

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-Third Session
April 4, 2005**

The Committee on Ways and Means was called to order at 8:35 a.m., on Monday, April 4, 2005. Chairman Morse Arberry Jr. presided in Room 3137 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. Morse Arberry Jr., Chairman
Ms. Chris Giunchigliani, Vice Chairman
Mr. Mo Denis
Mrs. Heidi S. Gansert
Mr. Lynn Hettrick
Mr. Joseph M. Hogan
Mrs. Ellen Koivisto
Ms. Sheila Leslie
Mr. John Marvel
Ms. Kathy McClain
Mr. Richard Perkins
Mr. Bob Seale
Mrs. Debbie Smith
Ms. Valerie Weber

COMMITTEE MEMBERS ABSENT:

None

STAFF MEMBERS PRESENT:

Mark Stevens, Assembly Fiscal Analyst
Steve Abba, Principal Deputy Fiscal Analyst
Lila Clark, Committee Attaché
Susan Cherpeski, Committee Attaché

Assembly Bill 49: Authorizes issuance of revenue or general obligation bonds to finance capital costs of improving Marlette Lake Water System. (BDR 27-309)

Assemblyman Lynn Hettrick, District 39, said Assembly Bill 49 came from the Tahoe Regional Planning Agency Marlette Oversight Committee during the legislative interim. He said the intent of A.B. 49 was to allow bonding to repair the Marlette Lake Water System. According to Mr. Hettrick, the state of Nevada owned approximately 3,000 acre-feet of water in the Marlette System, of which a portion was being transferred to Carson City and Virginia City via the pipeline that was built back in the 1800s. He said the pipeline was in serious need of repair and the idea of A.B. 49 was to take the water revenue that was currently generated through water sales to Carson City and Virginia City and to

use the revenue for bonding. Mr. Hettrick said that currently bonding was not allowed. He said there was money available on an annual basis to make the repairs but there was never enough money available to make a complete, one-time repair that was done correctly. Mr. Hettrick stated that A.B. 49 would permit the bonding necessary for the repairs.

Mr. Hettrick said the concern of the Committee was whether A.B. 49 had fiscal impact. He read from *Nevada Revised Statutes* (NRS) 331.180 as follows:

Creates the Marlette Lake Water System fund which is an enterprise fund. The statute specifically provides that the money in the fund may not revert to the General Fund or be transferred to any other fund. The fund must be used for the deposit of revenue resulting from the sale of water. So that is where the money is going right now, no part of it goes into the General Fund and any other receipts and the payment of costs of operation in accordance with the provisions of Chapter 353 of NRS.

Mr. Hettrick said it had no impact on the General Fund whatsoever. The statute was added to NRS in 1963. He said the bill would allow enough money to be borrowed to repair the pipeline and the water revenue would repay the bond over time.

Mr. Marvel asked if the bonds would be revenue bonds or general obligation bonds.

Mark Stevens, Assembly Fiscal Analyst, Legislative Counsel Bureau, said that page 3, line 3 of the bill, indicated the bonds would be either general obligation or revenue bonds.

Mr. Marvel asked if there would be enough bonding capacity to repay the bonds.

Mr. Hettrick said there would be no effect on the tax rate to issue the bonds because the bonds would be paid with the water funds that were generated. Mr. Hettrick said the words "general obligation bonds" could be stricken from the bill and then it would not be a worry, although the funding was taken care of through the water system and the money could only be used for the repair of the pipe.

Mr. Marvel asked for an estimate of the amount of water being lost in the pipe. Mr. Hettrick said it was very hard to estimate the loss. He said that currently there was a diesel pump with a diesel tank on a truck and anytime water was needed from that system for Carson City or Virginia City someone had to go to Marlette Lake and watch the diesel pump run while water was pumped over the hill to get it to start down toward the valley. Mr. Hettrick said that once the water got over the hill it ran back out on the ground, ran down into Hobart Reservoir where it went back into a pipe, and then the pipe started down to where it split just above Carson City. Mr. Hettrick said the pipe was old, full of holes, too small, and should be replaced. He said the pump could be operated with natural gas, it would be buried underground, silent, and there would be no risk of diesel spill. He said that Marlette Lake was one of the biggest fish hatcheries in the western Nevada area. Mr. Hettrick said that as part of the Committee he had toured the hatchery and watched the milking of the eggs, and the lake should be protected. He said there were 3,000 acre-feet of water in the lake and he was unsure whether it would ever all be brought to Carson City, but it was a wonderful backup and reserve for Carson City.

Mr. Seale asked if it was anticipated that the whole \$25 million in bonds would be sold or how much would be needed for the repairs. Mr. Hettrick responded that the Buildings and Grounds staff would determine the cost of repairs. He said that as he recalled, the estimate was approximately \$8 million or \$9 million to put in an appropriate pump. Mr. Hettrick said he did not believe the full \$25 million was needed but the pipeline should be replaced also so that the water could be brought to Carson City. Mr. Hettrick said that currently the pipe was too small and all the water could not be brought to Carson City. He said the pipe needed to be replaced and it should be replaced with larger pipe so that better use could be made of the water.

Mr. Seale said he was almost positive the bonds would be revenue bonds because there was a revenue source available and it would not impact the state tax rate.

