

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

**Seventy-Third Session  
April 20, 2005**

The Committee on Ways and Means was called to order at 8:05 a.m., on Wednesday, April 20, 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 Chairwoman  
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

**STAFF MEMBERS PRESENT:**

Mark Stevens, Assembly Fiscal Analyst  
Susan Cherpeski, Committee Attaché  
Lila Clark, Committee Attaché

**Assembly Bill 350: Requires Division of Health Care Financing and Policy of Department of Human Resources to provide medical assistance to working persons with disabilities who satisfy certain eligibility requirements. (BDR 38-932)**

Assemblywoman Bonnie Parnell, District 40, presented [A.B. 350](#), which encouraged persons with disabilities to work by increasing their access to health care coverage while working. Nevada's Ticket to Work program enabled eligible persons who were disabled to work and earn up to a specified amount without losing their Medicaid benefits. [A.B. 350](#) increased the unearned income ceiling from its current 88 percent of the federal poverty level, which translated to \$699 per month, to 155 percent of the poverty level, which was \$1,233 per month.

Ms. Parnell stated that [A.B. 350](#) filled a large gap as many of the disabled who chose to work often lost their Medicaid coverage because they made just a few dollars over the allowable amount.

Ms. Parnell pointed out that, due to lower than expected caseloads in the current program, it was expected that the bill would have minimal fiscal impact to the state. She said that the Division of Health Care Financing and Policy had representatives present to discuss the impact of the bill.

Ms. Parnell urged the Committee's support of A.B. 350, a bill which she felt was both "humane and fiscally responsible."

Jon Sasser, Washoe Legal Services, spoke in support of A.B. 350. Mr. Sasser explained that he was a member of the Governor's Strategic Plan Accountability Committee for People with Disabilities, and A.B. 350 addressed issues that were important to that committee. He indicated that he had spent the past five years working to bring the legislation forward. The purpose of the bill was to allow people who were disabled and not working to return to the workforce. The loss of Medicaid medical coverage when returning to work was a major barrier. Even if a person was lucky enough to find a job that had private health insurance, that health insurance typically would not provide the services that many with disabilities required. For example, the personal care attendant services necessary to get people up and out of bed and ready for work.

Mr. Sasser said that the program had been somewhat frustrating due to the inability to set the maximum earnings per month to be qualified for the program. He said the major problem was that there were concerns about the number of people who might qualify and therefore the amount of unearned income allowed had been set at a very low limit. The income was typically a payment from the Social Security Disability Insurance (SSDI). Mr. Sasser explained that the Legislature had originally approved a limit of \$699 per month, but due to concerns about caseload the Division had lowered the limit to \$599 per month. However, those who qualified for the SSDI received approximately \$540 per month, which meant there was only a \$50 window. That had been revised to \$699, which created a \$150 window to allow those people to return to work.

Mr. Sasser said the program had very minimal participation, largely due to the earnings limit. The bill would greatly expand that window of opportunity and would allow the caseload projections to be met. He remarked that since the budget was originally proposed the number of people had been reduced to 50 recipients per year due to poor participation. Based on the revised projections, the caseload could be increased to 100 and still cost less than what was originally projected, so while there was a cost above and beyond the adjusted budget, the cost was not above and beyond the original budget. Mr. Sasser urged the Committee's support of the bill.

Chairman Arberry requested that a representative from the agency explain how A.B. 350 would affect the budget.

Patrick Cates, Administrative Services Officer IV, Division of Health Care Financing and Policy, Department of Human Resources, distributed a fiscal impact analysis to the Committee ([Exhibit B](#)). Mr. Cates explained that the original fiscal note submitted for the bill had indicated that there was no fiscal impact, as the original budgeted caseload had been approximately 500 recipients per year. Since then that figure had been revised downward on the advice of LCB staff to 50 recipients per year, which had led to the projection of a fiscal impact in the amount of \$150,000 per year in General Fund appropriation. Mr. Cates said 9 individuals would be added in the first year and 19 would be added in the second year.

Chairman Arberry questioned the caseload projections. Mr. Cates explained that the calculation had been based on a national average for the program and had indicated that it would add approximately 18.4 percent to caseload per year. He said it was difficult to determine the number of people who were going to be added. Originally there had been 500 individuals budgeted, but there had been nowhere near that number allotted. Mr. Cates pointed out that there were tens of thousands of tickets allotted to Nevada by the federal government that could potentially be used to get people into the program, but that had not yet happened.

Assemblywoman Leslie remarked that the cost, rather than the number of people, seemed high at \$921.03 per month per person. Mr. Cates explained that was the normal cost for disabled, non-institutionalized individuals.

Chairman Arberry asked if there was any further testimony. There being none, Chairman Arberry closed the hearing on A.B. 350 and opened the hearing on A.B. 413.

**Assembly Bill 413: Makes appropriation to State Department of Agriculture for grants to counties to perform weed control. (BDR S-1120)**

Assemblyman Lynn Hettrick, District 39, distributed Exhibit C to the Committee detailing an amendment to A.B. 413. Mr. Hettrick explained that A.B. 413 was a bill to appropriate \$100,000 of one-shot money to create a continuing account for weed abatement to be controlled by the Department of Agriculture.

Mr. Hettrick said that weeds in Nevada must be sprayed, even weeds on private property, because the weeds spread through various methods. Under current law, weeds could be sprayed and then a lien could be filed against the property owner if he refused to pay for that spraying. Ultimately, that lien would be satisfied and the cost of spraying the weeds would be paid.

Mr. Hettrick indicated that the problem lay in hiring a company to spray the weeds. Companies were not willing to spray and then wait to receive payment when a lien was satisfied. Assembly Bill 413 would create a revolving account that would not go away, and when the weeds needed to be sprayed, the state could hire a company to spray the weeds, and then the state could pay the company using funds from the revolving account, which would then be replenished as the lien was satisfied.

Mr. Hettrick said the revolving account would help the state control the weeds and satisfy the laws already in existence regarding weed control. He noted that the fund required a one-shot appropriation, and the bill did not allow for any additional requests from the General Fund. The revolving account would be controlled by the Director of the Department of Agriculture.

Chairman Arberry asked if the state had revolving accounts for similar programs. Mr. Hettrick said there was not another program for weeds, and he was not sure if there were revolving accounts for similar activities in other sections of law.

Assemblyman Marvel asked if the spraying applied to all noxious plants. Mr. Hettrick indicated that was correct and applied to more than just weeds. There were weeds and noxious plants throughout Nevada that needed to be sprayed and had not been because companies did not want to spray without a guarantee of being paid. He stressed that the program would be statewide and

the Director of the Department of Agriculture would determine which areas needed to be sprayed.

Assemblywoman Giunchigliani noted that the language in the bill should specify "noxious" plants would be sprayed. Mr. Hettrick said that was a given.

Ms. Giunchigliani inquired whether cheatgrass would be sprayed. Mr. Hettrick replied that he did not think that cheatgrass was considered a noxious weed. It was an invasive species that affected pasture land, but it would be up to the Director of the Department of Agriculture to determine what was a problem and what needed to be sprayed. He indicated that the decisions had been left to the Director without mentioning specific weeds because new species were being found all the time.

Ms. Giunchigliani expressed concern regarding a program in which the university had used sheep to eradicate weeds, but the sheep were left to die. She insisted that the sheep program not be included or permitted in the bill. Mr. Hettrick assured her that A.B. 413 did not include that program; it merely created a revolving account administered by the Director of the Department of Agriculture allowing the spraying of weeds. Ms. Giunchigliani repeated that she did not want that program included and emphasized that the intent of A.B. 413 was weed spraying.

Assemblyman Denis questioned how much could be accomplished with \$100,000 in a year. Mr. Hettrick said it would vary from season to season depending on weather and other factors. He pointed out that currently the state was unable to contract with companies to spray for weeds because the companies wanted assurance that they would receive payment. The bill would allow the state to use companies to spray the weeds, pay the companies, file the lien, and then replenish the revolving account. Mr. Hettrick opined that much could be accomplished with the \$100,000 because the money gave the state the ability to make the program work.

Don Henderson, Director, Department of Agriculture, said A.B. 413 was not in The Executive Budget, and while the Department was neutral with regard to the bill, it was a "nice surprise." Mr. Henderson stated that the Department was taking weed control very seriously. At the end of 1999, an interagency effort had begun to develop a coordinated weed control strategy with more than 20 agencies and entities involved. He said the bottom line was that people needed to be educated as to the threats and the risks associated with weeds.

