

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

**AND THE
SENATE COMMITTEE ON FINANCE
SUBCOMMITTEE ON GENERAL GOVERNMENT**

**Seventy-Seventh Session
March 22, 2013**

A joint meeting of the Assembly Committee on Ways and Means' Subcommittee on General Government and the Senate Committee on Finance's Subcommittee on General Government was called to order by Chair Lucy Flores at 8:05 a.m. on Friday, March 22, 2013, in Room 2134 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. 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:

Assemblywoman Lucy Flores, Chair
Assemblyman Paul Aizley, Vice Chair
Assemblyman Paul Anderson
Assemblyman Andy Eisen
Assemblyman Crescent Hardy
Assemblyman Joseph M. Hogan

SENATE SUBCOMMITTEE MEMBERS PRESENT:

Senator Joyce Woodhouse, Chair
Senator Moises (Mo) Denis

SENATE SUBCOMMITTEE MEMBERS EXCUSED

Senator Michael Roberson



STAFF MEMBERS PRESENT:

Mark Krmpotic, Senate Fiscal Analyst
Michael J. Chapman, Principal Deputy Fiscal Analyst
Andrea McCalla, Program Analyst
Heidi Sakelarios, Program Analyst
Teri Sulli, Program Analyst
Connie Davis, Committee Secretary
Cynthia Wyett, Committee Assistant

The Committee Assistant called the roll, and a quorum of the members was present.

Chair Flores announced that the agenda would begin with the Division of Minerals' budget, followed by the Housing Division, Weatherization, Manufactured Housing, Financial Institutions, the Insurance budgets, and the Employee Management Relations Board in that order.

Chair Flores opened the hearing on the Division of Minerals' budget.

**COMMERCE & INDUSTRY
COMMISSION ON MINERAL RESOURCES
MINERALS (101-4219)
BUDGET PAGE MINERALS-5**

Alan R. Coyner, Administrator, Division of Minerals, Commission on Mineral Resources, introduced Michael Visher, Deputy Administrator, Division of Minerals, Commission on Mineral Resources.

Mr. Coyner reported that the Division had an approximate annual budget of \$2.5 million and employed nine staff members in Carson City and two in Las Vegas. In 1999, the Legislature placed the Division under the authority of the Commission on Mineral Resources, a seven-member board appointed by the Governor to serve four-year terms. The board members represented oil, mining, gas, and geothermal industries. The Division's budget contained no General Fund money and was entirely fee-funded with 80 percent of the revenue derived from mining claim fees. Mr. Coyner commented that the agency was "sensitive" to mineral exploration in the state with gold being the dominant product.

Additionally, Mr. Coyner provided the following information concerning the Division's activities and programs:

- The agency programs encompassed "industry relations and government affairs," which covered "a wide range" of inquiries from permits and mining claims to the number of ounces of gold Nevada produced on an annual basis.
- Crews, for the Division's "Stay Out and Stay Alive" public safety program for abandoned mines, located and secured abandoned mines with fencing.
- Staff conducted outreach in the public school system to make students aware of the danger associated with abandoned mines.
- Staff conducted minerals education and workshops for teachers in Las Vegas and Reno.
- The Division of Minerals served as the official mine registry for the state and compiled data on active mines in Nevada.
- The Division permitted and monitored all oil, gas, and geothermal drilling activity on public and private land in Nevada and reviewed the engineering, configuration, and construction of the wells to ensure adequacy and safety.
- The Division administered the reclamation bond pool, which provided availability of a limited sum of money to small-scale miners to satisfy their reclamation obligation when operating on public or private land in Nevada.

Mr. Coyner referred to the budget highlights reflected on the Minerals' budget page 1 ([Exhibit C](#)) contained within The Executive Budget. The Division of Minerals' budget had not requested new positions and planned no large expenditures for the 2013-2015 biennium. The budget highlights, however, included information that the Commission on Mineral Resources would contribute approximately \$285,000 over the biennium to support the Sagebrush Ecosystem Technical Team whose work would focus on sage grouse and sagebrush ecosystems. Mr. Coyner reported that although the projected expenditure for support of the Sagebrush Ecosystem Technical Team was not contemplated and occurred after the budget was submitted, he fully supported

the program and would accommodate the extra expense in fiscal year (FY) 2014 and fiscal year 2015. Listing the sage grouse as an endangered species, he said, would have a "deleterious" effect on mining and natural resource development in Nevada, and the Division of Minerals, as part of "an interagency multidisciplinary entity," would support the effort to focus on the health and vibrancy of the ecosystem.

Chair Flores asked for additional information regarding the transfer of \$140,635 in fiscal year 2014 and \$143,977 in fiscal year 2015 to the State Department of Conservation and Natural Resources (DCNR).

Mr. Coyner referred to the September 16, 2011, Letter of Intent ([Exhibit D](#)) [2011 Legislature] which advised the Division to reduce its reserve level over the biennium. He also referred to the document, "Sagebrush Ecosystem Program FY 13 and FY 14-15," ([Exhibit E](#)) that reflected the funding transfers that would fund the entire Sagebrush Ecosystem program. Additionally, the Division of Minerals' budget page 9 ([Exhibit F](#)), Reserve line item projected a reserve of \$294,386 in fiscal year 2015, a number Mr. Coyner defined as "sensitive" because he had budgeted to have enough money to work entirely from fees. Although the projected reserve was low compared with the previously projected reserve of approximately \$600,000, Mr. Coyner said he could reduce expenditures to stay within budget. He also advised that the Division had the ability to adjust the mining claim fee of which about \$1.50 remained within the statutory cap. With approximately 200,000 mining claims in Nevada, he said the \$300,000 could be recovered over the biennium by adjusting the mining claim fee, if necessary.

Chair Flores questioned whether the \$300,000 was the funding transfer to support the Sagebrush Ecosystem program.

Mr. Coyner said that it was, reiterated his support for the program, and said that the Division of Minerals would find a way to make the program go forward.

Chair Flores asked whether the Division of Minerals would be providing any other resources to the Sagebrush Ecosystem program.

Mr. Coyner advised that other than the time the agency might spend interacting with the Sagebrush Ecosystem Technical Team to ensure the work was completed by 2015, no other resources were contemplated to be expended.

Chair Flores asked how much staff time the Division would be spending interacting with the Sagebrush Ecosystem Technical Team.

Mr. Coyner advised that Division staff would not be spending much time on the program because seven new staff had been hired for the Sagebrush Ecosystem Technical Team.

There were no further questions from Chair Flores or the members of the Subcommittees.

In a closing statement, Mr. Coyner advised that legislative bills, such as Senate Joint Resolution 15* of the 76th Session (2011) were pending that could affect the Division. If the resolution to amend the *Nevada Constitution* passed, it would remove the separate tax rate and lift the cap on mining taxes, and mining claims would no longer be tax exempt. Mr. Coyner advised that decreasing the cost of holding mining claims in the state would seriously affect the Division of Minerals because, as previously stated, 80 percent of the Division's revenue was derived from the fee on mining claims.

Mr. Coyner advised that another piece of legislation that might affect the Division was a bill that enacted provisions related to hydraulic fracturing.

Chair Flores asked whether hydraulic fracturing would create additional revenue for the account.

Mr. Coyner advised that if the legislation passed and hydraulic fracturing became a major activity in the state, the Division of Environmental Protection, DCNR, and the Division of Minerals would have to add field personnel for inspections and enforcement of regulations. He explained, however, that the Division collected a fee on oil production, and that if increased oil production resulted from hydraulic fracturing, the additional revenue could offset some of the cost of the regulating activity.