Assemblywoman Bonnie Parnell, District 40, introduced herself. She said District 40 covered most of Carson City and she was testifying on behalf of the residents of Carson City as they were extremely dependent upon Marlette Lake. Ms. Parnell said she served on the Committee with Mr. Hettrick and what the Committee found was very frightening. She said there was an antiquated delivery system and it needed to be repaired. Ms. Parnell said that Virginia City also relied on the system and the growth in Lyon County could eventually be impacted by the water delivery system. Ms. Parnell reiterated that she was appearing before the Committee on Ways and Means to support A.B. 49 as it was good for the people of the area and a long time in coming. Ms. Parnell thanked Mr. Hettrick on behalf of the people of Carson City for sponsoring the bill.

Assemblyman Tom Grady, District 38, introduced himself and said he represented three counties which the pipeline would cover; part of Carson City, all of Storey County, and a small portion of Lyon County. He said the pipeline was needed and he hoped the Committee would see the need to pass A.B. 49.

Mr. Marvel asked Mr. Grady what part of Lyon County he represented. Mr. Grady said he represented the Silver City area.

Ed James, Carson Water Subconservancy District, introduced himself and said the District did regional watershed planning for the entire Carson drainage and the Marlette System was an important element in that water resource planning. Mr. James said the District had been working with the state in looking at the resources and providing information. He said the District had also received a grant from the U.S. Environmental Protection Agency (EPA) to help with the Marlette System. He said the grant was nearly \$1 million and the District had been able to convince the EPA of the threat to the environment. He said it would cost more than the \$1 million grant to repair the system to meet the needs and the bonding opportunity was needed to repair the entire system.

In response to a question from Mr. Marvel regarding the diameter of the pipe, Mr. James responded that there were several diameters of pipe. He said the pipe going over the hill was 8 inches from Marlette to the Hobart System. Mr. James said that since the pump and motor were powered by diesel fuel they could only be operated in the summertime because the diesel pump and motor had to be brought into the area because the equipment was not left at Marlette during the winter. Mr. James said that in good snow pack years the equipment could not be taken to Marlette because of the snow.

Mr. Marvel asked how large the replacement pipe would be. Mr. James said he proposed using a 12-inch diameter pipe for the replacement. After the water went into the Hobart System it went down Franktown Creek and then to the Red House Diversion and flowed into an 18-inch pipeline that operated by gravity for 4.5 miles. Mr. James said that pipe would eventually need to be replaced because it had been built in 1950. Mr. James said when the water reached the tanks it bifurcated and went to Virginia City and Carson City. He said the pipe that went to Carson City was a 10-inch pipe and that was undersized; in Virginia City an inverted siphon was used. It was the original pipe that was installed in the 1880s. Mr. James said it was the original pipe for the Comstock. He said there had originally been three pipes and the pipe in use was one of the originals. Mr. James said the engineering life expectancy of the pipe was 75 years and the pipe was over 140 years old so the life expectancy had been exceeded and there was a need to replace the pipe. Mr. James said it was interesting that the Comstock pipe was in better shape than the pipe installed in 1950.

Ms. Giunchigliani asked what the \$25 million bond would buy. Patrick M. McInnis, P.E., Chief Engineer, Division of Buildings and Grounds, Department of Administration, introduced himself and responded to the question. Mr. McInnis said \$13 million in projects had been identified involving the pumping of Marlette Lake, the replacement and repair of the 18-inch line that ran from the collection points around to the splitting tanks, and an additional pipe into Carson City to increase the capacity of delivery to Carson City. Mr. McInnis said the unknown was regarding the 140-year-old siphon portion that went to Virginia City. He said that the siphon portion was Virginia City's only source of water and there was not a good estimate of the cost to replace that system since it ran down through a very expensive housing project. Mr. McInnis said there was an ongoing project to survey that pipe using internal televisions and sonar to establish the condition of the system so planning could be done in case the system needed to be replaced. Mr. McInnis said that project should be completed at the end of the summer of 2005.

Ms. Giunchigliani said the plans for the repairs and the amount of funding needed did not seem firm and she asked when the definite plans would be available. She also asked if the new system would run through the housing subdivision.

Mr. McInnis responded that the survey currently being conducted was to ascertain the condition of the pipe, how much corrosion existed, and to project the useful life of the pipe.

Ms. Giunchigliani asked what portion of the \$25 million would be spent on determining the condition of the pipe. Mr. McInnis said that was not known because it was not yet known if the money needed to be spent. He said the price of everything had increased significantly in the prior two to three years.

Ms. Giunchigliani asked Mr. McInnis to provide an actual project plan with the costs broken out. She asked if 18-inch pipe would be used. Mr. McInnis said the 18-inch pipe would probably be used. Ms. Giunchigliani asked if all the pipe would be 18-inch or would there be different sizes. Mr. McInnis said the pipe to Virginia City would probably be 10 inches. He said that currently the pipe was a non-standard pipe.

Ms. Giunchigliani asked if the pipe into Carson City was 18 inches. Mr. McInnis said the 18-inch pipe went around the mountain to where it splits into 10-inch pipe to Virginia City and another 10-inch pipe into Carson City.

Ms. Giunchigliani reiterated that she would like an actual budget prior to issuing bonds. She asked if bond counsel would advise the Committee of the impact of issuing the bonds. Mr. McInnis said it was not his intention to sell the entire \$25 million of bonds at one time. He said he anticipated a long-term replacement and the \$25 million figure was the amount that might be needed within the next ten years to upgrade the entire system.

Ms. Giunchigliani asked if there were other projects that would not be done if the bonds were issued. Mr. Seale said the state had a certain bonding capacity, above which it could not go, however, the bonds under discussion would not put that in jeopardy. Mr. Seale also pointed out that the bonds would be revenue bonds. Mr. Seale said the bill also allowed general obligation bonds but the bonds sold would be revenue bonds.