Mr. Henderson explained that the Department had decided that weed control was a local issue, and that was the way the statutes were written. It was a landowners' issue and the issue had to be addressed locally through local groups fighting weed control in a cooperative manner. He opined that the Department's job was to identify funding sources to help those local entities with weed control.

Mr. Henderson said that the education process had gone well, and the public was aware of the need for weed control. The problem had been funding local weed control. He noted that the state had not previously had the ability to implement weed abatement programs due to lack of funding, but A.B. 413 would allow those programs to go forward.

Mr. Henderson emphasized that it should be a cooperative effort working with people to control weeds, rather than forcing landowners to participate in weed abatement. He said that being able to point to a few examples should have the

desired effect of showing uncooperative landowners that the state was serious about weed control, and it needed to be a continuing fund.

Mr. Henderson added that in terms of which areas should be chosen as an example, there was a Nevada Weed Action Committee, an interagency body, which could devise a strategy. He indicated that his intent would then be to work with that group to examine the possibilities and determine which areas should be targeted.

Mr. Henderson assured the Committee that the abatement laws were specific to noxious weeds and did not involve sheep grazing as a method. The laws also did not apply to all weeds, but solely to noxious weeds, which was a list updated by the Department periodically. He pointed out that sheep grazing did not control noxious weeds; it merely reduced the weed growth and made the weeds more treatable through spraying.

Assemblywoman Smith asked if the money in the account would only be used for weed abatement on private property. Mr. Henderson explained that the statutes referred to property owners, and there were many property owners in the state, including the federal government. He said that, theoretically, the federal government would fall under the state's abatement laws. Other than the federal government, the property owners would be private landowners as the state did not have any authority over tribal lands.

Mrs. Smith remarked that she received complaints from constituents about weeds, but the majority of the complaints referred to right-of-way areas. She asked if the weed abatement would apply to those areas. Mr. Henderson said it would apply to those areas. If it were a state highway, the Nevada Department of Transportation (NDOT) would contract with the Department of Agriculture to remove the noxious weeds.

Vice Chairwoman Giunchigliani asked if the federal government could be billed for weed abatement on federal land. Mr. Henderson said that theoretically the federal government could be billed; however, the federal government provided funding in the amount of \$1 million to \$2 million per year for weed control, while the state had not to date contributed any funding to weed control and had been using federal funds. There was a state-funded position, which had been very helpful, but until the state and the private landowners contributed to weed abatement, Mr. Henderson did not think the state should bill the federal government.

Mr. Marvel asked if there had been any success in combating the noxious weed problem. He noted that the program had been in place for a while. Mr. Henderson said weeds would continue to be a problem, but there had been great progress in educating private citizens.

Mr. Henderson indicated that there had been discussions for several years regarding increased federal funding. He said that currently there were more than 25 local groups coordinating weed management areas, and he pointed out that representatives from those groups were present to speak to the Committee. Mr. Henderson added that he did not have any figures, but he estimated that the state was now treating more weeds than it had been five years earlier. The local groups were in place and ready to work, but had needed the monetary resources, which the bill would provide.

Mr. Marvel inquired as to how the noxious weeds were imported into the state. Mr. Henderson said that the Department inspected commercial nurseries for

weeds and pests, which was an area in which the Department had improved, but that was one vector. Highways and off-road vehicles were another way in which weeds entered the state. Many people came from California, traveling on the state's public lands, and they carried weeds in their tires and in their equipment.

Mr. Hogan requested clarification as to whether the funds would be available upon requests from counties or conservation districts. He asked if there would be a limit per request. Mr. Henderson said the money in the bill was specific to weed abatement. The money would not be available to local weed groups to conduct weed control; it would be specific to the abatement process, which involved the Department of Agriculture and the local county.

Vice Chairwoman Giunchigliani asked how the federal funds that had been received had been used and whether that money had been given to the conservation districts. She added that she wanted to know if the prisoners in camps were being used in the eradication process.

Mr. Henderson said the work camps were spraying weeds, and they worked for those who could pay the minimum cost associated with the spraying.

Kevin Piper, representing the Nevada Weed Management Association and the 28 cooperative weed management areas throughout the state, addressed the Committee and spoke in support of A.B. 413. Mr. Piper distributed [Exhibit D](#) to the Committee, which contained a map outlining the cooperative weed management areas and a contact list for communication between the cooperative weed areas and established weed control districts.

Mr. Piper indicated that he had provided a report ([Exhibit D](#)) that the Department of Agriculture had generated the previous year detailing the monies that had gone to cooperative weed management areas and how those funds had been used. He noted that the first paragraph of that report showed that match contributions were more than twice the grant amounts.

Mr. Piper emphasized that the cooperative weed management areas in Nevada were volunteer groups. The groups consisted of citizens at the local level who worked with conservation districts and the counties to determine the best way to pool resources to do the work. He said the groups were trying to "spread the wealth" as best they could, but the groups relied on federal funding and volunteers. He added that A.B. 413 would be a "shot in the arm" for all those who volunteered because they would see that there was support for their efforts.

Mr. Piper opined that the cooperative weed management areas and conservation districts would be working "hand in hand" with the counties and the Department of Agriculture in those efforts. He said that in Lyon County, he had spoken with the commissioners, and on issues of natural resource management, the commissioners were willing to work with conservation districts and the cooperative weed management areas to ensure that there was input from the public. Mr. Piper reiterated that the bill would be a "shot in the arm" and he would like to continue to show that "things were getting done on the ground."

Ed James, Carson Water Subconservancy District, spoke in support of A.B. 413. Mr. James explained that the subconservancy district had been very involved in dealing with noxious weeds. He said that the removal of noxious weeds had the biggest impact on habitat enhancement along the Carson River, so through the subconservancy district, the counties, the various weed

management groups, and the federal government worked together to address the problem.

Mr. James said it was frustrating work because those entities did a good job, but there were people who simply did not care. One person would be working to eradicate noxious weeds on his property, and his next-door neighbor would be unwilling to deal with the issue on his property. That was a concern, but A.B. 413 would allow some of those issues to be addressed. He voiced his support of the bill and asked for the Committee's support.

Vice Chairwoman Giunchigliani questioned the methods used to eradicate the weeds. Mr. Henderson explained that the Department of Agriculture practiced "integrated pest management," which meant the situation was reviewed and then a decision was made as to what treatment would be most effective and economical. He conceded that there were pesticides being sprayed in the state to control weeds. In many instances, that was the only option available.

Mr. Henderson noted that as technology had developed and concerns about pesticides had been raised on a state and federal level, there had been advances made. Many of the herbicides used currently were plant hormone-based rather than chemical. He assured the Committee that there were many safeguards in place and studies had been done. It was a very expensive process, and because of that expense, as well as environmental issues and health concerns, some of the most effective pest control tools were no longer viable.

Dan Kaffer, Coordinator, Western Nevada Resource Conservation and Development Council, United States Department of Agriculture, spoke in support of A.B. 413. Mr. Kaffer indicated that he had worked with the state, the counties, and private entities to try and solve the weed problems, and that cooperative effort was important. He opined that A.B. 413 added a key component in increasing the state's ability to treat weeds effectively.

Mr. Kaffer noted that a multitude of grants had been written over the past 15 or 20 years to address the issue of weeds, and as a federal agency, he administered funds that went to private landowners and he had staff who worked to map the weed areas in the state and catalog the weed populations. He emphasized that the state's role was critical and A.B. 413 would enhance that role.

Doug Busselman, Executive Vice President, Nevada Farm Bureau, voiced his support of A.B. 413. Mr. Busselman said they had reviewed the proposed amendments offered by Mr. Hettrick and agreed that the amendments were needed in order for the legislation to have the impact necessary. Under Nevada weed abatement statutes as outlined in *Nevada Revised Statutes* 555.170, landowners who did not comply with the requirement of treating noxious weeds on their property could have their weeds taken care of by county commissioners, who then could assess the landowners for the costs of taking that action. Landowners who did not make payment for the weed treatment could have a lien placed against their property for nonpayment.

Mr. Busselman pointed out that the challenge in making the process work was the lack of funding available to pay the person who carried out the task of spraying the weeds. That person did not want to wait for payment while the property lien process played itself out. The end result was that there was no enforcement of the weed abatement statutes. He said that those property owners who took responsibility for the treatment of weeds on their property

were being penalized when weeds were reseeded by neighbors who did not take care of their responsibilities.

Mr. Busselman opined that passage of the proposed legislation and the adoption of appropriate regulations by the Nevada Department of Agriculture would bring about necessary improvements in accomplishing the purpose of state weed abatement laws. Enforcement of weed abatement statutes was critical if the state was to move forward in gaining control of the invasive weeds that threatened not only agricultural lands but every niche of wildlife habitat and ecosystem in the state.

