

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

**Seventy-Sixth Session
March 25, 2011**

The Assembly Committee on Ways and Means and the Senate Committee on Finance, Joint Subcommittee on General Government was called to order by Chair Marcus Conklin at 8:01 a.m. on Friday, March 25, 2011, in Room 2134 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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/76th2011/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).

ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:

Assemblyman Marcus Conklin, Chair
Assemblyman Paul Aizley, Vice Chair
Assemblyman Kelvin Atkinson
Assemblyman Tom Grady
Assemblyman Randy Kirner
Assemblyman John Ocegüera

SENATE SUBCOMMITTEE MEMBERS PRESENT:

Senator Moises (Mo) Denis, Chair
Senator Ben Kieckhefer
Senator David R. Parks
Senator Dean A. Rhoads

STAFF MEMBERS PRESENT:

Mike Chapman, Principal Deputy Fiscal Analyst
Rex Goodman, Principal Deputy Fiscal Analyst
Jennifer Byers, Program Analyst
Teri Sulli, Program Analyst
Sherie Silva, Committee Secretary
Cynthia Wyett, Committee Assistant

Chair Conklin announced that certain agenda items would be taken out of order to coincide with Fiscal staff assignments.

DEPARTMENT OF BUSINESS AND INDUSTRY
B&I–EMPLOYEE MANAGEMENT RELATIONS BOARD (101-1374)
BUDGET PAGE B&I-34

Bill Maier, Administrative Services Officer, Director's Office, Department of Business and Industry (B&I), remarked that Director Terry Johnson had been delayed, and therefore he would present the budget for the Local Government Employee-Management Relations Board (EMRB).

Mr. Maier explained the Board supported two staff members: a Commissioner whose position was currently vacant and a Board Secretary, Joyce Holtz, who was present in Las Vegas to address members' questions. He said the two staff positions supported the Board, which consisted of three members appointed by the Governor under the 1969 Local Government Employee-Management Relations Act. The Board had jurisdiction over collective bargaining between local government employers and the organizations representing the employees and, as necessary, heard and decided disputes.

Mr. Maier said currently there were 150 city, county, school, and special district employers in the state with over 74,000 employees. During the 2011-2013 biennium, the Board requested continuous funding for the two positions and associated operating costs with no enhancements.

Chair Conklin noted the first performance indicator projected 76,000 employees to be benefited, but the budget was built upon 74,816 employees. He asked why the performance indicator was based on a different number than was projected from a budgetary standpoint.

Mr. Maier replied that from the survey conducted by the Public Employees' Retirement System (PERS), the number of employees was 74,816, which was the correct number. An amended performance indicator would be submitted.

Chair Conklin said the recommended reserves in fiscal year (FY) 2012 were \$84,867 and in FY 2013 they were reduced to \$24,205, which was only 15 to 18 days of reserve. He asked what the optimal reserve level was for the account and whether the agency was concerned about the level recommended for FY 2013.

Mr. Maier replied that Joyce Holtz, Board Secretary, started the assessment process early in the spring for the revenue collected in July. In the past two years, she was able to collect over 90 percent of the revenue within the first month of the biennium. He said the reserve level appeared low, but the money was collected in a timely manner, and Ms. Holtz had indicated she was comfortable with the amount.

Chair Conklin affirmed the money could be collected on a monthly basis, which would mean the reserve was sufficient. Mr. Maier reiterated the majority of the funds were collected in the first month of the biennium. In most cases, the local governments submitted their payments to Ms. Holtz in June before the new fiscal year started.

Senator Denis observed the performance indicators ([Exhibit C](#)) included the number of board hearings and number of board days. He asked for an explanation of board days.

Joyce Holtz, Board Secretary, Employee-Management Relations Board, testified from Las Vegas that board days were the number of days each Board meeting comprised. The Board usually met for three or four days, although sometimes the meetings were reduced to one or two depending on the cases to be heard. She added that telephonic emergency meetings were also called when a request was received for a rehearing, which had to take place within a certain number of days.

Senator Denis noted the number of pleadings filed [in FY 2010] was projected at 420, but the actual number was 506. He asked what factors drove the number of pleadings.

Ms. Holtz explained pleadings included every motion, stipulation, and legal document that had to be filed with the case. It appeared the cases were

becoming more involved: previously the maximum number of documents per case was 10 to 12 pleadings, and currently the number was 50 to 60 pleadings per case. Ms. Joyce explained sometimes the Board had to make decisions on a motion to dismiss or a motion to intervene, which created more paperwork. She said the increase in the number of pleadings was because of the complexity of the cases.

Senator Denis asked as future budgets were created, whether the performance indicators would reflect higher numbers. Ms. Holtz replied that was possible, but it would depend on the economy: the number of requests for hearings correlated with the state of the economy.

There being no further questions, Chair Conklin closed the hearing on budget account 1374 and opened the hearing on budget account 3900.

DEPARTMENT OF BUSINESS AND INDUSTRY
B&I—LABOR COMMISSIONER (101-3900)
BUDGET PAGE B&I-44

Chair Conklin announced the Subcommittee had no questions regarding budget account 3900. Fiscal staff would follow up on a concern Senator Denis had with the performance indicators ([Exhibit D](#)). Chair Conklin closed the hearing on the budget account and opened the hearing on budget account 4130.

DEPARTMENT OF BUSINESS AND INDUSTRY
B&I—TAXICAB AUTHORITY (245-4130)
BUDGET PAGE B&I-241

Bill Maier, Administrative Services Officer, Director's Office, Department of Business and Industry (B&I), introduced Ken Mangum, Administrative Services Officer, Taxicab Authority, B&I, and Kelly Kuzik, Management Analyst, Taxicab Authority, B&I.

Mr. Maier explained the Taxicab Authority was responsible for regulating the taxicab industry in counties whose population was 400,000 or more (Clark County). The agency was governed by a board of five members appointed by the Governor, and the board conducted hearings and made final determinations regarding the administration and enforcement of the *Nevada Revised Statutes* (NRS) related to taxicab operations.

