

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

**Seventy-sixth Session  
February 17, 2011**

The Joint Subcommittee on General Government of the Senate Committee on Finance and the Assembly Committee on Ways and Means was called to order by Chair Moises Denis at 8:07 a.m. on Thursday, February 17, 2011, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**SENATE SUBCOMMITTEE MEMBERS PRESENT:**

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

**ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:**

Assemblyman Marcus L. Conklin, Chair  
Assemblyman Paul Aizley, Vice Chair  
Assemblyman Kelvin D. Atkinson  
Assemblyman Tom Grady  
Assemblyman Randy Kirner  
Assemblyman John Ocegueda

**STAFF MEMBERS PRESENT:**

Rick Combs, Assembly Fiscal Analyst  
Erica Eng, Program Analyst  
Rex Goodman, Principal Deputy Fiscal Analyst  
Madison Piazza, Committee Secretary

**OTHERS PRESENT:**

Jim R. Barbee, Acting Director, State Department of Agriculture

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Margaret Scheid, Accounting Supervisor, Division of Administration, State Department of Agriculture  
Matt McKinney, President, Nevada Junior Livestock Show Board, State Department of Agriculture  
Dawn Rafferty, Administrator, Plant Industry Division, State Department of Agriculture  
JoAnn Mothershead, Co-Administrator of Administration, State Department of Agriculture  
Phil La Russa, D.V.M., State Veterinarian, Division of Animal Industry, State Department of Agriculture  
Mark Jensen, Director, Division of Resource Protection, State Department of Agriculture  
Lon Beal, Administrator, Division of Measurement Standards, State Department of Agriculture  
Wayne Seidel, Administrator, Motor Carrier Division, Department of Motor Vehicles  
Andrew Clinger, Director, Department of Administration  
Alan R. Coyner, Administrator, Division of Minerals, Commission on Mineral Resources  
Richard F. DeLong, Commissioner, Commission on Mineral Resources  
Dennis Bryan, Commissioner, Commission on Mineral Resources  
John Snow, Commissioner, Commission on Mineral Resources  
Leo M. Drozdoff, P.E., Director, State Department of Conservation and Natural Resources  
Monte Morrison, P.E., E.M.T., Country Manager, Vice President of Operations, Magma Energy Corp.

CHAIR DENIS:

We will open the hearing on the Department of Agriculture, with budget account (B/A) 101-4554.

COMMERCE AND INDUSTRY

AGRICULTURE

AGRI – Administration — Budget Page AGRICULTURE-1 (Volume II)  
Budget Account 101-4554

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JIM R. BARBEE (Acting Director, State Department of Agriculture):

Please refer to my presentation ([Exhibit C](#)). Page 1 contains our mission statement. Page 2 shows how we strive to ensure the economic and environmental viability of Nevada agriculture. An organizational chart by budget account for fiscal year (FY) 2009-2010 and FY 2010-2011 ([Exhibit D](#)) includes a listing of our with our departments and employees. Page 3 of [Exhibit C](#) shows the Nevada Department of Agriculture General Fund reductions. In FY 2008-2009 the General Fund appropriation was about \$7.5 million; in FY 2010-2011 the General Fund appropriation was about \$4.6 million, a 39 percent reduction. The *Executive Budget* for FY 2012-2013 proposes about \$3.4 million, a 25 percent reduction.

The *Executive Budget* proposes that the Division of Measurement Standards be moved to the Department of Motor Vehicles (DMV). Page 4 of [Exhibit C](#) shows the reduction of 25 positions, 21 of which are located in the Division. The Department of Agriculture will be eliminating a veterinary diagnostician, a personnel tech III, and two wildlife services field assistant II positions.

An organizational chart ([Exhibit E](#)) reflects the movement of positions within the budget accounts for FY 2011-2012 and FY 2012-2013. It is aligned with the positions we fund under those budget accounts. Although the Division is identified on this chart, it will not be included in the organizational chart after the transfer.

The functions of the Administration Division of the Department of Agriculture are to give agency oversight, work with and manage the State Board of Agriculture and provide accounting, payroll, personnel, fiscal and budgeting services. During FY 2012-2013, the General Fund appropriated \$986,311 for the Division; the remainder was funded through an approximately \$1.6 million internal cost allocation from the other divisions. The Division currently has six positions: the Director, an administrative services officer, budgeting staff and management analyst staff. Major decision units within this budget account include a pay decrease, personnel position movement and a shift in internal cost allocation due to the movement of the Division of Measurement Standards and the Division of Gas Pollution Standards to DMV.

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CHAIR DENIS:

There were some issues with the audit. Please work with Fiscal Division Staff to get the fund mapping clarified, explain changes to the cost allocation and come to an agreement on the methodology.

Why has the Department changed its methodology in the billing of administrative expenses?

MR. BARBEE:

We have had movement in the cost allocation because the Division of Measurement Standards is transferred out. Because the funds had to come from other divisions, it changed the cost-allocation requirement. There are regulations regarding what we can pull for cost allocations from the General Fund and from federal grants. I believe the *Executive Budget* increased this budget account to make up for the increased cost allocation.

CHAIR DENIS:

Please explain the coding changes in the Base Budget.

MARGARET SCHEID (Accounting Supervisor, Division of Administration, State Department of Agriculture):

If we move the Division of Measurement Standards out of Agriculture, that impacts all the other units within our Agency. Those other divisions have to pick up the extra cost allocation expenses that support Administration.

CHAIR DENIS:

For clarification, I will use the general fence/lawn care vendor expenses as an example. These expenses appear to be for the Elko office, which were charged to budget accounts 101-4546, 101-4550, 101-4551 and 101-4554 in FY 2009-2010, but only to 101-4554 in FY 2010-2011. In FY 2009-2010, the expenses are charged to multiple accounts, but in FY 2010-2011, they are charged to one account. Please explain why that was done.

AGRI – Livestock Inspection — Budget Page AGRICULTURE-44 (Volume II)  
Budget Account 101-4546

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AGRI – Veterinary Medical Services — Budget Page AGRICULTURE-53  
(Volume II)  
Budget Account 101-4550

PUBLIC SAFETY

MOTOR VEHICLES

DMV – Weights Measures and Standards — Budget Page DMV-69 (Volume III)  
Budget Account 101-4551

Ms. SCHEID:

In previous years, when the cost allocation was implemented, contracts and services that should have been charged to Administration were not charged. If we are going to charge other budget accounts for the work we provide, it makes sense that the overhead should come out of the Administration budget. That is why you see the change in that contract and several other contracts.

CHAIR DENIS:

I would recommend working with our Staff so that can be cleared up in the Base Budget.

How does the Agency anticipate the proposed centralization of personnel services will impact the handling of human resources management?

MR. BARBEE:

We will have to work closely with the Department of Personnel and utilize the resources they have. In some cases we will have to pick up more internal issues, but as far as the paperwork and dealing with personnel, it will go directly through the Department of Personnel.

ASSEMBLYMAN GRADY:

Does the budget we are reviewing include the two departments you currently have?

MR. BARBEE:

That is correct.

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ASSEMBLYMAN GRADY:

Which two positions in wildlife will be eliminated?

MR. BARBEE:

Two field assistant II positions will be eliminated.

CHAIR DENIS:

You said two positions, but I believe it is only one.

ASSEMBLYMAN GRADY:

Mr. Barbee's presentation says two wildlife services positions will be eliminated.

CHAIR DENIS:

I think there is a discrepancy, because the *Executive Budget* only identifies one position.

MR. BARBEE:

I understood there was one that was cut due to a vacancy, which was part of the agency request.

CHAIR DENIS:

The Governor's recommendation only shows one position, so please take another look at that. We will now discuss B/A 101-4980.

AGRI – Nevada Junior Livestock Show Board — Budget Page AGRICULTURE-9  
(Volume II)

Budget Account 101-4980

MR. BARBEE:

Page 6 of [Exhibit C](#) shows the functions of this budget account. It provides an opportunity for 4-H club and Future Farmers of America members, to showcase their animal entrepreneurship projects to the public. The students earn scholarship money through the project's profit and the scholarships that are associated with the Nevada Junior Livestock Show (NJLS). They also put on educational workshops related to animal health, production and welfare.

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The *Executive Budget* identifies \$39,930 as coming from outside accounts to fund this budget account. We are unsure at what point the \$39,930 was captured. The most recent figure I heard was closer to \$11,000 for operational expenses. The Agency requested that the budget be zeroed out so the Board can file a 501(c)(3) application and start fundraising to be self-sufficient.

CHAIR DENIS:

What are you going to do to fund the actual account?

MATT MCKINNEY (President, Nevada Junior Livestock Show Board, State Department of Agriculture):

Approximately 75 percent of our budget has been through donations, with the State allocation being around 25 percent of the overall budget. The majority of people that work at the show are volunteers. We believe we will have a better chance of putting on the show under 501(c)(3) funding rather than State funding.

CHAIR DENIS:

What process will you use to clear the account?

MR. BARBEE:

These funds are from the external bank account. They want to operate from this account, rather than transfer those funds into an internal account.

