

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

**Seventy-Fourth Session
May 14, 2007**

The Committee on Ways and Means was called to order by Assemblywoman Sheila Leslie, Vice Chair at 9:10 a.m., on Monday, May 14, 2007, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Morse Arberry Jr., Chair
Assemblywoman Sheila Leslie, Vice Chair
Assemblywoman Barbara E. Buckley
Assemblyman Mo Denis
Assemblywoman Heidi S. Gansert
Assemblyman Tom Grady
Assemblyman Joseph P. (Joe) Hardy
Assemblyman Joseph Hogan
Assemblywoman Ellen Koivisto
Assemblyman John W. Marvel
Assemblywoman Kathy McClain
Assemblyman David R. Parks
Assemblywoman Debbie Smith
Assemblywoman Valerie E. Weber

GUEST LEGISLATORS PRESENT:

Senator Terry Care, Clark, Senate District No. 7
Senator Bob Coffin, Clark, Senate District No. 10
Assemblyman Harvey J. Munford, Clark, Assembly District No. 6

STAFF MEMBERS PRESENT:

Mark W. Stevens, Assembly Fiscal Analyst
Carol Thomsen, Committee Secretary
Patricia Adams, Committee Assistant



Vice Chairwoman Leslie stated that the Committee would hear testimony on A.B. 316 and A.B. 500.

Assembly Bill 316: Makes an appropriation to the University of Nevada School of Medicine for the construction of a facility for the treatment of chronic fatigue syndrome and research related thereto. (BDR S-1084)

Assembly Bill 500: Makes an appropriation to the Institute for Neuro-Immune Disease. (BDR S-1232)

Michael Hillerby, representing the Institute for Neuro-Immune Disease, referenced the material presented to the Committee, which included:

- Exhibit C: PowerPoint Presentation entitled "Whittemore Peterson Institute for Neuro-Immune Disease, Turning Today's Discoveries into Tomorrow's Cures."
- Exhibit D: Proposed Amendment to A.B. 316.
- Exhibit E: Proposed Amendment to A.B. 500.
- Exhibit F: Packet of letters of support.
- Exhibit G: Copy of the opinion poll for A.B. 316, 74th Session of the Nevada Legislature.
- Exhibit H: Booklet entitled "Today's discoveries, Tomorrow's Cures."

Mr. Hillerby pointed out that A.B. 316 and A.B. 500 both addressed the Whittemore Peterson Institute for Neuro-Immune Disease, and he suggested that the Committee consider the bills simultaneously.

Vice Chairwoman Leslie stated for the record that the Committee would consider both bills. She asked Mr. Hillerby to continue his presentation.

Mr. Hillerby indicated that Vice Chairwoman Leslie had assisted the Institute with Committee introduction of a bill draft request (BDR) seeking legislative support for an appropriation for continued construction funding for the building. During the 2005 Legislature, the Institute received \$2.5 million in State support, and ground had recently been broken for the building. Mr. Hillerby explained that The Executive Budget included an appropriation of \$3.5 million and A.B. 500 was the legislation that supported that budget recommendation. However, the language in A.B. 316 and A.B. 500 was somewhat different. Mr. Hillerby explained that A.B. 500 referred to programming support, but the intent was to refer to building construction.

Mr. Hillerby referenced Exhibit C, Proposed Amendment to A.B. 316 and Exhibit D, Proposed Amendment to A.B. 500, and explained that the amendments were the same, with one exception. The proposal in A.B. 316 was for \$5 million in funding, and A.B. 500, the original administration bill, requested \$3.5 million in funding. Mr. Hillerby indicated that the amendments would make it clear that funding from the bills was "for the construction of, and furnishings and equipment for, a facility for the treatment of neuroimmune disease and research related thereto."

Mr. Hillerby indicated that the proposed amendments also included language pertaining to reversion dates, reports to the Legislature, and access to the facility's books by the legislative auditor. The amount of \$3.5 million was included in The Executive Budget, and A.B. 316 requested \$5 million. Mr. Hillerby stated that there would be no objection if the Committee recommended merging the bills into one piece of legislation.

Mr. Hillerby introduced the Founding Director of the Institute for Neuro-Immune Disease, Annette Whittemore, to the Committee, and noted that she was one of the great visionaries behind the project. Mr. Hillerby indicated that Ms. Whittemore would address the PowerPoint presentation, [Exhibit C](#), for the Committee.

Ms. Whittemore advised the Subcommittee that she would present a program on neuroimmune diseases. Ms. Whittemore was aware that there were many requests for funding and she wanted to show the Committee why she believed [A.B. 316](#) and [A.B 500](#) were so important to thousands of Nevadans, along with millions of people around the world who suffered from Chronic Fatigue Syndrome (CFS) and Fibromyalgia.

Ms. Whittemore stated that the Institute would be very unique because there was no other institute like it in the world. It was hoped that the Institute would be a comprehensive outpatient medical and translational research center. The Institute would offer patient care, basic research, education, and drug development for a spectrum of neuroimmune diseases. Ms. Whittemore noted that there was much remaining to learn about neuroimmune diseases, such as biomarkers, treatments, and drug development.

According to Ms. Whittemore, the Institute for Neuro-Immune Disease would be the first institute in the world dedicated to neuroimmune diseases and would integrate all areas with researchers from the University of Nevada, Reno (UNR). Ms. Whittemore stated that the Center for Molecular Medicine (CMM) would house three entities:

1. University of Nevada Center for Biomedical Research
2. Whittemore Peterson Institute
3. Nevada Cancer Institute

Ms. Whittemore stated that the hope was to integrate the science so that the entities could assist each other. One of the unique aspects of chronic diseases was that inflammatory chronic diseases could lead to cancer and dementia. Ms. Whittemore said that the Institute for Neuro-Immune Disease would align with other projects, such as the Nevada Cancer Institute and the Lou Ruvo Brain Institute, because the Institute hoped to prevent neuroimmune diseases.

Continuing her presentation, Ms. Whittemore indicated that some of the neuroimmune diseases on which the Institute would focus included Chronic Fatigue Syndrome (CFS), Multiple Sclerosis (MS), Fibromyalgia, Autism, and Gulf War Illness. All of the diseases involved complex immune abnormalities affecting the function of both the body and the brain and could result in life-long disability.

Ms. Whittemore reported that serious and debilitating diseases resulted in:

- ❖ Immune dysfunctions
- ❖ Cognitive disorders
- ❖ Chronic viral infections
- ❖ Other opportunistic infections
- ❖ High rates of disability
- ❖ Outbreaks and illness in multiple family members

Ms. Whittemore commented that CFS was problematic around the world, with as many as one million persons in the United States suffering from neuroimmune diseases. The highest disability rate occurred in the lower socioeconomic groups because those persons were unable to access immediate medical care, particularly self-pay programs. Ms. Whittemore stated that only 5 percent to 10 percent of sufferers sustained total remission, and the cost to the U.S. in lost earnings was approximately \$25 billion annually.

According to Ms. Whittemore, some of the questions that the Institute hoped to answer about neuroimmune diseases included:

- What were the biological causes?
- What medical interventions would treat the underlying causes of the disease?
- Did the disease predispose patients to earlier age of death?
- Was there an increase in the occurrence of cancer or additional diseases in patients with CFS?
- What were the greatest causes of death in CFS patients?

Ms. Whittemore noted that one study had been completed, but there were many more that needed to follow. The Institute would fund a study in June 2007 that would review the aforementioned questions. Ms. Whittemore stated that an epidemiologist from the University of Washington would head the study.

Ms. Whittemore indicated that everyone needed to understand that many patients were often disabled and lost their health insurance, jobs, homes, and family support, and became extremely isolated. Patients were often struck down in their childbearing and most productive years and had few options for treatment. Ms. Whittemore said that patients also bore the high cost of lifelong disease, and both doctors and patients were waiting for answers and help.

Continuing her presentation, Ms. Whittemore opined that collaboration was the only way to make the Institute work. Therefore, the Institute was currently working on documentation to show the private donation of \$5 million, the funding from the 2005 Legislature of \$2.5 million, and the requests contained in A.B. 316 and A.B. 500 for appropriations from the 2007 Legislature, along with federal government grants, which had been requested.

Ms. Whittemore noted that [Exhibit C](#) depicted the scientific collaborations that were underway; she pointed out that researchers had been hired and significant research was currently underway. It would take team-building for the Institute to realize its goals through private donors, university entities, state and federal governments, other foundations, and consortiums of researchers.

Ms. Whittemore indicated that there were many ways in which the Institute would repay the State for its generous contribution, including: (1) scientific research grants; (2) federally funded university buildings and programs; (3) advanced quality of patient care and the bringing of new expertise to Nevada; (4) the provision of medical internships; and (5) biomarker and drug discovery.

The physical facility consisted of 15,000 square feet that would include patient examination rooms, an infusion treatment center, physical therapy, other patient support services, and outreach programs. Ms. Whittemore commented that the facility also included 1,500 square feet of bench laboratory space for basic research. Ms. Whittemore stated that principal investigators would work side

by side with scientists from the University of Nevada Medical School. Studies would also be coordinated with experts from around the world, and Ms. Whittemore advised the Subcommittee that the studies had already commenced.

Referencing [Exhibit C](#), Ms. Whittemore indicated that the construction cost estimates included clinical space for approximately \$8.5 million, research space for approximately \$2 million, and laboratory space for approximately \$1.5 million. The exhibit also included architectural renderings of the completed facility. Ms. Whittemore explained that the Institute for Neuro-Immune Disease would occupy the two upper floors, and the Nevada Cancer Institute would occupy the first floor of the facility.

Ms. Whittemore introduced Dr. Hunter from the University of Nevada, Reno (UNR), who would speak on behalf of the research.

Kenneth Hunter, Sc.D., Professor, Department of Microbiology and Immunology, University of Nevada School of Medicine, voiced personal support for the bills, and noted that the bills were also supported by UNR President, Dr. Milton Glick, and the Dean of the School of Medicine, Dr. John McDonald. Dr. Hunter indicated that the University was very pleased to have broken ground on the Center for Molecular Medicine, which would double the research space at the School of Medicine.

Dr. Hunter pointed out that the researchers at the School of Medicine were extraordinarily productive and every square foot of additional space would result in additional grants and contracts. The new building would support more students who would make new discoveries that would benefit Nevadans for many years to come.

In speaking on behalf of the Institute for Neuro-Immune Disease, Dr. Hunter stated that beginning in the early 1990s the University had embraced partnerships with the private sector. When the Legislature supported the applied research initiative many years ago, it recognized that allocating funding for private partnerships with the University would result in large amounts of money coming into Nevada, and stimulate the economy. Dr. Hunter remarked that the program had been extraordinarily successful. He pointed out that the Institute for Neuro-Immune Disease was a classic example of what the University should be doing.

Dr. Hunter believed that the Institute would be a benefit because professors who worked in the Department of Microbiology and Immunology at the University School of Medicine, and others who had the capability of performing research related to neuroimmune diseases, could form a collaborative partnership with the faculty of the Institute in the development of new drugs and therapies.

Dr. Hunter said the University was very pleased to enter into such partnerships for the benefit of its students as well. The Institute for Neuro-Immune Disease was interesting in that it conducted translational research. So often, the professors at the Medical School concentrated on the very basic nature of research; the translational research conducted by the Institute would have direct patient benefit, and the University wanted to be part of that research. Dr. Hunter stated that the University wanted to conduct research that allowed its graduate students to have theses and dissertation opportunities and, perhaps more importantly, to allow medical students and residents to have access to

patients in the context of the clinical study conducted by the Institute for Neuro-Immune disease.