Mr. Maier said the agency consisted of five sections:

- The administrative section was responsible for the personnel, payroll, accounting, company audits, licensing, and permitting functions.
- The enforcement section was responsible for investigating complaints, responding to incidents, enforcing the Taxicab Authority laws, issuing citations for violations, and conducting background checks on individuals applying to operate a taxicab company.
- The vehicle inspection section, on a quarterly basis, inspected every taxicab vehicle used in the county and certified them for service.
- The fourth section was the agency dispatchers, who were the direct contact with the general public, as well as other police agencies. The dispatchers tracked and dispatched the enforcement officers to incidents involving taxicabs in Clark County.
- The administrative court section processed the written citations, received fine payments, and scheduled hearings on citations before a hearing officer.

Mr. Maier went on to explain the Taxicab Authority was requesting a reduction from 62 to 52 positions as part of an effort to streamline operations and improve service. The agency also requested reclassification of airport control officers to reflect their actual duties and remove geographical limitations to provide for full compliance and enforcement investigations not only at the airport but also within the county.

Mr. Maier said the agency also requested replacement and upgrade of the agency's radios and replacement of laptops for enforcement investigators.

Chair Conklin asked what effect the elimination of five airport control officer positions would have on the agency.

Ken Mangum, Administrative Services Officer, Taxicab Authority, B&I, replied the reduction of the five positions over the biennium would amount to savings of approximately \$389,000. He explained four compliance enforcement investigators were requested in another section of the agency, and they would cover the duties of the airport control officers. The positions would become patrol positions rather than stationed positions.

Chair Conklin observed positions were being reclassified rather than eliminated.

Mr. Mangum replied nine positions were currently available, five would be eliminated, and four would be reclassified. He added the \$389,000 savings included the four reclassifications.

Senator Denis asked Mr. Magnum to explain the duties of an airport control officer. Mr. Mangum explained airport control officers actually performed the same duties as the compliance enforcement investigators, but they only had law enforcement authority on airport property. They determined whether the cabs had operational problems, watched for traffic violations, issued citations for violations, and assisted with other matters.

Senator Denis asked whether reclassification of the positions would allow the employees to be used in the field as well as at the airport. Mr. Magnum replied their primary assignment would be the airport, but they would now be available to pursue an investigation that might expand to other locations. Currently such a case had to be handed over to a compliance enforcement investigator because the airport control officers did not have authority other than at the airport.

Senator Denis asked how often the enforcement officers would leave the airport property. He speculated that if the officers stayed on airport property most of the time, in essence the reclassification would just provide raises. Mr. Mangum replied he could not anticipate how often they would be off the property. However, the purpose was to enable the officer to handle the investigation from start to finish. He said over the past four years, the airport had slowly been moving the airport control officers off the property; currently three law enforcement officers were stationed at the airport. The Authority previously had an office upstairs, but it had been relocated to the loading dock. He said removal of the law enforcement officers gave the airport the potential to add more Las Vegas Metropolitan Police officers.

Senator Denis affirmed a major reason for the reclassifications was that the Taxicab Authority was being forced off the airport property, and therefore the officers needed to have authority to go off the property. He had hoped to hear more justification for the reclassifications.

Mr. Mangum said one consideration was the amount of overtime usage and the ability to move staff to cover for overtime and cut overtime costs. The current budget for overtime was \$38,000, but the amount used was nearing \$92,000. He added that the proposed budget included the overtime funding.

Chair Conklin affirmed the agency had nine positions, three were filled, five were being eliminated, and the five being eliminated included the three positions that were filled. He asked whether the incumbents of the three positions would move into the four remaining positions.

Terry Johnson, Director, Department of Business and Industry, responded that the Department was currently working toward moving the incumbents into the vacant positions to avoid a break in service if the reclassifications were approved.

Chair Conklin asked whether there were qualification issues involved because the reclassifications would be from a grade 32 to a grade 37 or 39. Mr. Johnson acknowledged the increase was large, but the job descriptions and classifications of the airport compliance officer and the compliance enforcement investigator were sufficiently similar, which was the justification for the reclassification request. Chair Conklin clarified two of the vacant positions would be reclassified to a grade 37 and two to a grade 39.

Chair Conklin advised the Subcommittee had additional questions concerning the reclassifications, but Fiscal staff would submit them to the Department in writing.

Chair Conklin asked whether the Taxicab Authority had been involved in the development of the plan changes for the Senior Ride program, including the addition of income eligibility requirements.

Mr. Maier replied the Senior Ride program was operated by the Aging and Disability Services Division of the Department of Health and Human Services. He said the Taxicab Authority was involved only by the fact the statute required that if the Authority had a \$200,000 minimum reserve, it was required to transfer funds to support the Senior Ride program. He was not aware of direct discussions concerning changes.

Chair Conklin asked whether the change in eligibility requirements would affect the amount of reserve to be transferred from the Taxicab Authority.

Mr. Mangum replied the Authority had met with the Aging Services Division staff approximately a year before and made recommendations and requested reporting authority to know who would receive the coupons and their age ranges. Currently all that was received from the Division was the actual costs of the program, and the Authority paid the actual costs up to the legislative

authority. He said the fine points of the program were included in the Aging Services Division's policies and procedures.

Chair Conklin observed as part of the Administration's centralization of numerous divisions, the Taxicab Authority was transferring an administrative services officer position to the Department of Administration in October 2011. He asked whether there was a reason the transfer was delayed.

Mr. Maier responded most of the positions in the Administration's centralization plan would transfer in October 2011. The Mortgage Lending and Real Estate Divisions were facing an immediate fiscal crisis, and transfers of those divisions would take place effective July 1, 2011. The Department needed to build out space to move staff and develop procedures for the staff who would be immediately transferred. Mr. Maier added that over the biennium, the Department would determine whether further adjustments to duties and procedures could be made, and any changes would be submitted to the 2013 Legislature.

