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
April 1, 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 8:05 a.m. on Friday, April 1, 2011, 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/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

SENATE SUBCOMMITTEE MEMBERS PRESENT:

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

SUBCOMMITTEE MEMBERS EXCUSED:

Assemblyman John Oceguera

STAFF MEMBERS PRESENT:

Mark Krmpotic, Senate Fiscal Analyst
Mike Chapman, Principal Deputy Fiscal Analyst
Jennifer Byers, Program Analyst
Erica Eng, Program Analyst
Sherie Silva, Committee Secretary
Cynthia Wyett, Committee Assistant

Chair Conklin explained the meeting was a work session to discuss major decision points for the Department of Business and Industry (B&I) and the State Department of Agriculture. Fiscal staff would present two or three options from which the members could choose when closing the budgets. The members would have the opportunity to ask questions and gather additional information to provide the Fiscal staff and agencies with clear direction concerning closure of the budgets. He did not anticipate that votes would be taken at this meeting.

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

DEPARTMENT OF MOTOR VEHICLES
DMV – WEIGHTS, MEASURES AND STANDARDS (101-4551)
BUDGET PAGE DMV-69
DMV – GAS POLLUTION STANDARDS (101-4537)
BUDGET PAGE DMV-76

Erica Eng, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated the Governor's budget proposed the transfer of the Weights and Measures and Gas Pollution Standards functions from the State Department of Agriculture to the Department of Motor Vehicles (DMV). She explained there were two proposals for the Subcommittee to consider:

- Merger of the Gas Pollution Standards budget account (BA) 4537 into the Weights and Measures budget account 4551.

- Reassignment of the merged Weights, Measures and Standards budget account 4551 from the Department of Agriculture to the Department of Motor Vehicles.

Ms. Eng explained the Gas Pollution Standards account had 3 chemists, and the Weights and Measures account had 18 positions, most of which were inspectors, for a combined total of 21 full-time equivalent (FTE) positions to be transferred to DMV. After all transfers and position eliminations, the Department of Agriculture would consist of 50 FTE positions. Because the Department's cost allocation was FTE driven, the elimination of the positions from the cost allocation would result in a direct General Fund increase in the Department's Administration account (BA 4554) of $252,285 over the biennium.

Ms. Eng recalled the Subcommittee had previously questioned the rationale of the merger and movement of accounts to DMV. The Subcommittee noted that while there was a logical connection between Gas Pollution Standards and DMV, there did not appear to be a similar association with Weights and Measures and DMV. The Subcommittee also noted that DMV would likely be more focused on automobile-related weights and measures functions, which might leave consumer weights and measures functions unregulated or not examined as thoroughly. Ms. Eng explained that the Weights and Measures inspectors collected the fuel samples, and the samples were analyzed by the chemists in the Gas Pollution Standards account.

Continuing, Ms. Eng said during the previous hearing, different options for the Governor's proposal were discussed, with one option being an interlocal agreement between DMV and the Department of Agriculture. The agreement would provide that Weights and Measures would remain in the Department of Agriculture and only the 3 FTE in Gas Pollution Standards would transfer to DMV.

The Department of Agriculture had provided a draft interlocal agreement which, Ms. Eng noted, did not appear to be an actual interlocal agreement, but instead a description of the duties related to Gas Pollution Standards as compared to Weights and Measures and the estimate of the costs associated with the duties. She said both agencies would prefer additional time to facilitate the separation prior to implementation.

Ms. Eng noted that 55 percent of the time and costs of 18 of the 21 positions proposed to transfer to DMV were related to measurement standards, and 45 percent of the duties were fuel-related. She added that all of the duties of the 3 FTE in Gas Pollution Standards were fuel-related.

Ms. Eng explained that currently both the Weights and Measures and Gas Pollution Standards budget accounts received transfers from DMV. If an interlocal agreement was pursued, the transfers could be reviewed and updated to reflect the costs of fuel-related functions to be split between the two departments. In looking at the effect on the Department of Agriculture's cost allocation, the transfer of the 3 positions in Gas Pollution Standards and leaving the Weights and Measures function in the Department of Agriculture would result in General Fund savings of $112,346 in fiscal year (FY) 2012 and $111,136 in FY 2013.

Ms. Eng reported DMV had indicated to staff that it did not support transferring only Gas Pollution Standards to DMV because splitting the two functions would create inefficiencies in both departments. She noted the Legislative Counsel Bureau Fiscal Analysis Division had received Budget Amendment 233, which proposed to reclassify the Administrator of the Division of Measurement Standards from an unclassified position to a classified DMV services manager 3. Based on the new position description, it appeared the reclassification might further increase the role of fuel-related functions over weights and measures functions.