Hearing no further questions from the members, Chair Flores closed the hearing on the Division of Minerals' budget and opened the hearing on the Housing Division budget.

**COMMERCE & INDUSTRY
DEPARTMENT OF BUSINESS & INDUSTRY
HOUSING DIVISION (503-3841)
BUDGET PAGE B & I-110**

Bruce Breslow, Director, Department of Business and Industry (B&I), introduced James deProsse, the newly appointed Administrator of the Housing Division, B&I, and Acting Administrator of the Manufactured Housing Division, B&I.

Mr. deProsse reported that as a newly appointed administrator with a staff of 32, the Housing Division currently had 9.5 vacant positions. He explained that the former administrator, chief financial officer, director of programs, and chief accountant had retired since October 2012, all within a four-month period. Mr. deProsse said that although the loss of knowledge and talent was unfortunate, he had the "opportunity to build a team that would develop a new vision," and he looked forward to the challenge of becoming the state expert in the Housing Division.

Mr. deProsse advised that the budget for the Housing Division [an enterprise fund that generated its own funding] was funded at an even level. The budget request, he said, included one Enhancement (E) 710 to replace one file server and 12 desktop computers.

Chair Flores asked for information on the Nevada Hardest Hit Fund® (HHF).

Mr. Breslow explained that the Nevada Hardest Hit Fund® operated under the Nevada Affordable Housing Assistance Corporation (NAHAC), a private nonprofit organization, which functioned independently of the Housing Division. Mr. Breslow advised that Mr. deProsse was in the process of rebuilding an effective and more transparent NAHAC board and that Mr. deProsse currently served as a member of the board with three other former Housing Division officials.

Additionally, Mr. Breslow explained that when the Nevada Hardest Hit Fund® could not quickly process a large number of applications to assist homeowners in keeping their homes, Ashok Mirchandani, the Deputy Director of Programs for Business and Industry, and other members of the staff reviewed the application intake process and suggested a better model. The HHF hired professional housing counselors to review the applications and processed funds to eligible

applicants at a greater volume in two months than had been processed during the entire previous year.

Chair Flores asked for additional information concerning NAHAC's oversight and accountability of the HHF.

Mr. Breslow explained that the U.S. Department of the Treasury had recently completed several program audits to review the HHF operation and suggested changes [the U.S. Treasury, in 2010, approved the NAHAC to oversee the HHF]. As previously stated, Mr. Breslow discussed the intent to rebuild the NAHAC board with enough members affiliated with the State of Nevada to provide oversight. Additionally, Mr. Breslow advised that if the Governor's recommendation to establish the Nevada Home Retention Program within the Department of Business and Industry Director's office was approved, the Legislative Commission and the Governor would appoint members who would provide the accountability needed for the state. The U.S. Department of the Treasury, he explained, wanted the new program to be operated with NAHAC oversight. Mr. Breslow advised, however, that he declined until enough state-affiliated members were appointed to the board to provide the accountability the state wanted.

Assemblyman Aizley asked whether a large backlog of applications for the HHF currently existed and when the Division planned to resume processing applications.

Mr. Breslow attributed the large increase in HHF applications to using public outreach that informed Nevada homeowners of the program rather than working from a prequalified list provided by the federal government. Only 20 percent of the public-outreach applicants were eligible for assistance, and it was currently the NAHAC's intent to use a prescreened qualified list to avoid the previous problems. The backlog, he said, was greatly diminished, and it was anticipated processing applications would resume in April.

Hearing no further questions from the members, Chair Flores closed the hearing on the Housing Division budget and opened the hearing on the Weatherization budget.

COMMERCE & INDUSTRY
DEPARTMENT OF BUSINESS & INDUSTRY
WEATHERIZATION (101-4865)
BUDGET PAGE B & I-123

James deProsse, Administrator, Housing Division, Department of Business and Industry (B&I) introduced Suzanne Martin, Grants and Projects Analyst, serving as the program manager for the Weatherization Assistance Program (WAP), Housing Division, B&I.

Mr. deProsse advised that funding for the WAP budget was at an even level but would taper off later in the biennium. Additionally, he advised that the budget did not include any enhancement units.

Chair Flores asked for information concerning whether federal funding for the WAP would be affected by the sequestration [automatic across-the-board cuts necessitated by the Budget Control Act of 2011].

Suzanne Martin, program manager, WAP, reported that although having heard some discussion concerning numbers and the 2013 Continuing Resolution, the full effect of the sequestration on the program was currently unknown.

Ms. Martin explained that in 2012, Congress allotted just \$65 million to 32 qualified WAP grantees. The Housing Division was one of the grantees and received a larger portion than it would have received through the formula because of having spent down American Recovery and Reinvestment Act (ARRA) funding. Ms. Martin explained, however, that Nevada was considered a warm-weather state and ranked third from the bottom in funding distribution followed by Hawaii and New Mexico. Approval of the 2013 Continuing Resolution, she said, would, most likely, provide Nevada with funding that ranged somewhere between \$225,000 and \$400,000. Ms. Martin advised, however, that if a methodology other than formula funding was used again, the Housing Division could receive additional funding.

In response to Chair Flores' question concerning the funding, Ms. Martin advised that Nevada received funding for WAP from the following sources:

- U. S. Department of Energy's Weatherization Assistance Program

- Housing Division's Low-Income Housing Trust Fund – approximately \$225,000 projected to be received in 2013 compared with \$450,000 in previous years.
- U. S. Department of Health and Human Services.
- A private grant from Southwest Gas Corporation.
- The state's Universal Energy Charge (UEC).
- Department of Health and Human Services, Division of Welfare and Supportive Services, Low-Income Home Energy Assistance (LIHEAP) Program, which also would be affected by the sequestration.
- NV Energy.

Ms. Martin advised that the expected decrease would reduce the previous year's funding, and sequestration would even further diminish the funding level.

Noting the significant reduction in funding, Chair Flores asked how the agency intended to meet the needs of the state's low-income households.

Ms. Martin responded that possibly 200 fewer units than the previous year would receive weatherization assistance.

Senator Denis asked for the number of units the agency weatherized each year.

Ms. Martin advised that using ARRA funding for the last three years, the agency weatherized:

- 5,000 units in 2010.
- 4,966 units in 2011.
- 2,701 units in 2012.
- 500 units thus far in 2013 with an expectation of weatherizing 700 for the entire year.

In response to Senator Denis' question concerning the loss of ARRA funding, Ms. Martin advised that the agency's ARRA and other state funding totaled approximately:

- \$13,000,000 in 2010.
- \$19,000,000 in 2011.
- \$12,000,000 in 2012.
- \$4,700,000 in 2013.

In response to Senator Denis who asked for an average cost prior to the receipt of ARRA funds, Ms. Martin advised that the current cost to weatherize a unit was \$4,000 because the costs of weatherization had increased. Prior to ARRA funding, the average cost, she said, was \$2,500 a unit. The cost per unit was \$1,360 in 2008; \$1,259 in 2009; and \$1,276 in 2010. Minus ARRA funding, the cost totaled \$1,100 in 2011 and \$830 in 2012. Ms. Martin explained that it would be unwise to decrease the amount of funding per unit because low-income families would be ineligible for weatherization services for a minimum of five years after a weatherization measure using state funds and almost a lifetime using federal funds.

Senator Denis asked whether installation of weatherization measures saved money for low-income families.

Ms. Martin responded that an independent evaluator for the Public Utilities Commission of Nevada evaluated the program on an annual basis and determined energy savings to clients. Currently, the evaluators were projecting energy savings based on a model but in previous years had conducted an analysis of bill payments.