The University was very supportive of the Institute for Neuro-Immune Disease, along with the Nevada Cancer Institute, which would be part of the partnership. Dr. Hunter indicated that those involved in cancer research were positively engaged in working with the Cancer Institute. It was hoped in the future that the Institute and its partnership with the University would be recognized nationally as the model that Universities should use in building future research programs.

Vice Chairwoman Leslie thanked Dr. Hunter for his testimony and advised that the Committee had received hundreds of email messages about the bills. There was no doubt that the Institute was a worthy cause. Vice Chairwoman Leslie noted that the letters submitted in support of the bills would be made a part of the record for the hearing. The PowerPoint presentation by Ms. Whittemore would also be made a part of the record.

Vice Chairwoman Leslie noted that funding of \$8.5 million in State funding was requested in A.B. 316 and A.B. 500, and she asked about the remaining funding.

Mr. Hillerby advised the Subcommittee that The Executive Budget included a one-shot appropriation of \$3.5 million for the construction of the facility. The budget for higher education included ongoing operating expenses over the next biennium of approximately \$1 million.

Vice Chairwoman Leslie stated that [Exhibit C](#) indicated the costs of clinical space as \$8.5 million, research as \$2 million, and laboratory as \$1.5 million. She asked about the balance of funding needed for the Institute.

Mr. Hillerby explained that the 2005 Legislature approved \$2.5 million and the Institute had raised over \$5 million to date, which included a substantial gift from the Whittemore family, as well as private community fundraisers. The remaining funding would be realized from private donations, fundraising, and grant funding. Mr. Hillerby indicated that the Institute had significant support from Nevada's federal delegation, who would work on additional funding. The federal government was viewing the state matching funds as a positive indication of support.

Mr. Hillerby commented that the way the building was situated, along with the ongoing work through the Public Works Board, the architectural firms, and the University System, left room for future expansion of the facility. Portions of the building might be constructed as a shell that would be completed or expanded as additional funding was realized. Mr. Hillerby said that as the Institute expanded its patient base, there would be room to expand the facility in the years to come.

Assemblywoman Smith was curious about the timeline regarding when the Institute expected to treat patients. Ms. Whittemore believed that the Institute would open in 2008. Mr. Hillerby confirmed that the opening was planned for the summer of 2008, but the dates might shift somewhat. There were three partners in the project, the Institute, University of Nevada School of Medicine, and the Nevada Cancer Institute, all using the same architect and contract process. Mr. Hillerby stated that he would keep the Legislature informed about the opening date.

Vice Chairwoman Leslie asked whether there was further testimony to come before the Committee about A.B. 316 or A.B. 500.

Mr. Hillerby stated that many people were present on behalf of the bills, and a number of people had sent emails to legislators because many patients were simply too ill to be present at the hearing. Vice Chairwoman Leslie stated that the letters presented to the Committee in support of the bills would be made a part of the record ([Exhibit F](#)).

Vice Chairwoman Leslie indicated that the Committee would hear further testimony.

Leslie Harman, MA, NCC, MFTI, CADCI, offered the following testimony ([Exhibit I](#)):

For the Record, my name is Leslie Harman and I am here to give testimony on my own behalf.

I am a nationally certified counselor and marriage and family therapist intern. I specialize in counseling people who have physical illness, including Chronic Fatigue Syndrome and Fibromyalgia.

I would like to share some generalities regarding individuals who have these illnesses. They are often frightened about life-altering changes they have endured. Once healthy, productive members of society, they are met with the task of learning to live with constantly fluctuating pain, exhaustion, and illness. These symptoms often render them unable to work or engage in typical activities of daily living. They are scared because the current medical treatments for these illnesses are not always effective, and at this time, there is no cure. They are terrified about how they can manage if their degree of physical illness remains unchecked or intensifies.

Families that have one or more members with either of these illnesses are profoundly impacted. Their income can be significantly reduced. Although they are loath to do so, many find it necessary to apply for Social Security Disability. Enduring these devastating physical illnesses can give rise to strong emotions. Sadness, anger, and sometimes resultant clinical depression, deleteriously impact the individual, family, and society at large.

Yet, they are finding hope. Funding A.B. 316 and A.B. 500 offers tremendous hope to countless Nevadans and, more broadly, Americans who can benefit from the research that will come out of the Institute for Neuro-Immune Disease housed at the University of Nevada, Reno. Expert medical care will be available for patients; new medical treatments will be researched; and there is the possibility that a cure will be developed.

Nevadans with Fibromyalgia or Chronic Fatigue Syndrome simply desire to feel better and be able to return to work. Their hope is that no one else ever need suffer as they have.

Vice Chairwoman Leslie thanked Ms. Harman for her testimony. The Chairwoman asked whether the Committee had further questions or whether there was further testimony to come before the Committee on A.B. 316 and A.B. 500 and, there being none, declared the hearing closed.

Vice Chairwoman Leslie opened the hearing on Senate Bill 66.

Senate Bill 66: Increases the amount of damages that may be awarded in certain tort actions brought against a governmental entity or its officers or employees. (BDR 3-120)

Senator Terry Care, Clark Senatorial District No. 7, commented that S.B. 66 was long overdue. The bill would raise the \$50,000 cap to \$100,000 for damages for certain tort actions against the government.

Senator Care emphasized that no one had asked him to initiate the bill, but for over a year he had followed the events related to the four people who were killed in Henderson when a Nevada Highway Patrol (NHP) officer rear-ended their vehicle. He was unaware of whether the estate of the victims sued the NHP or the State, but had that occurred, \$50,000 was the cap for damages.

According to Senator Care, the present \$50,000 cap was established in 1979, which would equate to approximately \$138,000 in today's economy. He determined that figure by looking at the inflation calculator available on the website for the Bureau of Labor Statistics. The bill asked that the cap be raised to \$100,000.

Senator Care explained that the history of the present cap went back to 1965 when the State Legislature established a cap of \$25,000. In 1977 the cap was raised to \$35,000, in large part because of the arguments of Senator William Raggio. Again in 1979, the cap was raised to \$50,000 where it has remained to date. Senator Care commended that 28 years was a long time, and he believed that it was time to make changes. He commented that the bill was passed unanimously by the Senate Judiciary Committee.

Senator Care explained that there was an unsolicited fiscal note attached to S.B. 66 from the Attorney General's (AG's) Office. The fear appeared to be that if the cap was raised to \$100,000, it would increase the exposure of State and local governments. Senator Care indicated that he was not persuaded by the argument, and one could argue that the so-called "Tort Fund" was always at risk, particularly when a person sued under federal law for a civil rights violation, at which time the cap would not come into play.

According to Senator Care, if passed, S.B. 66 only applied to those causes of action that would occur after October 1, 2007. For example, the estate of the aforementioned accident victims in Henderson could not use the \$100,000 cap in litigation.

Vice Chairwoman Leslie wanted reassurance that the \$100,000 cap could not be applied retroactively, and Senator Care assured her that was correct.

Assemblyman Grady noted that there had been a problem with "stacking" that involved multiple plaintiffs. He noted that the bill did not address that issue.

Senator Care pointed out that prior to 1979, when the cap was raised to \$50,000, the Supreme Court indicated that so-called "stacking" was appropriate. It was possible to have a loss of consortium, multiple plaintiffs, or

“stacking,” which was one cause of action that identified a second cause of action. Senator Care emphasized that “stacking” was not approved by the Legislature, but rather by the Court. The bill would not change prior court action or Nevada case law.

Assemblyman Marvel asked how the bill would affect malpractice premiums. Mr. Marvel indicated that he sat as a member of the Subcommittee for Higher Education and there was some concern at the University of Nevada, School of Medicine, that S.B. 66 would increase doctor’s malpractice premiums.

Senator Care believed that malpractice premiums would continue to be governed by Assembly Bill No. 1 of the 18th Special Legislative Session.

Mr. Marvel asked whether S.B. 66 would increase malpractice insurance premiums. Senator Care indicated that it might increase premiums, but the broad perspective was that it had been 28 years since the cap was raised, and if the current legislation failed to pass, by the time the 2009 Legislature convened, it would have been 30 years since the cap was addressed.

Mr. Marvel asked whether the bill would prevent “stacking,” and Senator Care said it would not. He pointed out that “stacking” evolved from Nevada case law pursuant to cases heard by the Nevada Supreme Court, and the *Nevada Revised Statutes* (NRS) had never specifically addressed “stacking.”

Vice Chairwoman Leslie asked whether the main objection to the bill was from local governments or persons that would be affected because it would cost more when lawsuits were filed and damages were paid.

Senator Care stated that was correct. He pointed out that in 1979 when the cap was raised to \$50,000, the county commissioner in Elko County was being paid \$7,260 annually, and the fact that the cap was increased had not impacted continued salary increases for county officials.

Vice Chairwoman Leslie noted that S.B. 66 would simply hold governments accountable and would allow plaintiffs to access more appropriate damages. Senator Care stated that was the intent of the bill.

Assemblywoman Weber asked how the \$100,000 cap would compare to the amount established in neighboring states. Senator Care said he had reviewed the cap in other states, and it was quite diverse and varied throughout the states. He commented that in some states, no cap had been established.

Assemblywoman Buckley commended Senator Care for his work on S.B. 66. She stated that in the past, the Legislature had heard testimony from a quadriplegic who had been hit by a school bus. The accident involved only the single individual, and there was no “stacking” in the case. Ms. Buckley pointed out that \$50,000 did not come close to compensating the person for injuries suffered in the accident. Ms. Buckley stated that she was glad to see the bill because she had been waiting to see the cap increased for a long time, and she commended Senator Care for his hard work.

Senator Care thanked Assemblywoman Buckley and informed the Committee that the bill had passed out of the Senate convincingly, rather than unanimously.

Assemblyman Hardy asked whether there was a mechanism in any state where the rural or smaller local governments would have a hold-harmless provision or some form of protection by the State.

Senator Care replied that he was not aware of any such provision or protection. That issue had been discussed by the Senate, and Senator Care said his feeling was that if a person was involved in an accident in Clark County, the cap would be \$100,000, but if there were provisions protecting smaller rural counties and the accident occurred 100 feet inside the Nye County line, the cap would be \$50,000. Senator Care believed that the "price of justice" should be the same universally.

Dr. Hardy asked whether there was a safety net in other states that allowed local governments to pay equal compensation for injury. Dr. Hardy asked whether, when an accident occurred in a small rural town that only had a certain amount of funds available, there was a state safety net for additional funding. He wondered whether such a law was in effect in other states.

Senator Care did not know whether such a law was in effect. The State had a Tort Fund, but he was not sure how that would work. Many cases settled out of court, and the intent of the legislation was not to bankrupt the smaller rural areas of the State.

Assemblywoman Buckley asked about a safety net for the quadriplegic or what about a safety net for persons who were permanently injured. The State did not have such a safety net in place. Senator Care concurred that the State did not provide a safety net for injured persons, other than the existing provisions in the *Nevada Revised Statutes* (NRS).

Assemblyman Hogan observed that, given the situation with the extraordinarily low limit for State liability, a more appropriate response would be for the State to make a serious and continuing effort to educate its employees about the need to avoid unnecessary liability. State employees should be educated about the type of situations that lead to lawsuits, whether it was in the area of discrimination or in areas that lead to accidents. Mr. Hogan believed it would be more appropriate and the State would save money if it launched a serious and continuing effort to avoid unnecessary liability.

Vice Chairwoman Leslie opened public comment and recognized Ms. Hawley.

Betty Hawley introduced herself to the Committee and stated she was present to testify that even if the cap was increased to \$100,000, her case would fall under the \$50,000 cap. Ms. Hawley hoped that her testimony would help persons who were injured in future accidents.