Ms. Eng explained the weights and measures functions were a significant part of the Division of Measurement Standards and were mandated by *Nevada Revised Statutes* (NRS) Chapters 581, 582, and 590. Under NRS 581.030, the Director of the State Department of Agriculture was the State Sealer of Weights and Measures, which involved licensing, testing, and deeming correct all commercial weighing and measuring devices used to determine a price or cost value. Ms. Eng stated the proposed consolidation included the state weight standards, metrology lab, audits of weight compliance, and inspection of grocery store product functions, all of which appeared to be inconsistent with the core mission of the DMV and NRS 581.030.

Ms. Eng explained Budget Amendment 232 proposed to revise the Governor's recommendation and add cost-allocation contributions from the reserve in the Weights, Measures and Standards account to the DMV Director's Office of $55,851 in FY 2012 and $53,617 in FY 2013, and to the DMV Administrative Services account of $196,139 in FY 2012 and $212,922 in FY 2013. The amended allocation contributions would result in total Highway Fund savings of $518,529 over the 2011-2013 biennium.

Ms. Eng said both agencies had indicated the transferred positions would remain physically located in the offices of the Department of Agriculture rather than moved to DMV. However, the Governor's budget did not reflect payments to the Department of Agriculture for rent or utility costs. The Measurement Standards Division currently provided support for overhead costs through its cost-allocation contributions to the Agriculture Administration account (BA 4554). The Weights, Measures and Standards cost allocations in Budget Amendment 232 would help fund the DMV Director's Office's operating and rental costs, but would not provide any support to the Department of Agriculture for utility or operating costs, even though the 21 positions would continue to be housed in the Department's buildings.

Ms. Eng listed three options for the Subcommittee's consideration:

1. Approve the Governor's recommendation to merge the Gas Pollution Standards and the Weights and Measures budget accounts and transfer the account to DMV. If approved, the Governor's recommendation would result in a General Fund increase of $252,285 in the Department of Agriculture's Administration account. Budget Amendment 232 would result in Highway Fund savings of $518,529. Ms. Eng said it was important to note the amounts in the Governor's budget did not include potential rental costs to be paid to the Department of Agriculture for the 21 positions remaining in the Department's buildings.

2. Keep Weights and Measures and Gas Pollution Standards as two separate accounts, transfer only the 3 Gas Pollution Standards positions to DMV, keep the 18 positions in Weights and Measures under the Department of Agriculture, and establish an interlocal agreement between the Department and DMV to continue the shared functions. This option would result in total General Fund savings of $112,346 in FY 2012 and $111,136 in FY 2013 in the Department of Agriculture's Administration account.

3. Continue Weights and Measures and Gas Pollution Standards functions under the Department of Agriculture, resulting in General Fund savings of $252,285 over the 2011-2013 biennium as compared to the Governor's recommendation.

Chair Conklin noted Budget Amendment 232 would result in Highway Fund savings of $518,529 with the movement of the Gas Pollution Standards and Weights and Measures accounts to DMV from the Department of Agriculture. The Department would realize a General Fund savings of $252,285. He asked the reason for the different amounts.

Ms. Eng replied both cost allocations were FTE driven, but the formulas used were not the same. The elimination of Measurement Standards from the Department of Agriculture's cost allocation would result in an increase in General Fund of $252,285. Cost allocations from the reserve in the new Weights, Measures and Standards account in DMV would now be charged to both the Director's Office account and the Administrative Services account, resulting in $518,529 in Highway Fund savings for DMV.

Assemblyman Grady asked the purpose of the account transfers. He acknowledged the Department of Agriculture had experienced problems in the past, but the Department now had a new Director who would undoubtedly make improvements. He noted that when the inspectors went into the field to check scales, they also performed weights and measures for gas. He thought the transfers might cause more problems than benefits, and he did not believe they were appropriate at this time.

Senator Rhoads stated he thought the current program was working well now, and continuing the present program would result in General Fund savings of $252,285. He had not received any complaints in his district.

Senator Kieckhefer tended to agree the program was not broken. He asked whether the $252,285 savings in General Fund was exclusively for the specific budget accounts or an overall savings that could be applied in another area of the budget.

Ms. Eng replied the $252,285 in overall savings could be applied in another area of the budget.

Assemblyman Kirner was not convinced the merger would save the state money overall.

Chair Conklin stated the merger would not save General Fund: he thought the difference would be where the money came from. The Highway Fund was a separate fund that could not be used for any other purpose. The loss would be to the General Fund, and the savings would be to the Highway Fund. He said if the transfer was not approved, a General Fund savings of $252,285 would be realized. However, if the transfer was approved, the General Fund revenue would have to pay that amount of cost allocation to the Highway Fund, which would then not be available to apply elsewhere in the budget.