Ms. Giunchigliani pointed out that the bill would need to be amended to allow only revenue bonds. Mr. Seale added that the bonds might be handled under a separate program because they were water bonds, which would be exempt.

Mr. James said the Subconservancy District had completed a study of the entire system and had prepared a report. He said the \$25 million would be the total amount needed to replace everything. Mr. James said they were trying to determine if everything needed to be replaced and that was what the Division of Buildings and Grounds was currently working on. He said that it was known that there were places in the 18-inch pipe that were deteriorating and one could put a finger through the pipe. The question was whether the entire pipe needed to be replaced. Mr. James said another problem with the inverted siphon was that it was built in the 1880s and over the years houses had been built over the pipeline. He said the pressure in the pipe was over 800 pounds per square inch (psi). That was the highest pressurized pipe made when it was installed and if the pipe broke it could wash a house out very quickly. Mr. James said those were issues and concerns that had to be considered and right-of-way was a big issue when the inverted siphon was replaced. He said it would take additional time to determine where the pipe should be as it ran behind houses in Carson City and it should be in front of homes or in the streets. Mr. James said there was a story of a homeowner working in his backyard who nicked the pipe and the water gushed over 200 feet in the air. Mr. James said the system was a very unique system that had been an engineering marvel at the time it was built. He said current technology would allow electronic equipment to be operated from an office versus having to snowmobile to Marlette Lake in the wintertime.

Ms. Giunchigliani said it would seem to her that if it was a right-of-way issue the local government that erroneously allowed housing to be built should pay for the right-of-way needed.

Mr. James said there were many small issues that had to be dealt with and there were interesting elements to it. He added that the Marlette System had become a very important water resource to the Carson City area as well as the entire region.

Ms. Giunchigliani asked if there were conservation measures built-in and Mr. James responded affirmatively. Mr. James said the Subconservancy looked at water in the entire region. He said the Subconservancy owned water in Alpine County, California, and currently sold that water to Carson City. Mr. James said when the system was upgraded the water from California that was currently sold to Carson City would then flow down the river and be sold to Lyon County. He said the water became an in-stream flow. The water from

Alpine County was released in late October and it created in-stream flows for fish habitat. He said it flowed down the Carson River and currently Carson City picked the water up through induction wells. He said when the Marlette System was repaired and enhanced the water would continue down through Lyon County and possibly into Lahontan Reservoir. Mr. James reiterated that it was a regional system and the Marlette System was only one element of a regional water system.

With no further testimony forthcoming regarding A.B. 49, the hearing was closed and Chairman Arberry opened the hearing on A.B. 117.

Assembly Bill 117: Makes appropriation to Aging Services Division of Department of Human Resources for establishment of pilot program to provide assistance to senior citizens for vision care. (BDR S-445)

Assemblywoman Kathy McClain, District 15, said that A.B. 117 was a one-shot appropriation request for \$200,000 to start a pilot program to offer vision care for senior citizens. She said that in the last session of the Legislature \$100,000 had been provided for a pilot dental program for seniors. That program had been set up so the eligibility requirements would be the same as those for Senior Rx and the dental pilot program had been very successful. She said in the current session she would request funding to continue the dental program and A.B. 117 would start the vision care program. Ms. McClain said three of the services older people needed the most were vision care, dental care, and hearing, and she had a long-term plan to provide dental, start a vision pilot program, and in the future start a hearing aid pilot program. Ms. McClain said the bill would appropriate funding to the Division on Aging and the Division could provide grants or contracts with vision care providers.

Mr. Marvel asked if the bill would provide a one-shot appropriation and would it eventually be added to the base budget. Ms. McClain said she hoped it would be added to the base budget someday. Ms. McClain said vision and dental care needed to be part of Senior Rx. She said the same eligibility requirements were used for both and she hoped that eventually the Senior Rx program would be more comprehensive and provide more services to seniors.

Ms. Giunchigliani said the tobacco money should be removed from the Aging Services Division and replaced with General Funds and that would release dollars that had not been obligated and could be used. Ms. Giunchigliani said she agreed that the Senior Rx program should be in the Aging Services budget.

There being no further testimony on A.B. 117, the hearing was closed and the hearing on A.B. 192 was opened.

Assembly Bill 192: Provides that provisions of Uniform Disposition of Unclaimed Property Act do not apply to State Child Support Disbursement Fund. (BDR 10-650)

Mr. Gary Stagliano, Deputy Administrator, Nevada State Welfare Division, submitted Exhibit B, a copy of his testimony, and spoke in favor of A.B. 192, which was sponsored by the Department of Human Resources. Mr. Stagliano said that the bill related to the Child Enforcement Program that was operated in partnership with the federal government, the state, and the counties. He said the Child Support Enforcement Program received 66 percent of its funding from the federal government. The other 34 percent of the funding came from the state or the counties.

Mr. Stagliano said that according to *Nevada Revised Statutes* (NRS) 120A.220, the state would put undistributed child support collections into the State Unclaimed Property Fund. He said that when the state did that it sent the entire amount to the State Treasurer's Office. Mr. Stagliano said that, unfortunately, when that was done the funds had to be declared abandoned. He said that when the funds were declared abandoned the state was required to pay the federal government back 66 percent. Mr. Stagliano gave an example of the Child Enforcement Support Program sending \$100 of unclaimed property to the Treasurer's Office, from state funds another \$66 would have to be sent to the federal government and that transaction would cost the program. Mr. Stagliano said A.B. 192 would provide an exemption to the law and the state would retain the funds in its account and the federal government would be paid out of the \$100. He said \$66 would be paid and \$34 would be kept and all claims would be paid out of a state fund that was operated by the Child Support Enforcement Program.

