

The meeting was called to order at 8:10 a.m. by Senator Floyd R. Lamb.

PRESENT: Senator Floyd R. Lamb, Chairman  
Senator James I. Gibson, Vice Chairman  
Senator Eugene V. Echols  
Senator Norman D. Glaser  
Senator Thomas R. C. Wilson  
Senator Lawrence E. Jacobsen  
Senator Clifford E. McCorkle

OTHERS

PRESENT: Mr. Ronald W. Sparks, Chief Fiscal Analyst  
Mr. Eugene Pieretti, Deputy Fiscal Analyst  
Mr. Howard Barrett, Budget Director  
Mr. Roy E. Nickson, Director of Department of Taxation  
Mr. Stein E. Moen, Commissioner of Veterans Affairs  
Mr. Norman Allen, Director of the Indian Commission  
Mr. Leslie Blossom, Chairman, Nevada Indian Commission  
Mr. Horace R. Goff, State Public Defender  
Mr. Bryn Armstrong, Chairman of the Parole Board  
Ms. Barbara Dunn, Management Assistant of the Parole Board  
Mr. William Smith, Dairy Commission  
Mr. Joseph McNamara, Dairy Commission

DEPARTMENT OF TAXATION - Budget Page 120 through 128

Roy E. Nickson, Director of the Department of Taxation (see Attachment A) pointed out to the Committee that the Budget Office and the Department of Taxation concur that the data processing appropriation should be increased by \$22,848.00 for each year of the biennium. This, the \$227,000 for Fiscal Year 1979-80 should be \$249,848 and, for Fiscal Year 1980-81, the \$202,000 appropriation should be \$224,848. This addition is required for continuance of fourteen existing terminals and six existing printers in the Department of Taxation. The Department has, in the past, paid the Word Stream Corporation a direct fee of \$2,500.00 per month for these terminals and printers. The Budget Department was not aware of this contractual arrangement and had assumed that all charges were included in the basic Central Data Processing billings. When this matter was brought to the attention of the Budget Division, subsequent to the printing of the budget, they concurred that the appropriation should be increased. However, Central Data Processing will now make the payments and, through a master contract, will actually save the State \$7,152.00 per year in charges for the equipment.

The total agency expenditures for Fiscal Year 1979-80 will now be \$3,440,202.00, a reduction of 5 percent from the current year's work program, and will total \$3,524,182.00 for Fiscal Year 1980-81, a reduction of 3 percent from the current year's work program.

Senator Gibson asked Mr. Nickson what the present status of the Multistate Compact Tax was. Mr. Nickson said there are now 19 active member states.

Senator Gibson asked Mr. Nickson how much money the State spends for out-of-state audits. Mr. Nickson replied that for six auditors, travel is \$25,000.

Senator Lamb asked Mr. Nickson about the cigarette problem on the Indian reservations. Mr. Nickson said the Department is losing the tax on about 24-1/2 percent of the total cigarette sales. (A figure of \$3-1/2 million was given to Senator Lamb later.) Senator Lamb asked Mr. Nickson if he had any idea what the legislature could do to help solve this problem. Mr. Nickson suggested changing the tax to make it similar to the intoxicating liquor tax, where you tax the importer rather than the consumer.



Senator Jacobsen asked Mr. Nickson if he sees the revenue problem expanding in any other items to his knowledge. Mr. Nickson said he has only heard rumors that it is anticipated to expand into the intoxicating liquor field. We do know there have been certain purchases of automobiles where delivery is made to a reservation. However, when they come back into town to license them the use tax is collected. On the other hand, if they (Indians) kept the vehicle solely on the reservation the State would have no authority to tax them.

Senator Lamb said he did not think anyone was trying to keep the Indians themselves from getting a break, it is just that the outsiders keep coming onto the reservation just for the purchase.

Senator McCorkle told Mr. Nickson that he was talking about eliminating these positions by attrition but there is no money for them, what if you don't lose them through attrition during the first of the year. Mr. Nickson said that he had already taken care of all but one position and that he had no worries in his own mind that one of these positions will be taken care of by attrition. Senator McCorkle asked him to explain how he took care of somebody without just waiting for them to quit and call that attrition. Mr. Nickson's definition of attrition is if there is any vacancy in the department that employees can be retrained to do he would offer them an opportunity to be retrained. If they are unwilling to accept this, then of course there could be a layoff. It would be the individual's decision rather than his.

#### DEPARTMENT OF TAXATION - Appraisal System

Mr. Nickson reported that the Appraisal System is a \$100,000.00 revolving fund and it is primarily for loans to individual counties. This is in accordance with NRS360.282. There have been no counties that have actually made loans in the past. Eureka and Lyon County at one time had anticipated making a loan. However, they later found additional funds, and found it unnecessary. There were two grants in Washoe County, one approximately \$90,000.00 and one approximately \$84,000.00 that remain from three or four years ago, but those were outright grants.

Senator Gibson asked if there was any need to continue this program. Mr. Nickson said he had no indication from any county that they had a desire for making such a loan, although at 6 percent interest it is certainly reasonable enough.

#### DEPARTMENT OF TAXATION - Proposition #6

Senator Echols asked Mr. Nickson if Proposition #6 becomes effective, aren't we almost going to eliminate the need for an assessor? He replied we can eliminate the need for the Division of Assessment Standards in the Department of Taxation. The assessor will still be required on the county level because he must have appraisals, but certainly the ratio study becomes meaningless. Senator Echols said it appeared to him that they were going to freeze the assessments at \$7576 plus 2 percent, and the only additions are going to be an annual percentage that you can add to it. Mr. Nickson said that on any sale that is made would require an appraisal by the assessor. All new construction would also have to be appraised. Senator Echols said that he thought it was going to be the actual cash price that you sell it for. Where do you get an appraisal there? Mr. Nickson said it could very well be.

Mr. Nickson went on to the Senior Citizens Property Tax Assistance Program. We have requested \$1,650,000.00 for the first year of the coming biennium and \$1,815,000.00 for the record. He noted that the law states that administrative expenses should be borne by this particular fund and part of that was included in the budget. We now have two permanent employees who are carried in the regular budget. We hired three to four temporary employees charged to this appropriation.



Senator Lamb asked what the \$5,350,000 one-shot appropriation was for. Mr. Nickson responded it is for the Senior Citizens' Property Tax Deferral Program. This would permit senior citizens to completely defer their property taxes at a rate of interest of approximately 6 percent. It would be collected only upon the demise of the owners of the property, both spouses. In the meantime, the Department from this revolving fund would reimburse the individual county so that they receive their property tax levies. Then, as the deaths occur the property is sold or becomes part of the estate.

Senator Lamb asked if there was a time element to be considered here. When is this going into effect? Mr. Nickson responded, it depended upon whether the legislature passes the bill, and he assumed it would become effective on July 1, 1979.

Senator Wilson asked if this was an optional program, and his reply was, yes. The individuals can either continue to pay their taxes or they can operate under the Senior Citizens' Property Tax Assistance Program which grants up to 90 percent relief up to \$300.00 and with a maximum income of \$11,000. Senator Lamb said they don't pay that until they sell the property. On the deferment program it would not come due until sale of the property or upon death. Senator Lamb asked, wouldn't that put somebody in debt. Mr. Nickson said he did not look at it that way. He has discussed this matter with many senior citizens in the past few months and many of them were concerned that they were decreasing their estate and putting a burden on their children. He then explains to them that this meant food on the table and clothes on their backs right now and with escalating real estate values, when the property was sold, the children would still receive an ample estate and that it really would not be a burden on them. If the husband passes away first the taxes continue to be deferred even though the wife may not be a senior citizen and they would not become due and payable until the wife passed away or, of course, they sold the home. This is all stated in the bill being drafted.

Senator McCorkle asked Mr. Nickson if the productivity study he referred to was made before the budget request was originally submitted by the Department. Mr. Barrett replied he was not sure whether they had it back on September 1 or not.

Senator McCorkle questioned if this was something he did on his own initiative or if it was mandated by the Governor. Mr. Nickson did not think it was mandated by the Governor but was recommended from a productivity study. When he met with the representative who conducted the productivity study they pointed out where these reductions were to come from. Mr. Nickson certainly agreed with them. Mr. Nickson noted that in eight years absence this department increased by 28 employees but they had actually one less auditor in the field. When he left in 1970, they had exactly the same number of revenue officers who were also revenue producers in the field. He said the bulk of the increases had been in the overhead area and he intended to reverse this.

Senator McCorkle asked Mr. Nickson what kept him from recommending deletion of those eight positions himself. Was that recommendation made before he came on and he said, yes.

#### COMMISSION FOR VETERANS AFFAIRS

Mr. Stein Moen, Commissioner of Veterans Affairs for the State of Nevada, stated that for more than 38 years the Commission has been assisting veterans and their dependents. Mr. Moen said he receives all the proceeds from the Social Security and veterans' benefits and he maintains a separate account. The Commission spends about \$350,000 out of this account to take care of these people and, at the present time, has about \$650,000 in savings and checking accounts for them. Over the past biennium, what is coming into the State, between the two offices, is approximately \$17 million.



Senator Echols asked in what way this was coming into the State. Mr. Moen said through monthly pension payments, compensations, death benefits and insurance. If the veterans live in this State all the money comes here and is expended here.

Mr. Moen proceeded that between the two offices during the biennium they had about 38,000 interviews, over 80,000 phone calls and 85,000 pieces of mail coming in. The Commission made over 12,000 hospital visitations and 36 jail visitations to take care of the veterans' needs. There are seven staff members under Mr. Moen, four in Las Vegas and three in Reno.

Senator Lamb stated that their budget has increased 19 percent. Mr. Moen said he had no control over the salary portion but the operating expense has increased by 13 percent over Fiscal Year 1977-78.

Mr. Moen stated there are 41,000 World War II veterans, 1,000 World War I veterans, 19,000 Korean veterans and 20,000 Vietnam veterans. There are also some 10,000 peacetime veterans within the State.

Mr. Moen stated he is the sole custodian of the checking account of \$650,000. There is a separate checking account for everybody and he keeps a separate ledger for each one. He also stated that he does have a Power of Attorney.

Senator Echols asked Mr. Moen who he answered to as far as the year-end statement and the interest earnings on that money. Mr. Moen stated the interest earnings go to each individual. The master checking account that is used is to pay their normal bills throughout the week and month. Some individuals have a savings account and the interest is posted in their savings books and some have certificates.