Chair Conklin explained the Legislature placed the fuel standards function in the Department of Agriculture many years ago because there was little traffic in the state and most of the fuel was used for agriculture. However, that was no longer the case: most of the fuel was now used by trucks and vehicles on freeways, and the standards for fuel had changed. He said during the interim, the Department of Agriculture had written new regulations that included some questionable fuel standards.

Chair Conklin went on to say that personnel with a good science background were needed to analyze and determine what was good for public consumption. He would prefer that the function of writing the standards be the responsibility of an agency outside of the political realm so that the regulations could be evaluated objectively on a regular basis. If the Department of Motor Vehicles could assume that function, he would recommend option 3, which was to continue the Weights and Measures and Gas Pollution Standards accounts under the Department of Agriculture.

Senator Kieckhefer asked whether DMV had scientific experts on staff to write the regulations. Chair Conklin said he believed they did.

Wayne Seidel, Administrator, Motor Carrier Division, Department of Motor Vehicles, testified the Motor Carrier Division was in the fuel industry, which was regulated from the federal level down to the state level. There was scientific information available that could be gathered and reviewed. He said the standards would be written with the expert advice of chemists who were currently performing the analyses and knew the industry from the testing side.

Chair Conklin asked whether the Motor Carrier Division would have a problem with writing the standards and the Department of Agriculture performing the measurement and enforcement functions. He also wondered whether the Division wrote other regulations that the Department of Agriculture enforced.

Mr. Seidel replied that the proposed structure would be in alignment with the petroleum industry. However, he was not aware of any functions the Department of Agriculture performed for DMV other than the collection of fuel samples by the Weights and Measures Division to conduct the fuel testing. The lab and the chemists were funded by emissions testing fees collected by the Motor Carrier Division.

Chair Conklin affirmed the Motor Carrier Division was simply a collection agency for the emissions revenue, and the Department of Agriculture performed the testing. Mr. Seidel replied he was correct.

Lon Beal, Administrator, Division of Measurement Standards, State Department of Agriculture, testified that the DMV funding source was primarily from the Washoe and Clark County pollution standards and emission tests. The other funding source was the fees collected based on the number of gallons of fuel coming into the state: DMV collected those fees and retained a portion of them.

Chair Conklin stated the matter was a problem, but it was a policy choice that could be dealt with in another way.

Senator Rhoads asked whether there was a problem with the current system. Mr. Beal replied he did not believe so.

Senator Denis asked how the functions were performed in other states and whether splitting the writing and enforcement functions of the standards was feasible. Mr. Beal explained historically in most states the functions were placed under agriculture, but there were other states that placed them under commerce, business and industry, or public safety. He added splitting the two functions would be possible.

Mr. Seidel noted that DMV had similar relationships with the Department of Public Safety and the Department of Transportation (NDOT) for long combination vehicles, with regulatory licensing being a DMV function and enforcement being a Public Safety or NDOT function.

Chair Conklin affirmed the general consensus of the Committee was to recommend option 3.

There being no further questions or testimony, Chair Conklin declared the hearing on budget accounts 4554, 4551, and 4537 closed and opened the hearing on budget account 4550.

DEPARTMENT OF AGRICULTURE
AGRI – VETERINARY MEDICAL SERVICES (101-4550)
BUDGET PAGE AGRICULTURE-53

Eliminate Senior Veterinary Diagnostician (Elko) – Enhancement (E) 690

Erica Eng, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained the Governor recommended eliminating the senior veterinary diagnostician position, which provided the only veterinary medical services in the State Department of Agriculture's Elko office. The elimination would result in General Fund reductions of $111,762 in fiscal year (FY) 2012 and $113,384 in FY 2013.

With the closure of the Elko laboratory, Ms. Eng said the Department of Agriculture indicated the tests collected in Elko would need to be shipped at least twice per week via Greyhound Bus to the Sparks laboratory at a cost of approximately $20 per shipment. Funding for the additional shipping costs was not included in the Governor's budget. The Department also indicated the process would create more workload for the Sparks laboratory.

Ms. Eng said the Department had explained that certain lab tests might also be eliminated, including necropsy examinations, which would require livestock producers in the northeast part of the state to have their herd veterinarians perform necropsies.

The Department had informed Ms. Eng that performance indicators would not be changed because the laboratory would attempt to minimize the loss of submissions as much as possible. However, she added, there would be a delay in processing lab tests. The Department had also said if Elko-origin samples required additional sample batches, overtime or compensatory time would be accrued by Sparks staff, which was not budgeted in the Veterinary Medical Services account. Ms. Eng noted that 2,015 tests were run by the Elko laboratory in fiscal year 2010.