CHAIR DENIS:

Are you going to close this account out and eliminate it from the *Executive Budget*?

MR. BARBEE:

Correct, and the Agency will still provide support for the NJLS Board by continuing to offer them office space.

CHAIR DENIS:

When you offer the services, such as facilities, will you have to budget for that?

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MR. BARBEE:

That will probably come from administrative costs. Right now we have some offices within the building that are empty; one of those offices is what we have provided them. Because they already have offices within our building we will not see a major increase in the cost of operations.

CHAIR DENIS:

Which building are you talking about?

MR. BARBEE:

I am referring to the headquarters for Agriculture in Sparks.

CHAIR DENIS:

What is the time frame for closing out the budget?

MR. BARBEE:

We would like to close this budget as soon as possible so they can begin raising and utilizing funds through a 501(c)(3) application.

CHAIR DENIS:

Have you looked at the process for utilizing 501(c)(3) funds?

MR. MCKINNEY:

Yes, we have started the process. We are planning to start the Nevada Junior Livestock Show Board Foundation which will operate separately from the Governor-appointed NJLS Board. That foundation will be the fundraising entity for putting on the show.

CHAIR DENIS:

How long will it take you to do that?

MR. MCKINNEY:

We should have our final 501(c)(3) application set up by August at the latest. Right now, our Employer Identification Number is being processed and our bylaws are being established.



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CHAIR DENIS:

You mentioned setting up a foundation, but there are other items involved, aside from the 501(c)(3) application, when setting up a foundation. Do you anticipate it will all be completed by August?

MR. MCKINNEY:

Yes, that is our goal.

ASSEMBLYMAN CONKLIN:

This will require a budget amendment, and we may also need to make some statutory changes. We will need those from you as soon as possible; Staff will be able to work with you on that.

RICK COMBS (Assembly Fiscal Analyst, Fiscal Division, Legislative Counsel Bureau):

This is the first time we have heard about this idea. I cannot come up with any reason why it would not be okay for them to do this through a charitable organization rather than through the State. Some seasonal salary expenses have been included in the budget in the past, but there is no full-time equivalent (FTE) involved so it would not be a problem to go forward with it. It would require a statutory change because the NJLS Board is referenced in statute as part of the Department of Agriculture. If you are going to provide a nonprofit organization with office space, we would want to look into whether we should charge rent for the use of the space. The Governor would have to review the budget amendment, before moving forward with it.

MR. MCKINNEY:

In the *Nevada Revised Statutes* (NRS), there are four paid members on the Board. They are paid \$80 a meeting, for four meetings a year. That is the only part of the NRS that has anything to do with economics.

CHAIR DENIS:

That would require a change to the budget.

MR. MCKINNEY:

The \$39,000 that Mr. Barbee was speaking of earlier was money that was generated from sales of the exhibitors' projects. It was all in outside accounts.

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We think it would be easier to run the Board through outside accounts, rather than through the State because we have always run at least a \$50,000 budget from the sales money in those accounts.

CHAIR DENIS:  
Who is paying the expenses of the Board?

MR. BARBEE:  
We have not discussed where the expense would come from in the event of a statutory change.

CHAIR DENIS:  
We need to be clear on that.

SENATOR RHOADS:  
Who would make the appointments to the new Board?

MR. BARBEE:  
We would not change the NJLS Board. We are talking about a separate foundation board which would focus on generating funds to support NJLS. The NJLS Board would still manage NJLS, as provided under the statute and function of the Governor's appointed Board.

ASSEMBLYMAN GRADY:  
Because your show is coming up soon, are you financially able to put on the show this year?

MR. MCKINNEY:  
We are economically viable to put on the show this year. Through the State, our FY 2009-2010 budget is approximately \$22,000 which has been allocated for NJLS. We also have private funding sponsorships and other monies which will enable us to put on the show.

CHAIR DENIS:  
If the board is going to be paid \$80 per member, plus the travel expenses, that cannot come from the General Fund, because there is no money in the General Fund. That would have to be changed.

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MR. BARBEE:

We will work with Staff to get that straightened out.

Pages 7 and 8 of [Exhibit C](#) address B/A 101-4540. This budget's function is to detect, eradicate and prevent entry into the State by plant pests, plant diseases, physiological plant disorders and noxious weeds. Pesticide controls prescribe the material and methods to be used in the application of pesticides and prohibit the use of materials or methods in the custom application of pesticides to the extent necessary to protect health or prevent injury. For the current biennium, there is \$554,901 from the General Fund to support this account. Several position movements are coming from this account.

AGRI – Plant Health & Quarantine Services — Budget Page AGRICULTURE-12  
(Volume II)

Budget Account 101-4540

Decision unit E-900 transfers the livestock inspection division administrator from B/A 101-4540 to B/A 101-4546, which is the Animal Identification account. This is a result of the Agriculture Enforcement Division closing in the middle of this last biennium. The transfer reflects where the funds are coming from to support that position.

E-900 Trans Livestock Admin frm Plant to Livestock — Page AGRICULTURE-15

Decision unit E-901 in B/A 101-4540 transfers three vehicles, related to brand inspection, to B/A 101-4546. This is the result of a recommendation by the Legislative Counsel Bureau (LCB) Audit Division.

E-901 Trans Vehs frm Plant Health to Livestock Inspection —  
Page AGRICULTURE 15

Decision unit E-903 transfers four positions to B/A 101-4545.

E-903 Trans Positions from Plant Heath to Registration —  
Page AGRICULTURE-16

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Decision unit E-904 transfers certification, book and pamphlet fees, which are associated with the transferred positions, to B/A 101-4545. Positions that transfer in decision unit E-903 are the Plant Industry regional manager, agriculturist, division administrator for Plant Industry and an administrative assistant.

AGRI – Agriculture Registration/Enforcement — Budget Page AGRICULTURE-25  
(Volume II)  
Budget Account 101-4545

E-904 Trans Fees frm Plant to Registration/Enforce — Page AGRICULTURE-17

Page 8 of [Exhibit C](#) illustrates the performance indicators in the *Executive Budget* for FY 2011-2012 and FY 2012-2013. The performance indicators reflect that the Department is expected to perform: over 2,000 nursery stock dealers' inspections, 60 pest inspections (wood based), 3,000 pest controllers trained and 80 pest investigations.

CHAIR DENIS:

Considering the Department is going through many changes, how are the performance indicators going to change?

MR. BARBEE:

The items that are moving are not related to these specific performance indicators. The first positions we spoke about deal with brand inspections. Those indicators will be reflective of B/A 101-4546. The rest of these should be specific to the Plant Health and Quarantine budget.

CHAIR DENIS:

Because the four performance indicators listed are being moved out of this budget, what are you going to do?

DAWN RAFFERTY (Administrator, Plant Industry Division, State Department of Agriculture):

We are in the process of working with the Controller's Office to rewrite our performance indicators, as many of them are quite old and do not accurately reflect what we would like our performance indicators to show. We were able

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to include our new indicators in the Priorities of Government budget. Because these items are moving within budgets within the Division of Plant Industry, there does not appear to be any change.

CHAIR DENIS:

You need to place the performance indicators under the correct accounts.

MR. BARBEE:

We will work with Staff to align our performance indicators with their proper budget accounts.

CHAIR DENIS:

The indicators allow me to see what you are doing.

Are you also transferring positions?

MR. BARBEE:

Yes, the Division Administrator for the Division of Livestock Inspection is being transferred from B/A 101-4540. In the past, fees were generated in that account for functions that the position no longer performs. Three vehicles are also moving, which are tied to brand inspections.

CHAIR DENIS:

You are transferring six people, some vehicles and some information technology (IT) services. Are you going to transfer those items with the positions, or do some these costs need to be added?

MR. BARBEE:

We are moving those vehicles to align them with where they are being utilized which is the Livestock Inspection account.

CHAIR DENIS:

What is happening with the vehicles and IT services for the positions transferred between accounts in the Plant Industry Division?

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MS. RAFFERTY:

Many of those vehicles were already in the accounts where the positions are being moved to. There is crossover with some of these positions and their duties. We tried to realign those vehicles correctly last Session and now we are realigning the positions to go with the vehicles.

MR. BARBEE:

Next we have B/A 101-4541.

AGRI – Grade & Certification of AG Products — Budget Page AGRICULTURE-20  
(Volume II)  
Budget Account 101-4541

The function of this account is:

- Certification for organic, seed, hay, egg grading, U.S. Department of Agriculture (USDA) Country of Origin and Phyto-Sanitary programs
- Issue 700 certificates annually for federal standards of agricultural inspections

The account's balance forward from the previous fiscal year is \$209,295. The rest of the account's revenue is generated from fees and grants which total \$434,300.

Decision unit E-501 transfers the agriculturist IV position from B/A 101-4540 to B/A 101-4541 which is reflective of the LCB audit. This is the position that oversees the organic program.

E-501 Adjustments to Transfers In E-902 — Page AGRICULTURE-21

CHAIR DENIS:

Something is being mapped incorrectly with the transfer: does the agriculturist IV/seed and organic program manager position have duties associated with phytosanitary certifications and conditional inspection fees?