#### INDIAN COMMISSION

Mr. Norman Allen, Executive Director of the Indian Commission and Leslie Blossom, Chairman of the Indian Commission, presented their budget to the Committee.

Mr. Allen said the Governor requested an increase in salary for the Executive Director, which he had not requested. The Research Analyst's position was previously filled by Linda Brown at a Grade 33, Step 10. A new employee was hired in November at a Grade 30, Step 1. The Commission kept within the limit of out-of-state travel. They did not feel a need for an increase in out-of-state travel. The only time out-of-state travel is required is to attend a seminar or meetings in Albuquerque, Denver or Phoenix. A decrease in funds was requested for in-state travel. A decrease in funds was also requested for office supplies. A request for \$3,000 was made to host the annual Nevada State Indian Conference.

Senator McCorkle asked Mr. Allen what steps the Commission is taking to give Indians independency from the Federal Government. Mr. Allen stated the Indians in Nevada are trying for economic self-sufficiency, but the Federal Government has made the Indians dependent upon them for federal subsidies. The only enterprise they have are the smokeshops and the non-Indians feel they are competing with them.

Senator Lamb asked Mr. Allen if he understood the problem of the Indian smokeshops and how did he feel about it. Mr. Allen feels there is a misunderstanding. Most people have the impression that smokeshops on reservations are operated by private individuals. These smokeshops are operated by tribal government and are non-competitive to the taxpayers. Senator Lamb asked if he thought it was fair that a non-Indian can go onto the reservation and buy cigarettes cheaper than elsewhere. Senator Lamb reminded Mr. Allen that this hurts the State's income. Mr. Allen disagreed because the tribes have assessed a tribal tax in place of a State tax.



This tax does not go to the Department of Taxation, but is retained by the tribal government. Senator Lamb stated that he thinks the Indians should be entitled to do whatever they want among their own people but when they start "bootlegging" cigarettes, he thinks it is wrong. We don't want to do anything to hurt the tribes but this is going to lead to something else. Mr. Allen said the Commission has tried to resolve this problem with the Department of Taxation but the Department was reluctant to work with the Commission after the bill was passed during the last Session.

Mr. Glaser reminded Mr. Allen that the State has created a favorable economic environment on the reservations. It was originally set up to manifest the Indian people so they would not have to pay these taxes. The Indian people have taken advantage of the opportunity by selling to non-Indians, creating a flow of dollars on the reservation. They are in a better competitive situation as compared to Indians who are not on the reservation. Senator Glaser feels the Nevada Indians would be better off if they were to get out from under the federal government.

Senator Jacobsen asked Mr. Allen how many Indians lived in Nevada. Mr. Allen replied 10,000.

PUBLIC DEFENDER - Budget Page 141

Mr. Horace R. Goff, State Public Defender, read his testimony to the Committee (see Attachment B).

Mr. Goff explained to the Committee that he sent Attachment B to the county commissioners January 30, therefore, he did not have time to receive their responses.

Senator Lamb asked if he was aware there would be questions asked by the Committee.

Mr. Goff replied, "Quite so, I've appeared here before you several times in the past, and each time I've told you that I'm overworked. Each year that's come along I've lost annual leave. Each year that's come along my deputy public defenders have accumulated a considerable number of hours of overtime, and are always in the same quandary. Last time I appeared before this group, we came in and voluntarily asked for a cut in size of staff because the counties wouldn't go along with the budget. Because of the voluntary cuts in staff the attorneys had to, including myself, spend considerable time working on the cases in the various counties in the State, and there simply hadn't been sufficient administrative time to take care of these tasks. The only thing I could do is ask this group and the legislature for an additional amount of money to hire an administrative assistant to take care of these specific tasks. If we do that, of course, we have to hike the county contributions still more than what they are on the breakdown. And we're back where we started from, with not being able to offer the counties a figure that they feel is something that they wish to pay for the public defenders' services. We are attorneys first. We have to take the cases appointed to us and we have to give them adequate representation. We've discussed this in the office. We feel that on many occasions we've reached a point where my deputies have told me that I don't want to go in that courtroom and not feel confident in representing that individual. That is pretty much the situation."

Now to give you a breakdown on just one line item. On the first page of the handout, Table A, you will see that Douglas County had 173 new cases open last year equaling 17 percent of our workload.



If you take that 173 cases into what we are requesting they will pay \$275.00 per case. He did not think they were going to find too many private attorneys willing to handle even a juvenile or misdemeanor case for \$275.00.

Senator Wilson asked what the ratio was that the county contributes to what the State contributes; Douglas County for instance? Mr. Goff replied that the percentages that he had on columns A, B, C and D are all figured out in relationship to the other counties. (Mr. Goff talked about a table that was not included in the hand-outs to the Committee.)

Senator Lamb asked Mr. Barrett to help the Committee get out of this situation. Mr. Barrett explained the State money is put in there on the basis of 50 percent of the Public Defender's salary, 100 percent of the prison cases (connected with the prison), 100 percent of one clerical and the fringes, and 100 percent of the post-conviction relief at the bottom of the page and portions of the operating. That is the responsibility of the State and the rest is the responsibility of the counties.

Senator Lamb asked Mr. Barrett if that situation was working well. Mr. Barrett explained that is the way the State built it; that is the way it was built last time.

#### PAROLE BOARD - Budget Page 516

Bryn Armstrong, Chairman of the Nevada Parole Board, and Barbara Dunn represented the Board for the presentation to the Finance Committee. Mr. Armstrong stated that since the Nevada Legislature created the State's first full time Parole Board in July, 1977, this body has held 2,017 parole hearings, 275 parole revocation hearings, 188 work release hearings and 66 statutory hearings which is part of the prison disciplinary process. The Board travels each month to each of the institutions in the State where people are eligible for parole. They also travel to the medium security institutions for parole revocation hearings once a month. Parole revocation hearings are held in Clark County once a month. There are three problem areas in the budget. On Page 516, it declares the amount recommended for travel funds are sufficient for four people to travel to Las Vegas three days each month to hear parole applications and parole revocation hearings. During that time one automobile is also assigned to the Board because it is a necessity to travel back and forth to the institution at Jean and to the District Headquarters of Parole and Probation. When the facility opened in March they heard eight cases. In December they hear 24 cases. The prison is in the process of selecting 100 more inmates which will increase to the capacity of 350. That would mean an average of ten added eligibilities each month.

Senator Lamb asked Mr. Armstrong, if they had a prisoner in Ely has he projected what this would cost. Mr. Armstrong replied that if another institution was opened anywhere, it would be necessary to add two members to the parole board. It would be necessary to add per diem expenses that have not been projected. Senator Lamb asked if it would be cheaper if the institution was here in Carson City. Mr. Armstrong said there was no question about that.

Senator Wilson stated there is a matter before the Finance Committee in the Capital Improvement Budget. One of the questions is the siting of a new facility. Mr. Armstrong explained that if you built a 650-man capacity institution in Ely, the cost to process that institution from the parole standpoint alone will approximate almost as much as we are presently expending to service the 350-man institution at Jean. In other words, there will be the cost of air fare or automobile travel during those periods of bad weather when they do not fly in and out of Ely. There will be the per diem charges for the commissioners and executive secretary. In Mr. Armstrong's opinion there would be



an added \$6,000 at the very minimum and that is subject to adjustment.

Senator Wilson stated the Public Works Board has made a recommendation to the Finance Committee. Our job is to go behind the recommendation and evaluate the reasons behind it. He asked Mr. Armstrong if he or the Board was consulted by the Public Works Board in reaching the recommendation they did. Mr. Armstrong replied that to his knowledge, no information from himself or the Board was ever provided to the Public Works Board.

Senator Wilson asked if it would be possible for the Parole Board to give some kind of a judgment in written form of what effect it would have on their operation expenses. Mr. Armstrong agreed.

The other problem in Mr. Armstrong's budget was on page 518, second item from the top. The Pardon's Board has no budget of its own so the cost of preparing transcripts of the hearings, which are held twice annually, are charged against the Parole Board Budget. That item is probably sufficient, the one above it, is contractual services. They had requested the same work programmed for this year and there is no recommendation for that. The reason for the need is for hearing representatives. One of the members of the present Parole Board is a former adult parole and probation officer. In the present situation, we hear people who he has supervised on the streets, in both the parole situation and parole revocations situation. He must disqualify himself from those hearings, which leaves two Commissioners to carry forth. If the Commissioners do not agree, you have a tie situation. The other problem is the one of workload. There are times when they cannot hear all of the cases at the medium security facility, especially within that one week. Therefore, a hearing representative is required on a contract basis to come and panel with the Board. They would have two parole boards actually in session at the medium security institution when they have 70 and 80 hearings. The third area of the problem is one that recently arose. When this budget was submitted through the procedures, they had no need for a longevity pay item for one of their employees. Because of the personnel turnover as recent as this month, they found that one of their employees is already drawing longevity pay and will continue to do so. There is nothing in the budget for her which is \$300.00 the first year and \$350.00 the second.

#### DAIRY COMMISSION - Budget Page 622

William Smith, Executive Director of the Dairy Commission, and Joseph McNamara, Supervising Senior Account, represented the Dairy Commission. (See Attachment C)

Senator Lamb stated the biggest question he had about their budget was the fees being that high. Mr. Smith said these fees were established by the last Legislative Session and at this point in time, they did not have a long track record. Mr. Smith stated he has been with the Commission since 1977 and they have built up a surplus in excess of \$170,000. They have introduced proposed legislation this year allowing the Commission to reduce the assessment on a periodic basis to reduce that surplus that they are carrying. Mr. Smith stated that during the past year, through the efforts of their field people, they have licensed over twenty companies. These companies have been doing business in Nevada for a good number of years but have never paid a penny that they should have been paying all along. This has contributed to a lot of their surplus.

Senator Wilson asked Mr. Smith if the fees were locked in statutorily or did he have jurisdiction to adjust them from time to time. Mr. Smith replied that they presently have legislative jurisdiction to raise and lower the raw product fees, but not the by-products and that is what they are seeking in this legislation.