Continuing, Ms. Eng said the current senior veterinary diagnostician had been on military leave at least six weeks in fiscal year 2011, and he started a six-month deployment on March 14, 2011. Because of the employee's absence, it appeared the Elko laboratory had not been open on a full-time basis during FY 2011.

Ms. Eng explained the Subcommittee could choose one of three options:

1. Approve the Governor's recommendation to eliminate the senior veterinary diagnostician position, resulting in General Fund savings of $111,762 in FY 2012 and $113,384 in FY 2013. The Subcommittee may also wish to have the Department discuss additional shipping costs and the overtime that might be required for the Sparks laboratory employees.

2. Restore General Fund appropriations of $51,604 in FY 2012 and $52,001 in FY 2013 from the Governor's recommended amounts. The funds could be used to either restore the senior veterinary diagnostician position at a 0.50 full-time equivalent (FTE) level or contract with private veterinarians in the Elko area to perform laboratory testing as needed.

3. Restore the senior veterinary diagnostician position to support the continued operation of the Elko laboratory and add General Fund appropriations of $225,146 over the 2011-2013 biennium. The Subcommittee may wish to ask how the employee's military leave had affected the Elko laboratory and whether he would be returning to work full-time.

Senator Rhoads asked for an explanation of the status of the current senior veterinary diagnostician.

Philip LaRussa, DVM, Administrator, Animal Industry, State Department of Agriculture, replied the current employee had indicated that he desired extreme military service, and when told his position was to be terminated, he decided to pursue additional military duty as part of his ongoing consideration of his future. He indicated that should the Elko position be fully funded, he would submit his resignation so that a full-time employee could be hired.

Senator Rhoads asked whether the budget amounts would change; Dr. LaRussa replied they would remain the same.

Senator Rhoads asked whether the second option was feasible: restore the position at 0.50 FTE or contract with private veterinarians. Dr. LaRussa replied that four years ago the Department contacted all of the private practitioners in the area and none of them expressed interest in providing those services. He added since the senior veterinary diagnostician was the only employee at the Elko laboratory, elimination of the funding would mean termination of veterinary services in northeastern Nevada.

Senator Rhoads remarked Elko County was the second- or third-largest cow county in the United States, and he believed it should have full veterinary services.

Chair Conklin asked whether Dr. LaRussa planned to fill the position prior to the incumbent's return from his military assignment, which would be nearly six months. Dr. LaRussa said he would be reluctant to fill the position if it was to be terminated July 1, 2011. If the money was restored, the incumbent had indicated he would resign to allow the Department to recruit for a full-time employee.

Assemblyman Grady said he was concerned with the time it took to transport samples and animals from Elko to Sparks for testing. If they were not handled within a specific time frame, the product would be bad, and testing would not be valid. Starting over would take time and be very costly to the cattlemen. Additionally, the Department would not be performing the services that it should provide.

Dr. LaRussa replied Assemblyman Grady was correct. In addition to time, temperature was a factor: there was a greater chance of sample spoilage with the use of ground transportation.

Senator Kieckhefer asked whether the incumbent would return if the position was converted to half-time. Dr. LaRussa replied that option might be possible, but unfortunately, the work would be half-time per week, not half-time per year. A half-time employee from January to July would not meet the needs.

Senator Kieckhefer asked how much salary savings had been realized as a result of the incumbent's deployment. Dr. La Russa replied the deployment began with approximately 15 days per year of paid military leave, and subsequently the military salary was subtracted from his state salary and the state paid the difference. Dr. LaRussa said there had been some savings and more was expected.

Jim Barbee, Director, State Department of Agriculture, testified he had discussed the matter with the Department's personnel officer. The amount of the military salary was unknown, and it was his understanding the military would not provide that information until deployment was completed.

Senator Kieckhefer asked whether the incumbent's offer to resign was strictly voluntary. He did not want the job eliminated while the employee was serving the country, and the state had certain responsibilities to those employees serving in the armed forces. Mr. Barbee stated there were Department of Personnel rules and regulations concerning military service, and although the employee had indicated he would resign, there was no way to know for sure that would be his final decision.

Senator Kieckhefer asked whether there would be a potential buyout situation if the employee wanted to return to his position and the job had already been filled.

Stephanie Day, Deputy Director, Budget Division, replied the employee had only been a state worker since 2007, and therefore he would not qualify for a buyout.