MS. RAFFERTY:

Yes.

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MR. BARBEE:

That was one of the major decision units.

CHAIR DENIS:

Do we need to account for any other organic duties associated with that position?

MS. RAFFERTY:

No. If you are referring to the position duties, that is the only position that conducts organic-related duties.

CHAIR DENIS:

Is there separate organic revenue?

MS. RAFFERTY:

There are some cost-share allocations that come in from USDA which might be what you are seeing.

CHAIR DENIS:

Are those revenues mapped to that position?

MS. RAFFERTY:

No, because they are flow-through grants.

CHAIR DENIS:

Please explain why the transfer does not include the increase in the cost allocation, considering it involves adding that one position to the account.

MS. SCHEID:

Any costs allocated from B/A 101-4541 that support B/A 101-4554, the Administration account have already been calculated and included in the allocation formula. We get certain amounts from the fees and we are only allowed to take set indirect costs from the grants. This was calculated when this transfer was done.

CHAIR DENIS:

Are you transferring fees in?

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Ms. SCHEID:

No, the fees are already in B/A 101-4541; the position is moving in and the fees support that position.

MR. BARBEE:

Part of the rationale for the transfer was because of the reduction in General Fund appropriations, and this position was completely funded by General Funds. In order to continue the necessary duties in the Department of Agriculture, many of these positions are being shifted to be funded by fees to create a savings in the General Fund.

CHAIR DENIS:

The issue is that the cost allocation needs to be adjusted to reflect that the account is going from 0 FTE to 1 FTE.

MR. BARBEE:

We will work with Staff to get that cleaned up.

CHAIR DENIS:

The audit brought up issues regarding the positions performing grading, organic and seed inspections. Have you corrected the billing of the cost of inspections to ensure that the General Fund is no longer subsidizing these positions?

MR. BARBEE:

Yes.

CHAIR DENIS:

How was that accomplished?

MS. RAFFERTY:

The two individuals in those positions, who were funded from the General Fund, have now been moved into other fee-based budgets.



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CHAIR DENIS:

Does the Governor's budget address the LCB audit finding that fees charged for inspections do not cover all the payroll and travel costs associated with the inspection?

MS. RAFFERTY:

That is part of the reason that we moved the positions into fee-based accounts.

ERICA ENG (Program Analyst, Fiscal Division, Legislative Counsel Bureau):

The LCB audit said that the fees charged per each inspection were not being recovered. For example, the travel and per diem were not being recovered entirely by the fee. Is this addressed in the Governor's budget?

MS. RAFFERTY:

Are you asking whether the fee needs to be increased in order to recover payroll and travel costs?

CHAIR DENIS:

Is that what you believe needs to be done in order to recover those?

MR. BARBEE:

We do not have an answer for you right now, but we will investigate it and provide you with a clear answer as to whether we need to look at possible fee increases. We are currently restricted from implementing fee increases because of the proclamation by the Governor.

MS. SCHEID:

During the audit, the program in question was the Nursery Program. In some cases, we are restricted as to how much we can and cannot charge. We will certainly look into increasing those fees if we can. When the Nursery Program was moved, there was a question of whether it would be self-supporting which has not been resolved.

CHAIR DENIS:

Why are charges for services in the Base Budget of B/A 101-4541 projected to be \$41,974 in each year of the upcoming biennium, when year-to-date receipts for FY 2010-2011 only total \$80?

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MS. RAFFERTY:

You are referring to the country of origin labeling inspections (COOL) which we do at the request of the USDA. They assign us 60 inspections per year. These inspections are completed at the beginning of the calendar year, so the receipts can be posted between fiscal years which might account for that difference.

CHAIR DENIS:

How much do you anticipate each year of the biennium from the COOL grants?

MS. RAFFERTY:

It depends on how many inspections USDA asks us to do which can vary from year to year.

ASSEMBLYMAN CONKLIN:

You have only received \$80 year-to-date because you have not received the money yet, or because you received the money in the last biennium for the inspections you have done this year.

MS. RAFFERTY:

It was received last biennium. They typically give us between January and May to complete those inspections. However, the federal government might not request the inspections until later in the year.

ASSEMBLYMAN CONKLIN:

Did you receive the money in the last biennium to cover the costs for this year?

MS. SCHEID:

It is a reimbursable grant. We do the work first, provide the USDA with information regarding the number of inspections completed and they reimburse us.

ASSEMBLYMAN CONKLIN:

It is not prepaid, but you have some idea of the work you have already done, so could you tell Staff what you anticipate the year-end total to be based on the amount of work you have been requested to do?

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MS SCHEID:  
Yes.

CHAIR DENIS:  
I think it would be helpful for Staff to know how much you anticipate receiving from the USDA. Is the \$41,974 representative of payment for the inspections you typically complete?

MS. RAFFERTY:  
Yes. We can get a historical average of what the federal government has requested to determine an amount to budget.

ASSEMBLYMAN GRADY:  
I would like to suggest that the Department of Agriculture sit down with the Governor's Office staff to make sure that the Governor agrees with some of the things they are doing. After that they can come back and work with our Staff to give us an update. The explanations provided today do not address the problems we are having, or allow us to fully understand the root of the issue.

CHAIR DENIS:  
Part of the position transfers are what the Governor was recommending, and we are trying to true up the transfers in the budget. I think there is value in what we are doing now. You will have to speak with the Governor on some of these items, such as the Show Board, that are not in the *Executive Budget*. I think we need to clarify these other items now.

MR. BARBEE:  
We have many changes because of the Governor's recommendations, as well as the LCB audit. We are trying to align everything and get it straightened out.

SENATOR RHOADS:  
What are the consequences of eliminating the Agriculture Enforcement Unit (AEU) transferring the livestock inspection division administrator position, and the remaining AEU related revenues, vehicles and livestock inspection costs?

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MS. RAFFERTY:

The agriculture enforcement officers have been gone for some time, and we have managed to do Plant Industry inspections without their help. Transferring the livestock inspection administrator has no implication for the Plant Industry Division, because it was a budgetary move and the position will continue doing the same duties.

MR. BARBEE:

This aligned the budget accounts with the functions of the positions. The organizational structure for the Governor's recommendation in [Exhibit E](#) shows the reorganization of the previous organizational chart shown in [Exhibit D](#) and how we have realigned positions in the proper accounts.

Budget Account 101-4545 is the largest account in the Plant Industry Division. Some of our funding comes from the U.S. Environmental Protection Agency (EPA). The agreements with EPA focus on pesticide enforcement, registration, licensing and registration of fertilizers and antifreeze. Our chemistry labs are located here and they examine all the products that are sold in Nevada each year. The balance forward over the coming biennium is approximately \$2.7 million. The EPA pesticide enforcement over that biennium is about \$687,000, and the remainder of the funding comes from fees and certifications.

Decision unit E-500 transfers four positions from B/A 101-4540 to B/A 101-4545 per the LCB audit recommendation.

E-500 Adjustments to Transfers in E-903 — Page AGRICULTURE-28

AGRI – Registration and Enforcement — Budget Page AGRICULTURE-25  
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Budget Account 101-4545

CHAIR DENIS:

The audit found that you received \$400,000 for inspections, but the inspections were not completed. Please elaborate as to whether you have hired a new inspector.

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MS. RAFFERTY:

We recently hired a new chemist and he has been working on the new protocols. We have the equipment and protocols in place to perform fertilizer inspections and we are working on the antifreeze inspections as well. The registration we take is not specifically based on the product, but the verification that the business is legitimate and the labels do match. We also have the option of doing random inspections, where we analyze the products to ensure they are consistent with the label.

CHAIR DENIS:

Is it a multistep process that you do when you charge for the service?

MS. RAFFERTY:

Yes, it is a multistep process.

CHAIR DENIS:

How many tests has the newly hired chemist completed?

MS. RAFFERTY:

I would have to get back to you with that number.

CHAIR DENIS:

What about the antifreeze inspections?

MS. RAFFERTY:

We are working on the antifreeze as well. It requires a protocol that is complicated with the new equipment that we have, so they are still working on that. A chemist recently retired, and we are in the process of hiring a replacement. Much of this has to do with staff turnover and decreases in the last couple of years.

CHAIR DENIS:

Do you know when you will hire a replacement chemist?

MS. RAFFERTY:

The announcement is out, and we have three qualified applicants who will be interviewed in the following weeks.

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MR. BARBEE:

Decision unit E-502 transfers fees from B/A 101-4540 per the LCB audit. The cost-allocation shifts from the transfer of the Division of Measurement Standards which is the account that takes the largest cost-allocation hit. The cost allocations are increased to about \$179,000.

E-502 Adjustments to Transfers in E-904 — Page AGRICULTURE-28

CHAIR DENIS:

If the Nursery Program manager's position were correctly mapped to reflect 80 percent funding by nursery license revenues and 20 percent by transfers from B/A 101-4540, would the amount of projected revenues sustain the program in the upcoming biennium?

MS. RAFFERTY:

No, it would not. We could sustain the program manager, but it would not cover the two inspectors in the Las Vegas area. Since the bulk of the nurseries are in that area, it would be very difficult to complete the inspections required for that program.