Senator Wilson stated that in their narrative he had the impression that they were asking for the fee to be set or be reduced and that was the reason for his question. Mr. Smith replied that they do want to be in the posture of being able to reduce those fees for a period of time to use up the excess surplus that they had. Senator Wilson asked if the proposed legislation gave them flexibility with respect to byproducts to lower or increase within certain limits. Mr. Smith said that the fees are set by the legislature right now. The only thing proposed legislation would do for the Commission would be to enable them to lower the fees but not raise them. The fees are mandated by the legislature and cannot be raised by the Commission. Senator Wilson asked if it made more sense that they have some latitude within some parameters to adjust the fees. Mr. Smith said they would like that latitude. They would like to be able to reduce assessment fees but nothing less than three months at any one time.

Senator Lamb questioned their out-of-state travel. Mr. Smith remarked that they now have 110 licensees and 40 of those are out-of state. The out-of-state travel is strictly for audit purposes, except for one trip last year when he attended a conference and two other Commission members went to Portland to the Western Dairy Conference. Two other members are going to attend a Western Dairy Conference in Montana.


Senator Jacobsen added that they have eliminated some of the problems of the Commission by adding three people to the Commission who are not related to the milk industry.

Senator Lamb adjourned the meeting at 10:15 a.m.

Respectfully submitted,

  
Carol Lee Chavez, Secretary

APPROVED BY:

  
Floyd R. Lamb, Chairman



Senate Committee on

Finance

Date Wednesday, January 31, 1979

Time 8:00 a.m. Room 231

Bills or Resolutions  
to be considered

Subject

Counsel  
Requested\*

Budget Page 120 through 128  
Page 132  
Page 134  
Page 141  
Page 516  
Page 622

Budget Hearing:  
Department of Taxation  
Commission for Veteran Affairs  
Indian Commission  
Public Defender  
Parole Board  
Dairy Commission



1-31-79

STATE OF NEVADA

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# Department of Taxation

CARSON CITY, NEVADA 89710

In-State Toll Free 800-992-0900



~~XXXXXXXXXXXXXXXXXXXX~~  
Robert List, Governor

~~XXXXXXXXXXXXXXXXXXXX~~  
Roy E. Nickson, Executive Director

January 24, 1979

## DEPARTMENT OF TAXATION

The Department of Taxation's budget for the coming biennium requests a total of 130 employees - a decrease of 8 positions from current staffing. The decrease is based on recommendations of a productivity study of the Department. I am told that a report of this study is to be submitted to your committee in the near future. I concur with the results of the study and am taking actions through a freeze on new hires and retraining of affected employees to insure that reductions are made through attrition. A memorandum, copy attached, from Howard Barrett recognizes that the reductions are to be accomplished through attrition even though the budget provides for no salaries for these employees in the coming biennium.

The study eliminates the following positions:

### Executive Division:

- One Senior Accountant (Budget) \$20,143.00
- One Administrative Secretary \$14,603.00

### Support Services Division:

- One supervisor of Central Services \$21,102.00
- One Administrative Aid II \$8,379.00

### Division of Assessment Standards:

- One Principal Accountant \$16,737.00
- One Property Appraiser III \$22,104.00
- One Property Appraiser II \$14,387.00
- Three Engineering Technicians II \$34,645.00

The study recommends the addition of the following positions:

### Executive Division:

- One Administrative Services Officer \$17,524.00

AN EQUAL OPPORTUNITY EMPLOYER



Division of Assessment Standards:

One Supervisor of Appraised Property \$17,524.00

The net reduction of 8 positions provides a dollar savings of \$117,052.00.

One unclassified Deputy Executive Director will assume additional responsibilities that are now performed by the Senior Accountant for budget. This individual will also be responsible for research and statistics.

The Administrative Services Officer will perform the duties now accomplished by the Supervisor of Central Services plus assuming some of the work load of the Management Assistant to provide more efficient and expeditious services to the Department and to equalize the current work load.

The Supervisor of appraised property will assume duties as head of the Utility Section and Mine Appraisal Section. In essence it is the re-establishment of a position that existed in the Department for many years. For reasons unknown to me, the position had been abolished and three equal level positions had been established in the Utility Section. This created an untenable situation where there was no supervisory responsibility and, as a result, a lack of coordination in the determination of values of centrally assessed properties. This position replaces that of the Principal Accountant.

The other reductions will result from a realignment of duties and organizational changes and the statutory expiration of a major county mapping assistance program undertaken by the Department. (NRS 361.189) I do note that this program for White Pine County will not be completed by the statutory date. The capabilities remaining in the Department will permit assistance to White Pine County.

The total payroll for fiscal year 1979-80 is 2 1/2% LESS than the work program for fiscal year 1978-79. In the fiscal year 1980-81 payroll exceeds fiscal 1978-79 work program by but \$1,685.00.

The total operating expenses for fiscal year 1979-80 are 4 1/2% or \$23,802 LESS than the work program for fiscal year 1978-79. In the fiscal year 1980-81 expenses exceed the fiscal 1978-79 work program by but 2.55% or \$13,411.

The Multistate Tax Commission appropriation includes a new provision for a \$35,000 deposit for participation in nationwide audit programs conducted by auditors of the



Multistate Tax Commission. Audit charges are guaranteed not to exceed five cents for each \$1.00 of liability discovered. Thus, the \$35,000 deposit should approximate the expenses for a recovery of \$700,000 estimated. This could be a most beneficial program for Nevada. However, if actual results do not warrant its continuance in fiscal year 1980-81, Nevada should withdraw from participation. The program would supplement but not replace our own out-of-state audit program this biennium. It may well be that, if sufficient revenues are generated through the Multistate program, that the Department's auditors could be limited to in-state audits. This decision should await the fiscal year 1981-83 biennium.

The county assessor training program and the county appraisal programs are, basically, wash entries with actual expenditures dependent on county participation and reimbursement. The mapping system assistance revolving fund also depends upon requests for loans by the counties on a reimbursable basis. The renewable resource tax allowance has had but 22 claims totaling \$1,400.89 during the current year. It is anticipated that additional demands will be made on this fund as more and more residences utilize alternate energy sources for heating and cooling.

I would point out that the Budget Office and the Department of Taxation concur that the data processing appropriation should be increased by \$22,848.00 for each year of the biennium. Thus, the \$227,000 for fiscal year 1979-80 should be \$249,848 and, for fiscal year 1980-81, the \$202,000 appropriation should be \$224,848. This addition is required for continuance of 14 existing terminals and 6 existing printers in the Department of Taxation. The Department has, in the past, paid the Word Stream Corporation a direct fee of \$2,500.00 per month for these terminals and printers. The Budget Department was not aware of this contractual arrangement and had assumed that all charges were included in the basic Central Data Processing billings. When this matter was brought to the attention of the Budget Division, subsequent to the printing of the budget, they concurred that the appropriation should be increased. However, Central Data Processing will now make the payments and, through a master contract, will actually save the State \$7,152.00 per year in charges for the equipment.

The total agency expenditures for fiscal year 1979-80 will now be \$3,440,202.00, a reduction of 5% from the current year's work program, and will total \$3,524,132.00 for fiscal year 1980-81 - a reduction of 3% from the current year's work program.



RESOURCE DEVELOPMENT  
& TRAINING

JAN 24 1979

MEMORANDUM

TO: Jim Wittenberg  
State Personnel Administrator

FROM: Howard Barrett  
Director of Administration

DATE: January 19, 1979

SUBJECT: Process for Eliminating Positions Which Occur  
as a Result from Productivity Studies

In response to your memorandum of January 23, 1979, the following policy is established relative to the elimination of positions which result from productivity studies.

1. Any position that is recommended for deletion in the finalized operations analysis report which is vacant will be eliminated immediately.
2. Any position that is recommended for deletion in the finalized operations analysis report which is currently filled by an employee will be eliminated through attrition.
3. In cases of attrition it is the responsibility of the State Personnel Division to assist the agency involved in any way possible to transition employees into other positions for which they might qualify. This assistance is intended to expedite the process of eliminating the position in the most cost efficient way possible.
4. The agency being studied has the responsibility to cooperate in every way possible to expedite position cut-backs. In the event of procrastination by the agency involved, the State Personnel Division has the authority to transition agency employees in to other vacant positions for which they qualify or can be qualified in a relatively short period of time.

HEB:akb

cc.: Resource Development & Training Section

EXHIBIT A

245

COMPARISON OF EFFECT ON TAXPAYERS

MAX RATE ON A \$60,000 HOME:

<u>CURRENT</u>	<u>QUESTION 6</u>	<u>GOVERNOR'S PROPOSAL</u>	<u>REBATE SB-54</u>
\$60,000	\$60,000	\$60,000	\$60,000
x 35%	x 1%	x 35%	x 35%
<u>\$21,000</u>	\$ 600 + Debt	<u>\$21,000</u>	<u>\$21,000</u>
x .05		x .035	x .03
\$ 1,050/yr.		\$ 735 + Debt	\$ 630

EFFECTIVE DATE:

7/1/81

7/1/79

7/1/79

UNIQUE FEATURES:

Reduces assessments on real property.

Reduces the rate.

Reduction in rate plus rebate.

Assessments frozen 1975-76 plus 2%

The \$3.50 rate may be exceeded by a vote.

Mobile homeowners receive rebate.

Restrictions on increases of other taxes.

No sales tax on food. Family of 4 save \$83/yr.

6.8% rebate to renters.

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ANNUAL SAVINGS

---

Family of 4 in \$60,000 home:	\$450.00	\$398.00	\$420.00
Family of 4 in \$25,000 mobile home:			
On Rental Lot:	\$ 0.00	\$ 83.00	\$175.00 plus 6.8% rebate
On Owned Lot Worth \$5,000:	\$ 37.00	\$109.00	\$210.00
Family of 4 Renting \$300/month:	\$ 0.00	\$ 83.00	\$244.00

246

EXHIBIT A



## Department of Taxation

CARSON CITY, NEVADA 89710

In-State Toll Free 800-992-0900



XXXXXXXXXXXXXXXXXXXXX  
 Robert List, Governor

XXXXXXXXXXXXXXXXXXXXX  
 Roy E. Nickson, Executive Director

February 7, 1979

FEB 8 1979

The Honorable Floyd Lamb  
 Nevada State Senator  
 Clark, No. 2, Seat 11  
 Nevada State Legislature  
 Legislative Building  
 Carson City, Nevada 89710

Dear Senator Lamb:

Enclosed is a report of the sale of unstamped cigarettes from Nevada wholesalers to operators of Indian smoke shacks. This is a recap for the entire year of 1978 and the figures represent the number of cartons sold to each outlet by month. The tax impact, of course, is \$1.00 per carton. Thus, during 1978, the cities and counties of Nevada did NOT receive some \$2,953,389 in cigarette tax revenues. I thought this might be of interest to you.

