

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

**Eighty-First Session
February 25, 2021**

The joint meeting of the Assembly Committee on Ways and Means and Senate Committee on Finance Subcommittees on General Government was called to order by Chair Sarah Peters at 8:04 a.m. on Thursday, February 25, 2021, Online. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/81st2021.

ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:

Assemblywoman Sarah Peters, Chair
Assemblywoman Sandra Jauregui, Vice Chair
Assemblywoman Michelle Gorelow
Assemblyman Gregory T. Hafen II
Assemblyman Glen Leavitt
Assemblywoman Brittney Miller

SENATE SUBCOMMITTEE MEMBERS PRESENT:

Senator Chris Brooks, Chair
Senator Moises Denis
Senator Pete Goicoechea

SUBCOMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Brody Leiser, Principal Deputy Fiscal Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Mary O'Hair, Committee Manager

Minutes ID: 317



Adam Cates, Committee Secretary
Bet Torres, Committee Assistant

OTHERS PRESENT:

Terry J. Reynolds, Director, Department of Business and Industry
Barbara Richardson, Commissioner of Insurance, Division of Insurance, Department of Business and Industry
Victoria Carreón, Administrator, Division of Industrial Relations, Department of Business and Industry
Sharath Chandra, Administrator, Real Estate Division, Department of Business and Industry

Chair Peters:

[The meeting was called to order, roll was taken, and meeting protocols were discussed.] On today's agenda, the Subcommittee is going to hear from the Department of Business and Industry. I will ask the director, Terry J. Reynolds, to begin the presentation.

Terry J. Reynolds, Director, Department of Business and Industry:

We are going to go through budgets for four of our divisions: The Director's Office Administrative account, the Division of Insurance, the Division of Industrial Relations (DIR), and two budget accounts for the Real Estate Division including education and research. We will pull our slides up [[Exhibit C](#)]. As you know, the Department of Business and Industry has four major areas [page 2, [Exhibit C](#)]. Today we will be looking at insurance and real estate under the commerce and capital regulation function. We also have community development and small business, but we will not be getting too much into that. We will be talking about our Director's Office which also houses the Office of Business Finance and Planning. Under labor and workforce protection, we will be looking at the budget for the Division of Industrial Relations. In addition to that, under advocacy and advancement and the Director's Office, I am going to highlight and talk about our consumer affairs units. With that, we can go to the next slide [page 3, [Exhibit C](#)].

First, I want to lay some groundwork for our discussion today. For the Department of Business and Industry, only 4.5 percent of our entire budget is funded by the State General Fund. That funds a portion of the Director's Office, and it funds a portion of the Real Estate Division. State General Fund appropriations fund about 50 percent of the Real Estate Division. The other half is fee funded and deals with common interest communities. The Office of the Labor Commissioner is also funded by the State General Fund.

We were tasked by the Governor's Finance Office to cut 23 percent of our State General Fund budgets, and that amounted to cuts of \$1.03 million. That was a difficult task for us. I would like to tell you that we had to make some very tough decisions. We did make cuts, but we did not have any layoffs. Positions were either vacant or the incumbents were

transferred to a vacant position. Under Consumer Affairs, we cut \$261,559. Some of those cuts will be coming back in the budget recommendations. For the Commission on Minority Affairs, we cut the operating budget by \$11,856. The Office of Business Finance and Planning had a cut of \$89,800, and a lot of that was done by using our bond funds to assist in paying for those functions that are done by our management analyst and program officer. Under the Office of Labor Commissioner, we cut out \$263,728. Out of the Real Estate Division, we cut \$403,481—the largest cuts we had. So, there were some significant cuts that we had to propose to make the requested goal of 23 percent out of our State General Fund agencies.

On the next slide, I am going to go through the Consumer Affairs Unit [page 4, [Exhibit C](#)]. It is a small unit with 6.5 positions, and they spend a lot of time on three areas. One is working with the Fight Fraud Taskforce, especially in southern Nevada. They investigate cases, and they try to educate consumers. We do work in close contact with the Nevada Attorney General's Office to prosecute cases for deceptive trade practices. Most of our cases involve seniors and/or, what I would say, are underrepresented public who do not have attorneys and get caught up in scams or fraud. We help them recover their money that they have spent for products that are not what they were represented to be. Occasionally, we get into large circumstances of fraud that are happening nationwide.

You can see under "Advocacy and Protection" [page 5] how the inquiries come in, and we have broken that down for you. This was requested when we did the initial presentation of the budget. Most of our inquiries come in via phone and email. We do get referrals from the Nevada Attorney General's Office, the Fight Fraud Taskforce, and from our community partners. Page 6 provides a breakdown of cases [[Exhibit C](#)]. I supplied the Legislative Counsel Bureau and Governor's Finance Office with the breakdown of cases. You can see that they cover a lot of areas. Last year, 2020, was very busy. We had approximately 500 additional cases to deal with than we usually do because of COVID-19.

COMMERCE & INDUSTRY
DEPT OF BUSINESS & INDUSTRY
B&I - BUSINESS AND INDUSTRY ADMINISTRATION (101-4681)
BUDGET PAGE B & I-15

Terry J. Reynolds, Director, Department of Business and Industry:

For the Department of Business and Industry budget account (BA) 4681 Director's Office Administration, the biennial increase of \$258,966 is primarily due to cost-of-living adjustments [page 7, [Exhibit C](#)]. What we are looking to do under the Consumer Affairs Unit is to remove the expiration date of the unit. This unit has "sunsetting" every biennium. We would like to not have to go in every biennium and argue to do that. I think they are a very effective unit. They have a 92 to 93 percent clearance rate of all the cases that come in. Budget account 4681 also reinstates expiring operational authority.

The Governor recommends reducing an existing Attorney Law Judge (ALJ) from full-time to 50 percent. We looked at the caseload we have with that ALJ, and we feel that a half-time position would be able to handle the caseload. The recommended budget also eliminates one full-time and one part-time administrative assistant. With the Director's Office in southern Nevada, we were able to move the full-time position within the office there to help us with payroll. The half-time assistant became a new mother and decided to stay home, so we are not replacing that position.