CHAIR DENIS:

What changes are necessary to align the Nursery Program revenues with expenditures?

MS. RAFFERTY:

We have moved that inspector from B/A 101-4540 with some General Fund dollars supporting the position. We are closely monitoring the Nursery Program's revenues because we are aware that they are decreasing. We are trying to figure out how to deal with the issue over time.

CHAIR DENIS:

What specific strategies are you considering?

MS. RAFFERTY:

We are utilizing the two inspectors in Las Vegas for other programs that exist in that area, such as fertilizer inspections, pesticide inspections and working with EPA and fund them from those sources throughout the year. We try to have

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them complete nursery inspections in the beginning of the year, and as the fees decrease, the positions will be funded from the other programs.

CHAIR DENIS:  
Is that misaligning the positions?

MS. RAFFERTY:  
No, we are having the employees code their time accordingly. We are making sure they correctly code where their time is spent to comply with audit recommendations.

CHAIR DENIS:  
Does the administrative assistant I position support the pest control operator (PCO) program? Should the transfer adjustments recommended in B/A 101-4545 be modified to reflect this?

MS. RAFFERTY:  
That position works specifically with PCO in Las Vegas, so we aligned the employee more closely with what she does.

CHAIR DENIS:  
Have you modified it to reflect that?

MS. RAFFERTY:  
Yes, we have.

CHAIR DENIS:  
Should all five accounts in Plant Industry with full-time and seasonal positions pay part of the Division Administrator's payroll costs and the Northern Regional Manager's payroll costs for positions in the north?

MS. RAFFERTY:  
We are reviewing that to properly align the duties of those two positions with other budgets to cost allocate that across the Plant Industry Division's budget.

CHAIR DENIS:  
What is your plan?

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MS. RAFFERTY:

We have tried to closely align those positions with their duties and the revenues that go along with those duties. The plan is to look at revenues, and determine where we can better align them, since they are still funded with some General Fund appropriations.

CHAIR DENIS:

When do you anticipate completing that allocation determination?

MS. RAFFERTY:

We would probably have an idea by the end of this Session.

CHAIR DENIS:

Please meet with Staff regarding how you are going to allocate funding for those positions.

What changes would be necessary to fund the PCO manager position entirely with PCO program fees?

MS. RAFFERTY:

This position has historically been partially funded by pesticide registration fees because the pesticide registration benefits from some of the work the position does.

CHAIR DENIS:

The audit said the position is supposed to be paid entirely out of the PCO fund. Is that happening?

MS. RAFFERTY:

I do not believe so. We will review the account and get back to you.

ASSEMBLYMAN GRADY:

Is the antifreeze inspection portion of the fees going to DMV, or will it stay with the Department of Agriculture?

MR. BARBEE:

That will remain within the Department of Agriculture.



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Page 11 of [Exhibit C](#) details B/A 101-4552. The function of this account is:

- Cooperative weed management
- Federal grant projects, including reclamation
- Survey and control of species that are detrimental to economic, environmental and public health effects

The balance forward over the biennium is \$349,730. The largest part of this budget account is USDA grants, American Recovery and Reinvestment Act of 2009 (ARRA) funds and smaller grants totaling approximately \$3.7 million over the biennium.

AGRI – Pest Plant Disease Noxious Weed Control — Budget Page  
AGRICULTURE-34 (Volume II)  
Budget Account 101-4552

ASSEMBLYMAN CONKLIN:

Is there any way the Agency can avoid using General Fund advances while awaiting grant reimbursements?

Ms. SCHEID:

I would have to review each grant to determine if we can get advances from them. Historically, balance-forward funds carry our activities until we are reimbursed by the grants. It depends on each grant as to whether USDA will approve advances, rather than reimbursements.

ASSEMBLYMAN CONKLIN:

Is that a possibility?

Ms. SCHEID:

Yes, it is.

ASSEMBLYMAN CONKLIN:

If your current reimbursement methodology is the intent, you will want to include that in the budget bill as well. There needs to be a statement allowing General Fund advances in the Budget Act because it makes a difference in the budget.

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MR. BARBEE:

Federal grants can vary greatly, so the result will probably be varied as well. We will have our staff speak with those in charge of the federal grants to see if there are any opportunities to receive advances.

CHAIR DENIS:

The major problem is that you are using General Fund money while waiting for the federal grant reimbursements.

MS. SCHEID:

There is no General Fund money in this budget.

CHAIR DENIS:

How are you funding it? There is a period of time when you do not have any money, but you are paying out.

MS. SCHEID:

We fund it with the fees that carry forward.

CHAIR DENIS:

You are using fees that are balanced-forward?

MR. BARBEE:

Correct.

CHAIR DENIS:

There is approximately \$40,000 in balance forward, but there is about \$1.5 million for the total budget. Is that enough to sustain you?

MS. SCHEID:

I do not believe we will spend \$1.5 million in one month.

CHAIR DENIS:

Does it only take one month to receive the grant money?

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Ms. SCHEID:

It will take one or two months as we transfer money from one fiscal year to another.

CHAIR DENIS:

Are you saying that \$40,000 is enough to get you through those first two months?

Ms. SCHEID:

Yes, it is.

MR. BARBEE:

We will research which USDA grants we can get money from upfront and we will get that information to you.

ASSEMBLYMAN CONKLIN:

I would like the Agency to provide a complete reconciliation of all ARRA grants with spreadsheets that support the remaining grant balance amounts.

Since the ARRA funds go through mid-2013, what should the end date be for the agriculturist III position?

Ms. SCHEID:

It is September 30, 2013.

CHAIR DENIS:

Why does our information indicate the position end date is December 31, 2012?

Ms. SCHEID:

I will check that.

CHAIR DENIS:

Please let Staff know.

MR. BARBEE:

Page 12 of [Exhibit C](#) indicates the functions of B/A 101-4546:

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- Brand inspections
- Livestock yard bonding and licensing
- Processing of stray livestock
- Investigating reports of lost, strayed, or stolen livestock
- Enforcement of licensing & bonding
- Collection of livestock assessments

In the Governor's recommended budget, we have a balance forward of about \$871,000 over the biennium and livestock tax and fees of slightly more than \$2 million.

AGRI – Livestock Inspection — Budget Page AGRICULTURE-44 (Volume II)  
Budget Account 101-4546

Decision unit E-500 transfers three vehicles from B/A 101-4540.

E-500 Adjustments to Transfers in E-901 — Page AGRICULTURE-46

Decision unit E-501 of B/A 101-4546 adjusts the revenue for the Livestock Division Administrator.

E-501 Adjustments to Transfers in E-900 — Page AGRICULTURE-47

CHAIR DENIS:

If that transfer is approved, which revenues in particular would be used to fund the Livestock Division Administrator on an ongoing basis?

Ms. SCHEID:

Brand inspection fees would fund that position.

CHAIR DENIS:

Do you map 100 percent to that?

Ms. SCHEID:

That position is funded with balance-forward money as well as livestock inspection fees.

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JOANN MOTHERSHEAD (Co-Administrator of Administration Livestock Identification, State Department of Agriculture):  
Brand inspection has been reimbursing Plant Industry for the last four years with money from the inspection fee.

ASSEMBLYMAN GRADY:  
Is brand inspection fee based?

MS. MOTHERSHEAD:  
That is correct.

ASSEMBLYMAN GRADY:  
Are we taking money that the cattlemen are paying for the brand inspections and shifting it into other accounts?

MS. MOTHERSHEAD:  
Because AEU is no longer an entity, paying the administrator out of Plant Industry is no longer a viable option, so we had to move the position from B/A 101-4540 to B/A 101-4546.

ASSEMBLYMAN GRADY:  
What percentage is coming out of brand inspection fees?

MS. MOTHERSHEAD:  
It is 100 percent.

MS. ENG:  
In the current biennium, 2009-2011, the livestock administrator position was in Plant Health and Quarantine Services which is the main Plant Industry account. The Administrator was responsible for AEU, but brand inspection fees only covered approximately 50 percent of the salary costs, even though the position was still supporting livestock inspection 100 percent. One of the audit conclusions was to move the position to livestock inspection, where it will be funded 100 percent by livestock-related fees and will no longer be supported by Plant Industry.

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ASSEMBLYMAN GRADY:

Will 100 percent of the time be spent on brand inspections?

MS. ENG:

We might want to clarify that with the Agency.

MS. MOTHERSHEAD:

It is strictly brand inspections.

CHAIR DENIS:

How many seasonal staff does the Agency anticipate it will hire with the Governor's recommended budget?

MS. MOTHERSHEAD:

My brand inspectors are intermittent employees rather than seasonal staff. This means that they are on call 24/7, and they are paid from the time they leave home, until the time they get back.

CHAIR DENIS:

How many positions will you have in that status?

MS. MOTHERSHEAD:

While we normally have approximately 85 positions, we are currently down to 74 because of redesign, retirement and cuts.

CHAIR DENIS:

How many months do they work each year?

MS. MOTHERSHEAD:

They work 12 months a year.

