

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

**Seventy-Third Session
May 27, 2005**

The Committee on Ways and Means was called to order at 8:07 a.m., on Friday, May 27, 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

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Barbara Buckley, Clark, District No. 8

STAFF MEMBERS PRESENT:

Mark Stevens, Assembly Fiscal Analyst
Steve Abba, Principal Deputy Fiscal Analyst
Carol Thomsen, Committee Attaché
Linda Smith, Committee Attaché

Chairman Arberry called the meeting to order and opened the hearing on [A.B. 564](#).

Assembly Bill 564: Makes appropriation to Have A Peaceful Heart Foundation for assistance with merchandising that will help finance establishment of new music educational programs in Clark County School District. (BDR S-1442)

Suzan Hudson, representing the Have A Peaceful Heart Foundation, introduced herself to the Committee and voiced her appreciation for the opportunity to speak about A.B. 564, which the Foundation believed was significant and tremendously important to the children of Nevada. Ms. Hudson explained that approximately 4 years ago she had developed the Have A Peaceful Heart Foundation, and the purpose of the Foundation was to raise money to support music education for children. The Foundation would like to establish programs within each school in the Clark County School District and then spread the program throughout the State.

Ms. Hudson stated that the question was, "Why is music education so important," which was the foundation of the program. In the past decade, the country had seen the rise of educational reform that was acting in response to the crisis in public schools because of declining scholastic achievement and rising incidents of violence amongst children. Ms. Hudson indicated that the policymakers, who were at the forefront of those issues, and the citizens of the nation, were beginning to confront a disappointing truth. In terms of improving children's academic achievement and curbing the violence, not much had changed. Ms. Hudson stated that, in fact, the United States, as the world's leader, had fallen behind many other countries to a significant degree in regard to educational achievement. The violence among children, which was practically unheard of in other countries, continued to the present day in America. Ms. Hudson said the problem surrounding those issues came from a variety of influences, none of which were simplistic.

Ms. Hudson indicated that the Have A Peaceful Heart Foundation believed that the reason the efforts of policymakers had been unsuccessful, for the most part, was that they had focused on the symptoms rather than addressing the key issues that lead to the real solution. In recent years, stated Ms. Hudson, research had shown that children who participated in music education did better in their academic subjects, scored higher in standardized tests, stayed out of trouble, and were more likely to graduate and continue on to college.

According to Ms. Hudson, many of the skills required to be successful in today's workforce and life in general, were the very same skills a child learned from participating in a music program, such as teamwork, problem-solving, discipline, self-motivation, self-esteem, self-expression, and creativity. Ms. Hudson opined that those skills directly addressed the many social, as well as academic, challenges the country faced with children today. An extensive number of reports attested to the connection between music and academic achievement.

Ms. Hudson stated that one example the Foundation believed that was very, very revealing was that the countries of Hungary, the Netherlands, and Japan had instituted music education into the core curriculum within their schools from kindergarten through high school in the 1960s, with the dramatic results of increased academic achievement that continued to date.

Ms. Hudson said she would not go into the wealth of studies and research surrounding the benefits of music education, but there were a few studies that were worth noting. She explained that the Council on Basic Education had conducted a study comparing the amount of time spent on the arts by schools in Germany, Japan, England, and the United States, and found that, not only did the U.S. trail the other countries in time devoted and percentage of time devoted to the arts instructions, but the U.S. also trailed the other countries in mathematic and science scores. According to Ms. Hudson, a number of reports attested to the connection between music and academic achievement.

One report revealed that the schools producing the highest academic achievement in the U.S. today were spending 20 to 30 percent of the day on the arts, with special emphasis on music.

Ms. Hudson referenced several schools throughout the United States that had benefited from the implementation of extensive music programs. She reported that a recent segment on the television program "60 Minutes" reported that the country of Venezuela had instituted a national system of youth and children's orchestras and choirs that today had been described by the United Nations as a model for the rest of the world. Ms. Hudson reported that the private program, with 110,000 children participating, currently took children as young as 2 years of age, and also took the poorest children, and those abused, abandoned, or in trouble with the law. In a remarkably short period of time, said Ms. Hudson, the program taught those children to play in an orchestra. The program was designed to give free instruments and music lessons to the children, but its goal was more than teaching music. Ms. Hudson explained that the teamwork, rigor, and disciplines learned from the music program influenced the children's development and improved their potential, often in amazing ways.

Several interesting facts to note, said Ms. Hudson, was that music majors had the highest rate of admittance to medical school, higher than any other subject, including biochemistry, chemistry, and physics. In fact, music education ranked at 66 percent of people admitted to medical school. Ms. Hudson indicated that the foremost technical designers and engineers in the Silicon Valley were almost all practicing musicians. Three major developments in recent years had strengthened the position and presented music as a significant research-supported discipline that should be at the core of the public school curriculum:

1. The extensive amount of brain research, much of it using music to understand the human brain.
2. Development of the theory of multiple intelligences provided a model of human intelligence for education reform that gives music a significant place in the development of education and programs.
3. The highly-publicized research of psychologist Dr. Frances Rauscher, physicist Dr. Gordon Shaw, and colleagues at the University of California, Irvine, on the causal link between early music training and the development of the neurocircuitry that governed spatial intelligence.

Ms. Hudson opined that while it would be simplistic to suggest that music programs alone were the answer to the significant problems facing many youths, it would be just as foolish to discount music education's contributions to finding solutions in those areas. A school system without music education shortchanged the children and their futures. Ms. Hudson stated that if music and the other arts were brought out of the educational periphery and into the core of learning, they could make a significant contribution to a more effective solution, one that would help develop the kind of well-educated young people needed for the nation's well-being.

Ms. Hudson reported that music was beginning to be understood as a form of intelligence, not merely as a manifestation of it. When important ideas, information, and ways of thinking could be approached through the strategies and structures provided by music, a child's potential and ability to learn were reinforced.

Ms. Hudson stated that was the research that supported why music education was so significantly important, but another piece of research that was important to note was that Nevada currently ranked 49 out of 50 states in high school graduation rates. She explained that only the state of Georgia had a lower rate than Nevada, which was very significant. Ms. Hudson said one question was why children in Nevada were not inspired to graduate from high school; only 58 percent of children graduated from high school in Nevada according to recent statistics.

According to Ms. Hudson, the interesting and exciting news was that Nevada was the entertainment capital of the world and was as rich in resources to address the problem as any state could possibly be. Nevada had many world-class musicians who lived in Nevada and had a heart for music, and had a heart to teach Nevada's children. Ms. Hudson said she had met and spoken to many musicians on a local and national level. She explained that she and her husband had worked very hard to talk with people in the community, many of them musicians, to see if people would be willing to help and support the Foundation.

Ms. Hudson believed that the time was now and the Foundation was committed to making the project work. The time was now to bring music education back to children and something had to be done to change the outcome. Ms. Hudson believed that music could make a significant difference for children, and she asked the Committee to please help the Foundation become the "pied pipers" of music education.