In the performance indicators ([Exhibit E](#)), Senator Denis noted the percent of vehicle inspections completed was 55.16 and the projected number was 60 percent. He asked what time frames were represented by the percentages.

Kelly Kuzik, Management Analyst, Taxicab Authority, B&I, testifying from Las Vegas, said that by policy, 3,000 taxicabs in Clark County were to be inspected four times a year. The actual percentage of inspections was currently at 55 percent, but some injured staff had returned, and he expected the percentages to continue to rise.

Senator Denis affirmed the cabs were being inspected at least twice a year. Mr. Kuzik replied he was correct.

Chair Conklin clarified his interpretation of the discussion on the position reclassifications was that the grade change from 32 to 37 or 39 and the movement of staff were for the purpose of consolidating activities and allowing other activities to be performed by the same positions, thereby reducing the agency's overtime and resulting in budget savings. He said Fiscal staff would follow up with the agency to ensure his understanding was correct. Mr. Maier replied Chair Conklin's interpretation was correct.

There being no further questions, Chair Conklin closed the hearing on budget account 4130 and opened the hearing on budget accounts 3922 and 3923.

DEPARTMENT OF BUSINESS AND INDUSTRY
B&I—TRANSPORTATION AUTHORITY (226-3922)
B&I—TRANSPORTATION AUTHORITY (226-3923)
BUDGET PAGES B&I-251 AND B&I-258

Andrew MacKay, Chair, Nevada Transportation Authority (NTA), Department of Business and Industry (B&I), stated the Transportation Authority was tasked with regulating intrastate motor carriers within the State of Nevada. The Authority regulated the charter limousine, charter bus, tow car, and household goods movers industries in addition to taxicabs outside of Clark County.

Mr. MacKay explained budget account 3922 was the major budget account for the administration of the NTA. The Governor recommended budget amounts were \$2,645,151 for fiscal year (FY) 2012 and \$2,525,290 for FY 2013. He reviewed the enhancement items included in the budget account:

- Salary adjustment for the chief inspector. The agency request was predicated on the fact that, in the 2007 Legislative Session, compliance enforcement investigators statewide, other than those employed by public safety, had received a three-grade increase. The result was that the chief inspector, whose position was unclassified, and who had authority over the compliance enforcement investigators, did not receive a commensurate increase and actually made less money than several of the positions he supervised.
- Replacement of technology equipment. The request was to replace the NTA file server, which was approximately ten years old.

Mr. MacKay explained the proposed budget recommended elimination of three positions:

- Supervisory compliance/enforcement investigator
- Program officer 1
- Deputy Commissioner—Transfer and subsequent elimination

Mr. MacKay explained budget account 3923 (Transportation Authority Admin Fines) was funded 100 percent by fines from citations written by enforcement officers of NTA and ultimately adjudicated. He noted the budget was substantially smaller, with projected expenditures of \$130,415 in FY 2012 and \$131,795 in FY 2013.

Chair Conklin asked how the elimination of the positions would affect the Authority and its consumers.

Mr. MacKay replied the program officer position had been vacant since December 2009 because of a revenue shortfall in fees paid by the charter limousine industry. The responsibilities and duties of the position had been disbursed among existing staff. He explained the elimination of the supervisory compliance investigator position would have an effect in two ways:

- The NTA existed for one purpose: safety. The biggest threat to the safety of the traveling and shipping public was illegal operators that did not want to abide by the rules. With less enforcement staff, NTA's ability to target illegal operators would be hindered. Mr. MacKay said the Authority would ultimately reprioritize within the Enforcement Division to minimize the effect on complaint investigations, which certainly would take longer.
- The second effect could be on the ability to put new vehicles into service and get them inspected in a timely fashion.

Senator Denis noted the position was a supervisory compliance investigator, and he asked whether the position was currently filled. Mr. MacKay replied the position was currently filled.

Senator Denis asked what would happen to the supervisory functions. Mr. MacKay said the other supervisory compliance investigator and the chief inspector would assume the majority of the duties.

Assemblyman Aizley asked whether elimination of the position would result in terminal leave payouts and PERS (Public Employees' Retirement System) buyout costs. Mr. MacKay replied he understood the incumbent would have the right to assume a similar position in another agency within the department. He believed the only other agency with a compliance enforcement investigator position was the Taxicab Authority.

Assemblyman Aizley asked whether elimination of the position would then be a transfer or a termination. Mr. MacKay replied it would be a termination from NTA's standpoint. However, he assumed the incumbent would transfer to another position within B&I.

Chair Conklin advised Mr. MacKay to pursue the question because termination of the employee could affect NTA's budget if buyout expenses were required. The Subcommittee would need clarification before closing the budget. Mr. MacKay agreed to provide the information as soon as possible.

Chair Conklin asked what functions would not be performed as a result of the transfer of the manager of transportation to the B&I Director's Office. Mr. MacKay explained the duties of the manager of transportation, ostensibly known as the deputy commissioner, were delineated in statute. As a result, the Authority would have no option pursuant to statute but to move those responsibilities to other individuals within the agency itself. The duties of custodian of records would have to be disbursed to other staff members. The deputy commissioner/manager of transportation position was the liaison among the staff, the regulated community, and the three commissioners who served as hearing officers and independent adjudicators. Mr. MacKay said the transition would be a continuous work in progress. The position elimination was slated to occur on October 1, 2011, and the agency had been in the process of distributing the duties.

Chair Conklin asked whether there would be a reclassification of positions in conjunction with the transfer of duties. He observed there were specific reasons the transportation director was hired in the first place, and those duties would be transferred to other administrative staff within the Authority. Mr. MacKay replied he did not anticipate any reclassifications. The duties of the position would be spread among the unclassified staff of NTA.

Chair Conklin assumed the transfer of the transportation manager to the Director's Office would require financial expertise, and he asked whether the incumbent met the criteria for the position.

Mr. Maier replied the statute relating to the individual's duties was reviewed. The duties were very specific, and half of them related to fiscal matters: overseeing the vouchers, accounts receivable, work programs, and preparation of the budget. He said the incumbent was the primary budget and fiscal support for the Authority, which was why the position was identified to be part of the centralization plan.