In response to Senator Denis' question concerning the average savings per household, Ms. Martin estimated that a household saved approximately 20 percent of its energy costs. Although she did not have the actual dollar amount with her, she said she would provide the information to Senator Denis after the meeting. Ms. Martin recalled a number of \$600 to \$1,000 per year, or approximately \$50 a month, which she said was substantial for a low-income family.

In response to Assemblyman Aizley who asked whether smart meters had helped in obtaining better data from the properties, Ms. Martin advised that she did not know the answer to the question.

Hearing no further questions, Chair Flores closed the hearing on the Weatherization budget and opened the hearing on the Manufactured Housing budget.

COMMERCE & INDUSTRY
DEPARTMENT OF BUSINESS & INDUSTRY
MANUFACTURED HOUSING (271-3814)
BUDGET PAGE B & I-233

Bruce Breslow, Director, Department of Business and Industry (B&I) introduced James deProse, Acting Administrator, Manufactured Housing Division, B&I.

Mr. deProse reported that the Manufactured Housing Division protected the interests of the manufactured housing industry throughout the state in numerous ways from titling to inspections to compliance. The Division, he said, conducted investigations relative to complaints concerning manufactured homes and manufactured home components, as well as complaints against licensees.

Mr. deProse provided the following information concerning budget account (BA) 3814:

- BA 3814 served as a primary administrative budget for the Manufactured Housing Division.
- The Manufactured Housing Division was a fee-based agency with 100 percent of funding generated from fees collected for services and support activities.
- A recommendation to eliminate seven positions and reduce staff by 31 percent was approved in 2011.

Mr. deProse advised that because of the staffing reduction and greater efficiency, the Division was currently in the process of increasing its reserve and providing a higher level of service than it previously had. He explained that the Division currently processed titles in less than 10 days after being requested rather than between 60 and 70 days.

Chair Flores asked for the number of manufactured homes for which the Division provided oversight.

Mr. deProse responded that there were currently about 70,000 titled homes and commercial coaches listed in the Division's database.

In response to Chair Flores, who asked for information concerning the Division's enhancements, Mr. deProse provided the following information:

- Enhancement (E) 226 requested an increase for in-state travel. Economic growth currently necessitated that inspectors travel to remote areas of rural Nevada [northern Nye and Eureka Counties] to perform inspections of the installation of manufactured homes in mining areas.
- Enhancement 710 requested replacement of a server and nine desktop computers in accordance with the Division of Enterprise Information Technology Services' (EITS) schedule.

Hearing no questions from the members, Chair Flores closed the hearing on the Manufactured Housing budget and opened the hearing on the Financial Institutions budget.

COMMERCE & INDUSTRY
DEPARTMENT OF BUSINESS & INDUSTRY
FINANCIAL INSTITUTIONS (101-3835)
BUDGET PAGE B & I-261

Bruce Breslow, Director, Department of Business and Industry (B&I) introduced George E. Burns, Commissioner, Division of Financial Institutions, B&I.

Chair Flores noted that the account had no major issues and asked Mr. Burns to provide a brief overview of the Division's responsibilities.

George E. Burns, Commissioner, Division of Financial Institutions, B&I provided the following overview:

- The Division of Financial Institutions licensed and regulated 14 financial industries in the state.
- The Division oversaw banks, credit unions, savings and loans, thrift companies, industrial-loan corporations, retail-trust companies, family-trust companies, check cashers, payday lenders, title lenders, exchange facilitators, collection agencies, money transmitters, installment lenders, and debt managers.

- Development corporations and economic revitalization corporations were no longer on the books.

Mr. Burns advised that the Division of Financial Institutions was entirely fee-funded by the financial industry. The Division's budget of \$3,496,981 in fiscal year 2014 and \$3,401,901 in fiscal year 2015 balanced revenue to expenditures. The account of the Division, he said, was "generally consistent" with the budget for the last two bienniums with the exception of a modest increase in salary expenditures based upon the Governor's recommendations to reduce furlough and reinstate merit increases.

Mr. Burns advised that the budget requested the following decision units:

- Enhancement (E) 710 requested the replacement of nine laptop computers in fiscal year 2015 in accordance with the Division of Enterprise Information Technology Services' (EITS) replacement schedule.
- Enhancement 225 requested the relocation of the Division's small Carson City office to Reno, which would achieve operational efficiencies and cost effectiveness.

Chair Flores asked how the relocation of the office from Carson City to Reno would affect the staff.

Mr. Burns reported that the relocation would provide efficiency because 75 percent of the Division's licensees were located in Reno, 10 percent in Carson City, and the remainder in outlying areas. Of the Division's five employees, four lived in Reno, which would save commute time and reduce travel. The remaining employee planned to relocate to Reno.

Hearing no further questions, Chair Flores closed the hearing on the Financial Institutions budget and opened the hearing on the Division of Insurance Regulation budget.

COMMERCE & INDUSTRY
DEPARTMENT OF BUSINESS & INDUSTRY
INSURANCE REGULATION (504-3813)
BUDGET PAGE B & I-28

Bruce Breslow, Director, Department of Business and Industry (B&I) introduced Scott Kipper, Commissioner of Insurance, Division of Insurance, B&I, and Mr. Kipper introduced Todd C. Rich, Deputy Commissioner, Division of Insurance, B&I, and Adam Plain, Insurance Regulation Liaison, Division of Insurance, B&I.

Mr. Kipper provided the following information concerning the responsibilities of the Division of Insurance:

- The Division operated as an enterprise fund and regulated Nevada's \$11 billion insurance industry.
- The entities the Division regulated generated approximately \$235 million annually in premium tax collections.
- The licensees the Division regulated contributed approximately \$15 million annually to the General Fund.
- The Division was the primary agency for protecting the rights of consumers in transactions with the insurance industry, as well as making certain that companies remained financially solvent to fulfill their promises to consumers through the contracts they issued and sold.
- The Division's office staff included 10 staff members in Las Vegas and 75 staff members in Carson City.
- The Division's budget requested one enhancement in budget account (BA) 3813, Insurance Regulation, and two in BA 3817, Insurance Examiners.

Chair Flores asked for information concerning the Letter of Intent issued by the money committees after the 2011 Legislative Session. The letter requested the Division of Insurance to report the actual costs of administering the Self-Insured Workers' Compensation Program in fiscal year 2012. Chair Flores asked for confirmation that the transfer from the Division of Industrial Relations totaling

\$13,720 in each year of the 2013-2015 biennium was accurate based on the projected costs of administering and regulating the Self-Insured Workers' Compensation account.

Mr. Kipper advised that the Division, in response to the Letter of Intent, tracked the actual time staff spent administering the Self-Insured Workers' Compensation Program during fiscal year 2012 and charged to the Division of Industrial Relations. He said that the Division corrected a problem in the report, and the transfer from the Division of Industrial Relations in each year of the 2013-2015 biennium was accurate.

Chair Flores referred to Enhancement (E) 226 and the legislation the Governor recommended regarding the insurance fraud assessment, which would result in additional fee revenue. Chair Flores asked for information regarding the Division's intention for use of the additional revenue.

Todd C. Rich, Deputy Commissioner, Division of Insurance, B&I, advised that in October 2012, the Nevada First Judicial District Court ruled that insurance companies licensed in Nevada but not issuing policies in the state were not required to pay the annual \$500 fraud assessment fee. Division staff, he said, did not agree with the ruling and requested legislation that would require all insurance companies licensed in the state to pay the assessment.

Chair Flores asked whether the Division had a contingency plan if the proposed legislation did not pass.