Budget account 4681 continues the video and conferencing subscription that we use for our virtual meetings. The budget reinstates the Commission on Minority Affairs travel budget and replaces existing equipment, computers, a server, and conferencing equipment under our normal schedule. The recommended budget also transfers an information technology (IT) Professional 2 from the Taxicab Authority. As you know, the Taxicab Authority is undergoing some significant budget issues because of the drop in trip revenue from taxicabs. We only have one IT professional right now at the state business center to serve nine different agencies, so this will be helpful to all our agencies there. That will be cost allocated to our different agencies to be able to serve them in the same business center. That ends the overall presentation for the Director's Office Administration budget account 4681. I am happy to take any questions.

Assemblywoman Gorelow:

I want to talk about the Consumer Affairs workload and the increase in cases. I understand COVID-19 had a lot to do with the increase in cases in 2020, but could you elaborate on any other issues that may have caused an increase?

Terry J. Reynolds:

We average about 2,200 to 2,300 cases a year. A lot of those depend on what is happening in the economy. We used to get huge amounts of telemarketing, but now we are seeing moving and storage. We always see a lot of cases with communications companies selling everything from cell phones to different types of plans for consumers to pick up for communications. Autobody and repair is a big issue as are home repairs. A lot of people were home during COVID-19, so they were doing home repairs, and I think that attributed to the increase on that. A lot of scams and issues happened over the Internet. They are always varied, and there is no real trend in one area, but we are seeing that with COVID-19 and a lot of people at home, they were doing home projects. They spent more time on the Internet ordering products, everything from food to daily necessities, so we saw a little rise in that. But generally, these types of things are fairly stable, and they are fairly predictable in terms of the areas.

Assemblywoman Gorelow:

Do you anticipate that these trends will continue in the 2021-2023 biennium, and if so, how would those cases be handled if the Office of Consumer Affairs is not continued?

Terry J. Reynolds:

Yes, I do think that the trend will continue. We have handled anywhere from 2,500 cases to a high of 3,000 cases. We are right in the average, and I still think those will continue. How is it going to be handled if this unit goes away? First, I would say that the Nevada Attorney General's Office only handles more criminal cases or large civil cases. Ours are cases that involve people for whom this is their last resort. They come to us and get those cases handled, including senior citizens. We try to educate people not to get into these types of situations, but they happen. The scams and fraud happen from time to time, especially in poor economic times when we see more cases happen. I think this unit is extremely important. They have a high degree of effectiveness and resolve 90-plus percent of the cases they take on. I think the individuals really would have nowhere else to go. I think the Nevada Attorney General's Office would handle it, but they would first look at the cost-benefit ratio of trying to handle the smaller types of cases. Frankly, it is really tough on them to keep that up and then handle the large cases that they do—the more criminal and large civil cases that they are involved in. I think this is kind of a last resort for a lot of people to be able to recover money that was taken from them by deceptive trade practices.

Senator Denis:

That last question got me to thinking about how it used to be when we had this huge Consumer Affairs Unit with a lot of people handling a lot of cases. Then we, as a state, decided to get rid of it for budgetary and other reasons. If we really want to know what happens when we do not fund this, we can look at those years where we did not have the Office of Consumer Affairs. It was the Nevada Attorney General's Office that we had to rely on, and they only worked on the big cases. It was harder to help all our constituents who had these little cases. My question has to do with how long it takes to resolve these 3,000 cases you have in a year. I know they are all different. Are you able to resolve most of those?

Terry J. Reynolds:

We average 2,500 to 3,000 cases per year. We are right in that track record right now. We resolve about 92 to 93 percent of all cases. We annually return \$250,000 to \$300,000 a year to consumers who have been defrauded. It is taking longer because of the more cases we have and less people in the office. We were looking at a two- to three-week resolution previously, and now we are probably looking at four to six weeks to be able to get it done. That is the downside of having less people and higher caseloads in the unit, but we are still resolving them and being effective. We are still getting the same resolution rate as we had before. It is just taking a long time.

Senator Denis:

It sounds like we need to get you some additional help so you can catch up.

Chair Peters:

I have a follow-up related to the proposal for maintaining the two vacant administrative assistant positions. Can you talk about how maintaining those positions would potentially affect the resolution of the consumer complaints timeline?

Terry J. Reynolds:

When cases come in, they generally come in, as you saw, by phone or email. The administrative assistants help prep the work on the cases so that our investigators can work on those cases. The workload is going up, and it is going to take a little longer for staff. Some of the investigators are going to be taking the calls and then helping prep the cases. For statistical analysis, we put everything into what we call Eyesight, our software system where we can track those cases. It is very important for us to generate statistics so we can know where or if there are trends and what areas we need to concentrate on. That is the downside of not having the administrative assistants. Frankly, if we were able to reinstate a position it would be the full-time administrative assistant position in the southern Nevada office because that person is invaluable. The person who had that position is still there and can provide that knowledge while still working in a different section in the office. It is not like we lost the person. They are still there, but still it would be good to reinstate them if we are able to do that in the future. That would be the one we would want to see happen.

Assemblywoman Miller:

My questions are regarding the reduction of the Administrative Law Judge (ALJ) position down to part-time status, and the impact it may have on the resolution of consumer complaints. My first question is, on average, how many investigations lead to actual administrative hearings or alternative dispute resolution proceedings?

Terry J. Reynolds:

In the context of consumer affairs, we only see four to five, or a high of six or seven, cases per year. For most of our cases, the investigations are resolved by our staff working to mediate issues between the wronged party and the business or the person involved. Very few of these actually go to case level. In addition to that, what you are not seeing here is that we have cases that involve mortgage lending, financial institutions, or real estate where the ALJ will step in. Those cases would require attorneys from the Division of Insurance who are trained in administrative processes or attorneys from the Office of the Labor Commissioner who are able to handle them, so we are able to shift some of that workload. We have had a lot of interest in the half-time position because there are a lot of attorneys who want to work part-time. Some are senior attorneys who are very experienced, so I think they will be able to handle the workload. We would not have made that recommendation if we felt that it would seriously impact that area, and I think the trends are showing that we can handle that with a half-time person. Keep in mind that we had to make a 23 percent reduction in our General Fund which was very difficult. But we looked at what our workloads are and how effective we could be with a part-time person, and we think we can handle the workload with that.

