interagency cost allocations included in the transfer

because Ms. Elloyan and her staff spend time on contracts and review and pay bills, and the Division's legal department incur expenses in BA 3813.

Chairman Beers referred to the original issue that projected expenses did not reflect an increased level of examinations that must occur if captive insurer licensees were increasing. Ms. Elloyan understood and said that because the captive insurers budget was self-supportive, the goal was to have an examiner position funded by the captive revenues in BA 3818.

Chairman Beers said Mr. Combs stated the expenditures for contract examiners were in the operating category and the Subcommittee wanted to see this account structured like BA 3817 with the Division's costs and the contract examiner's costs not lumped into a single operating category. Ms. Elloyan thought such a change would be easy to implement. Chairman Beers asked whether this would be beneficial, and Ms. Elloyan said yes, and that she prefers more line items.

Chairman Beers asked whether the Division was planning on submitting a budget amendment to revise revenues. Ms. Elloyan replied she did not think so. Chairman Beers said it would be helpful to have the revised work program because it was hard to determine whether the revenue figures made sense.

Mr. Combs remarked that the Division needed to review and reforecast the revenues for the next biennium based on the work program that was recently approved; for example, the overall collections to date for the premium tax on captive insurers were approximately \$871,000, while the projections included in the Governor's recommended budget were \$748,000 the first year of the biennium and \$802,000 the second year. The Division had already collected more revenue this fiscal year than the projected revenues so the projections should be increased.

Ms. Elloyan said that she revised the premium tax projections down because revenues in FY 2006 were lower than expected, but they could be revised back up to a more optimistic projection. She noted that this year \$176,000 in premium taxes had been taken as a first year credit allowed by statute, which would mean another \$44,000 of revenue to the Division for its 25 percent share of the premium tax in FY 2008.

Chairman Beers stated it was good to see the reserve grow, but with the kind of growth in captive insurers the Division was experiencing with no growth in staff and diversion of attention to marketing the program, as shown by the increase in the Out-of-State Travel budget, it looked as though the FTEs to regulate and examine captive insurers were reduced at a time the workload was increasing. Chairman Beers continued that if the revenue increased with the workload, and the reserve was going to be large, the Division should hire more staff. Ms. Elloyan stated that was the plan.

Chairman Beers asked about the increased Out-of-State Travel for the chief insurance examiner position. Chairman Beers questioned whether this was a wise choice. Ms. Molasky-Arman stated the travel was not extraordinary for this particular position and had been requested in the past. Chairman Beers interjected that Out-State-Travel was increasing from approximately \$3,000 to \$30,000 per year. Ms. Molasky-Arman said the kinds of conferences this position attended were necessary to demonstrate a Nevada presence.

Ms. Molasky-Arman stated she was the person responsible for attracting one of Nevada's larger captives from the state of Vermont. Chairman Beers questioned how Ms. Molasky-Arman was able to do that with one-tenth of the proposed travel budget. Ms. Molasky-Arman replied the Division used the education and training budget, which had been discussed at a recent meeting.

Chairman Beers questioned whether there were reductions in the other budget accounts that were used to fund this travel. Ms. Elloyan stated in response to questioning at the March 21, 2007, Interim Finance Committee (IFC) meeting, she had prepared a spreadsheet detailing what was spent in FY 2007 in the various accounts, what was budgeted, and what was projected for FY 2008 and FY 2009. Ms. Elloyan made a list of the items in their correct accounting categories and what the Subcommittee would see was the increases in BA 3818 and BA 3824, which addressed the accounting issues the Division brought to IFC.

Ms. Elloyan reviewed the total amount spent in FY 2007 and what was requested in the Governor's budget for FY 2008 and FY 2009 and determined the budgeted amounts reflected the proper accounting.

Chairman Beers asked whether there had been a reduction budgets to reflect the monies spent in BA 3824 and that no longer needed to be spent because of the increase in this account. Chairman Beers said this issue could be discussed with Mr. Combs, and Ms. Elloyan agreed.

Chairman Beers questioned the reclassification of the chief insurance examiner position [E806], and the Subcommittee might be inclined to change the title without changing salary. Ms. Elloyan understood that unclassified positions were funded at a stated value with a maximum salary that the individual could be compensated, but that did not mean an individual would receive the maximum. Chairman Beers replied that Ms. Elloyan understood correctly; however, the budget reflected the maximum amount.