Mr. Rich reported that the reduction in fraud assessment totaled approximately \$160,000. Under the provisions of *Nevada Revised Statutes* (NRS) 679B.700, the Division would transfer 85 percent of the assessment collected to the Office of the Attorney General, and the Division would retain 15 percent of the assessment for fraud investigations. Mr. Rich pointed out that the clarifying language in the proposed legislation would correct the problem. He said, however, that if the legislation did not pass, the reduction in revenue would largely affect the Office of the Attorney General, and that office was aware of the situation.

In response to Chair Flores' question concerning how the reduction in fraud assessment revenue would affect fraud assessment activities within the Division, Mr. Rich said the Division would use reserve funding to offset losses.

Chair Flores asked why the Division was not issuing refunds to all of the insurance companies affected by the court ruling.

Mr. Rich responded that the Division's counsel recommended initiating refunds to the six insurance companies involved in the lawsuit, and the refunds had been processed.

Chair Flores asked why the other insurance companies that would have been affected by the court ruling did not receive refunds.

Mr. Rich advised that companies other than those involved in the lawsuit had not requested refunds. He said, however, that the Division would review any other requests for refunds that were received in the future. He reiterated that the Division had proceeded with reimbursements to the six companies involved in the lawsuit based on the recommendation by the Division's counsel.

Chair Flores referred to E-744 regarding certification of the adequacy of network providers and asked how the costs related to network adequacy were determined.

Mr. Kipper advised that currently it was the responsibility of the State Board of Health to certify the adequacy of network providers for all qualified health maintenance organizations (HMOs). Additionally, he pointed out that under the provisions of the Affordable Care Act, any preferred provider organization (PPO) doing business within the Silver State Health Insurance Exchange was required to comply with network adequacy requirements.

Continuing, Mr. Kipper reported that the Division had submitted legislation that requested the authority to review and confirm the adequacy of the Silver State Health Insurance Exchange as well as networks across the entire Nevada marketplace. Discussions, he said, had taken place with representatives of the Department of Health and Human Services (DHHS), the Division of Health Care Financing and Policy [Medicaid], and the Silver State Health Insurance Exchange. Mr. Kipper said that through a memorandum of understanding (MOU), the Division would provide guidance to the Silver State Health Insurance Exchange for products sold or marketed in Nevada beginning October 1, 2013.

Mr. Kipper advised that if the legislation passed, the Division would use third-party contractors to determine network adequacy, and those contractors

would charge their costs to the Division of Insurance. The Division would pass the costs onto providers, a process similar to the one currently used to conduct examinations of insurers in the Insurance Examiners account and the Captive Insurers account.

In response to Chair Flores who asked whether the Division currently had contracts with companies that could determine network adequacy, Mr. Kipper advised that the Division could not contract with any companies until the legislation passed.

Chair Flores asked who would determine network adequacy if the legislation failed to pass.

Mr. Kipper advised that if the legislation did not pass, the requirement for determining network adequacy outside of the Silver State Health Insurance Exchange would not exist, and the Exchange's Board would be responsible for determining network adequacy for those products sold within the Exchange.

Assemblyman Aizley noted that the Governor recommended \$500,000 in each year of the 2013-2015 biennium from miscellaneous licenses, fees, and permits to support the network adequacy of HMOs and asked how the Division determined that \$500,000 was a reasonable revenue and expenditure projection.

Mr. Kipper advised that the \$500,000 figure was a placeholder and reiterated that the Division would use third-party contractors to determine network adequacy. The contractor costs, he said, would be billed to the entities that wished to have the adequacy of their networks certified, and there would be no cost to the state.

Chair Flores asked how many Division staff would be involved in coordinating network adequacy.

Mr. Kipper responded that the Division did not anticipate that coordinating network adequacy would significantly affect staff. The Division, he said, employed a contract administrator who would absorb the new activity, and other staff members would be minimally involved but not to the degree that the Division would have to hire additional staff.

Chair Flores asked for confirmation that an MOU had been established to transfer the responsibility for determining network adequacy to the Division of Insurance.

Mr. Kipper advised that an MOU was executed in 2012 between the Department of Business and Industry and the Silver State Health Insurance Exchange. The MOU, he said, provided the necessary framework to transfer the responsibility for determining network adequacy to the Division.

Chair Flores asked how the Division intended to reduce its reserve to its 60-day target of operating expenditures.

Mr. Kipper attributed the increase in the reserve level to salary savings and fixed fees over which it had no control. He explained that the Division had encountered problems in hiring professional staff for the Carson City office. Using an example, he explained that the only qualified candidate for an actuarial analyst position declined when offered the position. In an attempt to underfill the vacancy, two candidates declined when offered the position. Citing another example of hiring problems, Mr. Kipper reported that the Division's recruitment for a certified financial examiner (CFE) was a seven-month process.

Chair Flores asked why hiring professional staff presented a challenge.

Mr. Kipper explained that the Division could not compete with private-sector salary and benefits packages or find candidates who were willing to relocate to the Carson City-Reno area. He complimented the Division's current professional staff whom he described as exemplary.

Chair Flores asked whether the Division would attempt to address reducing the reserve level by changing the job classifications for professional positions that it could not fill.

Mr. Kipper advised that having the ability to increase the salary and benefits packages could be of assistance in attracting candidates for the positions although it was his understanding that the Division was "locked into" the current classification system.

Chair Flores asked whether the Division had any other plans to reduce the reserve.

Mr. Rich reported that in fiscal year 2013, the Division had accumulated approximately \$420,000 in salary savings. Including approximately \$450,000 accumulated in fiscal year 2012, the reserve, he said, totaled approximately \$1 million dollars. Additionally, as previously stated, Mr. Rich advised that the Division's fee revenue was set in statute.

Mr. Rich also advised that the Division had submitted a flat budget with the exception of one minor enhancement and were "struggling" to determine how to reduce the reserve. After discussing the challenges involved in the Division's revenue streams and various budget accounts, Mr. Rich said that there were some ideas on reducing the reserve but nothing Division representatives could testify to during the current meeting other than filling all vacant positions and doing its best to expend the money in the Insurance Regulation budget.

Chair Flores asked agency representatives to return their suggestions to her on how to reduce the reserve and stay within the 60-day target of operating expenditures.

There being no additional questions, Chair Flores closed the hearing on the Insurance Regulation budget and opened the hearing on the Insurance Examiners budget.

COMMERCE & INDUSTRY
DEPARTMENT OF BUSINESS & INDUSTRY
INSURANCE EXAMINERS (504-3817)
BUDGET PAGE B & I-35

According to information from the Fiscal Analysis Division, Legislative Counsel Bureau, the "Insurance Examination Fund was established to provide for financial or market-conduct examinations of insurers, health maintenance organizations, and other organizations for the purpose of determining the financial condition, fulfillment of contractual obligations, and compliance with Title 57 of *Nevada Revised Statutes* (NRS). Each insurer who applied for an initial certificate of authority was examined as part of the application process, and each authorized insurer was examined at least every five years. The division contracted with outside examiners to perform examinations, charged the insurer for the costs of the examination, and imposed an additional administrative fee to defray administrative expenses incurred by the division. The amount of the administrative fee was established by the division as a certain percentage of the examiners' daily compensation rate

(NAC 679B.0335). A portion of the administrative fee was transferred to the Insurance Regulation account (BA 3813) in accordance with the division's cost allocation plan to offset a portion of the personnel and operating expenditures for positions in that account."

Scott Kipper, Commissioner of Insurance, Division of Insurance, Department of Business and Industry (B&I) reported that during the 26th Special Session (2010), the Legislature approved legislation that required the Division of Insurance to initiate a desk-audit program. The program would ensure that insurers doing business in Nevada paid the insurance premium tax required by *Nevada Revised Statutes*.