Assemblyman Denis stated that he had been involved with music his entire life and his children were involved in the music programs in the Clark County School District. From Ms. Hudson's testimony, it appeared that the Clark County School District did not offer much in the way of music programs. Mr. Denis stated that the Clark County School District offered one of the largest music programs in the country to its elementary school children. Mr. Denis noted that there were middle schools and high schools in Clark County that had received national recognition for their music programs, and he wondered what programs would be offered by the Foundation over and above the programs offered by the school district.

Frank Woodbeck, representing the Have A Peaceful Heart Foundation, stated that the Foundation would provide adjunct programs that would allow children to expand their interest in music and music education by being able to take additional lessons, either online or in person, as an after-school program. The programs would allow for children who had a deep interest in music to express that interest and engage themselves in that type of program, and would allow for children to go beyond the programs that were offered within the public school systems. Mr. Woodbeck stated that the Foundation was aware that the public school system did provide music education, but those programs had been limited in terms of scope and funding in recent years across the country. The Foundation would provide an additional means by which children could access music education. Mr. Woodbeck reiterated that there were several world-class musicians who had volunteered to perform and hold workshops free of charge for students. Those musicians had also offered to assist the Foundation with fund-raisers. Mr. Woodbeck explained that the \$500,000 requested in A.B. 564 would represent "seed" money for the programs, and other funding would be raised through private means to expand the program.

Mr. Denis said that, basically, the programs offered by the Foundation would allow children with a real interest in music to progress to the next level, who might not otherwise be able to progress beyond the programs offered by the public school system. Mr. Woodbeck stated that was correct.

Assemblywoman Smith indicated that A.B. 564 actually stated that the \$500,000 would be used for assistance with merchandising, and she asked for clarification. Ms. Hudson replied that when the program was originally started, a merchandising effort had been developed called "Have A Peaceful Heart Merchandise," which included shirts, hats, and bumper stickers. Currently, development was underway for wind chimes, jewelry, and other merchandise. Ms. Hudson stated that several types of merchandise were being sold on the Internet and all the funds from Have A Peaceful Heart Merchandise would assist with funding the program.

Mrs. Smith asked how the Foundation would utilize the requested \$500,000. Ms. Hudson explained that the Foundation was developing after-school programs of mentoring for children who had a true and strong interest in music education. Mrs. Smith asked whether the money would be used to buy merchandise, which would then be sold. Ms. Hudson stated that the funding would not be used in that manner.

Assemblyman Seale asked how the Foundation was funded, since previous testimony had indicated that the \$500,000 would be seed money, which indicated that the Foundation had no other funding source at the present time. Mr. Woodbeck explained that was correct and the Foundation was attempting to establish a funding base. There were a number of other efforts that the Foundation would use to build on that base to secure additional funding.

Assemblywoman Giunchigliani believed that all members of the Committee supported the arts, whether it was in schools or other locations. She asked whether the Foundation had worked with the Clark or Washoe County School Districts in order to promote the program. Mr. Woodbeck reported that the Foundation had met with a representative from the Department of Education over 1 year ago, and there was a willingness to form a linkage. The Foundation would like to utilize existing facilities to establish a pilot program in each school district, and measure the results of those pilot programs over a 2-year period. Mr. Woodbeck indicated that the Foundation also hoped to utilize current music teachers to expand music education programs and, through its efforts and friendships within the industry, to provide ways of expanding the minds of the children who were interested in music.

Ms. Giunchigliani stated there was usually a process, and she asked whether a representative from the Department of Education had requested that the Foundation make a presentation to the school board. Mr. Woodbeck stated not at the time of the original meeting because the discussion had been in the initial stages, even though it was very favorable. Ms. Giunchigliani asked whether the Foundation program would be an after-school program to enhance the programs offered by the school districts. Mr. Woodbeck stated that was correct.

Craig Kadlub, representing the Clark County School District, stated that he would speak in opposition to the bill, but did not want to create the impression that the district was opposed to the arts because it certainly was not, and it had been noted that the Clark County School District offered a strong arts and music program. Mr. Kadlub believed that Ms. Hudson had made many excellent points regarding the value of music in her testimony.

While there may have been some preliminary discussion, said Mr. Kadlub, the district's concern was that A.B. 564 involved the Clark County School District's music program, but the district was not sure how that would work. The district did not know the nature of the \$500,000 merchandising plan or the business plan. Mr. Kadlub indicated that the Clark County School District did not know whether the Foundation's program would fit into its music program because there had been no recent discussions with representatives from the Foundation and the district's Musical Arts Department.

Mr. Kadlub stated it was simply a matter of the district not having sufficient information about the Foundation's programs, and if it was, in fact, an after-school program that would not involve the school district, then perhaps the district should be amended out of the bill. If the program would require that the district provide space, Mr. Kadlub said that was something that had yet to be worked out. He explained that several school districts had approached the Clark County School District and asked about their "piece" of the \$500,000 to improve their musical arts programs.

With no further information available regarding the Foundation's programs, Mr. Kadlub indicated that the Clark County School District was reluctant to commit to the program.

Chairman Arberry asked whether there was further testimony to come before the Committee regarding A.B. 564 and, there being none, declared the hearing closed.

The Chair opened the hearing on A.B. 566.

Assembly Bill 566: Requires Legislative Commission to contract with consultant to carry out certain duties and prepare report concerning health, safety, welfare, and civil and other rights of children who are under care of certain governmental entities or private facilities. (BDR S-1472)

Assemblywoman Leslie stated that A.B. 566 was the result of a recommendation from the Juvenile Justice System Interim Study Committee created by A.C.R. 18 of the Seventy-Second Legislative Session. Originally, the recommendation had been included in A.B. 54, which had been heard by the Committee on Elections, Procedures, and Ethics. Ms. Leslie explained that the recommendation had been removed from A.B. 54 and placed in its own bill in order to separate the recommendations. Ms. Leslie reiterated that both recommendations were the result of the interim study committee regarding the Juvenile Justice System.

Ms. Leslie explained that on December 6, 2001, the United States Department of Justice notified Nevada of its intent to investigate conditions of confinement at the Nevada Youth Training Center (NYTC) pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA). In February 2002, consultants from the Department of Justice toured the facility and during an exit conference, they outlined their findings and recommendations. Basically, stated Ms. Leslie, the investigation resulted in the signing of a Memorandum of Understanding with Nevada on February 26, 2004. The Memorandum dealt with:

- Staff to youth ratios for day and night shifts
- The grievance filing processes
- Creation of an incident review team

- Better reporting to Child Protective Services, based on the fact that many allegations of abuse had been substantiated at the Nevada Youth Training Center
- Quality assurance standards

Ms. Leslie stated that Nevada had agreed to work with the U.S. Department of Justice and had provided quarterly reports over the past 2 years, which had been fairly well received by the Department of Justice. However, said Ms. Leslie, the bipartisan interim study committee had voted unanimously for the recommendation contained in A.B. 566, which would create some type of oversight mechanism to ensure that Nevada would never again be placed in the position of being unaware of the abuse occurring within its state-run juvenile facilities.