Senator Denis noted the agency's second performance indicator ([Exhibit F](#)) reflected the percentage of complaints against the industry that were resolved within six months. He asked how many complaints were received by the Authority in a year.

Mr. MacKay said he could provide the specific information by industry to Senator Denis. The majority of the complaints received by NTA were against the tow-car industry, and there had been a recent increase in complaints relating to rates being charged for nonconsensual tows. Senator Denis surmised if the majority of the complaints were against the tow-car industry, changes might be required to reduce them. He asked Mr. MacKay to provide the information in actual numbers rather than percentages.

Chair Conklin noted there were no further questions concerning budget accounts 3922 and 3923 and declared the hearing closed. He then opened the hearing on budget account 3841.

DEPARTMENT OF BUSINESS AND INDUSTRY
B&I—HOUSING DIVISION (503-3841)
BUDGET PAGE B&I-167

Charles (Chas) Horsey III, Administrator, Housing Division, Department of Business and Industry (B&I), stated he had served as the Administrator of the Division for 26 years. He introduced Dr. Hilary Lopez, Administrative Services Officer and Supervisor of Federal Programs, Housing Division, B&I, and Lon DeWeese, Chief Financial Officer, Housing Division, B&I, who had been with the Division since 1988.

Mr. Horsey testified budget account 3841 was the base budget and, in accordance with direction from the Administration, there were no enhancements requested. The performance indicators ([Exhibit G](#)) were based upon many years of providing financial services to the state.

Performance indicator number 1 was very positive. Mr. Horsey explained there was a renewed demand for first-time homebuyers, which was causing a reduction in the unsold housing stock throughout the state. For three or four years, the state did not have an inventory of housing for first-time homebuyers with low and moderate income, but the financial meltdown had caused an increase in affordable homes. He said the Division may have underestimated the demand from first-time homebuyers, although that was uncertain because most of the current sales were short sales, and it was impossible to determine when the loans would be closed.

Mr. Horsey said the state was also experiencing continued demand in multifamily or apartment project tax-exempt bond financings almost exclusively for senior citizens. He said there were significant vacancies throughout the

state for other types of rental units, but the demand for senior housing remained very strong. Mr. Horsey noted the developers of these projects in Nevada that were awarded tax credits were some of the best in the country; the units being built were aesthetically as good as any upscale units in the state.

Mr. Horsey stated that performance indicator number 3 reflected a very low foreclosure and delinquency rate because the Housing Division had not made any interest-only or variable-rate loans.

Senator Denis noted performance indicator number 3 indicated the projected delinquency rate for fiscal year (FY) 2010 was 4.4 percent, and the actual rate was 23 percent; the projected rate for FY 2011 was 4.4 percent; the rate for FY 2012 was projected to increase to the FY 2010 rate of 23 percent; and in FY 2013, the rate was reduced 11 percent. He asked for clarification of the wide disparity among the rates.

Lon DeWeese, Chief Financial Officer, Housing Division, B&I, explained the performance indicator involved down-payment assistance loans, and a review of the 2010 percentage increase indicated most second liens were proving to be very problematic for the lending institutions when compared to first mortgages. In the Housing Division's case, over 80 percent of the increase in the delinquency of down-payment assistance loans involved unemployed individuals.

Mr. Horsey said the Division had taken steps to help alleviate the delinquencies, and even though the market continued to improve, down-payment assistance was still necessary for low- and moderate-income families. He said the amount of exposure per loan had been reduced, but there was still good demand.

Mr. DeWeese said the growth in the first quarter of 2011 was typical of what the Division had seen during the last three recessions; there was close to \$100 million in first-year postrecessionary lending. He noted the numbers did not yet reflect a high level because it was still uncertain whether Nevada was coming out of the recession. However, Mr. DeWeese added, seeds of growth in the market were starting to appear before the typical second-quarter burst of seasonal activity.

Senator Denis asked whether the Division was seeing a particular pattern in the fluctuating rates of mortgage delinquency and foreclosures, again noting the projected rate for FY 2011 was 4.4 percent and the rate for FY 2012 was projected at the actual FY 2010 rate of 23 percent.

Mr. DeWeese replied the unemployment forecasts were not diminishing, and as a consequence, when there were still double-digit employment rates, the Division's existing portfolio of at-risk down-payment assistance loans would not cure itself rapidly.

Mr. Horsey added the Division would be working with the U.S. Department of Housing and Urban Development (HUD) and the Department of Employment, Training and Rehabilitation (DETR) on a new program that would assist in the production of remodeled and weatherized homes to remove those vacant homes from the market as well.

Chair Conklin requested that Mr. Horsey discuss the proposed merger of the Housing Division with the Manufactured Housing Division (MHD). He asked whether B&I representatives had discussed the merger with representatives of the manufactured housing industry.

Mr. Horsey replied meetings were currently being scheduled with the manufactured housing tenant groups, representatives of the mobile home parks, and manufactured housing dealers. Mr. Horsey, Mr. DeWeese, and Dr. Lopez had been meeting with the Administrator of the Manufactured Housing Division to educate themselves about manufactured housing. He noted the staff and Administrator of MHD were outstanding.

Mr. Horsey said in his opinion, the merger would be good for the state. When he was first approached about the merger, representatives of both divisions were alarmed at the number of positions that MHD would have to eliminate or not fill. He said the Division had great management, but the manufactured housing industry was suffering, and the elimination of positions was an indication that the Division was in somewhat of a financial bind. Mr. Horsey said as a result of the merger, there would be savings in information technology services, rent, and legal costs. He said the tenant groups were concerned, primarily because they were senior citizens and they were not comfortable with change, and the constituent groups liked the service they received from MHD. However, Mr. Horsey said the final merger plan presented to the B&I Director recommended that the Administrator, Mr. James V. deProsse, and his staff should remain and continue to direct the Division's efforts. Mr. Horsey said the Administrator would become a deputy in the Housing Division.