CHAIR DENIS:

Will 74 employees, working 12 months a year on call, fit within the recommended amount in the Governor's budget?

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MR. BARBEE:

Yes. If someone needs a brand inspection, they will call the brand inspection office and someone will be dispatched to do that. They are not working eight hours a day, every day, doing brand inspection. It is an on-call type of service.

Performance indicators of B/A 101-4546 are shown on page 13 of [Exhibit C](#). For FY 2011-2012 and FY 2012-2013 the performance indicators are:

- 100 percent of livestock inspections completed
- Four year brand rerecording and recording book of over 4540
- 700,000 livestock inspections
- 900,000 livestock per head inspections
- 600 lost and stolen livestock returned
- 170 livestock dealers licensed

CHAIR DENIS:

What is the actual number of livestock inspections performed?

MR. BARBEE:

The third performance indicator of completing 700,000 livestock inspections reflects the actual number over the biennium. What we are saying, by using the percentage, is that we will meet all requests for livestock inspections.

I will now discuss B/A 101-4550.

AGRI – Veterinary Medical Services — Budget Page AGRICULTURE-53  
(Volume II)  
Budget Account 101-4550

The functions of this account are:

- Conducting surveillance
- Collecting and compiling data for scope of disease
- Determining techniques, methods and procedures to diagnose and control diseases
- Administering disease control techniques, methods and procedures
- Collecting biological specimens

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- Taking action to prevent disease spread to livestock and humans

Based on the *Executive Budget*, we have identified \$949,376 in General Fund money. From federal money and fees, we receive \$790,306.

Decision unit E-500 transfers fee revenue from B/A 101-4546, per the LCB audit. These fees come from the Livestock Inspection account and are going into the Veterinary Medical Services account.

E-500 Adjustments to Transfers in E-902 — Page AGRICULTURE-55

Decision unit E-501 aligns revenues associated with the laboratory transfer and duties formerly performed in Livestock Inspection that will now be in the Veterinary Medical Services.

E-501 Adjustments to Transfers in E-903 — Page AGRICULTURE-56

Decision unit E-690 eliminates a senior veterinary diagnostician position in Elko.

E-690 Budget Reductions — Page AGRICULTURE-58

Decision unit E-902 transfers expenditures from B/A 101-4546 for equine infectious anemia (EIA).

E-902 Trans EIA from Livestock Inspection to Vet Med — Page AGRICULTURE-58

Decision unit E-903 transfers lab charges from B/A 101-4546.

E-903 Trans Lab Charges from Livestock Inspect to Vet Med — Page AGRICULTURE-50

CHAIR DENIS:

Which positions specifically perform the equine infectious anemia tests? Should positions that do not perform these tests be funded with EIA revenues?



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PHIL LA RUSSA, D.V.M. (State Veterinarian, Division of Animal Industry, State Department of Agriculture):

Permanent full-time microbiologists perform the tests in the Sparks laboratory. We currently have two laboratories, one in Elko and one in Sparks. In the Elko laboratory, we are conducting EIA testing under the supervision of the diagnostician, which will be eliminated under decision unit E-690. The microbiologist in Elko is supported by fees in the account and can only function under the supervision of the diagnostician. We are considering closing the Elko laboratory. We are a very small Division, with a total of eight people, one being in Elko. With decision unit E-690, 100 percent of the EIA testing will be conducted in the Sparks laboratory.

CHAIR DENIS:

Is anyone not doing EIA testing getting funded by the EIA fund?

MR. BARBEE:

No.

SENATOR RHOADS:

Why are you eliminating the senior veterinary diagnostician position in Elko, especially since approximately 80 percent of the livestock comes from that region?

MR. BARBEE:

We have a comment relative to that later in the presentation.

On page 15 [Exhibit C](#) are the B/A 101-4550 performance indicators for FY 2011-2012 and FY 2012-2013:

- 57,000 samples for lab tests
- 10,000 Tritrichomonas tests
- 16,000 Arbovirus (West Nile, Encephalitis) tests
- 2,000 Avian Influenza sample tests
- 50,000 certification vet inspections
- 800 Rabies tests

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CHAIR DENIS:

Should the West Nile subgrant amount be revised from \$87,364 to \$103,505 to match the Centers for Disease Control unofficial award amount?

MS. SCHEID:

The West Nile subgrant seems to be in question. The Nevada Health Division transfers that money over to us and we have tried to align our figures to agree with them. They may still be out of alignment, and we will work with Staff, but that is where we have to get our information. The information in the Governor's recommended budget is the best we have at this time.

CHAIR DENIS:

Did the Agency fund map any of the subgrant to support personnel cost as was reflected in the application to secure the subgrant? If not, why not?

MS. SCHEID:

When we did the Agency Request budget, we assumed we were not getting the West Nile grant, so it is possible we overlooked that portion.

CHAIR DENIS:

That might result in some General Fund savings. Please review the West Nile subgrant and report the costs that it will cover to the Subcommittee.

MR. BARBEE:

Page 15 of [Exhibit C](#) identifies our concerns relating to B/A 101-4550. They are:

- Increased internal cost allocation
- Loss of Elko veterinarian diagnostician position responsible for the Elko satellite laboratory
- Tritrichomonas fetus control program epidemiology coordinator
- State Brucellosis epidemiologist
- State Tuberculosis epidemiologist
- Chronic Wasting Disease program coordinator
- Generating enough revenue to certify lab and equipment to meet federal requirements for testing

This account becomes very tight for our staff.

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CHAIR DENIS:

Is the position elimination in the Elko area?

MR. BARBEE:

This is for the lab we have in Elko.

CHAIR DENIS:

If you eliminate the position in Elko, how will you get those services to the other laboratory?

MR. BARBEE:

The tests will be shipped to the office in Sparks. This will create more work in Sparks and a longer turnaround time on the test results. Elko has the largest livestock and wildlife corridor in the State. Every sample collected will have to be shipped to Sparks for testing.

CHAIR DENIS:

Will there be a delay in getting results?

MR. BARBEE:

That is correct.

ASSEMBLYMAN GRADY:

Will the Sparks laboratory be able to handle all the inspections?

DR. LA RUSSA:

We will not be able to perform all the services currently being performed by the Elko office. Field necropsies currently being conducted by the diagnostician would no longer be done in Elko. Services we would not be able to perform would have to be done by private practitioners. If there were some sort of emergency, such as an outbreak or epidemic in Elko, we would have to travel there, but since there is no travel budget, we would have to pay for it out of our own pocket.

All of the tests that are listed under the 'concerns' are tests that the diagnostician performs. This individual needs to be specifically trained, sent to specific schools and get the approval of the federal government for

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accomplishing those tasks. At this time we do not have funds to send another individual to the training.

ASSEMBLYMAN GRADY:

Are these tests being performed time sensitive? If the sample was mishandled during shipping, would the test results be invalidated?

DR. LA RUSSA:

Yes, there are temperature and time controls on the tests; we do not want to see the samples spoiled. The practitioners and owners are accustomed to a rapid turnaround time. When they find out services will be delayed, it will impact their practices.

ASSEMBLYMAN GRADY:

If the tests are not done in an adequate time frame, can a problem on one ranch affect all the other ranches in the area?

DR. LA RUSSA:

You are correct.

CHAIR DENIS:

Have the performance indicators been adjusted to reflect the elimination of the diagnostician position?

MR. BARBEE:

We will be realigning and clarifying the performance indicators with Staff.

ASSEMBLYMAN CONKLIN:

Please explain why seasonal and EIA lab expenses are being recommended for elimination as a General Fund budget reduction when these expenses are mapped entirely to EIA and non-EIA laboratory fees.

MS. SCHEID:

The General Fund reduction is the reason for the elimination of the diagnostician. This individual needs to oversee the microbiologists running the tests, and since that can no longer be done in Elko, they will be sent to Sparks.

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ASSEMBLYMAN CONKLIN:  
Is that the same decision unit?

MS. SCHEID:  
No, the elimination of the diagnostician is one unit. The testing fees, revenues and expenses, which were previously in B/A 101-4546, are being transferred to B/A 101-4550, so they are not in the same decision unit.

ASSEMBLYMAN CONKLIN:  
We are trying to figure out where the General Fund reductions are coming from.

MS. SCHEID:  
The General Fund reduction is reflected in the elimination of the senior vet diagnostician.

ASSEMBLYMAN CONKLIN:  
It appears to me that the general mapping of the entire budget creates some real complications in our ability to analyze where the cuts are coming from, what the costs of those cuts will be, and what it means to people who think it is important to have a Department of Agriculture. We have some very difficult decisions to make, and I am not interested in working with budgets that are difficult to interpret.

It would be helpful if you would work with Staff and put together budgets that are clear for us, as legislators, to read and understand.

MR. BARBEE:  
For the record, I would like to acknowledge this is clearly understood and we will work with Staff to get these issues resolved as soon as possible.

CHAIR DENIS:  
If the Governor's recommended budget for this account does not result in General Fund savings, then something else will have to be cut. What we are seeing is that EIA funds are being used, so there would be no General Fund savings. When you work with Staff, please get that clarified.