Highest personal regards.

Very respectfully,

Roy E. Nickson  
 Executive Director

By Clyde Scott  
 Clyde Scott  
 Deputy Executive Director

REN/CS:rf

Enc.

EXHIBIT A

1977  
 List of Municipal Stores to Indian Locations in Nevada

	January	February	March	April	May	June	July	August	September	October	November	December	TOTAL
LE MOUNTAIN and Client Smoke Shop	3505	2129	150	-	-	-	-	-	-	-	-	-	5784
ho Smoke Shop	4412	3128	4568	2727	3511	5397	3854	6780	4118	4267	6965	4129	53853
ute-Smoking Tribe	6339	6024	4226	5681	7801	11978	3361	4975	6118	4338	4927	6076	71841
HERVILLE Donald's Smoke Shop	6150	4125	9090	8055	9285	16590	10230	14805	14550	10335	8490	5000	117405
VEGAS ng's Smoke Shop	31410	28185	40221	46659	59762	65760	66885	71940	72613	71875	70815	10117	695862
ute Tribe Smoke Shop	13289	16260	90820	78180	73250	82772	69587	75153	88470	77114	83596	96701	967198
PA apa Store	1380	720	-	1635	-	519	976	775	1212	1493	1222	860	10811
CRIST ancy Jones Smoke Shop	-	187	348	414	257	614	324	312	301	142	948	225	4122
EB eather Lodge	67	66	80	103	79	70	55	76	67	37	67	48	815
lbson's Circle G	-	46	50	37	27	83	37	55	31	24	22	55	469
o no/Spanish Colony	59845	65531	66488	71245	82395	94400	80950	92845	73247	80102	78687	77089	92420
BE & SUE										36	67	74	177
lker River Smoke Shop	2730	2877	6427	7140	6730	8385	7881	10524	5955	7011	6600	3840	76100
HERNCO ute Tribe Smoke Sp.	1230	3030	1869	1755	7800	2010	2265	2613	2025	1635	3270	616	24118
TO Total	190357	192308	224337	223633	244903	288578	246474	280853	268307	260429	265680	267520	2,953,389
													GRAND TOTAL
													2,953,389

EXHIBIT A



OFFICE OF THE  
NEVADA STATE PUBLIC DEFENDER



P.O. Box B  
CARSON CITY, NEVADA 89701  
TELEPHONE 885-4880

January 31, 1979

JAN 31 1079

MEMO

TO: Members of the Senate Finance Committee  
FROM: Horace R. Goff, Nevada State Public Defender

Dave Mathews, the Chief Deputy Public Defender who was present during the Committee Hearing on the Public Defender's budget this morning, has commented to me that he feels some remarks that I made were devious, and specifically some comments I may have made could be interpreted to reflect upon the competency of the Washoe and Clark County Public Defenders Office.

Those in the Public Defender profession seem to refer to a "burn-out" syndrome which may be a combination of the number of cases handled and psychological pressures.

Clark County is both geographically and jurisdictionally isolated from me and my knowledge of what goes on down there is limited indeed.

The few times I have appeared in court down there or have observed the courts in operation there, have led me to the personal observation that the criminal calendar proceeds at a hectic pace and the Deputy Public Defenders, ~~some~~ in my view, should feel psychological strain if nothing else. This is just a casual comment and all that I intended to express. As the crime rate and population of the Washoe County area grows, I would similarly assume that this type of pressure will increase there.

E X H I B I T B

Nothing more was intended by my remarks and if I inferred anything else, I apologize and ask you to disregard them.

Please advise me if you feel there are any other comments that would need to be clarified.



HORACE R. GOFF  
Nevada State Public Defender

HRG:dw



OFFICE OF THE  
NEVADA STATE PUBLIC DEFENDER

(B)  
1-31-79



P.O. Box B  
CARSON CITY, NEVADA 89701  
TELEPHONE 885-4880

January 30, 1979

TO: COUNTY COMMISSIONERS  
FROM: HORACE R. GOFF  
SUBJECT: PUBLIC DEFENDER SERVICES 1979-81 BUDGETS

Enclosed herewith are statistical tables which will give you some indication what the Public Defender case loads have been in your county, and the change in the case load from year to year.

The proposed distribution of costs is found in Column D in Table A, and is based upon the factors outlined on Table A.

The Senate Finance Committee will conduct hearings on the budget, (a copy of which is enclosed), on January 31, 1979 at 8:30 A.M., and the House Ways and Means Committee will hear the budget on February 6, 1979.

If you have any questions, please advise me.

*Horace R. Goff*  
HORACE R. GOFF  
Nevada State Public Defender

## EXHIBIT "A"

Statistics are kept by the fiscal year. For the period July 1, 1977 - June 30, 1978, the Public Defender was appointed by the courts to represent 1,066 individuals. Eighty-Nine were cases chargeable to the State, pursuant to NRS 177.345, 7.155 and 212.070. The balance, 977, were cases chargeable to the various counties.

Column "A" - represents the number of cases opened by county, and the percent of the overall case load that figure represents, compared to the other counties; for the fiscal year 1977-1978.

Column "B" - shows the number of cases actually opened per county for the first six months of the fiscal year 1978-1979 (July 1, 1978 - January 1, 1979) and the projected number of cases if that rate continues through the year. Six-hundred and ten cases have to date been opened and at that rate, 1,220 cases will have been opened by June 30, 1979.

Column "C" represents hours worked charged to specific cases during fiscal year 1977-78. Attorneys keep diaries on each case showing interviews, travel, preparation, and court time spent per case. One hour administrative time is charged for each case opened. The hour figure does not reflect the total time spent on a case. For example, secretarial time is not logged since it is considered to be apportioned according to attorney's time spent.

Column C takes into account time cost in travel and other factors dealing with geographical remoteness.

Table B gives some indication of the growth in the number of cases opened for each fiscal year, by county, and the increase or decrease over the previous reporting period.

In viewing the numerical statistics, the following factors must be considered:

- (1) at the outset the Public Defender was not appointed to misdemeanor and juvenile cases. Since that time, the types of cases have added to the case load.

The Public Defender initially contracted with private attorneys and the Clark County Public Defender for certain services. It is not possible to vouch for the accuracy of statistics.

The Governor has recommended a county contribution of \$273,677.00 out of a total budget of \$368,405.00.

Proportioned by counties based upon the factors appearing in Tables A & B, Column D in Table A represents an equitable apportionment of costs among the counties.



1979-1980 BUDGET

COLUMN A			COLUMN B			COLUMN C		COLUMN D	
% of Case Load, apportioned by 977 new cases opened in the counties, 1977-1978 fiscal year			% of Case Load, apportioned by the number of new cases opened in the counties, 6 mos., 1978-79			% of Case Load, apportioned by the number of attorney hours reported worked, 1977-78 Fiscal Year		Proposed County Contributions based upon the Governor's recommendation of a total County Contribution of \$273,67	
County or Contributing Unit	# of Cases Opened	% of case load 977 Co. Cases	County	Act./Proj. # of Cases Opened	% of 610 County Cases	Hours	% Compared to Counties	County	
CARSON CITY	233	.234851	CARSON CITY	133/266	.2180327	2,457:48	.2803879	CARSON CITY	59,671.00
CHURCHILL	66	.065537	CHURCHILL	53/106	.0868852	202:03	.0230507	CHURCHILL	16,191.00
DOUGLAS	173	.17770726	DOUGLAS	137/274	.2245901	1,048:49	.1207701	DOUGLAS	47,659.00
ELKO	119	.1218014	ELKO	65/130	.1065573	1,048:15	.1195894	ELKO	29,162.00
ESMERALDA	9	.0092118	ESMERALDA	5/10	.0081967	152:30	.0173767	ESMERALDA	4,000.00
EUREKA	7	.0890481	EUREKA	1/2	.0016393	42:30	.0053967	EUREKA	2,000.00
HUMBOLDT	87	.0890481	HUMBOLDT	53/106	.0868852	812:50	.0927027	HUMBOLDT	24,000.00
LANDER	48	.0491299	LANDER	19/38	.0311475	503:55	.0574529	LANDER	12,000.00
LINCOLN	22	.0225179	LINCOLN	8/16	.0131147	336:35	.038376	LINCOLN	7,857.00
LYON	60	.0614124	LYON	30/60	.0491803	527:07	.0601364	LYON	15,574.00
MINERAL	40	.0409416	MINERAL	25/50	.0409836	512:25	.0584455	MINERAL	13,472.00
NYE	49	.0501535	NYE	27/54	.0442622	385:55	.0439896	NYE	12,626.00
PERSHING	46	.0470829	PERSHING	37/74	.0606551	478:15	.0545548	PERSHING	15,000.00
STOREY	2	.002047	STOREY	1/2	.0016393	30:15	.0034399	STOREY	1,000.00
WHITE PINE	16	.0162766	WHITE PINE	16/32	.0262295	213:25	.0243309	WHITE PINE	10,000.00
TOTAL COUNTY CASES	----- 977		-----	610/1220		---8749:57 9768:73	---100.00002%	-----	270,230.00
								GOVERNOR RECOMMENDS	273,676.71
								DEFICIT	3,446.71
								STATE CONTRIBUTION	94,728.00
								RECOMMENDED STATE	98,174.71
								TOTAL	369,404.71

The costs for each county are apportioned by considering (a) number of cases opened, fiscal year 1977-78, (b) number of cases opened, first 6 months fiscal year 1978-79, and (c) number of hours reported worked per county.