Assemblyman Kirner asked whether it would be necessary to rewrite certain statutes and regulations.

Mr. Horsey replied he understood that it would not be necessary to rewrite the statutes, but the budgets had to be approved by the Governor and the Legislature.

Chair Conklin indicated the Subcommittee had questions concerning the American Recovery and Reinvestment Act of 2009 (ARRA) funding, particularly the Tax Credit Assistance Program (TCAP) and Section 1602 Exchange funds. He understood TCAP funds were \$15.2 million for the period July 1, 2009, through February 16, 2012, and that the funds were close to being fully expended. The remaining balance was approximately \$211,000, but the FY 2012 recommended funding in The Executive Budget was \$3.9 million.

Dr. Hilary Lopez, Administrative Services Officer, Housing Division, B&I, explained when the budget was developed, the rate of expenditure at that time was used, but the funding had been expended at a faster rate than anticipated.

Chair Conklin questioned whether the amount in the budget should be adjusted to \$211,000 or whether that amount would no longer be available after the current fiscal year. Dr. Lopez anticipated TCAP funds would be expended by December 31, 2011.

Chair Conklin noted the new fiscal year started July 1, 2011, and he asked Dr. Lopez how much money should be available for the first year of the biennium. He asked her to meet with Fiscal staff to develop the correct figure for the FY 2012 budget.

Mr. Horsey remarked there was a lot of interest in ARRA funding to weatherize homes, but there had been concern that the program would not be successful. However, it was so successful that Nevada was recently notified it would receive \$7 million of new Sustainable Energy Resources for Consumers (SERC) funds to be used primarily for solar purposes; only a dozen other states qualified for SERC funds. He noted SERC funds were reflected in the Weatherization budget.

Chair Conklin stated there was a balance of approximately \$14 million in the TCAP and 1602 Exchange grant funds, and he asked whether the expenditure deadline of February 2012 would be met. Dr. Lopez replied all of the Section 1602-funded projects were required to be in service by December 31, 2011, to meet the drawdown expenditure date.

Mr. Horsey said it was important to state for the record that Dr. Lopez and her staff had distributed large amounts of funds in record time for some very good projects without an increase in staff.

Chair Conklin referred to the Division's Expanded Program Narrative and observed the Division had included some significant challenges it would face in the upcoming biennium. He asked the Division to elaborate on the challenges and discuss plans to deal with them.

Mr. DeWeese replied the Division was facing two challenges worthy of note:

- The general housing industry implosion and its pressures and effects with regard to the Division's overall program integrity and the stresses that would be placed on lending standards and availability of funding.
- The Tax Credit Assistance Program and ARRA stimulus funding would be reduced from \$47 million to \$27 million down to zero. The effects of the depletion of federal money would be a challenge, because it was unknown where funding would come from to keep the construction level moving forward.

Mr. Horsey added there was good news as well. The Tax Credit Program had been extremely beneficial to the state. When the program was created in 1986, tax credits were unknown and many people believed the program would be a waste of time. He said the opposite had been true: the program had saved the State of Nevada and many other states in the production of affordable housing. Mr. Horsey said when the program began, tax credits could only be sold to tax credit syndicators at 56 cents on the dollar, and then during the good times, they could be sold for 99 cents on the dollar. The tax credits that were purchased would become the equity the nonprofit would need. Mr. Horsey said when the implosion occurred, no one had profits that they needed to protect, and thus there was no industry to purchase the tax credits. However, he said the situation was improving, and the change was allowing developers of senior housing projects to come back into the market and build the much-needed units.

Chair Conklin asked for examples of developers that had recently come back to the market with projects.

Dr. Lopez explained there were currently 16 projects in various stages of construction funded through either traditional tax credit financing, tax credit financing with TCAP financing, or the Section 1602 program. As those funds

had run out, the industry had seen a return of investors to the traditional tax credit market, and the Division was hearing that those investors were interested in the State of Nevada and were offering prices from 83 cents to 88 cents on the dollar for tax credits. Dr. Lopez said notice had already been received from several developers, including Nevada HAND in southern Nevada and Gregory Development Group in rural Nevada, that they would be submitting applications for the next round for tax credit financing on May 5, 2011. Dr. Lopez said the Division fully anticipated having a full round of funding for five to seven projects.

Mr. Horsey added that earlier in the week, the developers were advised the Division would be able to provide financing for a very nice project in Winnemucca. There were also two first-class, assisted-living projects currently being developed in southern Nevada.

Chair Conklin asked what changes were projected in mortgage demands over the next biennium.

Mr. DeWeese replied the challenges to the mortgage market were twofold: credit standards and availability of lendable proceeds. The state was in a good position to have lendable proceeds and adequate amounts of bonding authority. The question would be whether there were enough new first-time homebuyers in the state to absorb the huge inventory of unsold and foreclosed-upon homes. Mr. DeWeese said it would be a challenge to qualify many of the potential buyers who would like to take advantage of the reduced prices of homes while maintaining the credit standards that sound lending practices required.

Chair Conklin observed many individuals were in a bad credit position or were involved in foreclosure; many had their jobs affected and were part of the 13.6 percent of the population who were unemployed, in addition to others who were underemployed or had their hours reduced and were earning less money. He asked whether the Division had explored ways to evaluate an application, not based on recent historical precedent, but on a longer-term precedent, for those who had good credit before getting caught up in the current economic circumstances. In discussions with individuals involved in the industry, it was his impression most of the foreclosure sales were actually cash purchases by investors who were paying pennies on the dollar for homes. If homeowners who had gone through foreclosure, oftentimes through no fault of their own, could correct their economic position by repurchasing a home at a greatly reduced price, both the homeowners and the economy would benefit.

Mr. DeWeese agreed with Chair Conklin's observations. He said the mainline bond program's rules were dictated by federal Internal Revenue Service rules. No one could apply for that program if they had ownership in a home in the prior 36 months. Regardless of their credit scores, they would not be eligible to apply through the first-time homebuyer program.