Mr. Stagliano further explained that currently the reason there existed undistributed collections in the Child Support Enforcement Program was because the program was unable to identify a payment to a custodian, or because it had been mailed to a custodian and the program had lost contact so the money could not be distributed. Mr. Stagliano said the Department had had discussions with the State Treasurer's Office and that Office had been supportive and testified before the Assembly Judiciary Committee in favor of the bill.

Chairman Arberry indicated he was confused. He asked why the \$66 would have to be paid to the federal government if the bill made the transaction exempt, and what would the advantage be to the Department.

Mr. Stagliano said the reason it had to be done was because currently under NRS the funds were required to be reverted to the State Treasurer's Office or to an agency fund within the Division for the child support funds. He said the \$66 would still be paid to the federal government and the remaining \$34 would be retained by the state. As claims came in, they could be paid from that account rather than going through the Treasurer's Office.

Mr. Seale said that if he understood the situation, currently the funds escheated back to the State Treasurer's Office, and Mr. Stagliano said that was correct.

Mr. Seale said if the exemption was put in place, the \$66 would still have to be returned to the federal government but the state would retain the \$34 and he asked how the accounting would be handled. He asked if a separate fund would be established, and Mr. Stagliano said yes.

Mr. Stagliano said that either way the federal government would have to be paid the \$66 and if that was done under the current law, the Child Support Enforcement Program would send \$100 to the State Treasurer's Office and an additional \$66 from the General Fund to reimburse the federal government. Mr. Seale stated that the State Treasurer would be sending the funds to the federal government rather than the Child Support Enforcement Program. Mr. Stagliano replied that when the Child Support Enforcement Program sent the funds to the State Treasurer, it was his understanding that \$100 would have to be put in as a deposit and also still repay the federal government the \$66. Mr. Seale asked if that would come out of the Unclaimed Property Fund, and Mr. Stagliano said no.

Chairman Arberry said the bill required further study because it was unclear. Chairman Arberry asked what the program would do with the \$34 if it was kept in their system. Mr. Stagliano responded that regulations would need to be developed regarding the administration of the account. He said the \$34 would be intended to stay in the account to pay any claims that came in.

Mr. Stagliano said that when the money was sent to the federal government the program could make a claim on the funds when there was a legitimate claim on the funds. He said the problem was that had to be done on a quarterly basis with the federal report. That meant the program had to pay \$100 out on the claim and was still "out" \$66. He said the program would use the \$66 that was in the account to meet all claim obligations and reclaim the money quarterly from the federal government. He reiterated that the money could only be reclaimed upon payment to the rightful owner.

Mr. Stagliano added that the Judiciary Committee understood the bill and gave it a "do pass" in the Senate. He said he believed the misunderstanding was that it was a General Fund obligation. If the exemption did not exist the program would have to "backfill" the 66 percent with General Funds.

Mr. Stagliano said that currently the program would transfer approximately \$726,000 to the State Treasurer's Office under the existing law and that would create a need for \$479,000 in General Funds to pay the federal government.

Ms. Giunchigliani said she believed someone from the Treasurer's Office should appear before the Committee to answer questions before the bill was processed. Ms. Giunchigliani added that simply because one committee said "yes" did not mean that the money committees said "yes."

Chairman Arberry pointed out that other committees dealt with the policy and the Committee on Ways and Means dealt with the money.

Ms. Donna Becker provided written testimony, [Exhibit C](#), and asked that it be added to the record.

There being no further testimony on [A.B. 192](#), Chairman Arberry closed the hearing and opened the hearing on [A.B. 412](#).

[Assembly Bill 412](#): Makes appropriation to Judicial Retirement Fund for paying unfunded accrued liability for members of Judicial Retirement System. (BDR S-1009)

Assemblyman Hettrick, District 39, said [A.B. 412](#) was a continuation of a bill that was presented in the [72nd Session of the Nevada State Legislature](#). He said the state of Nevada had never funded the Judicial Retirement Fund for judges throughout Nevada who retired and for whom the state owed retirement benefits. Mr. Hettrick said the unfunded accrued liability currently was \$24,649,522 and it grew continuously. He said if the Judicial Retirement Fund was not funded the cost to taxpayers over the upcoming 20 years was approximately \$200 million. Mr. Hettrick said that if the fund was funded from one-shot money, taxpayers would be saved approximately \$176 million. Mr. Hettrick said that some of the surplus that was going to exist could be appropriately used for the citizens of the state in that if the system was not funded it would cost the citizens of the state another \$176 million. Mr. Hettrick said it was that simple; the Judicial Retirement Fund had never been funded and the payments were being made out of the General Fund each year. Mr. Hettrick said it was a budget item that went on continuously and would cost the state a

great deal more money than funding the Judicial Retirement Fund as a one-shot appropriation to fund the unfunded liability.

Mr. Marvel asked if the requested appropriation would be necessary if the Legislature had funded the Fund at \$14 million. Mr. Hettrick responded that if the Legislature had been funding the Fund all along a large amount of money could have been saved. He said the unfunded liability kept growing and there was no money in the account earning revenue and, therefore, the unfunded liability just continued to grow.