Assemblywoman Miller:

Okay, so it sounds like you do not anticipate it would have a huge impact because of the small volume right now. It also sounds like you are saying that right now, because that position is vacant, you have other attorneys from other agencies pitching in and helping with that workload. Is that correct?

Terry J. Reynolds:

Yes, that is correct. It is not the best circumstance, but yes, that is correct. That is how we are handling it. I am hoping that when we get this half-time position, that will relieve the direction of cases off to other attorneys within our other divisions.

Assemblywoman Miller:

I have one final question. I know right now there are a lot of reductions happening with everyone. We see the trends are decreasing in so many areas, but also, the trends are decreasing because of COVID-19 and because we are not fully up and running yet as a state, so to speak. Are there any concerns that the trend could change eventually as the state and economy fully opens and comes back, and that maybe they would increase? And if this need increases, is there a plan to adjust and adapt to that increase, if necessary?

Terry J. Reynolds:

That is something that we are looking at very strongly. For example, timeshares and the timeshare industry we feel will pick back up within the fall because of COVID-19 issues going down and more people having more confidence to come and visit our state. So, we are looking at that. With that, though, comes areas of consumer fraud and scams as the economy gets better, so we are concerned that by late next fiscal year we are going to have to be looking at some adjustments. We are looking at where we are at and those trends. We have worked with the Governor's Office for Economic Development (GOED) in terms of looking at the financial numbers of companies coming in, where the economy is headed, and trying to see where we will be within the next year. It is a little bit of a crystal ball, but we think that things will probably pick up in the second or third quarter of the next fiscal year.

Chair Peters:

Are there any other questions? [There were none.] We can move on to the next budget [budget account 3813].

COMMERCE & INDUSTRY
DEPT OF BUSINESS & INDUSTRY
B&I - INSURANCE REGULATION (504-3813)
BUDGET PAGE B & I-37

Terry J. Reynolds, Director, Department of Business and Industry:

I will let Commissioner Barbara Richardson take over on budget account (BA) 3813, Insurance Regulation.

Barbara Richardson, Commissioner of Insurance, Division of Insurance, Department of Business and Industry:

The Division of Insurance is presenting its main operating budget for this presentation, and that is BA 3813 [page 9, [Exhibit C](#)]. This budget account is primarily funded by assessments against entities and individuals that are regulated by the Division. Some of these assessments are based on specific amounts that are set forth in *Nevada Revised Statutes* (NRS) 680C. The remainder are funded through tiered assessments that are paid by authorized insurance companies. This is all based on a premium written by those companies in Nevada. I am not focusing on the initial slide [page 8]. I was just trying to make sure you had a base understanding of what the Division of Insurance does in that initial slide.

Back to the budget itself [page 9], I want to chat about the assessment amounts. The assessment amount for 2019 in our budget was \$3.43 million. We had no change to our tiering structure, however, the 2020 tier assessment ended up totaling \$3.49 million. This type of change happens either because new companies come into the market or the tiered allocation per company changes as its premiums rise or fall. The most significant change in our budget from the last biennium to this upcoming biennium is that in Senate Bill 86 of the 80th Session, the industry requested an increase in the fraud assessment to double the amount. The fraud program is funded by assessments against insurance carriers based on a premium written in the state by each insurer. The Division of Insurance collects the funds, and the assessment revenue is shared with the Nevada Attorney General's Office. They receive 85 percent of the funding and the Division retains 15 percent. In 2020, we collected \$2.4 million versus \$1.2 million in 2019 for this particular fraud assessment.

You will notice in our budget that we are only asking for one enhancement (E). The proposed budget includes one enhancement recommendation, decision unit E-710, to replace a server in each year of the biennium at a cost of \$7,707 per year. Of note, you will see that our enhancement recommendation did not propose to replace other computer equipment in fiscal year (FY) 2022 and FY 2023. Instead, the Division was able to use federal grant funds under the Coronavirus Aid, Relief, and Economic Security (CARES) Act allowance to purchase 38 laptops at the end of 2020. These laptops have been assigned to staff, and they are going to further the Division's goal for efficiency and a reduced paper environment.

Due to the COVID-19 pandemic and the state's move to teleworking, we have seen an increase in approved use of electronic processes. We have encouraged the staff to also embrace and make moves to increase their interactions with consumers and with insurance carriers using virtual meetings. This has made a significant reduction in reliance on paper. There is no printing allowed. We really pushed off all of those things. The plan is to try to continue this when the staff return to the office. Internally, the staff who are here are helping us clean up old files to make sure that when folks come back in the door there is no change in their environment from working at home to working here in the office. All that being said, you are going to see that the Division's budget for the 2021-2023 biennium reflects an increase of \$3.95 million over the 2021-2023 biennium. This increase is mainly due to the fraud assessment that I noted earlier. Senate Bill 86 of the 80th Session also brought in two new fraud positions which were not included in the base budget.

The other thing I want you to know of note is that we submitted three bill draft requests this session that have resulted in three Assembly bills. Assembly Bill 4 addresses Nevada Insurance Guaranty Association provisions for the property and casualty market. Next, we have Assembly Bill 18 which is the consumer protection bill, especially for auto consumers. Then, we have our omnibus bill, which is Assembly Bill 45. I stand for any questions.

Assembly Bill 4: Revises provisions relating to the Nevada Insurance Guaranty Association. (BDR 57-314)

Assembly Bill 18: Revises provisions relating to contracts of insurance and casualty insurance. (BDR 57-315)

Assembly Bill 45: Revises provisions relating to insurance. (BDR 57-316)

Chair Peters:

Are there any questions on this budget item? [There were none.] I look forward to your bills. They are very interesting. Thank you for your presentation. We will move into our next budget [budget account 4680].