With regard to providing mortgage funds to those individuals with blemished credit, Mr. DeWeese said there were programs in the commercial banking industry. Unfortunately, for those programs tied to federal mortgage insurance programs, Fannie Mae, Freddie Mac, and the Federal Housing Administration (FHA), the credit scores were very important. There was great focus on the part of the Office of the Comptroller of the Currency in its safety and sound principles to ask the banks to tighten credit requirements, which unfortunately in Nevada, was very problematic for the type of program Chair Conklin had discussed. Mr. DeWeese said it would be worth exploring the creation of some sort of lending program; the question would be how to insure the loans in such a program, what source of revenue would be available to fund the loans, and whether the mortgage rate was too high to be attractive. He explained tax exempt bonds were restricted and could not be used, but taxable bonds were a possibility.

Chair Conklin said he realized not all of the states were in the same situation as Nevada, but he asked whether any of them were attempting to resolve the problem. Mr. DeWeese said there was currently much discussion concerning the dilemma among the peers of housing finance agencies, but there had not been a proposed solution. He offered to monitor the situation and report back to the Subcommittee.

Chair Conklin asked for an update on the status of the federal Hardest Hit Fund program. Mr. DeWeese responded he was one of the directors for the Hardest Hit Fund program, which started in February 2011. The volume in the first two weeks of the program had been encouraging. The Fund's Mortgage Assistance program was now statewide; there had been over 6,500 hits on the website, and over 2,500 clients had been processed through the triaging phone bank. Mr. DeWeese said approximately 52 percent were either nonqualified or underqualified, and the 48 percent remaining were in the process of submitting their application documentation to the application center.

In addition, Mr. DeWeese said the Principal Reduction program had quietly opened. He noted it was opened quietly because there were a very small number of banks participating in the program, and the agency did not want to

raise expectations when more than 90 percent of the applicants would be denied. He said more banks were entering the program, but they were planning on a late summer time frame. Mr. DeWeese said the agency hoped there would be more bank participation, but because of nonparticipation by Fannie Mae, Freddie Mac, and FHA, only the delinquent loans in the in-house portfolios of the national banks, which were only 1 percent to 2 percent of the typical bank portfolio, would qualify for the program.

Chair Conklin recognized the program had four subprograms. He asked for a condensed list of eligibility requirements for each of the programs. Mr. DeWeese said he would provide the information after the meeting.

Mr. Horsey recalled when President Obama and Senator Reid announced the Hardest Hit Fund program, the President made the statement that states would be given the ability to develop their programs specific to the needs of that particular state. However, that did not occur. Instead the U.S. Department of the Treasury was delegated to be in charge, and it took the Department several months to provide the states with the rules and regulations. Mr. Horsey noted the program had actually been in operation for only two weeks, and it was now up and running.

Chair Conklin called for further questions on budget account 3841. There were none, and he declared the hearing on budget account 3841 closed. He opened the hearing on budget account 4865.

DEPARTMENT OF BUSINESS AND INDUSTRY
B&I—WEATHERIZATION (101-4865)
BUDGET PAGE B&I-182

Dr. Hilary Lopez, Administrative Services Officer and Supervisor of Federal Programs, Housing Division, Department of Business and Industry (B&I), reported the major change in the Weatherization program was a reduction in the American Recovery and Reinvestment Act of 2009 (ARRA) funding for fiscal year 2012. However, the Division had received \$37.1 million in ARRA-WAP (Weatherization Assistance Program) funds, which would be available through March 2012. Dr. Lopez noted that several of the subgrantees were expending their funds at a faster rate than predicted, and some would expend their allocation by late summer or fall of 2011, which could result in the ARRA-WAP funding being depleted sooner than anticipated.

Dr. Lopez stated the other change to the program was the base funding from the U.S. Department of Energy (DOE) had also been reduced, so at the same time ARRA funding was being reduced, there would be a reduction in the DOE base funding. As a triple hit, she continued, the amount of funds received through the state's Universal Energy Charge (UEC) fund had also been reduced because the fund had not taken in as much money as it had in the past, which was primarily a result of the state's foreclosure problems.

Dr. Lopez said the Department was looking for ways to bolster the Weatherization program in the coming months through partnerships and exploration of alternate funding services to keep as many individuals employed in the program as possible and produce as many weatherized units as possible.

Addressing the performance indicators ([Exhibit G](#)), Dr. Lopez stated the basic indicator was the average cost per unit weatherized, which was approximately \$3,000. She noted the number of units weatherized would be decreased as a result of the reduction in funding.

Chair Conklin asked whether the Low-Income Home Energy Assistance (LIHEA) program was eliminated in the Housing Division's 2011-2013 biennial budget. Dr. Lopez explained it was eliminated, but the Division of Welfare and Support Services (DWSS) had a very high demand in its energy assistance program, and the Housing Division would work with DWSS over the next biennium to assist in meeting that program's demands.

Chair Conklin asked whether DWSS program's services were the same as those of the LIHEA program. Dr. Lopez replied the DWSS program provided energy assistance payments to the utilities, and the LIHEA program funds were used to enhance the Division's weatherization program.

Chair Conklin affirmed the Housing Division used the funds as a source for weatherization measures, and the DWSS funding was used to assist with the cost of energy. He asked whether a study had been done to determine which program was more cost-effective in the long-run or whether only one of the programs could be funded because funding was so reduced.

Mr. Horsey explained because the caseload at DWSS was huge and the Housing Division had \$37.1 million in ARRA funds, the two divisions entered into an agreement for the next biennium that DWSS could use all of its funding for energy assistance funding and forego its 5 percent allocation to weatherization

activities. It was a temporary solution to assist DWSS in making payments to the utility companies.

Chair Conklin affirmed the DWSS funding came from the UEC. Dr. Lopez explained there were two sources of funds. The state funds were from the UEC and were split between DWSS (75 percent) and the Housing Division (25 percent). The LIHEA funds were federal funds, from which DWSS transferred 5 percent to the Housing Division for weatherization activities.