Mr. Busselman stated that he agreed with the intention of the proposed amendment to set up the fund for control of weeds and to treat the appropriation as an investment for continuing operations in making the state's weed abatement laws effective tools in bringing about accountability for weed control efforts.

Dawn Rafferty, Coordinator, Noxious Weed Program, Department of Agriculture, related the story of a landowner in Star Valley who had worked very hard to remove noxious weeds from her property. Unfortunately, the adjacent land was owned by an absentee landowner who refused to take action to eliminate the noxious weeds on his property. Ms. Rafferty said the landowner was very frustrated; she had spent many years and many dollars trying to control the plants. The landowner had asked what recourse she had. Ms. Rafferty indicated that she had told the landowner that the only recourse was a letter from the Department of Agriculture requiring the absentee landowner to control those weeds. However, the absentee landowner lived in Florida and most likely did not understand the noxious weed issue or how his inaction affected his neighbor, and he would probably choose not to do anything. Ms. Rafferty explained that after writing the letter, the matter was turned over to Elko County, which viewed weed abatement as an unfunded mandate, which meant Elko County could not afford to pay for spraying of the weeds.

Ms. Rafferty said that the appropriation in A.B. 413 would allow the Department of Agriculture to help in situations such as that. She noted that she received letters all summer long from people wondering what could be done about the noxious weeds. She urged the Committee to consider the bill.

Vice Chairwoman Giunchigliani inquired as to how an accounting for the control of weeds would be provided. Ms. Rafferty said in the situation she had outlined, funds would be given to Elko County to hire someone to control the weeds and then a lien would be filed against the landowner. Vice Chairwoman Giunchigliani added that Elko County would then report to the state to show that the money was used for weed abatement.

Larry Hughes, Cochairman, Alpine County/Upper Carson Watershed Cooperative Weed Management Group, said his organization was unique in that it was one of the few groups that was a bi-state entity. He said he shared chairman duties with a woman from El Dorado County in California. He was also the weed control supervisor for Douglas County. Mr. Hughes offered to answer any questions related to the safety of herbicides, as he had been in the business for 25 years as both a private and a public applicator. He indicated that he was very much in favor of A.B. 413, particularly as there were continually situations with absentee landowners that could be addressed if the bill was passed.



Vice Chairwoman Giunchigliani remarked that nuisance control had been passed in a previous legislative session and she wondered if noxious weeds could be added to the list of nuisances in statute.

Mr. Hughes said that California had used fire control laws as part of the solution to noxious weeds. Those laws required everyone to clear and mow land, which was not a solution, but it was an approach that had been somewhat helpful. Vice Chairwoman Giunchigliani said the Nevada Fire Safe Council had been reviewing ground cover regulations in some areas because of the fire danger and said that might be another way to address the issue.

Assemblyman Hogan asked if there was an approximate cost per acre for spraying and if it was conceivable that a large property could cost tens of thousands of dollars to treat.

Mr. Hughes used his work in Douglas County as an example, and said the cost was \$50 per hour for the applicators and approximately \$25 to \$50 per acre for the chemicals used. He pointed out that only in rare instances would an entire property need to be sprayed. There could be a 10,000 acre property with 20 acres of noxious weeds that would need application. Mr. Hughes conceded that the cost would be different if the area had to be sprayed from the air. He added that the largest single property in Douglas County that had been treated had cost approximately \$7,000.

Mr. Henderson interjected that there were instances where \$100,000 could be spent on one property; however, the goal of the Department of Agriculture would be to work on at least 3 or 4 properties to show examples of what could be done. He said those abatements could be completed over the biennium.

Vice Chairwoman Giunchigliani noted that the wording in the bill allowed the Department of Agriculture to accept grants and donations from local governments. Mr. Henderson agreed and pointed out that grants and donations could be accepted from other entities besides local governments.

As there was no further testimony on A.B. 413, Vice Chairwoman Giunchigliani closed the hearing on the bill and opened the hearing on A.B. 435.

**Assembly Bill 435: Revises provisions governing administration and collection of certain fees and taxes by Department of Motor Vehicles. (BDR 43-1038)**

Ginny Lewis, Director, Department of Motor Vehicles (DMV), explained that A.B. 435 requested a change in the process for payment of credit card merchant fees. Ms. Lewis said the biggest issue was that the Highway Fund had carried the burden of paying merchant fees for credit cards; the DMV budget for the 2005-07 biennium would require an appropriation of over \$11 million to fund those costs. The bill would provide a new mechanism so that the Highway Fund did not carry the burden and there would be a "fair share" distribution to all the entities for which the DMV collected revenues.

Dennis Colling, Administrative Services Division Chief, DMV, provided Exhibit E to the Committee. Mr. Colling said:

As you are aware, the DMV currently accepts various credit cards for payment of fees and taxes owed to the state. The Department has made a simple proposal to pay for these costs by taking the costs for each electronic payment, primarily credit cards, but

including any electronic payment method, from each payment of taxes and fees prior to making the appropriate distribution.

This proposal, through A.B. 435, has been built into Budget Account 4745 for the Administrative Services Division of the Department. In order to provide a picture of this process and to show the impact, we have passed out a handout ([Exhibit E](#)). The first page shows the increasing costs the state has and will incur. By the end of FY2007, we project that there is a \$23 million cost to the state for the payment of credit card merchant fees. This money comes directly out of the Highway Fund under the current process.

Mr. Colling directed the Committee's attention to a flow chart in [Exhibit E](#), which showed the distribution of an actual registration renewal transaction in Clark County. The chart showed the cost of the renewal as \$1,395.75; the first tier of boxes showed the breakdown of revenue collected and below that was the breakdown of the distribution of the revenue.

Mr. Colling indicated that the second flow chart in [Exhibit E](#) showed that same transaction incorporating the proposed changes in A.B. 435. He explained that the first chart did not show the merchant fee charges because the DMV currently paid those charges through an appropriation in the budget process. The second chart showed what would happen if the merchant fees were calculated into the distribution.

Mr. Colling noted that it was a very simple proposal with many ramifications. The merchant fee on a \$200 transaction would be \$4. Under A.B. 435 that \$4 fee would be taken off the top leaving \$196 to be distributed. He explained that [Exhibit E](#) also contained the actual totals from FY2004 and the projected totals for FY2005, FY2006, and FY2007. The numbers showed the revenue from credit card transactions, the fees for those transactions, and then the actual amount to be disbursed to each entity to which the DMV distributed funds. He pointed out that \$1,173,687 in FY2006 and \$1,449,153 in FY2007 would be the cost of the credit card fees and would not be disbursed to the local governments and school districts.

Assemblyman Perkins asked who were the most frequent users of credit cards and whether the transactions were done online or in person. Mr. Colling said that approximately 40 percent of customers paid using credit cards online and 60 percent of customers paid in person or through the mail.

Mr. Perkins asked if there were savings in personnel costs since many customers were using online services. He said that "eating the costs of the credit cards" seemed preferable to paying a greater cost in the additional personnel and building expenses that would be needed if all customers had to go into the office to make payments. Mr. Colling agreed and said the DMV's kiosk and Internet services represented more than a major metropolitan office.

Mr. Colling said the DMV brought the proposal forward; the Highway Fund was paying a large amount of money for the collection of the funds that were distributed to many entities. He explained that if the proposal was rejected, the DMV would be very close to the 22 percent administrative cap.

Mr. Perkins said that if credit cards were not used then staff would have to be increased because there would not be an opportunity to complete those

transactions without going into the office, which would move the DMV closer to the 22 percent cap as well. He said it seemed to be a trade off.

Mr. Colling agreed and said the bill had been brought forward as a policy issue for the Legislature to review. He noted that the issue was not merely a DMV issue; other agencies were expanding their efforts to allow the public to pay for services through online transactions and other methods. The DMV had entered into a statewide contract for e-payment that would allow the use of e-checks, debit cards, credit cards, and any other method of payment. He said that any agency throughout the state, including local governments, could make use of that contract.

Vice Chairwoman Giunchigliani agreed that the DMV would approach the 22 percent administrative cap regardless, but the problem was that the budget had been built in anticipation of the policy change. She opined that there should be a system of incentives and disincentives. As a credit card user, she did not mind paying an extra dollar as a fee when renewing, and maybe those customers who did not take advantage of the kiosks or other methods of payment rather than going into the office should be paying a fee as well.

Vice Chairwoman Giunchigliani said she wanted to see something more innovative than just shifting the cost and taking money away from schools and local governments or the Highway Fund. She claimed that people would be willing to pay for services because it saved them time and was more convenient. She hoped the bill could be used as a vehicle for a more innovative method.