Ms. Hawley explained that she was hit by a city bus in Reno on April 26, 2006. She was sitting in her wheelchair waiting to cross the street when the bus jumped the curb, ran over her foot, hooked her wheelchair and drug her and her chair approximately six feet before stopping.

Ms. Hawley stated that her medical bills were currently over \$200,000. Ms. Hawley indicated that she received Supplemental Security Income (SSI), Medicare, Medicaid, and Social Security Disability Income (RSDI), for issues that occurred prior to the accident in April 2006. She was very thankful that she had that coverage to help with her injuries and medical bills. The problem was that she would only receive approximately \$16,000 for her injuries caused by

the bus accident. Ms. Hawley was thankful that doctors had been able to save her foot.

Vice Chairwoman Leslie thanked Ms. Hawley and informed her that her support of S.B. 66 would be made part of the record.

Vice Chairwoman Leslie asked whether there was further testimony in favor of S.B. 66.

Bill Bradley, Jr., representing the Nevada Trial Lawyer's Association (NTLA), indicated that the NTLA supported S.B. 66 and commended Senator Care for bringing the meritorious concept before the Legislature.

As indicated by Senator Care, it had been approximately 28 years since the cap had been raised. Mr. Bradley stated that citizens felt they were always held accountable to the government, and the NTLA felt that S.B. 66 was the right step in making the government accountable to its citizens. Mr. Bradley noted that for far too long, the NTLA had handled the same type of case as that described by Ms. Hawley, where there was clear negligence on behalf of the government, whether that was the Nevada Highway Patrol officer in Las Vegas who rear-ended a vehicle, the school bus accident mentioned by Ms. Buckley, or the city bus accident described by Ms. Hawley.

Time and time again, the NTLA saw the injustice of the cap take a horrible toll on citizens, and considering that it had been attempting to see such legislation pass for the last 15 years, the NTLA believed now was the time. Mr. Bradley stated that the NTLA recognized that there was a cost involved, but it believed that the cost was part of the government's responsibility to its citizens.

Mr. Bradley said he would like to explain how "stacking" came about. It occurred because people had separate causes of action, which created additional rights for those victims. For example, it became two causes of action when a person was involved in a collision and suffered personal injuries and also suffered the loss of a spouse of many years. Mr. Bradley stated that he had never appreciated the term "stacking" because the causes described the injuries suffered by the person.

According to Mr. Bradley, the same type of injury for which a citizen who caused a vehicular accident or injury to a government employee would be held accountable should also apply to the government. It had always been very difficult to believe that if a citizen caused a vehicular accident that injured a government employee, that person would be fully accountable to the government employee. However, Mr. Bradley said, if a government employee caused a vehicular accident that injured a citizen, the person was not accountable. Under A.B. 66, the government would become more accountable. Mr. Bradley emphasized that the bill was long overdue and was something that was badly needed in Nevada.

Assemblyman Marvel commented that "stacking" was simply the term used to identify the several claims that could be filed. He asked whether the \$100,000 would be net to the injured person. Mr. Bradley explained that it would not, and that was one of the unfair aspects of the cap. The state of California had no cap, and the government was treated the same as any other citizen, including rural counties. Mr. Bradley said the \$100,000 had to cover lost wages, medical bills, home mortgage payments, and the entire gamut of damages that the person suffered from the injury.

Mr. Marvel asked whether attorney fees also had to come out of the cap. Mr. Bradley stated that attorney fees were part of the expenses. He pointed that one of the things that had evolved from the \$50,000 cap was that many times, because the cap was so low, there was an immediate offer to settle for the \$50,000. That way, attorney fees remained lower, and hopefully, more of the award would be realized by the injured person. Mr. Bradley noted that the cap was so low that, quite frankly, a trip to the emergency room and a few nights in the hospital would eat up the entire \$50,000.

Vice Chairwoman Leslie thanked Mr. Bradley for his testimony and asked whether there were other persons who would like to testify in favor of, or in opposition to, S.B. 66.

Joseph Turco, representing the American Civil Liberties Union (ACLU), thanked Senator Care for his work on S.B. 66. He pointed out that the ACLU had no pecuniary interest in the legislation because it did not collect fees. The legislation was about making the victim whole and offering an incentive to attorneys to represent the injured. Mr. Turco indicated that the ACLU supported S.B. 66.

Vice Chairwoman Leslie asked whether there was further testimony to come before the Committee regarding S.B. 66, and there being none, the Vice Chairwoman closed the hearing and turned the Chairmanship over to Chairman Arberry.

Chairman Arberry thanked Vice Chairwoman Leslie and opened the hearing on Senate Bill 330.

Senate Bill 330: Changes the name of the Southern Nevada Women's Correctional Facility. (BDR S-1306)

Dr. Betty Pardo, Director, League of Women Voters, stated that she was present in Las Vegas in support of S.B. 330, which would change the name of the Southern Nevada Women's Correctional Center to the Florence McClure Women's Correctional Center. Dr. Pardo opined that would be a fitting legacy for Florence McClure, who spent more than 30 years pursuing rights and justice for women. It was a legacy that Nevada owed Ms. McClure, and it would be an incentive to young women to continue to pursue the rights of women.

Florence McClure's granddaughter by marriage, Anna, testified that Florence was an amazing lady. Working to relocate the women's prison so that women could be closer to their families was but one of the many things that Ms. McClure had done over the course of a lifetime of dedicating herself to the improvement of the status of women in the State of Nevada. Changing the name of the women's prison was the least that Nevada could do to recognize Florence McClure's efforts.

Howard Skolnik, Director, Nevada Department of Corrections (NDOC), testified in favor of the bill. He stated that Florence had been a tremendous supporter of the NDOC over the years and deserved recognition.

Dr. Joanne Goodwin, Professor of History, University of Nevada, Las Vegas (UNLV), stated that in her capacity as the Director of the Women's Research Institute of Nevada, she had the opportunity to interview Florence McClure and get to know her personally. Dr. Goodwin stated that Ms. McClure was not only a mentor and role model for generations to come, but for years, she had been a leader in victim's rights, both male and female.

According to Dr. Goodwin, Florence McClure's initiative to relocate the Women's Prison to southern Nevada was based on research-based information that women would have lower rates of recidivism if they were able to remain in contact with their children and would receive better education and training in a more populated area of the State. Dr. Goodwin stated she was in support of S.B. 330 and would like to personally thank Senator Coffin for sponsoring the bill. It was Dr. Goodwin's understanding that there would be little cost to the State in renaming the Women's Prison, and it would value the service to Nevada by Florence McClure and the mentoring that she continued to provide to the younger generation.

Julianna Ormsby, Nevada Women's Lobby, stated that she would echo the previous sentiments offered to the Committee, and would like to add that it appeared there would be a very minimal impact in terms of the fiscal note. Ms. Ormsby hoped that the Legislature would honor Florence McClure, or "Hurricane Flo" as she was better known, for all the great deeds she had done in Nevada and her continued mentoring. Ms. Ormsby urged the Committee's support of S.B. 330.

Senator Bob Coffin, District No. 10, Clark County, said he would be happy to answer questions for the Committee.

Chairman Arberry asked why the bill had been brought before the Committee on Ways and Means because there was not fiscal note attached to S.B. 330. He asked Mr. Skolnik to advise the Committee about the cost.

Mr. Skolnik indicated that the cost would include a new sign in front of the facility, which would be manufactured by Prison Industries, and a change in the stationary. He opined that there would be little, if any, fiscal impact caused by passage of S.B. 330.

Loy Hayes, retired Warden from the Southern Nevada Women's Correctional Center, said it had been his pleasure to work with Florence McClure over a four-year period. Mr. Hayes believed that Ms. McClure was the driving force and the most influential person in the relocation of the women's facility to Las Vegas, and for providing remarkable programs for women. Mr. Hayes opined that it would be an honor for the State to rename the facility for Florence McClure and he echoed Director Skolnik's comments.

Caryll Dziedziak, Assistant Director, Women's Research Institute of Nevada and member of the League of Women's Voters of Las Vegas Valley, stated she was present to testify in support of S.B. 330. Ms. Dziedziak indicated that Florence McClure had spent over three decades advocating for women's rights within the judicial system in Nevada. She was a powerful role model for women in Nevada and showed that the persistence of one individual could, in fact, affect positive social changes. Ms. Dziedziak commented that Florence McClure was certainly worthy of the tribute, and she urged the Committee to support S.B. 330.

Carolyn Dunne informed the Committee that she was Florence McClure's daughter. She brought a somewhat different perspective to the Committee because she lived with her mother as she was growing up and observed the way her mother went forward with her convictions. Ms. Dunne reflected on the fact that over the years her mother worked very hard to protect victims, and when she saw injustice on different levels, she always looked for an avenue to correct the injustice and pulled other people in to help.

Ms. Dunne commented that her mother was a great organizer, and although Florence fought for women who were sexually assaulted, she went beyond that and looked at women who were incarcerated and attempted to find ways that might help those women change their lives. Ms. Dunne stated that her mother was not one-sided but rather was very balanced, and it was very important to her mother that the women's facility was located in a place where women could remain connected to their families and find other avenues and resources to take a different direction in life. Ms. Dunne emphasized that her mother was strongly motivated to see that society had the benefit of people being helped and, therefore, productive in society.

Marlene Adrian indicated that she had been involved in several documentaries of women in Nevada, and it was evident that Florence McClure, for her outstanding work, had been identified as a person who should have the women's prison named for her while she was still living. Ms. Adrian noted that Florence McClure was present at the meeting in Las Vegas and was supportive of her legacy living on by renaming the women's prison.

Ms. Adrian stated that she had interviewed Richard Bryan, former Nevada Governor and U.S. Senator, when making her documentary, and Mr. Bryan stated, "Florence literally changed the criminal justice system in Nevada, and that is no easy task."

Ms. Adrian commented that victim's rights were always left wanting in the judicial system until Florence McClure intervened on behalf of the victims. Naming the prison after Florence McClure would be a legacy for victims, along with those who had committed crimes, who were sometimes victims of the system.

Ms. Adrian referenced the documentary entitled, "Hurricane Florence," produced by Women of Diversity Productions, [Exhibit J](#).

Byllie Andrews, President, American Association of University Women (AAUW), echoed prior comments and supported passage of S.B. 330.

Senator Coffin added that Florence McClure had, for over 40 years, single-handedly browbeat, persuaded, cajoled, and generally pressured judges, doctors, attorneys, law enforcement officials, and others involved in the justice system to make things happen for women. Her efforts were documented in [Exhibit J](#).

Chairman Arberry asked whether there was further testimony to come before the Committee regarding S.B. 330 and, there being none, declared the hearing closed.

The Chairman opened the hearing on Assembly Bill 416 (R1).

Assembly Bill 416 (1st Reprint): Makes various changes to provisions concerning the Department of Corrections. (BDR 16-190)

Assemblyman Harvey J. Munford, Clark, District No. 6, stated that he was at the meeting to introduce A.B. 416 (R1). Over the past interim, Mr. Munford stated he was contacted by family members of inmates, many of whom were his constituents, about certain problems within the Nevada Department of Corrections (NDOC) and the operations of the State Board of Parole Commissioners (Parole Board).

Mr. Munford indicated that he investigated the situation by touring several correctional facilities. Over the past interim, Mr. Munford said that he held a forum on prison issues, wherein he invited public input on NDOC and talked with people living and working in the correctional environment. The result of his experience was A.B. 416 (R1), which would require greater accountability and oversight of State correctional agencies.

Mr. Munford highlighted some of the provisions included in the bill:

- The measure created a temporary 13-member Policy Commission on Corrections to evaluate prisons and make reports every six months to the Legislative Commission and the Governor.
- Every two years, the Legislative Auditor must conduct an audit of the NDOC.
- Employee evaluation of unclassified employees would be through a peer review process under the direction of the Governor, Attorney General, Secretary of State, and the Board of Prison Commissioners.
- Inmate parole hearings would be subject to certain aspects of the Open Meeting Law, with notice required to both the prisoner and the victim.
- Decisions of the Parole Board concerning granting or denying parole must be given to an inmate within ten working days after the hearing.
- Certain changes would also be made regarding mandatory parole release, including eligibility for release of certain prisoners beginning at 18 months rather than the current 12 months prior to a sentence expiring.
- If the Parole Board denies release of a prisoner because of public safety concerns, the Board must provide its reasons for denial in writing.
- The measure would change the enhancement penalties for certain crimes to a minimum of one year and a maximum of ten years in prison, with the additional term not to exceed the sentence imposed for the underlying crime.

Mr. Munford noted that the NDOC had attached a fiscal note to A.B. 416 (R1); however, amendments to the bill might have changed the amount of money required to implement the measure.

Mr. Munford encouraged the Committee to support A.B. 416 (R1). He stated that Assemblyman Hogan had served on the forum held during the interim and was very helpful.

Assemblyman Parks informed the Committee that he was the Chair of the Select Committee on Parole and Probation, which worked with Mr. Munford on A.B. 416 (R1). Mr. Parks said the Select Committee reviewed the bill thoroughly, and he noted one additional feature to the bill, which provided the Division of Parole and Probation the ability to waive the requirement that a prisoner released on parole for a Category D or E felony might be subject to a lesser degree of supervision.

Mr. Parks commented that a great deal of effort had gone into A.B. 416 (R1), and there were many recommendations, some of which were not included in the bill. The importance of a Policy Advisory Commission was that the Committee would be able to review specific issues that were not included in statute but were included in regulations.

Chairman Arberry referenced the Memorandum from Parole Board Chairman, Dorla M. Salling, dated May 14, 2007, [Exhibit K](#), which indicated that the cost to the Parole Board would be approximately \$3 million.

Mr. Parks noted that the Nevada Supreme Court was currently reviewing the requirements of the Open Meeting Law and whether or not the Parole Board must comply with that law. The decision from the Supreme Court would probably be issued in the near future. Mr. Parks stated that the contents of [A.B. 416 \(R1\)](#) would require the Parole Board to handle its proceedings under the Open Meeting Law. Mr. Parks reported that one of the areas of largest complaint was the manner in which parole hearings were held, primarily because of the results of those hearings. Mr. Parks was aware that there would be a substantial fiscal note attached to the bill if the Parole Board was directed to operate under the Open Meeting Law. Mr. Parks added that it was quite possible that, in its decision, the Nevada Supreme Court would also make that finding.

Assemblywoman Buckley said it was hard to believe that the cost for the Parole Board to operate under the Open Meeting Law would be \$3 million, and she asked whether the committees had considered any alternatives. For example, part of the problem facing the Parole Board was travel and the requirement for additional staff to visit the various prisons. Ms. Buckley wondered whether an alternative, if a person was denied parole, would be to allow that person the right to a personal hearing. If a prisoner was housed at an honor camp, and that prisoner was denied parole, perhaps that prisoner could be offered the right to a hearing.

Mr. Parks explained that during committee meetings, the issue had come up about middle ground that might be proposed that would meet the majority of the Open Meeting Law requirements without a substantial fiscal note, but no alternatives were offered.

Assemblywoman Smith asked whether there would be some cost savings based on the earlier release of certain prisoners; it appeared that there might be some fiscal offset from early release. She referenced Section 24 of the bill that required prisoners to be considered for mandatory parole release 18 months rather than 12 months prior to sentence expiration.

Mr. Parks explained that significant savings could be realized, perhaps not immediately, but certainly as more and more individuals were released. Mr. Parks stated that savings would also result from passage of [A.B. 510 \(R1\)](#). There would be a major shift in all budgets associated with corrections, the Parole and Probation Division, as well as the Parole Board.

Chairman Arberry asked how parole hearings would change if the Parole Board operated under the mandates of the Open Meeting Law.

Mr. Parks explained that it would take longer for the Parole Board to hear a case because the hearing would offer due process for interested parties to testify. The Open Meeting Law also required a notice requirement in advance of the hearings. Mr. Parks stated that individuals who were housed in conservation camps where there was no ability for videoconferencing would have to be transported to a facility where videoconferencing was available.

Chairman Arberry opened public testimony and asked whether there were persons who wished to testify in support of [A.B. 416 \(R1\)](#).

Joseph Turco, representing the American Civil Liberties Union (ACLU), stated that the ACLU was supportive of the bill because of the audit and oversight aspects. The overall approach to prison issues in Nevada, which was at a crisis point, and the overall savings had been discussed many times in many committees during the 2007 Session. Mr. Turco said that he had previously testified about the Open Meeting Law, and parole representatives often referenced the fiscal impact, which he believed was not accurate and was somewhat of a scare tactic. Every agency and department throughout the State struggled with the mandates of the Open Meeting Law, and those agencies worked out a way to follow the mandates.

John Emerson, Nevada Legislative Advocate, indicated that he represented three agencies of the United Methodist Church that engaged in social justice advocacy. Mr. Emerson submitted a copy of his testimony to the Committee, [Exhibit L](#).

Mr. Emerson thanked the Committee for the opportunity to speak in support of [A.B. 416 \(R1\)](#) and [A.B. 510 \(R1\)](#). Mr. Emerson stated that he had testified before the Select Committee on Corrections, Parole, and Probation, and commended Chairman Parks and his committee for giving serious consideration to what was needed to improve Nevada's correctional programs. That effort would correct the attitudes and behaviors of those incarcerated rather than simply warehousing persons until, inevitably, some 90 percent of them would be released.

Mr. Emerson stated that he was impressed by the compelling recommendations of Chief Justice Emeritus Bob Rose and Justice James Hardesty, and the detailed findings of the Justice Center presented to the Legislature by Dr. James Austin and Dr. Fred Osher. Everyone needed to take heed of the data and understand the consequences. Mr. Emerson said he was speaking today as a person who had offered voluntary services in Nevada's prison system for over 40 years.

There were many aspects of [A.B. 416 \(R1\)](#) that were commendable and, in Mr. Emerson's judgment, strengthened accountability, transparency, efficiency, and effectiveness. Mr. Emerson stated that he would like to focus his remarks on those sections of the bill that would have some impact on the fiscal note, Sections 20, 21, and 24.

According to Mr. Emerson, to make judicial programs and correctional reentry programs work, the State needed to make a meaningful investment up front, which would be more cost-effective.

Chairman Arberry asked Mr. Emerson to consolidate his comments because of time constraints. Mr. Emerson said that he understood the time constraints facing the Committee and asked that members read his printed testimony, [Exhibit L](#).

In conclusion, Mr. Emerson stated that improving intake screening and assessment to route certain inmates into treatment programs; providing strong educational and reentry programs; allowing earlier paroles when minimum sentences were fulfilled; partnering with community agencies to offer sustained community support; creating flexibility for optional, less costly confinement with adequate supervision; providing judges with greater sentencing flexibility; and funding mental health, alcohol, and substance abuse prevention and treatment programs would reduce the recidivism rates, relieve prison overcrowding, and improve public safety. The question was whether the

Legislature had the political will to make those cost-effective investments, trusting that in time the results would promote increased public support.

Mr. Emerson thanked the Committee for granting him the opportunity to share the deep concerns of those he represented.

Larry Struve, Religious Alliance in Nevada (RAIN) Advocate, stated that to expedite his testimony, he had prepared a handout for the Committee, [Exhibit M](#), which he asked that the Committee review.

Mr. Struve introduced the President of the Lutheran Advocacy Ministry in Nevada, Reverend Jack Erickson, to the Committee and voiced support for [A.B. 416 \(R1\)](#) on behalf of the five adjudicatories of RAIN. Mr. Struve said that RAIN viewed that bill, as well as [A.B. 510 \(R1\)](#) and [A.B. 508 \(R1\)](#), as a coordinated approach to deal with the problem of prison overcrowding.

There were three facts that greatly concerned the faith communities represented by Mr. Struve. One was that 97 percent of the inmates in Nevada's prisons would ultimately be released, and there was a high rate of recidivism of those released, as high as 80 percent. Mr. Struve said those in the faith communities did not feel safe in their church pews and did not feel safe in their homes because the prison was not doing an adequate job. Mr. Struve indicated that the faith communities were very concerned about the \$1.9 billion that taxpayers would have to spend over the next ten years to accommodate the growing prison population.

Mr. Struve commented that RAIN viewed [A.B. 416 \(R1\)](#), [A.B. 510 \(R1\)](#), and [A.B. 508 \(R1\)](#) as bills that would begin to take a serious look at those issues and answer the following questions: (1) How were the prisons being run? (2) Was the sentencing process putting the right people in prison and putting those who needed treatment in treatment facilities? (3) Was the State developing community support systems utilizing resources similar to faith communities that were available to help reintegrate offenders back into the community so they did not reoffend?

In a nutshell, RAIN believed that the current system was "broken," and taxpayers could not afford the price to fix it, and the system did not provide protection. Mr. Struve said that for all of those reasons, RAIN viewed whatever fiscal notes were involved as an investment and believed that the Committee should seriously consider passage of [A.B. 416 \(R1\)](#), [A.B. 510 \(R1\)](#), and [A.B. 508 \(R1\)](#) to begin the process of getting a handle on the problem.

Mr. Struve stated that RAIN specifically applauded [A.B. 416 \(R1\)](#) for establishment of the Commission on Corrections, and for making more prisoners eligible for correctional programs that might allow them to move from the prison system into a less expensive system. Finally, the bill returned discretion to judges in considering the enhancements that made for very long prison sentences. Mr. Struve commented that the judges and juries who considered the cases were the appropriate people to hand down sentences, rather than legislation that automatically doubled a sentence if the offense fell under the enhancement statutes.

Mr. Struve indicated that for all of those reasons and the statement contained in [Exhibit M](#), RAIN hoped that the Committee would approve [A.B. 416 \(R1\)](#).

Constance Kosuda referenced her email to Committee members that included her comments, [Exhibit N](#), and she asked that her comments be made a part of

the public record. Ms. Kosuda stated that she also believed that the \$3 million fiscal note attached to the bill was overinflated and probably unsubstantiated. In any event, the savings would be considerable if the bill was enacted. Ms. Kosuda believed that the bill was a step in the right direction and was long overdue.

Ms. Kosuda referenced the document entitled "Pyramid of Hate" included in [Exhibit N](#), which had been generated by the Anti-Defamation League.

Chairman Arberry explained that the Committee was discussing [A.B. 416 \(R1\)](#) and testimony had to pertain to that bill. The Chairman said he could not allow deviation from that protocol. Chairman Arberry thanked Ms. Kosuda for her testimony.

Cynthia Stockton, representing REDRESS, Inc., stated that REDRESS, Inc. supported [A.B. 416 \(R1\)](#) and believed that it would be a move in the right direction.

Florence Jones indicated that she was an advocate for social reform. Ms. Jones commented that there were issues that could possibly reduce the fiscal impact of [A.B. 416 \(R1\)](#). For example, it seemed that holding a full hearing for paroles to a consecutive sentence was a waste of time and energy. Ms. Jones noted that the court established a minimum amount of time to be served on each sentence, and she encouraged the Committee to review the issue and consider moving inmates in the system with a consecutive sentence automatically to the second sentence once an inmate had served the minimum amount of time on the original offense.

Ms. Jones said that another issue about the fiscal impact was what would be expected of the Parole Board in order to comply with the Open Meeting Law. Prior to 2001, the Parole Board's manual indicated that the Parole Board complied with the Open Meeting Law, but in practice, it had not. To actually comply, the inmate would have to be present at the hearing, but testimony could be limited to three minutes. Ms. Jones believed that the current notice provided by the Parole Board was adequate, and no additional notice would be necessary. The big issue was recording the parole hearings. Ms. Jones said that even when the Parole Board claimed to be operating under the Open Meeting Law in 2001, the Board had nothing more than a minimum checklist.

Ms. Jones explained a situation that occurred in 1995 when she attended a parole hearing for her son, who was an inmate in the NDOC. Ms. Jones begged the Committee to enforce the Open Meeting Law for all commissions, which included the Parole Board.

Ms. Jones offered amendments to [A.B. 416 \(R1\)](#) for the Committee's review [Exhibit O](#). She commented that once the Parole Board was not overloaded with cases eligible for parole to consecutive sentences, it could maintain the prison population in Nevada at or below the maximum capacity. Ms. Jones explained her views regarding prison overcrowding and offered comments about balancing the system.

Ms. Jones offered her views on enhancement sentences and the possibility of reducing the population of inmates who had been in the NDOC for many years. She believed that the older inmates cost taxpayers a great deal of money, and many had been in prison for over 30 years because of consecutive enhancement sentences.

Ms. Jones asked the Committee to review the parole standards that had been changed by the Parole Board. In 1995, truth-in-sentencing laws doubled the sentence for first degree murder and kidnapping offenses from a 10-year minimum to a 20-year minimum.

Chairman Arberry thanked Ms. Jones for her testimony and asked her to conclude her comments because of time constraints.

Ms. Jones asked the Committee to review the Parole Board standards and guidelines and consider putting the standards back under Legislative authority.

Donald Hinton, representing the Spartacus Project, commended Assemblyman Munford for bringing A.B. 416 (R1) before the Legislature. Mr. Hinton offered amendments, [Exhibit P](#), to the bill:

- Section 3(d), Monitoring of the Offender's Store Fund, add: NRS 209.246 is hereby amended to read as follows: The Board shall establish by regulation criteria for a reasonable deduction only from money earned by the inmate. No money deposited to the inmate's account by family, friends, and loved ones may be taken by the NDOC for any purpose.
- Section 24, 1(c), NRS 213.1215, add: The Parole Board will only be required to hold hearings for inmates with parole eligibility to the streets. All inmates with consecutive prison sentences will be institutionally moved by the NDOC to their next pending prison sentence after serving the mandatory bottom number of their active sentence, less meritorious awards.
- Section 38, add: There shall be no monthly fee of any amount for parole/probation services charged by the Division of Parole and Probation. The charge of \$35 to inmates on parole custody shall no longer be charged. Any fees owed by inmates on parole custody are to be discharged and inmates on parole are to be notified of this action within 30 days. Technical violations of parole or probation will result in closer supervision, not prison.

Mr. Hinton indicated that section 3(d) should be retroactive to the first part of 2007, or at least to February 1, 2007.

Patricia Hines indicated that she was in favor of A.B. 416 (R1), and she offered proposed amendments, [Exhibit Q](#), for review by the Committee. Ms. Hines noted that the original bill included a statement that inmates had the right to representation at parole hearings, and she asked that the statement be included.

Ms. Hines said that language should be added in section 25 of the bill that closed hearings should be held prior to or during the hearing to allow the decision to grant or deny parole to be made on the day of the offender's parole hearing. Ms. Hines indicated that was important because it would expedite the procedure, and if the procedure could be expedited, there would be a cost savings.

Ms. Hines believed that the Parole Board should allow the victim to testify in the portion of the hearing that was closed. Ms. Hines hoped that the standards and guidelines of the Parole Board would come under the Legislative Commission.

According to Ms. Hines, section 36 of the original bill, which was omitted in the first reprint, stated that the administrative regulations that were approved by the Board of Prison Commissioners remained in effect until repealed by the

Board. Ms. Hines recommended that the Committee retain that language in the bill to make the law consistent, include in that requirement that the Board of Prison Commissioners schedule a meeting if there was to be some change in administrative regulations for the NDOC, and require that the scheduled notice be 30 days prior to the meeting for the purpose of soliciting public comment.

Tonja Brown of Carson City voiced support for A.B. 416 (R1) and concurred with comments made by Ms. Jones and Ms. Hines. Ms. Brown stated for the record that the Open Meeting Law did not apply to friends and family who would like to speak at parole hearings, yet at parole hearings the Parole Board asked inmates to admit guilt and feel remorseful for the crime. Ms. Brown stated that when inmates maintained their innocence, they were not paroled. Ms. Brown believed that was an unwritten policy of the Parole Board.

Ms. Brown indicated that she had attended an open meeting for the Washoe County Public Defender's position, where a deputy public defender openly admitted that she committed perjury during a postconviction hearing when the inmate was innocent of the crime. However, the Parole Board refused to release that inmate because he would not admit guilt for a crime that he did not commit. Ms. Brown said with the Open Meeting Law in effect, the information would be public, and she could present information to substantiate the inmate's claims.

Ms. Brown noted that at the inmate's last parole hearing, the Parole Board noted that there was an appeal pending in court, and once the Board determined that the appeal was pending, parole was denied.

Sam Dehne explained that he was an Air Force Academy graduate who had spent many years flying fighters and bombers and defending the nation's freedom of speech. Mr. Dehne said he was not present to speak against the NDOC or the Parole Board because he had always supported the NDOC through the years.

Mr. Dehne said he was present to speak about the Open Meeting Law and the fact that the law needed to be obeyed. He stated he was the expert on the Open Meeting Law, having attended virtually every meeting in northern Nevada since 1995. Mr. Dehne indicated that he had memorized the Open Meeting Law Manual. He stated that he did not understand why the Parole Board apparently was objecting to obeying the Open Meeting Law.

Chairman Arberry indicated that the Committee was aware of the mandates of the Open Meeting Law. The Chair closed the hearing on A.B. 416 (R1) and indicated that A.B. 510 (R1) would be withdrawn from the agenda and rescheduled.

Chairman Arberry opened the hearing on Senate Bill 457.

Senate Bill 457 (1st Reprint): Provides for the creation, administration and investment of a trust fund for the management of certain retirement benefits provided by a local government. (BDR 23-736)

Marvin Leavitt stated that he was the Chairman of the Committee on Local Government Finance. He explained that S.B. 457 (R1) dealt with the implementation of the Governmental Accounting Standards Board (GASB) Statement 43 and Statement 45. Mr. Leavitt indicated that certain liabilities would accrue as a result of retiree's health care benefits. The bill would provide for the creation of an irrevocable trust, which was a requirement of GASB 43 and GASB 45 if there was an offset against the liability.

Mr. Leavitt stated that the trust provided for the employment of a board of trustees by a local government, and the money placed in the trust was irrevocable and could not be returned to the local governments; the money was held for the benefit of beneficiaries of the trust, which were the retired employees. Because the money would be held on a long-term basis, the bill provided additional methods for investment of the funds.

Mr. Leavitt explained that local governments invested on a short-term basis in federal government bonds, which bore a fairly low interest rate. Senate Bill 457 (R1) provided that the monies could be invested under the "prudent person" rule and provided a mechanism by which funds could be invested by the Public Employees' Retirement System (PERS).

Mr. Leavitt introduced Michael Alastuey, Vice Chairman of the Committee on Local Government Finance, and John Sherman, a member of that committee, who would like to testify regarding the legislation.

Michael Alastuey introduced himself to the Committee and stated that the Committee on Local Government Finance had worked for a number of months in drafting S.B. 457 (R1). Mr. Alastuey concurred with the comments made by Mr. Leavitt and noted that the bill would not change the benefits of any retiree, nor would it repeal any benefits, and it would not transfer an employee from one plan to another. The legislation was enabling only, and simply established the structure by which local governments could fully comply with the mandates of GASB 43 and GASB 45.

John Sherman, Washoe County Finance Director and representative of the Committee on Local Government Finance, introduced himself to the Committee. He observed that the irrevocable trust would have to comply with certain elements of local government laws, including public records, the Open Meeting Law, and ethics laws. The bill also stated that the trust could not issue debt to fund the obligations. Mr. Sherman noted that even though the bill allowed for annual contributions to the trust fund, it was not mandatory.

Dana Bilyeu, Executive Officer, PERS, stated that PERS had adopted the position of supporting S.B. 457 (R1). She explained that PERS worked very closely with the Committee on Local Government Finance to address several issues related to the investment of the trust monies by PERS on behalf of the newly created Retirement Benefit Investment Board, which was ex officio the Retirement Board. Ms. Bilyeu indicated that system concerns were addressed in the amended version of the bill, protecting the pension trust from compliance challenges related to the Internal Revenue Code.

According to Ms. Bilyeu, section 5 of the bill set forth the duties of the Retirement Benefit Investment Board, which were modeled on the duties of the Retirement Board related to the investment of the pension fund. The concept was to invest the monies that were deposited by the local governments and the State to fund their GASB 45, Other Post-Employment Benefits (OPEB), liabilities in a manner that was consistent with the manner in which the pension fund was

invested. Ms. Bilyeu stated that the decision to place the monies in the fund represent the actual fiduciary decision by the local entity or the State. The Retirement Board itself would not be the fiduciary for the fund.

Ms. Bilyeu indicated that the system would, in essence, function as an investment manager, whose client base consisted of participating local governments and the State. Fees would be set by the Investment Board consistent with the efficient administration of the Fund.

Ms. Bilyeu stated that the members of the Committee on Local Government Finance indicated that some of the local entities would be assisting with the start-up costs of the Fund. That was very important for PERS, because PERS could not use any pension trust monies, even if the expenses were reimbursed at a later date, because that would be a constructive loan and was a prohibited transaction under the Internal Revenue Code. Ms. Bilyeu indicated that PERS was looking to the local governments and the State to provide the start-up monies.

Chairman Arberry asked whether there was further testimony to come before the Committee on S.B. 457 (R1).

Florence Jones indicated that she received PERS benefits and believed that the bill would affect her benefits. Ms. Jones stated that she did not totally understand the ramifications of the bill. She asked whether PERS was running out of money and whether that was the reason the Fund would be established.

Mr. Leavitt explained that the bill dealt with money set aside by local governments to pay health benefits for retired employees. The bill would not make changes in the retirement benefits received under PERS. Mr. Leavitt stated that the only involvement in PERS was that PERS would invest the monies placed in the Fund. The reason for that was because PERS was the only agency in the State with the expertise to invest such monies. Mr. Leavitt explained that, based on its expertise, PERS would invest the funds, but the monies would not be commingled with PERS retirement funds and had no effect whatsoever on basic PERS benefits.

Chairman Arberry asked Ms. Jones whether Mr. Leavitt's explanation eliminated her concerns. Ms. Jones stated that Mr. Leavitt's explanation had helped, but she asked whether the Fund was being established primarily to generate additional funds from the monies being set aside by local entities. For example, Ms. Jones stated she was a retired school teacher and Clark County actually paid a portion of her insurance premiums. She asked whether those were the monies that would be invested to generate additional funds.

Mr. Leavitt stated that GASB 43 and GASB 45 required recognition of liability, and the bill provided a means by which local entities could place monies in the Trust Fund as an offset against the liability. To aid local entities, the proposal was to invest the monies in the Fund in instruments that bore a much higher return than investments made individually by local governmental entities.

Chairman Arberry asked whether there was further testimony to come before the Committee regarding S.B. 457 (R1) and, there being none, declared the hearing closed.

The Chairman declared the Committee in recess at 11:00 a.m. and reconvened the meeting at 12:39 p.m.

Chairman Arberry advised the Committee that there were several bills to be reviewed for possible action and we open the hearing on Assembly Bill 128.

Assembly Bill 128 (1st Reprint): Revises provisions relating to prescription drugs. (BDR 18-108)

Assemblywoman Leslie referenced Exhibit R, "Proposed Amendment 4003 to Assembly Bill No. 128—First Reprint."

Assemblywoman Leslie indicated that the Committee originally passed A.B. 128 without the amendment that had been presented. Ms. Leslie stated that Exhibit R was the same amendment originally presented to the Committee, and it required all pharmaceutical companies that employed sales staff in Nevada to establish a policy on marketing, to enforce that policy, to audit compliance with the policy, and to report annually to the Pharmacy Board on the compliance. Ms. Leslie noted that the amendment entirely replaced the original bill and had been negotiated with the appropriate parties.

Chairman Arberry advised the Committee that he would accept a motion to rescind the previous action.

ASSEMBLYWOMAN LESLIE MOVED THAT THE COMMITTEE
RESCIND ITS PREVIOUS ACTION TO DO PASS A.B. 128.

ASSEMBLYWOMAN KOIVISTO SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Smith was not present
for the vote.)

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Chairman Arberry called for a new motion on the bill.

ASSEMBLYWOMAN LESLIE MOVED THAT THE COMMITTEE
AMEND AND DO PASS AS AMENDED A.B. 128.

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Smith was not present
for the vote.)

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Chairman Arberry opened the hearing on Assembly Bill 158 (R1).

Assembly Bill 158 (1st Reprint): Requires the Secretary of State to establish and maintain the Registry of Advance Directives for Health Care on his Internet website. (BDR 40-927)

Assemblywoman Leslie explained that she had worked with Assemblyman David Bobzien and the Secretary of State's Office on the bill. The Bill directed the Secretary of State to establish and maintain the Registry of Advance Directives for Health Care and establish the requirements to register an advance directive. The bill was passed by the Assembly Committee on Health and Human Services and referred to the Committee on Ways and Means.

Ms. Leslie indicated that she had worked with the interested parties in an attempt to reformat the fiscal note. The basic costs for the advanced directives would be in computer and programming costs for the system. Ms. Leslie stated that the Secretary of State planned to charge \$20 per registration, and by the end of the second fiscal year, the program would be self-supporting. However, the proposal was to pass the bill including the necessary funding to initiate the program.

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), explained that the start-up money would need to be appropriated to the Secretary of State. Section 13 of the bill allowed the Secretary of State to impose a fee for the service, and the fee proposed by the Secretary of State was \$20.

Mr. Stevens indicated that the start-up money would purchase the computer system, make necessary changes to the website, and hire the staff necessary to implement the program. The General Fund amount would be provided up front so that the start-up costs could be addressed and as the fee revenue was realized, the program would become self-supporting, at which time the Secretary of State could repay the appropriation from the General Fund.

Mr. Stevens indicated that the Secretary of State projected receipt of \$450,000 in fees over the biennium, and the cost for the biennium would be approximately \$416,000, which would allow the Secretary of State to repay the General Fund by the end of the biennium.

If the Committee was inclined to pass the bill, Mr. Stevens stated that one of the decisions it would have to make was the amount of the appropriation that would be provided to the Secretary of State. The cost to initiate the program was approximately \$267,000 in the first year of the biennium and \$149,000 in the second year. Mr. Stevens indicated that the Committee would need to determine the amount of the appropriation and include language that the appropriation would be repaid over time with proceeds from the fee collection.

Mr. Stevens proposed that the Committee appropriate the funding from FY 2008 and provide the Secretary of State with a two-year period before repaying the General Fund.

Assemblyman Marvel asked Mr. Stevens about the amount of funding needed by the Secretary of State. Mr. Stevens indicated that the Secretary of State anticipated charging a \$20 fee that would produce \$450,000 in revenue over the biennium. The Secretary of State anticipated expenses of \$267,000 in the first year of the biennium and \$149,000 in the second year of the biennium.

Chairman Arberry asked whether the appropriation would come from the General Fund. Mr. Stevens stated that was correct, and the amount would be determined by the Committee. The bill should also include language that the General Fund appropriation would be repaid from the fees collected by the Secretary of State.

Assemblywoman Buckley asked about the possibilities of the Secretary of State utilizing funds from its budget and repay its own budget account from revenue realized by the fee. Mr. Stevens stated that if the numbers were accurate, there would be an appropriation in the first year of the biennium, which would be repaid in the second year of the biennium. Over the biennium, the net effect would be zero on the General Fund, if the projections held true.

Mr. Stevens explained that if the Committee appropriated \$250,000 to the Secretary of State to initiate the program, fee revenue would then be collected. Once the Secretary of State began to receive fee revenue, the program would be self-supporting and the General Fund could be repaid.

Mr. Stevens commented that it was a cash-flow issue because of the initial costs that could not be recovered until fee revenue was received. It would be more of a loan situation rather than an appropriation.

Chairman Arberry advised that the Committee would hold action on A.B. 158 (R1).

The Chairman opened discussion on Assembly Bill 182 (R1).

Assembly Bill 182 (1st Reprint): Makes various changes concerning the Fund for a Healthy Nevada. (BDR 40-158)

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), indicated that A.B. 182 (R1) involved the Task Force for the Fund for a Healthy Nevada (Task Force) and the percentage of funding that was applied to certain programs within the Fund. Mr. Stevens referenced Exhibit S, "Proposed Amendment 3908 to Assembly Bill No. 182," which was available to the Committee.

Assemblywoman McClain explained that A.B. 182 (R1) eliminated the Task Force, and placed those responsibilities under the Grants Management Advisory Committee through the Department of Health and Human Services (DHHS). The Grants Management Advisory Committee oversaw the Title XX program, the Children's Trust Fund, and funding from other governmental entities. Adding the tobacco settlement monies under that Committee would create an efficient method for disbursing funds. Ms. McClain stated that by adding the funds from the Task Force to the Grants Management Advisory Committee, the membership would change somewhat to include persons who had expertise in tobacco cessation programs and children's health issues.

According to Ms. McClain, the bill would also change the percentages of funding to provide additional funding in the disabled services category. The tobacco cessation amount would be 15 percent, and programs that improved the health and well-being of persons with disabilities would receive 9 percent. Ms. McClain explained that 2 percent would be used for evaluations and needs assessments. The bill also delineated the percentage for administration as 5 percent overall.

Ms. McClain indicated that six bills had been received from the Senate regarding the Task Force, and five of those bills had been incorporated into A.B. 182 (R1).

Assemblywoman Buckley asked Ms. McClain to go through the bill section by section so that the Committee understood the outcome of the legislation.

Ms. McClain offered the following, noting that the added language was in italics:

- Section 1: Added *persons with disabilities* under the provision that allowed for assistance in purchasing prescription drugs, pharmaceutical services, and *to the extent money is available*, other services; and *hearing aids or other devices that enhance the ability to hear*; and assisting those senior citizens *and persons with disabilities* in meeting their needs related to overall care.

Ms. Buckley asked whether section 1 would eliminate the Senior Rx program and the Disability Rx program. Ms. McClain stated that the bill would not eliminate those programs. Ms. Buckley asked whether persons with disabilities might be eligible, to the extent that money was available, for dental, vision, and hearing assistance, similar to seniors. Ms. McClain stated that was correct.

Continuing her presentation, Ms. McClain offered the following:

- Section 2: Deleted the reference to the Task Force for the Fund for a Healthy Nevada. Maintained the administrative percentage to pay the costs incurred by the State Treasurer to administer the Fund. Deleted the 1.5 percent and the 0.125 percent included to administer the provisions of NRS 439.635 to 439.690, inclusive, and 439.705 to 439.795, inclusive, and included 5 percent across the board for administration of those programs.

Ms. Buckley noted that originally, the percentages for administration were 1.5 percent and 0.125 percent. Mr. Stevens indicated that the percentage was different for each program. The percentages had been calculated differently because the administrative amount was computed on the percentage of the Fund allocated to the programs.

Ms. Buckley stated that the percentage had not changed, but rather had been restructured. Mr. Stevens explained that the percentage had been increased to 5 percent. Ms. Stevens believed that the overall administrative costs were at 3 percent, previously, for most programs, but each program had a different method of determining the percentage.

Ms. Buckley stated that the DHHS had complained the loudest about the Task Force, stating that it was unwieldy, that it was time-intensive, that it would be much better to use one committee rather than two, and that it would decrease the administrative time. That was a higher priority to DHHS than the administrative cap, and Ms. Buckley opined that a higher administrative cap meant less funding for the programs. She asked, in light of the fact that the work of the DHHS would be simplified, why the administrative cap was being increased.

Ms. McClain explained that the support for the Task Force was mainly provided by Legislative Counsel Bureau (LCB) staff rather than DHHS. Ms. Buckley agreed that LCB staff provided a great deal of support, but Michael Willden, Director, DHHS, advised that he also had to attend the Task Force meetings and deal with LCB staff, and he believed that allowing the Grants Management Advisory Committee to administer the funds would be most helpful.

Mr. Stevens believed that the DHHS budgets were based on a 5 percent administrative cap, and the Committee could certainly address that cap, but that amount was used in those budgets.

Ms. Buckley asked how much money would be used for administration of the programs. Mr. Stevens indicated that he would have to calculate the amount.

Ms. McClain stated that the Committee could eliminate the increase to 5 percent and retain the original percentages for administration. Ms. Buckley indicated that she did not want to reopen the DHHS budgets, but the issue should be revisited during the 2009 Session.

Assemblywoman Leslie noted that the language indicated "not to exceed" and that could be communicated to Mr. Willden. She stated she was willing to increase the administrative cap as long as the language "not to exceed" was included in the bill.

Continuing her presentation, Ms. McClain offered the following:

- Section 2, number 6: Removed reference to the Task Force but left the funding, and replaced the Task Force with the Grants Management Advisory Committee.
- Section 3: Removed reference to the Task Force and allocated available expenditures for the Senior Rx program and disabled persons to DHHS. Added language *to the extent money is available for hearing aids or other devices that enhance the ability to hear*. Indicated that the Department would submit a quarterly report to the Governor, Interim Finance Committee (IFC) *and any other committees or commissions the Director deems appropriate*. Section 3(d) allocated not more than 30 percent of *available* revenues for allocation by the Aging Services Division of the DHHS in the form of grants for existing or new programs that assisted senior citizens with independent living.

Ms. Buckley referenced the independent living needs of senior citizens and asked whether the \$200,000 would be allocated each year for that program. Ms. McClain stated that was correct.

Continuing her presentation, Ms. McClain offered the following:

- Section 3 (continued): Changed the allocation for cessation programs to 15 percent, children's health remained at 10 percent, and the percentages for persons with disabilities was increased to 9 percent. Changed the language regarding caretakers to *care or relief of informal caretakers* for persons with disabilities.

Assemblyman Hardy referenced page 5, line 30 of [Exhibit S](#), "with particular emphasis on programs that prevent the use of tobacco by children," and he asked whether that could be changed slightly to provide flexibility to use the funding where it would be most useful.

Ms. McClain said that the language did not mandate use of funding for such programs, but rather was a suggestion.

Dr. Hardy asked whether that verbiage was necessary if it was not a mandate.

Ms. McClain stated that she would prefer that the language remain because that should be the focus of tobacco cessation.

Dr. Hardy concurred with the focus on tobacco cessation, and he asked about eliminating the word "particular," which would still allow for flexibility, whereas

"with particular emphasis" could establish legislative intent. He noted that young adults and adults obviously also needed help with cessation programs.

Ms. McClain concurred and stated that she would agree with removal of the word "particular" in line 30 of the bill.

Mr. Stevens said the bill would then read, "with emphasis on programs that prevent the use of tobacco by children." Ms. McClain stated that was correct. Dr. Hardy agreed, stating that would allow some flexibility.

Continuing her presentation, Ms. McClain offered the following:

- Section 3 (continued): Allocated not more than 4 percent. Added the following language, *and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear* to persons with disabilities.

Mr. Stevens explained that LCB staff would ask that the Committee add language, "to the extent money is available," to section 3(i). Mr. Stevens noted that the language was included in many sections of the bill, but was omitted in section 3(i), and LCB staff believed it should be added. He noted that the amount of the allocation would be increased to 4 percent, but the services provided would also increase.

Ms. McClain agreed and noted that the language was in the other sections of the bill.

Continuing her presentation, Ms. McClain offered the following:

- Section 3 (continued): Section 3(j) added the following language: *Allocate, by contract or grant, for expenditure not more than 2 percent of available revenues to collect data, conduct research, perform assessments of needs, conduct evaluations concerning the money allocated pursuant to this section and conduct outreach efforts to senior citizens and persons with disabilities.*

Assemblywoman Buckley asked whether section 3(j) could be deleted. Ms. McClain asked what the 2 percent allocated for those expenditures would be used for.

Ms. Buckley stated that her concern was that the money be preserved for direct services to the greatest extent possible, because there was so little funding available, and the administrative cap would be increased by the bill. Over the interim, the Director of DHHS said he wanted to examine whether the programs worked, particularly the tobacco cessation programs. Ms. Buckley said she agreed with that, but as the director of a nonprofit organization, when the provider of grant funding wanted evidence that the funding was making a difference, the grant evaluation was conducted by the nonprofit organization, which was part of the obligation of a grant recipient. Ms. Buckley stated she was concerned that the Legislature would spend additional money to conduct a study that sat on the shelf, when it was the responsibility of DHHS as the recipient to conduct studies regarding the programs funded by tobacco monies.

Ms. McClain indicated that there was some question about whether DHHS would be able to conduct the study. Ms. Buckley said she recalled the discussion about whether DHHS had the authority to expend the money for

a study, and the Legal Division of the LCB indicated that it did not have that authority, which Ms. Buckley believed was the correct answer. The State should not pay for the evaluation of programs because that was the recipient's responsibility. Ms. Buckley stated that if a grantee received money for a smoking cessation program, and they did not have information that stated they helped 200 people and 115 were still not smoking after 12 months, the recipient did not deserve to receive the grant.

Ms. Buckley said she would defer to the sponsor of the bill regarding allocation of the 2 percent funding available from deletion of section 3(j).

Ms. McClain believed that disabled services should be increased in section 3(h) from 9 percent to 10 percent for programs that improved the health and well-being of persons with disabilities; and, section 3(i) would allocate not more than 5 percent, rather than 4 percent, to subsidize any portion of the cost providing prescription drugs, pharmaceutical services, and other benefits to persons with disabilities. That increase in allocations would allocate the 2 percent funding available from deletion of section 3(j).

Ms. McClain continued her explanation and offered the following:

- Section 3(n)(3): Added the allocation authority to the Grants Management Advisory Committee. Section 3 also added back other benefits including dental, vision, hearing aids, or other devices that enhanced the ability to hear to persons with disabilities.

Ms. McClain noted that those benefits were added back in several sections of the bill. The remaining changes were similar until Section 6.3, which delineated the responsibilities of the Grants Management Advisory Committee. Ms. McClain noted that the language pertaining to membership added two members who possessed knowledge and experience in the provision of services to children, one member who possessed knowledge and experience in the provisions of services to persons with disabilities, one member with experience in providing services related to the cessation of tobacco, one member experienced in the provision of health services to children, and one member from the Nevada Commission on Aging. Ms. McClain indicated that the deleted language referred to the Task Force for the Fund for a Healthy Nevada.

Mr. Stevens stated that there were sections in the bill that did not include the language, "to the extent that money is available," and he asked that the Committee give LCB staff the authority to work with the Legal Division in drafting the amendment to ensure that the language was included in the appropriate sections of the bill.

Ms. Buckley asked whether language needed to be added to indicate that grant recipients could sit as members of the Grants Management Advisory Committee.

Jan Gilbert, member of the Grants Management Advisory Committee, indicated that all members were required to sign a conflict of interest statement disclosing the organizations or entities with which the member was involved, and members could not vote on grants involving an organization with which the member was involved.

Ms. Buckley said it seemed to her that a person who was employed or affiliated with a direct recipient of grant funding should not sit as a member of the

Grants Management Advisory Committee. Even though the member would not participate in discussion of funding for that recipient, it gave the wrong impression. Ms. Buckley commented that it would taint the process and make it appear that an entity or organization had an "inside track" because it had a person sitting as a member of the Grants Management Advisory Committee. Ms. Buckley did not believe it was appropriate and she asked whether language should be included to prohibit a person who was affiliated with a grant recipient from sitting as a member of the Grants Management Advisory Committee.

Ms. Leslie agreed with Ms. Buckley and believed that it was definitely problematic to have a person associated with the grant recipient sitting as a member of the Grants Management Advisory Committee. Ms. Leslie thought that the Committee should include language specific to members not being affiliated with grant recipients, so that everyone was aware of the rules. If a person worked for an agency that was a grant recipient, that person would be disqualified from sitting as a member of the Grants Management Advisory Committee.

Ms. McClain concurred with that language. She explained that the effective date of the legislation would be July 2007, so that the Grants Management Advisory Committee could get up to speed for the new round of 2008 grant allocations. The percentages would not change until the 2008 grant cycle.

Mr. Stevens advised the Subcommittee that he wanted to make sure he had all changes made by the Committee so that the next amendment would contain the correct language.

Mr. Stevens stated that the amendment would include:

- Page 5, line 30, delete the word "particular."
- Page 5, line 38, change the percentage from 9 percent to 10 percent.
- Page 6, line 6, change the percentage from 4 percent to 5 percent, and within that subsection, add the language "to the extent money is available."
- Page 6, delete section 3(j) entirely.
- Add language that specified that members of the Grants Management Advisory Committee could not be employed by grant recipients.

Chairman Arberry called for a motion.

ASSEMBLYMAN HARDY MOVED THAT THE COMMITTEE AMEND
AND DO PASS AS AMENDED A.B. 182 (R1).

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Smith was not present
for the vote.)

* * * * *

The Chairman opened discussion of Assembly Bill 440 (R1).

**Assembly Bill 440 (1st Reprint): Makes various changes concerning loans
secured by a mortgage or other lien on residential real property.
(BDR 52-879)**

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), called the Committee attention to [Exhibit T](#), which was a mock-up of the first reprint of the bill.

Assemblyman Marcus Conklin, Clark, District No. 37, explained that [Exhibit T](#) was a clean copy and included three changes:

- Page 4, line 42: The language was changed to read, "The Attorney General *may* investigate and prosecute a violation of this section," thereby eliminating the entire fiscal note for the Attorney General's Office.
- Page 6, line 38: The language in *Nevada Revised Statutes* (NRS) 645B.050, which pertained to an application for a license as a mortgage broker, was changed to read, "The application *is verified by the Commissioner and* complies with the requirements of this chapter."
- Page 8, line 7: The language was also changed to read, "The application *is verified by the Commissioner and* complies with the applicable requirements of this chapter."

Mr. Conklin explained that the reason the verbiage appeared twice in the bill was because the bill contained the provisions for two licenses: (1) the license for mortgage broker; and (2) the license for mortgage agent.

Mr. Conklin stated that those three changes were the only changes in the bill.

Chairman Arberry asked whether removing the fiscal note would also take the "teeth" out of the bill so that mortgage brokers and mortgage agents would not take the legislation seriously.

Mr. Conklin did not believe that would be the case. It might be that only the most egregious cases would be prosecuted, and some of the lesser cases might not be prosecuted. Mr. Conklin said he would prefer to retain the fiscal note, but given the lateness of time and realities of the financial situation of the State, he believed it was prudent to get the legislation on the books.

The Chairman called for a motion.

ASSEMBLYWOMAN LESLIE MOVED THAT THE COMMITTEE
AMEND AND DO PASS AS AMENDED A.B. 440 (R1).

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

THE MOTION PASSED. (Chairman Arberry abstained, and
Assemblywoman Smith was not present for the vote.)

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The Chairman opened the hearing on Assembly Bill 226 (R1)

**Assembly Bill 226 (1st Reprint): Makes various changes relating to crimes
against older persons. (BDR 18-162)**

Mark Stevens, Assembly Fiscal Analyst, Legislative Counsel Bureau (LCB), stated that A.B. 226 (R1) was heard by the Committee approximately two weeks previously. The bill involved a unit within the Attorney General's (AG's) Office for investigation and prosecution of crimes against older persons. The bill had a fiscal note attached for requested positions in section 5,

subsection 2. Mr. Stevens noted that the AG's Office had provided a letter on A.B. 226 (R1) indicating that it was supportive of the bill and recommended that section 5, subsection 2, be deleted from the bill. The bill would retain subsection 1, wherein the unit was created, and eliminate the requested positions. The AG's Office would provide whatever services were necessary related to the legislation from existing resources.

Ms. McClain stated that removal of section 5, subsection 2 would allow creation of the unit, and the AG's Office stated it would provide the necessary services. Ms. McClain noted that section 13 of the bill was also not necessary because the positions had been removed.

Mr. Stevens said that the Committee could delete section 13, which indicated "to the extent of legislative appropriations," because there would be no legislative appropriations.

ASSEMBLYWOMAN KOIVISTO MOVED THAT THE COMMITTEE
AMEND AND DO PASS AS AMENDED A.B. 226 (R1).

Mr. Stevens asked which sections were being amended. Chairman Arberry stated that section 5 and section 13 would be amended.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

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

* * * * *

Chairman Arberry opened discussion of Assembly Bill 246 (R1).

**Assembly Bill 246 (1st Reprint): Increases the number of district judges in the
Second and Eighth Judicial Districts. (BDR 1-654)**

Mark Stevens, Assembly Fiscal Analyst, Legislative Counsel Bureau (LCB), explained that the Committee passed the bill during the previous week and he wanted clarification to make sure that the amendment was correct.

Mr. Stevens indicated that the bill originally requested two new district court judges for the Second Judicial District and ten new judges for the Eighth Judicial District. The number of judges was changed to two judges for the Second Judicial District and six judges for the Eighth Judicial District. Mr. Stevens indicated that lines 4, 5, and 6 of the bill outlined the number of district court judges that would go to family court. The original request was for ten new judges with six of those judges going to family court in the Eighth Judicial District, but that was cut to six new district judge positions. Mr. Stevens asked how many of those six judges would go to family court.

Assemblywoman Buckley stated that four of the new judges would go to family court in the Eighth Judicial District. The Committee concurred on that action.

Mr. Stevens indicated that he would make sure the amendment indicated that the Eighth Judicial District would receive six new judges with four going to family court. There was no further action necessary by the Committee.

* * * * *

The Chairman opened the hearing on Assembly Bill 393 (R1).

Assembly Bill 393 (1st Reprint): Makes various changes relating to the repair of motor vehicles. (BDR 43-821)

Mark Stevens, Assembly Fiscal Analyst, Legislative Counsel Bureau (LCB), stated that A.B. 393 (R1) was previously heard by the Committee. The bill involved the salvage wrecker/body shops program and would transfer authority for regulation of the garages to the Department of Motor Vehicles (DMV). The bill would provide for joint enforcement of the provisions by the DMV and the Commissioner of Consumer Affairs. The DMV budgets were closed in subcommittee during the previous week, and Mr. Stevens pointed out that the provisions of A.B. 393 (R1) were included. It was necessary to combine Budget Account (BA) 4690, Salvage Wreckers/Body Shops, and BA 4740, Compliance Enforcement, within the DMV budgets; the budget closings also included passage of A.B. 393 (R1).

ASSEMBLYWOMAN BUCKLEY MOVED THAT THE COMMITTEE
DO PASS AS AMENDED A.B. 393 (R1).

ASSEMBLYMAN PARKS SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Smith was not present
for the vote.)

* * * * *

The Chairman opened discussion of Assembly Bill 580.

Assembly Bill 580: Revised provisions relating to the disposition of fees and administrative fines for certain licenses and titles relating to motor vehicles. (BDR 43-1417)

Mark Stevens, Assembly Fiscal Analyst, Legislative Counsel Bureau (LCB), explained that A.B. 580 was also awaiting closure of Budget Account (BA) 4690, Salvage Wreckers/Body Shops, and BA 4740, Compliance Enforcement within the Department of Motor Vehicles (DMV) budgets. The Executive Budget recommended that those two accounts be combined, and the subcommittee had closed the budgets as a combined account, including the provisions of A.B. 393 (R1).

Mr. Stevens further explained that A.B. 580 was the implementing legislation to allow the aforementioned accounts to be combined, and based on the subcommittee's budget closings, Mr. Stevens recommended that the Committee pass A.B. 580.

ASSEMBLYWOMAN BUCKLEY MOVED THAT THE COMMITTEE
DO PASS A.B. 580.

ASSEMBLYMAN GRADY SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Smith was not present
for the vote.)

* * * * *

The Chairman opened discussion of Assembly Bill 596 (R1).

Assembly Bill 596 (1st Reprint): Makes certain changes to provisions concerning obligations of support for a child. (BDR 11-1411)

Mark Stevens, Assembly Fiscal Analyst, Legislative Counsel Bureau (LCB), stated that A.B. 596 (R1) was previously passed by the Committee. Mr. Stevens indicated that he had advised the Committee to amend the bill incorrectly. The original bill was amended by the Assembly Committee on Judiciary from the custodial parent having to pay the \$25 fee to the noncustodial parent being required to pay. That committee also included language to cleanup the bill. However, when the bill was passed by the Assembly Committee on Ways and Means, it did not include the clean-up language that was necessary for the Welfare Division.

Mr. Stevens indicated that the language in the first reprint outlined the definition for medical support and indicated who would pay the \$25 fee, which would be the custodial parent or the person for whom the collection was made. Mr. Stevens noted that it was a slight distinction but it was something that the Welfare Division felt needed to be made in the legislation so that the Division could administer the provisions of the \$25 fee correctly.

Mr. Stevens stated that all the Committee needed to do with the first reprint was change the language from the noncustodial parent to the custodial parent. He indicated to the Committee that it should pass the original version of the bill, which included the technical language needed by the Welfare Division.

Chairman Arberry called for a motion.

ASSEMBLYWOMAN LESLIE MOVED THAT THE COMMITTEE
RESCIND IT PREVIOUS ACTION REGARDING A.B. 596 (R1).

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Smith was not present
for the vote.)

Chairman Arberry called for a new motion.

ASSEMBLYWOMAN LESLIE MOVED THAT THE COMMITTEE
AMEND AND DO PASS AS AMENDED A.B. 596 (R1), CHANGING
THE LANGUAGE PERTAINING TO PAYMENT OF THE FEE TO THE
CUSTODIAL PARENT FROM THE NONCUSTODIAL PARENT, AND
LEAVING THE REMAINING SECTIONS AS AMENDED BY THE
ASSEMBLY COMMITTEE ON JUDICIARY.

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

THE MOTION PASSED WITH ASSEMBLYWOMAN BUCKLEY
VOTING NO. (Assemblywoman Smith was not present for the
vote.)

* * * * *

The Chairman opened discussion on Assembly Bill 608.

Assembly Bill 608: Makes supplemental appropriations to the Department of Business and Industry. (BDR S-1259)

Mark Stevens, Assembly Fiscal Analyst, Legislative Counsel Bureau (LCB), stated that A.B. 608 was the last supplemental appropriation that was recommended in The Executive Budget. The bill contained the supplemental appropriation for the Department of Business and Industry and included a number of sections.

Based on the subcommittee budget closings for the Department, LCB staff had worked with the Department to make changes in the amounts included in the bill:

- Section 1, line 3: Staff recommended changing the amount from \$65,844 to \$17,725.
- Section 1, lines 5 and 6: Eliminate the language, *and for relocation of the Office of the Director to Carson City*.

Mr. Stevens explained that the rent charges recommended in The Executive Budget were no longer necessary, and the language could be removed from the bill.

Chairman Arberry asked for clarification.

Mr. Stevens explained that there was sufficient savings in the Department's budget to pay for the cost of relocating the Office of the Director to Carson City during the current fiscal year.

Continuing his presentation, Mr. Stevens indicated that the following changes were also recommended:

- Subsection 2: Change the amount from \$11,362 to \$2,869.
- Subsection 2, lines 12 and 13: Delete the language, *and terminal leave costs*.
- Subsection 3: Delete section entirely.

Mr. Stevens noted that the aforementioned changes were recommended by LCB staff for A.B. 608.

The Chairman called for a motion.

ASSEMBLYMAN PARKS MOVED THAT THE COMMITTEE AMEND
AND DO PASS AS AMENDED A.B. 608.

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Smith was not present
for the vote.)

* * * * *

Assembly Bill 594: Creates a Class A certification designation for certain body shops. (BDR 43-451)

Chairman Arberry noted that the Committee was familiar with the bill, and he called for a motion.

ASSEMBLYWOMAN BUCKLEY MOVED THAT THE COMMITTEE DO PASS A.B. 594.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Smith was not present for the vote.)

* * * * *

The Chairman opened discussion of Senate Bill 337 (R1).

Senate Bill 337 (1st Reprint): Makes a supplemental appropriation to the Division of Mental Health and Developmental Services of the Department of Health and Human Services for the Family Preservation Program. (BDR S-1256)

Mark Stevens, Assembly Fiscal Analyst, Legislative Counsel Bureau (LCB), indicated that S.B. 337 (R1) was a supplemental appropriation to the Division of Mental Health and Developmental Services. The allocation in the bill had been amended in the Senate from \$60,000 to \$40,000, and LCB staff recommended that the Committee do pass S.B. 337 (R1).

ASSEMBLYWOMAN WEBER MOVED THAT THE COMMITTEE DO PASS S.B. 337 (R1).

ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.

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

* * * * *

The Chairman opened discussion of Senate Bill 338.

Senate Bill 338: Makes a supplemental appropriation to the Aging Services Division of the Department of Health and Human Services for relocation expenses. (BDR S-1252)

Mark Stevens, Assembly Fiscal Analyst, Legislative Counsel Bureau (LCB), stated that S.B. 338 was a supplemental appropriation to the Aging Services Division of approximately \$40,000. Mr. Stevens indicated that LCB staff had reviewed the appropriation and would recommend that the Committee do pass S.B. 338.

ASSEMBLYWOMAN McCLAIN MOVED THAT THE COMMITTEE DO PASS S.B. 338.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

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

* * * * *

The Chairman opened discussion of Senate Bill 66.

Senate Bill 66: Increases the amount of damages that may be awarded in certain tort actions brought against a governmental entity or its officers or employees. (BDR 3-120)

Chairman Arberry pointed out that the Committee heard testimony regarding the bill at the earlier meeting, and he asked Mr. Stevens to outline the bill.

Mark Stevens, Assembly Fiscal Analyst, Legislative Counsel Bureau (LCB), explained that the bill would increase the liability cap on damages sought against the State from \$50,000 to \$100,000.

ASSEMBLYMAN DENIS MOVED THAT THE COMMITTEE DO PASS
S.B. 66.

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

THE MOTION PASSED WITH ASSEMBLYMEN GRADY, HARDY,
AND MARVEL, AND ASSEMBLYWOMAN GANSERT VOTING NO.
(Assemblywoman Smith was not present for the vote.)

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Assemblywoman Buckley stated that with regard to the Medical School, the Committee had adjusted its budget, which included approximately \$1.5 million for medical liability. During the 2005 Session, the Medical School only expended \$700,000 from the over \$1 million allocation, and the Medical School then spent the reserve without authorization. Ms. Buckley noted that the Committee had requested that the Medical School revert the excess funding. In her opinion, there was sufficient money after the budget was adjusted to cover the liability. Ms. Buckley stated that if a person was injured by medical negligence, there was sufficient money in the fund, and she believed that the Medical School should expend the money for the purpose that it was appropriated by the Legislature for the upcoming biennium.

The following exhibits were presented for inclusion in the record regarding A.B. 416 (R1):

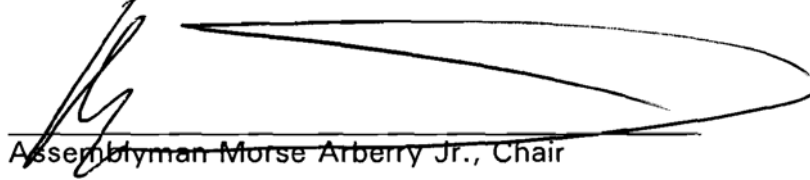
- Exhibit U: Letter of May 14, 2007, from Rich Lamb and copy of Editorial from the *Reno Gazette Journal*.
- Exhibit V: Letter from Christina Conti opposing passage of A.B. 416 (R1).
- Exhibit W: Letter from Kathy Jacobs.

With no further business to come before the Committee, the Chairman declared the hearing adjourned at 1:31 p.m.

RESPECTFULLY SUBMITTED:

Carol Thomsen
Committee Secretary

APPROVED BY:



Assemblyman Morse Arberry Jr., Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Ways and Means

Date: May 14, 2007

Time of Meeting: 9:10 a.m.

Bill	Exhibit	Witness / Agency	Description
* * *	A		Agenda
* * *	B		Attendance Record
AB 316 AB 500	C	Michael Hillerby	PowerPoint presentation
AB 316 AB 500	D	Michael Hillerby	Proposed amendment to <u>A.B. 316</u>
AB 316 AB 500	E	Michael Hillerby	Proposed amendment to <u>A.B. 500</u>
AB 316 AB 500	F	Michael Hillerby	Packet of letters in support of <u>A.B. 316</u> & <u>A.B. 500</u>
AB 316 AB 500	G	Michael Hillerby	Copy of the opinion poll for <u>A.B. 316</u> , 74th Session of the Nevada Legislature.
AB 316 AB 500	H	Michael Hillerby	Booklet entitled "Today's Discoveries-Tomorrow's Cures
AB 316 AB 500	I	Leslie Harman	Letter of 5/14/07 in support of bills
SB 330	J	Marlene Adrian	"Hurricane Flo" CD
AB 416	K	Parole Board	Memorandum of 5/14/07
AB 416	L	John Emerson	Letter of 5/14/07
AB 416	M	Larry Struve, RAIN	Letter of 5/14/07
AB 416	N	Constance Kosuda	Email to Committee
AB 416	O	Florence Jones	Amendment to bill
AB 416	P	Donald Hinton	Amendment to bill
AB 416	Q	Patricia Hines	Amendment to bill
AB 128	R	Mark Stevens	Mock-up of bill
AB 182	S	Mark Stevens	Mock-up of bill
AB 440	T	Mark Stevens	Mock-up of bill
AB 416	U	Rich Lamb	Reno GJ/editorial
AB 416	V	Christina Conti	Letter of opposition to bill
AB 416	W	Kathy Jacobs	Letter of opposition to bill