Chair Conklin asked what changes were anticipated for the Weatherization program as a result of the loss of ARRA funding and whether the Division had developed any strategies to continue the program.

Dr. Lopez replied the fiscal year 2011 budget included federal receipts of \$6,962,049 for the Sustainable Energy Resources for Consumers (SERC) grant received from DOE as a result of being a high performer under the ARRA-WAP program. She said the Division had applied for SERC funds to bolster the ability to keep the program operational through March 2012 or even continue the program past March.

In addition, Dr. Lopez continued, the Division had partnered on a Healthy Homes grant submitted by the University of Nevada, Las Vegas (UNLV), and if the funding came through, UNLV would be able to pick up some of the home health and safety measures the Division typically performed under the Weatherization program, which would allow the weatherization funding to go further toward weatherization implementation. Dr. Lopez said the Division was also partnering with NV Energy on a demonstration project to help leverage the weatherization funds and work with the state to develop an initiative to leverage more weatherization funding.

Referring to the merger with the Manufactured Housing Division, Mr. Horsey said currently if the Housing Division representatives weatherized a manufactured home for senior citizens, the Manufactured Housing Division might also have to send an inspector. The merger would eliminate the duplication of effort: the staff of both divisions would be cross-trained and only one inspector would be necessary in the future.

Senator Denis noted the number of units to be weatherized was projected to decrease in the future, and he asked whether that was a reflection of the decreased funding. Dr. Lopez replied it was.

Chair Conklin asked for further questions from the Subcommittee. Seeing none, he declared the hearing on budget account 4865 closed and opened the hearing on budget account 3814.

DEPARTMENT OF BUSINESS AND INDUSTRY
B&I—MANUFACTURED HOUSING (271-3814)
BUDGET PAGE B&I-190

Assemblyman Grady asked if the two divisions were merged, how the Division would handle the present policy that building contractors could not work on manufactured homes; currently only manufactured home specialists could perform the work.

James deProsse, Administrator, Manufactured Housing Division (MHD), Department of Business and Industry (B&I), stated MHD had oversight throughout the state of the entire manufactured housing industry and commercial coach industry. He explained manufactured housing was considered personal property, unlike other structures, which were real property. Mr. deProsse said there were many laws in the *Nevada Revised Statutes* relating to manufactured housing for the specific reason that they were personal property.

Mr. deProsse explained budget account 3814 was the Division's operating and administrative account, which provided oversight to three key areas:

- Licensing: The Division licensed manufacturers of commercial coaches and manufactured homes that shipped them into the State of Nevada. It licensed dealerships and their sales forces and ensured they were qualified to handle transactions with the public.
- Service and installation: The Division licensed an array of service providers who performed installation and setups of manufactured homes, as well as general repairs.
- Titling: A Certificate of Ownership was issued to the owner of a manufactured home to prove ownership. There were currently 70,000 certificates of title issued to residents within the state. When a manufactured home was sold by one party to another, as with other personal property such as vehicles, there was a title that transferred with the transaction.

Mr. deProsse said the three key functions generated more than 90 percent of the revenue collected by the Division for budget account 3814. He explained the Division also provided oversight to manufactured-home parks and administered a lot-rent subsidy program for low-income residents. In addition, Nevada was designated as a State Administrative Agency (SAA) state, which meant the state had an arrangement with HUD (the U.S. Department of Housing and Urban Development) for oversight of a certified installation program to ensure the safety of homes once they were installed. The Division also handled complaints and resolved disputes with owners of manufactured homes on behalf of HUD.

Mr. deProsse said when he joined the Division 18 months before, he walked into a disastrous situation. He welcomed the challenge. He looked at it as an opportunity to make the Division better than it had been in the past. The Administrator's position had been vacant for two years, and during that time, it was managed by temporary administrators. Consequently, some of the difficult decisions that should have been made during that time frame were not made. He had to make some very difficult decisions, but he was proud to say that a year-and-a-half later, he was able to identify significant accomplishments of the Division:

- Working relationships were developed with industry, which did not exist in the past. Constituent groups were essentially ignored and had no relationship with the Division. Mr. deProsse had worked toward developing those relationships, particularly with the Nevada Housing Authority and dealers and other licensees in the state.
- Relationships were promoted with the Manufactured Housing Community Owners and the Nevada Homeowners and Tenants Association, which were both based in Las Vegas.
- There had been a declining revenue trend for years, and nothing was done to address how the Division operated. Historically, staffing and expenses were increased in years of increased revenues, but no action was taken when revenue peaked. Mr. deProsse said when he was hired, the Division was at least two years behind in addressing those problems.

Mr. deProsse said he immediately looked at the financial situation and recognized the need to develop a strategic plan. A plan was developed, which required some very difficult decisions, including relocating activities and positions from Las Vegas to Carson City, primarily for improved oversight,

review, and improvement of processes. The number of staff was reduced from 22 to 17.

- As a byproduct of discussions with the homeowners' groups, Mr. deProsse said the backlog of processing titles had been reduced from 60 days to 2 days. Many of the homes were taken back by the banks through foreclosure, and the bank owners had to wait 60 days to resell them.
- The size of the Las Vegas office was reduced, providing a savings of approximately \$24,000 a year in rent.
- About \$20,000 per year was being spent on outsourcing training for licensees. That program was eliminated, and online options were found that were free to the state.
- Expenditure of \$65,000 to scan and store old documents was eliminated. The Division had a 40-year retention cycle for titling documents; however, most of them were never researched.

Mr. deProsse believed the Division had done a great job of resizing and scaling back its operations within the revenue stream it collected.

With regard to the Division's biennial budget, Chair Conklin stated it would be helpful to the Subcommittee if Mr. deProsse could provide the following:

- Explain the proposed consolidation of the Division's four program accounts into one, and the rationale behind the proposal, including cost savings, benefits, and efficiencies that would be gained as a result of the consolidation.
- Detail any changes proposed for the collection of interest and how the account would be affected.
- Discuss the Division's reserve levels, how the elimination of several positions would affect the reserve level, and what the optimal level of reserve was anticipated to be as a result of the account consolidation.