EXHIBIT A





TOTAL NUMBER OF CASES OPENED DURING

FISCAL YEARS 1973 - 1979

Source: Annual Reports to the Governor

Fiscal Years:	(10 Months)		1974		1975		1976		1977		1978		(actual)	(Proj)	(Projected)
	1973 <sup>1</sup>		A	B	A	B	A	B	A	B	A	B	1979-6 mos	%	1 year
1. CARSON CITY	42		167	9%	182	-13%	158	22%	193	21%	233		133	14%	266
2. CHURCHILL	17		39	36%	53	-06%	50	-36%	32	106%	66		53	60%	106
3. DOUGLAS	0 <sup>2</sup>		1 <sup>2</sup>	520%	53	9%	58	195%	171	1%	173		137	58%	<del>50</del> 274
4. ELKO	35		88	-25%	66	41%	93	3%	96	24%	119		65	9%	130
5. ESMERALDA	1		4	100%	8	-13%	7	-14%	6	50%	9		5	1%	10
6. EUREKA	3		3		0		0		3	133%	7		1	-72%	2
7. HUMBOLDT	20		43	-21%	34	62%	55	15%	63	38%	87		53	22%	106
8. LANDER	9		14		0		10	90%	19	153%	48		19	-21%	38
9. LINCOLN	3 <sup>3</sup>		0 <sup>3</sup>		1 <sup>3</sup>		0 <sup>3</sup>		29	-32%	22		8	-28%	16
10. LYON	21		35	5%	37	-11%	33	12%	37	62%	60		30	0%	60
11. MINERAL	14		52	58%	82	-49%	42	7%	45	-11%	40		25	25%	50
12. NYE	11		26	19%	31	-06%	29	145%	71	-31%	49		27	10%	54
13. PERSHING	8		2	550%	13	0%	13	223%	42	10%	46		37	61%	74
14. STOREY	5		2	150%	5	20%	6	33%	8	-75%	2		1	0%	2
15. WHITE PINE	14		21	-10%	19	0%	19	-21%	15	7%	16		16	100%	<del>30</del> 32
16. STATE			37	70%	63	75%	110	55%	171	48%	89		36	-20%	72

TOTAL 203% 534 653 683 1001 1066 646 1292

% case load increase 163% 22% 5% 47% 6% 21%

1. 10 Month Period, Aug. 15, 1972 - July 30, 1973

2. Not in system during fiscal year

3. During these years, County was contracted out to Clark County Public Defender in exchange for handling Clark County parole revocations at NSP. No accurate statistics available.

A = Number of cases opened during period stated

B = % increase over previous fiscal year

TABLE B

Program Statement

The State Public Defender's Office was created by the 1971 Legislature under the authority of Chapter 180 of the Nevada Revised Statutes to represent adult indigents and indigent juveniles in felony, gross misdemeanor, post conviction, habeas corpus, parole violation, probation revocation, and appeal cases. The Office also appears in civil proceedings and mental commitments and presents appeals to the Supreme Court from denial of statutory post conviction relief. The Public Defender's jurisdiction is limited to those counties not having county public defenders, although provisions have been made for counties with public defenders to contract with the Public Defender particularly in post conviction appeals and parole violations.

Since its inception in 1971, the Nevada State Public Defender's Office has evolved from a private attorney contracting for a flat fee with the State to a staff of full-time State attorneys without private practice. In addition, a regional office in Elko, Nevada, was initiated with the help of Law Enforcement Assistance Administration monies to better serve the counties of Elko, Eureka, Lander, White Pine and Lincoln. In fiscal year 1977-78 alone, the Public Defender's Office opened a total of 1,145 cases in fifteen counties.

Sub-Account Explanations

Financing - The Public Defender's Office is financed in part by the counties and in part by State contributions. The amount assessed to each county and to the State is based upon the workload generated by that entity for the staff of the Public Defender's Office in fiscal year 1977-78. Should any county foresee it to be more economically feasible to open their own public defender's office, they can withdraw from the support of the State Public Defender.

Salaries - An additional unclassified Deputy Public Defender is recommended to

keep pace with the rising caseload in the Counties of White Pine, Elko, Eureka, Lander, Churchill, Pershing, Douglas, and Lyon. This position will be funded from county fees as will the additional Administrative Aid II position recommended to alleviate the typing workload in the office.

Travel - Recommended travel amounts represent projected inflationary increases.

Operating - Operating amounts reflect inflationary increases.

Contract Services - The amount recommended provides for paralegal services for the Public Defender's Office.

Other Contract Services - The amount recommended will provide for the lease purchase of some word processing equipment.

Equipment - The amount recommended will provide an executive unit for the new Deputy position, a secretarial unit for the Administrative Aid, and replacement of office equipment items.

Post Conviction Relief - Pursuant to NRS 177.345 and 7.155, the Public Defender's Office is responsible for payment of the costs incurred in post conviction relief cases in all seventeen counties - including Washoe and Clark Counties. This category provides for the anticipated costs of those cases for the upcoming biennium.

Date of Hearing \_\_\_\_\_

Who Testified \_\_\_\_\_

Date Budget Closed \_\_\_\_\_

256

EXHIBIT A



PUBLIC DEFENDER - Continued  
101-1499

		1977-78		1979-80			1980-81		
		ACTUAL	WORK PROGRAM	AGENCY REQUEST	GOVERNOR RECOMMENDS	LEG. AP.	AGENCY REQUEST	GOVERNOR RECOMMENDS	LEG. AP.
REGULAR APPROPRIATION	\$	108,693	\$ 108,046		\$ 94,728		\$ 96,363		
REVERSIONS	\$	12,039-							
PUBLIC DEFENDER-CC FEE	\$	175,618	\$ 175,113		\$ 273,677		\$ 277,155		
TR FR LEAA GRNT ACCT	\$	1,383							
CLIENT PAYMENTS	\$	1,123	\$ 75						
4 1/2% CLASSIFIED	\$	1,187							
UNCL SALARY ADJUSTMENT	\$	3,710							
5 1/2% CLASSIFIED	\$	2,222							
1% TRIGGER	\$	261							
SALARY ADJUSTMENT	\$		\$ 6,851						
BD OF EXAMINERS TRSFRS	\$	5,804							
<b>TOTAL FUNDS AVAILABLE</b>	<b>\$</b>	<b>287,962</b>	<b>\$ 290,085</b>		<b>\$ 368,405</b>		<b>\$ 373,518</b>		
<b>EXISTING POSITIONS</b>									
CARSON OFFICE									
PUBLIC DEFENDER	U		1.00 27,583	1.00 39,397	1.00 31,500		1.00 43,336	1.00 31,500	
SUPV PUBLIC DEF OFF	U		1.00 26,917	1.00 37,427	1.00 28,000		1.00 41,170	1.00 28,000	
SUPV PUBLIC DEF-TRIAL	U		1.00 24,525	1.00 37,427	1.00 26,500		1.00 41,170	1.00 26,500	
DEPUTY PUBLIC DEFENDER	U		1.00 23,415	1.00 37,427	1.00 25,000		1.00 41,170	1.00 25,000	
OPTY PUBLIC DEF-PRISON	U		1.00 23,415	1.00 31,990	1.00 25,000		1.00 35,185	1.00 25,000	
SUPV LEGAL STENO			1.00 11,316	1.00 13,556	1.00 11,016		1.00 14,185	1.00 11,516	
SENIOR LEGAL STENO			1.00 9,106	1.00 10,849	1.00 10,095		1.00 11,343	1.00 10,543	
ADMINV AID II RANGE A			1.00 8,038	1.00 10,905	1.00 8,176		1.00 11,382	1.00 8,531	
ELKC OFFICE									
DEPUTY PUBLIC DEFENDER	U		1.00 23,415	1.00 31,990	1.00 25,000		1.00 35,185	1.00 25,000	
LEGAL STENO			1.00 4,259	1.00 11,053	1.00 9,796		1.00 11,557	1.00 10,227	
<b>TOTAL EXISTING</b>	<b>\$</b>	<b>176,194</b>	<b>\$ 186,989</b>	<b>\$ 262,021</b>	<b>\$ 200,083</b>		<b>\$ 285,683</b>	<b>\$ 201,819</b>	
<b>NEW POSITIONS</b>									
DEPUTY PUBLIC DEFENDER	U			1.00 19,678			1.00 21,668		
DEPUTY PUBLIC DEFENDER	U			1.00 27,578	1.00 25,000		1.00 30,336	1.00 25,000	
ADMINISTRATIVE SEC I				2.00 21,360			2.00 22,330		
ADMINV AID II RANGE A				1.00 8,611	1.00 7,910		1.00 8,988	1.00 8,255	
<b>TOTAL NEW</b>				<b>5.00 77,227</b>	<b>2.00 32,910</b>		<b>5.00 83,322</b>	<b>2.00 33,255</b>	
INDUSTRIAL INSURANCE	\$	2,226	\$ 3,198	\$ 4,547	\$ 3,122		\$ 5,684	\$ 3,621	
RETIREMENT	\$	14,057	\$ 14,959	\$ 27,140	\$ 18,639		\$ 29,520	\$ 18,806	
PERSONNEL ASSESSMENT	\$	1,679	\$ 1,684	\$ 3,053	\$ 2,097		\$ 3,321	\$ 2,116	
GROUP INSURANCE	\$	3,864	\$ 5,078	\$ 8,761	\$ 7,776		\$ 10,075	\$ 9,648	
PAYROLL ASSESSMENT	\$	372	\$ 374	\$ 678	\$ 466		\$ 738	\$ 470	
UNEMPLOYMENT COMP.	\$	395	\$ 748	\$ 1,357	\$ 932		\$ 1,476	\$ 940	
TERMINAL ANNUAL LEAVE	\$	5,688							
<b>TOTAL SALARY-PAYROLL</b>	<b>\$</b>	<b>204,475</b>	<b>\$ 212,030</b>	<b>\$ 384,784</b>	<b>\$ 266,025</b>		<b>\$ 419,819</b>	<b>\$ 270,675</b>	