Assemblyman Seale said that one of the things he saw in his prior life as Treasurer was a number of insufficient funds checks being returned, particularly from the DMV, which cost the state a great deal of money. One of the reasons that the state had moved toward credit card transactions was that it was part of a debt collection process. The returns on credit cards were significantly less than the insufficient funds checks that had to be handled through the DMV. Additionally, there was a contract that the state had entered into, including the DMV and the Treasurer's Office and the Department of Taxation, to take e-payments. Mr. Seale said it appeared that the DMV's projections were based on credit card usage rather than e-payment usage, but e-payment usage cost significantly less than credit card usage. He asserted that as soon as people had the ability to do e-payments they would do e-payments because it was easier and more convenient in many respects.

Mr. Colling replied that the program was not yet "mature" and the outcomes were uncertain as far as the growth of credit card usage and alternative services. He said that the numbers had not "leveled out" and the DMV could not accurately project how much credit card usage there would be versus debit card and e-check usage. The e-payments would cost approximately \$.20 per transaction and debit card fees were approximately \$.70 per transaction. However, the cost for credit cards was approximately 2 percent per transaction and with the average transaction being \$200 the cost was \$4 per transaction, which was significantly higher than the costs of other methods.

Mr. Colling said he knew of only two other DMVs that started with credit cards and added e-checks as a service. One DMV indicated there was a change of approximately 10 percent from the use of credit cards to the use of e-checks. The other DMV indicated a change of 30 percent. Mr. Colling was unsure as to the underlying data, but he had been using the more conservative 10 percent change in his calculations. He added that there was no way of knowing how

much growth would occur because there might be customers who would not use their credit cards, but would be willing to use an e-check to make a payment. There would also be customers who currently came into the office who would no longer do so once the e-check option was available. Mr. Colling indicated that the testing of the payment platform had been completed and the DMV was prepared to "go live" once everything was in place.

Mr. Seale commented that it would be a good time to "incentivize" and change the behavior in terms of moving customers away from credit cards toward e-checks or debit transactions. Mr. Colling said there had been discussion of charging for the use of credit cards, but contractually the DMV was not allowed to charge for the use of credit cards. A convenience fee could be charged, but a usage fee could not. He indicated that he had the merchant service operating procedures for MasterCard and Visa which said, "The following rules are requirements strictly enforced by Visa and MasterCard: you cannot establish minimum or maximum amounts as a condition for accepting a card, you cannot impose a surcharge or fee for accepting a card."

Mr. Seale said he was aware of that condition, but he thought there could be a way to implement an incentive program. Mr. Colling said that he had looked into the possibility of establishing a fee on the Internet, but the fee would have to be almost \$10 to cover all the credit card costs, which was an extremely large disincentive to people using the Internet. He pointed out that the major purpose of having alternative services was to get the people out of the office, not to force them to come into the office.

Assemblywoman Gansert commended Mr. Colling for his efforts and opined that the direction in which the DMV had moved with respect to credit cards and electronic payment methods was the right way. Mrs. Gansert noted that the DMV had submitted a bill to eliminate the \$1.50 driver's license renewal fee, and in a previous meeting she had asked about price sensitivity and elasticity and had suggested that the DMV research those issues. She added that she agreed that there should be convenience fees to "incentivize" people to use more cost-effective payment methods.

Ms. Lewis said the bill that Mrs. Gansert referred to had been proposed as a means to provide consistency in all the alternative services because the driver's license renewal fee was the only fee charged. She said the fee had been established at the inception of the driver's license renewal by mail program because a funding mechanism had been needed. That program had been in place for more than 10 years, and as the DMV was not prepared to place a convenience fee on all alternative services, the goal of the bill was to eliminate that inconsistency.

Mrs. Gansert suggested that the DMV consider moving the other direction and consistently imposing convenience fees, even if the \$1.50 fee would not completely offset the aforementioned \$10 fee, it would offset a portion of the cost. Ms. Lewis stated that The Executive Budget did not reflect any fees imposed on any of the DMV's alternative services.

Assemblyman Hettrick commented that there should be a tiered system with the highest fee for renewal paid by the person who walked into the office, the second highest fee would be for using a credit card, and the lowest fee would be assessed for e-payment. That would create a true incentive program, and if fees were based according to the DMV's cost of doing the transaction, then people could be "incentivized" to move toward the e-payment, which would be the most cost-effective method.

Ms. Lewis conceded that there was some merit to Mr. Hettrick's suggestion, but she cautioned the Committee about the individuals who had no choice but to go into a DMV office. There were veteran's exemptions in the office, and there were people who had transactions that could not be done through an alternative method. Ms. Lewis pointed out that from a public relations perspective, the state would be penalizing someone who had no other option than to go into the office.

Mr. Hettrick agreed and pointed out that the number of transactions the DMV did in one year meant a nominal fee of only \$1 or \$.50 could be charged. If there was \$3 million in credit card fees, a portion of that could be recovered through a nominal fee. He emphasized that he did not want to penalize those people who had to go into the office, but he wanted there to be an incentive to use other methods.

Chairman Arberry remarked that he liked to deal with people rather than use the kiosks or a telephonic system. He asked if the options being discussed would have any effect on staffing.

Ms. Lewis explained that A.B. 435 would not have any effect on staffing. She pointed out that there had been earlier discussion regarding how the alternative services that had been implemented saved the state money in personnel and building costs.

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, pointed out for the Committee members, particularly those members who served on the Joint Subcommittee on Public Safety, that the action the Committee chose to take on A.B. 435 could have an impact on budget closings. Mr. Stevens explained that if the Committee chose not to process the legislation, the budgets would have to be amended.

John Madole, Associated General Contractors, Nevada Chapter, spoke in support of A.B. 435 and provided [Exhibit F](#) to the Committee. Mr. Madole commended the DMV for proposing the legislation. He said that one of his concerns was that there were not enough dollars in the Highway Fund to build the roads and infrastructure that Nevada needed.

Mr. Madole emphasized that he did not want to punish local governments, but he was concerned about the inequity if a change was not made. Currently, if someone purchased a new car and paid \$500 for registration and renewed using a credit card, \$33 of that money was placed in the Highway Fund, but the Highway Fund was then used to pay \$9 in credit card fees. Mr. Madole said the Highway Fund should bear the direct proportion of the merchant service fee, which would be approximately \$.65 in the above example. However, the Highway Fund was used to pay the full cost of \$9 rather than each entity paying a portion of the cost.

Mr. Madole pointed out that there was a \$100 million interchange project in southern Nevada that the Nevada Department of Transportation hoped to build. Based on the information from the DMV, the changes in A.B. 435 would pay for that interchange in approximately 12 years. He voiced his strong support of A.B. 435 and added that as super highway projects were bonded, money would be taken from the Highway Fund to pay those bonds, and the changes in A.B. 435 would ensure the health of the Highway Fund.

Mary Henderson, representing the City of North Las Vegas, said she was one of the lobbyists in past sessions who had spent many hours in the Committee on Government Affairs trying to bring the state of Nevada “kicking and screaming into the credit card business.” Ms. Henderson said many hours had been spent to bring the state to a point where the technology and the convenience for the customer met. As a result of that work, NRS 353.1465 was put in place and provided the state with a mechanism to levy surcharges.

Ms. Henderson said the state was a “victim of its own success.” The credit card option had changed the way the state did business, and there had been tremendous growth in credit card usage. She said it was a matter of convenience and was of benefit to the citizens to make payments in that manner. That success, however, led to the dilemma of sharing the costs of that success.

Ms. Henderson pointed out that for local governments at the city and county level and the school districts, the Government Services Tax (GST) was approximately 62 percent of all transactions. The decision to pay those fees out of the Highway Fund was a budgetary decision made by the state.

Ms. Henderson stated her concern that A.B. 435 would be “death by a thousand paper cuts.” She said that every session one more state agency was trying to shift costs to the local governments, which made the budgeting process for the local governments difficult. The bill had been proposed early enough in the session to allow the local governments to react and to try and find creative ways to solve the problem. The cost shift to the local governments at such a late date was problematic and troubling, particularly as there were other mechanisms in place in state law to address the issue of whether the funds came from the General Fund or from surcharges paid by users. She pointed out that local governments had surcharges.

Ms. Henderson emphasized that the local governments did not want to take money out of the Highway Fund, and the voters of Churchill County, Washoe County, and Clark County had chosen to pay one cent to the Highway Fund that was directly earmarked for road construction. The local governments worked with the state to maintain and build roads. She said that the impact of A.B. 435 on the City of North Las Vegas would be approximately \$400,000. She urged the Committee to find another way to address the issue rather than shifting the costs to the local governments and school districts.