**COMMERCE & INDUSTRY
DEPT OF BUSINESS & INDUSTRY
B&I - DIVISION OF INDUSTRIAL RELATIONS (210-4680)
BUDGET PAGE B & I-65**

Victoria Carreón, Administrator, Division of Industrial Relations, Department of Business and Industry:

Before you today, we have budget account (BA) 4680 which is for our administration and workers compensation sections. Just to give you an overall view of what the Division does [page 10, Exhibit C], we work together to put safety and health first for all of Nevada. This budget funds our administration which oversees five sections within the Division which

include: Workers' Compensation, the Nevada Occupational Safety and Health Administration (OSHA), Safety Consultation and Training Section (SCATS), Mine Safety and Training, and Mechanical Compliance Section which handles elevators and boilers. The administration includes our administrative staff as well as our legal office and information technology (IT) staff. The Workers' Compensation section is where the bulk of the full-time-employees (FTE) are for this budget. That section regulates Nevada's workers' compensation programs to ensure that injured workers receive timely and accurate delivery of benefits.

We can go to the next slide [page 11]. Our budget is essentially flat. We are funded by the Workers' Compensation and Safety Fund which is primarily funded by an assessment on workers' compensation insurers. The only increase in our budget is due to cost of living and salary adjustments. We have 73 positions. The major changes in our budget are due to Senate Bill 55 related to employee leasing companies.

Senate Bill 55: Revises provisions governing the licensing and regulation of employee leasing companies. (BDR 53-317)

Victoria Carreón, Administrator, Division of Industrial Relations, Department of Business and Industry:

This bill would transfer employee leasing companies from the Division of Industrial Relations (DIR) to the Division of Insurance. It has been heard in the Senate Commerce and Labor Committee which amended the bill to place the responsibility in the Office of the Labor Commissioner. That amendment will be pending on the Senate floor. Decision unit enhancement (E) E-225 eliminates the oversight fee recognized in the Division of Insurance. That is the transfer of the revenue from the employee leasing companies to the Division of Insurance. Should it go to the Labor Commissioner's Office, an appropriate change would be made, but the revenue would no longer be in DIR. To give you a sense of the amount, it is about \$114,000. The remaining changes in our budget deal with the replacement of computers and servers based on the regular replacement schedules. I am available for any questions.

Senator Brooks:

My question is about decision unit E-225. I want to know the primary reason oversight of the employee leasing companies is being transferred to another agency within the department.

Victoria Carreón:

The primary reason is that the review of those applications involves review of financial statements. We felt that another division within the Department of Business and Industry can more adequately do that function, whereas our staff has expertise in enforcement of the workers' compensation laws.

Terry J. Reynolds, Director, Department of Business and Industry:

I want to add to that. I think it is important to note that we had a discussion between the Office of the Labor Commissioner, the Insurance Commissioner, and the administrator for DIR to look at the most efficient way to be able to handle that and determine the agency with the most experience in dealing with the issue of employee leasing companies. Employee companies and agencies are already reviewed and administered by the Office of Labor Commissioner. We felt that moving that over to the Office of the Labor Commissioner was the best way to handle that. That office is also able to handle the review. They do that on public works and different projects, and they audit labor firms to make sure they are paying the correct wages. In addition to that, and no offense to DIR, we felt that there was not a lot of work that was done. Cases that DIR felt had an issue were referred to the Nevada Attorney General's Office. They were not doing a lot of follow-up on those, and we did not see a lot of case investigation work. I think if you take it over to the Office of the Labor Commissioner, you will see more investigative work and more controlled regulation of that area. It will benefit by having both the knowledge and the investigative staff to be able to handle the cases that they are most knowledgeable with and the companies that are involved in that. The Office of the Labor Commissioner looked at what was happening nationally with that and how it was handled. We feel that is probably the best way to do it. That is why we are suggesting an amendment to Senate Bill 55, but we feel it will be handled better within the Office of the Labor Commissioner than it was within the Division of Industrial Relations.

Senator Brooks:

If this is approved, what does that do for your workload? For the staff who are currently performing these tasks, what does that do to their duties?

Victoria Carreón:

In terms of our current staff allocation, it is about 0.4 of an FTE. Not doing this function will allow us to concentrate on enforcement of workers' compensation laws. This function is currently handled within our workers' compensation enforcement unit, and we have a very large caseload of workers' compensation enforcement, especially with the economic downturn. We will easily be able to utilize our staff fully for that.

Senator Brooks:

That answers my question. Thank you.

Chair Peters:

Any other questions from the Subcommittee members? [There were none.] We will move onto the next budget.

Terry J. Reynolds:

The next budgets we are going to go through are in the Real Estate Division. Our administrator, Sharath Chandra, will review that.

Sharath Chandra, Administrator, Real Estate Division, Department of Business and Industry:

We will review our first slide on page 12 [[Exhibit C](#)], but I will go over the two budget accounts that are currently under your consideration. The first is budget account (BA) 3823, the Real Estate Division administration account.

**COMMERCE & INDUSTRY
DEPT OF BUSINESS & INDUSTRY
B&I - REAL ESTATE ADMINISTRATION (101-3823)
BUDGET PAGE B & I-133**

Sharath Chandra, Administrator, Real Estate Division, Department of Business and Industry:

Budget account (BA) 3823 primarily supports the licensing function of the Division [page 13, [Exhibit C](#)]. The previous slide [page 12] summarizes the number of licensees the Division oversees. Essentially, it consists of five distinct sectors of the marketplace, each with varying licensees and sector concerns. You will see real estate salespersons, broker salespersons, and property managers, and that consists of the bulk of the real estate. Then, we have builders and developers, timeshares, appraisers, energy auditors and inspectors of structures. The grand total is a little over 40,000 licensees that come under the Real Estate Division administrative account. The other account that we are going to look at is the educational department which serves as the hub for all real estate education, training and information. The slide on page 13 [[Exhibit C](#)] talks about budget account (BA) 3823 which is essentially the bulk of the administrative account for the Real Estate Division. In fiscal year (FY) 2022 and FY 2023, you will see there is an increase, but essentially all of that increase is due to the cost of living salary adjustments and Attorney General cost allocations. Director Reynolds previewed some of the cuts that we took during the last 2019-2021 budget cycle. The only enhancement is decision unit E-550 for licensing management software. We have a system that was approved, I believe, in the 2003 or 2005 legislative session, so it has been over 15 years. That is the software licensing platform that we want to replace. That is really the only enhancement. As for the 26.6 existing positions, just as background, when the 2010 crisis happened and we went into a recession, our position count at that time was 32. We have maintained 26.6 positions since 2010.