EXHIBIT A

PUBLIC DEFENDER - Continued  
101-1499

	1977-78 ACTUAL	1978-79 WORK PROGRAM	1979-80			1980-81		
			AGENCY REQUEST	GOVERNOR RECOMMENDS	LEG. AP.	AGENCY REQUEST	GOVERNOR RECOMMENDS	LEG. AP.
TOTAL OUT-OF-STATE TRAVEL	\$ 1,146	\$ 1,000	\$ 1,500	\$ 1,000		\$ 1,500	\$ 1,000	
TOTAL IN-STATE TRAVEL	\$ 14,278	\$ 15,000	\$ 18,477	\$ 16,420		\$ 20,325	\$ 17,734	
OFF SUPPLIES & EXPENSE	\$ 1,467	\$ 1,450	\$ 1,687	\$ 1,687		\$ 1,856	\$ 1,822	
OPERATING SUPPLIES	\$ 2,682	\$ 5,000	\$ 3,084	\$ 3,084		\$ 7,547	\$ 3,331	
COMMUNICATIONS EXPENSE	\$ 6,271	\$ 8,000	\$ 7,803	\$ 7,212		\$ 8,583	\$ 7,789	
PRINT DUPLICATING COPY	\$ 4,055	\$ 2,500	\$ 4,838	\$ 4,863		\$ 5,321	\$ 5,036	
INSURANCE EXPENSE	\$ 121	\$ 700	\$ 1,133	\$ 845		\$ 1,247	\$ 847	
CONTRACTUAL SERVICES	\$ 18,375	\$ 13,500	\$ 41,400	\$ 20,000		\$ 45,540	\$ 20,000	
OTHER CONTRACT SERVICE	\$ 409	\$ 100	\$ 8,140	\$ 8,205		\$ 8,954	\$ 8,276	
LEGAL & COURT EXPENSE	\$ 782	\$ 80	\$ 1,000			\$ 1,000		
EQUIPMENT REPAIR		\$ 500	\$ 500	\$ 200		\$ 500	\$ 300	
OTHER BUILDING RENT	\$ 12,548	\$ 16,000	\$ 20,084	\$ 15,458		\$ 22,089	\$ 15,458	
MAIN. OF BLDGS & GRDS	\$ 9							
DUES AND REGISTRATIONS	\$ 1,024	\$ 1,500	\$ 1,500	\$ 500		\$ 1,500	\$ 750	
TOTAL OPERATING EXP	\$ 47,743	\$ 49,330	\$ 91,169	\$ 61,854		\$ 104,137	\$ 63,609	
OFF FURNITURE & EQUIP	\$ 2,133	\$ 650	\$ 6,000	\$ 3,106		\$ 1,000	\$ 500	
RESERVE		\$ 75						
POST-CONVICTION RELIEF	\$ 16,804	\$ 11,000	\$ 20,000	\$ 20,000		\$ 20,000	\$ 20,000	
ELKO OFFICE-LEAA GRT	\$ 1,383							
TOTAL AGENCY EXPENDITURES	\$ 287,962	\$ 290,085	\$ 521,930	\$ 368,405		\$ 566,781	\$ 373,518	
AGENCY BALANCE			\$ 521,930-			\$ 566,781-		

EXHIBIT A - 3





THE STATE OF NEVADA  
DAIRY COMMISSION

2500 NORTH VALLEY ROAD (702) 784-8221  
RENO, NEVADA 89512

MIKE O'CALLAGHAN  
GOVERNOR

VERA SAMON, CHAIRPERSON  
CERTIFIED PUBLIC ACCOUNTANT  
CHAUNCEY T.K. CHING, PH.D.  
AGRICULTURAL ECONOMIST  
GREG NIXON  
BANK EXECUTIVE

WILLIAM X. SMITH  
SECRETARY-EXECUTIVE DIRECTOR

September 1, 1978

Mr. Howard Barrett  
Budget Director  
Department of Administration  
Capitol Complex  
Carson City, NV 89710

Dear Mr. Barrett:

The Nevada State Dairy Commission's proposed budget for 1979-81 biennium is submitted herewith in accordance with the State Budget Act, as set forth in NRS 353.150 to 353.246.

PERSONAL COMMENTS:

REVENUES: It is recommended that the assessment of one-half cent per pound on yogurt be eliminated at this time and that all other assessment rates be maintained at current levels. A bill will have to be drafted to accomplish this.

Since 1959, license fees have been unchanged. The costs involved in investigation, processing, printing, postage, etc., of a license application have risen drastically over the intervening years. The required \$3.00 application fee is totally unrealistic. We therefore will request that the legislature consider raising the license fee from the present \$3.00 to \$10.00. It is my intention to have a bill drafted to accomplish this.

This request for an increase in license fees would increase agency revenues by \$1050.00 per year, whereas the elimination of the assessment on yogurt would decrease revenues by an average of \$16,500.00 per year over the 1979-81 fiscal years.

Although the estimated surplus shown on the agency request form may appear to be somewhat high, experience gained during the past year shows that as more frequent cost and revenue audits are conducted, and field investigations into marketing practices are performed, costs increase proportionally.

The results of some 30 remittance audits, conducted both in and out of state during the 1977-78 fiscal year have returned approximately \$6500.00 to the Dairy Commission Fund.

Field Investigations into non-compliance with Nevada laws and Dairy Commission Regulations have resulted in \$11,000.00 in fines being levied and returned to the Dairy Commission Fund.

E XHIBIT C

Mr. Howard Barrett  
September 1, 1978  
Page two

In addition, field investigations have resulted in the licensing and collection of assessments from many firms that have been doing business in Nevada for a number of years without first having obtained a license from this agency.

PERSONNEL SERVICES: Personnel strength recommended for the next biennium is eleven people. Two of these positions are filled by Field Investigators, who cover the 110,000 square miles which make up the State of Nevada. The experience gained over the year indicates that the work load is somewhat heavier than was anticipated for these positions.

Although I do not anticipate an increase in staff at this time, I feel we should comment that as more experience is gained, a re-analysis of this agency's personnel needs will be made.

The policy followed in the past was not effective in that there were no programs developed for the staff to implement and therefore prior agency budgets were totally unrealistic.

Today, audit and enforcement programs are in effect to determine compliance with statutes and regulations.

TRAVEL: Increases projected for both in state and out of state travel are justified because of the aggressive audit and enforcement programs carried on by this agency during the 1977-78 year. One audit alone has resulted in a projected return in excess of \$60,000.00 to the dairy farmers.

This money has nothing to do with revenues generated for the agency, but will be distributed to those milk producers who were inadvertently shorted this amount in the computation of how the milk was actually used by a particular distributor.

Other audits, as previously stated, have resulted in an increase of revenue for the agency because of computation errors made by distributors in their remittance reports submitted under the provisions of NRS. We cannot and have not taken such monies into our projected revenue income as shown in the attached budget.

As the State of Nevada grows, we see a continued increase in the volume of dairy products from out of state sources. In order to insure that Nevada Statutes and Regulations are complied with, travel to other adjoining states is required.

In addition, a recent audit of this agency by the Legislative Audit Bureau recommended that the available staff perform more frequent cost and revenue audits. This is being done.

OPERATING EXPENSES: Operating experience gained during the past year shows that on a line item basis expenses have increased due to inflationary pressures and policies I have developed, wherein all of the statutory duties are being performed.

a. Other Building Rent: Presently, the Dairy Commission staff is lodged in a small house converted into an office. Now, with a larger staff, it is requested



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that a change in working quarters be contemplated for the 1979-81 biennium. We do not, in my opinion, have offices worthy of a State Agency and I am seeking another location. We are on a gravel road; with continual dust and dirt, have no sprinkler system, poor heat and air conditioning, no storage space, no ramps for disabled persons and total separation from other state agencies.

b. Legal and Court: Recent court decisions in California give us cause to provide for nominal funds in this category. We anticipate possible legal actions being instituted in the area of confidentiality of price filing and also in the matter of distinguishing dividends and refunds from discounts. It is the wish of the Commission that adequate legal funds be available to carry through the aforementioned matters to an equitable conclusion which may require court costs before final determination is made. If needed, we will ask for additional funds from our projected surplus figure.

c. Capital Outlay: Presently, two positions are operating with Odhner adding machines that were obtained approximately fifteen years ago.

In addition, we have one Royal typewriter and stand, approximately twelve years old and several metal swivel chairs approximately fifteen years old. Brief cases obtained fifteen years ago are worn, will not lock, and must be replaced.

Adding Machines (2)	\$1,375.00
Typewriter	750.00
Typewriter Stand	75.00
Chairs, metal swivel	2,500.00
Attache cases (6)	<u>300.00</u>
	\$5,000.00

SUMMARY: This budget emphasizes a program that meets all the requirements mandated by Nevada Revised Statutes and the regulations of the Commission.

In conclusion, I do not believe that the provisions requiring the expiration of the Dairy Commission Statutes, as set forth in A.B. 152 and to become effective July 1, 1981, are in the best interests of the citizens of the State.

Regulation of the dairy industry is the rule rather than the exception in the United States. Milk is a perishable product that does not lend itself to many of the economic practices associated with other commodities. A dairy farmer cannot withhold his production from the market to await a more favorable price. Milk not processed and distributed immediately is lost. Our thrust is to stabilize these situations.

These and other unique problems have caused the Federal Government to superimpose regulatory marketing provisions over the otherwise free enterprise practices of this vital industry. Federal orders presently cover approximately 80% of the total fluid milk marketed in this country.

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The question would appear not so much to be for or against controls but whether control should be on a state or federal level. Of the two, certainly, state administered control appears to be far more acceptable. The best example I can offer to substantiate the prior statement is that the Federal Government has established a Class I price for September, 1978 of \$11.23 for the Great Basin Federal Order, of which Eastern Nevada is a part and a Class I price of \$10.93 for the Lake Mead Federal Order of which Las Vegas is a part. The price for Class I usage as established by our Dairy Commission in Western Nevada is \$10.32 per hundredweight. It is obvious that the Federal Government is more liberal in setting a price for milk than the Dairy Commission whose set price appears to be much more realistic. The Commission price is based on actual costs in Nevada whereas the Federal Government uses figures from various areas of the country in arriving at a price.

If you have any questions concerning the proposed budget or the contents of this letter, please call me.

This budget is respectfully submitted in the belief that it is true and accurate to the best of our ability.

Very truly yours,

William X. Smith  
Executive Director

WXS/lf  
enclosures



*Richard W. Young*

327 MARSH AVENUE  
RENO, NEVADA 89509  
AREA 702/722 9477

RICHARD W. YOUNG  
PATRICK A. NIELSON  
(CALIFORNIA BAR ONLY)  
OF COUNSEL

CALIFORNIA OFFICE  
POST OFFICE BOX 366  
QUINCY, CALIFORNIA 95071

September 28, 1978

Mr. William X. Smith  
Executive Director  
Nevada State Dairy Commission  
2500 North Valley Road  
Reno, Nevada 89512

RE: Summary of Proposed Legislation for the  
1979 Legislature.

Dear Mr. Smith:

Enclosed herein, please find my summary of proposed legislation, for the 1979 Legislature, as we have previously discussed in my office. The summary is set forth in numerical order as the legislation would appear in Chapter 584 of the Nevada Revised Statutes.