Mr. Kipper advised that the Governor's recommendations for the Insurance Examiners budget included Enhancements (E) 225 and E-226 that would continue two positions for the Division's insurance premium tax desk-audit program. If approved, he said the two positions would extend the desk-audit program for two years. Mr. Kipper reported that representatives of the Division testified during the 2011 Legislative Session that the program would be in effect for only two years. He explained, however, that the program had not moved at a pace quickly enough to complete the audits.

Chair Flores turned the duties of the Chair over to Vice Chair Aizley after being called to another committee room to testify on a bill.

Vice Chair Aizley assumed the duties of the chair and asked Mr. Kipper to continue his presentation.

Mr. Kipper reported that the desk-audit program was originally intended to audit all [approximately 2,300] Nevada insurance companies that had a certificate of authority to do business in the state. He said, however, the Division reduced the number of audits to approximately 745 companies that were writing enough premiums to warrant an audit.

Mr. Kipper advised that the Division determined the start-up costs for the 745 desk audits in 2010, and as of March 20, 2013, 149 audits were completed. A completed audit, he said, was one in which the examination report was drafted and sent to the insurer for review. The insurers had the opportunity, at that point, to object to or agree with the audit or to request a hearing. After agreement, the audit would be certified, signed by the

Commissioner, and the results sent to the Department of Taxation for the collection of the taxes.

Vice Chair Aizley asked whether the agency incorporated the review of insurance premium tax records into procedures used by independent contractors conducting examinations on behalf of the Division.

Mr. Kipper advised that the Division did not use outside contractors. The two insurance examiners assigned to the program, he said, conducted the audits.

Vice Chair Aizley asked whether the agency incorporated insurance premium tax records into the review.

Mr. Kipper responded that representatives of the Division and the Department of Taxation had worked together to educate staff on the process. Additionally, he said that the Division had assisted the Department of Taxation in redrafting the insurance premium tax return forms to provide clarity.

Vice Chair Aizley asked for an explanation concerning the variance in the data regarding the number of desk audits completed and the number projected for completion. He noted that Division representatives informed the 2011 Legislature that 200 audits would be completed during fiscal year 2012, while the 2013 Expanded Program Narratives indicated 88 audits were completed. Vice Chair Aizley also noted that projections for the completion of desk audits in each year of the 2013-2015 biennium ranged from 100 to 120 to 102 [based on different sources of information].

As previously indicated, Mr. Kipper reported that as of March 20, 2013, the Division had completed 149 audits. He discussed the sporadic receipt of data from carriers and the time involved in verifying information as contributing to the challenges involved in completing an audit. Mr. Kipper said that because of the progress being made, the forecast for 120 completed audits [as provided in The Executive Budget] in each year of the 2013-2015 biennium, he believed, was a good projection.

Vice Chair Aizley asked for information concerning the proposed changes to the audit fees charged to insurers for the desk-audit program.

Mr. Kipper reported that costs involved in the start-up fees for the program included:

- The purchase of an expensive software program.
- The per-hour fee to cover the cost of the auditors.
- The closing fee paid by a carrier for hearing costs.
- Costs for legal staff to prepare the examination report and to send the information to the Department of Taxation.

Vice Chair Aizley asked whether the Division was suspending the initiation fee for desk audits for the 2013-2015 biennium or eliminating it entirely.

Todd C. Rich, Deputy Commissioner, Division of Insurance, B&I explained that when the Division initiated the program, each of the 743 companies to be audited was charged an initiation fee because there was no funding provided for the program. Mr. Rich explained that an accounting record existed for every company charged the fee, and after the audits were completed, the costs would be reconciled and companies who were overcharged would receive a refund.

Mr. Kipper commented that the Division had charged each of 743 companies ordered to be audited the initiation fee, and there would be no additional start-up costs.

Assemblyman Eisen asked why the projection for the average number of hours needed to complete an audit had increased from an average of 3.3 hours to 9.8 hours.

Mr. Kipper asked Adam Plain, Insurance Regulation Liaison, Division of Insurance, B&I, to respond to the question because prior to his current position as Insurance Regulation Liaison, Mr. Plain was in charge of the audit program.

Mr. Plain explained that when the program began, the Division of Insurance made operational assumptions regarding the efficiencies of the data it would receive. Specifically, he said, the Division assumed that if, for example, five insurance companies from the same insurance group holding company were being audited, the companies would use similar accounting systems. Mr. Plain said, however, that the Division encountered many accounting systems because insurers were often purchased, sold, transferred, divested, or merged, and each new company instituted a new accounting system. He said, for example, that the Division might receive data from one company over three years in Common Business Oriented Language (COBOL), Structured Query Language (SQL), or in an Oracle database, which required the Division to reprogram its systems, which "greatly" slowed the process.

In response to Assemblyman Eisen's questions concerning the projections for the program, Mr. Plain said that because some of the larger insurance groups had been audited, the Division expected no large operational problems would be encountered over the 2013-2015 biennium. Other factors that slowed the program down during the previous biennium, he said, included time dedicated to training and coordination with the Department of Taxation. Additionally, he advised that when he took the position as the Regulation Liaison, the employee that filled the auditor position had to be trained, which slowed the process. Mr. Plain said, however, now that the program was established and stable, the projections for the completion of audits during the 2013-2015 biennium had been increased to 120 in each year of the biennium.

Vice Chair Aizley asked whether it would be possible to continue the program with one position rather than two during the 2013-2015 biennium.

Mr. Kipper said that although the program could continue with one person, the audits would take longer to complete. Additionally, he emphasized that there was no cost to the Division because the costs of the program were borne by the companies that were audited.

Bruce Breslow, Director, B&I advised against continuing the program with one position. He pointed out that problems would ensue with only one staff member because of the inevitability of medical problems, family and leave time, and furloughs.

Vice Chair Aizley asked agency representatives to discuss the need to increase the recommended hourly rate and audit closure fee by 40 percent during the 2013-2015 biennium compared with the fees previously proposed.

Mr. Plain said that at the time the program began, he was one of two auditors hired and because he was new to state service, the Division hired him at step 1. He explained that when he was promoted to the Insurance Regulation Liaison position, the employee who filled the auditor position was moved laterally at a "considerably" higher pay rate. That lateral move required cost adjustments because the original projections were based on the salaries of the two original auditors.

Vice Chair Aizley asked for an update on the collectable but underreported insurance premium tax identified through the desk-audit program.

Mr. Kipper responded that the audits encompassed the past seven years or approximately \$77 billion in premiums that were written, and thus far the audits determined a variance of approximately \$21.5 million. The variance, he explained, was the difference between the amount of tax reported by the insurer and the amount of tax calculated by the auditors. He said, for example, if an insurer reported overpaying by \$100,000, but the audit determined the insurer underpaid by \$200,000 a variance of \$300,000 existed. Mr. Kipper advised that the underreported insurance premium tax required additional scrutiny. He explained that the total collectable variance [maximum amount due the state] was currently at approximately \$5 million. The information, he said, had been shared with the Department of Taxation, the entity responsible for collecting the taxes, and one of its concerns was that under the provisions of its statutes, the Department of Taxation had only a three-year look-back period.

Vice Chair Aizley referred to the Letter of Intent issued to the Division following the 2011 Legislative Session. The letter requested that the Division report to the Interim Finance Committee (IFC) on the amount of excess revenue collected for the administration of the desk-audit program, the method used to refund any overpayment of fees charged to insurers, and when the repayments would be processed. Additionally, he asked whether the Division processed any reimbursements as was discussed during the 2011 Legislative Session.

Mr. Plain advised that the Division had not processed any reimbursements to date. He explained that the delay was based on waiting for the program to conclude to determine the total over/under on the expense-to-revenue ratio before realizing whether the Division had funds to return.