Senator Denis asked how the laboratory services had been provided during the employee’s absence. Dr. LaRussa replied the laboratory had been shipping samples for approximately three weeks. During the senior veterinary diagnostician’s previous absences, the Department notified the private practitioners in the area that they needed to ship time-sensitive samples to the Sparks laboratory.

Senator Denis asked whether there had been incidents of spoilage with samples that had been shipped. Dr. LaRussa replied one individual shipped a sample that arrived spoiled because of temperature, and when he reshipped the sample, it again spoiled from the temperature. The sample was for the purpose of testing for trichomonas, and the multiple scrapings for samples had caused the veterinary concern.

Assemblyman Aizley asked what the state’s obligation was to an employee who returned from military service to a job that had been eliminated. Mr. Barbee replied it was his understanding that when an employee went on extended military leave and it was necessary to replace him, the position would be available to the employee on his return. He was not sure of the details; the Department of Personnel regulations would have to be consulted.

Chair Conklin speculated that would be true provided the position was available, but if the position was eliminated as a budget reduction, the position would have been eliminated regardless of whether the employee was on leave.

Assemblyman Kirner agreed with Chair Conklin, adding that he did not know whether the regulations guaranteed the employee his original position or an equivalent position.

Chair Conklin stated he was inclined to agree with the Governor's recommendation because the cost savings were already built into the budget. Any amounts above those recommended by the Governor would be an add-back, and he would prefer to spend any surplus money on education.

Senator Rhoads disagreed. He had received several phone calls prior to the meeting about the possibility of losing the veterinarian position in rural Nevada. He was located 60 miles from Elko, and transporting an animal to Elko to ship it to Reno on a bus or airplane was difficult and costly. He would select the third option.

Senator Denis said he realized the importance of the function, but he had to agree with the Chair. Subcommittee members were receiving thousands of phone calls from constituents concerning education.

Assemblyman Aizley requested further data concerning the costs incurred over the period the employee had been taking military leave to compare those amounts with the proposed savings. Mr. Barbee said the Department would work with Fiscal staff to provide the information as soon as possible.

<u>Eliminate Laboratory Operating Expenses – Enhancement (E) 600</u>

Erica Eng, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained the Governor recommended reducing laboratory operating and seasonal expenses to decrease General Fund appropriations by $47,181 in fiscal year (FY) 2012 and $46,680 in FY 2013. The reductions would eliminate one seasonal position and completely eliminate all equine infectious anemia (EIA) expenses. Ms. Eng said the EIA expenses were recommended to transfer into the Veterinary Medical Services account, which used General Funds, from the Livestock Inspection account, which was fee-funded, along with EIA laboratory testing fees and non-EIA laboratory charge revenues. Both the transfer decision units and the agency fund maps reflected all EIA expenses as funded with either EIA or non-EIA laboratory charge-related revenues, not General Fund appropriations. Therefore, the reductions should not result in General Fund savings during the upcoming biennium.

Ms. Eng said the Department had indicated that elimination of the seasonal position, which was a reduction of $10,814 per year, was necessary because the fee revenue that previously funded the position was being mapped to support full-time staff that was previously supported by General Funds. Elimination of the seasonal position did not appear to be tied to the General Fund reductions. However, the agency indicated that the mapping of the EIA expenses to General Funds was inaccurate. Ms. Eng said EIA testing in the Sparks laboratory would continue in the upcoming biennium; it was not clear why EIA expenditures would be eliminated while EIA laboratory test revenues would continue to be budgeted in the 2011-2013 biennium.

Ms. Eng outlined two options for consideration by the Subcommittee:

1. Approve the Governor's recommendation to eliminate the seasonal position, but continue the EIA laboratory expenses in the 2011-2013 biennium. Other expenses funded by General Fund needed to be identified to realize General Fund reductions of $36,367 in FY 2012 and $35,866 in FY 2013. If this option was selected, the Budget Division or Department should identify what expenses would be reduced.

2. Restore General Fund appropriations of $36,367 in FY 2012 and $35,866 in FY 2013 to restore the EIA operating expenses, but not the seasonal position.

Senator Rhoads asked where the seasonal position was located. Dr. LaRussa replied the position was in Elko for the purpose of performing EIA tests in that region under the auspices and supervision of the senior diagnostician. Without a senior diagnostician, the seasonal employee could not perform tests. He said the laboratory had expenses for equipment that had to be calibrated, supplies that needed to be purchased, and other overhead costs that had to paid at the beginning of the year before any fees were collected for EIA testing.

Senator Denis asked what duties the seasonal employee performed in the senior diagnostician's absence. Dr. La Russa answered he performed a combination of brand inspection and laboratory duties.