Mr. Marvel asked what the additional costs would be for the next legislative session to face if the Fund was not funded by the current session. Mr. Hettrick answered that it would be significantly more money if funds were not appropriated for the Fund.

Mark Stevens, Assembly Fiscal Analyst, Legislative Counsel Bureau, added that currently the unfunded liability was paid by an amount appropriated in each fiscal year and approximately \$1 million per year had been budgeted in The Executive Budget. Mr. Stevens said the \$1 million would grow because it was a percentage of payroll calculations and there was approximately 32 years left to pay off the unfunded liability if it was paid annually instead of a lump sum payment.

Mr. Seale asked if the funds would be administered by the Public Employees' Retirement System (PERS).

Mr. Stevens responded that the Judicial Retirement Fund was administered by PERS. He said there was an unfunded liability for the active judges and judges that were retired at the time the Fund was established. Mr. Stevens said a bill was introduced in the 1991 Session of the Legislature that would have paid off the retired judges' unfunded liability but the requested amount of approximately \$14 million was reduced to approximately \$5 million. Mr. Stevens said the unfunded liability needed to be paid off either on an annual basis or in a lump sum, and Mr. Hettrick's proposal would save the state a great deal of money by paying the liability off in a lump sum.

Mr. Seale pointed out that "taking care of the unfunded liability" would not guarantee there would not be an unfunded liability in the future depending upon the markets. Mr. Hettrick said Mr. Seale was correct and PERS had gone through that because of the ups and downs of the market. Mr. Hettrick said that, in theory, in the long run the state should save money and make money. He added that the State Treasurer's Office had done a good job for the state and had done very well overall generating net proceeds from the state's investments. He said he believed the Fund would do reasonably well over time.

Ms. Giunchigliani said she agreed with Mr. Hettrick that the judges were the only public employees in the entire state of Nevada that had never contributed to their own retirement, unlike all other public employee groups. She said she believed the legislation should start anticipating the judges contributing to their Judicial Retirement Fund. She said the contribution could be in the form of a salary reduction as had been done with teachers, police, and firemen years ago. Ms. Giunchigliani said she believed funding the unfunded liability was a good use of state funds and would relieve the state of the unfunded liability.

Tina M. Leiss, Operations Officer, Public Employees' Retirement System of Nevada, said the Retirement Board had not yet taken a position on A.B. 412 but staff would recommend that the Board support the bill. She said the

appropriation in the bill would pay the full amount of the unfunded actuarial accrued liability as of the last valuation, dated January 1, 2005. However, payment of the current unfunded actuarial accrued liability would not guarantee that the funding level would always remain at 100 percent. The system might become overfunded or underfunded based on future gains or losses.

Mr. Seale said that he assumed that the fund would be segregated from the balance of the public employees and would not be commingled. Ms. Leiss stated that the Judicial Retirement Fund was a separate fund and was completely segregated.

There being no further testimony on A.B. 412, Chairman Arberry closed the hearing on A.B. 412 and opened the hearing on A.B. 458.

Assembly Bill 458: Authorizes issuance of general obligation bonds to carry out Environmental Improvement Program in Lake Tahoe Basin. (BDR S-308)

Assemblyman Lynn Hettrick, representing District 39, said he was Chair of the Tahoe Regional Planning Agency (TRPA) and Marlette Oversight Committee, and one of the functions of that committee was to recommend the bonding necessary to continue the Environmental Improvement Program (EIP). Mr. Hettrick read the following into the record:

In 1997 the President sponsored a series of events relevant to Lake Tahoe, known collectively as the Lake Tahoe Presidential Forum. Nevada Governor Bob Miller participated in these events, joining the President and others in committing to work together to implement the Environmental Improvement Program. Discussed as a major aspect of implementing the agreements reached during that Presidential forum, the EIP is an integrated procedure for identifying the projects and continuing programs and studies necessary to achieve environmental goals in the Lake Tahoe Basin. Of special significance has been the capital improvements element which outlined specific projects categorized by environmental threshold and funding sources. Implementation of the EIP was estimated in 1997 to cost \$908 million basin-wide to do the necessary environmental projects listed at that time, with \$82 million of that money being Nevada's share. In each session since 1999 the Legislature has approved the specific bond appropriation to carry out projects identified in the EIP, totaling \$29,270,000, and leaving a balance of \$27,130,000. The current request in this bill is for \$16.8 million and will leave a balance of \$10.33 million that will likely be requested from the 2007 Legislature. Each of the previous bond appropriation bills was sponsored by the TRPA Oversight Committee.

Mr. Marvel asked if California participated in the Environmental Improvement Program. Mr. Hettrick said California participated and paid on a ratio of at least two to one and the federal government participated as well to make up the total of \$908 million.

Mr. Marvel asked if there had been any trouble in getting California to fund its obligation, and Mr. Hettrick said there had been no problem as California had been issuing bonds for the funding.

Pamela B. Wilcox, Administrator, Division of State Lands, said she had been the coordinator of Nevada's Tahoe Environmental Improvement Program since its

inception. She said California was ahead of what it had originally committed to pay and expected to spend more than what had originally been committed to during the course of the program. Ms. Wilcox said the federal government, since the Lake Tahoe Restoration Act, committed \$300 million and also expected to expend more than was originally committed to.