The next budget account we want to talk about is BA 3826 which is the Real Estate Division education account [page 14, [Exhibit C](#)].

COMMERCE & INDUSTRY
DEPT OF BUSINESS & INDUSTRY
B&I - REAL ESTATE EDUCATION AND RESEARCH (216-3826)
BUDGET PAGE B & I-139

Sharath Chandra, Administrator, Real Estate Division, Department of Business and Industry:

The budget proposes the elimination of an administrative assistant 1 and an administrative assistant 2 and the addition of an education software database. We feel if we could get a database, that would help streamline the process a little more. A lot of this is about educational packets coming in that have to be reviewed, audits that have to happen, education instructors who have to be reviewed, instructor qualifications that have to be reviewed, and sponsors that put in for these courses are reviewed. Having a database could streamline the process a lot more and take a bit of the burden off the staff who currently are, quite frankly, a little stretched. Those are the two budget accounts in front of you. I will stop and take any questions.

Chair Peters:

We know that there was a Legislative Counsel Bureau (LCB) audit that was published September 3, 2020 [LA20-17]. I would like for you to provide a status update on the progress of implementing those audit recommendations, please.

Sharath Chandra:

Most of the findings of the audit we have been able to work through. One of the concerns was a reconciliation issue, so we resolved that, but some of the bigger ones tie back into the software and the lack of us being able to reconcile our platform with the financial platform. The operating software does licensing, timeshares, education, and compliance; a lot of trying to integrate those functions with a financial system and the reporting is done manually. The Director's Office assists us with that. I think a big key to that is technology. That is where we are struggling. We can do a lot of those things, but it takes extensive manual processes. Again, with the current staffing and the resources, that is where the biggest challenge is.

There was a section of the audit that had four or five recommendations which in our opinion is just one big recommendation on how the compliance section audits brokers. The question was why do you not audit every broker that has a trust account? That is doable but is a resource-hungry operation. Traditionally, what the Division has done is focus on an area that we believe could be the most vulnerable to fraud, which was on people that did property management. We focused on property managers and made sure we got trust accounts from them with a process to review them. Quite honestly, the people that do this are administrative assistants who are working so hard trying to do this. It really should be an auditor or someone with some financial background. We have tried to do our best to

streamline and make it as effective as possible, but does that check every box? Probably not. But that is the challenge we are faced with.

We understand there is a responsibility to consumers. I think the Division has gone to extremes to try to make sure that there is compliance and some public protection also. That is the background of the audit. I believe most of the recommendations of the audit were valid. We have worked on solutions for all of that. Debt collection and reconciliations are doable, and we have almost finished most of them. This one was the biggest challenge, and we have made some recommendations in there that say that I think we can achieve all of the things they want. We may not be able to do it exactly the way they want it, but I think the results will pretty much be the same.

Assemblywoman Jauregui:

I have some more questions in the audit area. You answered one as to whether there are budgetary constraints with regards to meeting some of the audit recommendations. You mentioned needing an auditor there to help, but I know the Legislative Auditor actually made the recommendation that you would not need an auditor to help implement the recommendations. They gave you a recommendation of using an attestation form to address that need. Did you give any thought to the recommendation that came from the Legislative Auditor where he identified that you really did not need an auditor to help with this and that a simple attestation form could be utilized?

Sharath Chandra:

Yes, we have. We currently have a process that requires them to submit either Form 546 [Trust Account Reconciliation] or Form 546A [Affidavit in Lieu of Form 546] that states whether they have a trust account or not. I think it is something that is implementable. Again, you take in this information, and then the question is "what do you do about it?" We get the self-attestation, but then the challenge always is that audit. The self-attestation comes in, but what have you done to verify if that is actually true or not? That has always been the challenge with us. We get the trust account reconciliations, or we get a form that says, "I do not have a trust account." Hence, that is the form. That process is in place. The question really is how are we reviewing these trust accounts? Are we going back and doing a financial audit? Are we just looking at some red flags that then trigger an audit or request for more information? I think some of those recommendations are already in place. It may not have been as clean as expected. We made those adjustments, but the larger recommendation asked why we do not do it for everybody. The challenge is, that is possible, but we need a lot more help to do that. On a limited basis, yes, we can absolutely do it, and we worked on that process to make it much cleaner. I do not know if that answers your question fully, but part of that recommendation was taken yes.

Assemblywoman Jauregui:

In the executive budget, there are no enhancements or recommendations for extra personnel. I am worried about how you are going to address the audit recommendations with just the

staff that you have because there are no recommendations for extra personnel, so maybe you can touch on that a bit. Then, I know there is a need for technology and system enhancements—I did see that in The Executive Budget. There is a recommendation for a one-shot appropriation for the licensing system upgrade. Will that be enough? Will that system upgrade be what you need to fully comply with the audit recommendations?

Sharath Chandra:

I think that will greatly help. I think what it will do is give us a better platform to consolidate some of the data. Some of the reports can be uploaded, and that way maybe a report can be generated much more seamlessly. So, yes, it is going to create a situation where it will probably enable us to create a different process to go a little more deeper into the audit or expand the audit more to require folks to turn in additional documents. I do not want to say that it is the smoking gun that will solve all of our problems, but I think having that in place would greatly enhance the efficiencies that we can work on.