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MR. BARBEE:

Page 16 of [Exhibit C](#) describes the functions of B/A 101-4600.

AGRI – Predatory Animal & Rodent Control — Budget Page AGRICULTURE-62  
(Volume II)  
Budget Account 101-4600

This account includes the following functions:

- Manage conflicts caused by wildlife
- Limit damage to agriculture industry
- Limit wildlife impact on human health and safety
- Limit wildlife impact on threatened or endangered species
- Provide samples of statewide disease for the prevention of plague and avian influenza

The funding sources include the General Fund with \$984,542 and Nevada Department of Wildlife (NDOW) and the Nevada Woolgrowers Association with the sum of \$853,052.

Decision unit E-600 eliminates one field assistant II position, which is contrary to the two positions that I stated earlier in the presentation. It is only one position being eliminated.

E-600 Budget Reductions — Page AGRICULTURE-64

CHAIR DENIS:

How did the Agency select that position for elimination?

MARK JENSEN (Director, Division of Resource Protection, State Department of Agriculture):

It was chosen because that employee retired, and we would not have to lay anyone off with the elimination of that position.

CHAIR DENIS:

We are not getting the full savings, because the position is partially funded by NDOW. You would have received a larger savings had you gone with one of the

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other positions. Are you able to partially fund map another position with funds from NDOW?

MR. JENSEN:

The funding that comes from NDOW is for specific work, such as mountain lion work to protect bighorn sheep and other resources for NDOW. Within our field assistant positions, two positions are mountain lion specialists. They have the dogs, horses, mules, tack and all the equipment to do that kind of work. One of those field assistants retired, and none of my other field positions has all the supplies to do that work for NDOW.

ASSEMBLYMAN GRADY:

Are you saying that you will no longer have specialists to keep the mountain lions under control?

MR. JENSEN:

That is correct. We have two mountain lion specialists, one in the East, in Ely, and one in western Nevada, who has retired. We will not have a specialist for the western half of the State. We will do the best we can with the resources we have, but it will require five hours of travel time to get a mountain lion specialist to that part of the State.

ASSEMBLYMAN GRADY:

When the older mountain lions, that are not able to get wild game, start attacking dogs and cats in populated areas, the response time for the mountain lion specialist will be a concern.

MR. JENSEN:

Yes, sir, that is our concern.

CHAIR DENIS:

Is there still a mountain lion problem that needs to be addressed? If so, will the elimination of this position further impede the issue?

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MR. JENSEN:

We routinely respond to complaints such as livestock deprivations, threats to human safety and bighorn sheep deprivation. It is an issue, and we will do the best we can with the resources we have.

CHAIR DENIS:

Do any of the USDA employees take care of the mountain lion problem?

MR. JENSEN:

We do not have any USDA employees who are specific to mountain lion work. We do have other field employees, and options within USDA as far as using traps, snares and other equipment to deal with mountain lions. Our plan is to do the best we can with what we have available. As far as employees who have the dogs, horses, mules and supplies, we have relied on our State workforce. We only have the one employee who covers the eastern part of the State currently.

MR. BARBEE:

Page 17 of [Exhibit C](#) shows the performance indicators:

- Respond to 60 percent of requests for wildlife assistance
- 208,000 animals removed; birds and mammals
- 3,000 wildlife samples collected
- 2,000 technical assistance projects
- 100 percent of the Bureau of Land Management (BLM) grazing meetings attended
- Two work planning meetings with BLM and U.S. Forest Service

CHAIR DENIS:

With the elimination of the position, will you have to modify these performance indicators?

MR. JENSEN:

I believe these performance indicators reflect that elimination.

MR. BARBEE:

That completes the Department of Agriculture budget presentation.



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We will move on to the next presentation on Weights, Measures and Standards ([Exhibit F](#)).

The functions of this budget account are:

- Licenses, tests and deems correct all commercially used weighing and measuring devices
- Obtains samples of motor fuels and delivers them to the petroleum chemist for analysis
- Meteorologist certifies field standards used by Weights, Measures and Standards
- Test fuels (via absorption of B/A 101-4537) against acceptable standards

DMV – Gas Pollution Standards — Budget Page DMV-76 (Volume III)  
Budget Account 101-4537

The balance forward for FY 2011-2012 and FY 2012-2013 is approximately \$2 million. Fees and DMV funds are approximately \$4.6 million.

Decision unit E-900 moves B/A 101-4537, the Gas Pollution Standards budget accounts, into B/A 101-4551.

E-900 Trans Gas Pollution Standards to Weights & Measure — Page DMV-73

The movement of the budget from the Department of Agriculture to DMV will improve customer service by creating a one-stop shop for the petroleum agencies utilizing these services.

Page 2 of [Exhibit F](#) shows the performance indicators of B/A 101-4551:

- 7,000 fuel samples collected
- 7,000 required fuel samples analyzed
- 60,000 commercial weighing and measuring devices inspected
- 99 percent of consumer complaints addressed within three days
- 100 fuel standards violations reported

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CHAIR DENIS:

Please explain the 99 percent figure for responding to consumer complaints.

LON BEAL (Administrator, Division of Measurement Standards, State Department  
of Agriculture):

It is primarily because of the size of the State.

CHAIR DENIS:

Will there be complaints you are not going to respond to?

MR. BEAL:

We may not respond within three days.

CHAIR DENIS:

Do you know the actual number of complaints that you anticipate having?

MR. BEAL:

We have the number of fuel standards violations reported, but I do not have that information right now.

CHAIR DENIS:

In the future, please have that number available. Because there are discussions about eliminating consumer items, it is important to see the number of complaints.

SENATOR KIECKHEFER:

Do you plan on actually moving the Division of Measurement Standards employees into a DMV office to create this one-stop shop? If they are going to stay with you, how is that any better than what you are currently doing?

MR. BARBEE:

Those positions will remain in their present locations. In Sparks, the Division of Measurement Standards building is connected to the Department of Agriculture complex. In Las Vegas, the gas and fuel and the weights and standards labs are on either side of the plant. In Elko, we share an office. I assume we will have to work out a lease exchange, but the Sparks and Las Vegas facilities will not change.

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MR. BEAL:

In Elko, we have discussed moving the inspectors to the DMV offices.

CHAIR DENIS:

Since you were discussing changing locations and that will affect rent and other expenses, please provide the potential rent or cost exchange plans to our Staff within two weeks.

SENATOR RHOADS:

Does this affect the livestock scales on private property?

MR. BARBEE:

That would be under the DMV's new section.

SENATOR RHOADS:

Do you have the people to inspect them as they come in?

MR. BARBEE:

The same staff would now be reporting to DMV.

CHAIR DENIS:

Will any cost savings or efficiencies be achieved by the merging of the Gas Pollution Standards budget with the Weights, Measures and Standards budget?

MR. BARBEE:

It is not about a cost savings, but about customer service efficiency.

CHAIR DENIS:

Does the Agency anticipate any negative impacts or possible logistical problems from the merger of these accounts?

MR. BARBEE:

We have difficulty with cost allocations being increased and placing more pressure on other Department of Agriculture budget accounts. It reduces their ability to create a reserve for updating or purchasing new equipment.

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CHAIR DENIS:

Who will supervise the Plant Industry positions in Las Vegas if the proposed reorganization is approved?

MR. BARBEE:

Those positions will report to the Plant Industry Division. We will identify a supervisor there for site supervision.

CHAIR DENIS:

How will the Department of Agriculture be impacted if it loses the IT services provided by the Measurement Standards Division Administrator?

MR. BARBEE:

We will have to come up with a new plan for IT; I am unsure if that has been addressed yet.

ASSEMBLYMAN GRADY:

If this division transfers, what arrangements do you have to pay rent and expenses of the various offices? Has this been worked out, or is the Department of Agriculture going to absorb all of that?

MR. BARBEE:

We have not discussed that yet, but we will be meeting with DMV to identify the costs of operations. We will report that information back to you within the next couple of weeks.

CHAIR DENIS:

Because that is not in the budget, we will need a budget amendment. Please get that information to us as soon as possible.

With the merger and the transfer, what level of reserves would the Agency deem to be reasonable for the Weights, Measures and Standards account?

MR. BEAL:

We have not discussed that yet and will get together with a budget analyst. I am unsure why our reserve would change.

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CHAIR DENIS:

What about the cost allocations with DMV and services that you are going to be providing?

MR. BEAL:

We have not discussed those yet.

WAYNE SEIDEL (Administrator, Motor Carrier Division, Department of Motor Vehicles):

The staff in Elko will move into a DMV facility and the staff in Sparks will remain in their present location. I have been told by budget staff that calculations for rent and expenses have been included in the budget.

On the DMV side, an IT and Director's portion has been included in the budgets.

CHAIR DENIS:

Are these in budget amendments?

MR. SEIDEL:

I am not sure if they were included in today's information as they were completed yesterday.