Vice Chair Aizley asked why the cost-allocation transfer from Insurance Examiners (BA 3817) to Insurance Regulation (BA 3813) was projected to increase in fiscal year 2015 when the number of examinations was projected to decrease.

Aaron Frantz, Administrative Services Officer (ASO), Director's Office, B&I, responded that the transfer of funds to the Insurance Regulation account for fiscal year 2015 was based on personnel costs in the Insurance Regulation account, which were projected to increase because of the increased length and difficulty of examinations.

Vice Chair Aizley asked how the agency intended to reduce the reserve in the Insurance Examiners account to the Division's target of 60 days of operating expenditures.

Mr. Kipper advised that the Division's examination costs were supplemented by an "override" the Division charged to cover costs. The Division, he said, would review the override to determine whether it could reduce the charge. Mr. Kipper expressed concern, however, about reducing the override without a careful study because of the risk-focused examinations currently being conducted. He explained that because the three-year cycle for risk-focused examinations had established a baseline, subsequent examinations should be less expensive, which meant the override charge could be reduced followed by a drop in the reserve level.

Vice Chair Aizley noted that each of the Division's accounts appeared to have a healthy amount of reserve funding.

Mr. Kipper said that while the Division was a good steward of the public monies to which it was entrusted, the difficulty in hiring staff that produced salary savings and fees that could not be adjusted had prevented the agency from reducing its reserve level. He said, however, that in those areas in which an option existed to address fee levels, the Division would do its best to reduce the reserve level to a 60-day level of operating costs by the end of the biennium.

Vice Chair Aizley recalled that during the 2009 Legislative Session, the Legislature swept agencies' reserve funding.

Mr. Kipper advised that the Division representatives were well aware of past activities concerning reserve funds that were swept from agencies.

There being no further questions, Vice Chair Aizley closed the hearing on Insurance Examiners budget and opened the hearing on the Captive Insurers budget.

COMMERCE & INDUSTRY
DEPARTMENT OF BUSINESS & INDUSTRY
CAPTIVE INSURERS (504-3818)
BUDGET PAGE B & I-40

According to information from the Fiscal Analysis Division, Legislative Counsel Bureau, "the Captive Insurers budget, established by the 1999 Legislature, regulated and supervised captive insurers domiciled in the State of Nevada." Captive insurers included those insurers with one corporate owner that only insured risks of its parent organization or its subsidiaries.

"The budget was self-funded through fees, assessments, and 25 percent of the state's insurance premium tax paid by licensed captive insurers. The remaining 75 percent of captive insurer premium tax receipts was deposited into the General Fund."

Assemblyman Eisen noted that the agency scheduled 41 captive insurance examinations in fiscal year 2014 and only 13 in fiscal year 2015, a 68 percent reduction in workload. Projections for administration fee revenue, however, reflected a decrease of approximately 35 percent, and Assemblyman Eisen asked why the numbers were not more closely aligned.

Scott Kipper, Commissioner of Insurance, Division of Insurance, Department of Business and Industry (B&I) advised that the 2011 Legislature passed legislation that eliminated the requirement for the Division to examine pure captive insurers. He explained, however, that the remaining balance of risk-retention groups (RRGs) would continue to require a significant amount of time, energy, and resources to review.

In response to Assemblyman Eisen's request for clarification, Mr. Kipper advised that the need for examination of pure captive insurers was so minimal that it was determined to be unnecessary. He further explained that although annual statements were received from captive insurers and the Division maintained financial records, those insurers were of little risk to the public because they provided insurance solely for their corporate owners. If, for example, a pure captive insurance company went out of business, the risk, he said, was borne solely by the institute that owned it. Mr. Kipper reiterated that the RRG companies would continue to require a significant amount of research, analysis, and examination, and although the number of examinations had decreased, the work for the remaining entities had not.

There being no further questions, Vice Chair Aizley closed the hearing on Captive Insurers budget and opened the hearing on Insurance Education & Research budget.

COMMERCE & INDUSTRY
DEPARTMENT OF BUSINESS & INDUSTRY
INSURANCE EDUCATION & RESEARCH (504-3824)
BUDGET PAGE B & I-46

According to information from the Fiscal Analysis Division, Legislative Counsel Bureau, "the Insurance Education and Research budget was responsible for providing resources to fund insurance-related education and research activities. Funding was established *by Nevada Revised Statutes* (NRS) 679B.305, which required that any balance over \$40,000 remaining in the Insurance Recovery budget account (BA 3821) at the end of the fiscal year be transferred to the Insurance Education and Research account. Funds were used to train staff, insurers, consumers, licensees, and legislators in the concepts of insurance and actuarial studies."

Vice Chair Aizley noted an area of major concern was that proposed expenditures for personnel, operating, and cost-allocation transfers exceeded proposed expenditures for research, training, and travel.

Todd C. Rich, Deputy Commissioner, Division of Insurance, Department of Business and Industry (B&I) testified that funding in the Insurance Education & Research account, BA 3824, served to provide research activities and educate Nevada consumers through public service announcements on various topics related to insurance as well as to train staff. As previously reported, Mr. Rich advised that the Division of Insurance had encountered problems in hiring professional staff and had to underfill positions, which had contributed to a higher reserve level.

Vice Chair Aizley asked agency representatives to describe the Division's methodology to determine the number of positions and associated personnel costs that should be funded in the Insurance Regulation account through transfers from the Insurance Education & Research account. Additionally, he asked why indirect costs supporting education and research were greater than direct costs.

Aaron Frantz, Administrative Services Officer (ASO), Director's Office, B&I, advised that the account funded a significant amount of out-of-state travel and personnel costs including two full-time actuaries and an administrative assistant. The costs, he said, to travel and train were "considerably more" than the education costs the account supported.

Vice Chair Aizley asked agency representatives whether they had developed a training or research plan to expend the revenue required to be set aside for insurance education.

Mr. Kipper advised that a plan had been developed for the Division's Corporate and Financial section where most of the training occurred for professional staff responsible for financial solvency and financial oversight of companies.

Senator Woodhouse asked agency representatives to address how they planned to reduce the account's growing reserve level.

Mr. Kipper advised that he had the ability to adjust fees in the Insurance Recovery account (BA 3821) and asked the Deputy Commissioner to provide additional information.

Mr. Rich agreed that the increasing reserve level was an area of concern. He explained that the major contributing factor to the increasing reserve level was the \$10 recovery fee from the Insurance Recovery account (BA 3821). Funding, he said, was established under statute, which required that any balance over \$40,000 remaining in the Insurance Recovery account (BA 3821) at the end of the fiscal year be transferred to the Insurance Education & Research account. As previously indicated, the Commissioner had the ability to adjust the \$10 fee that was added on to licensing costs. Mr. Rich advised that reducing the fee was a major undertaking, which would require working with the Division's national partners, out-of-state producers, making changes to all publications and reprogramming computer systems. Reducing the reserve was necessary and to reach an adequate reserve level, Mr. Rich said the recovery fee would need to be adjusted down to an adequate amount later in the year after additional study.

Senator Woodhouse expressed her appreciation for the response. She pointed out, however, that it appeared the account had a 13-month rather than 60-day reserve and that whatever could be done to reach the 60-day target would be "greatly appreciated."

Bruce Breslow, Director, Department of Business and Industry, commented that in the three months since his appointment as Director, reserve funding had been a topic of discussion. He asked that the Legislature, before considering sweeping funds, allow the Department time to conduct analysis and prepare a plan that would allow fees established in statute to be governed by regulation, which would provide the flexibility for fee adjustments.