Chair Conklin affirmed the General Fund savings of $36,367 in FY 2012 and $35,866 in FY 2013 were in The Executive Budget. Ms. Eng said because EIA expenses were funded by laboratory revenues, General Fund savings would not be realized unless other expenses were identified for elimination.

Kristen Kolbe, Budget Analyst, Budget Division, Department of Administration, testified it appeared that some of the positions currently funded by General Fund appropriations could be moved to a grant, which would eliminate a portion of the General Funds. The agency's latest fund map indicated there were possible other General Funds available for operating expenses.

Chair Conklin asked Ms. Kolbe to work with the Fiscal staff to clarify and revise the item.

Chair Conklin asked for public comment concerning the Department of Agriculture's closing budget items.

Doug Busselman, Executive Vice President, Nevada Farm Bureau, testified the Nevada Farm Bureau was in support of the Department of Agriculture's activities and budget, including the current organizational structure.

There being no further questions from the Subcommittee, Chair Conklin declared the hearing on budget account 4550 closed. He then opened the hearing on budget account 4681, the Department of Business and Industry.

DEPARTMENT OF BUSINESS AND INDUSTRY
DIRECTOR'S OFFICE
B&I – BUSINESS AND INDUSTRY ADMINISTRATION (101-4681)
BUDGET PAGE B&I-1

Jennifer Byers, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained The Executive Budget recommended the transfer-in of 29 positions in the Department of Business and Industry (B&I) to the Administration account to centralize fiscal, information technology, and licensing functions within the Department. Additionally, one personnel officer position was recommended to be transferred to the Department of Administration's proposed Division of Human Resource Management as part of the first phase to centralize personnel and payroll functions for all state agencies. Consequently, a net transfer of 28 positions was recommended to the B&I Administration account.

Ms. Byers said as a result of the centralization, The Executive Budget recommended $184,265 in General Funds for B&I Administration for the 2011-2013 biennium, which represented an increase of $128,396 over the 2009-2011 appropriation of $55,869. The increase was a result of two factors:

- A transfer of two fiscal positions totaling $99,171 from the Real Estate Division.

- An increase in overall expenses because of the transfer of 28 positions, which would increase the General Fund share in the budget according to the Department's cost-allocation methodology.

Ms. Byers explained if the proposal for centralization was not approved, the General Fund in the Administration account would be reduced to approximately $25,000 each year of the 2011-2013 biennium.

Continuing, Ms. Byers said the other major fiscal effect of the centralization plan would be an increase of $2.7 million in the Director's Office cost allocation over the 2009-2011 biennium. The centralization would result in some divisions paying more cost allocation and some divisions paying less because the cost allocation was full-time equivalent (FTE) driven and the number and types of positions to be transferred from each division varied. The larger divisions would maintain their own fiscal staff, and it was unclear how their fiscal management would improve, especially in light of the increased cost allocations those accounts would pay to the Director's Office. Also, it appeared there was limited rationale for some of the position transfers: one management analyst was recommended to transfer from the Insurance Division, but the position had no fiscal duties.

Ms. Byers stated although centralized fiscal management may be a benefit in a department with a unified mission, each B&I division managed disparate programs with distinct missions. Fiscal staff was unsure that centralization would provide an equivalent benefit to all agencies within the Department.

Ms. Byers explained if the Subcommittee approved the recommended centralization, the Department wished to relocate the Director's Office staff to one primary location, which would require additional office space. At its February meeting, the Interim Finance Committee (IFC) deferred work program revisions to initiate the move until the Legislature had time to review the centralization proposal in The Executive Budget. She said Fiscal staff had been informed that work programs to rent new space and make tenant improvements would be presented again at the April 18, 2011, IFC meeting. However, the closing budget hearing for the Administration account was not scheduled until after the IFC meeting.

Ms. Byers said the question before the Subcommittee was whether to approve the Governor's recommendation to centralize fiscal, information technology, and licensing functions in the various B&I divisions into the Administration account (budget account 4681), thereby adding 28 positions to the account.

Chair Conklin said centralization was proposed across the B&I budget accounts, and the cost allocation of the position transfers was increased. He asked what savings would be realized as a result of the centralization, and what benefits would be achieved by moving positions into a centralized unit and transferring the cost allocations.

Terry Johnson, Director, Department of Business and Industry, replied that in the overall picture, he believed the centralization would allow the Department to function more efficiently. The statutes contemplated allowing a director of a state department to move personnel from one division to another within the department if it would result in greater efficiencies in the operation of the overall department. He said the Department of Business and Industry (B&I) specifically had statutory language in *Nevada Revised Statutes* Chapter 232 that allowed it to provide for consistent administration of matters relating to budgeting, accounting, planning, information services, and other administrative functions.