Ms. Leslie stated that during session, she had held several meetings with different constituency groups, such as judges, juvenile probation officers, and mental health experts, to discuss how the Legislature might structure the oversight mechanism. During the interim study, the recommendation had been to place the position under the Legislative Counsel Bureau (LCB) Audit Division, which was a somewhat odd place to put a position that provided oversight. Ms. Leslie explained that the interim study committee had really struggled with where to place a position that would provide oversight of the Executive Branch, which was the reason it had been recommended not to place the position in the Governor's Office or the Attorney General's Office.

Basically, stated Ms. Leslie, the position would review Nevada's juvenile facilities. The Audit Division of the LCB did not usually provide such oversight and, while the Legislature wanted to review performance measurements, the position would deal with more than simply performance measures. After much discussion, Ms. Leslie indicated that the interim committee had determined that the best way to approach the position would be through a contract mechanism, so that the person would be independent. The bill had been written stating that the person would report to the Legislative Commission and would be the Legislature's oversight mechanism, reporting to the Legislature through the Commission.

Ms. Leslie remarked that the interim committee had also agreed that the focus of the position would include the review, evaluation, and investigation of complaints filed by, or on behalf of, any child concerning the health, safety, welfare, and civil and other rights of a child who was under the care of a governmental entity or private facility. Through discussion and recent incidents that had occurred, Ms. Leslie believed it had become clear that questions had also arisen regarding private facilities where the courts placed children; private facilities would be included in A.B. 566.

Since the CRIPA investigation and the media attention given to the issue, Ms. Leslie indicated that her name had often been linked with the issue, and she received several complaints each month from people with children in the juvenile justice system. Ms. Leslie stated it was not appropriate as a legislator to be on the receiving end of such complaints, as she was not an investigator and that was not her role. According to Ms. Leslie, there were times when people begged her not to pass their personal information on to the agency so it could be investigated because they were worried about retribution against their child, who was in one of the State's juvenile facilities. Ms. Leslie noted that even though she trusted Michael Willden, Director, Department of Human Resources (DHR), to take appropriate action, other people did not share that trust and were reluctant to allow her to forward their complaints to the State authorities.

Ms. Leslie believed that the State needed an independent investigator to review the situations in an objective, professional manner and report back to the Legislature.

Ms. Leslie advised that on May 23, 2005, there had been an article in the *Las Vegas Sun* regarding a dispute with the Nevada Youth Training Center (NYTC) over special education services. The Department of Justice had indicated that 30 of 39 youths were not receiving federally-mandated special education services and lacked individual education plans. Ms. Leslie indicated that the facility had said that was not true and the Department of Justice had responded by pointing to additional deficits, other than the lack of special education services, such as the need for a competent investigator to look into claims of abuse and the need for a full-time on-site psychologist.

Ms. Leslie pointed out that the Department of Justice was still monitoring the situation and it was a work in progress; the Department had received other complaints, including the lack of staff to conduct proper investigations into allegations of abuse. The article indicated that the facility continued to rely on mental health counselors who were untrained in investigations to conduct inquiries into the use of force, which was a problem at Elko. Consequently, stated Ms. Leslie, although the quality of documentation regarding uses of force and other incidents had improved, the quality of the investigations themselves was lacking. Ms. Leslie said even as recently as one week ago, there were still concerns being voiced by the Department of Justice about the issue.

Ms. Leslie commented that the recommendation in A.B. 566 was not intended in any way to replace the investigations performed by Child Protective Services (CPS). That agency would continue to receive the reports and conduct its own investigations. Ms. Leslie explained that the recommended investigator position would look for systemic problems and ensure that Nevada was never again placed in the position where there was systemic abuse occurring in its juvenile facilities, which included the lack of due process in grievance procedures, about which the Legislature was unaware.

Assemblywoman Barbara Buckley, District No. 8, stated she was pleased to speak in support of A.B. 566. She noted that it was the Legislature's responsibility to ensure the safety and welfare of the children who were placed in the care of the State. Ms. Buckley indicated that the system failed when there were complaints of abuse that were not heard by those in charge. Alternatives in the community consisted of the police departments, which were usually "swamped" and did not have the ability to review a complaint regarding over-medicating a child, or the occasional use of force, or a child not receiving the proper education. Ms. Buckley explained that Child Protective Services (CPS) reviewed complaints of abuse within a home setting, not within institutions.

Many years ago, stated Ms. Buckley, there had been a State contract with the Office of Protection and Advocacy, which attempted to provide an independent review service. That service had been privatized and, since that time, the State had not had an investigator, which was needed. Ms. Buckley noted that there had been complaints, not only from the juvenile detention facilities, but she had viewed a videotape of a child who had received so much medication while in a treatment center that the child could not even say his name when appearing in court. Unfortunately, said Ms. Buckley, that was not the first complaint regarding that type of situation, and many other children in that treatment facility had lodged similar complaints.

Ms. Buckley indicated that there had been another facility that was not taking children to school and conducted a 1-hour in-service program for children in its care; that facility reported difficulty in securing buses for the children. Ms. Buckley stated that was no excuse, and children who were under the care of the State deserved to go to school. She noted that there was not a specific person or agency to handle complaints, and it was very difficult for parents to believe that their children's rights would be protected when they were wards of the State and had been placed in the care of a facility.

That was the purpose of the bill, and Ms. Buckley believed it made sense to attempt to contract with an investigator via the Request for Proposal (RFP) process, and see who bid on the position. She reiterated that the Legislature should ensure that children in the care of the State had some outlet for complaints. She urged the Committee's support of A.B. 566.

Assemblywoman Giunchigliani stated that the bill was very timely, and the legislation should have been considered during the 2003 Session when the Legislature was dealing with the CRIPA investigation and the problems regarding the Nevada Youth Training Center. She believed that the Legislature needed an assessment of what was occurring in the juvenile facilities and she wondered whether the children knew how to complain. Ms. Giunchigliani said that children in the care of the State had to be informed regarding how to initiate a complaint, and she believed that the bill was critical.

Chairman Arberry asked whether there was further testimony to come before the Committee regarding A.B. 566.

Honorable Judge Frances Doherty, Second Judicial District Court, Department 12, Washoe County, stated that she was the Presiding Judge in the Family Division, where she had presided in juvenile cases since 1997, originally as the Juvenile Court Master, placing children in facilities throughout the State. Judge Doherty indicated that she continued to oversee those placements as the Juvenile Court Judge for the Second Judicial District. She thanked the Committee for considering A.B. 566, and suggested that it was the most significant child safety bill of the 2005 Session.

Judge Doherty reported that there were interesting nuances with respect to the issue of child safety within institutions. The community, the court, and the State placed children in certain facilities that had been licensed, funded, and regulated, to address their behavioral issues, health issues, and their need for oversight. Judge Doherty indicated that the State invested faith and confidence that those institutions were able to serve the needs of the children, and that was the reason the Legislature provided funding, and why the courts placed children in those facilities. The State had many institutions and facilities of which it could be proud, but that was not the current issue. Judge Doherty noted that the bill addressed children in a culture that was entirely foreign to them, and a culture that had been identified by the federal government, on one significant ongoing occasion, as a culture of violence that local officials, court officials, attorneys, officers, and directors, had all missed.

Judge Doherty said that the court had felt confident of the oversight regarding the environment in which it continued to place children for several months or beyond, but that confidence was not as strong as the culture in the institution. While the State had procedures, expectations, and regulations regarding institutions, it did not have the ability to penetrate an environment or a culture and ensure that it reached the psyche of children, who might be as young as 8 years of age, or as old as 18 years. Judge Doherty noted that parents

recognized that sometimes penetrating the culture and psyche of children was not something that could be done in an adult manner, but rather was something that had to be done subtly, intelligently, and effectively.

Judge Doherty believed that the position recommended by the bill would allow those cultures to provide an additional access point, where children could reach out and discuss their concerns, their fears, and their safety issues.

Judge Doherty advised the Committee that a child who was post-Elko placement had come to her chambers a year and a half after his placement. That child was on medication, unable to engage in substantial gainful employment, and had sat on her couch and described the horrific, unimaginable treatment he had received by State officials while he was in the care of the Nevada Youth Training Center (NYTC). Judge Doherty reported that the young man had described a circumstance that had occurred on his last day at the NYTC, where he had been required to strip naked, stand in a utility tub, and shower himself with cold water with a utility hose in front of his cottage mates. That was his gift of departure from his overseeing cottage supervisor. Judge Doherty indicated that the same young man had described an incident in which his head and the head of another child had been held under each arm of a supervisor and were smacked together to the point that each child was bleeding; the supervisor had then asked, "You were playing on the football field, weren't you."

There were procedures in place, stated Judge Doherty, but there was a need to penetrate cultures in which children were placed in a manner that would assure all entities that those children were being reached out to, and knew that no matter what their circumstances, no matter what the judge said they had to do in terms of being cooperative, there would be an avenue for communication when they felt that all other avenues were shut off for purposes of such communication.

Judge Doherty stated that posters in a facility might seem insignificant, except those posters would tell children that maybe the other points of contact had not worked, but here was a point of contact that would work. She indicated it would shift the culture and that was, at the very least, the burden facing the State to address the challenges. Judge Doherty said it was not a prospective remedy, but was in response to atrocities that the State and the courts could not continue to bear responsibility for without further action. She encouraged the Committee to look very seriously at A.B. 566, as the court considered it to be an important bill to protect children's safety.

According to Judge Doherty, approximately 1 year ago the Nevada District Judges Association, in response to the issues currently being grappled with by the Legislature, had passed a resolution suggesting a similar position, which would be placed in the Governor's Office, [Exhibit B](#). She believed that the position within A.B. 566, which would be placed in an independent entity through contract and report to the Legislature, would provide the same relief that the district judges had hoped for in their resolution to provide an ombudsman for children.

Leonard Pugh, Director, Washoe County Department of Juvenile Services, stated that he operated the second largest juvenile detention center in Nevada. Mr. Pugh believed that it was important to recognize that as a public entity, it was the responsibility of the Department to ensure that the public knew what was going on in the juvenile facilities. Mr. Pugh thought it was important that people had confidence in the facilities, and that would be gained by knowing

that an independent body was inspecting the facilities, reviewing the policies and procedures, and reporting back to officials regarding the nature of the operation. Mr. Pugh believed there were some issues that had to be clarified and that could be done via regulations and contract, but as a whole, the bill would provide the necessary oversight.

John Lefcourte, Deputy Public Defender, Washoe County Public Defender's Office, stated that he had been handling juvenile matters for 21 years and practicing exclusively in the juvenile court system, [Exhibit C](#). Mr. Lefcourte indicated that his concern for most of those 21 years had always been the programs that juveniles were referred to, whether those were punitive programs, such as the facilities at Elko or Caliente, or similar county programs at facilities such as Spring Mountain or China Springs. He noted that his concern had also included the treatment programs, such as mental health programs and private programs, substance abuse programs, and foster home programs.

Mr. Lefcourte said that it seemed to him that the unstated position of the system was that someone would come forth with a program that they claimed performed in a certain manner and would provide the needed assistance, and children should just be sent to that program with the hope that the program would do what it said it would do. According to Mr. Lefcourte, that had not been the case, and the reason it had not been the case was that there was no oversight with any of the programs. The system had only reacted after the fact when programs had reached a critical mass and had exploded, which had been the experience at the Nevada Youth Training Center.

As a public defender and attorney for juveniles, Mr. Lefcourte stated that he always made it very clear that his relationship with his client was confidential, and anything the client told him was confidential and would not be revealed without consent. Mr. Lefcourte said of the entire system, defense attorneys would seem to be in the best position to obtain information regarding abuses within the system. Despite the fact that it was made clear to juveniles that they could contact their attorneys, the Public Defender's Office and its attorneys rarely received any information about the abuses in the system until after the fact.

Mr. Lefcourte emphasized that there had to be a mechanism to monitor the programs and [A.B. 566](#) would start that process. The process had to be independent. He noted that a State entity could not come into the NYTC and conduct evaluations of a program that was under the same State Department, as that would clearly be an apparent conflict of interest, if not an actual conflict of interest. There would be no reason for a juvenile to feel confident that speaking to a State investigator would mean that a State program would be appropriately censured, particularly at the NYTC.

According to Mr. Lefcourte, the juveniles at that facility were not only in the State's custody, but they left the facility in the State's custody, at which time they had to deal with youth parole, which played an integral part of the entire commitment process. Mr. Lefcourte stated that juveniles were interviewed by parole officers before being sent to the NYTC, during their stay at the facility, and once they had been released. It was clear that the juveniles felt they would be subject to retaliation should they make any type of complaint regarding the State programs.

Mr. Lefcourte indicated that reference had been made to the fact that there had been significant problems within some of the treatment programs as well, and he noted that the problems appeared to be dealt with piecemeal on an ad hoc basis. He emphasized that there was a definite need for an oversight program that would coordinate and tabulate the fact that there were ongoing problems in the programs that should be addressed systemically, rather than on a case-by-case basis. Mr. Lefcourte believed that many things could be developed, but the bill provided the starting point that had long been needed, and he hoped that the Committee would recognize that need and pass A.B. 566.

Dan Musgrove, representing Clark County, indicated that Clark County was in complete support of A.B. 566 and he appreciated the comments that had been made and the commitment of Ms. Leslie and Ms. Buckley. He stated that Clark County would work with all concerned entities to ensure that the protection of children was of utmost importance.

Bobbie Gang, representing the Nevada Women's Lobby, voiced support for A.B. 566 and felt that it was one of the most critical issues before the Legislature. Ms. Gang stated that there were prisoners on death row who had been in juvenile detention centers and other facilities throughout the State and had been abused during their care. Had the State not abused those individuals and interviewed them properly, perhaps they would not be on death row today and the people they harmed might not have been harmed. Ms. Gang hoped that the proposed analysis and review would uncover whatever problems existed that needed to be corrected.

The Chair closed the hearing on A.B. 566 and opened the hearing on A.B. 565.

Assembly Bill 565: Makes appropriation to Clark County School District for establishment of "Homework Help Center" at West Las Vegas Library. (BDR S-1441)

Daniel Walters, Executive Director, Las Vegas-Clark County Library District, stated that he was present to speak in support of A.B. 565. Mr. Walters stated there were very few areas within the district where there was a greater need to improve support services for children regarding homework than the West Las Vegas Library. Mr. Walters referenced Exhibit D, a Memorandum from Nancy Hutchinson and Felton Thomas, regarding the West Las Vegas Library Homework Help Center program.

Mr. Walters explained that according to the U.S. Census, there were approximately 5,000 children in the community served by the West Las Vegas Library, and nearly 4,500 students lived in households where the family income was below the federal poverty line. In addition, 35 percent of the residents over the age of 25 did not possess a high school diploma. Mr. Walters noted that those students trailed their counterparts throughout the Clark County School District in graduation rates, and also led the district in the number of students who had failed fourth and eighth grade proficiency in mathematics and reading.

According to Mr. Walters, the Library District had undertaken a number of programs to attempt a greater partnership with the Clark County School District and the West Las Vegas Library, but needed some help in jump-starting what it hoped would be an innovative homework center aimed at the aforementioned students. Exhibit D outlined a number of current partnerships, and Mr. Walters explained that the Library District had developed strong partnerships with

neighboring schools and community organizations to promote reading programs, with two West Las Vegas elementary schools continuing to have 100 percent participation in the literacy program.

Mr. Walters indicated that the Library District recognized that a more structured program would be needed to support the Homework Help Center. The Vice Chair of the Library District's Board had asked Mr. Walters to investigate what would be necessary to advance programming in the area of homework centers. Mr. Walters said the Library District hoped to expand its role as a community partner by establishing a West Las Vegas Library Homework Help Center, which would be open during after-school hours. The program would have dedicated computers and tutors and would be a model for what the Library District hoped would be replications throughout the district using its own funding.

Mr. Walters stated that A.B. 565 would help establish the model that would be replicated in other areas. According to Mr. Walters, the Library District had just completed a strategic planning process in which it surveyed over 1,000 residents by telephone, both users and non-users of the library, as well as library patrons, and the number one reason that community members said they looked forward to library services was in support of formal education for students of all ages. Mr. Walters emphasized that the Homework Help Center would help the Library District take a giant step in expanding its relationship with the school district in curriculum support.

Mr. Walters indicated that the Library District would request that A.B. 565 be amended to allow a direct appropriation to the Las Vegas-Clark County Library District rather than the Clark County School District, to ease the jurisdictional oversight of the program for the physical plan, as well as personnel. The amendment was supported by the school district.

Chairman Arberry said that if the bill were amended to provide the money directly to the Las Vegas-Clark County Library District, what guarantees would be in place that the money would be used for the Homework Help Center at the West Las Vegas Library and not absorbed into the Library District's main budget. Mr. Walters indicated that the Library Board had direct oversight of the budget in the same manner as the Clark County School Board. If the language remained in the bill that required the funding to be utilized for the Homework Help Center at the West Las Vegas Library, that would achieve the intent and assure the Legislature that the funds would be expended solely for that program.

Mr. Walters explained that the Library District also partnered with the State Department of Education and engaged in homework help, General Educational Development (GED) tutoring, reading tutoring, and English as a Second Language (ESL) tutoring through Department of Education grants. The Library District satisfactorily completed the records that depicted the use of funds, and would maintain records to indicate that the funding provided by A.B. 565 would be expended as intended.

Assemblywoman Weber asked whether there was sufficient room to add computer equipment and accommodate a number of students, such as 50, in the West Las Vegas Library. Mr. Walters stated that the participants would be K-12, although the initial program might focus on K-8. Over half of the grant funding would be used to reconfigure the physical space to accommodate the Homework Help Center.

Mr. Walters indicated that homework help centers, particularly in urban libraries across the country, were an emerging service in urban communities where there was a recognition that public libraries needed to move forward to do more active programming in support of their local schools. The proposed Homework Help Center at the West Las Vegas Library would require a reconfiguration of the space.

Ms. Weber asked how many children could be served by the Center. Mr. Walters stated that the Library District hoped to establish a physical space that would contain a computer lab for instruction dedicated to homework help with seating for approximately 20 students. The current computer lab was shared by adults and children, and Mr. Walters noted it was more difficult to schedule classes in that lab. He explained that students would still have an opportunity to access databases and other services in the original lab. The proposed computer lab would also have physical desk space for interactive tutoring by older students or by adults.

Mr. Walters stated that the intent of the program was to work very closely with the Clark County School District so the Library would have a very solid idea regarding the curriculum support issues. The Homework Help Center would run during the school year in the afternoons and evenings as an active Homework Help Center that included staffing. Mr. Walters stated he could not tell the Committee the exact number of students who could access the Center, but the Library District anticipated a lab with 15 to 20 computers, as well as additional seating for tutoring.

Rose McKinney-James, representing the Clark County School District, stated she was present to offer the district's support for the concept of the Homework Help Center. She stated that the school district often entered into partnerships and was very strongly in support of any initiative that provided benefits to its students. Ms. McKinney-James indicated that a homework hot line and tutoring opportunities were clearly within the bounds of those activities supported by the Clark County School District. The district would also support the request for an amendment to the bill, which would clarify that the request was a Las Vegas-Clark County Library District initiative.

Ms. McKinney-James assured the Committee that the school district would provide whatever support was necessary with respect to the curriculum to the extent that it did not have any administrative responsibility for the program or any fiscal responsibility for the program. She remarked that the school district wanted to make sure that the bill clarified that stipulation. Ms. McKinney-James also noted that the request would not involve the use of Clark County School District facilities or staffing and, since that was the case, the school district would be happy to support the concept and offer support.

Assemblyman Denis asked whether the Clark County School District would work with the Las Vegas-Clark County Library District regarding curriculum support issues. Ms. McKinney-James stated that she understood that the Library District was seeking clarification regarding the curriculum requirements and, to that extent, the school district would make that information available, as long as there were no significant requirements on the part of the school district, such as staffing and other resources. She noted that the school district often entered into the type of partnership where entities were interested in the curriculum requirements to help understand what would be required for tutoring.

The Chair asked whether there was further testimony to come before the Committee regarding A.B. 565 and, there being none, declared the hearing closed. The Chair opened the hearing on A.B. 567.

Assembly Bill 567: Creates Account for Construction, Repair and Renovation of School Buildings and Facilities. (BDR 34-1443)

Assemblyman Richard Perkins, District No. 23, stated he would present A.B. 567. Mr. Perkins stated that before a child could ever sit down at a desk to learn, there must be a building to learn in. Unfortunately, several of the rural Nevada counties lacked the resources necessary to even maintain their schools and bring them up to Americans with Disabilities Act (ADA) standards, let alone build new schools.

Mr. Perkins commented that children in those counties were learning in mobile trailers and buildings that were half finished which were, at times, dangerous and crumbling around them. He believed that the State could do better. The Legislature did not want to provide handouts to counties that had done little to raise their own funds to build and repair their schools. Mr. Perkins stated that A.B. 567 set out very specific criteria that would ensure that only counties that had taken every other measure possible would receive grant funding.

Mr. Perkins explained that after the Director of the Department of Administration consulted with the Department of Education, the Department of Taxation, and the State Public Works Board, the application would be forwarded to the State Board of Examiners. Mr. Perkins remarked that the Board of Examiners would then offer a recommendation to the Interim Finance Committee (IFC), who would make the final decision.

In addition to the initial appropriation in the bill of \$10 million, Mr. Perkins explained that the State would maintain the fund by depositing 10 percent of the reversions from the Distributive School Account (DSA) into the account each year. Mr. Perkins believed that was the least the State could do to ensure that students across Nevada received equitable treatment. A.B. 567 responded to the unique needs of Nevada.

Mr. Perkins noted that some concerns had been raised, with the first being the population threshold of 40,000, and he believed that the threshold of 40,000 would work, but if there were counties that had exceeded 40,000, perhaps that threshold could be reviewed. The other concern was with the subsections of Section 4, which delineated the criteria for approval of the application and outlined the basic maintenance of effort requirements that each county would be required to meet in order to have an application approved. Mr. Perkins did not believe that the requirements should be too strict, but certainly wanted to ensure that the rural counties had done everything possible to address their problems.

According to Mr. Perkins, Section 4, subsections (a) through (f) taken collectively might be too stringent a barrier for counties to surpass, and he suggested that perhaps it could be (a) or (b) or (c), et cetera. The final application approval would require review by a "laundry list" of agencies. Mr. Perkins indicated that he did not want to bar any school districts from making an application for funding, but Section 4 was to ensure that those districts had made a maintenance of effort prior to applying for funding.

Mr. Perkins said it had been an eye-opening experience over the past interim to Chair the Interim Committee on Education and travel throughout the State and see the type of structures and resources utilized by various rural counties in order to provide education and note resources that were not available to rural counties.

Mr. Perkins stated that he would like to thank Assemblywoman Giunchigliani, who had put the first rural school construction fund together in 1997, and he believed that there was still a small amount of money in that fund. He noted that the fund had been very well used by the rural districts. Mr. Perkins reiterated that the requirements of Section 4 of A.B. 567 might be too stringent for some of the rural counties to access the funding and he would be willing to work on the criteria.

Mr. Perkins indicated that the State had replaced two schools that had been condemned in Lincoln County a few years ago, but there were many needs remaining throughout the State. He emphasized that a child in Elko, White Pine, Lyon, or Nye Counties, or any of the rural areas, deserved the same opportunities as a child in Clark or Washoe Counties, which was his purpose in bringing A.B. 567 forward.

Assemblyman Seale asked how many of the 17 counties would be impacted by the bill. Mr. Perkins believed that 14 or 15 of the 17 counties would be impacted.

Assemblyman Marvel stated that when the first rural school construction fund had been established in 1997, the interim committee had identified over \$30 million of needed infrastructure repairs.

Mr. Perkins reported that the White Pine Middle School in downtown Ely was a very old, historical structure that needed repair, and the Ely High School did not have a completed exterior and needed repairs. He also pointed out that Ely High School was the only high school in the State that did not have a ball field. Mr. Perkins noted that there were some old portable schoolrooms in Nye County that were crumbling. There were several like stories throughout the State and Mr. Perkins stated that the Legislature never heard from representatives from rural counties "whining" about funding and asking for a handout. He believed that the fund proposed in A.B. 567 would be a "hand up," which would maintain itself with the reversion from the DSA. According to Mr. Perkins, many of the issues were life-safety issues that should be addressed.

Assemblywoman Smith thanked Mr. Perkins for bringing A.B. 567 forward. She indicated that she had previously been a school board member in a small county and she knew how difficult it was in the "bust and boom" economy in the small counties. Mrs. Smith believed that the State had done a good job with the Nevada Plan by providing an equitable funding mechanism for classrooms, but for the buildings, it was a different story.

Mr. Perkins observed that the State was typically not in the business of building schools, and both the larger districts had very strong bonding programs for school construction, but when a smaller county was at the \$3.64 property tax cap, those counties simply could not provide school maintenance and/or construction.

Assemblyman Denis stated that he had formerly been the Chair of the Commission on Educational Technology, which had wanted to place a computer in every classroom, but had ended up spending money to put electricity into

some rural county classrooms. He realized that there were some definite needs in the rural areas and he believed that A.B. 567 would give the Legislature the opportunity to provide funding for rural schools.

Assemblywoman Giunchigliani commended Mr. Perkins for bringing A.B. 567 forward and believed that it was timely. The Committee should ensure that the requirements were not so prohibitive that rural counties would not apply. Ms. Giunchigliani noted that applications would be reviewed by several agencies and the Committee should ensure that a school district could qualify if it showed one of the maintenance of efforts, if that was the intent. Ms. Giunchigliani stated that if the DSA funds reached a certain amount, 10 percent of the reversion would flow into the school construction account. She asked whether Mr. Perkins had anticipated the need for one-shot funding to start the fund.

Mr. Perkins indicated that Section 13 of the bill requested an appropriation from the State General Fund for \$10 million to start the fund. He stated that there were many priorities for the 2005 Session, but creating the criteria for the building fund that would include continued funding via a percentage of the DSA reversion would keep the fund solvent in the future. Mr. Perkins believed it would be a good idea for the Legislature to fund the initial \$10 million appropriation from the General Fund.

Mr. Perkins referenced the language in Section 4, which read in part, "The Director of the Department of Administration shall, in consultation with the Department of Education, the Department of Taxation, and the State Public Works Board, determine whether to forward an application to the State Board of Examiners based upon...." Mr. Perkins said that the language in Section 4 was quite restrictive and he was not sure that the school districts should be required to meet each of the criteria.

Dr. William Roberts, Superintendent, Nye County School District, Lieutenant Colonel, U.S. Army, retired, introduced himself to the Committee and explained that he had been Superintendent of the Nye County School District for 3 years and prior to that, he had been a secondary principal in northern Nevada, a teacher, coach, athletic director, and a professor of military science at West Point Military Academy.

Dr. Roberts explained that Nye County contained approximately 18,000 square miles, the largest county in Nevada, which contained 17 schools and 90 school buses that drove over 1 million miles per year. Nye County had many facility needs and, try as it might with its 7 different communities, in northern Nye County student enrollment continued to drop based on the "boom or bust" cycle of mining. However, Dr. Roberts stated that in southern Nye County, Pahrump continued to grow. Nye County had done everything it could to facilitate the upgrade of classrooms and facilities in Pahrump by passage of a new construction impact fee, which provided money for use specifically within the school district.

Dr. Roberts pointed out that every \$1 the county put into asphalt or roofing, was \$1 less for the classrooms. He referenced [Exhibit E](#) entitled "Nye County School District 2005," which included background data regarding the needs. Dr. Roberts said the school district served approximately 6,000 students spaced throughout the county and all facilities required brick and mortar or modular classroom space for the children. Whether the school district was serving 67 students in Gabbs, or 1,200 students in Pahrump, all students deserved the

same quality of education and equity in facilities that included labs, computers, electricity, water, heat, et cetera.

Dr. Roberts said he was very much in support of A.B. 567 and any help that could be provided by the Legislature would be very much appreciated.

Nat Lommori, Superintendent, Lyon County School District, said he was present in support of A.B. 567, though he was not sure that Lyon County would even qualify, as it was the fastest growing county in Nevada and the seventh fastest growing county in the nation. The fact of the matter was that Lyon County had been able to pass bonds and was in the process of adding a residential construction tax, but in regards to the needs of the school district, Mr. Lommori stated there was approximately \$15 million in needs. The district had 23 double modular classrooms, the newest of which was a 1984 model, and the cost to replace those classrooms would be \$7 to \$8 million. Mr. Lommori indicated that the cost to replace those classrooms was not included in the school district's operating funds, and the school district had not been able to use its bonding monies to deal with such situations because it had been dealing with the significant growth. The growth had been so great that the school district had eliminated parking lots and fields to accommodate new classrooms because classroom space was needed.

Mr. Lommori advised that Lyon County School District contained classrooms that contained only one electrical outlet; those were 1940 model classrooms and only one outlet was needed at that time. The school district was struggling to rewire the older classrooms. Mr. Lommori said if the Legislature gave Lyon County a school, he was not sure the school district could afford the cost to open and operate that school because of the cost for staff, utilities, et cetera. He noted that the DSA allowed for those costs, but there were additional costs for staff.

Mr. Lommori voiced his support for A.B. 567 and he noted that the qualifiers in Section 4 of the bill might be somewhat difficult, and there were some counties, such as Nye and Lyon, that were the fastest growing areas, and yet the population was just over 40,000. Any help that the Legislature could provide would be greatly appreciated.

Randy Robison, representing the Nevada Association of School Boards, stated the Association supported A.B. 567. He stated that he had been directly involved in creation of the original fund in 1997, which had been created to address a very specific set of circumstances in Lincoln and White Pine Counties, where schools were literally falling over or were so old that life-safety issues had come into play.

Mr. Robison stated that the Association was also concerned about the strictness of the criteria in Section 4 of the bill, and was happy to hear Mr. Perkins' comments regarding expansions of that section. He referenced Section 4(e), which ended with "...decrease in population; and," and he believed that might be a good place to add flexibility by substituting "and" with "or." Mr. Robison indicated that the different entities would then have the ability to select the criteria, which might provide some additional flexibility for some of the rural school districts.

Currently, said Mr. Robison, as the Association read the bill, in terms of the assessed valuation and decline in population, there were three school districts that would meet those criteria and, of those three, two were not within 90 percent of the property tax cap. That would mean that under the present

criteria, there was only one school district that could qualify for funding. Mr. Robison believed that the criteria was quite restrictive and he hoped the criteria would be opened somewhat.

Assemblywoman Giunchigliani noted that Mr. Perkins had indicated he would be willing to work on the criteria in Section 4 of the bill and if Mr. Robison had suggestions, he should present them to Mr. Perkins. She believed that A.B. 567 would also transfer the \$500,000 remaining in the previous fund into the new one. Ms. Giunchigliani opined that it was time to create such a fund and open the criteria to eliminate some of the "hoops" that school districts had to "jump" through.

Chairman Arberry asked whether there was further testimony to come before the Committee regarding A.B. 567 and, there being none, declared the hearing closed. The Chair declared the Committee in recess.

Chairman Arberry called the meeting back to order, and opened the hearing on S.B. 311.

Senate Bill 311: Revises provisions relating to reimbursement for legislators for travel and other expenses during legislative session. (BDR 17-742)

Assemblywoman Giunchigliani stated that, while she appreciated Senator Nolan's intent, the bill did not compensate for the increase in airline fares. She suggested amending S.B. 311, Section 1, line 22, by undeleting the word "exceed," deleting line 23, "be less than," and on line 24, delete "\$7,000" and insert "\$10,000," which would allow for the increase in airline fares. Continuing, Ms. Giunchigliani also suggested removal of Section 14 of the bill, as she did not believe that legislators should be able to go to one person for authority to exceed the maximum.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND AND DO
PASS S.B. 311.

ASSEMBLYMAN MARVEL SECONDED THE MOTION.

Assemblywoman Gansert commented that the reason the bill set the "floor" at \$6,800 was because it would be reviewed every session and, if the cost exceeded that amount, it could be changed. If the Committee set a "cap" the Legislature would review the cap every session. Ms. Giunchigliani said that was the intent. The Legislature no longer had contracted fares with the airlines and the cost of flights had gone up since the beginning of the 2005 Session. She stated that it bothered her to change the policy from a "cap" to a "floor." Ms. Giunchigliani believed that the amount should be reviewed each session and Consumer Price Index (CPI) increases should be built into the costs to keep pace with increases. Ms. Gansert stated that she did not want to create difficulties for legislators in Las Vegas when coming to session.

Assemblyman Seale said he, too, was disturbed by the "floor," "ceiling" language, and he asked why the bill had to include either, and legislators could turn in receipts and receive actual reimbursement for expenses incurred in approved areas, such as air fares, housing, et cetera. If costs went up or down, it would not matter as it would be actual reimbursement.

Chairman Arberry noted that legislators had submitted receipts for reimbursement in the past. Mr. Seale said it seemed like that would solve the problem of using either the "floor" or "ceiling."

Ms. Giunchigliani believed that there had been some legislators who flew home almost every other night rather than on the weekends and it had become somewhat of a problem, which she thought was part of the reason why the policy had been changed.

Chairman Arberry called for a vote on the motion before the Committee.

THE MOTION CARRIED. (Assemblymen Hettrick and Perkins were not present for the vote.)

* * * * *

The Chair opened the hearing on A.B. 50.

Assembly Bill 50: Makes various changes concerning State Register for Adoptions. (BDR 11-674)

Assemblywoman Giunchigliani explained that A.B. 51 had recently been passed by the Assembly and an amendment had been placed on the bill in the Senate adding a piece of legislation regarding the issue of custody for parents, which had little support. Ms. Giunchigliani indicated that A.B. 51 had been continuously worked on for the past 4 years regarding the issue of adoption, and she had received a request to ask whether A.B. 50 could be "gutted" and the contents of A.B. 51 inserted, and then return A.B. 50 to the Senate for passage.

Chairman Arberry indicated that he would accept a motion.

ASSEMBLYWOMAN LESLIE MOVED TO DELETE THE LANGUAGE OF A.B. 50 AND INSERT THE LANGUAGE FROM A.B. 51 THEREIN, AND DO PASS A.B. 50.

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblymen Hettrick and Perkins were not present for the vote.)

* * * * *

The Chair opened the hearing on A.B. 464.