MR. COMBS:

Staff needs direction, prior to Work Session or closing, as to whether the Subcommittee will support the transfer of both the Weights and Measurement and Gas Pollution Standards. Because this is the only hearing on this issue, there needs to be discussion on the efficiencies that these transfers will afford. We certainly see a logical connection between Gas Pollution Standards and DMV, but we are having difficulties in seeing the connection with Weights and Measures. Staff would like to see a discussion regarding the efficiencies that will be created by transferring Weights and Measures to DMV, and clarification regarding whether the Subcommittee believes this is a good idea.

ASSEMBLYMAN CONKLIN:

Several issues came up during the interim regarding Gas Pollutions Standards. I think there is a real need to move that to DMV, in particular, because cars and trucks use gas. However, Weights and Measures presents a different problem,

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and I am uncomfortable with the movement of the entire division to DMV. I do not know if there is a way to bifurcate it and keep an Agricultural Weights and Measures Division and a DMV Weights, Measures and Standards Division – one that is associated with weights and measures of vehicles. There is no synergy with DMV for items that are associated with weights of grocery products such as fruits and vegetables. While I am not opposed to it, this needs to be thought out very carefully. I think moving the whole thing over will create synergy problems for the DMV which is more focused on automobile weights and measures. This could leave consumer weights and measures unregulated because it is not the DMV's core competency.

CHAIR DENIS:  
Would you please comment on that?

MR. BARBEE:  
Weights and Measures would move with the Gas Pollution Standards, because the employees who are getting the samples and bringing them back to the lab are Weights and Measures employees. If we were to move Gas Pollution Standards to DMV, and leave Weights and Measures in the Department of Agriculture, there would be an additional cost for more staff to collect the fuel samples, unless there was an interagency agreement.

MR. BEAL:  
Many of our weights and measures inspectors are cross trained. National Institute of Standards and Technology training is required. Approximately 50 percent to 55 percent of their work is fuel testing. They also respond to calls regarding contamination. If we split this up, we would have to conduct more training. I think we would suffer from turnover, because it would be difficult for people to do just one task, such as testing fuel pumps.

Other states do not necessarily have this division in another department, but rather it is a stand-alone unit.

MR. BARBEE:  
Having two separate weights and measures divisions in the Department of Agriculture and DMV would be cost prohibitive because of the complex equipment and extensive training. For example, we have a metrologist with a

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high-level education who provides certifications in other states because of the person's level of experience and training.

Other states have this in their Department of Agriculture.

ASSEMBLYMAN GRADY:

Large grocery scales in the rural areas weigh onion trucks, cattle trucks and hay trucks. They have to have certification also.

Because there is an 11-member board, and one of those members represents the petroleum industry, would you eliminate that position?

MR. BARBEE:

There is a bill draft request (BDR) associated with that and I cannot remember if it addresses that issue. It addresses who the Weigh Master is for the State, which is currently the Director of the Department of Agriculture, and makes those alignments and adjustments. I can get back to you with that information.

ASSEMBLYMAN CONKLIN:

Weights and Measures inspectors test the gas station machinery to make sure it pumps a gallon of gas and, while there, the inspectors collect a sample of fuel. Do they also test the fuel?

MR. BEAL:

No, they bring it back to the petroleum technology lab and the staff in Gas Pollution Standards perform the testing.

ASSEMBLYMAN CONKLIN:

It seems plausible for Gas Pollution Standards to move to DMV, while Weights and Measures stays within the Department of Agriculture. Weights and Measures could still collect the fuel samples and, through an interlocal agreement, deliver them to Gas Pollution Standards for analysis. Would it be complex to do that, or is it a matter of having the right statute and agreement between the agencies in place and the right distribution of the associated collection fee?

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MR. BARBEE:

Yes, I believe something could be worked out.

CHAIR DENIS:

In your opinion, do you think that would be a more efficient way of doing that?

MR. BARBEE:

Yes, because there would be no physical move. In some ways it could be more efficient and meet the needs of both the petroleum industry and the agriculture industry.

MR. BEAL:

The petroleum labs are also in the same facilities as Weights and Measures, so delivering the samples would be simple.

CHAIR DENIS:

How long would it take to initiate an interlocal agreement?

MR. BARBEE:

I think it would be a simple matter of DMV and Department of Agriculture drawing up the agreement. Because a BDR has been proposed, it would need to be amended.

MR. SEIDEL:

I would need to speak to my analysts and budget staff to see what would be required for the interlocal agreement. We were supporting the Governor's initiative on efficiencies; I have learned that the transfer of the Measurement Standards Division to DMV is probably an all-or-none proposition from an efficiency perspective. This is a policy decision.

CHAIR DENIS:

Because they are already in the same location, would there be an improvement in the efficiencies?

MR. BARBEE:

The only physical movement you would see is in Elko. The office would move from the Department of Agriculture to a satellite DMV office.



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MR. SEIDEL:

Because of an ethanol incident in Las Vegas, there could be some improvement in communication between enforcement and compliance testing.

CHAIR DENIS:

Will there be any physical changes in Las Vegas? In Elko, would any efficiency be realized from moving them and DMV together?

MR. BARBEE:

There will be no shift in staff or physically moving offices. The equipment that is installed in the building cannot be moved. The only difference would be a change in where the staff is located in Elko.

CHAIR DENIS:

What about supervision? If you are moving staff from the Department of Agriculture to DMV, will there be an issue there?

MR. BARBEE:

If the whole thing moves to DMV, they have an administrative system set up and ready to go. If only the Gas Pollution Standards were to move, then they would have to adjust that at DMV. However, Agriculture already has administrators over both Gas Pollution and Weights and Measures, so it could be a natural fit.

MR. SEIDEL:

A projected savings of \$518,000 a year to the Highway Fund would result from moving the programs.

CHAIR DENIS:

Please provide us with those calculations.

ASSEMBLYMAN CONKLIN:

If you move Measurement Standards to DMV you save Highway Fund dollars, but if you are getting funds from somewhere else, there is no true savings in the overall budget, correct?

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ANDREW CLINGER (Director, Department of Administration):

You are correct. There would not be an overall savings. The savings is in the DMV's cost allocation. The reason for the savings is because Weights, Measures and Standards would be paying for that piece of the cost allocation which would then save the Highway Fund's contributions to the cost allocation. There is a savings to the State Highway Fund, but someone else is picking up that cost.

CHAIR DENIS:

Is the amount of General Fund increasing in the agriculture account?

MR. CLINGER:

The General Fund appropriation is increasing in the Department of Agriculture for the same reason there would be Highway Fund savings for the DMV. Because Measurement Standards is moving, Agriculture's cost allocation would be picked up by the other divisions, and that would be an additional cost to the General Fund of approximately \$287,000. On the DMV side, it saves Highway Fund dollars because their cost allocation would be spread to the new Division and budget account.

ASSEMBLYMAN CONKLIN:

If we bifurcate the two and leave Weights and Measures in Agriculture, will there be a reduced burden on the General Fund, even though there is an increased burden on the Highway Fund?

MR. CLINGER:

If you split the two and left Weights and Measures, but moved Gas Pollution Standards, the impact on the General Fund would be reduced in the Department of Agriculture due to the change in cost allocations and Highway Fund would increase on the DMV side.

ASSEMBLYMAN CONKLIN:

It might be beneficial for managing the General Fund to leave that portion in the Department of Agriculture.

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MR. CLINGER:

The only reason we proposed transferring these two accounts together is because the information we were given at the time was that it would be more efficient to take the unit together. If you are saying there will not be an efficiency gained by merging the accounts, we are certainly not opposed to splitting this and transferring Gas Pollution Standards to DMV, and keeping Weights and Measures in Agriculture.

ASSEMBLYMAN CONKLIN:

Can we create the same level of efficiency by bifurcating it?

MR. BEAL:

Yes.

ASSEMBLYMAN CONKLIN:

Because there are some policy implications as well, we want to get it right.

CHAIR DENIS:

If everyone is in agreement with the decision to transfer Gas Pollution Standards to DMV and leave Weights and Measures in the Department of Agriculture, we are going to need to get the agreement between the agencies right away.

We will now hear the Division of Minerals budget.

ALAN R. COYNER (Administrator, Division of Minerals, State Environmental Commission):

I have two handouts for you. The first is six pages from the Department of Conservation and Natural Resources (DCNR) Minerals budget account from the *Executive Budget* ([Exhibit G](#)). The second is a letter that was sent to Senator Horsford and Assemblywoman Smith ([Exhibit H](#)), which opposes the consolidation of the Division of Minerals and the Commission on Mineral Resources into DCNR.

The Division is currently reporting to the Commission on Mineral Resources which is appointed by the Governor. Our budget is approximately \$2 million per year. We are 100 percent fee funded. Eight of our employees are located in Carson City, two are in Las Vegas, seven are unclassified, and three are

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classified. [Exhibit G](#) shows that the budget is a simplistic budget with no changes.

The Governor's recommended budget is essentially the same budget I submitted, assuming the Division would remain under the Commission separate from DCNR. I have not had any communication from the Governor's Office regarding the consolidation. Considering that, my presentation is from the perspective that the Division of Minerals is continuing to report to the Commission on Mineral Resources.