Further, Mr. Johnson continued, there were three additional reasons the entire Department, and business and industry in the state, would benefit from centralization of fiscal functions:

- Greater accountability in the types and quality of information to be presented to the Legislature.

- Greater consistency in the information provided to the Legislature: some of the B&I hearings he had witnessed had not gone well.

- Greater efficiency: the Director's Office could focus on budget and accounting matters, leases, contracts, and work programs and the agencies could focus on operational issues. Mr. Johnson said every division had operational challenges to which they could better direct their energies and resources.

Chair Conklin said from a business perspective, he was not opposed to the centralization plan; he acknowledged there were efficiencies to be gained. He was concerned that similar proposals in the past involved subsequent requests to the Interim Finance Committee (IFC) for additional funds for computer equipment, communication systems, space needs, or other unanticipated expenses. Chair Conklin said undoubtedly there would be additional costs associated with the move, and he was concerned the cost savings would be less than estimated. He asked for assurance from Mr. Johnson, to the extent possible, that the consolidation was thoroughly planned and future requests would not be submitted to the IFC.

Mr. Johnson said he would concede that the plan was not perfect, but the decision was whether there was a rational basis for proceeding with the concept of accountability, consistency, and efficiency, and he believed there was. The matter then became on what scale to proceed forward: with the total plan for centralization or a scaled-back plan over the course of the biennium to allow modifications and adjustments before full implementation. He recalled that in prior testimony he had expressed support for the plan conceptually, but he thought improvements could be made. Mr. Johnson said if the decision was made to go forward, the concept was sound, the statutes supported the plan, similar plans had been implemented in other settings, and there would be benefits globally to business and industry in the state. He and his staff would be fully engaged in building a unit with sound administrative practices that would accomplish the objectives and vision of the plan. He acknowledged there could be some unanticipated expenses during the process, although he believed there had been adequate planning in projecting the relocation and build-out costs.

Bill Maier, Administrative Services Officer, Director's Office, Department of Business and Industry, stated that overall there was not a savings in the centralization plan. A small amount of savings, approximately $28,000 a year, would be achieved through reclassifications, and part of the plan included closing down the accounting office for the Division of Mortgage Lending in Carson City for a savings of $33,000 in FY 2012 and $45,000 in FY 2013.

Mr. Johnson added that he viewed the plan as a global matter, and he wanted the Department to become positioned to help the state recover from the current economic downturn. He believed the operations and programs staff should be in a position to dedicate themselves fully to operations and programs, which would help business and industry in the state. At the same time, he wanted the employees who were skilled and adept in budget and fiscal activities to focus on those functions.

Chair Conklin said he was not suggesting the proposal was not warranted, but in terms of a plan relative to the budget, there were larger divisions within the

Department, such as the Division of Industrial Relations (DIR), that would not transfer all of their fiscal staff to the centralized unit. They would be maintaining their own fiscal staff and oversight, and yet they would still pay a large portion of the cost allocation. He asked how those situations could be justified on several fronts: the individuals paying into DIR would pay more and receive no additional services, while others would actually gain the advantage of a cost allocation being paid by one unit for which they would benefit.

Mr. Johnson responded that if he had been able to review the plan sooner than he did, he would have made different decisions regarding the number of positions to commit from some of the divisions. He understood that in the discussions that took place during planning the determination was made that some positions needed to be maintained in their respective agencies because of their expertise or specialization to administer the programs. Mr. Johnson said he was willing to accept that concept to a point, but there was also a point at which the programs turned into budgets, work programs, leases, and submissions to the Board of Examiners that were the same from agency to agency regardless of funding source or program. Every state agency had to submit its budget in the same manner. Had different decisions been made, some agencies' cost allocations might have been increased, but their direct costs would have been reduced. It was possible the net cost to the agencies would have been reduced. Mr. Johnson remarked the whole concept should not be discarded; the process was evolving and modifications would be made to make it more equitable and efficient.

Continuing, Mr. Johnson said by allowing the Department to function more cohesively and be more administratively sound, benefits would be created for business and industry in general, including greater employment opportunities and greater commerce in the state, which in turn would generate more derivative benefits for agencies such as DIR, more workers in the workforce and more workers covered by DIR programs, more employers in the stream of commerce, and more employers that could be trained through the safety consultation program.

Based on Mr. Johnson's comments, Chair Conklin surmised there could be a further budget reduction for the Division of Industrial Relations if staff were moved to the centralized unit. Mr. Johnson replied he had not calculated the figures, but conceptually that could be the case.

Chair Conklin noted DIR had a cost allocation for the position that was being transferred, and the remaining positions were retained within the Division. For every position moved to the centralized unit, the cost allocation would be 38 percent, because the charge was based on a percentage of the overall workforce.