Assembly Bill 464 (R1): Makes various changes regarding manufacture, sale and use of tobacco products. (BDR 32-1028)

Samuel McMullen, representing Altria Corporation, stated that he had had conversations with representatives from the Department of Taxation and the Attorney General's Office, and the fiscal note attached to A.B. 464 had been removed.

Mr. McMullen pointed out that the bill contained the anti-counterfeit, anti-smuggling, and anti-Internet sales, legislation that the industry had attempted to process during the 2003 Session, and was again attempting to process during the current session. The fiscal note had been "zeroed out" and the proposed amendments, frankly, made the action discretionary. Mr. McMullen offered the following explanation:

- Section 18: Would allow the Department of Taxation to establish regulations on a discretionary basis with the understanding that the Department would not take that action until it had the necessary staff.
- Section 21 and Section 23: Removed the requirement for submission to the Department of invoices and copying relating to delivery sales.
- Section 22: Would establish the creation and maintenance of records relating to delivery sales.
- Section 31: Broadened the definition of "contraband" cigarettes.

According to Mr. McMullen, the only other change was the addition of language pertaining to the issue of forfeiture of property or articles used in the commission of a crime. That language clarified that there would be an opportunity for seizure by the Attorney General's Office and that seized property or articles could be utilized or sold for revenue purposes. Mr. McMullen indicated that if there were trucks or vans being used for transport, those vehicles could be seized.

Mr. McMullen noted that the amendments had been reviewed by representatives from the Department of Taxation and the Attorney General's Office and the fiscal note had been removed from the bill. He urged the Committee's passage of A.B. 464.

Chairman Arberry asked whether the Department would still approach the Interim Finance Committee (IFC), and Mr. McMullen stated that the language in the original bill ensured that the standard IFC process would be followed, but that language had been removed.

ASSEMBLYMAN MARVEL MOVED TO AMEND AND DO PASS
A.B. 464.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblymen Hettrick and Perkins were not present for the vote.)

* * * * *

The Chair opened the hearing on A.B. 460.

Assembly Bill 460: Makes appropriation to Clark County Public Education Foundation for continuation of current programs and expansion of outreach efforts. (BDR S-826)

Assemblywoman Giunchigliani suggested amending the bill, line 2, to add the Washoe County Public Education Foundation and add the sum of \$150,000 for Washoe County, and on line 3, to delete "continuation of current" and add "new" programs. She noted that the accounting language was included in the bill and lines 2 and 3 would be where the bill should be amended.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND AND DO
PASS A.B. 460.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblymen Hettrick and Perkins were not present for the vote.)

* * * * *

The Chair opened the hearing on S.B. 328.

**Senate Bill 328: Makes various changes related to public retirement systems.
(BDR 23-82)**

Assemblywoman Giunchigliani explained that S.B. 328 had been passed by the Committee, however, she wanted to change the amendment. She stated that amendments had been placed on S.B. 328 and S.B. 438, which dealt with judicial salaries and the fact that judges did not contribute to the Public Employees' Retirement System (PERS) or the Judicial Retirement Fund. In an effort to compromise, Ms. Giunchigliani stated she had renegotiated the language and she would withdraw the amendment on the Floor regarding S.B. 438, and would add language to S.B. 328, which indicated that:

The Administrative Office of the Courts, in cooperation with the PERS, would work with a Commission to Review Compensation of Constitutional Officers, if passed during the 2005 Session, or any other committees, to review district court judges and elected county officers, and any other board or commission that examined the salaries and compensation of justices of the Supreme Court and district judges, and would conduct a study of the salaries paid to justices of the Supreme Court and district judges, and the contributions to be paid to the Judicial Retirement Fund.

Ms. Giunchigliani stated that the justices and judges would approach the 2007 Session regarding a compensation plan, and the study would include how justices and judges would begin to pay their portion of the retirement contribution. She noted that justices and judges could pay their portion like State employees, or like other public employees where salaries were reduced by a percentage. Currently, stated Ms. Giunchigliani, justices and judges were the only group that had never paid into their own retirement. She stated that she and Assemblyman Hettrick had worked on the issue for years, and she believed the proposed amendment would be a reasonable compromise.

Assemblywoman Smith stated she was confused, and she asked whether S.B. 438 would be passed without an amendment. Ms. Giunchigliani stated that was correct.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO RESCIND THE PREVIOUS ACTION OF THE COMMITTEE REGARDING S.B. 328.

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Perkins was not present for the vote.)

Ms. Giunchigliani then offered the following motion:

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND AND DO PASS S.B. 328 WITH THE REPLACEMENT AMENDMENT.

ASSEMBLYMAN MARVEL SECONDED THE MOTION.

Assemblyman Marvel asked whether justices and judges would contribute to their retirement over the upcoming interim, and Ms. Giunchigliani stated they would not.

Assemblyman Denis asked how S.B. 438 fit into the mix, and Ms. Giunchigliani stated that she had placed the amendment on both bills, but it did not need to be added to S.B. 438.

THE MOTION CARRIED. (Assemblyman Perkins was not present for the vote.)

* * * * *

The Chair opened the hearing on A.B. 461.

Assembly Bill 461: Makes appropriation to Department of Education for programs of performance pay and enhanced compensation for recruitment, retention and mentoring of teachers. (BDR S-1391)

Ms. Giunchigliani advised that she had emailed the amendments to members. A.B. 461 was the bill that contained the policy issues for school districts to start negotiations regarding performance-based pay. She stated that the amendment would include stipends, recruitment, mentoring, and would provide flexibility for other types of activities. Ms. Giunchigliani stated that the bill contained a \$10 million fiscal note for negotiation purposes.

According to Ms. Giunchigliani, the 2003 Legislature had asked school districts to negotiate performance-based pay, and Lyon County had done that, but the Legislature had never provided the funding to implement the program. If the Legislature wanted school districts and school teachers to move toward performance-based pay, it had to provide the funding. She pointed out that the amendment included all licensed personnel.

ASSEMBLYWOMAN McCLAIN MOVED TO AMEND AND DO PASS
A.B. 461.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

Assemblyman Hettrick stated he would support the motion on the basis of statements made by Ms. Giunchigliani, but he reserved the right to change his vote on the Floor. Mr. Marvel echoed Mr. Hettrick's statement.

THE MOTION CARRIED. (Assemblyman Perkins was not present for the vote.)

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With no further business to come before the Committee, the Chair adjourned the hearing at 10:18 a.m.

RESPECTFULLY SUBMITTED:

Carol Thomsen
Committee Attaché

APPROVED BY:

Assemblyman Morse Arberry Jr., Chairman

DATE: _____

<u>EXHIBITS</u>			
Committee Name: <u>Committee on Ways and Means</u>			
Date: <u>May 27, 2005</u>		Time of Meeting: <u>8:00 a.m.</u>	
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
AB 566	B	Judge Doherty, Second Judicial District Court	Resolution
AB 566	C	John Lefcourte, Washoe County Public Defender’s Office	Letter of 5/25/05
AB 565	D	Daniel Walters, LV Library District	Memorandum of 5/26/05
AB 567	E	Dr. William Roberts, Superintendent, Nye County School District	“Nye County School District 2005”