The Division's responsibilities are to promote, advance and protect mining and development and the production of petroleum and geothermal resources in Nevada. This mission statement would not be accurate if the consolidation were to take place, because DCNR does not function to promote, advance and protect these interests.

There are three performance indicators for FY 2009-2010. First, the number of abandoned mine lands (AML) and minerals education presentations given per FTE was 14. Second, the percentage of oil, gas and geothermal drilling permits processed in ten working days was 99 percent. The workload has increased due to the growth in geothermal drilling which represents approximately 223 permits processed. Third, the percentage of hazardous abandoned mine openings secured is 72 percent which represents approximately 11,000 of the 15,000 we have logged.

CHAIR DENIS:

Have you received a BDR for the proposed consolidation?

MR. COYNER:

We received BDR 1207 yesterday. We were told by the Director of the Department that the Division and Commission would be moved temporarily for two years, to see how it works. The BDR contemplates the elimination of all the powers of the Commission. That would result in the Commission losing the power to adopt regulations which is necessary to the industry. That would also give DCNR the power to set the fees which the Commission does now. This BDR also gives the Department Director the power to terminate my position

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which is currently a power of the Commission. The BDR leads to a much more drastic change than I was lead to believe.

**BILL DRAFT REQUEST 46-1207**: Merges the Division of Minerals into the Department of Conservation and Natural Resources. (Later introduced as A.B. 516.)

CHAIR DENIS:

What are the benefits from the reorganization of Minerals? Are there any negative impacts anticipated?

MR. COYNER:

From the perspective of Minerals, no cost savings have been identified. This is the same budget as the agency request budget, and there are no cost savings in the Governor's recommended budget.

CHAIR DENIS:

Are there any budget amendments?

MR. COYNER:

I do not believe so.

RICHARD F. DELONG (Commissioner, Commission on Mineral Resources):

The merger contains some serious policy flaws. The Division is responsible for the promotion of mineral development in the State which is not included in DCNR's mission statement. Because the Commission has the authority to set fees and establish special projects, we have been able to work with BLM on permit streamlining. By streamlining BLM permitting, we create more jobs in the private sector. If we lose our ability to set fees and establish special projects, we will no longer be able to create jobs.

DENNIS BRYAN (Commissioner, Commission on Mineral Resources):

The Commissioners represent different sectors of the mining industry and we bring issues from our sectors to the Division of Minerals. The proposed change will no longer allow us the authority to bring issues to the Division for resolution and we would welcome an advisory board. Currently, those issues would be resolved by others. The small miner, particularly, needs advocates for some of

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the permitting issues in the State. Because we have a good rapport with some of the federal and State agencies we are more effective in being good advocates so it is important that we retain that authority.

For example, we have a bond pool in place that helped the small miner with reclamation bonding. We do not put the State at risk because of the structure of the bond pool, but we help out the small miner.

JOHN SNOW (Commissioner, Commission on Mineral Resources):

The Division of Minerals is a well funded, responsible agency, which represents the industries it serves. It is working very efficiently on its own. At one time, it was consolidated with the Department of Business and Industry, but was later made a division on its own. While DCNR is a very good agency, it is a larger entity, and larger entities tend to run more slowly and will potentially slow down permit times. One of the roles of the Division is to process permits in a timely manner. That would no longer take place if the transfer is approved.

CHAIR DENIS:

We are trying to determine if there is a cost savings and the purpose of the consolidation.

LEO M. DROZDOFF P.E. (Director, State Department of Conservation and Natural Resources, Office of the Director):

Although I am not with the Budget Office, I believe I am equipped to give you an overview of the proposal. There will not be any General Fund savings, as the Division is fee based. There will be pragmatic efficiencies and synergies that could occur as a result of this consolidation.

The Commissioners are well respected, but I do not think their concerns are reason enough not to move forward with this transfer. For example, DCNR operates a large bonding program which currently holds over \$1.6 billion. On occasion we do work with the Division of Minerals on the adequacy of bonding issues, so there is a synergy there. We have worked with the Division of Minerals on various abandoned mine programs within our mining program. In fact, DCNR funded one of these programs. When it comes to geothermal resources, there are a number of approval processes within Minerals, DCNR, environmental protection and, at times, the State Engineering Office. This

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approach makes it possible to review the three approval processes and perhaps make them more efficient by reducing the amount of time the approval process takes. This merger has potential of moving geothermal resources forward at a quicker rate.

While the BDR would have to be changed, it is not my intent to take over the role of the Commission. The Commission would continue to function as they are, and the BDR would need to be revised to reflect that.

Within DCNR we have spent a great deal of time with the federal agencies as well, trying to reduce the time it takes for the federal approval process. We would be a stronger advocate for getting projects completed if this transfer were to take place. The small miner would benefit from this as Nevada's Division of Environmental Protection (NDEP) is part of DCNR, so they would probably receive greater attention. This proposal makes a lot of sense and we will work with the Commission and the Administrator to make sure there are no negative impacts.

CHAIR DENIS:  
Are there any cost allocations being proposed?

MR. DROZDOFF:  
No, there are not.

CHAIR DENIS:  
Are there direct savings?

MR. DROZDOFF:  
Because there is no General Fund appropriation within the budget, there will be no savings. The only potential allocation would be for the director's office, but we do not think it is necessary.

ASSEMBLYMAN AIZLEY:  
Is there any plan to relocate the Minerals staff into the DCNR offices?

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MR. DROZDOFF:

Our plan is to leave the Minerals staff and Commissioners where they are. We would look at the offices at the Richard H. Bryan State Office Building and see if it would make sense to relocate them, but that would not be this biennium.

MR. COMBS:

Because there are not a lot of budget transfers, this is a pretty clear choice. This is something you could think about until the Work Session, and get a decision then.

CHAIR DENIS:

Why have budgeted expenditures related to the AML program increased as compared to budgeted levels in previous biennia?

MR. COYNER:

There is an infinite amount of work to be done in AML, as there are 200,000 abandoned mines in the State of Nevada. We operate within our resources. We have a summer internship program and we have contractors. When I first started we had approximately \$50,000 in reserve. We now have about \$1 million in reserve. With the cooperation of the Commission, we take on additional work as we can. It is encouraging that we are doing more for the AML program

CHAIR DENIS:

Please provide revenues and expenses for the last four or five years to Staff. I believe there are two AML expenditure categories.

MR. COYNER:

Correct. Eighty percent of the Division's revenue comes from the mining claim fee. The abandoned mine program is funded by the mining claim fees, so part of the projection of revenue is what will happen to the mining claim fee going forward.

SENATOR RHOADS:

Are the two mission statements in opposition to one another?



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MR. DROZDOFF:

I do not see any opposition. There might be if you were to compare NDEP and the Division of Minerals, but not in DCNR.

MR. COYNER:

I do not think the synergy is there. We have more promotional roles than DCNR does. We are also much more out there on the advocacy side than DCNR.

CHAIR DENIS:

Do you think you could maintain that advocacy role with the change?

MR. COYNER:

I think that would depend on whether the Director of DCNR would allow it.

MR. DROZDOFF:

Yes, we will maintain the advocacy role.

MONTE MORRISON (P.E., E.M.T., Country Manager, Vice President of Operations, Magma Energy Corp.):

I have submitted a letter to Senator Horsford and Assemblywoman Smith ([Exhibit I](#)). I have been a participant in DCNR and Division of Minerals' regulations and advocacies over the years through my work in geothermal since 1985. Geothermal plants struggle with the amount of regulation that is placed upon us. That struggle comes as part of doing business under local, State and federal regulations. It is necessary to protect and force us to be good stewards of the land, but it is in contradiction with the State government's encouragement of growth of renewable energy. I have personally witnessed the Division of Minerals' mandate of being an advocate of the industry. We work closely with the Division of Minerals, DCNR and BLM. The Division of Minerals has been able to perform two functions that normally would be very difficult to complete, as both an advocate of the industry and a regulator. If we gain another regulating agency and lose the advocacy portion, it will cost time, and in the geothermal industry time equals money. I do not believe it would be a beneficial move to consolidate these two agencies.

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CHAIR DENIS:

Seeing there is no further business, we will adjourn at 10:59 a.m.

RESPECTFULLY SUBMITTED:

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Madison Piazza,  
Committee Secretary

APPROVED BY:

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Senator Mo Denis, Chair

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

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Assemblyman Marcus L. Conklin, Chair

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

**EXHIBITS**

**Joint Subcommittee on General Government of the  
Senate Committee on Finance and the  
Assembly Committee on Ways and Means**

**Date: February 17, 2011      Time of Meeting: 8:00 a.m.**

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
	C	Jim Barbee	NV Dept of Agriculture Presentation
	D	Jim Barbee	FY 2010-2011 Organizational Chart
	E	Jim Barbee	FY 2012-2013 Organizational Chart
	F	Jim Barbee	NV Dept of Agriculture, Weights, Measures & Standard Presentation
	G	Alan Coyner	DCNR <i>Executive Budget</i>
	H	Alan Coyner	Letter – From the Commission on Mineral Resources
	I	Monte Morrison	Letter – From County Manager of Magma Energy