Mr. Marvel asked if all the projects had been identified. Ms. Wilcox referred the Committee to [Exhibit D](#), "Lake Tahoe Environmental Improvement Program, 2005 Assembly Committee on Ways & Means." She said the first pie chart showed the first \$908 million with the participation by the different partners. She said the second table showed how Nevada's projects were broken out by threshold and by agency, page 3 showed how the funds were made available in Nevada. She further explained that \$20 million had been made available by Question 12 in 1995, \$16.8 million was the current request, and \$10.3 million was a future request. She said pages 4 and 5 listed the 39 projects that had been completed, 14 projects currently in progress, and the projects expected to be funded for the upcoming biennium. Ms. Wilcox said there were long-term projects that had been underway since the project was started, including primarily the forest restoration project in Lake Tahoe, Nevada State Park. She said there were 17 projects left for the future, most of which she hoped would be funded during the upcoming biennium.

Ms. Wilcox submitted [Exhibits E and F](#), requested amendments to [A.B. 458](#). She said the purpose of the amendment shown in [Exhibit E](#) was to allow the extension of the program through 2010 at no additional cost to the state. Ms. Wilcox said that the projects left to be completed were difficult multiyear projects that were not expected to cost additional money but would take a few more years to complete. She said the amendment would change the reference to completing the program in 2007 to completing the program in 2010.

Ms. Wilcox said [Exhibit F](#) was an amendment that was a housekeeping provision that would clarify that Tahoe funds set up in 1985 and 1995 were to be continuing interest-bearing funds, with the interest credited to the fund and the *Nevada Revised Statutes* would be amended to state that.

Mr. Seale said it often happened that the interest earnings were not credited to an account and the NRS was amended to clarify the situation. He said that since the funds were bonds there was a potential for some interest earnings in excess of the interest rate, which was arbitrage and had to be returned to the federal government. Ms. Wilcox said the Division of State Lands tracked any arbitrage very closely and made sure funds were reserved.

Kaitlin Backlund, Nevada Conservation League, said the League advocated balance and sensible conservation policy for the state of Nevada and she supported the bill with the amendments that had been proposed.

There being no further testimony on [A.B. 458](#), Chairman Arberry closed the hearing and opened the hearing on [S.B. 92](#).

[Senate Bill 92 \(1st Reprint\):](#) Makes supplemental appropriation to Department of Public Safety for unanticipated out-of-state travel, in-state travel and operating expenses for dignitary protection. (BDR S-1193)

Colonel David S. Hosmer, Chief, Nevada Highway Patrol, Department of Public Safety, asked the Committee to recall the November 2004 Interim Finance Committee meeting. He said he had brought to that meeting a request for contingency funds and was asked by the IFC to return with a request for a

supplemental appropriation. Colonel Hosmer said that since that time, the Division had gotten better projections and no longer needed a supplemental appropriation for Budget Account 4713. He said the current request was for a supplemental appropriation out of the General Fund for Budget Account 4738 for \$38,000. Colonel Hosmer said a large portion of the appropriation was for out-of-state and in-state travel and the remainder was for fuel and telephone expenses.

Chairman Arberry asked Colonel Hosmer to repeat the amount needed, and he said the amount needed was \$38,000.

There being no further testimony, Chairman Arberry closed the hearing on S.B. 92 and opened S.B. 108.

Senate Bill 108 (1st Reprint): Makes supplemental appropriation to Department of Education for unanticipated expenses for Fiscal Year 2004-2005 relating to Individuals with Disabilities Education Act. (BDR S-1227)

Douglas Thunder, Deputy Superintendent, Administrative and Fiscal Services, Department of Education, introduced Frankie McCabe, Director, Special Education, Elementary and Secondary Education, and School Improvement. He said S.B. 108 requested a supplemental appropriation in the amount of \$87,590 for the NRS 395 program, which could send students out of state or could provide in-state education in certain cases when the school districts could not meet the requirements of their individual education program. He said that in the past it was a fairly large program but in recent years the program had been trimmed down and currently there were five students involved in the program. Mr. Thunder said four of the students were out of state and one was in another district within the state. Mr. Thunder said the reason for the request for appropriation was because in a prior legislative session the decision was made to only fund the state portion of the obligation based upon the base year, and if additional funding was required the Department could go to the Interim Finance Committee or request a supplemental appropriation.

Mr. Thunder stated that in the program the state paid one-half of the costs and the other one-half of the costs was paid by the Individuals with Disabilities Education Act (IDEA) special education programs.

Mr. Seale asked why the request was not before the Interim Finance Committee instead of being presented as a bill. Mr. Thunder said that originally it had been submitted as a request to the IFC but the Department had been told that since the Legislature was in session the request should be submitted as a request for a supplemental appropriation.

Mr. Stevens explained that there was a shortfall in the amount of funds in the Contingency Fund and the supplemental appropriation bill was submitted in an effort to conserve the Contingency Fund.

Mr. Marvel asked how many youngsters were out of state in the 395 program. Mr. Thunder replied that there were currently four students out of state. Mr. Marvel asked where the students were and Mr. Thunder responded that students were in Texas, Florida, and Wyoming. Mr. Marvel asked if the out-of-state students had autism.

Ms. Frankie McCabe, Director, Special Education, Department of Education, said the out-of-state children each had a different disability.

There being no further testimony on S.B. 108, Chairman Arberry closed the hearing on S.B. 108 and recessed the meeting.

After a short break, Chairman Arberry reconvened the meeting and asked Andrew Clinger to explain the Governor's recommended budget amendments.