Terry J. Reynolds, Director, Department of Business and Industry:

Let me supplement that a bit. Unfortunately, we had the recession and we lost a considerable amount of positions in the Real Estate Division. Our volume of licensees is just about where we were before the recession began. I think we were at about 42,000, and we are close to 41,000 licensees right now. We are generating quite a bit of revenue, but unfortunately, this portion is a State General Fund agency. We are competing with other State General Fund areas within the state—education, health care, and those areas. This really begs for the Real Estate Division to be self-funded in the future. I think we have discussed that with the real estate associations. They would like to see that. This would allow us to build up a reserve and be able to handle the cyclical times that we have within the industry. I think that is the future and where we need to move. Right now, this is very difficult because we are caught with competing interests within the State General Fund and trying to manage the Real Estate Division while keeping a number of employees to be able to do the proper functions that we need to do.

Assemblywoman Jauregui:

That segues into my next question because I was reading through the audit and it looks like in 2019, \$14 million in revenues were recorded by the Real Estate Division. I am assuming that was mainly from fees, but there were \$14 million in revenues and only \$7 million in expenses. This is more to help build my Real Estate Division knowledge bank when it comes to the financing portion of it, but what happens to the remainder of those revenues? Are they reverted back to the State General Fund?

Terry J. Reynolds:

In some areas it goes straight into the State General Fund. In 2015, we were able to take timeshare revenues and map review, and we had those come back into the Department. Essentially, the bulk of the revenue that we have that is not used for expenses goes directly into the State General Fund, so it is not available for the Real Estate Division.

Assemblywoman Jauregui:

Director Reynolds, what portion of the fee that the Division generates do you get to keep? Is there a percentage and then everything else gets reverted to the State General Fund, or do 100 percent of the fees that you collect go to the State General Fund and then you request General Fund to fund your Division?

Terry J. Reynolds:

I will let the administrator handle that, but essentially that is the case. We generate a considerable amount of revenue through the Department, and then we get money back to fund the divisions.

Sharath Chandra:

These are good questions, and there is a little bit of confusion here. To keep it very simple, real estate revenue comes in and it is bifurcated. Part of it goes straight to the State General Fund, and then part of it comes to the Division and we use that to balance our expenditures. This bifurcation happens where a steady stream of revenue that the agency generates goes straight to the State General Fund and a mixed bag of revenue comes to the Division. Then, we balance our budget based on that stream of revenue. Very simply, licensing fees for real estate agents go straight to the State General Fund. As Director Reynolds said, timeshares and some builder fees come to our fund, which is BA 3823 before you. If you look at the economy, the timeshare industry shut down. All timeshare licensees came through the Division, and we lost about 50 percent of that revenue. Also, timeshare companies that would register new timeshares stopped, so that revenue shrunk as well. Suddenly, you have an agency that is dependent on that stream of revenue and 50 percent of that goes down—that is the challenge that we face. That revenue is balanced against our expenditures. Very simply, for every dollar, we only spend 50 cents. That is how I would say it.

Assemblywoman Jauregui:

I have a few questions because this is the industry I come from, my husband being in real estate and me being in title and escrow. I am just curious. I have one last question regarding the audit because we are in a situation where every dollar counts. I want to know what you are doing to address this. It appears you have a legislative audit every ten years. I have read through the most recent audit, and it indicated that there was one thing that has been consistently reported or recommended for the last three audits and that is the Division does not actively pursue the collection of past due accounts. We are in position right now where every dollar counts, and I know the Legislative Auditor indicated that you were not actively pursuing past due accounts. What have you done to fix that?

Sharath Chandra:

The collections have been a challenge, but it is not really the collection, rather the process. We worked with the Department of Business and Industry to establish a better process, but the way collections work for the Division is if the Real Estate Commission finds against a licensee or issues a fine, then the fine is paid. That is when the licensee is reinstated or is

able to continue with their license. At that level, the collection is very good. There are cases where the licensee creates such a bad record that there are a significant number of fines and then they leave the industry. That is where those fines do not get paid and then that goes into a collection process. The chances of that ever getting collected are minimal, but that process is a little convoluted, and we have taken steps to remedy that. Essentially, notices are sent out, and then it is sent into the Director's Office. They send out a notice, and then, if it is not collected, it goes to the Office of the Nevada State Treasurer. That connection has always been a little shaky because the Department of Business and Industry has evolved over time. We used to have accounting in-house and then it was consolidated. All of the Division's processes were consolidated, and so some of that breakdown was there and we have worked on it.

The other piece is the technology and us being able to account for those collections, pass it over to their office, and them being able to interface with the State Treasurer's Office. Those are the things that process improvement in the technology will help. But from the collection perspective of the Division, if you are a licensee and you are fined, then you either have a suspended license or have to reinstate it after you have paid the fine. The collection on that is very good. We have not had a lot of issues on the front end, but the larger amounts are always a challenge.

Chair Peters:

Many of us are new on the Subcommittee and new to these budgets. I really appreciate the depth of Assemblywoman Jauregui's questions and clarification on some of these areas that are more technical and on how the budget is managed. I do want to move onto questions for the next budget, BA 3826—Real Estate Education and Research.

Senator Denis:

I want to ask about the database. In decision unit E-551, I think you alluded to it in your presentation, but talk about the anticipated benefits and efficiencies of the recommended integrated licensing system. How is it going to help you manage workload with the recommended staffing levels for the 2021-2023 biennium?

Sharath Chandra:

I think the technology, especially when it comes to licensing, is so critical. It is almost like the heart of what we do. Having a database where licensee's information can be stored properly is critical because, as you know, education is a big component—there is prelicensing education, there is postlicensing, and then there is continuing education of 36 hours. All of those need to be tracked and matched against each licensee at their renewal period. Any compliance issues need to also be in that database, and so we need to have something that is a little more flexible.

This pandemic has exposed a lot of the issues that we have had, the biggest being the ability to do this online. Within the limited circumstances, we have turned on everything to try to

push this online, but one of the issues has been folks are not comfortable with an online system that is not fully integrated. Certain licensees cannot renew online. Certain folks must turn in a lot of that stuff. A database that can account for that, that is simpler to use—even just as simple as a new applicant going on there to see the progress of an application: "application received," "processed," or "ready to go"—something as simple as that would greatly benefit folks. Even if you are renewing, the ability to upload documents, reference certain things, and connect the education certificates to the license would make it so you do not have to bring everything in manually. Now, everything is in the mail and we need to process it. Even ease of payment and things like that would be greatly enhanced.