1. Under the provisions of NRS 584.176 to 584.179, inclusive, regarding "Substitute Dairy Products", I would propose the enactment of a statute to require distributors of dairy products and dairy byproducts, to file their costs of substitute dairy products and a prohibition against their selling the same below cost.

A. PROPOSED STATUTE: NRS 584.1765 Sales of substitute dairy products below cost by distributors of dairy products.

1. No distributor of dairy products or dairy byproducts may sell substitute dairy products below cost.

2. Each distributor of dairy products who distributes or sells substitute dairy products, shall file with the Commission a statement of cost of their substitute dairy products. Such statements shall be kept current by supplement under regulations promulgated by the Commission. All such statements shall be kept confidential by the Commission except when used in judicial proceedings or administrative proceedings under NRS 584.176 to 584.690, inclusive.

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B. PURPOSE OF PROPOSED STATUTE:

The Commission has discovered that certain distributors of dairy products are selling substitute dairy products, below their cost, to certain wholesale accounts of dairy products, using the substitute dairy product as a loss leader, and for the purpose of capturing the account from another distributor of dairy products. Inasmuch as distributors of dairy products are prohibited from selling dairy products and byproducts below cost, sales of substitute dairy products should be prohibited, to preclude their use as a loss leader, which may constitute an unfair trade practice.

2. It is my opinion that NRS 584.179, the penalty statute for a violation of any provision of NRS 584.176 to 584:179, inclusive, should be amended as follows:

A. PROPOSED AMENDMENT: NRS 584.179 Penalty.

Any person who violates any provision of NRS 584.176 to 584.179, inclusive, is guilty of a misdemeanor; [or, shall be subject to any of those penalties set forth in NRS 584.670.] (New language in Brackets.)

B. PURPOSE OF AMENDMENT:

I believe the Commission should be given certain discretion in levying a penalty for a violation of the provisions of Chapter 584. Accordingly, the existing penalties set forth in NRS 584.179, may be too harsh or inappropriate, and the proposed amendment will give the Dairy Commission the option of suspension or revocation of a license and/or the subjection of a violator to a civil penalty up to \$1,000, per violation.

3. The definition of "distributor" as set forth by NRS 584.345, Subsection 2 (a) should be amended to clarify the language and attempt to eliminate any potential confusion arising out of the language as it presently exists.

A. PROPOSED AMENDMENT: NRS 584.345, Subsection 2 (a), as amended would read as follows:



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"The definition of "distributor" shall not include any of the following: (a) Any retail store that is not engaged in processing any packaging fluid milk or fluid cream [or] does not purchase, [transport in], or otherwise receive for resale, fluid milk, fluid cream or any other dairy product from sources outside the State of Nevada." (New Language in Brackets.)

B. PURPOSE OF AMENDMENT:

The purpose of amending the above subsection, as indicated by the bracketed language, is to attempt to eliminate any confusion which may arise out of an interpretation or reading of the subsection, as it presently exists in the statute.

4. After our discussions regarding the same, I would propose an amendment to the existing provisions of NRS 584.460, regarding the Dairy Commission Fund, its source and expenditures. The existing statute does not permit any interest earned on the Dairy Commission Fund surplus, to be paid to the Dairy Commission Fund. Rather, the interest goes to the General Fund. I would suggest an amendment of 584.460, to permit interest earned on the Dairy Commission Fund, to be credited directly to the Dairy Commission Fund. Inasmuch as there is an approximate surplus of \$123,000.00, the interest earning potential is substantial, and if additional monies, by way of interest, were credited to the fund, it might be possible to reach a position which would preclude any increase in assessments to producers and distributors, and may result in a lowering of assessments on fresh dairy byproducts to distributors.

I am informed, though I have not confirmed the fact, that the Fish and Game Department receives the interest earned on monies in their fund.

A. PROPOSED AMENDMENT: NRS 584.460 Dairy Commission Fund: Source and Expenditures.

There is hereby created in the State Treasury a special fund designated as the Dairy Commission Fund. All monies received by the Commission pursuant to NRS 584.325 to 584.690, inclusive, shall be paid into the fund and shall be expended solely for enforcement of NRS 584.325 to 584.690, inclusive.

[Additionally, any interest earned on any existing surplus in the Dairy Commission Fund, shall be credited to and paid directly to the Dairy Commission Fund, which shall be expended solely for the enforcement of NRS 584.176 to 584.690, inclusive.] (New Language in Brackets.)

B. PURPOSE OF PROPOSED AMENDMENT:

The staff believes that, if the Commission were permitted to retain the interest earned on the surplus in the Dairy Commission Fund, it may be possible to prevent any increase in assessments on, and may in fact, result in a lowering of assessments on certain dairy byproducts.

5. The provisions of NRS 584.522, Subsection 1, which presently require 10 (ten) copies of a petition be filed with the Commission, should be amended to reduce the number of copies, from 10 (ten) to 4 (four).

A. PROPOSED AMENDMENT: NRS 584.522, Subsection 1.

"An amendment or termination of a Stabilization or Marketing Plan may be initiated by filing a petition with the Commission. The petition, [filed in four copies] shall include:...[Change in Brackets]

B. PURPOSE OF PROPOSED AMENDMENT:

To eliminate the necessity of a petitioner having to file 10 copies of a petition, when only 4 are needed by the Commission as presently constituted.

6. The provisions of NRS 584.522 and NRS 584.565 should be amended to include another subsection, which would require any hearing, held pursuant to the provisions of NRS 584.522 or 584.565, be conducted and held in the Marketing Area to be affected.

A. PROPOSED NEW SUBSECTION:

NRS 584.522, Subsection 7 and NRS 584.565, Subsection 5:



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"Any public hearing held pursuant to any of the provisions of NRS 584.522 or 584.565, shall be held and conducted in the Marketing Area to be affected by such public hearing."

B. PURPOSE OF PROPOSED AMENDMENT:

To insure that the general public is afforded the opportunity to appear and be present at a public hearing which may affect the area in which they reside or do business, without the necessity of having to travel to another area where the public hearing could be held, outside of their local area.

7. The provisions of NRS 584.568, Subsection 3, and 3 (c) should be amended to clarify and simplify certain of the language therein.

A. PROPOSED AMENDMENT: NRS 584.568, Subsection 3.

"If the Commission establishes minimum prices to be paid by retailers to wholesalers [or] by consumers to retailers the Commission shall consider, but not be limited to, the following factors:  
(a)...(b)...(c) the cost of fluid milk or fluid cream, or both, to distributors and retail stores, which shall be, respectively the price which is paid by distributors to producers and the [prices paid by wholesale customers to distributors.] (New Language in Brackets)

B. PURPOSE OF PROPOSED AMENDMENT:

To eliminate any confusion in the interpretation of the subsection and simplify the language of the same.

8. In the event legislation is passed to prohibit distributors of dairy products from selling substitute dairy products below cost, then the provisions of 584.570 should be amended. Specifically, Subsection 2 (b) and (c) should be amended to read as set forth in Paragraph A below, to include substitute dairy products within the unfair practice provisions of NRS 584.570.

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A. PROPOSED AMENDMENT: NRS 584.570, Sub-section 2 (b) should be amended as follows:

"The giving of any milk, cream, dairy products, [substitute dairy products], services or articles of any kind, except to bona fide charities, for the purpose of securing or retaining the fluid milk or fluid cream business of any customer. (New Language in Brackets.)

Subsection 2 (c) should be amended as follows:

"The extension to certain customers of special prices or services not made available to all customers who purchase fluid milk or fluid cream, [or other dairy byproducts, or substitute dairy products, as they are defined by NRS 584.176,] of like quantity under like terms and conditions." (New Language in Brackets.)

B. PURPOSE OF AMENDMENT:

To include within the unfair trade practice section, both dairy byproducts, as they are defined and substitute dairy products, as they are defined, and to permit the Dairy Commission to exercise enforcement over these products and their sales and use.

9. The Commission proposes an amendment to the provisions of NRS 584.570, Subsection 2 (d), for the purpose of simplifying the language of the same.

A. NRS 584.570, Subsection 2 (b) should be amended as follows:

"The purchase of any fluid milk in excess of 200 gallons monthly from any producer or association of producers unless a written contract has been entered into with such producer or association of producers stating the amount of fluid milk to be purchased for any period, the quantity of such milk to be paid for as Class 1 in pounds of milk or pound of milk fat or gallons of milk,



and the price to be paid for all milk received. The contract shall also state the date and method of payment for such fluid milk, which shall be that payment shall be made for approximately one-half of the milk delivered in any calendar month not later than the first day of the next following month and the remainder not later than the 15th day of the month, the charges for transportation if hauled by the distributor, and may contain other provisions which are not in conflict with NRS 584.325 to 584.690, inclusive. [The contract shall also provide that the producer is not obligated to deliver, in any calendar month, fluid milk to be paid for at the lowest class price established by the Commission.] A signed copy of such contract shall be filed by the distributor with the Commission within five (5) days from the date of its execution. The provisions of this Subsection relating to dates of payment do not apply to contracts for the purchase of fluid milk from non profit cooperative associations of producers." (New Language in Brackets.)

B. PURPOSE OF AMENDMENT:

To simplify and clarify the existing language in the statute, with the language proposed by the Commission. The language contains the prior rationale and policy of not forcing a producer to sell at the lowest class price, if he can obtain a higher price, after he has met his basic contractual obligation with a distributor.

10. The provisions of NRS 584.575, should be amended to reflect the manner in which reports to producers are actually done and calculated.

A. PROPOSED AMENDMENT: NRS 584.575 report to producer.

Each Stabilization and Marketing Plan may contain provisions whereby distributors shall report to each producer from whom fluid milk is secured, the volume of fluid milk received from such producer in pounds of milk, and the milk fat test of such milk, and the [pounds] of fluid milk [and pounds of] milk fat pounds

paid for in the several classes and the prices paid for the various classes for each month. (New Language in Brackets.)

B. PURPOSE OF AMENDMENT:

To simplify the language in the existing statute and insure that the language of the statute accurately reflects the manner in which these reports are actually prepared and calculated.

11. I believe the provisions of NRS 584.583, Subsection 2 (f) should be amended as well as the provisions of NRS 584.583, Subsection 5, to simplify and clarify the existing statute.