Pat Zamora, representing Clark County School District, spoke in opposition to A.B. 435 and provided [Exhibit G](#) for the record. Mr. Zamora said the DMV had done well in presenting the impact the bill would have on local governments and schools, but he wanted to emphasize the effect it would have on the Distributive School Account (DSA). He explained that the Government Services Tax (GST) was outside the guarantee of the DSA per pupil calculation and any loss of revenue, especially in Clark County and Washoe County, was “a direct loss of revenue that was intended for children.”

Dotty Merrill, Washoe County School District, opposed A.B. 435 and said the importance of the policy discussion was appreciated and would have an impact on the state’s school districts. Ms. Merrill said that as Mr. Zamora had previously indicated, the loss of the GST was outside the DSA, which meant that the cost to the Washoe County School District would be more than \$172,000 in FY2006 and more than \$213,000 in FY2007. She remarked that although the proposal had been called simple by previous speakers, from the



perspective of the school districts it was not a simple proposal. It was a very important policy issue.

Ms. Henderson interjected that an additional piece of information it was important for the Committee to know was that the City of North Las Vegas already paid a 6 percent collection fee to the state, which amounted to approximately \$10 million per year. She said the state was being compensated for its collection activities on the GST.

J. David Fraser, Executive Director, Nevada League of Cities and Municipalities, spoke in opposition to A.B. 435 and provided Exhibit H. Mr. Fraser complimented the DMV for the improvements that had been made. He thought the credit card payment option was a good practice as it contributed to better service. However, he believed that the DMV had made that decision knowing that it would create cost savings and increase customer satisfaction as well as creating a cost in merchant fees.

Mr. Fraser indicated that the most relevant factor was, as Ms. Henderson had pointed out, that a 6 percent fee was already withheld from the GST distribution to local governments and the merchant fees would be added to that. He said it was important that a more innovative approach be found because there would be an impact of approximately \$8 million to \$11 million on local governments and other state agencies would face similar situations. If A.B. 435 were to be passed, it would address the DMV situation, but it would not be a solution for similar situations in other agencies.

Mr. Fraser referred to Mr. Hettrick's proposal of a tiered system and said that a tiered system would meet two challenges: it would allow for the recovery of a portion of the fees, and it would "incentivize" people to use alternative payment methods. He said he would be happy to work with the DMV and local governments to find a creative solution that would address future issues for other state agencies.

Mr. Fraser repeated that the cost to the local governments would be significant and the cost would be added to the 6 percent local governments already paid for the administration of the program.

Andrew List, Executive Director, Nevada Association of Counties, addressed the Committee and said the Nevada Association of Counties was opposed to A.B. 435 for the reasons stated by Mr. Fraser. He said that NACO welcomed the opportunity to work with the Committee, the DMV, and other local governments to find a solution to the problem and any problems that other state agencies might have in the future with credit card user fees.

Stephanie Garcia-Vause, Legislative Advocate, City of Henderson, spoke in opposition to A.B. 435. Ms. Garcia-Vause pointed out that the fiscal note for the City of Henderson had been revised and it would be an impact of approximately \$250,000 per year.

Susan L. Fisher, representing the City of Reno, went on record as being opposed to A.B. 435. Ms. Fisher said the fiscal impact to Reno would be approximately \$250,000 per year.

John J. Slaughter, AICP, representing Washoe County, voiced opposition to A.B. 435.

Sabra Smith Newby, representing the City of Las Vegas, expressed opposition to A.B. 435.

Ms. Giunchigliani asked whether the impact on local governments had been discussed during the budget building process.

Lisa Foster, Deputy Chief of Staff, Office of the Governor, responded to Ms. Giunchigliani's question and said that as the Governor's Office was reviewing the budget, the impact on local governments had been understood, but there had not been a discussion regarding the impact on schools.

Ginny Lewis, Director, DMV, interjected that as the DMV had been building its budget, she had met with Ms. Foster and had provided information similar to what was included in Exhibit E. Ms. Lewis said that they were aware of the impact, and it came down to a "fairness issue."

Ms. Giunchigliani inquired if the "fairness issue" had been discussed with local governments. Mr. Colling replied that he had met with representatives from the League of Cities, NACO, the City of Reno, the City of Las Vegas, and the Clark County School District. He assured the Committee that he had spoken with as many local entities as possible, and he had provided statistical data and informed them of the DMV's decisions.

Ms. Giunchigliani stated that she hoped a different method could be found that would be more beneficial to both the state and the local governments because she did not think A.B. 435 and the shifting of costs was the right approach.

Chairman Arberry called for a brief recess at 9:34 a.m. The meeting was reconvened at 9:42 a.m. Chairman Arberry indicated the Committee would hear the next item on the agenda.

**Assembly Bill 514: Makes appropriation for pilot programs providing alternative educational settings for disruptive pupils. (BDR S-937)**

Assemblywoman Bonnie Parnell, District 40, presented A.B. 514 and asked the Committee to envision an assortment of disruptive behaviors: students throwing books, furniture, and backpacks; threatening fellow students, teachers, and administrators; engaging in various forms of intimidation and harassment. Ms. Parnell pointed out that all those behaviors were taking place in public schools today.

Ms. Parnell explained that A.B. 514 requested an appropriation of \$1 million over the biennium to the Department of Education for distribution to schools to establish pilot programs for alternative educational settings for disruptive students. She said that such programs would provide a setting outside of the regular classroom of the pupil, ensure that pupils who were participating were separated from pupils who were not, provide supervision and counseling, provide and emphasize the instruction of core subjects, provide training and self-discipline, and, when appropriate, provide for a transitional stage between in-school or at-home suspension for regular school activities.

Ms. Parnell continued and said that each school that would apply for the grant money would develop programs for their specific student needs while keeping the essential parts of the program the same throughout the state. At the end of the year, each school, which participated, must report the progress made by the pilot program, and, adding to the report and evaluation factor, the Department of Education would be required to evaluate the effectiveness of the programs



and report back to the Legislative Committee on Education and to the director of the Legislative Counsel Bureau.

Ms. Parnell said the programs had been proven successful in the past. C.P. Squires Elementary School in Clark County piloted a similar program for disruptive students with unparalleled success. That pilot program was a result of the passage of A.B. 521 of the 70th Legislative Session.

Ms. Parnell introduced Carol Lark, the principal at C.P. Squires Elementary School when the pilot program took place. Ms. Parnell explained that in the 1999 Legislative Session there had been an appropriation made for a pilot program, but after that initial two-year period, the funding "dried up" so the school was unable to continue with the practice and achieve the success that Ms. Lark found when she was utilizing the available funds.

Ms. Parnell commented that teachers often said one of the main issues in the classroom, and an issue that was forcing them out of the classroom, was disruptive students. Teachers had no options for dealing with disruptive students; there was no place to send them. The question became how to help the disruptive students while ensuring that the other students in the classroom were able to learn and given the opportunity to succeed.

Ms. Parnell said she had talked to a friend whose daughter was in her first year of teaching in a first-grade classroom, and the students' behavior had been so horrific that she was leaving the profession at the end of her first year. Ms. Parnell noted that one of the biggest issues in education was the inability to retain teachers, and she opined that one of the reasons was the behavior problems. A.B. 514 attempted to solve the problem in a creative manner that would help both the student who was being disruptive and his fellow students.

Ms. Giunchigliani said she remembered previous attempts at alternative programs that had been successful, and asked if A.B. 514 would allocate revenue for similar programs.

Ms. Parnell explained that there had been money allocated for the initial program, but only for the first two years. Ms. Giunchigliani asked if the amount requested was the same. Ms. Parnell said the request was for a \$500,000 appropriation in each year of the biennium. The Department of Education would receive the money and then schools would apply to the Department to fund their particular programs.

Assemblyman Hogan requested details as to why the C.P. Squires program was terminated and if there had been any reports or specific recommendations generated from the pilot program. Ms. Parnell indicated that Ms. Lark would address that question in greater detail, but the program had been very successful and the behavioral specialist from C.P. Squires had been able to visit and train at other schools.

Carol Lark, former principal of C.P. Squires Elementary School, explained that her school had received funding from the aforementioned A.B. 521. Ms. Lark commended Assemblyman Perkins for visiting classrooms to evaluate the program, which she felt had moved the school from 3 out of 4 "in need of improvement" academic areas to a national distinguished Title I school.