Before we even thought about this database, we did a study. We have a document from an expert that breaks down all the areas of challenges and anticipated improvements. We have a document, we know where the issues are, and we know the technology fixes that will help. Essentially, a database at this point is critical. I think we have been limping along, but at some point, the wheels are going to start falling off.

Senator Denis:

When you mentioned the one part about continuing education classes, you had me sold. Having to keep track of it manually and then physically having to take it to the office as opposed to being able to do it electronically, I think there are a lot of agents that will appreciate that. When you are taking continuing education courses, you have to keep track of all of that, and then you physically bring in the piece of paper. I think we need to move into the 21st Century with our technology for real estate. For the database, do you anticipate using an off-the-shelf solution?

Sharath Chandra:

The goal is to create something that is scalable and usable with mobile applications. Something that does not have to be custom built. The issues have been that you have these custom builds with these workarounds, and they are antiquated, and you need special programmers for them. Hopefully, we are going to something that is a little more modern, almost like Lego blocks, so you can build out each piece and they would all fit in—compliance, audits, licensing, education. You could build all of these, and then they could just slot in. That is the vision. Also, if you do change vendors, the raw data is available in a format that can just be shifted on to a new vendor or something like that, so it does not disrupt operations. We do not have to take everything down and rebuild from scratch. There are certain challenges, of course, because of the way the Division is. We have timeshares, we have projects, and we have builders. There are specific things that you need a little more detail for in software, but the goal is to do something that is more streamlined that we can implement quicker.

Senator Denis:

Do you have something specific in mind? Is there something that other states are using as far as software?

Sharath Chandra:

There are some good examples out there of some companies that have jumped in, but again, we would have to go through a request for proposals (RFP). We have put everything together. Now it is a matter of going through the process, putting out an RFP, seeing what is out there. We are open to different funding business models, so we will put some options out there, but again at the end of the day, it must be a public process. We will see what is out there and then make a decision based on that.

Senator Denis:

Do you anticipate that you are going to go with something that will have an annual licensing fee, and then have maintenance fees on top of that? Is that what you are expecting?

Sharath Chandra:

That is an excellent question. I have thought about something more like a Microsoft 365, where the company takes on the liability of building it out but then you go on an annual maintenance contract that supports that, the offers, the updates, and everything. That is a model that I think will work in this case. You do have some upfront costs to set it up, but then you transfer a lot of the costs on to the annual renewal. That is a model. It still has not gotten a lot of traction. Some of the other companies are traditional, so we will put both options out, but we definitely have to have a base because it does take a significant amount of resources on the front end to get something going. Also, there is cloud hosting, there is storage, there are updates, and that is where the challenge has always been. You can build something out, but if it is not being updated or not being improved, you are going to get stuck at the same position where you now have to pay for those upgrades. We are happy to look at some options, but ideally, yes, that will be one avenue.

Senator Denis:

It sounds like you are still in the researching phase of this. When you go out for an RFP, you are going to have to be specific in what you are looking for, right?

Sharath Chandra:

Yes, sir. What we propose to do is consider a traditional model, and we are open to other funding models. Again, we do not want to create something that is not out there. We just want to make sure that we solicit information so we can make that decision. The companies are free to submit whatever their business model is. We are not advocating for one way or the other, and we will review it all the same. If one works better than the other, then we are open to that.

Chair Peters:

I appreciate the Division's interest in that transparency piece and the public process piece. I also want to caution in terms of looking at proprietary information that comes out of any off-the-shelf technology that we buy. It is common practice to create outputs that are

proprietary, and that puts us in a struggle when it comes to transitioning into a different program later if we have to.

Assemblywoman Jauregui:

I want to go back to the elimination of the two positions in BA 3826, the education and research budget [page 14, [Exhibit C](#)]. I noticed that the Governor's budget recommended eliminating the positions, but throughout our discussions today, we have heard about how understaffed the Real Estate Division is. Were there any conversations with the Office of the Governor about holding those positions vacant instead of eliminating them? And if they are eliminated, is that enough for you to regain financial stability?

Terry J. Reynolds:

There was discussion about that, and we were able to transfer those individuals into other vacant positions or we had people who left and went on to other areas. But simply, we are in a place where we may have to reinstate a position, or we look at what position would benefit the Division. We may upgrade a position, or we need to have some flexibility. I think given the status of where we are at with a lot of these budget cuts, we may be coming back and requesting the addition of a position or the upgrading of a position to be able to be filled. We are in difficult circumstances where those were eliminated. Should they be held and not funded? That is probably preferable, but I will let Sharath go through and discuss that.

Sharath Chandra:

We have discussed this, like Director Reynolds said. I think the challenge has always been because of education, because of the volume that we do, and Senator Denis knows this also. We went from 24 to 36 hours. We increased the prelicensing requirements from 90 to 120 hours, and we also have postlicensing requirements. We have about 800 educators out there and about 800 courses that they submit annually that need to be reviewed. There are audits to be done, course manuals to be produced, and newsletters, so there are a whole host of things that this section does. The section monitors the mailbox and is also the central place to answer phone calls and questions. A lot of the realtors have questions about their education; where to take, what to take, and how much to take. Some of this is handled by licensing, but again, education is a key. It is between a rock and a hard place.

We would like to see a position come back, but also you see there I have a request for some software [page 14, [Exhibit C](#)]. Again, this is to streamline the education process a little bit more and be able to get those documents and the education packets back, to process them, to upload certificates all in a more streamlined way. I do not want to get into the details too much, but educators provide education. There is a certificate that is given to the licensee that accounts for their continuing education. That needs to be uploaded and integrated into the licensing system. Anything to take away the manual process would save a lot of workload for folks, and then we can focus on other areas. It is a combination of technology, and there is no substitute for good folks in the state. Our folks are incredible, but they are stretched so thin. Any help would be good. It is one of those situations where having two positions will

put us in the red because of the way that the model is set up. But if we can, like Director Reynolds said, get one back, we would greatly appreciate it.