Additionally, Mr. Breslow advised that he had given some thought to the difficulty B&I agencies had encountered in hiring staff for professional level positions. He had been working, he said, with representatives of the Division of Human Resource Management, Department of Administration, to find ways, using reserve funding, to market difficult-to-recruit positions. Mr. Breslow said that while it would not be feasible for the Insurance Commissioner to hire an actuary at a salary higher than his own, the Division could perhaps find more creative ways to recruit for those positions, such as outsourcing.

There being no further questions, Vice Chair Aizley closed the hearing on Insurance Education & Research, BA 3824 and opened the hearing on the National Association of Insurance Commissioners, BA 3828.

COMMERCE & INDUSTRY
DEPARTMENT OF BUSINESS & INDUSTRY
NAT. ASSOC. OF INSURANCE COMMISSIONERS (504-3828)
BUDGET PAGE B & I-51

According to information from the Fiscal Analysis Division, Legislative Counsel Bureau, "the National Association of Insurance Commissioners (NAIC) was created to provide funding to assist the Division of Insurance with the costs necessary to communicate on insurance issues with insurance officials from other states, provinces, and countries. As a member of the NAIC, state representatives were assigned to various committees and task forces for the purposes of resolving insurance problems affecting many states and developing uniform laws and model regulations. The fund helps pay for the reasonable and necessary travel and related expenses incurred by state staff to attend association meetings, as well as staff training associated with national accreditation standards. Funding for the budget account (BA) was provided through an annual assessment, not to exceed \$30, on all authorized insurers licensed in Nevada as prescribed in *Nevada Revised Statutes* (NRS) 680B.070."

Vice Chair Aizley asked whether it would be possible to eliminate the NAIC assessment by transferring the costs associated with the annual NAIC membership and NAIC-related travel to other accounts within the Division, such as the Insurance Regulation account or the Insurance Education & Research account.

Scott Kipper, Commissioner of Insurance, Division of Insurance, Department of Business and Industry (B&I) advised that the NAIC budget was a holdover from the time the Division was a General Fund agency. The budget account was created, he said, to allow the Division additional revenue to provide for travel expenses incurred by staff to attend association meetings and for staff training associated with national accreditation standards. Mr. Kipper said that if it was the Legislature's desire to do so, the NAIC budget account could be eliminated and costs related to NAIC could be provided out of Insurance Regulation (BA 3813).

There being no further questions, Vice Chair Aizley closed the hearing on the National Association of Insurance Commissioners budget and opened the hearing on Insurance Cost Stabilization budget account 3833.

COMMERCE & INDUSTRY
DEPARTMENT OF BUSINESS & INDUSTRY
INSURANCE COST STABILIZATION (504-3833)
BUDGET PAGE B & I-53

Chair Flores returned to the meeting, reassumed the duties of the chair, and asked Division of Insurance representatives to proceed with a presentation on the Insurance Cost Stabilization budget, account 3833.

Scott Kipper, Commissioner of Insurance, Division of Insurance, Department of Business and Industry (B&I) reported that the Insurance Cost Stabilization account funded one full-time position as well as the annual *Insurance Market Report*, which was delivered to the members of the Legislature earlier in the year. The Insurance Cost Stabilization account, he said, developed methods for stabilizing prices for property and casualty insurance.

Mr. Kipper advised that funding for the budget account was provided through an annual assessment, not to exceed \$500, on the licensed property and casualty insurers operating in the state. He reported that as Commissioner, he

imposed a fee holiday in fiscal year 2012 based on the account's excessive reserve level at the end of fiscal year 2011.

Chair Flores noted that it appeared that in waiving the annual assessment in fiscal year 2012, the Division took exception to the provisions of the *Nevada Administrative Code* (NAC). Additionally, she noted that the Division did not request approval from the Interim Finance Committee (IFC) for a work program to reduce the assessment revenue from the amount included in the budget approved by the Legislature for fiscal year 2012 and fiscal year 2013. Chair Flores asked the agency representatives to discuss the imposition of the fee holiday.

Aaron Frantz, Administrative Services Officer (ASO), Director's Office, B&I, explained that not requesting approval for the work program from the IFC was an oversight on his part because he was unaware of the requirement.

In response to Chair Flores' question concerning the fee assessment, Mr. Kipper reiterated that because of the excessively high reserve level at the end of fiscal year 2011, he imposed a fee holiday and reduced the assessment below the \$500 limit.

Chair Flores asked Division representatives to explain why the Division proposed a \$125 assessment in fiscal year 2015 when it appeared that the \$100 assessment for fiscal year 2014 and the resulting reserve would be sufficient to fund the account and maintain a reasonable reserve for fiscal year 2016.

Mr. Frantz explained that the imposition of the fee holiday reduced the reserve level, and reserve funding was used to pay for the account's full-time position as well as other costs associated with the budget. The assessment for fiscal year 2013, he said, was set at \$56 per insurer, which would not provide sufficient funds to carry forward in fiscal year 2014 or fiscal year 2015. Mr. Frantz said that in using projections to balance funds forward from fiscal year 2013 and fiscal year 2014, staff determined that the \$100 assessment in fiscal year 2014 placed the account in a good position to carry funds forward. He explained that the assessment was increased to \$125 for fiscal year 2015 to pay for personnel increases proposed in The Executive Budget.

In response to Chair Flores who noted that the projected reserve resulted in more than 90 days of operating expenditures, Mr. Frantz advised that the

Division's latest projection numbers showed the reserve balance at about \$44,000 at the end of fiscal year 2014 and about \$54,000 at the end of fiscal year 2015. He explained that although the projections appeared to reflect a higher reserve, the funding, as previously stated, was needed to pay for personnel costs.

There being no additional questions, Chair Flores closed the hearing on the Insurance Cost Stabilization budget and opened the hearing on the Employee Management Relations Board budget.

COMMERCE & INDUSTRY
DEPARTMENT OF BUSINESS & INDUSTRY
EMPLOYEE MANAGEMENT RELATIONS BOARD (101-1374)
BUDGET PAGE B & I-132

Bruce Breslow, Director, Department of Business and Industry (B&I), introduced Brian Scroggins, Commissioner, Local Government Employee-Management Relations Board (EMRB). Mr. Scroggins provided the following overview of the EMRB:

- The EMRB was established in 1969 with legislation introduced by Nevada State Senator Carl Dodge and modeled after the National Labor Relations Board (NLRB).
- The agency existed under chapter 288 of the *Nevada Revised Statutes* (NRS) and functioned much the same as the NLRB with the exception of having no authority to investigate complaints.
- The EMRB provided resolution of unfair labor practices; problems related to mandatory bargaining subjects; disputes related to recognition; and determinations regarding appropriate bargaining units.

In summary, Mr. Scroggins advised that the law governed concerted activities on the part of local governments and their unions as related to the collective bargaining process. The goal of the EMRB was to foster the collective bargaining process, to provide for those involved in that process, and to settle disputes as they arose in a neutral and timely manner.

The EMRB currently worked with 164 local government employers and over 200 collective bargaining units or unions, which represented 78,107

local government employees in the State of Nevada. The EMRB worked specifically with local government agencies throughout Nevada because state employees had no collective bargaining rights.

The EMRB received no funding from the General Fund. Under the provisions of *Nevada Revised Statutes* (NRS) 288.105, local government employers were assessed a fee of not more than \$10 per employee per year, which was the result of Assembly Bill (A.B.) No. 540 of the 75th Legislative Session (2009). The assessment fee was calculated by dividing the EMRB budget by the total number of local government employees. Reports submitted by local government employers to the Public Employees' Retirement System (PERS) each July 1 provided the total number of employees.