Mr. Andrew Clinger, Deputy Director, Budget Division, referred the Committee to [Exhibit G](#), entitled "Governor Recommends Budget Amendments, 2005-2007 Biennium." Mr. Clinger said the exhibit listed changes 52 through 70. He said change number 52 was necessitated by change number 53. Mr. Clinger said some deferred maintenance items had been identified that could be removed from the budget in order to fund the completion of Phase 2 of the sewage treatment facility at the Southern Nevada Correctional Facility that was necessary to open the facility by August 2006.

Mr. Clinger said that item 54 was simply an update to the Parole and Probation budget based on the updated caseload information from JFA Associates.

Mr. Clinger stated that item 55 was an adjustment to the Residential Substance Abuse Treatment for State Prisoners (RSAT) Grant, which funded the Willing Inmates in Nevada Gaining Sobriety (WINGS) Program in the Department of Corrections. He said the anticipated level of federal funds for that grant had been reduced and the agency had identified some cuts it could make to fund the program at its current level.

Mr. Clinger explained that item 56 for \$5.1 million in the first year of the biennium and \$5.3 million in the second year was the adjustment to give the Distributive School Account (DSA) the quarter salary adjustment for the Public Employees' Retirement System (PERS) adjustment. Mr. Clinger said that after additional research, the Budget Office felt that the adjustment was necessary to bring the funding up to where it should be.

Mr. Clinger said that item 57 was an adjustment to an account that was allocated between county funds and the General Fund. He said there was an item in the budget that was funded from 100 percent General Fund and when The Executive Budget was prepared it was allocated between the county funds and the General Fund. Item 57 corrected that and made the account 100 percent General Fund.

Mr. Clinger said items 58 through 63 were related to the Health Insurance Flexibility and Accountability (HIFA) waiver. He said item 58 eliminated the cap in Nevada Check Up which was necessary to implement the HIFA waiver. Items 59 through 62 delayed the implementation of the HIFA waiver by 3 months, partly to offset the additional cost by removing the enrollment cap. Mr. Clinger said item 63 was the other piece. It was the transfer of property tax from the indigent accident account and that was not included in the budget at all.

Mr. Clinger said that items 64 and 65 simply reflected adjustments to supplemental appropriations that had already been passed by the Senate.

Mr. Clinger described item 66 as an adjustment to the budget of the Nevada Film Office. He said when that budget was compiled an incorrect object code had been used for the transfer and item 66 was a "truing up" with item 67. Item 67 also included an adjustment to another miscellaneous revenue item.

Mr. Clinger said item 68 was a federal defense grant that the Procurement Outreach Program had received, that grant was capped, the grant funds were over-allocated in the budget, and item 68 corrected that error.

Mr. Clinger stated that item 69 eliminated some deferred maintenance projects, partly to offset the cost of item 56, the PERS adjustments for the Distributive School Account (DSA). Mr. Clinger said that staff of the Public Works Board went back and looked at the deferred maintenance projects and two of the projects were identified as duplicates of Capital Improvement Program (CIP) projects and others that the staff had recommended to be deferred.

Chairman Arberry asked Mr. Clinger for the list of all deferred maintenance programs included in the amendment. Mr. Clinger said he believed the list had been provided but he would provide another copy.

Mr. Clinger stated that item 70 moved the remaining deferred maintenance projects from FY2007 to FY2006 in an effort to balance out the two fiscal years.

Chairman Arberry asked how many additional budget amendments would be submitted by the Budget Office. Mr. Clinger said he did not have any more budget adjustments and the only one remaining that he knew of was the Medicaid "clawback." Mr. Clinger said the office had recently received the details on that and was "grinding through the numbers." Chairman Arberry asked when the staff and the Committee would be provided details. Mr. Clinger replied, "By the end of the week." He also said the Budget Office would attempt to provide the information sooner.

Assembly Bill 106: Makes appropriation to State Department of Conservation and Natural Resources. (BDR S-1224)

Chairman Arberry asked Mr. Stevens to explain the purpose of A.B. 106.

Mr. Stevens explained that A.B. 106 was a one-shot appropriation that had been recommended in The Executive Budget and it had three components. He said \$462,000 was for compact shelving at the new Conservation and Natural Resources building in Carson City. He said that was originally in the fixtures, furniture and equipment (FF and E) cost for that building but it was taken out due to higher than anticipated construction costs. Mr. Stevens said that part of the bill needed to be decided on so that the Department knew whether the shelving and file cabinets could be ordered and installed in the building.

Mr. Stevens said the second part of A.B. 106 was a request for \$250,000 to replenish the Channel Clearance Account. The balance was currently in the \$30,000 to \$40,000 range and additional funding was needed in that account for the upcoming biennium.

Mr. Stevens explained the third part of the bill was for litigation costs for the Division of Water Resources. Currently there was litigation related to water use in the Walker River and Walker Lake area and it was anticipated that additional funds would be needed for water litigation purposes in the upcoming biennium. The total amount requested was \$862,077.

Ms. Leslie said she had no problem with the second and third items in the bill but she wondered why there was a need for shelving and whether the Committee knew it would be requested when it was removed from the FF and E.

Mr. Stevens said he was unsure and he could be wrong but he did not recall that the request came to the Committee. He said the building was built under a lease purchase arrangement. It was not financed in the traditional manner of financing public buildings. The building was built under a new lease purchase concept designed to utilize the rent monies to pay off the certificates of participation that were sold in order to raise the money to build the building.