Chair Conklin explained the Manufactured Housing Division was not the first agency to request consolidation of accounts, but it was important to document the source of the reserves and how the reserves would be expended.

Mr. deProsse replied if the biennial budget was approved as proposed, the four operational areas of the Division would have a total staff of 15 people. Previously, at the end of the year, costs incurred in the various accounts would be allocated back to reconcile and correct the budget. When staff charged time to one account and time to another account, the accounts would not be reconciled until the end of the year. He believed if the allocations could be tracked throughout the course of the year, the Division could be better managed: the Division would be able to track labor expenses on a monthly basis and manage the various accounts if they were consolidated into one with general ledger accounts that matched the current existing budgets. He did not believe there would be hard dollar savings, but operational efficiencies would be created.

Regarding the reserve accounts, Mr. deProsse said it was the Division's responsibility to manage and track the reserve levels appropriately. He also envisioned subaccounts for the various reserve levels.

Chair Conklin asked what the optimal reserve level would be for the consolidated account. He noted the projected reserve balance at the end of the 2011-2013 biennium was \$890,343.

Sherri Barkdull, Administrative Services Officer, Manufactured Housing Division, Department of Business and Industry (B&I), responded the reserve level amounted to approximately three months of operating funds. She believed the reserve level was sufficient, because fees would be coming in on a regular basis starting at the beginning of the fiscal year.

Chair Conklin asked whether all the fees were collected at the beginning of the year. Ms. Barkdull replied fees were collected throughout the year in this account.

Chair Conklin asked whether the fees were paid annually based on licensing or in quarterly payments. He wanted to understand the Division's cash flow. An acceptable reserve level of three months' operation indicated to him that there was some variation in the fee collection; otherwise, the reserve would be for one month because fees were all collected up-front.

Ms. Barkdull replied inspection fees were collected randomly throughout the year, licensing fee renewals were collected every two years, and new licensee and dealer fees were received throughout the year. She added inspection fees were the largest source of revenue.

Chair Conklin affirmed the Division did not experience a cash-flow problem on a quarterly basis, and therefore a three-month reserve level was sufficient. Ms. Barkdull concurred.

Chair Conklin remarked Subcommittee members and the Fiscal staff might have additional questions concerning the consolidation of the program's accounts into one account, and he asked the Division to respond quickly to requests for additional information from the Fiscal Analysis Division.

Assemblyman Grady noted manufactured homes were considered personal property, and he asked whether they would be considered real property if they were installed on a permanent foundation.

Mr. deProsse replied they possibly could be. However, typically the installation and how the unit was affixed to land was the same. Because financing was currently so difficult, many homeowners would convert their homes to real property by recording the deed as part of real property, and the Division would expire the personal property title.

Assemblyman Grady reiterated his previous question, which was whether any additions or repairs to a manufactured home had to be done by a "handyman" with a certificate qualifying him to work on manufactured homes. He noted a licensed contractor without a certificate could not work on the homes. The policy was causing many problems in his district, and he assumed Senator Rhoads was having the same problem in eastern Nevada.

Mr. deProsse replied even when a home was converted to real property, it was still a manufactured home in that it was built to a HUD code. The HUD code, which was a national building standard for manufactured housing, was different than the Uniform Building Code (UBC) and the International Building Code (IBC) that typically stick-built real property homes were built to. He clarified that a contractor in any given specialty with a license with the State Contractors' Board could also work on manufactured housing if he obtained a license from the Manufactured Housing Division. Mr. deProsse said since electrical, plumbing, and other systems in manufactured homes were different than stick-built homes, the contractor needed to have the skill set to work on different systems. He said he would be willing to work on a procedure to allow a contractor with a Contractors' Board license to apply to the Manufactured Housing Division, prove to the Division that he knew the codes, and be issued a license.

Mr. deProsse went on to explain there were two sections within the State Contractors' Board *Nevada Revised Statutes* (NRS) Chapter 624 that prohibited contractors from working on manufactured housing or personal property. It was his understanding the Contractors' Board had resisted any change in policy primarily because it did not want to deal with consumer complaints that typically occurred with repairs. Mr. deProsse reiterated he would be willing and interested to work on a solution with the Contractors' Board. He believed there was still a need for the public to have a place to go with complaints.

Mr. deProsse pointed out the Division also acted as the manufactured housing building official for the state and conducted inspections in addition to issuing the permits for the installation and repair work. If the contractor was not licensed with the Division, he could not buy a permit, and the counties did not have the skill set to inspect the homes because their inspectors were typically focused on the UBC and IBC.

Assemblyman Grady stated he appreciated the information and Mr. deProsse's willingness to discuss the problem, because that had not been the situation in the past.

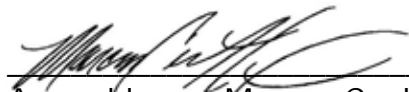
Chair Conklin asked for further questions from the Subcommittee; there were none. He closed the hearing on budget account 3814.

Chair Conklin asked for public comment; there was none. He adjourned the meeting at 9:57 a.m.

RESPECTFULLY SUBMITTED:

Sherie Silva
Committee Secretary

APPROVED BY:



Assemblyman Marcus Conklin, Chair

DATE: _____

Senator Mo Denis, Chair

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Ways and Means/Senate Committee on Finance Joint Subcommittee on General Government

Date: March 25, 2011

Time of Meeting: 8:01 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Management Relations Board, Department of Business and Industry	2011-2013 Budget Performance Indicators
	D	Office of the Labor Commissioner, Department of Business and Industry	2011-2013 Budget Performance Indicators
	E	Nevada Taxicab Authority, Department of Business and Industry	2011-2013 Budget Performance Indicators
	F	Andy MacKay, Administrator, Transportation Authority, Department of Business and Industry	2011-2013 Budget Performance Indicators
	G	Chas Horsey, Administrator, Housing Division, Department of Business and Industry	2011-2013 Budget Performance Indicators