The EMRB covered the entire State of Nevada out of the Las Vegas office. The agency included three part-time Board members appointed by the Governor and two full-time employees, the Commissioner and an Executive Assistant, both appointed by the Board.

The EMRB received advice from the Office of the Attorney General, and Mr. Scroggins complimented Deputy Attorney General Scott Davis' work.

Mr. Scroggins provided the following information concerning his educational background and professional experience:

- Appointed Commissioner by the EMRB in April 2011.
- Received an associate degree and a bachelor's degree from Brigham Young University.
- Would graduate in June with a master's degree in public administration with an emphasis in emergency management and continuity of government.
- Certified mediator with the Clark County Courts.
- 25 years of private-sector business experience including 18 years of owning and operating his own business.
- Before working for the state, he served on several state and county boards and commissions including the State Contractors' Board, the Commission on Construction Education, the Clean Water Coalition, and the Commission on Nuclear Projects.

Mr. Scroggins advised that the Governor's recommended budget for the EMRB reflected total revenues of \$593,767 in fiscal year 2014 with the reserve

portion of the funding at \$37,902, which he indicated was not entirely accurate. He explained that two of the Board members resided in northern Nevada and traveled to Clark County at least ten times a year since about 80 percent of the Board's cases were heard in Clark County. Additionally, at least twice a year, the Board members traveled to rural Nevada or to the Reno-Carson City area. He explained that in calculating the fee assessment, the reserve was deducted from the budget, and the balance divided by 78,107 employees to arrive at a fee assessment from each local government employer of \$7.30 per employee, which the Board recently approved.

Chair Flores commented that even with a recent budget amendment to correct the Attorney General cost allocation, the reserve funding at the end of fiscal year 2015 was projected at \$361,211, a 294-day operating balance. With a currently significant reserve fund balance, Chair Flores asked why the EMRB increased the fee assessment to \$7.30, which she noted was a major increase from fee assessments of \$5.25 in 2012 and \$6.25 in 2013.

Mr. Scroggins advised that \$37,902 [reserve] was deducted from the Governor's recommended budget of \$593,767 in fiscal year 2014 and \$14,026, a work program amount for the agency's travel budget, was added, which left a balance of \$569,791 divided by 78,107 local government employees to provide a fee assessment of \$7.30.

Mr. Scroggins advised that he was aware that projections for reserve funding in fiscal year 2015 totaled \$393,000 and in fiscal year 2016 totaled \$605,000 although he was uncertain as to how those figures were calculated based on the \$7.30 fee assessment the Board recently approved. He discussed the reserve balance of \$147,952 he had calculated for fiscal year 2014, which was the amount of three months of reserve funding based on a \$600,000 budget divided by 12 or \$50,000 a month.

Mr. Scroggins explained that the reserve funding needed to be increased to cover travel costs for Board members. The agency, he said, was budgeted at \$18,000 for fiscal year 2013 to bring two board members from Reno once a month for a two-night stay, which totaled \$24,000 a year. The travel, he said, included the Commissioner's attendance at the annual conferences of the Nevada Association of Counties (NACO) and the Nevada League of Cities and Municipalities, and an annual tour of rural Nevada to meet with local governments and union officials. Additional expenses included a possible office relocation and future election costs as advised by the EMRB's deputy attorney

general. Mr. Scroggins reiterated that the challenge in building the budget for fiscal year 2014 and fiscal year 2015 was in calculating the needed operating revenue. He agreed that the EMRB did not require a \$300,000 to \$600,000 reserve, and he said that the Board could reduce the next fee assessment.

Chair Flores advised that she had information that the fee assessment was to have been reduced to \$5.50 in fiscal year 2014 and \$3.25 in fiscal year 2015 but instead the agency reported that the EMRB approved a fee assessment of \$7.30.

Mr. Breslow reported that the Department's Administrative Services Officer, Vicki Leigh, was available to provide additional detail. Mr. Breslow advised that the Director's office was also surprised when the Board voted to increase the fee assessment to \$7.30. Additionally, he said that the Board had the ability to videoconference its meetings, and although the Commissioner was a dedicated employee and wanted to do a good job, the EMRB overspent its travel budget in fiscal year 2013 and had to ask for more money.

Chair Flores asked how the agency planned to address its reserve balance.

Vicki Leigh, Administrative Services Officer, B&I, discussed the challenges encountered in building the EMRB budget with respect to the Attorney General cost allocation. Ms. Leigh recalled that when the Nevada Executive Budget System (NEBS) was opened to begin the budget-building process, the cost allocation for the Attorney General was \$294,000. Using that figure as a guideline to meet the revenue needed for debt service, the assessment, she said, had to be increased. A budget amendment, however, that reduced the cost allocation to \$188,000 in fiscal year 2014 and \$85,359 in fiscal year 2015 did not reduce the projected revenue in the Governor-recommended version of the budget. Ms. Leigh agreed that the Board reserved the right to adjust the fee assessment each year, and if they so desired could reduce it.

In response to Chair Flores' question concerning whether the Board would reduce the assessment, Mr. Scroggins advised that although the Board was not scheduled to meet again until May, they could hold a telephone meeting to discuss the fee assessment. Mr. Scroggins also attributed the agency's budget challenges to the cost allocation for the Attorney General. He recalled that when the Board hired him in 2011, the cost allocation for the Attorney General was just under \$90,000; the following year it was raised to \$188,000; in 2013,

it was \$294,000 with current projections of \$188,000 in fiscal year 2014 and \$85,359 in fiscal year 2015.

Mr. Scroggins said he would welcome the opportunity to meet with the Administrative Services Officer and other staff members to discuss adjustments. He commented that the agency's reserve funding needed to be slightly higher because of travel requirements connected with hearings. Mr. Scroggins discussed the inappropriateness of conducting hearings using videoconferencing because employment and unfair labor practices were the topics of discussion, and the Board deemed it important for participants to be in the same room.

Mr. Scroggins reiterated the process by which he advised the Board on arriving at the current \$7.30 fee assessment. He reported having received the most recent cost-allocation figures of \$188,000 in fiscal year 2014 and \$85,359 in fiscal year 2015 after the Board had approved the \$7.30 assessment.

In response to Chair Flores who asked whether, given the current figures, the agency would reproject revenue and expenditures, Mr. Scroggins advised that the agency did not require \$300,000 to \$600,000 in reserve funding. Additionally, he said that he would address adjusting the fee assessment with the Board via a telephonic meeting, although he preferred to wait until after he and the Administrative Services Officer could discuss the budget adjustments.

There being no additional questions, Chair Flores closed the hearing on the Employee Management Relations Board budget account (1374).

Assembly Committee on Ways and Means
Subcommittee on General Government
Senate Committee on Finance
Subcommittee on General Government
March 22, 2013
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Chair Flores asked for public comment and there being no response to her request, closed the hearing.

Chair Flores adjourned at 10:23 a.m.

RESPECTFULLY SUBMITTED:

Connie Davis
Committee Secretary

APPROVED BY:

Assemblywoman Lucy Flores, Chair

DATE: _____

Senator Joyce Woodhouse, Chair

DATE: _____

EXHIBITS

**Committee Name: Assembly Committee on Ways and Means
Subcommittee on General Government; Senate Committee on
Finance Subcommittee on General Government**

Date: March 22, 2013

Time of Meeting: 8:05 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Alan R. Coyner, Administrator, Minerals	Budget Page Minerals-1
	D	Alan R. Coyner, Administrator, Minerals	September 16, 2011, Letter of Intent
	E	Alan R. Coyner, Administrator, Minerals	Sagebrush Ecosystem Program FY 13 and FY 14-15
	F	Alan R. Coyner, Administrator, Minerals	Budget Page Minerals-9