Ms. Leslie said she believed it was a bad precedent and she was uncomfortable that additional funding was requested at that point unless the Committee told the agency to return. She said there was a budget for the building and then there was a cost overrun and she did not remember what the discussions were regarding additional funding. Ms. Leslie asked if the Committee would keep seeing the requests for additional funding and said an agency might remove costs if it knew it could return later for additional funding. Ms. Leslie said legislators needed to keep their eyes open if less traditional methods of financing buildings were to be used.

Chairman Arberry said he did not believe anyone on the Committee disagreed with Ms. Leslie and that was the problem the Committee had with the Department of Public Works. He said Public Works said initially that the shelving was all part of the original design and then when they ran out of money the problem was "kicked back" to the Committee and the Committee was "put in a box." Chairman Arberry said he did not believe it was fair to the agency when it was under the impression that the shelving was going to be included. Chairman Arberry said that the requests had all been lumped into one bill and he reiterated that it would be unfair for the agency to be caught up in a problem that should be handled with Public Works. Chairman Arberry said he was "sick and tired" of Public Works returning to the Committee when there were cost overruns and the Committee had to take care of the problem. Chairman Arberry said the agency understood the shelves would be included and now they were caught in a bad situation caused by the Department of Public Works.

Ms. Leslie said the \$462,000 was funding that would not be available to fill the Medicaid shortfall or for any other project.

Chairman Arberry said that was true but the need could not be overlooked. He said the Committee had been painted into a corner and he did not like that.

Ms. Giunchigliani said she wanted to echo Ms. Leslie's concerns. She said the FF and E had not just been removed; the Public Works Board asked the agency what should be removed and the agency had agreed. Ms. Giunchigliani said that, additionally, buildings were being designed in an antiquated way if there was still a worry about "special file cabinets." She asked why creative things with technology were not being done. Ms. Giunchigliani said her attitude was that she would not support the bill, however, if Public Works had caused the problem the costs should be taken out of the Public Works budget.

Ms. McClain said she tended to agree with Ms. Leslie and Ms. Giunchigliani because the Committee had been reviewing the budgets of the agencies that were moving into the new building and the budgets all had thousands of dollars for "special file folders for a special file system."

Allen Biaggi, Director, Department of Conservation and Natural Resources, said that the Department of Conservation and Natural Resources was the major tenant in the new building. He said the building was designed around high

density file systems. Many of the agencies were very file intensive and the Department was in the process of putting the files onto electronic formats but some of them were very old documents, such as those of State Lands. Additionally, some of the files were water rights files that were not easily placed onto electronic documents and the Department had requirements for maintenance of those historic documents.

Mr. Biaggi said the cost of concrete and steel had risen dramatically, not only for the new building but for projects nationwide, and that resulted in the cost overrun. Mr. Biaggi said the item identified for removal in the building was the high density file system and, to his knowledge, the agency was not consulted. He said that decision was made by others and not by the tenants of the building. Mr. Biaggi said for the building to work for the agency it needed the high density file system and he asked for the Committee's approval.

Ms. Giunchigliani thanked Mr. Biaggi for the information that the Department was not consulted and she said that gave her even greater discomfort. Ms. Giunchigliani asked how often the specialized files were actually accessed. Mr. Biaggi responded that the files were accessed very frequently. For example, every time a water right was requested the files would have to be accessed to search for the title and the historic water rights.

Ms. Giunchigliani asked if that was something that would lend itself in the future to electronic storage rather than a paper file. Mr. Biaggi said that would happen and Ms. Gansert had sponsored a bill to allow the Department to enhance and expedite those types of electronic transfers.

Ms. Giunchigliani asked Mr. Biaggi if that would make it possible to no longer design buildings around file cabinets. Mr. Biaggi stated that the historic records still needed to be maintained. Ms. Giunchigliani said she understood that and some of the records should be archived but the system still appeared to be antiquated.

MS. GIUNCHIGLIANI MADE A MOTION TO AMEND THE BILL TO
HAVE THE \$462,000 COME OUT OF THE BUDGET OF THE STATE
PUBLIC WORKS BOARD.

The motion did not receive a second and Chairman Arberry said he did not believe the motion was appropriate and it would be better handled either when the Public Works Board's budget was closed or on the Floor.

ASSEMBLYMAN MARVEL MOVED TO DO PASS A.B. 106.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Leslie,
Assemblywoman Smith, Assemblywoman Giunchigliani, and
Assemblyman Hogan voted no.)

THE MOTION CARRIED.

There being no further business, Chairman Arberry adjourned the meeting at 10:10 a.m.

RESPECTFULLY SUBMITTED:

Lila Clark
Committee Attaché

APPROVED BY:

Assemblyman Morse Arberry Jr., Chairman

DATE: _____

| <u>EXHIBITS</u> | | | |
|--|---------|-------------------------------------|---|
| Committee Name: <u>Committee on Ways and Means</u> | | | |
| Date: <u>April 4, 2005</u> | | Time of Meeting: <u>8:30 a.m.</u> | |
| Bill | Exhibit | Witness / Agency | Description |
| | A | | Agenda |
| A.B. 192 | B | Gary Stagliano, Welfare Division | Testimony. |
| A.B. 192 | C | Donna Becker | Statement in support of bill. |
| A.B. 458 | D | Pam Wilcox, Division of State Lands | Information on Lake Tahoe Environmental Improvement Program |
| A.B. 458 | E | Pam Wilcox, Division of State Lands | Proposed amendment. |
| A.B. 458 | F | Pam Wilcox, Division of State Lands | Proposed amendment. |
| | G | Andrew Clinger, Budget Office | Budget amendments. |