Ms. Lark related her experience with the pilot program and said that prior to working at C.P. Squires, she had worked in a suburban school setting. The first year had been very difficult, and she had spent the majority of her time

disciplining students and having parent conferences. Ms. Lark indicated that parent conferences in the suburbs tended to be effective, but did not necessarily work in an at-risk school. She realized early on that parent conferences and suspensions were not solutions.

Ms. Lark said that several teachers had approached her saying that they would be leaving the school if the students' behavior could not be controlled. In desperation, she appealed to a professor at the University of Nevada, Las Vegas, who shared William Glasser's model, known as choice theory. At that point, she wrote the grant for A.B. 521 funding and, with that money, trained 15 staff members, hired a behavior specialist and a support staff person, and implemented a program using choice theory.

Ms. Lark stated that the program had been extremely successful, but the program had required time to develop. The first year had been difficult with 66 children in the program, 35 of whom were repeat offenders, and 20 who were constantly in and out of the program. She joked that those children thought they could "outlast" school employees, but the program gave the students a choice and showed the children that their teachers loved them too much to send them home. The students would stay in school, but would be placed in a different setting. In that setting, there were no fancy bulletin boards, the students had only one bathroom break in the morning and one bathroom break in the afternoon, and they were required to do a lot of paperwork. The classroom teachers were also required to speak to their students every morning and tell them that they were wanted in the regular classroom as soon as they could control their behavior.

Ms. Lark emphasized that it was important the students knew they were loved, but that disruptive behavior would not be tolerated. The teachers at the school had loved the program because teaching was easier without disruptions. The second year of the program there were only 35 children in that room with 12 repeat offenders. The room was not even necessary in the third year because a culture had been created and the students trained each other in what was expected of them.

Ms. Lark said the children knew that if they misbehaved they would have to be placed with Daniel Rautenstrauch, the teacher in charge of the children in the program. She explained that "Mr. R." was "on them like scum on a pond." He met the children at the bus, he had breakfast and lunch with them, he walked through classrooms, and he intervened when a child was misbehaving. The children knew that and they respected him.

Ms. Lark said that some teachers had noticed how well the program was going and had asked if Mr. Rautenstrauch was a necessary part of the program, but when he had to be gone for two weeks everything fell apart. She said there was no other administrator or teacher who could devote the necessary time to those very high-maintenance at-risk children. When their needs were met, those children could be successful and could be placed back into the classroom where they belonged, but they needed structure. Some of the children would never be allowed to go out on the playground because they could not handle the lack of structure. They were able to handle the classroom because they had a loving teacher, and they had Mr. Rautenstrauch to support them. Mr. Rautenstrauch worked with the children in a positive manner giving them options such as coaching the intramurals rather than going outside to recess. The children were always treated with dignity and respect.

Ms. Lark asserted that A.B. 514 was the most critical way that the state's money could be used. She said that the state could fund all the programs and staff, but without an environment conducive to learning that funding was wasted.

Ms. Lark referred to the fiscal note on A.B. 514 and said that with the funding appropriated under the other bill in 1999, 4 schools had been able to implement programs. Using her model, Ms. Lark believed that funding could be provided for programs at 8 to 10 schools because the support staff position was only necessary for the first year. Once the program was fully implemented and the behavior team was trained, that position was no longer needed. She indicated that she had met with the behavior team every week to discuss the needs of every child and ensure that the child had the support of the classroom teacher, the behavior specialist, and other members of the behavior team. Ms. Lark stressed that the program was not merely a detention room. If schools used it as such, the children would be angry and the program would fail. The culture of the school had to change.

Chairman Arberry remarked that it appeared there had been a perfect model at C.P. Squires Elementary School with a teacher who could handle the children and with support staff who were willing to work together. He pointed out that other schools might not have the same resources available in terms of teachers and behavior specialists. He asked what would happen if the school did not have a group as dedicated as those at C.P. Squires.

Ms. Lark assured him that everything that had been done at her school could be duplicated. It required training, but approximately \$4,000 for training had been figured into the appropriation in the bill. The bill also clearly delineated that certain criteria had to be followed and requirements had to be met.

Assemblywoman Smith thanked Ms. Lark for testifying and said she had "expected to see a halo on [Ms. Lark's] head" because she had heard so much about her work and the program. Mrs. Smith asked how the money in the C.P. Squires program had been used.

Ms. Lark said money had been used to fund one licensed position, one support staff position, and training.

Mrs. Smith asked if that training had been for the entire staff or just the behavior team. Ms. Lark explained that the team of 15 had been trained and then the rest of the staff had been trained internally, which had taken about 2 to 3 years to fully implement.

Ms. Giunchigliani commended the program and said that the concept of in-house suspension was new when she began teaching 25 years earlier, and it had been an attempt to use the Glasser model for discipline. In-house suspension was not supposed to be the fun place, it was supposed to be nurturing, but there were definite restrictions. The problem throughout the districts was that, without the training component, the in-house suspension program had become "the place students wanted to go because they were allowed to chew gum and kick back."

Ms. Giunchigliani said the program would not work without training and the C.P. Squires program had been successful because of the training component. She added that the program had been a good idea 25 years earlier and it could still work given the necessary funding.

Assemblyman Denis inquired as to how the team of 15 had been chosen. Ms. Lark indicated that some had volunteered and others had been selected. The team needed a behavior specialist, a counselor, a special education representative, and a representative from each grade level. The teachers had discussed among themselves who should be on the team and they had chosen a representative.

Assemblyman Hogan opined that A.B. 514 was addressing a critically important issue and asked how quickly the program could move through the pilot phase and become a program that could be spread throughout Nevada's schools.

Ms. Parnell said that had been the intention of the bill passed in 1999 and school committees had formed, but the schools did not have classroom space available for alternative placement, the districts were not recruiting behavior specialists, and the funding had disappeared. However, those committees were still in place and met to discuss disruptive children in classrooms and potential solutions to problems.

Ms. Parnell commented that most schools had resorted to at-home suspension, which did not solve the problem and was not helpful academically. She said that A.B. 514 would help create teams like Ms. Lark's group, who might even be able to train other teams. Teachers and administrators were willing and excited to begin the program, and Ms. Parnell opined that it would not take very long to get a program in place.

Mr. Denis asked if there was a parent training component in the program as well. Ms. Lark explained that one of the primary responsibilities of the behavior specialist was to communicate with the home. In one case, the behavior specialist discovered that the children were being abusive to their single mother, and Mr. Rautenstrauch had worked with the family so that the children knew if they mistreated their mother, she would tell Mr. Rautenstrauch. Ms. Lark noted that in some cases it was necessary that the children have accountability at school for things that happened at home.

Ms. Lark added that the program had already reduced her role in disciplining the children, allowing her to focus on being an instructional leader rather than a disciplinarian. She met with her behavior team once a week and the week ran very smoothly.

Ms. Lark said her team had created a PowerPoint presentation about the program that they had shared at 5 or 6 schools. She said the schools often indicated that they could not do the program because they did not have a Mr. Rautenstrauch, but she felt every school could find someone, train him, and write a grant for funding to implement the program. Once her team shared what could be done, the other schools could begin discussing choices with students rather than punitive measures, which would allow for progress.

Mrs. Smith remarked that while classroom disruption was frustrating to teachers, it was also frustrating for parents of the children who were not disruptive. Parents often felt their children were being affected negatively by the disruptive behavior in the classroom. She said she liked that aspect of the program from the point of view of the parents, but she also liked that the school worked with the parents of the disruptive children as well.

Mary Pierczynski, Superintendent of Schools, Carson City School District, spoke in support of A.B. 514. Dr. Pierczynski thanked Ms. Parnell for proposing the

bill, and related how when she had met Ms. Parnell, Ms. Parnell was running a classroom for in-house suspension at Carson Middle School.

Dr. Pierczynski pointed out that classroom discipline was one of the major tenets of iNVEST 2005, which was the plan to improve student achievement in the state. The plan had been initiated by the Nevada Association of School Boards and the 17 superintendents of the school districts. She said that classroom discipline was one of the most serious challenges facing public schools throughout the nation and in Nevada. The No Child Left Behind Act (NCLBA) recognized the importance of classroom discipline and safe schools.

Dr. Pierczynski indicated that A.B. 514 was a step toward helping the schools handle students with behavioral disorders. She expressed appreciation for the bill on behalf of all the school superintendents in Nevada and urged the Committee's support of A.B. 514.

Chairman Arberry remarked that his sister had been an educator for over 30 years, and she had retired due to the discipline problems in the school and in her classroom.

Assemblyman Perkins complimented Ms. Lark for her efforts. Mr. Perkins said the behavior specialist was an important part of the equation, but it was through Ms. Lark's leadership that the school was doing amazing things. It was a school located in the heart of a low-income area, and the statistical analysis of where the school came from and where it went was impressive. When Ms. Lark had started, the school was not making adequate yearly progress in many areas, but had since been nationally recognized for its improvements and accomplishments. Mr. Perkins noted that Ms. Lark had been promoted and was no longer the principal of C.P. Squires, but perhaps in her new capacity she could offer other school principals advice and help them implement the model that had been used at C.P. Squires.

Dr. William Robison, representing Nevada Association of School Psychologists, voiced his support of A.B. 514 and continued funding of the pilot program that provided alternative educational settings for disruptive pupils. Dr. Robison said that as a retired school administrator from Douglas County, who had worked at both the elementary and secondary level, he was often faced with students with severe discipline issues that "sabotaged" the learning of others, and he was aware that teachers often were forced to spend a tremendous amount of their instruction time dealing with those students.

Dr. Robison said he presently worked as a part-time school psychologist and behavioral specialist for the Lyon County School District. His specialty was writing and developing behavior management plans and programs for students identified and served under the federal Individuals with Disabilities Education Act (IDEA). Those students received services through their Individualized Education Programs (IEP). However, school resources were limited and did not allow for alternative placement for students who were very disruptive. He pointed out that his work did not include those hundreds of students not protected under the IDEA who were behavior-disordered and required alternative placement so they could receive appropriate counseling programs and be supported as they transitioned from at-home suspension back into the mainstream of the regular classroom.

Dotty Merrill, representing the Washoe County School District, spoke in support of A.B. 514. Ms. Merrill pointed out key factors in the bill. On page 2 of the bill in subsection 3, the bill said that the program must provide supervision and

counseling to the pupils who were engaging in the programs, along with an evaluation based upon the data collected to measure the effectiveness of the program. Ms. Merrill said she was supportive of the accountability provisions connected to the funds. She pointed out that the program would aid students in moving forward and would not impede their progress, and she indicated that the school district was very much in favor of the legislation.

Ken Lange, Executive Director, Nevada State Education Association (NSEA), addressed the Committee. Mr. Lange explained that the NSEA had been involved in the development of the previous legislation and had provided substantial training and information to its members to begin to build the committees. He said it had been gratifying to hear Ms. Lark's proposal and that when teachers were empowered, they were able to "turn things around."

Mr. Lange said that while the appropriation in A.B. 514 would help 8 to 10 schools, there were 221 schools on the watch list. He opined that A.B. 514 was a "good start," and he urged the Committee's support of the bill.

Doug Thunder, Deputy Superintendent for Administrative and Fiscal Services, Department of Education, indicated that the Department was in support of the bill and was willing to assume the responsibilities that would be placed upon it if the legislation was passed.

Ms. Giunchigliani said that a classroom teacher could not teach with disruptive students, and too often teachers reached a point where they were frustrated and escalated a situation rather than defused it. The program offered a way to defuse those situations. She added that if the Legislature chose to act on the legislation, perhaps it was time to place it in the budget as a line item with a specific amount requiring accountability.

Ms. Giunchigliani asserted that there should be more than 10 schools to benefit from the program; it was necessary in every school and the appropriation in A.B. 514 was inadequate. She pointed out that the committees were still in place at the schools and just needed funding.

Ms. Parnell added that during the 2003-04 school year, there were over 10,000 students suspended from school in Nevada.

As there were no further comments, Chairman Arberry declared the hearing on A.B. 514 closed and opened the hearing on A.C.R. 10.

**Assembly Concurrent Resolution 10: Directs Legislative Commission to conduct interim study on adequacy of school finance in Nevada. (BDR R-1199)**

Assemblyman Richard Perkins, District 23, presented A.C.R. 10. Mr. Perkins made the following statement:

Assembly Concurrent Resolution 10 calls for the Legislative Commission to conduct an interim study of school finance in Nevada. The study is to include an analysis of the revenues and distributions of funds through the Nevada Plan for School Finance, an analysis of the costs of providing adequate educational opportunities, an analysis of best practices in efforts to achieve adequacy, and the cost to implement those practices in Nevada.

I'm bringing this proposal to your committee, Mr. Chairman, because I'm convinced it is time to review how we fund our public

elementary and secondary schools. The Nevada Plan has served us well. National finance experts consider it to be one of the most equitable formulas in the country. We are only one of five states that have never been sued over our distribution formula. But the Nevada Plan was enacted in the late 60s. In 1970, the total enrollment in our public schools was 125,000 students. This year we are serving over 400,000 students. Not only are we enrolling more students in total, but our population has become more concentrated. In 1970, Clark County had 275,000 residents, which was 56 percent of the state's total population. In 2004, Clark County had 71 percent of the population.

Within this more urban population, the students coming through our doors are also changing. For example, the number of children who are limited English proficient has increased in Nevada by 350 percent over the past decade.

I've been concerned about the pressures created by this huge growth for some time because it impacts all areas of public services. So, as the chairman of the Legislative Committee on Education, I decided to take the Committee on the road during the last interim. I wanted to see firsthand the challenges confronting our schools.

I concluded that the districts are trying to reach a more diverse population through programs funded by an outdated system. Our basic support formula predates the federal special education laws. It also was enacted long before Nevada's academic standards movement and the high-stakes testing mandated by No Child Left Behind. Since the 1970s most states have revised their state aid formulas to recognize the added costs of teaching economically disadvantaged children and those with special needs.

In this age of sanctions and consequences, Nevada's teachers and schools are charged with bringing all children to proficiency, but, unlike some of the states, we do not fund the schools with that goal in mind. I am in fact suggesting to you that we don't fund public schools to provide an adequate education. We don't know what it costs to provide programs to teach all children so that they can achieve proficiency.

It is time that we take a look at this. I might add that the time may be long overdue. No one that I spoke to recently can even recall a study of the Nevada Plan. I'm asking for the funding of an RFP [Request for Proposal] to contract with an outside vendor for an adequacy study. It is important to ensure that the study is objective. It is also important that we contract with a consultant who has expertise in school finance so that we get reliable data. I believe that a study of adequacy of Nevada school funding will give us some guideposts to help us determine what we should be spending. We can use the data to help us allocate our resources more effectively.

Another outcome of this study is that we will get data that we can use to develop indicators to link funding to school performance. We can use the data to hold the districts accountable. It is time

that we start spending for results, and I urge your support for Assembly Concurrent Resolution 10.

Mr. Perkins added that in the 70s, 80s, and 90s, there was a huge litigation movement across the country over equity. Nevada did not undergo that litigation due to the Nevada Plan, which was looked to as a model. However, the new wave of litigation was over adequacy, particularly in the wake of educational reforms first started by this state in 1997 and then enacted by Congress with the No Child Left Behind Act.

Mr. Perkins noted that adequacy suits had caused the courts to step in and take the funding decisions out of the legislature's hands in many states. He did not want that to happen in Nevada.

Mr. Perkins pointed out that an adequacy study would also show whether the funding was being distributed appropriately. He assured the Committee that the study was not merely about adding money to public education, but also creating accountability and finding best practices and more efficient ways to use the funds.

Mr. Perkins indicated that during the previous interim he had chaired the Interim Committee on Education, and he said that staff had traveled to an education finance seminar hosted by the National Conference of State Legislatures. The staff had brought back information on the litigation underway in many states. He emphasized that the *Nevada Constitution* dictated that the state fund public education, but it did not define what that public education was; however, he opined that the court would decide that the implication was that a public education had to be an adequate education.

Ms. Giunchigliani commended Mr. Perkins for presenting the legislation and said that it was time to examine the funding formula. She noted that Mr. Perkins had mentioned a consultant, but there was not an accompanying fiscal note. She questioned the cost of the consultant and commented that the consultant cost might need to be added to the legislation.

Mr. Perkins indicated that he would consult with staff to determine an appropriate amount for the consultant. He pointed out that there was a budget of \$150,000 for each interim committee, and he thought those funds might be used to pay part of the cost.

Joyce Haldeman, representing the Clark County School District, spoke in support of A.C.R. 10, which she called a "proactive approach" to funding education in the state of Nevada. Ms. Haldeman indicated that school districts across the state had been very supportive of the standards and the implementation of the high school proficiency exam as well as the requirements of the No Child Left Behind Act so that the districts could measure whether or not children were receiving an adequate education. However, along with the increase in requirements, there needed to be an examination of whether there was sufficient learning time to meet the standards. She said that a curriculum audit would determine if there was enough time in the school year and the school day to learn to master the various subjects on which students were tested as they were exiting the system. The adequacy study would examine those results. Ms. Haldeman stated that the Clark County School District was very much in support of A.C.R. 10 and would assist and provide whatever cooperation was necessary.