Chair Conklin recalled a work program for space rental and tenant improvements was submitted at the last meeting of the Interim Finance Committee (IFC) but was deferred until the April meeting, which would be prior to budget closings. He asked whether it was the Department's intention to resubmit the work program to the IFC or defer it until after budget closings. Mr. Johnson said he would prefer to defer the work program until the June IFC meeting.

Assemblyman Grady commended Mr. Johnson for his attempts to reorganize the Department, but he suggested that if the Department was planning to combine functions for efficiencies, all divisions should be included. Those that were not being included in the plan were being penalized because they were paying another third of the cost and receiving no direct benefit. He would prefer to see all divisions included equally in the centralization plan.

Mr. Johnson said he would be willing to work with Fiscal staff to further develop and refine the centralization plan.

Chair Conklin reiterated that he was not opposed to the centralization, but he agreed that all divisions needed to participate in the plan to streamline and realize a benefit.

Senator Denis remarked he had been concerned about the elimination of the ombudsman position, and he asked what the cost would be to retain the ombudsman position.

Bill Maier, Administrative Services Officer, Director's Office, Department of Business and Industry, replied he did not have the amount, but he assumed it would be approximately $100,000, which would include the salary, payroll costs, and operating expenses.

Senator Denis asked Mr. Maier to obtain that information for future consideration by the Subcommittee.

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Jennifer Byers, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that at the February 3, 2011, Interim Finance Committee (IFC) meeting, the Division of Industrial Relations had submitted work programs to transfer funds from the industrial development bonds reserve account to pay legal costs for the Las Vegas monorail bankruptcy case. The agency had projected the account would have a cash balance of $8,000 at the end of fiscal year (FY) 2011. She said the agency indicated the account currently had a cash balance of approximately $62,000 and there was $11,000 in outstanding legal expenses, leaving a balance of $51,000. The agency had been requested to provide an estimate of future legal expenses, but the information had not yet been received. Ms. Byers added that because the account did not have any General Fund dollars, the agency could not request an allocation from the Contingency Fund Reserve or from the Reserve for Statutory Contingency Account.

Chair Conklin asked Mr. Johnson to provide an update on the status of the Las Vegas monorail bankruptcy case.

Terry Johnson, Director, Department of Business and Industry, replied the debtor, Las Vegas Monorail Corporation, and the creditors, represented by the largest group of investors, were in negotiations to try to settle on a plan under Chapter 11 that would be acceptable to the bankruptcy court. The Department of Business and Industry retained counsel to protect the state's interest and monitor the proceedings.

Mr. Johnson would be meeting with the Attorney General to discuss the status of the case and what potential legal exposure Nevada may face and to request that the Office of the Attorney General have a greater involvement in monitoring the bankruptcy proceedings to protect the state's interest going forward. He explained the state may bear some liability because of disgruntled investors complaining as a result of the bankruptcy of the monorail. To his knowledge, the state had not been sued for its role in the issuance of the bonds. Until there was a lawsuit filed with the state or there was a need to continue the relationship with the private law firm, Mr. Johnson would prefer to work with the Office of the Attorney General to monitor the bankruptcy proceedings, which would significantly reduce the legal expenses when compared to an outside firm.

Chair Conklin asked whether the Subcommittee could obtain an estimate of legal expenses to project the account's balance. Mr. Johnson replied he did not know what direction the case may go. He would prefer to suspend work with the law firm at this time and work strictly with the Attorney General's Office.

Chair Conklin asked Mr. Johnson to work with Fiscal staff to develop a projected balance to include in the final budget.

Assemblyman Grady asked whether the bonds were issued from the state, county, or city share or a combination thereof.

Lon DeWeese, Chief Financial Officer, Housing Division, Department of Business and Industry, explained the bonds were not private activity bonds that required a bond cap. The bonds were 501(c)(3) [tax exempt] bonds.

Mr. DeWeese went on to say that as an outside monitor of the monorail project, he believed the monorail had been able to support its direct operating expenses for some time, but the fact remained it owed $650 million and was unable to make payments on the mortgage. He said after the bankruptcy proceedings, the monorail planned to leverage its operating efficiency to take an expansion to the airport. Mr. DeWeese said there were studies that showed that plan was not feasible, but there also were proponents of the plan. It would be one of the questions coming out of the bankruptcy court.

There being no further questions or matters to come before the Subcommittee, Chair Conklin adjourned the meeting at 9:55 a.m.

RESPECTFULLY SUBMITTED:

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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: April 1, 2011 **Time of Meeting: 8:05 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster