

Committee in session at 8:00 a.m. Senator Floyd R. Lamb was in the chair.

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 Clifford E. McCorkle (absent during voting)

ABSENT: Senator Lawrence E. Jacobsen

OTHERS: Mr. Ronald W. Sparks, Chief Fiscal Analyst  
PRESENT: Mr. Howard Barrett, Budget Director  
Mr. Mark Stevens, Budget Division  
Mr. Duane Sudweeks, Administrator, Division of Colorado River Resources  
Mr. James R. Long, Financial Manager, Division of Colorado River Resources  
Mr. Kelly Jackson, Deputy Director, Department of Energy  
Mrs. Bettie Cullen, Senior Accountant, Department of Energy  
Mr. Noel A. Clark, Director, Department of Energy  
Mr. Thomas W. Ballow, Executive Director, State Department of Agriculture  
Mr. Phil Martinelli, Director, Plant Division, State Department of Agriculture  
Dr. John L. O'Harra, State Veterinarian, State Department of Agriculture  
Mr. Steve Mahoney, Director, Brand Division, State Department of Agriculture  
Dr. Jack N. Armstrong, Director, Animal Division Laboratory, State Department of Agriculture  
Mr. James Rafferty, Summa Corporation  
Mr. John Thomas Rafferty  
Mr. John Rice, Associated Press  
Mr. Cy Ryan, United Press International

DEPARTMENT OF ENERGY (Continued from February 15, 1979)

DIVISION OF CONSERVATION AND PLANNING - Page 689

Mr. Noel Clark, Director, introduced Mr. Jackson, Deputy Director. Mr. Clark briefly described their program. He stated that they have agreed with the Budget Office that they can operate this Division with 100% federal funds during the next biennium. He said there were 3 new positions not presently authorized, which would be used to implement existing conservation activities; and activities that will be required or encouraged by the National Energy Act. He described some of these activities.

Senator McCorkle asked if they anticipated State matching funds to sustain the Division. Mr. Clark said that by the middle of the coming biennium there will probably be federal matching requirements for continued conservation funding. He mentioned actions of Congress which may affect their Division. He said that with careful planning they could probably use some of the state funds in budget account 4535 to provide federal match.

Senator Jackson asked Mr. Jackson to identify some specific projects under these grants. Mr. Jackson replied they funded the development of the minimal building standards and provided assistance to the Public Works Board; funded and developed a computer car pooling program in Clark County; provided public awareness advertising; developed an energy audit project with state hospitals. He said St. Mary's Hospital in Reno was able to reduce their energy use by half as a result of this program. He also said that they provided materials and in-service training for school teachers in the public school system.

STATE ENERGY RESOURCES ADVISORY BOARD - Page 691

Mr. Clark described the functions of this board. He pointed out that in the Act there is a second board and he asked that it be

removed; he said a second board is not needed.

Senator Lamb asked Mr. Barrett if the second board is in the budget. Mr. Barrett said there is no budget for it.

WESTERN INTERSTATE ENERGY BOARD/WINB - Page 694

Mr. Clark briefly described this board. He stated he has been chairman of this board for several years and that the board is very worthwhile and active. He submitted descriptions of some of the programs this board has been involved with (see Attachments A and B). He recommended that the board be funded at Nevada's share of \$15,000.

New Department of Energy Grant Program

Senator Lamb asked if all this money is grant money. Mr. Clark said no, this request developed as a result of Public Law Number 952.7, which became law November 9, 1978. He said, however, that there were no federal regulations. He continued that this is a grant program authorized by Congress. They anticipate that the share for Nevada could be \$10,000,000 statewide, over a three-year period. He said the total available statewide is \$5,371,500 but there is no way to project at this time what amount of this money will be requested and matched. He commented that the grant is for energy audits for cities, counties, state hospitals, and school programs. The applications for grants will be funneled through the Department of Energy for approval. At that time Mr. Clark's office will review grants from the standpoint of in-house audits and field audits, and determine the advisability of approving the grant. If so, it is forwarded on to Washington, D. C. for funding.

Mr. Clark stated that this is not a prepaid program as many federal programs are. The State must fund their share, plus the federal share prior to authorization. When the grant is authorized, funding for the State Energy Office will be provided when the work is done. He stressed there is no advance money. He said there will be a total available to the State Department of Energy of \$325,375 over a period of 3 years. He said the third year is actually a half year due to the difference in fiscal years between the state and federal governments. He said the figure they are recommending is purely a guess; which is that the State appropriate \$110,000 for two years which will be matched by federal money. If the program falls short, it will have to be picked up in other areas. But, he said, they cannot use any federal money for the State's match.

Senator Wilson inquired what purposes the money will be spent on. Mr. Clark answered that it would be spent on energy audits or appraisals of hospitals, schools, institutions and state buildings.

Senator Lamb asked who is the Program Director. Mr. Clark replied that he is. Senator Lamb remarked that Mr. Clark's Office is being spread thin.

Senator Gibson asked if the grants under this program all have to be expended and then the grantees are reimbursed for half. Mr. Clark said once the audit is completed, the grant will be made and then the city or county (or other entity) will be reimbursed.

RESEARCH AND DEVELOPMENT - Page 687

Senator McCorkle asked which would Mr. Clark and Mr. Jackson emphasize in an energy program, conservation or energy research. Mr. Clark replied that, practically, the two energy programs should parallel each other; but because of the number of grants in their programs, they do not necessarily do so.

Senator McCorkle commented that it seemed the grants have a conservation emphasis. Mr. Clark answered that they have, but the federal emphasis is switching from conservation to research and

development. Mr. Clark said that the research and development programs are not progressing as rapidly as he would like. He said they constantly solicit grants for geothermal and solar energy research and development.

Senator McCorkle suggested that research be emphasized. Mr. Clark said that in theory he agrees with Senator McCorkle, but in practice no. The federal government could cut their funds off if they dropped the conservation program. Mr. Jackson added that they have not build their Division into an empire, because they expect that funds will eventually be withdrawn.

Senator Lamb commented that the money seems to be wasted if funding stops before projects are completed. Mr. Clark said he felt there were some benefits, even in these cases. He provided evidence of energy reductions that have occurred recently, and added that he felt these reductions have been the result of a combination of factors, including the efforts of his office. He said he did believe the conservation programs are worthwhile; and he believes the federal government will want these programs in operation. Mr. Jackson pointed out that activity in conservation actually pointed to the need for research and development.

Senator Lamb asked if there was waste and duplication. Mr. Clark said yes, it was inevitable. He said he has not seen a federal program where there wasn't.

Senator Lamb asked what would happen if Nevada did not accept federal money for energy purposes. Mr. Clark said he believed that Nevada would not receive consideration when oil and gas shortages occur. He said that, in general, Nevada would not receive recognition from the federal government.

Senator Lamb stated that the federal government often withdraws funding after it has begun a program; and he felt it might be better not to begin these programs. Mr. Clark replied that he conducts many programs on the basis of contracts so the State can "walk away" from a situation if necessary. He said they have chosen programs carefully, with this in mind. Mr. Jackson said he felt the State could get into this program without over-extending itself, and could provide benefits to organizations.

Senator McCorkle asked how Nevada could specifically be hurt by not accepting these grants. Mr. Clark replied that he was not sure; but that if Nevada were not conducting some kind of energy conservation program, the federal government would probably review Nevada very carefully before considering any research grants.

Senator McCorkle asked if the Desert Research Institute relied heavily on federal money. Mr. Clark said yes, very much.

#### COLORADO RIVER RESOURCES - Page 695

Mr. Duane Sudweeks, Administrator, handed out a prepared statement and summary of their budget (see Attachment C).

Senator Wilson commented that he is concerned whether their budget is adequate with regard to the upcoming negotiations for contract renewals.

Senator Lamb told Mr. Sudweeks that the Committee will study the information submitted; and he then dismissed the witnesses.

#### DEPARTMENT OF AGRICULTURE

##### DIVISION OF PLANT INDUSTRY - Page 705

Mr. Thomas Ballow, Executive Director of the State Department of Agriculture, described the organization, purposes and programs of his Department.

Senator Lamb asked, regarding Weights and Measures, why the Actual

figure of \$15,151 has dropped to \$8,000. Mr. Martinelli answered that they estimated income would be low this year because they are finding they do not have to make as many rechecks, for which fees are collected.

Senator Lamb asked if Mr. Martinelli was able to get around to all the scales and gas pumps. Mr. Martinelli answered yes.

Senator Lamb asked if Shipping Fees have gone up. Mr. Martinelli answered that the fees have not been increased. On the shipping point fees on income, there is an increase due to the increase in the number of acres of potatoes. He stated that he was incorrect in the projection for the amount to be collected this year because the price of potatoes is down. Consequently, the amount of income is not coming in as projected.

Senator McCorkle asked what the Weights and Measures program entails. Mr. Ballow described the program in detail.

Senator Echols asked why there is an increase in In-State Travel. Mr. Ballow said it is up for several reasons, but mainly due to increases in costs of gas and operation.

Senator McCorkle asked if there is a way to make the Department of Agriculture self-sustaining through charging fees. Senator Lamb said more burden would be placed on an already depressed market. Mr. Ballow explained that the potato industry is self-supporting; the industry pays all inspection fees and pays for all services to them. He said that if the potato industry goes under the positions to regulate that industry would be gone. He said his Department is a regulatory agency and he did not think the taxpayers would like to pay for regulation for enforcing the law. Mr. Martinelli added that many of the programs were self-supporting, entirely funded by special fees and taxes.

Senator Gibson pointed out that many inspections were for consumer protection, and the consumer already pays for it from the General Fund.

Senator Wilson asked why fees, for example Weights and Measures and Shipping Fees, fluctuate in the revenue projections. Mr. Martinelli answered that fluctuations are based on trying to guess how many acres of potatoes will come in and how much to expect from acreage of potatoes planted, etc. He said that one year they had 2,000 acres of seed potatoes and the next year there were none. This year there are 500 acres planted.

Senator Glaser asked about the special categories shown at the bottom of Page 707. Mr. Ballow said that regarding feed labeling, they sample the feed to see if the material in the sack meets the label requirements. He stated that it is cheaper to do tests outside their own laboratory. He said they run about 269 samples a year; last year 163 were deficient. The Pest Control program was set up due to the large numbers of ground squirrels in the northern part of the State. In 1977, the first year, they distributed 55,000 pounds of poison. Last year it dropped to 34,000 pounds, so there was a large decrease in the ground squirrel population. He explained they used chopped cabbage with strychnine.

Senator Glaser inquired about the Balance Forward. Mr. Martinelli said he believed the amount carried forward was sick leave and annual leave for part-time employees in the potato inspection program.

#### MEAT INSPECTION - Page 708

Senator Lamb asked if the federal government runs this now. Mr. Ballow said no, this is a meat grading program; and it is different from the meat inspection program conducted by the Health Department which inspects for sanitation. He added that this program is entirely supported by fees.

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ALFALFA SEED RESEARCH - Page 709

Mr. Martinelli described the operation of this program. He said that all they do is the handling and distribution of the money. It is all grower money, and it is self-supporting.

AGRICULTURAL REGISTRATION AND ENFORCEMENT FUND - Page 710

Mr. Martinelli described the services of this fund. He mentioned that they sample brands of fertilizers for accuracy on the label. Last year they found only two which did not meet label requirements. Mr. Martinelli said penalties are assessed based on the percentage of deficiency in the fertilizer, and this money is returned to the rancher.

Senator McCorkle asked why this Division registers anti-freeze. He asked whether the factory or federal government does this. Mr. Martinelli replied that there is probably quality control at the factory, but there are no other checks.

LIVESTOCK INSPECTION FUND - Page 712

Mr. Mahoney described the services of the program which serves over 4,000 ranch people in the State. He pointed out Brand Inspection fees where the Governor recommends \$220,000 and the agency requests \$160,000. He said the recommendation was based on a 10 cents per head increase for inspecting cattle; and this increase was passed January 1, so increased fees will come to about \$220,000. The total cost per head is now 35 cents.

Senator Gibson asked the increase was needed. Mr. Martinelli said it was to build up the balance. He said they had virtually no Balance Forward in the 1979-80 Fiscal Year. He stated that they employed about 60 part-time men in the field to inspect cattle; and their gasoline mileage and personnel expenses in general have gone up. He said there is not enough money to administer the program.

Senator Lamb asked about the livestock theft problem in Gerlach. Mr. Martinelli said it is not good; it is a difficult area because it is wide open. Mr. Martinelli continued that Washoe County has one deputy assigned there; he said their Department also has people making inspections there. He said they could probably do a better job with more manpower. There are now 2 part-time people in the area. Mr. Ballow commented that livestock theft is down, but now with the price of livestock increasing they expect more.

Senator Lamb asked if there were other tough spots in the State. Mr. Ballow replied that another spot was the central Nevada area.

Senator Lamb remarked that problems have usually been with the same people. Mr. Ballow said they can put pressure on them on the highways by stopping them and restricting their ability to move.

Senator Glaser asked how many people they had covering thefts. Mr. Ballow said they depend almost entirely on County sheriffs and their own men. He said his Department has 7 full-time men. He explained that district brand inspectors perform this function.

Senator Gibson asked what Other Contract Services were for. Mr. Ballow said they use a bookkeeping machine for the Department, and their share of the cost is approximately \$3,000. That is the reason for the increase.

Senator Gibson asked what Printing and Duplicating Copy is used for the printing of the Brand Book.

Senator Glaser asked if printing the Brand Book is reflected in income where the Governor has recommended \$80,000 the first year and nothing the second year. Mr. Ballow said this come up only

once every 4 years. They try to spread that allocation of \$80,000, at the rate of approximately \$20,000 a year, over the 4-year period. Mr. Ballow stated that they have decided this year to spread out the re-recording notices over a longer period of time within the year, beginning about April and allowing about seven months to do it. He said he did not think additional clerical help will be needed to do this.

Senator Wilson asked what is the conviction rate on rustlers. Mr. Ballow said about 40%. He said since he has been with the Division they have had 3 convictions over 1-1/2 years. They have assisted county agencies in 10 other convictions for felonies.

VETERINARY MEDICAL SERVICES - Page 715

Dr. O'Harra described the responsibilities of his office. He briefly described budget items.

Senator Gibson asked if Dr. O'Harra was having any particular problems. Dr. O'Harra replied yes, trying to keep the cattle in the State free of brucellosis. He said right now the greatest threat to the cattle industry, is a cattle scab epidemic in the western states. He said so far Nevada is free of that.

Senator Echols asked why the agency initially requested a larger Travel allowance than was recommended. Dr. O'Harra said that their new veterinarian in Elko was not functioning for a period of time, and therefore did not travel as much last year. He said they did not know how much the cost of travel was going to go up, so they estimated between \$15,000 and \$17,000 as reasonable figures. He said travel expenses have been down; and they hope that they can function on the amount of money allowed. Dr. O'Harra said that most of the work in the field is dependent upon travel.

APIARY INSPECTION FUND - Page 717

Mr. Martinelli described this program. He stated there were approximately 8,900 resident bee colonies in Nevada. He said this is a self-supporting operation.

INSECT ABATEMENT - Page 718

Mr. Martinelli said that this fund began in 1972 when there was an outbreak of grasshoppers. He said the State spends money to buy material for pest control and then sells it back to the ranchers. He said this has been carried forward now for the last 6 years.

Senator Gibson asked how the Department reorganization was working. Mr. Ballow replied that it seemed to be working well.

Indian Commission

Senator Lamb introduced a letter from the Indian Commission (see Attachment D). There was general discussion on what to do about the cigarette tax problem involving the Indian Commission

Senators Lamb and Gibson requested Senator Wilson to look into the State law regarding the Indian Commission. Senator Gibson that the Attorney General's office also be involved.

Senator Glaser read from page 3, lines 6 through 8, of the letter from the Indian Commission (see Attachment D). He suggested that perhaps they did not need the Indian Commission.

Senator Gibson remarked that he wondered if the State has to go back to the wholesaler with regard to the cigarette problem.

Senator Lamb said the problem with wholesalers is they would have to have a reciprocity with Oregon and Washington state.

Predatory Animals - Page 719

Senator Lamb asked Mr. Barrett to look into this budget, because

furs are bringing very high prices, and this budget does not show a high return for sale of furs. Senator Lamb continued that, regarding the agency's testimony, they stated they only get \$2.50 per fur during the summer months (for coyotes). Senator Lamb remarked that a fur such as bobcat brings as much as \$800. He said high returns for furs should be reflected in this budget.

Senator Wilson suggested sending an auditor to find out what is being done with the furs.

Senator Lamb said furs are big business and \$125,000 or \$150,000 would be a more reasonable figure for 4,300 pelts. Senator Gibson added that 4,323 pelts were taken in 1978.

Senator Wilson asked if the agency said they destroyed them. Senator Lamb replied that they did not say. They said that in the summer they do not skin them because they are only worth \$2.50.

Senator Glaser said that they shoot coyotes from helicopters and it is possible they do not have someone on the ground retrieving the corpses.

Senator Lamb remarked that it is possible that the whole program could be supported by sale of furs.

Senator Lamb then called for voting on the budgets heard today.

INSECT ABATEMENT - Page 718

Senator Gibson moved that this budget be approved.

Seconded by Senator Glaser.

Motion carried.

Senators Jacobsen and McCorkle absent.

APIARY INSPECTION FUND - Page 717

Senator Gibson moved that this budget be approved.

Seconded by Senator Glaser.

Motion carried.

Senators Jacobsen and McCorkle absent.

VETERINARY MEDICAL SERVICES - Page 715

Senator Glaser moved that this budget be approved.

Seconded by Senator Wilson.

Motion carried.

Senators Jacobsen and McCorkle absent.

LIVESTOCK INSPECTION FUND - Page 712

Senator Glaser moved that this budget be approved.

Seconded by Senator Wilson.

Motion carried.

Senators Jacobsen and McCorkle absent.

AGRICULTURAL REGISTRATION AND ENFORCEMENT FUND - Page 710

Senator Glaser moved that this budget be approved.  
Seconded by Senator Wilson.  
Motion carried.  
Senators Jacobsen and McCorkle absent.

ALFALFA SEED RESEARCH - Page 709

Senator Glaser moved that this budget be approved.  
Seconded by Senator Gibson.  
Motion carried.  
Senators Jacobsen and McCorkle absent.

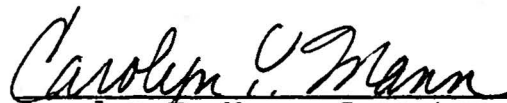
MEAT INSPECTION - Page 708

Senator Glaser moved that this budget be approved.  
Seconded by Senator Gibson.  
Motion carried.  
Senators Jacobsen and McCorkle absent.


DIVISION OF PLANT INDUSTRY - Page 705

Senator Glaser moved that this budget be approved.  
Seconded by Senator Wilson.  
Motion carried.  
Senators Jacobsen and McCorkle absent.

Respectfully submitted,

  
Carolyn F. Mann, Secretary

APPROVED:

  
Floyd R. Lamb, Chairman



**ATTACHMENT A**  
**PROJECTED ANNUAL ADMINISTRATIVE BUDGET FOR THE**  
**SCHOOLS, HOSPITALS AND LOCAL GOVERNMENTAL GRANT PROGRAM**

Salary

- Program Director	\$20,000.00	
- Engineer	23,000.00	
- Clerical	<u>11,500.00</u>	
		\$54,500.00

Travel

- In state	<u>\$2,500.00</u>	
		2,500.00

Operations

- Office operations	\$ 5,000.00	
- Materials	10,000.00	
- Contract services-audit	<u>38,000.00</u>	
		<u>53,000.00</u>

Total \$110,000.00

Federal share	(50%)	\$ 55,000.00
State share	(50%)	\$ 55,000.00

## MEMORANDUM

ATTACHMENT B

February 5

1979

To: Howard Barrett, Director

Budget Division

From: Noel A. Clark

**Subject:** USDOE's grants program for schools, hospitals, units of local government and public care institutions

The following are estimates of overall program funding that will be available to the eligible institutions in the state. The act provides that all approved applications, including administration, will provide for a 50% non federal fund match.

Nevada Program Totals:

FY 78 - \$1,281,500

FY 79 - 1,890,000

FY 80 - 2,200,000

Total Available \$5,371,500 (federal funds to be matched)  
to Nevada

Hereinafter are the totals for funds available to be provided by the state for this office to administer the total program. These administrative totals are percentages of the total program funds available from USDOE for this program.

State Administration Totals:

FY 78 - \$ 103,125

FY 79 - 112,250

FY 80 - 110,000

Total Administration \$ 325,375 (federal funds to be matched)  
Funds Available

It is estimated that this department will be able to effectively administer this program for approximately \$220,000 during the first two years of the program. Of this amount, \$110,000 would be federal funds to be matched by \$110,000 of state funds. Due to the uncertainties of the proposed regulations and the number of eligible facilities that will participate, the above amount is only an estimate.

In addition, the state, under these proposed regulations, has the obligation to carry the full (100%) cost of administering the program until individual grant applications have been filed and approved by U.S. D.O.E. At the time the grant applications are approved, the State will be reimbursed for 50% of the expenses put forth in said administration.

This department is in the process of making comments on this particular aspect of the proposed regulations in so far as it is an undue burden on the state. We feel that the funds to administer the program should be granted to states prior to, or at the time of incurring these expenses. We are urging U.S. D.O.E. to make these changes in the proposed regulations but it will be at least 30 - 60 days before the final rulemaking is published.

SCHEDULE OR REFERENCES

SESSION NOTES

VG-L21

**Authorized Funding Levels**

Schools & Hospitals	Preliminary & Energy Audits	Technical Assistance	Total Energy Conservation Projects and Technical Assistance
FY 78	\$ 20 Million	Up to 30% of ECP (or \$54 Million)	\$ 180 Million
FY 79	\$ 5 Million	Up to 15% of ECP (or \$44-1/4 Million)	\$ 295 Million
FY 80	--	Up to 5% of ECP (or \$ 20 Million)	\$400 Million
Local Government & Public Care			
FY 78	\$ 7.5 Million	\$ 17.5 Million	
FY 79	\$ 7.5 Million	\$ 32.5 Million	

Note Added:

1. Nevada's allocation factors to be applied to the the Authorized Funding Levels:
  - For: Preliminary Energy Audits and Energy Audits = .0071
  - For: Technical Assistance and Energy Conservation Projects = .0055
  
2. Administration Percentage
  - For: Preliminary Energy Audits and Energy audits, available funding = 25% of total
  - For: Technical Assistance and Energy Conservation Projects, available funding = 5% of total

ATTACHMENT C

Division of Colorado River Resources  
Proposed Budget - 1979-81 Biennium  
Supplement to Governor's Recommendations

<u>NEW POSITIONS:</u>	<u>1979-80</u>	<u>1980-81</u>
Power Marketing Engineer (Pay Grade 43)	\$22,104	\$23,209
Attorney	16,000 <sup>(1)</sup>	33,600
Senior Legal Steno (Pay Grade 25)	<u>9,796</u>	<u>10,286</u>
TOTAL SALARY	\$47,900	\$67,095
Salary Fringe Benefits (15.7%)	<u>7,520</u>	<u>10,534</u>
TOTAL PAYROLL	<u>\$55,420<sup>(2)</sup></u>	<u>\$77,629<sup>(2)</sup></u>
 <u>TRAVEL:</u>		
In-State (8 trips 79/80; 10 trips 80/81)	\$ 1,280	\$ 1,700
Out-of-State (12 trips 79/80; 15 trips 80/81)	<u>3,696</u>	<u>4,920</u>
TOTAL TRAVEL	<u>\$ 4,976</u>	<u>\$ 6,620</u>
 Operating expense and overhead (21% X Salaries)	<u>\$10,059</u>	<u>\$14,089</u>
Office Furniture & Equipment	<u>4,226</u>	<u>-0-</u>
TOTAL	<u>\$74,681</u>	<u>\$98,338</u>
 ROUNDED TO	<u>\$75,000</u>	<u>\$98,000</u>

(1) 1/2 time first year of biennium; full time second year

(2) Does not include cost of living salary increases for 1979-81 biennium

DEPARTMENT OF ENERGY

DIVISION OF COLORADO RIVER RESOURCES

Supplemental Remarks on 1979-81 Biennium Budget

Presented February 16, 1979

Senate Finance Committee

The Division anticipates becoming progressively more involved with two programs involving federal project power resources of benefit to Nevada citizens. One program involves possible new sources of power such as Bonneville, Navajo Surplus and Central Valley, California. The second program relates to the renegotiation of contracts for power from Hoover, Parker-Davis and the Colorado River Storage Project (CRSP) as current contracts expire during the 1980's.

Since the beneficiaries of additional federal project power will primarily benefit the State as a whole rather than specific contractors of presently available power, it seems proper to fund these programs from General Fund appropriations rather than the administrative charge collected from present contractors. We suggest that a new budget account be established in Fund 296 to account for these proposed activities. Any unspent and unencumbered money at the end of each fiscal year would revert to the General Fund.

A proposed supplemental budget has been provided each committee member this morning. It includes 3 new positions - a Power Marketing Engineer, an additional attorney for 1/2 year during 1979-80 and the full year 1980-81, and a Senior Legal Stenographer. The budget assumes that travel would be necessary both in-state and out-of-state. Eight in-state trips are included for 1979-80 and 10 trips in 1980-81. Twelve out-of-state trips are anticipated during 1979-80 and 15 trips during 1980-81. Appropriate operating expenses and office

EXHIBIT C --

furniture and equipment for the 3 new positions is included in the proposed budget.

Finding and negotiating for new and additional sources of relatively inexpensive federal project power requires considerable expertise and effort. Competition will be fierce. We fully expect that litigation and congressional action will become involved. The remaining competing Colorado River Basin states are expected to employ every legal, political and economic resource available to them to maximize their share of available power. Nevada must do likewise if she is to realize her fair share. We believe this proposed budget will provide the necessary financial resources to allow the Division to do the necessary ground work to protect and enhance Nevada's interests.

(2)

EXHIBIT C

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ROBERT LIST  
GOVERNOR

ATTACHMENT D

## INDIAN COMMISSION

1135 TERMINAL WAY, SUITE 109

RENO, NEVADA 89502

(702) 784-6248

February 13, 1979

R E C O M M E N D A T I O NTO: SENATORS, ASSEMBLYMEN of the 1979  
Nevada State Legislature

RE: Position Regarding Smokeshops

By the authority granted under N.R.S. 233A.090:

*"The purpose of the Nevada Indian Commission shall be to study matters affecting the social and economic welfare and well-being of American Indians residing in Nevada...The Commission shall recommend necessary or appropriate action, policy and legislation or revision of legislation and administrative agency regulations pertaining to such Indians. The Commission shall make and report from time to time its findings and recommendations to the Legislature, to the Governor and the general public."*

The Nevada Indian Commission herewith submits this statement of belief and recommendations regarding the smokeshop issue and related matters:

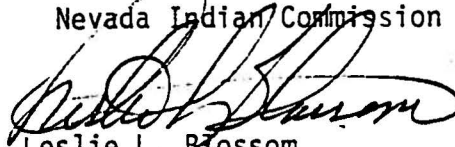
Four Commissioners of the Nevada Indian Commission met in session on Thursday, 8 February 1979 and, by unanimous vote, have declined to unduly intercede into tribal smokeshops under the conditions stipulated by the Senate Finance Committee.



Any comments regarding this text should be directed to the Executive Director of the Nevada Indian Commission, Mr. Norman L. Allen, at the above address.

Respectfully yours,

COMMISSIONERS  
Nevada Indian Commission



Leslie L. Blossom  
Chairman

NLA:eb

Attachment

EXHIBIT D

564

ROBERT LIST  
GOVERNOR

## INDIAN COMMISSION

1135 TERMINAL WAY, SUITE 109  
RENO, NEVADA 89502  
(702) 784-6248

February 8, 1979

## I. INTRODUCTION

There have been recent newspaper accounts linking the Nevada Indian Commission to the controversial issue of smokeshops. This prompts our Commission to submit this formal reply. Among other things, the newspaper accounts state that the Nevada Indian Commission might be abolished unless it can convince Indian tribes to stop selling tax free cigarettes on the reservation to non-Indians. This demonstrates to this Commission a dearth of knowledge among some members of the 1979 Nevada Legislature about the vitality and validity of tribal government. We hope that this reply will assist the Nevada State Legislature in acquiring a more accurate perspective of our Commission and of Nevada Indian tribes.

We propose to discuss smokeshops for two reasons:

Firstly, smokeshops and Indian tribes appear to be a center of attention. Secondly, the smokeshop issue is only one of the many areas which are entangled in varied and sometimes conflicting state, tribal and federal laws. In discussing smokeshops, we hope to illustrate that this is not an isolated, singular issue but is another example of broader jurisdiction problems.

We do not dispute the Legislature's power to abolish this Commission since the power of the Legislature in regard to state agencies is virtually absolute.

## II. INDIAN TRIBES HAVE POWERS OF SELF-GOVERNMENT

Indian tribes possess powers of self-government, subject to the limitations imposed by treaties and by express acts by Congress. Tribes are acknowledged as being distinct, independent, political entities with executive, legislative and judicial powers. Even under the U.S. Constitution, Indians are specifically identified. Congressional acts, U.S. Supreme Court decisions and executive pronouncement have affirmed the internal powers of self-government possessed by Indian tribes.

Tribes have powers comparable to those held by states. They may, for instance, adopt their own form of government, prescribe tribal membership, regulate domestic relations, levy taxes, administer justice and so forth.

It is these broad powers which permit tribes to establish their own economic enterprises.

Indian issues, obviously cannot be approached with solutions in hand based upon Indians characterized as just another minority group. If this were the case, there would not be the proliferation of court decisions attesting to the legitimacy of tribal self-government.

III. NEVADA INDIAN COMMISSION  
IS LIMITED BY STATUTE TO RECOMMEND

The Nevada Indian Commission, an agency created by the Nevada State Legislature in 1965, is an advisory agency. Its purpose is to conduct studies and to recommend appropriate action to the legislature and to the governor on matters affecting the social and economic well-being of American Indians residing in Nevada. The purpose of the Commission is restricted by law to conducting studies and making recommendations. Though the Nevada Indian Commission is an agency of the state, it has no statutory authorization to impose the will of state officials upon Indian tribes.

Where formal recommendations are not needed in areas of Indian related problems, the Nevada Indian Commission has assisted state agencies within the various branches of state government, local government, federal agencies and Indian tribes and organizations. In this type of situation, the Commission is empowered to effecting cooperation between the various groups involved.

In summary, the Nevada Indian Commission has the purpose only to make studies, to recommend appropriate action to the legislature and governor and to secure inter-agency cooperation regarding any study or investigation under its chapter.

IV. SMOKESHOPS AS AN EXTENSION OF TRIBAL GOVERNMENT ARE LEGAL

The majority of tribal smokeshops since early 1977, are tribal enterprises not privately-owned businesses. Tribal smokeshops operate directly under the authority of tribal government but, private smokeshops generally only lease tribal land and operate essentially as independent contractors. This distinction is paramount since states have encountered tremendous difficulties in attempting to exert control over tribal enterprises but have had generally more success with privately operated ones. Tribally-operated smokeshops occupy a higher legal status than mere private smokeshops which lease tribal land.

Under Nevada law, it is legal for tribes to sell cigarettes to non-Indians and retain the tax where such tribes assess a tribal tax in an amount equal to or greater than the current state tax rate. These procedures are regulated by the Department of Taxation under applicable state law. These sales are a legal transaction and, in our view, any attempt by the state to restrain free trade may be unlawful. If a state may not restrain or otherwise limit free trade, how can an advisory agency of the state accomplish the same end.

Indian tribes occupy a special place in a unique legal context. Under existing federal Indian law, Indian tribal governments will always have special tax advantages generally unavailable to the public. For the state to argue that Indian tribes enjoy the positive benefits of unfair competition is no more an absurdity than it would be for other states to argue that Nevada deals in unfair competition by not having inventory, inheritance or personal income taxes. No state would argue this because the status of self-government is sacred and by that measure Indian tribes are acknowledged to possess self-government, too.

5.

As for calling cigarette sales to non-Indians "bootlegging", it should not be mislabeled as such. Tribal government authorizes the sales to non-Indians. State law allows tribes to purchase cigarettes from local wholesalers under special conditions. The cigarettes are shipped by commercial transportation and are purchased through state licensed wholesalers. In our understanding of the term, these conditions do not indicate "bootlegging".

V. NEVADA INDIAN COMMISSION'S  
RECOMMENDATIONS DISREGARDED IN 1977

The Nevada Indian Commission submitted recommendations concerning AB100, the smokeshop bill, to the Senate Taxation Committee during the 1977 Nevada State Legislature. The 1977 Senate Taxation Committee disregarded our recommendation and recommended enactment of AB100 with amendments. AB100 was subsequently enacted.

This Commission warned the 1977 Senate Taxation Committee that the situation could worsen unless elective Indian and non-Indian leaders addressed the issue mutually at that time. However in the legislature's haste to enact AB100, that admonishment went unheeded. We then, in 1979, are not surprised that the smokeshop situation is in a state of deterioration: that state and tribal animosities have intensified.

Since 1977 our Commission has been in communication with tribal councils on smokeshop developments. None of the tribal officials indicated that there were any problems on their end. On the other end, no state agencies, elected officials nor state legislators notified us of any imminent problems with smokeshops. Subsequently, our Commission did not see any need to initiate any studies or investigation into the status of smokeshops in the period of time prior to the 1979 Nevada State Legislature.

Ironically, this Commission is now saddled with the burden of trying to resolve an issue—an issue whose outcome it had forecast and was not able to do anything about absent statutory authority. This is a burden which we, with clear conscience, are unable to accept.

EXHIBIT D --

VI. NEVADA INDIAN COMMISSION HAS NO AUTHORITY  
TO INTERFERE WITH SMOKESHOPS

Summary: We believe that the existing statutes relating to the Nevada Indian Commission as an advisory agency do not grant the Commission the power to intercede with tribal government unless they first consent. The statute provides only for recommendations to the governor and legislature. Our agency's state goals which the Commission has developed does not permit it to interfere with an enterprise duly authorized by tribal government. Tribal smokeshops are tribal enterprises; cigarette sales to non-Indians are lawful under tribal law and permissible under state law. Furthermore, if the Nevada Indian Commission as an agency of the state, unduly intercedes with tribal affairs, the State of Nevada could be vicariously liable to lawsuit for interference with the federal preemption doctrine which exists as an integral part of Indian law.

We conclude that:

IN ABSENCE OF TRIBAL CONSENT, THE NEVADA INDIAN COMMISSION DOES NOT HAVE STATUTORY AUTHORITY TO INTERCEDE WITH TRIBAL SMOKESHOPS OR ANY OTHER TRIBAL ENTERPRISE.

Summary: Indian tribal groups are diverse to an extreme. In Nevada, Indians in general are divided into three major tribal groupings: Paiute, Shoshone and Washo. Furthermore, there are twenty-one reservations and colonies in Nevada which have their own autonomous tribal governing bodies; they are independent of each other. And if we add the political dissimilarities; internal tribal pressures; wide geographical dispersion; and other related concerns such as on-reservation and off-reservation status, religion, size, proximity to metropolitan areas; the diversity becomes even more pronounced.



On one hand, the Nevada Indian Commission, a small agency, must deal with this admixture of the Indian world and must interface these facets with the purpose of the Commission. But, on the other side, its studies and investigations often lead it into many corners of state government, the various federal agencies and congressional offices. In the course of its operation, the Commission must encourage a balance of the interests of both Indians and non-Indians so that both can share. In a facetious way, the Nevada Indian Commission can be characterized as a stepchild agency with a hazy identity.

We offer this discussion since some state legislators have publicly implied that the Nevada Indian Commission may be abolished because it would symbolically punish Indians for the transgressions of tribally-owned smoke-shops.

We conclude that:

IT IS FUNDAMENTAL ERROR TO PRESUME THAT INDIANS AS A WHOLE CAN BE PUNITIVELY SANCTIONED BY VINDICTIVE MEASURES AGAINST THE NEVADA INDIAN COMMISSION.

## VII. RECOMMENDATIONS

- I. Established Nevada Indian Commission state goals emphasize the need to promote positive tribal and state relationships as a better way of approaching local problems. Litigation as a means of solving local problems has proven to have many disadvantages. Aside from being costly and lengthy, it does not solve the larger political dispute. National Indian and non-Indian groups are looking upon tribal and state agreements as a means of addressing local problems and so should state and local governments.

Tribal and state leaders are encouraged to look closer at agreements as a better means of solving local disputes. Agreements appear to complement the self-governing powers of each side far better than litigation would. Litigation removes legislative bodies from the dispute and places it in the hands of the judiciary.

Tribal/state agreements being new and untried however, are subject to mutual suspicion and distrust. Both tribes and states appear unwilling to sit at meeting tables because of this distrust. The Commission recognizes that the parties immediately involved in the local dispute should be in the best position to address it. Since 1977, the Nevada Indian Commission has emphasized improved relationships as the method best suited for tribal/state relations. Smokeshop issues must be approached this way. But recent publicity has negated our efforts.

### Recommendation #1

IF IT IS THE POLICY OF THE STATE OF NEVADA TO PROMOTE EFFECTIVE TRIBAL/STATE RELATIONS; THE NEVADA STATE LEGISLATURE SHOULD AFFIRM THE USE OF THE NEVADA INDIAN COMMISSION AS IT WAS INTENDED—AS AN AGENCY WHICH, THROUGH ITS EXPERIENCE WITH

INDIAN AFFAIRS, IS A NECESSARY AND RESPECTABLE AGENCY—  
AND FURTHER: SHOULD ENCOURAGE ITS MEMBERS TO, DURING  
THE LEGISLATIVE INTERIM, COMMUNICATE OPENLY WITH THE  
NEVADA INDIAN COMMISSION OR INDIAN TRIBES SO THAT  
ISSUES IMPORTANT TO THE LEGISLATURE CAN BE REASONABLY  
DISCUSSED DURING LEGISLATIVE SESSIONS.

2. The laws governing Indians and tribes are unique and complex. For two hundred years, there have not been any central federal Indian policies. Instead, Congress has approached Indian problems with isolated acts which have resulted in a crazy patchwork quilt of approaches which solved the immediate issues at hand but did nothing for long range planning.

The evolution of Indian law through ratified treaties, the unique treatment of Indians under the U.S. Constitution and subsequent Congressional acts have given Indians a unique and special context in contemporary times. Because Indian law is constantly changing, it is not difficult for one to form some gross misconceptions about its nature. Many people are merely uninformed about Indian law. This does not imply that only non-Indian people lack this information, however, since some Indian leaders themselves do not apprehend the laws which govern their affairs.

An entire U.S. Code, Title 25, is devoted strictly to Indians. Every session, Congress enacts many laws specifically directed toward Indian affairs. Indians have an agency, the Bureau of Indian Affairs, which provides assistance to them. We reiterate and stress the point that Indian law is unique and complicated.

Recommendation #2

IF IT IS THE POLICY OF THE STATE OF NEVADA TO ENCOURAGE MUTUAL FRIENDSHIPS AND COOPERATION WITH TRIBAL GOVERNMENTS, THE NEVADA STATE LEGISLATURE'S MEMBERS SHOULD ADOPT A SERIES OF PROGRAMS DESIGNED TO ASSIST THEMSELVES IN BECOMING BETTER INFORMED ABOUT INDIAN-RELATED LAWS SO THAT AS THEY MEET WITH INDIAN LEADERS OR OTHERWISE CONCERN THEMSELVES WITH INDIAN-RELATED QUESTIONS, THE OPPORTUNITIES FOR FRUITFUL RELATIONSHIPS ARE MAXIMIZED.

Respectfully submitted,  
By Commission Request

A handwritten signature in black ink, appearing to read "Norman L. Allen", written over the typed name and title.

Norman L. Allen  
Executive Director