Ms. Elloyan stated she thought the statutorily assigned salary had to be in the budget. Ms. Molasky-Arman added that there was a strategic reason for the change, with the travel that was preformed by this position that entailed the use of overtime or variable time. Ms. Molasky-Arman stated the Department did not pay overtime unless authorized, so variable time would be provided, which must be taken within the same pay period it was earned, but the use of variable time interferes with the other obligations of the position.

Chairman Beers stated it would be researched to determine whether the chief insurance examiner could be exempt from the overtime requirement.

Chairman Beers asked how many employees the two existing deputy commissioners supervised. Ms. Molasky-Arman replied the Deputy Commissioner in the Las Vegas office supervised seven positions, and the Deputy Commissioner in the Carson City was responsible for administration, personnel accounting and holding the Commissioner's delegation to act as the Commissioner.

Chairman Beers stated that his point was both positions sounded more supervision intense than the proposed change in the chief insurance examiner position.

Chairman Beers closed BA 3818 and opened BA 3824.

DEPARTMENT OF BUSINESS AND INDUSTRY
INSURANCE EDUCATION & RESEARCH (101-3824)
BUDGET PAGE-26

Chairman Beers asked whether there was going to be a budget revision based on the work program approved at the Interim Finance Committee (IFC) meeting the previous day. Sally Elloyan, Deputy Commissioner of Insurance, Insurance Division, Department of Business and Industry, replied that information had been received from Rick Combs, Program Analyst, Fiscal Analysis Division, and she was compiling a work program reflecting the approved amounts; however, following the new internal control procedure, the figures had not been verified, and the Commissioner had not yet approved it.

Chairman Beers asked for a commitment from the Division not to pay bar dues from this budget account. Alice Molasky-Arman, Commissioner of Insurance, Insurance Division, Department of Business and Industry, believed there was some provision that caused the Division to start paying bar dues from the Education and Research budget. Chairman Beers stated the provision probably came from the reserve being too large.

Chairman Beers stated that the reserve money was to improve the regulatory apparatus, not to comply with continuing education or licensing requirements for employees. The Subcommittee would like assurance that the conferences and training seminars were beneficial to the Division and the State and were not being attended solely to provide an opportunity for Division employees to meet continuing education requirements.

Ms. Molasky-Arman assured the Subcommittee that the continuing education that was provided for Division employees was geared toward insurance. Chairman Beers commented there was a perception based on the IFC meeting that some of the education has not been meaningful.

Ms. Molasky-Arman acknowledged the criticism and stated it was deserved. Some of the criticism reflected the problems identified in the LCB audit, and Ms. Molasky-Arman expected to respond in May. Ms. Molasky-Arman further stated the Division would properly account for monies in the appropriate budget accounts.

Chairman Beers stated in E261 there was an increase in the amount of Health Insurance Portability and Accountability Act (HIPAA) training and asked whether there had been a change in the insurance related to HIPAA that would result in the need for additional travel.

Ms. Molasky-Arman responded that E261 reflected educational conferences and meetings with the United States Department of Labor (DOL) which were in Washington, D.C. and San Francisco. Ms. Molasky-Arman stated it was necessary for the Division to maintain the State's compliance with HIPAA. Chairman Beers agreed the meetings were necessary but questioned why there was a 2.5 times increase in HIPAA training over the last five years.

Ms. Elloyan would get back to the Subcommittee with regards to the increase, but the background was that this travel budget was always near \$20,000. Ms. Elloyan continued that during times of shortfall, the HIPAA travel budget was reduced to \$5,000, but she was trying to rebuild the funding.

Chairman Beers said E327 was the Consumer’s Guide to Title Insurance and asked whether the Division planned to put that on the web. Ms. Molasky-Arman said yes. Chairman Beers asked whether the Consumer’s Guide to Auto Rate was also on the web. Ms. Molasky-Arman replied that it was.

Chairman Beers closed this account and adjourned the meeting at 10:57.

Christine Bashaw
Committee Secretary

APPROVED BY:

Senator Bob Beers, Chair

DATE:_____

Assemblywoman Kathy McClain, Chair

DATE:_____

EXHIBITS			
Committee Name: <u>Assembly Committee on Ways and Means/Senate Committee on Finance Joint Subcommittee on General Government</u>			
Date: <u>March 22, 2007</u>		Time of Meeting: <u>8:09 a.m.</u>	
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster