

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

**Seventy-Third Session
June 5, 2005**

The Committee on Ways and Means was called to order at 8:39 a.m., on Sunday, June 5, 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

Chairman Arberry adjourned the meeting from June 4, 2005, and called the June 5, 2005, meeting to order.

**Senate Bill 400 (2nd Reprint): Provides for regulation of off-highway vehicles.
(BDR 32-426)**

Assemblyman Lynn Hettrick, District No. 39, presented S.B. 400. Mr. Hettrick explained that S.B. 400 related to all-terrain vehicles (ATV) or off-highway vehicles (OHV) and would generate revenue improvement for the state of Nevada. Senate Bill 400 would create an economic benefit to some of the counties that could utilize the provisions within the bill and was an economic improvement for some of the dealers who were losing sales of ATVs and similar vehicles to out-of-state dealers. Because there was no registration for that type of vehicle in Nevada, buyers went out of state to purchase vehicles then brought the vehicles back to Nevada without paying the required use tax.

Mr. Hettrick pointed out that there was no fiscal note attached to the bill. The original bill as drafted had registration required by the Department of Motor Vehicles; however, the Governor was not receptive to the bill because it created

a new tax. Therefore, S.B. 400 had been amended and the fiscal note had been removed.

Mr. Hettrick outlined S.B. 400. He said the first line of Section 1 changed the responsibility to the Department of Taxation under the *Nevada Revised Statutes* (NRS), Chapter 360, because the bill pertained to collecting the use tax. Lines 1 through 21 on page 2 defined what an off-highway vehicle was. He pointed out that lines 19 and 20 said that the provisions would not include any vehicle registered by the Department of Motor Vehicles, which meant that an individual who drove a jeep on the highway every day and drove the jeep on public lands on the weekend was not required to purchase a sticker because that vehicle was already registered with the state.

Mr. Hettrick explained that lines 22 through 25 of Section 7 clarified that it was not mandatory that dealers distribute the stickers, although it was mandatory that they collect sales tax if the vehicle was sold in Nevada. Customers buying vehicles would want stickers and dealers would want to distribute stickers because it was to their advantage to have the customers buy their vehicles in Nevada. The dealers would want to tell every would-be customer that there was a law requiring all-terrain vehicles (ATV) to have a sticker after January 1, 2006. If the customer was aware of that, then he would realize there was no benefit to buying an ATV in Utah because he would have to return to the state and buy a sticker, and buying a sticker was the equivalent of paying the sales and use tax.

Mr. Hettrick continued and said that line 30 of Section 7 outlined how the stickers would be issued. If a vehicle was sold, a sticker had to be issued. Lines 33 and 34 clarified that those individuals with a vehicle purchased before January 1, 2006, would be able to obtain a sticker merely by asking. However, those who purchased a vehicle after January 1, 2006, had to pay the sales tax in order to obtain a sticker. Lines 35 through 44 related to out-of-state purchases and private party purchases. In the case of a private party transaction, the Department of Taxation would accept an affidavit stating that the tax was paid or that the transaction was not a taxable transaction. The Department then determined whether to issue a sticker.

On page 3, Mr. Hettrick pointed out that lines 3 through 5 said that the dealer had to bear any cost, but there would not be a cost since the Department of Taxation would issue the stickers and had offered to print them for free. Lines 6 through 8 indicated that the dealer could not charge for providing the sticker; the sticker was part of the transaction when sales tax was paid. He pointed out that the dealers would be willing to do that because it would ultimately benefit them because more vehicles would be purchased in-state.

Mr. Hettrick indicated that lines 11 through 18 on page 3 explained the responsibilities of the Department of Taxation as far as adopting regulations. Lines 19 through 25 said who could operate and where. Lines 26 through 31 explained what to do if the sticker was lost or the vehicle was sold. That section of the bill allowed for an owner to obtain another sticker if needed. Lines 32 through 44 provided for exemptions for federal agencies, state agencies, and county and city entities. Additionally, the inventory of a dealer had not been sold yet, therefore the tax was not due. An individual who bought a vehicle that was registered or certified from another state was also exempt as long as it was not longer than 90 days. Vehicles used for husbandry, farming, and ranching were exempt as were those vehicles used for work at the direction of a public or private utility.

Mr. Hettrick pointed out that lines 3 through 27 on page 4 said when and where the vehicle could be operated on a paved road. That situation generally arose when an individual wanted to unload a vehicle at the side of a road and then had to travel a short distance to reach a trailhead. Lines 28 through 39 indicated that a governmental entity had jurisdiction over public land and could prohibit or allow use of that land. The appropriate governmental entity could provide maps and erect and maintain signs showing where ATVs could be ridden.

Mr. Hettrick said that Section 10 allowed the city or county to designate portions of highways as permissible for the operation of off-highway vehicles. He pointed out that there were campgrounds throughout the state, particularly in the smaller counties, which were a source of economic development. Those campgrounds were located near trailheads, but the ATV riders could not access those trails without traveling down a paved road. Currently, counties could not give ATV riders permission to ride a short distance on paved roads, but S.B. 400 would allow that. He noted that the language in the bill was enabling rather than mandatory and counties could choose not to designate roads for ATV riding. If the counties wanted to designate a road that was maintained by the Nevada Department of Transportation (NDOT), then the NDOT had to be in agreement. Lines 8 through 9 stated that ATV riders were not allowed to drive on any interstate highway.

Mr. Hettrick continued and indicated that lines 10 through 15 of page 5 established age limits and supervision requirements. Supervision was mandatory if an ATV operator under the age of 16 was driving on a designated paved road. Lines 16 through 20 indicated that the individual had to be traveling to public land; he could not be driving on paved road to get to his friend's house. Line 23 in Section 11 stated that the driver had to have a valid driver's license and obey the appropriate ordinances when traveling on a paved road. Lines 28 through 33 explained where an ATV could not be operated for any reason. Section 12 mandated certain safety equipment if an individual was going to drive across a designated paved road to reach public land. Line 6 of page 6 required that the driver of an ATV comply with all traffic laws, have a certificate of operation, and wear a helmet.

Mr. Hettrick concluded by pointing out that similar legislation had been proposed for several sessions. The vehicles in the bill were referred to as off-highway vehicles, rather than off-road vehicles because responsible ATV riders did not ride cross-country over open land, but rode on existing roads. He stressed that S.B. 400 was an opportunity to help the dealers and help the counties and to collect taxes that should be being paid.

Assemblyman Marvel questioned the helmet requirement in the bill and referred to an accident where a state employee had been killed. Mr. Hettrick said a helmet was required only if the ATV was being operated with a sticker on a highway or a designated paved road. State agencies were exempt from the requirements of the bill, so there was nothing in the bill that would have mandated the helmet use for that Division of Forestry employee.

Assemblyman Denis asked how the distribution of the stickers would be monitored. Mr. Denis asked if the aforementioned affidavit could be done with the dealer or with the Department of Taxation.

Mr. Hettrick said the affidavit had nothing to do with the dealer, an affidavit had to be given to the Department of Taxation, and the Department of Taxation would then determine whether or not the individual would receive a sticker. As

far as the distribution of the stickers, each dealer would receive 100 stickers, which were signed and numbered, and then the dealer would have to account for each sticker. With each sale the dealer would have an invoice that indicated the sticker number. If the dealer did not comply, then the Department of Taxation would no longer allow the dealer to distribute stickers. Mr. Hettrick said it would be part of the bookkeeping process.

Mr. Denis asked who would enforce the sticker requirement. Mr. Hettrick said that any law enforcement officer could ticket for the lack of a sticker. It would be a secondary offense, much like the seatbelt requirement. If a rider was stopped for another offense, and it was discovered that the ATV had no sticker, then the rider was cited and he had to get a sticker.

Assemblywoman Leslie asked what would happen if law enforcement officers found an individual who was not following the other safeguards mentioned in the bill, and if it would be possible to force compliance with the law. She asked if there would be a central registry.

Susan Fisher, representing the Nevada Off-Highway Vehicle Enthusiasts and Dealers, said that there would not be a central database, which would require a fiscal note. The dealers would be collecting information when distributing the stickers, and it was assumed that the dealers would provide that information to the Department of Taxation. The Department of Taxation would be establishing the regulations that the dealers had to follow as far as recording and reporting the information.

Ms. Leslie said the lack of a central database of information was unfortunate and should have been included in the bill. Ms. Fisher agreed and pointed out that the fiscal note would have "killed" the bill. She added that S.B. 400 was seen as a precursor and there might be an opportunity for a more comprehensive registration process in the next session. Ms. Leslie said that was a weakness of the bill.

Ms. Leslie mentioned the provision regarding the supervision of persons less than 16 years of age. She noted that they could be supervised by persons of 18 years of age, which was troubling. She stated that it was unsafe, and she asked if there had been any consideration given to changing the age requirements.

Mr. Hettrick explained that the reason for that provision was to allow an individual to drive on a designated paved road for a short distance in order to reach public land. If that individual was driving down a paved road, then obviously he should comply with all traffic laws, and if the individual was under the age of 16, then he had to be supervised. He agreed that supervision was important, but youth should have access to the public roads for ATV riding as well.

Assemblywoman Smith directed attention to Section 11 and questioned how it would be determined that a driver was only traveling 2 miles on a paved road. Mr. Hettrick said the route had to be designated, if the route was not designated the individual would be in violation and could be cited. However, if the route was designated, the officer would have to ask the driver where he was coming from to determine whether the driver was in violation of the 2-mile rule. He remarked that he envisioned that provision as applying to those who were coming from a campground or from their homes, if they were in a designated area.

Mrs. Smith said that Section 11 did not include the stipulation that the paved road had to be designated. Mr. Hettrick explained that Section 10 included that provision. Mrs. Smith reiterated that Section 11 did not say the road had to be designated. She wondered if that could be interpreted to mean any paved highway. Mr. Hettrick said the officer could drive back to the house or campground to ensure it was two miles, but he would only do that if there was a question. Mr. Hettrick added that a driver would not be stopped unless he was not complying with the laws.

Assemblyman Hogan asked if there had been any testimony in other hearings from the law enforcement agencies as to their ability to enforce the provisions in the bill.

Ms. Fisher responded to Mr. Hogan's question and said there had not been any testimony from the law enforcement agencies on S.B. 400. She pointed out that the bill specified that the drivers did have to have the appropriate safety features, such as a headlight, taillight, muffler, et cetera.

Ms. Fisher added that the stickers that would be distributed were much larger than the stickers used for car registration. The Department of Taxation would design and produce the stickers. She said she had requested the stickers be as large as a motorcycle license plate, reflective, with letters that were large enough to see from 50 feet away, and the Department had indicated that would not be a problem.

Assemblyman Perkins pointed out that the law enforcement most involved in the issue would be local law enforcement agencies as the ATVs would not be on highways.

Steve Robinson, Advisor on Wildlife, Conservation, and Rural Nevada Issues, Office of the Governor, expressed support for S.B. 400. Mr. Robinson said the legislation was important as it would "capture" the sales tax that was being lost and would protect the in-state dealers, who had been losing considerable sales out of state. He explained that the original version of the bill would have established a complex regulatory registration system, which might be better implemented in the future. The plan required more thought, but S.B. 400 was a "baby step" to fix a few problems and could evolve into something better and more thorough at a later date.

Ms. Fisher stated that Nevada dealers were losing approximately \$30 million per year in out-of-state sales, which equaled over \$2.5 million in lost sales tax revenue. The sticker program would also allow reciprocity to other states. If an individual went to another state to drive his ATV, he had to purchase a day pass or a season pass because those states had a comprehensive registration process. Nevada was the only state among the 11 western states that did not have a registration process, so the sticker program would allow ATV riders from other states to come to Nevada, and there would not be any problems if they were registered in their own states.

Ms. Leslie asked if the other states had a central registry. Ms. Fisher indicated that the other states did have a comprehensive registration process. Idaho had some model legislation, and S.B. 400 had originally been patterned after that legislation. Ms. Leslie remarked that she would have preferred the original version of the bill.

Mr. Hettrick interjected and said he had not been opposed to the registration process, but S.B. 400 would not have been processed with that particular fiscal

note, so amendments had been made. He pointed out that there would be very few roads designated for off-road vehicles.

Mr. Hettrick added that the information the dealer obtained upon providing the sticker would be reported to the Department of Taxation. It would not be placed in a database, but in the future it could be placed in a database. He emphasized that S.B. 400 was a small step in the process, but it was a step in the right direction and would be of great benefit to Nevada's dealers. There had been testimony in an earlier hearing that 63 percent of the sales of a dealer in St. George, Utah, were non-taxed going into Nevada, which was worth a substantial amount of money.

Mr. Denis questioned whether S.B. 400 could be used to try and eliminate older vehicles, even if those vehicles had the necessary safety features. Mr. Hettrick said that was not the intent.

J. David Fraser, Executive Director, Nevada League of Cities and Municipalities, thanked Mr. Hettrick for his work on S.B. 400 and said the Nevada League of Cities and Municipalities supported the bill for all the reasons previously stated.

Kaitlin Backlund, Nevada Conservation League, spoke in opposition to S.B. 400. Ms. Backlund said that the original version of the bill had a minimal fee of \$12.50 to obtain a sticker, and she did not understand why the revenue that was supposed to be generated from the bill could not be used to establish a registration database. She questioned whether there would be a substantial revenue gain, and she agreed that it was important to capture sales tax, but there needed to be an enforcement policy.

Ms. Backlund added that it was generous of the dealers to offer to gather data and provide it to the Department of Taxation, but the dealers were private business owners and that was not their job. She added that the data might not be sufficient in two years when there might or might not be a comprehensive program developed. The other issue was that if an individual lost a sticker or it was stolen or destroyed, he could easily obtain another sticker, and perhaps the Department of Taxation would write some regulations to encourage stricter enforcement, but that issue was not addressed in the bill.

Ms. Backlund said that while the efforts to put forth a program without a fiscal note were commendable, the bill was not sufficient to address those issues. She added that if an individual was going to ride an off-highway vehicle on a paved street, he would be inclined to get a sticker, but for those who did not ride on paved roads, there was no motivation to pay the sales tax to obtain a sticker, which would never be checked because there was not an enforcement component in S.B. 400.

Ms. Backlund remarked that there were two components to the bill: capturing sales tax and giving broader privileges to the community for the purpose of generating economic development. Those were both important issues, and she opined that the concept could be worked on over the interim and there could be a comprehensive bill proposed in the next legislative session.

Ms. Backlund said there were a few items she wished to mention. In the original draft, the aforementioned affidavit would have come from the Department of Taxation, but that language was not contained in the current version of the bill. Also, there was another bill, S.B. 378, which had not been processed, but had contained many of the provisions regarding empowering

local governments to designate certain paved roads and there was testimony regarding law enforcement during the hearing on that other bill.

Gail Ferrell, Snowlands Network, provided [Exhibit B](#) to the Committee and spoke in opposition to S.B. 400. Ms. Ferrell said she was opposed for several reasons. She said she had been present during the hearing of S.B. 378, which had been mentioned earlier as a bill similar to S.B. 400, and she had heard representatives from the Highway Patrol speak in opposition to allowing motorized recreation use on paved highways because it was unsafe. Those vehicles were not intended to be driven on pavement.

Ms. Ferrell added that enforcement was another problem with S.B. 400. She pointed out that an individual who purchased an ATV for off-highway use was in no way compelled to register the vehicle, so the bill would not capture the sales tax anticipated. For those individuals who intended to ride on a highway with their motorized recreation vehicles, they could obtain a sticker if they purchased the vehicle before January 1, 2006, so there would be no sales tax to be captured. If the vehicle was purchased after January 1, 2006, buyers were still not required to get a sticker if the vehicle was only used on dirt roads. She pointed out that a person under the age of 16 driving on a designated paved road did not have a driver's license but would be allowed to be on the highway. If someone was stopped on the highway, there was no database to verify their information and to ensure they complied with the law. Enforcement was simply not possible with S.B. 400 in its current form.

Ms. Ferrell concluded by stating that the American Academy of Pediatrics suggested that no one under 15 years of age should be operating those vehicles, but the bill would allow individuals under the age of 16 to do just that.

Assemblywoman Weber asked if Ms. Backlund and Ms. Ferrell had considered an amendment to address their concerns.

Ms. Backlund responded and said that if the Committee chose to focus on the sales tax capture component of the bill, then she suggested that Section 9 to the end of the bill be deleted as well as lines 20 and 21 on page 3. She acknowledged that such an amendment would "gut the bill" so she had chosen not to submit that amendment.

Joe Johnson, Toiyabe Chapter, Sierra Club, expressed opposition to S.B. 400. Mr. Johnson noted that the definition of highway in NRS 482.045 was "the entire width between the boundary lines of every way maintained by public authority, when any part of such way is open to the use of any public for purposes of vehicular travel." The bill did not make reasonable distinction between paved highway and other highways. He added that the enforcement in the bill was not sufficient, and he suggested that there be an amendment stating that the act would expire by limitation on June 30, 2007.

As there was no further testimony, Chairman Arberry closed the hearing on S.B. 400 and indicated that the Committee would discuss the Appropriations Act.

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, distributed [Exhibit C](#) to the Committee, which contained language from the Appropriations Act. Mr. Stevens explained that the reason the Committee was reviewing the back language of the bill in advance of its submittal was because the Appropriations Act was traditionally not amended,

so if there was a problem with the language, it needed to be fixed before going to the Assembly Floor.

Mr. Stevens explained that the back language started in Section 33, which contained standard language outlining the amounts for the work program for two separate fiscal years as noted in the front sections of the bill. Section 34 outlined the budgets that were authorized to transfer monies between each fiscal year, and there were approximately 25 to 30 and were listed on the first three pages of [Exhibit C](#). Section 35 provided for categories within budgets that could be transferred between each fiscal year. In Section 34, the entire budget could be transferred between fiscal years; in Section 35, portions of budgets could be transferred between fiscal years.

Mr. Hogan asked if those transfers required the approval of the Interim Finance Committee (IFC). Mr. Stevens clarified that transfers between fiscal years had to be approved by the IFC.

Mr. Stevens continued and explained that Section 35 had seven subsections outlining programs within specific budgets that had the authority to transfer between fiscal years. An example of that would be the category that included the funding for the development of the Unified Tax System in the Department of Taxation. Section 36 provided that items included as deferred maintenance, usually within the M-425 decision unit in agency budgets, could be transferred between fiscal years. Section 37 stemmed from a budget closing in the Joint Subcommittee on Public Safety, Natural Resources, and Transportation and appropriated funding to the IFC to be released after a detailed cost proposal for the purchase of equipment for an inmate tracking system was received. Section 38 contained a one-shot appropriation of \$194,000 to the Supreme Court for furniture and moving costs related to the relocation to the Regional Justice Center in Clark County.

Mr. Stevens noted that Section 39 appropriated funds to the IFC to be released for various information technology projects if the IFC deemed a plan sufficient to warrant the funding. Section 40 contained another subcommittee recommendation related to the Vocational Rehabilitation and Services to the Blind budget. Additional monies had been recommended to match federal funds, but previously there had been funds left over and reverted at the close of the fiscal year. This section allowed the IFC to release those funds if the agency demonstrated the need for additional State funds to match federal dollars. Section 41 indicated that the amounts appropriated to the Legislative Fund could be used in either year of the biennium. Section 42 was "capping" language on the Division of Health Care Financing and Policy and the Welfare Division. The budgets specifically capped were listed in Section 34, and included the budgets that could be transferred between fiscal years. He noted that Section 42 was traditional language that had been included in the Appropriations Act for several years.

Mr. Stevens continued his presentation and said that Section 43 allowed monies in the budget accounts of the Welfare Division to be transferred to any other budget accounts in the Welfare Division. The situation was similar in Nevada Medicaid and Nevada Check Up. Section 45 was a new provision and involved the redesign of children's mental health residential services, and would allow the Department, once it had a better understanding of how it would be reorganized, to approach the IFC to make the necessary transfers. Section 46 allowed monies to be transferred between the budget accounts in the Department of Corrections, so if there was a higher number of inmates than anticipated in one facility, monies could be transferred to cover those costs.

Section 47 allowed the Department of Public Safety to make adjustments for an assessment made on their information services section. Section 48 allowed \$1.5 million for expansion of kiosk technology to be transferred between fiscal years. Section 49 provided that budget accounts within a department could transfer appropriated monies between the budget accounts to make up for vacancy savings. Thus, if one agency had budgeted \$100,000 in vacancy savings, but had not generated any, monies could be transferred from another agency, within the same Department, that had generated more vacancy savings than budgeted. Section 50 indicated that the Board of Regents would comply with any requests by the Governor to set aside money for appropriations included in the bill. Section 51 allowed the University and Community College System to "balance forward" documented research grants over a three-year period. He noted that the provision had been added to the Appropriations Act in 2003 and was included in one other account where grants could be used over a three-year period.

Assemblywoman Giunchigliani asked why the Legislative Counsel Bureau was exempt from the prevailing wage in Section 41. Mr. Stevens said that language had been included in the Appropriations Act in previous sessions.

Ms. Giunchigliani said that another bill had included similar language and the Committee on Elections, Procedures, and Ethics had deleted that language.

Mr. Stevens continued outlining the Appropriations Act and explained that Section 52 appropriated monies to the Public Employees' Retirement Board for administration of the Legislators' Retirement System. Section 53 required California to provide its two-thirds share of the funding for the Tahoe Regional Planning Agency. Section 54 indicated that appropriations would be reverted at the end of each fiscal year with the exemption of those three-year grant programs mentioned in Sections 51 and 66. Section 55 provided that the State Controller would make payments until the last business day in August and process any transactions requested by the Budget Director through the third Friday in September. Section 58 included a \$1.2 million appropriation for the cost of the legislative session, which would be the last appropriation of the current session. Section 59 was a provision that would utilize \$500,000 of monies allocated to the Nevada Development Authority for economic development activities involving the inner city or blighted areas within Clark County, and those funds would be utilized by organizations including the Urban Chamber of Commerce and the Latin Chamber of Commerce. Upon submittal of a detailed plan, the Nevada Development Authority would review the plan and make a recommendation to the Commission on Economic Development.

Mr. Stevens noted that Sections 60, 61, and 62 contained provisions that would allow certain programs to get an advance from the General Fund on a temporary basis. Section 63 had language related to activation of the Nevada National Guard and was limited to \$25,000 per activation. Section 64 was a companion measure to language in NRS 353, which indicated that the Governor could reserve appropriations if there was a revenue shortfall during the biennium. In particular, if the General Fund balance fell below \$70 million, the Board of Examiners would direct the Department of Administration to require the State Controller to reserve not more than 15 percent of the total operating expenses and then report to the IFC. Section 65 related to the Cash Management Improvement Act, which involved the State Treasurer bringing in funds from the federal government. There were provisions in the Cash Management Improvement Act indicating that the state could not hold on to that money, and there were transactions in which the state owed the federal

government or the federal government owed the state, and the language in the bill allowed the transfers to take place. Section 66 allowed for the three-year grant program for the Council of the Arts.

Assemblyman Seale asked if the figures contained in the Appropriations Act were generated by actions taken in the Committee and in the subcommittees.

Mr. Stevens indicated that was correct and added that Section 58 and Section 52 contained the only exceptions. The Committee had not yet discussed the final appropriation for the cost of the legislative session as mentioned in Section 58, and Section 52 contained the appropriation to the Public Employees' Retirement System for the cost of administering the Legislators' Retirement System. He stressed that all other figures included in the bill had been discussed and approved by both the Senate Committee on Finance and the Assembly Committee on Ways and Means.

ASSEMBLYMAN MARVEL MOVED TO APPROVE THE
INTRODUCTION OF THE APPROPRIATIONS ACT ON THE
ASSEMBLY FLOOR.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

Mrs. Smith expressed confusion regarding the prevailing wage issue and the bill that had been processed in the Assembly Committee on Elections, Procedures, and Ethics.

Assemblywoman Koivisto, who also served as chairwoman of the Committee on Elections, Procedures, and Ethics, indicated that the issue discussed in that committee was competitive bidding rather than prevailing wage.

Mr. Stevens said that Gary Ghiggeri, Senate Fiscal Analyst, was reviewing the back language for the Senate Committee on Finance. He requested that the Committee vote to introduce the Appropriations Act on the Assembly Floor.

ASSEMBLYMAN MARVEL MOVED TO INTRODUCE THE
APPROPRIATIONS ACT ON THE ASSEMBLY FLOOR.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

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

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Chairman Arberry indicated the Committee would consider bills.

Senate Bill 341 (3rd Reprint): Makes various changes concerning sex offenders and offenders convicted of crimes against children. (BDR 14-678)

Ms. Giunchigliani distributed [Exhibit D](#) to the Committee and explained suggested amendments to [S.B. 341](#). She indicated that she had worked with the chairman of the Assembly Committee on Judiciary to alleviate concerns about the bill regarding the life imprisonment issue. However, she felt it was important that there be the community notification website provision and the revision of the penalties for violation of registration requirements.

Ms. Giunchigliani said the recommendation would be to amend and do pass the bill by deleting Sections 22.5, 23.3, 23.7, 24.3, and 24.7, and deleting the

amendments from the Assembly Committee on Judiciary, including the new language in subsection 5(c) on page 5, lines 15 and 16, and new language in subsection 5 on page 25 and subsection 5 on page 30. Those amendments would allow the bill to move forward without focusing on the life imprisonment issue.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND AND DO
PASS S.B. 341.

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

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

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Assembly Bill 373: Requires increased salaries for certain speech pathologists employed by school districts. (BDR 34-1171)

Ms. Giunchigliani indicated that there was a revised fiscal note for A.B. 373 relating to the provision that speech therapists with national certification could qualify for the same percentage increase in their salaries as other groups received with national certification.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND AND DO
PASS A.B. 373.

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

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

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Senate Bill 105 (1st Reprint): Makes appropriation to University of Nevada School of Medicine for support of partnership with Nevada Cancer Institute and Center of Excellence. (BDR S-1225)

Mr. Stevens noted that the \$10 million appropriation was included in The Executive Budget.

ASSEMBLYMAN MARVEL MOVED DO PASS S.B. 105.

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

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

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Senate Bill 156 (1st Reprint): Encourages establishment of program of agronomy, horticulture, landscape ecology, and design and plant sciences within College of Agriculture of University of Nevada, Reno. (BDR S-823)

Mr. Stevens indicated that the appropriation had been removed from the bill and passage of the bill would encourage the Board of Regents to examine the possibility of establishing a program and report to the Legislature in the next session.

ASSEMBLYMAN MARVEL MOVED DO PASS S.B. 156.

ASSEMBLYWOMAN WEBER SECONDED THE MOTION.

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

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Senate Bill 195 (1st Reprint): Increases number of district judges in Eighth Judicial District. (BDR 1-524)

Mr. Stevens said the bill would add four district judges in the Eighth Judicial District in Clark County. There was a \$335,000 appropriation in the second year of the biennium. The positions would be added in January 2007.

ASSEMBLYMAN SEALE MOVED DO PASS S.B. 195.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

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

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Senate Bill 369 (1st Reprint): Makes various changes regarding judiciary. (BDR 1-525)

Mr. Stevens explained that S.B. 369 allowed currently retired judges to serve as senior judges. The court had felt that was necessary in order to implement the expansion of the Senior Judge Program and relieve court workload.

Ms. Giunchigliani questioned Section 5, which involved a study of the Public Employees' Retirement (PERS) Board. She noted that the reporting date was in 2008, which would mean there would not be any recommendations until 2009.

Nancy Becker, Chief Justice, Nevada Supreme Court, responded to Ms. Giunchigliani's questions and said the language in the bill mirrored the language in the PERS critical labor shortage extension bill. The purpose of the language in both bills was to allow PERS more time to study both plans and determine if the critical labor shortage extension should become permanent.

Ms. Giunchigliani asked how many days per year had to be worked to receive a full year of service credit. Ms. Becker said that each agency determined that number. The Supreme Court followed the same guidelines as the Executive Branch, which was 210 days per year.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED DO PASS S.B. 369.

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

MOTION CARRIED. (Mr. Hogan was not present for the vote.)

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Chairman Arberry recessed the meeting at 9:57 a.m.

The meeting was called back to order at 2:16 p.m. Chairman Arberry indicated the Committee would hear S.B. 519.

Senate Bill 519 (2nd Reprint): Provides for one-time issuance of check to certain persons and entities who registered one or more motor vehicles in Nevada during calendar year 2004. (BDR S-1204)

Michael D. Hillerby, Chief of Staff, Office of the Governor, presented S.B. 519. Mr. Hillerby explained that S.B. 519 was the result of the Governor's belief that, given the amount of surplus funds, a rebate to the taxpayers in the amount of \$300 million was important. The rebate would be issued based on vehicle registrations in 2004. The reason for using the Department of Motor Vehicles' (DMV) database was that without a personal income tax, the state did not have another way to gather information on taxes paid. He pointed out that the DMV car registration was a significant fee that Nevadans paid and there was a mechanism to return that fee already in place. He emphasized that the idea behind the rebate was that the "tax you get back was the one you paid."

Mr. Hillerby added that the rebates would be capped at \$300, and checks would be issued to everyone who had registered a vehicle in 2004. He noted that the Senate had amended the bill so that unclaimed money, essentially checks that were returned due to incorrect address information, would be placed in a fund under the Division of Emergency Management to provide grants to persons who owned or occupied homes damaged by a disaster.

Mr. Hillerby said that there had been questions regarding the minimum rebate amount. In the fiscal note, the size of some of the checks was relatively small. The maximum was \$300, but the minimum amount was whatever an individual had paid to the DMV for vehicle registration. There were individuals who had turned in a license plate with partial credit and then applied that credit toward registering another vehicle. Those individuals had then paid a smaller registration fee, so they would receive a rebate in that amount. He pointed out that many of those individuals likely had more than one vehicle.

Mr. Hillerby indicated that he had spoken with the Governor and it was proposed that the bill be amended to raise the minimum amount to \$50. Raising the minimum would lower the maximum amount to a little less than \$300, which would have to be recalculated. Also, utility trailers, which cost either \$12 or \$24 to register, would be removed from the list. That would remove approximately 143,000 rebate checks, which would be used to increase the minimum to \$50.

Mr. Hillerby added that there had also been concern about senior citizens who no longer had driver's licenses and registrations. For approximately \$3.3 million, everyone age 65 and older with a state-issued non-driver's license identification card would receive a minimum rebate amount of \$50. That \$3.3 million would cover approximately 65,900 senior citizens. He explained that he had not proposed those changes as an official amendment as of yet, and would not do so until they were closer to reaching an agreement.

Mr. Hillerby commented that S.B. 519 preserved several important features: the rebate was \$300 million, the rebate would be in the form of a check, and businesses would be included. Using the registration fee as the basis ensured that businesses would receive rebates as well. Businesses had participated in the economic recovery and the economic success of the state and deserved to participate in the rebate.

Mr. Hillerby pointed out that the fiscal note was attached to the bill and included information from the Treasurer's Office, Controller's Office, and the

DMV. He noted that the state had issued a Request for Proposal (RFP) to private vendors regarding the check processing. The Controller's Office had also expressed an interest in issuing the checks and prepared a bid. The rebates would be issued fairly quickly and would be a significant boost to retailers and small businesses.

Mr. Seale asked why the Governor's Office preferred issuing checks rather than crediting DMV accounts toward the next year's registration. Mr. Hillerby said that it was the citizens' money and it should be returned to them so they could choose how to spend it. He added that there was an issue of fairness because it would take time to put the mechanism in place to credit accounts. One individual might receive the credit the first month of the program, while another individual might not receive it for another 12 months. There was also the possibility of creating issues at the DMV. The DMV had worked hard to reduce wait time, but if there were issues with the credits, then many more people would have to go into the DMV offices, increasing wait time. There were also questions as to how the credit could be used and what fees it could be applied toward. He repeated that the biggest reason was that people should be allowed to make their own decision as to how to spend their rebate.

Mr. Seale noted that there would be \$300 million issued by the state at one time. He asked if the Treasurer's Office was prepared to have that cash available. Mr. Hillerby said the money had been moved into a separate account. He pointed out that at the end of the 180-day period, once the checks were no longer valid, the unclaimed money would be returned to the General Fund. He added that the Treasurer's Office was prepared for the rebate.

Mr. Hogan asked if there was a limit on the number of refund checks that an individual or business could receive. Mr. Hillerby said there was not a limit.

Mr. Hogan commented that the surplus was not generated due to a large amount of new vehicle registration fees. He said he did not see the relationship between the two and it seemed that there might be many people who paid all the various forms of taxes in the state and contributed a significant portion and yet were not collectors of cars, trailers, boats, et cetera, and would not be receiving a large rebate. He said that without a limit on the number of checks, it seemed that there might be great inequities in the system.

Mr. Hillerby said there was a limit on the size of the individual checks but not the number of checks an individual could receive. He agreed that the state's surplus had been generated from a number of sources, but the state did not know what individuals paid in sales tax. The largest check that any individual citizen wrote to the state went to the DMV, which was why that particular database had been chosen. He pointed out that there had been some broad tax relief related to property tax.

Mr. Hillerby conceded that it was not a perfect solution, but the DMV had the largest database in the state. He added that those who had paid a significant amount in vehicle registration were also involved in other economic activity. In some cases, the DMV rebate was not necessarily the most comprehensive or accurate way to provide a refund, but the DMV database was the best option to get money back into the hands of the most people.

Assemblyman Marvel clarified that fleet owners, such as taxicab company owners, would receive a check for every vehicle they owned. Mr. Hillerby said that was correct and emphasized that those owners had paid taxes on every vehicle. Mr. Marvel agreed with Mr. Hogan that there was an equity problem.

Assemblywoman McClain questioned the identification card for senior citizens and pointed out that there were "snow bunnies" who came to the state for a few months out of the year and were issued identification cards. Mr. Hillerby said he would have to discuss that issue with the DMV. He remarked that it was illegal to have more than one driver's license and he was not sure if people were allowed to have more than one state-issued identification card.

Assemblywoman Giunchigliani clarified that everyone would be entitled to the minimum amount. Mr. Hillerby explained that the minimum amount would be \$50 and the maximum amount would be \$300. He pointed out that the maximum might change in order to raise the minimum.

Ms. Giunchigliani noted that the rebate was tied to registration. Mr. Hillerby said the rebate, using the registration database, would be a reflection of what people paid. Ms. Giunchigliani interjected that the surplus was generated through a great deal of sales tax, not vehicle registrations. If it was an issue with registration, there should have been some movement to lower the cost of registration. Mr. Hillerby pointed out that the registration fee could not be reduced because that money went to the local governments.

Ms. Giunchigliani said it was simpler and easier to understand when the rebate was discussed as a flat rate going to all citizens with a driver's license. She asked if the businesses would be receiving a rebate. Mr. Hillerby said that businesses would receive a rebate to the extent that they registered vehicles. He opined that it was equitable because individuals would receive what they had paid in vehicle registration. He added that if Nevada had a different tax system with different databases, there would be more options to discuss.

Ms. Giunchigliani commented that those who owned car rental agencies would receive more than the average citizen. Mr. Hillerby said that for each vehicle registration, the owner would be entitled to the same amount as any other person. He stressed that the owners of car rental agencies paid taxes as well.

Ms. Giunchigliani said that the rebate was meant to be distributed to as many people as possible rather than to certain individuals who would receive more because of the type of business they owned, which might be harmful to constituents.

Mr. Hillerby asserted that businesses were constituents as well, and many businesses had paid a significant amount in taxes and should participate in the rebate. Ms. Giunchigliani agreed but felt the individual citizens should receive more than \$50.

Mr. Hillerby contended that the average rebate would be over \$150. He reiterated that using the DMV database was the best option.

Mr. Seale noted that there had been discussion regarding the "taxability" of the refund to individuals. He asked if the Governor's Office had received an Internal Revenue Service (IRS) opinion letter.

Mr. Hillerby said the Governor's Office had received a memorandum from the IRS. The Governor's Office had asked the IRS about the return of a surplus that was generated from multiple sources and identifying a particular method to return money. There had also been questions about a flat rate provided to all citizens with a driver's license. The Governor's Office had wanted to know what the tax consequences would be for those who received the payments.

The other concern was whether the state had a requirement to report that refund on a 1099 Form. That was important because there was a cost to sending that form, and if there was a mistake, there was a fine up to \$100 for every check sent out that should have had an accompanying 1099 Form.

Mr. Hillerby said that the answers received from the IRS indicated that whether it was a flat rate given to all citizens with a driver's license or a vehicle registration rebate, the answer was that there was not a 1099 reporting requirement. He emphasized that there were issues unique to the particular circumstance the state was in.

Mr. Hillerby added that the IRS had informed the Governor's Office that if there was a flat rate rebate, that rebate was taxable in all circumstances to those individuals who received the check. If the rebate was based on a tax the citizens had paid then it was only reportable for those Nevadans who itemized vehicle registration on their tax returns and received a tax benefit from having done so.

Mr. Seale clarified that it was taxable rather than reportable. It was taxable because vehicle registration had been itemized on the tax return. He remarked that that was probably a relatively small number. He asked if any tax code section had been quoted in the opinion letter.

Keith Munro, Deputy Chief of Staff, General Counsel, Office of the Governor, addressed the Committee. Mr. Munro distributed [Exhibit E](#) and explained that the IRS letter cited a case, *Commissioner v. Glenshaw Glass Co.*, which stated that "holding gross income encompasses any item representing 'undeniable accessions to wealth, clearly realized, and over which the taxpayers have complete dominion.'"

Chairman Arberry asked if the IRS opinion agreed that the citizens would not need a 1099 Form. Mr. Munro indicated that was correct and said that the 1099 Form did not apply to any amount under \$600.

Chairman Arberry remarked that he would hate to see IRS issues over such a small amount of money given to individuals.

Mr. Seale said his understanding of the law was in agreement with what had been seen earlier.

Assemblywoman Leslie asked if it was an IRS opinion letter with precedence. She asked what type of letter was received. Mr. Munro said the letter had been received from the IRS Office of Chief Counsel. Ms. Leslie asked if it was a binding letter. Mr. Munro said the IRS was not bound by the letter because legislation had not yet been passed. Once legislation was passed, a letter could be submitted to the IRS and the IRS could issue a formal binding opinion.

Ms. Leslie questioned the cost of distributing the checks and the minimum and maximum amounts. Mr. Hillerby indicated that the minimum would be \$50 and the maximum would be between \$280 and \$300. Ms. Leslie asked what the average amount of a check would be. Mr. Hillerby said that the average had been \$144, but with the changes to the minimum amount that average would need to be recalculated.

Ms. Leslie said it was unknown how many people would get which amount. Mr. Hillerby said the numbers passed out in the Senate Committee on Finance indicated that the numbers would stay the same with the exception of the

portion that had been below \$50 because those would all be raised to the \$50 level. He said that those changes would raise the average slightly.

Ms. Leslie asked if Mr. Hillerby could provide numbers showing how many individuals would be receiving the various amounts. Mr. Hillerby indicated that he had a draft of the information and he would provide that to the Committee members within the hour. Ms. Leslie added that there would be no way of determining how many checks would be going to businesses rather than individual citizens. She pointed out that many of the businesses would have new cars and would be at the higher end of the scale, while many constituents would fall at the lower end. Mr. Hillerby said there was no way of determining that breakdown.

Ms. Leslie asked if that meant an individual who rode the bus would not receive a rebate. Mr. Hillerby indicated that was correct.

Ms. Giunchigliani referred to the IRS letter and said that the letter seemed to indicate that if an individual had deducted his vehicle registration, that individual could be held liable.

Mr. Munro said that if an individual deducted his prior vehicle registration and received a tax benefit, and then received a rebate for that same registration, that individual would have to notify the IRS on the upcoming tax form. Ms. Giunchigliani asked who was liable if people did not know that they needed to notify the IRS. Mr. Munro said the individuals were liable.

Mr. Hillerby pointed out that the rebate was like any other income. Ms. Giunchigliani noted that that would only be an issue if the person had itemized their vehicle registration.

Mr. Hillerby commented that many people completed the short form for their taxes, which did not allow for itemization so that issue would not exist in that case. For the small number of people who itemized and deducted their car registration and received a tax benefit in 2004, they would have to claim the rebate as income in 2005. He said that the IRS had prepared a one-page information sheet that could be included with the checks when they were mailed.

Mr. Hillerby said there were two separate issues, whether or not the rebate was considered income and whether or not the payor, which would be the state, had a responsibility to report the rebate. He emphasized that to the extent an individual who itemized received a tax benefit, that individual would need to claim the rebate as income in the 2005 filing. He said the majority of Nevadans would not be in that situation.

Ms. Giunchigliani questioned the flat rate for vehicle registration. Mr. Hillerby indicated that the flat rate for basic registration was \$33 and in all the counties there was a minimum governmental services tax of \$6, so the registration for a fully depreciated vehicle was \$39.

Ms. Giunchigliani asked if the changes to the minimum and the elimination of the trailer rebate would mean that the average would be closer to \$160. Mr. Hillerby said the numbers would have to be recalculated.

Chairman Arberry said his biggest concern was that the constituents would be penalized.

Assemblyman Perkins asked if the average would actually change if the minimum was being increased and the maximum was being decreased. Mr. Hillerby pointed out that the maximum might be decreased by \$5 to \$10, which would have some effect on the average, but increasing the minimum meant approximately 620,000 people would be receiving more and a small number of people would be receiving less.

Mr. Perkins said the amount was still \$300 million and the number of people was still the same, and he was not sure the average would change. Mr. Hillerby said he would make sure to distribute the recalculated figures as soon as he received them. He repeated that the original average had been \$144. He pointed out that the amount of \$300 million would remain the same, but the number of recipients would decrease due to the removal of the trailers.

Mr. Perkins asked why the Governor's Office had not chosen to rebate a tax that was not written off so that there would be no possibility of issues with the IRS. Mr. Hillerby reiterated that the Governor felt very strongly that there needed to be a relationship between the amount people received and the amount they had paid. The only amount that could be defined with any degree of certainty was the vehicle registration fee. He added that there was a difference in the interpretation of the IRS letter. The Governor's Office believed that if every person received the same amount and it was not related to what each person had paid, then it was simply considered income for each person.

Assemblyman Denis commented that it appeared that certain types of business would receive much more money than other businesses that might have paid as much in taxes. He asked if businesses would also be taxed on the rebate because they had written off the vehicle registration cost.

Mr. Hillerby repeated that the businesses would be taxed if they had written off the registration.

Mr. Munro explained that if there was going to be a tax rebate, it had to be clear who paid and how much they paid, otherwise it was not a refund.

Mr. Perkins pointed out that it was only necessary to be sure that an individual had paid at least the amount of the rebate. As long as the rebate was not in excess of what was paid, it was still a rebate of taxes.

Mr. Munro agreed but said it was not possible to be sure that an individual had paid at least the amount of the rebate.

Mr. Perkins remarked on the cost of the gas taxes in the state and said a "guess" would be quite safe that people had paid a certain amount.

Chairman Arberry requested that Brenda Erdoes, Legislative Counsel, Legal Division, Legislative Counsel Bureau, address some of the concerns of the Committee.

Ms. Erdoes indicated that the Legal Division had done a fair amount of research on the issue, and she pointed out that an IRS letter ruling would not be available because the state was not the taxpayer. The individuals who received the rebates would be the taxpayers. She said she had worked with a number of individuals who were well-versed in federal tax law, and while she agreed that each individual taxpayer would need to be able to prove that he had paid the amount of the rebate in taxes, that would not be difficult to do. She pointed

out that there was no requirement that the individual have receipts detailing the amount spent in gas tax.

Ms. Erdoes said that the gas tax provision would work because there could be a formula that the taxpayer could show the IRS demonstrating gas mileage, number of miles traveled, and the amount of gas that would have been purchased. She said that there would most likely be a blanket ruling that the amount of money involved in the rebate was small enough and the assumption was reasonable enough that it would not be challenged.

Ms. Erdoes said it was possible that an individual could be in a situation where it would be held taxable, but that would not be difficult to prove. Otherwise, it would be treated as income.

Ms. Leslie asked what would happen if sales tax in the first year of the biennium was used as a basis for the rebate. She asked if that would fulfill the need to prove to the IRS that everyone had paid at least the amount of the rebate. Ms. Erdoes agreed and said the IRS had shown flexibility in rebate situations, but the IRS would make the ultimate decision. She pointed out that in researching the question, she had not found any requirement that stated the rebate could only apply over the biennium. It was possible to take into account several years of sales tax or combining different types of taxes in order to ensure that everyone had paid at least the amount of the rebate in taxes.

Ms. Leslie said she had read the letter ([Exhibit E](#)) several times and she wondered whether there was a ruling for the basis of the Governor's plan which was that the individual had to get back what he paid. Ms. Erdoes said that was not in the letter and was not in the IRS tax code. She noted that was an approach to take to alleviate the concern of taxability, but was not the only approach.

Mr. Munro commented that if the Legislature ultimately decided to follow a different plan, he hoped that Ms. Erdoes was correct in her assumptions. He stated that the burden was on the individual taxpayer who received a rebate to show that it was either a refund or a gift, and if the taxpayer was unable to show that it was a return of money, it would be taxable income. He added that he knew of no other state that had taken the approach suggested by Ms. Erdoes, and he urged her to contact the IRS.

Chairman Arberry noted that Mr. Munro seemed to be "driving home a message" so that when problems arose with the citizens of Nevada and the IRS, the case could be made that the Governor's Office had informed the people what could happen. He realized that a letter could be included with the check, but he was worried that people would not realize that they had to file with the IRS, and they would blame the Legislature.

Mr. Hillerby agreed that the Governor's Office wanted the Legislature to feel as comfortable as possible with whatever method of rebate was used because he did not want people to get in trouble with the IRS regardless of the method chosen. He emphasized that from the Governor's perspective it was good news that there was agreement on the amount of \$300 million and the fact that the rebate should be in the form of a check.

Mr. Hillerby added that there could be a long debate on IRS law, but that was secondary to the larger issue of the rebate. He said the Governor was very comfortable with the plan espoused in S.B. 519 and hoped they could reach an agreement.

Mr. Perkins stated that the reason there was not another state to look to as an example was because the majority of the states had a state income tax, which Nevada did not. The Legal Division had looked at other states, but other states were not in the same situation.

Chairman Arberry asked if there were any further questions. There being none, he declared the hearing on S.B. 519 closed and opened the hearing on A.B. 572.

Assembly Bill 572: Provides for one-time rebate of taxes imposed on certain motor vehicle fuels. (BDR S-1474)

Assemblyman Richard Perkins, District No. 23, presented A.B. 572. Mr. Perkins distributed Exhibit F and made the following statement:

Unlike many other parts of our country, we in Nevada have been blessed over the past few years with a very robust economy. It is a tribute to Nevada's business-friendly climate and the hard work of our citizens that created an enormous budget surplus above and beyond the needs of our state, and I believe that our residents deserve to have it back.

I thank the Governor for bringing this idea to us in his State of the State Address at the beginning of this session. We can both agree that hardworking Nevadans deserve to decide what they want to do with their refund. A portion of the surplus has been generated by a number of taxes that Nevadans have all shared in. I believe we should give those who have paid into the system a piece of the refund.

An average Nevadan spends approximately \$115 each year on gas taxes. Given that the median time a resident stays in Nevada is 10 years, that amounts to \$1,150 in gas taxes paid either directly through the pump or indirectly by charges on public transit. Many people rely on their cars to get to work and to care for their families. Senior citizens, many of whom live on fixed incomes, have been hit particularly hard by dramatic spikes in gas prices. In March 2005, a gallon of regular unleaded gas cost \$2.37, and I think Nevadans deserve a break. We must do all we can do now to ensure that Nevada's families and senior citizens are protected.

Assembly Bill 572, as it is written, will give back \$170 gas tax rebate to all driver's license holders over the age of 18 and valid Nevada identification cardholders over the age of 55. That amounts to approximately 1.6 million checks going into the pockets of Nevadans. By giving a rebate on the gas tax, I believe we avoid the issue of federal taxes. Tax rebates are not taxable if they are not written off on your federal income tax. I don't believe that one penny of this rebate should go to the federal government. I believe this plan also accomplishes that goal.

I have also heard from many constituents that believe that the surplus would be better spent on health care, roads, and education. Assembly Bill 572 gives Nevada residents that choice. Should anyone believe that the rebate check would be better spent on any of those areas, he or she can check that off on the verification card

and the money will be deposited in an account that would be disbursed by the Interim Finance Committee.

A very broad group of Nevadans contributed to the surplus and the broadest group possible should get something back. This solution will put \$170 into the hands of Nevadans who will surely invest it back into our economy, and it is my pleasure to present this bill today.

Mr. Marvel expressed concern about the taxability issue. He pointed out that business owners often wrote off gasoline purchases.

Ms. Erdoes replied that the intent of A.B. 572 was to reimburse individuals and the calculation would be made as to how much gas tax was paid on individual personal travel, not business travel. Therefore, as personal travel was not deductible, that would not have been itemized for federal income tax.

Mr. Marvel commented that some individuals combined business and personal travel. Ms. Erdoes emphasized that there was not a requirement that the individual have receipts in order to receive the reimbursement. The intent was to make the period of time long enough so that everyone would have paid at least \$170 in gas taxes.

Mr. Marvel remarked that the only travel he did was business travel so he deducted the total amount already. Mr. Perkins pointed out that if business travel was being deducted the receipts were being kept separate from personal travel. He conceded that the bill might need an amendment in that it was not intended to capture anyone after January 1, 2005. He added that with the administrative costs mentioned in the hearing on S.B. 519, it appeared that the \$170 per person amount could be increased to \$175 per person.

Mr. Perkins remarked that he was not "married" to the idea of the rebate being solely a gas tax rebate. It could be a combination rebate of gas taxes, sales taxes, and other taxes to ensure that all the constituents were covered and would be able to verify that at least \$175 had been spent in taxes. He emphasized that the rebate needed to be done in such a way that the money would not be given back to the federal government.

Chairman Arberry referred to Exhibit F, which outlined the differences between S.B. 519 and A.B. 572, and noted that the bottom row said A.B. 572 was not subject to federal taxation. Ms. Erdoes indicated that based on research, it appeared that the A.B. 572 plan would not be taxable to the individual who received the rebate unless, for some reason, he had not spent at least \$170 in taxes.

Ms. McClain commented that there was an automatic deduction on sales tax for Nevada. Mr. Perkins pointed out that the deduction had started the previous year. In order to avoid that issue, the sales tax rebate would be prior to last year. Ms. McClain requested clarification.

Ms. Erdoes clarified that if sales tax were included the dates would have to be from the year previous to when the automatic deduction had been established. The sales tax deduction was very recent.

Mr. Perkins said that, despite the differences in opinion as to how to provide a rebate, the goal was the same. He added that he considered himself an average Nevadan, and he deducted his registration for taxes. It had been mentioned

earlier that it was a small percentage of Nevadans that itemized that, but he expressed doubt that it was as small a percentage as many assumed.

Assemblyman Denis asked how many people would receive checks under A.B. 572. Mr. Perkins said that as of January 1, 2005, there were 1,555,422 people over the age of 18 with driver's licenses. There were approximately 105,000 people over the age of 55 with identification cards. He agreed with the Governor's Office that the DMV database was the best database to use.

As there were no further comments, Chairman Arberry closed the hearing on A.B. 572.

Mr. Stevens indicated that there were bill introductions for the Committee to consider, including the introduction of the Appropriations Act. Chairman Arberry indicated he would accept a motion for Committee introduction of the Appropriations Act.

ASSEMBLYMAN SEALE MOVED FOR COMMITTEE
INTRODUCTION OF THE APPROPRIATIONS ACT.

ASSEMBLYMAN MARVEL SECONDED THE MOTION.

MOTION CARRIED. (Mr. Hettrick, Ms. Giunchigliani, and
Mrs. Smith were not present for the vote.)

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Mr. Stevens explained that the class-size reduction bill also needed to be introduced.

ASSEMBLYMAN DENIS MOVED FOR COMMITTEE INTRODUCTION
OF THE CLASS-SIZE REDUCTION BILL.

ASSEMBLYMAN PERKINS SECONDED THE MOTION.

MOTION CARRIED. (Mr. Hettrick, Ms. Giunchigliani, and
Mrs. Smith were not present for the vote.)

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Mr. Stevens indicated that he had the pay bill, and he requested that he be given the time to review the bill before it was introduced. Chairman Arberry agreed to the request.

Chairman Arberry indicated that the Committee would consider 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)

Chairman Arberry said he was requesting an amendment to A.B. 565 to remove the appropriation to the Clark County School District and appropriate the money to the Las Vegas Clark County Library instead. He wanted to add \$200,000 to be given to a foundation to work with the library and to report to the Legislature in the 2007 session.

ASSEMBLYMAN PERKINS MOVED TO AMEND AND DO PASS
A.B. 565.

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

Assemblywoman Weber clarified that the \$200,000 was in addition to the amount already in the bill.

MOTION CARRIED. (Mr. Hettrick, Ms. Giunchigliani, and Mrs. Smith were not present for the vote.)

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Chairman Arberry recessed the meeting at 3:26 p.m.

The meeting was called back to order at 6:01 p.m. Chairman Arberry indicated the Committee would consider bills.

Assembly Bill 575: Makes appropriations to State Distributive School Account for class-size reduction. (BDR S-1492)

Mr. Stevens noted that the Committee had not yet heard A.B. 575, but it had been thoroughly vetted in joint subcommittee and included in the report, which had been approved by the Committee. He said it would be helpful if the bill could be processed quickly.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED DO PASS A.B. 575.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

MOTION CARRIED UNANIMOUSLY.

* * * * *

Assembly Bill 572: Provides for one-time rebate of taxes imposed on certain motor vehicle fuels. (BDR S-1474)

Mr. Perkins noted that A.B. 572 was the rebate bill that had been heard earlier in the day. He said there had been a drafting error and the bill should be amended to apply to those who had a driver's license and were over the age of 18 and those who had an identification card and were over the age of 55, as of January 1, 2005. That amendment would allow the minimum rebate to be raised to \$175 per person. The bill would also be amended to make the rebate a combination of gas and sales tax rebate.

ASSEMBLYMAN PERKINS MOVED TO AMEND AND DO PASS A.B. 572.

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

MOTION CARRIED UNANIMOUSLY.

* * * * *

Senate Bill 56 (2nd Reprint): Makes various changes concerning charter schools and distance education programs. (BDR 34-18)

Ms. Giunchigliani provided Exhibits G and H to the Committee, which were the suggested amendments to S.B. 56 from the Washoe County School District. The amendments would clarify the role of the School Board of Trustees with

relationship to the charter schools and their accounting. The “sponsored by” language had to be added throughout the bill.

Ms. Giunchigliani indicated that Section 1 from the first reprint had to be reinstated ([Exhibit G](#)), and Section 15 of the bill had to be amended ([Exhibit H](#)) to clarify that the Department of Education should forward the information to the school districts from the charter schools. Additionally, all other sections had been amended to provide that when the Board of Trustees of a district prepared the annual report for NRS 385.347, the district had to include the information on all charter schools located within the school district. However, the aggregated information concerning the school district as a whole as submitted in the annual report must only include information for a school sponsored by the district.

Mr. Marvel asked if the amendments had been discussed with the Senate. Ms. Giunchigliani indicated that Senator Maurice Washington had been present when the Washoe County School District had proposed the amendments, and he had not objected.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND AND DO
PASS S.B. 56.

ASSEMBLYWOMAN KOIVISTO SECONDED THE MOTION.

MOTION CARRIED UNANIMOUSLY.

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Senate Bill 274 (2nd Reprint): Revises certain provisions relating to governmental operations. (BDR 42-87)

Ms. Giunchigliani provided [Exhibit I](#) and explained the amendments to S.B. 274. She said that S.B. 274 would remove certain school districts from the control of the State Fire Marshal, which unfortunately had removed them from compliance to any codes and the local fire department was unable to conduct reviews, which had not been the intention.

Ms. Giunchigliani indicated that she had spoken with Assemblyman Carpenter, who had proposed a similar bill, and he had also wanted to include language in S.B. 274 indicating that under certain circumstances the Public Works Board would not have to review design. Thus, language had been added stating that if a project was \$30,000 or less, it would stay under the Public Works Board. If it was between \$30,000 and \$100,000 then it would not have to be reviewed by the Public Works Board.

Mr. Marvel remarked that the districts could have chosen that option before. Ms. Giunchigliani said she was under that impression as well, but Senator Amodei had proposed the bill and that was one of the reasons for it.

Mr. Marvel added that the school districts had chosen not to do so because then they had to hire a fire marshal. Ms. Giunchigliani said the bill clarified the school districts’ options. She added that the intent was not to remove them from the local fire department’s jurisdiction, which had inadvertently happened, necessitating the amendments.

Ms. Giunchigliani added that on the last page of the bill she had inserted language to clarify the prevailing wage issue.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND AND DO
PASS S.B. 274.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

MOTION CARRIED UNANIMOUSLY.

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Senate Bill 357 (1st Reprint): Creates Advisory Committee on Problem Gambling and authorizes grants of money for programs for prevention and treatment of problem gambling. (BDR 40-1157)

Ms. Giunchigliani said she had a note on page 3 that language needed to be added that nonprofit and faith-based organizations were not excluded and were intended to be covered.

Ms. Leslie said that during the hearing the agency had stated on the record that the language in the bill was understood to include nonprofits and faith-based organizations.

ASSEMBLYWOMAN LESLIE MOVED DO PASS S.B. 357.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

MOTION CARRIED UNANIMOUSLY.

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Senate Bill 400 (2nd Reprint): Provides for regulation of off-highway vehicles. (BDR 32-426)

ASSEMBLYMAN MARVEL MOVED DO PASS S.B. 400.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

Ms. Leslie said she would vote no because she did not like the supervision aspect, and it appeared that the only reason the bill did not go further was because the Governor had said there could not be a fee. There would be a new system that no other state had that would not have the compliance mechanisms law enforcement needed.

Ms. Giunchigliani agreed and said there would be issues with off-road vehicles driving on roadways and she was worried about the certificate issuance.

Mr. Hogan said he would also be voting no because he was concerned that the state would not be securing the additional sales tax. He said there was also a lack of enforcement necessary to make the safeguards contained in the bill effective. He opined that there should be a fee included in the bill.

Mr. Hettrick pointed out that the bill would not change the amount of access to public lands. The state would not generate any revenue in that area without the passage of the bill. He added that the dealers in the state were being disadvantaged as well, and the bill would help to address that issue. He agreed that the bill should include a fee, but it was "better than nothing."

Mr. Marvel said there was a dealer in Winnemucca who was being hurt by the out-of-state sales and he was very supportive of the bill.

Mrs. Koivisto said she had originally intended to vote against S.B. 400 but after hearing the testimony she would be voting yes because "getting something was better than getting nothing."

MOTION CARRIED WITH MS. GIUNCHIGLIANI, MR. HOGAN,
MS. LESLIE, AND MRS. SMITH VOTING NO.

* * * * *

**Senate Bill 404 (1st Reprint): Creates Commission on Educational Excellence.
(BDR 34-1365)**

Mrs. Smith explained that S.B. 404 created the Commission on Educational Excellence. She indicated that she had met with the Senate and with the Governor's Office to create a "conceptual" amendment so the bill could be moved.

Mrs. Smith said that on page 2 the structure of the Commission would change: two teachers would become four teachers and that would be split between elementary and secondary school teachers. The principals would also be split between elementary and secondary schools. There would be two school administrators and one parent, but one representative from the Regional Training Program would be eliminated.

Mrs. Smith referred to the \$100 million fund set up for remediation and said that fund would be changed to the Remediation and Innovations Fund, and \$22 million of the \$100 million would be used for full-day kindergarten. The remainder of the money would be used for innovations and remediation for kindergarten through sixth grade. There was an additional \$13 million, currently in the Distributive School Account in a budget that had been closed, that would be designated for remediation in seventh through twelfth grades.

Mrs. Smith explained that the changes throughout the rest of the bill would be technical changes regarding the structure of the Commission and the criteria for how the Commission would reward grants to schools, school districts, or regional programs.

Mrs. Smith said that the amendments would change the concept of the bill from remediation to remediation and innovations, as well as adding a category for the secondary grades as well.

Mrs. Smith pointed out that A.B. 525 had been heard in the Committee and had "captured" that money for innovations. The two bills would be "rolled" together with the concepts from both bills becoming S.B. 404.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND AND DO
PASS S.B. 404.

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

MOTION CARRIED UNANIMOUSLY.

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Senate Bill 282 (2nd Reprint): Makes various changes concerning certain facilities for persons released from prison. (BDR 40-622)

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED DO PASS S.B. 282.

ASSEMBLYWOMAN GANSERT SECONDED THE MOTION.

Mr. Hettrick said he had seen a note that indicated Casa Grande was not included in the bill and Clark County had a proposed amendment. Ms. Leslie said that had been discussed in another committee and was deemed to be unnecessary.

MOTION CARRIED UNANIMOUSLY.

Assembly Bill 307 (1st Reprint): Makes various changes concerning registration of motor vehicles and operations of Department of Motor Vehicles. (BDR 43-346)

Ms. McClain explained that A.B. 307 was the bill to clean up the language regarding refunds. The amendments would remove the language about the refund and add language that if one was pulled over for any reason and had a Nevada driver's license and out-of-state plates, there would be an automatic fine of \$500, so the state could collect license plate fees from people who drove around with out-of-state plates.

Chairman Arberry clarified that the proposed amendments would eliminate the fiscal note.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND AND DO PASS A.B. 307.

ASSEMBLYWOMAN WEBER SECONDED THE MOTION.

MOTION CARRIED. (Mrs. Smith was not present for the vote.)

Ms. Giunchigliani mentioned that there had been an issue with a group of firefighters whose salaries should have been included for the recommended salary increases; however, they were paid by the local governments and would not receive that increase. She assured the Committee that she was not requesting an amendment, but she wanted it noted for the record that the intent was to include that group with state employees so they would receive the one-step increase and the corresponding salary increase.

Steve Robinson, Advisor on Wildlife, Conservation, and Rural Nevada Issues, Office of the Governor, provided further information. Mr. Robinson indicated that the firefighters being referred to were those who were state employees, but the cost of their employment was borne by the counties on a contractual basis and paid back to the state on an annual basis. He said there were approximately 50 firefighters in that group.

Ms. Giunchigliani reiterated that she was not requesting a bill, but she wanted to make sure that the local governments knew the intent was to provide that

salary increase for the firefighters as well. She asked if a Letter of Intent would be necessary.

Rusty McAllister, Professional Firefighters of Nevada, explained that there were approximately 56 firefighters funded through a contractual arrangement between the state and county. Mr. McAllister pointed out that a two pay-grade increase was proposed in The Executive Budget for positions that were 30 percent or more below their counterparts within local governments and showed a high rate of turnover. Based on the information from all the local contracts where the Division of Forestry had stations, those firefighters were 54 percent below their counterparts and there was a 33 percent rate of turnover of firefighters going to other fire departments.

Mr. McAllister noted that those firefighters had not been included in the salary survey, and he was not sure if they had been overlooked, but they wanted some consideration.

Ms. Giunchigliani interjected that there could not be any bill amendments at such a late date. She said that if it was a matter of encouraging or requesting that the local governments treat those firefighters like their counterparts at the state level, then making a statement on the record could be sufficient. She repeated that a Letter of Intent might be necessary, and asked how the situation had been addressed in the past.

Mr. Robinson said that that particular class had not been reviewed during State Personnel's evaluation of other classes.

Ms. Giunchigliani asked if the Governor's Office could request that State Personnel review those classifications for the next session, and then a Letter of Intent could be issued stating that the salary increases were intended to apply for those firefighters as well. She asked Chairman Arberry to consider sending a Letter of Intent.

Chairman Arberry indicated that he would consider sending the Letter of Intent. He recessed the meeting at 6:28 p.m. The meeting was adjourned the following morning, June 6, 2005.

RESPECTFULLY SUBMITTED:

Susan Cherpeski
Committee Attaché

APPROVED BY:

Assemblyman Morse Arberry Jr., Chairman

DATE: _____

<u>EXHIBITS</u>			
Committee Name: <u>Committee on Ways and Means</u>			
Date: <u>June 5, 2005</u>		Time of Meeting: <u>8:00 a.m.</u>	
Bill	Exhibit	Witness / Agency	Description
	A		Meeting Agenda
SB 400	B	Gail Ferrell/Snowlands Network	Concerns of Safety, Use, Compliance, and Economic Impact (4 pages)
	C	Mark Stevens/LCB Fiscal	Appropriations Act language (20 pages)
SB 341	D	Assemblywoman Giunchigliani	S.B. 341 Suggested Amendments (1 page)
SB 579	E	Keith Munro/Governor's Office	IRS Memorandum (5 pages)
AB 572	F	Assemblyman Perkins	Comparison of S.B. 519 and A.B. 572 (1 page)
SB 56	G	Assemblywoman Giunchigliani	S.B. 56 Proposed Amendments (9 pages)
SB 56	H	Assemblywoman Giunchigliani	S.B. 56 Proposed Amendment (2 pages)
SB 274	I	Assemblywoman Giunchigliani	S.B. 274 Proposed Amendments (3 pages)