Assemblywoman Jauregui:

What I heard was that if the positions were eliminated, you would still come back in the future and request one back, correct?

Terry J. Reynolds:

That is correct.

Assemblywoman Jauregui:

Okay. Then, just to stay in that, Director Reynolds, you said that the positions were transferred, but I was under the impression that those positions had been vacant since the beginning of 2020. Originally, there were six positions, but those two positions have been vacant. So, there have only been four people in that unit doing the work. You have had to borrow personnel from the Real Estate Division administration budget to help address the backlog and help with the workload. Is that what you are currently doing and will continue to do if these positions are eliminated? Will you continue to borrow personnel from the administration budget?

Terry J. Reynolds:

The first part of that is yes, they were vacant. Then, we were able to move a person over to another vacant position to fill in, but I will have Sharath answer that. Essentially, yes, we are going to have to work and borrow within the divisions to meet the requirements until we get the software going, but we are still going to be short of people.

Sharath Chandra:

Yes, that is correct. Those positions were filled, then there was some turnover, they were filled again, and then there was another round of turnover. Essentially, for the majority of the pandemic, those positions have been vacant. Of course, current staff have been filling those roles. If those positions do not come back, I think we are going to continue to do that. It is definitely going to impact us. We definitely have to take a hard look once we come back to normal and we get back to a process. We have got to think about what is it that we do, how are we doing this, and whether there are things we can shed, which is a shame because at this point we have tried to listen to what the industry needs, and we believe we have created a very streamlined model of processing, approving, and reviewing. But we will have to take a hard look at that. Hopefully, technology will help but it is challenging with four people. That is a 33 percent cut to a six-person group. There is a huge mail process that is involved because we do not have a northern Nevada office. Everything is processed in the south. Of all those realtors, about 20 percent of the 40,000 are up north. They need to mail in everything here, and that creates a lot of mail. We process the mail, we go through everything, and then it goes to licensing to be processed. It is a huge manual process, and

this group does a significant amount of that. Reduction there would also cause some challenges so that is really where we are right now.

Assemblywoman Jauregui:

I was really surprised to learn the education portion of this Division is funded with the surplus of what is left over in the recovery account. I had a couple of questions regarding funding for this budget account. The Real Estate Division education and research budget is in charge of doing all of the education and the continuing education, but you charge for the continuing education classes, correct? Do you not get to keep the fees that are collected from the continuing education classes? And with that, I know that the money you get for the education fund comes from the recovery account, and the recovery account is funded through a portion of application fees and renewal fees. Are they solely funded through fees collected from brokers and real estate salespersons and not by fees collected for any of the other licenses like property management, timeshare, or builders? Do you also provide continuing education for them?

Sharath Chandra:

There is the education recovery account and \$40 of every renewal license goes towards that. Every two-year cycle, \$40 is set aside. It goes into this account and is used to pay out any issues that came up for reimbursement. There is an entire process for that. You go through small claims court, you get a judgement, you come and claim against this fund. That fund has about \$300,000 that has to be set aside, and then about \$150,000 in a budgetary account that is set aside to pay out these claims. Anything collected over that goes into this education research account and that is what funds the operations of this group. This group provides some education, but most of the time we outsource, for lack of a better word, to the educators and the professionals out there so they develop the courses. What we do is review the courses and approve them. We provide a number, and we also annually renew those courses. The revenue that we generate with that does not stay with us. It goes to the State General Fund. The only way that this group operates is through the excess money that is collected in that account, and then that is moved into this account that funds these folks. Again, if there is a problem in the economy and a drop in the licensing amounts, that will coincide with the drop in the revenue that goes into that special fund, which in turn will reduce the money that comes into this account. Also, if there are a lot of claims because the economy improves, there is some fraud or issues there, then, again, if that money is being used to pay out claims then that reduces the amount of money that is available to get transferred into this account. That is the breakdown of that process.

Assemblywoman Jauregui:

Really, the only way for you to increase your budget is to increase the portion of the fees that go into the recovery account so that there is surplus to then go into the education fund.

Sharath Chandra:

Yes, that is partially true. But again, we must look at the larger picture. All of these funds are bifurcated so much. But like Director Reynolds explained earlier, if there is a move to self-funding, all those little barriers will be broken. It could then be allocated accordingly. We do not have to increase one little area to fund one little area. It would just be across the board. The revenue can be then decided. It does not have to sit in education. There will be some set aside to pay that recovery fund. Anything else can be used across the Division as opposed to, right now, there are little pots of money here, a pot of money goes to the State General Fund, and a pot of money stays in the Division. A larger way to approach this would probably be the best way but yes, essentially, the only way to increase that is to increase the money that is set aside for the recovery fund.

Chair Peters:

That leaves us with some thought-provoking ideas. Are there any other questions on these budgets that I may have missed? [There were none.] Director Reynolds, do you have any closing remarks?

Terry J. Reynolds:

Thank you for the very good dialogue today. I think you have gotten to the heart of the issues within these budget accounts. The Real Estate Division is one of those where we have had multiple discussions with the industry. We look at where we are with the financing of the agency and the viability to be able to do the things we need to do to modernize and keep up with the real estate industry. We have had significant discussions about self-funding and how we would approach that while still keeping the State General Fund whole in terms of not taking away from it but being able to adequately fund the Real Estate Division. This discussion today is really a part of that overall dialogue that we have had. I thank you for those questions because it really portrays what we are going through and what we need to do in the future.

Chair Peters:

We appreciate you all coming to present these budgets. I will close this part, and we can move on to public comment. Do we have anyone for public comment? [There were none.] Thank you to the Subcommittee. With that, we are adjourned [at 9:32 a.m.].

RESPECTFULLY SUBMITTED:

Adam Cates
Committee Secretary

APPROVED BY:

Assemblywoman Sarah Peters, Chair

DATE: _____

Senator Chris Brooks, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a power point presentation titled "Department of Business and Industry 2021-2023 Executive Budget," dated February 25, 2021, and submitted by Terry J. Reynolds, Director, Department of Business and Industry.