Ms. Giunchigliani agreed that a curriculum audit was important, and remarked that she had heard testimony from a teacher who had claimed that 48 days of instructional time were being lost due to testing. She said it was important to "get a handle" on that situation and consider which exams were necessary and whether or not lengthening the school year would be a good option. Ms. Giunchigliani pointed out that Connecticut and Utah were refusing to comply with the No Child Left Behind Act and said that might be an option because children could not be expected to learn if there was no time to teach them.

Ken Lange, Executive Director, Nevada State Education Association (NSEA), thanked Assemblyman Perkins for presenting A.C.R. 10. Mr. Lange said that the NSEA had learned, after attempting to pass the national average initiative petition, while people intuitively understood their children were not receiving what children in other states received, many of them wanted much more specific information about why additional funding was needed and how it would be used.

Mr. Lange claimed that A.C.R. 10 would provide that information and address those concerns. He explained that the NSEA had the same fight every time to provide more funding for textbooks, for salaries, for deferred maintenance of schools, or for class-size reduction, despite the state's "unprecedented fiscal health." The resolution would help the state get a clearer picture of how much funding was required.

Mr. Lange pointed out that the demographics of the state and its school age population had changed substantially. The challenge for educators had increased, and while educators had risen to the task, it would be difficult in the long term to continue providing educational excellence. He emphasized the need for a thorough and impartial study conducted by experts.

Mr. Lange explained the four basic models of adequacy studies. The whole school model meant leaders selected a model they believed worked, determined the costs, and then applied it across-the-board. It was a relatively inexpensive process as far as the consulting costs. The second model was a statistical model where districts would take all the costs to provide education, run them through a statistical model, much like the econometric models used by the Economic Forum to determine the increase in revenue, and generate a model. While that was also fairly inexpensive, it relied on the quality of the model. The third model was the professional judgment model where there were panels of experts, both from within and outside the state, and the panels developed ideas about what was needed. The final model was called the successful schools model and examined school spending in schools that had been successful in teaching to proficiency standards, that model used a weighted average and generated an amount. Mr. Lange noted that the last two models were more expensive in terms of the process, but regardless of the model, it was important to perform the review. He encouraged the Committee's "positive response" to A.C.R. 10.

Doug Thunder, Deputy Superintendent for Administrative and Fiscal Services, Department of Education, indicated that he had been very involved in the Nevada Plan over the years, and he recognized the need for a thorough review of that plan and the adequacy of funding. Mr. Thunder noted that additional requirements had been placed upon schools in the areas of security and discipline issues as well as standards requirements, but the plan as it existed did not address those issues. Because of the way the plan was structured, if

additional funds were required in one district, the other districts would have to give up part of their funding.

Mr. Thunder said he was proud that the plan had allowed the state to avoid litigation, but he also recognized that litigation had been based on equity and the newer litigation was based on adequacy. Mr. Thunder voiced his strong support of the independent study.

Dotty Merrill, representing the Washoe County School District, spoke in support of the study. Ms. Merrill said there had been a number of audits of school districts, but A.C.R. 10 was the first proposal to review the funding mechanism for the entire state and determine whether the funding was adequate for the schools. She said the district "strongly encouraged positive action on the resolution."

Chairman Arberry asked if there were any further questions or comments. There being none, Chairman Arberry declared the hearing on A.C.R. 10 closed and opened the hearing on S.B. 90.

**Senate Bill 90 (1st Reprint): Makes supplemental appropriation to Department of Human Resources for unanticipated operating expenses for Fiscal Year 2004-2005 at emergency hospital annex at Desert Regional Center and for unanticipated shortfall in revenue for Fiscal Year 2004-2005 for rural clinics. (BDR S-1191)**

Peter Brand, Administrative Services Officer III, Southern Nevada Adult Mental Health Services, presented S.B. 90, which made a supplemental appropriation to the 28-bed hospital annex on the campus of Desert Regional Center. Mr. Brand explained that in July and August of the previous year, the agency had received \$939,307 from three different sources: \$100,000 from the Division of Emergency Management to pay operating costs for WestCare; \$339,307 from the Board of Examiners Emergency Fund, with \$136,000 used to pay WestCare costs, and \$203,307 to pay start-up costs for the 28-bed annex in Building 1300; and \$500,000 from the IFC Contingency Fund to fund Building 1300.

Mr. Brand said that the original projection of the cost for Building 1300 had been approximately \$3,670,000; with the deduction of the \$939,000 already received, the amount left was approximately \$2,731,000.

Mr. Brand said his purpose was to update the Committee on the current status of the project. The analysis of Building 1300 actual and projected expenses indicated a current need of \$2,410,000. That amount was less than the current amount in the bill by \$321,000. He indicated that expenses for operating Building 1300 were less than originally projected due to savings in personnel services, operating costs, and professional contracts. In addition, the agency had reviewed its overall budget for savings and had contributed those savings to reduce the request. The budget for the 2005-07 biennium for the continuation of Building 1300 had been submitted as part of The Executive Budget for Southern Nevada Adult Mental Health Services.

Rob Forderhase, Administrative Services Officer II, Rural Clinics, introduced Ray Kendall, Acting Director, Rural Clinics, and spoke in support of S.B. 90. Mr. Forderhase explained that due to continuing budget shortfalls during the 2001-03 biennium, a Letter of Intent had been issued requesting that Rural Clinics review its methodology for estimating budgeted revenues. Per this request, Rural Clinics changed its methodology from one based upon the

amount of revenue generated by clinical FTEs to one based upon the percentage of clients who were covered by each of the four major revenue sources: Medicaid, Medicare, third-party insurances, and client-direct fees.

Mr. Forderhase opined that the methodology used in building the budget for the 2005-07 biennium more accurately projected potential outside revenues. Unfortunately, FY2004 and FY2005 budgets were built using the incorrect methodology and Rural Clinics was currently facing a revenue shortfall. He indicated that Rural Clinics had attempted to correct the shortfall by keeping positions vacant, by cutting back on contract psychiatry hours, and by postponing equipment and supply purchases. Having taken those steps, there was still a projected deficit of \$481,000. He was requesting a supplemental appropriation in the amount of \$483,000, which was the amount that would be required for the agency to operate through FY2005.

Ray Kendall, Acting Director, Rural Clinics, indicated that he was present to answer any questions.

Chairman Arberry asked if there was anyone else who wished to testify. There was not, and Chairman Arberry declared the hearing on S.B. 90 closed.

**Senate Bill 496: Makes appropriation and authorizes expenditure of federal money for early funding for design of Las Vegas Readiness Center. (BDR S-1419)**

Major General Giles E. Vanderhoof, the Adjutant General, Homeland Security Administrator, presented S.B. 496, which was an early funding bill to complete the design on the new readiness center being built in Las Vegas. General Vanderhoof indicated that the design was only 35 percent complete, and the money for design would run out at the end of April. The appropriation in the bill was necessary to complete the design in June, which would allow the project to be put out to bid and awarded prior to September 30, 2005.

Chairman Arberry questioned the time frame for the Committee to take action. General Vanderhoof stressed that the money would run out at the end of April.

Assemblyman Perkins pointed out that General Vanderhoof would be leaving his post after a period of distinguished service, and he expressed his appreciation for General Vanderhoof's work.

As there were no further comments, Chairman Arberry declared the hearing on S.B. 496 closed. Mr. Stevens reviewed the upcoming agendas for the Committee.

There being no further Committee business, Chairman Arberry adjourned the meeting at 10:38 a.m.

RESPECTFULLY SUBMITTED:

\_\_\_\_\_  
Susan Cherpeski  
Committee Attaché

APPROVED BY:

\_\_\_\_\_  
Assemblyman Morse Arberry Jr., Chairman

DATE: \_\_\_\_\_

<u>EXHIBITS</u>			
<b>Committee Name:</b> <u>Committee on Ways and Means</u>			
<b>Date:</b> <u>April 20, 2005</u>		<b>Time of Meeting:</b> <u>8:00 a.m.</u>	
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
AB 350	B	Patrick Cates/DHCFP	Fiscal Note (1 page)
AB 413	C	Assemblyman Lynn Hettrick	Amendment (2 pages)
AB 413	D	Kevin Piper/NV Weed Mgmt. Assoc.	Letter & Information packet (7 pages)
AB 435	E	Dennis Colling/DMV	Statistical Data (20 pages)
AB 435	F	John Madole/AGC	Bond Payments (1 page)
AB 435	G	Pat Zamora/CCSD	Testimony (1 page)
AB 435	H	David Fraser/NV League of Cities	Letter (1 page)