A. PROPOSED AMENDMENTS: NRS 584.583, Subsection 2 (f) should be amended as follows:

"Overhead [costs, determined in accordance with generally accepted accounting practices.] (New Language in Brackets.)

NRS 584.583, Subsection 5, should be amended as follows:

"Each distributor who processes or manufactures fluid milk, fluid cream, butter or fresh dairy byproducts and each peddler-distributor shall file with the Commission a list of wholesale, retail, distributor [and] dock prices. No such distributor shall sell at prices other than those contained in such [lists], except in the case of bids to departments or agencies of Federal, State and Local governments; but in no case shall the distributor sell below cost as provided in this section. Prices shall not become effective until the seventh day after filing, but any other distributor may meet such price so filed if such other distributor files with the Commission a schedule of prices in the manner required by NRS 584.584."

B. PURPOSE OF AMENDMENTS:

To simplify and clarify the language of the existing Subsections of the statute.



12. The Commission staff believes the provisions of NRS 584.595, Subsections 3 and 5 should be amended to increase the distributors' license application fee. The fee is presently Three Dollars (\$3.00), which fee does not realistically cover the time and expense required of the Commission staff to process a license application fee. The staff has proposed an increase in the fee to Ten Dollars (\$10.00). Accordingly, Subsections 3 and 5 of NRS 584.595, should be amended accordingly.

A. PROPOSED AMENDMENT: NRS 584.595, Subsection 3, should be amended as follows:

"Application for the licenses herein provided shall be made on forms prescribed by the Commission, shall be accompanied by an application fee of [\$10.00], and shall state the name and address of the applicant and such details as to the nature of the applicants' business as the Commission may require. Such applicant shall satisfy the Commission: . . ." (New License Fee in Brackets.)

NRS 584.595, Subsection 5 should be amended as follows:

"Application for renewal of a license for the following year by a licensee, together with the application fee of [\$10.00] shall be made prior to the expiration date of the license held, and if not so made, the applicant shall pay an additional sum equal to 100% of the application fee before such license shall be issued." (New License Fee in Brackets.)

B. PURPOSE OF AMENDMENT:

To defray the time and expense incurred by the Commissions' staff in processing the large volume of distributor license applications received during a year.

13. The Commission staff believes the provisions of NRS 584.630 should be revised to clarify certain language therein; and, an additional Subsection should be added to the statute to permit the Commission to give credit to distributors on the manufacture of dairy byproducts, where the raw milk which is subsequently used in the manufacture of a dairy byproduct has

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been previously assessed. The added Subsection will reflect past policy of the Dairy Commission staff and will prevent double taxation or assessment on a manufactured product, which has been previously assessed in raw milk form.

A. PROPOSED AMENDMENT AND NEW SUBSECTION: NRS 584.630, Subsection 1, should be amended as follows:

"Distributors who are subject to any Stabilization and Marketing Plan as established by the Commission shall pay to the Commission on all fluid milk, fluid cream or both, purchased from producers, including their own production, if any, a fee equal to that required to be deducted from payments due producers of fluid milk under NRS 584.635."

NRS 584.630, Subsection 3, should be amended as follows:

"Distributors who import dairy products into the State of Nevada which have not been subject to assessment by the State of Nevada, shall be assessed at the same rate as Nevada distributors are assessed on fluid milk or fluid cream which go into the manufacture of such type products.

NRS 584.630, should be amended to include a new Subsection, which would be Subsection 4 and which should read as follows:

4. A distributor who manufactures dairy byproducts may deduct from assessments due the Commission on those dairy byproducts, the amount of the assessment previously paid the Commission on fluid milk, fluid cream, or both, which has gone into the manufacture of such dairy byproducts.

B. PURPOSE OF AMENDMENT:

The amendments to Subsections 1 and 3 which have eliminated certain language from the existing statute, are simply for the purpose of clarification and simplifying the statutory language.

The proposed new Subsection 4, has the purpose of:



preventing the double taxation or double assessment on those manufactured products, specifically dairy byproducts as defined by statute, which have been previously assessed while in the form of fluid milk or fluid cream, or both.

14. The Commission believes the provisions of NRS 584.633, should be amended to add a new Subsection which would permit the Commission to lower distributors' assessments on butter and fresh dairy byproducts, in the event revenues received from the assessment of fluid milk or fluid cream or both, is sufficient to enforce and administer the provisions of NRS 584.176 to 584.690, inclusive. It might be noted that the Commission is permitted the discretion of adjusting the rate of assessment on fluid milk and fluid cream by the provisions of NRS 584.635, in the event there are sufficient revenues being received from assessments.

A. PROPOSED AMENDMENT AND NEW SUBSECTION:

NRS 584.633, should be amended to add a new Subsection, which should read as follows:

4. The Commission may fix the rate of such assessment at a less amount, and may adjust the rate from time to time, whenever it finds that the cost of administering the provisions of NRS 584.176 to 584.690, inclusive, can be defrayed from revenues derived from such lower rates in combination with such sums as are provided by NRS 584.630 and NRS 584.635."

B. PURPOSE OF AMENDMENT:

To enable the Commission to lower the rate of assessment on butter and fresh dairy byproducts, when the Commission determines sufficient revenues have been received from assessments on fluid milk and fluid cream to enable them to properly enforce and administer the provisions of NRS 584.176 to 584.690.

15. It is my opinion, with the concurrence of the staff, that the provisions of NRS 584.635, Subsection 4, should be amended. Presently, a penalty of one (1) percent per month, of the total amount of assessments owed the Commission by distributors, is assessed if payments of assessments are late. Frequently, assessments are due from distributors on a monthly

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basis in very small amounts, ranging from \$5.00 to \$15.00 dollars. Under the present Subsection, a penalty may be as low as 5 or 10 cents, which is hardly a penalty, and does not financially warrant collection, particularly when the cost of a first class stamp is 15 cents. The staff and I recommend an increase in the penalty from its present level, to a penalty of \$10.00 dollars or one percent of the unpaid assessment, whichever is greater.

A. PROPOSED AMENDMENT:

NRS 584.635, Subsection 4:

"If payments of assessments are not made on or before the 15th day of each month following the month during which the fluid milk or fluid cream was received or following the date upon which any other assessment falls due, the Commission shall charge, as a penalty for such late payment, [the amount of \$10.00 dollars or one (1) percent per month of the total amount due and owing, but remaining unpaid, whichever penalty sum is greater.] (Proposed New Language and Amendment in Brackets.)

B. PURPOSE OF AMENDMENT:

As indicated in the introduction to this new paragraph, many assessments are between \$5.00 and \$15.00 dollars, and accordingly, a penalty under the present statute may range in amount from 5 cents to 15 cents. That amount hardly penalizes or encourages timely payment of assessments and the costs of collection of the penalty are greatly in excess of the actual penalty. Additionally, an increase in the penalty may not only encourage timely payment of assessments, but may also defray the cost of the Commission incurred while monitoring the timeliness of assessment payments.

16. The provisions of NRS 584.650 and Subsection 4 thereof, should be amended to increase the length of time records are required to be kept, to insert a comma omitted in the original writing of the statute, and to delete certain language contained in Subsection 4, to clarify and simplify the same, and permit the distributor a choice of methods in connection with the maintaining of his records.



A. PROPOSED AMENDMENT:

Paragraph 584.650 reports and records of distributors, producer cooperatives. Every distributor who purchases fluid milk or fluid cream from a producer and every producer cooperative organization which handles milk for its members or other producers shall make and keep for [Three (3) years] a correct record showing in detail the following information for each producer with reference to the handling [,] sale or storage of such fluid milk or fluid cream: 1. . . 2. . . 3. . . 4. the official butterfat test of the fluid milk or fluid cream. 5. . . 6. . ." (New Language and Punctuation in Brackets and Subsection 4 written to reflect the deletion of certain language.)

B. PURPOSE OF AMENDMENT:

The present requirement of keeping records for only one year does not permit the Dairy Commission staff to obtain records during an audit, for a time frame which is presently within the statute of limitations for civil actions. In the event an audit reveals a violation of the provisions of Chapter 584, the Commission has the alternative of commencing a civil proceeding against the violator, and the civil proceeding has a statute of limitations of two (2) years. Accordingly, increasing the amount of time records are required to be kept will permit an audit to be conducted during a time frame in which the Commission still has time within which to commence an action against the distributor or producer cooperative, if warranted.

17. It is my opinion the provisions of NRS 584.690, Subsection 2, should be amended to correct what appears to be an unintentional oversight in the revision of that statute, which occurred in 1977. Presently, a literal reading of 584.690, would indicate retail stores are not subject to the unfair trade practices set forth in NRS 584.582 and 584.583; nor are they subject to the penalty provisions set forth by NRS 584.670, according to a literal reading of this statute. Obviously, it was the intention of the Legislature to include retail stores within the purview of NRS 584.582, 584.583, and 584.670, since reference is specifically made to retailers therein.

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A. PROPOSED AMENDMENT:

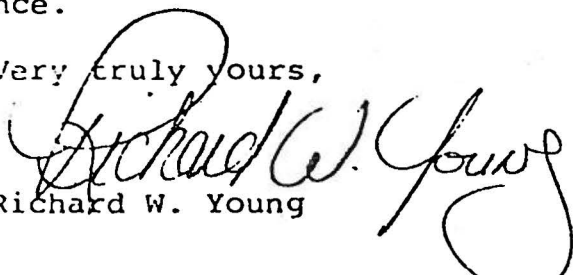
"584.690 applicability to retail stores. NRS 584.325 to 584.685, inclusive, shall apply to retail stores in the following particulars only: 1 . . .  
2. The unfair practices prohibited in NRS 584.570 [, and, the unfair trade practices prohibited in NRS 584.582 and NRS 584.583: and, the penalties set forth in NRS 584.670.] (Amendment and New Language contained within Brackets.)

B. PURPOSE OF PROPOSED AMENDMENT:

To correct what appears to be clearly and unintentional oversight by the Legislature, which apparently occurred during the 1977 Legislative revisions of Chapter 584 of the Nevada Revised Statutes.

The above and foregoing concludes the proposed legislative revisions and amendments and I trust the same are satisfactory for all of our purposes. May I extend my sincere gratitude to you and your staff for the assistance rendered in connection with the preparation of the above revisions and amendments and once again, my thanks for the opportunity to continue to be of professional assistance.

Very truly yours,

  
Richard W. Young

RWY:dp

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