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

Seventy-Fifth Session
April 27, 2009

The Committee on Ways and Means was called to order by Chair Morse Arberry Jr. at 8:10 a.m. on Monday, April 27, 2009, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 5100 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/75th2009/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 Marcus Conklin
Assemblyman Mo Denis
Assemblywoman Heidi S. Gansert
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman Joseph (Joe) P. Hardy
Assemblyman Joseph M. Hogan
Assemblywoman Ellen Koivisto
Assemblywoman Kathy McClain
Assemblyman John Oceguera
Assemblywoman Debbie Smith

GUEST LEGISLATORS PRESENT:

Assemblyman Mark A. Manendo, Clark County Assembly District No. 18

STAFF MEMBERS PRESENT:

Mark Stevens, Assembly Fiscal Analyst
Steve Abba, Principal Deputy Fiscal Analyst
Tracy Raxter, Principal Deputy Fiscal Analyst
Joi Davis, Program Analyst
Linda Blevins, Committee Secretary
Vickie Kieffer, Committee Assistant

Chair Arberry advised the Committee that agenda items would be taken out of order and opened the discussion on Assembly Bill 223 (R1).

Assembly Bill 223 (1st Reprint): Revises provisions concerning preferences for bidders on certain state purchasing and public works contracts. (BDR 27-857)

Assemblywoman Debbie Smith, Washoe County Assembly District No. 30, presented Assembly Bill (A.B.) 223 (R1) to the Committee for consideration. The bill created two purchasing preferences for certain state purchasing and public works contracts greater than $25,000. There would be a 5 percent preference in bidding for local businesses and a 7 percent preference for a local business owned by a service-disabled veteran.

Assemblywoman Smith explained that under the guidelines of the bill, local businesses were defined as employing at least one person in the state for not less than two years. Additionally, the bill provided that if a business made a material misrepresentation or committed fraud when applying for preference, the business would be permanently prohibited from receiving the preference.

Assemblywoman Smith noted that the bill created a 7 percent preference for local businesses owned by service-disabled veterans that bid on state public works projects under $100,000.

The Purchasing Division and State Public Works Board were required to report annually to the Legislature on the number and dollar amount of contracts awarded to local businesses and local businesses owned by service-disabled veterans. The Office of Veterans' Services must consult annually with affected state agencies, veterans groups, and local businesses about the continuation or modification of the preference. This would provide a record of whether the preference system was working to incentivize service-disabled veterans to bid on these contracts. The bill repealed the inverse preference currently imposed on out-of-state bidders for state purchasing contracts.

Assemblywoman Smith pointed out that an amendment to the bill (Exhibit C) had been developed to remove the original fiscal note included by the Purchasing Division. The amendment to paragraph (d) of subsection 1 of section 14 removed the requirement that a summary of the act be printed in an advertisement. This cost was a concern for the Purchasing Division because it could be costly to post the entire summary.

Assemblywoman Smith explained there was also an amendment to remove section 15 of the bill, which addressed service contracts that were scored and ranked accordingly. The application of the preferences to these types of contracts was not intended, and the section was not relevant to the awarding of contracts as discussed in the bill.

Lastly, Assemblywoman Smith noted an amendment to section 31. Instead of repealing the inverse preference, the bill would be amended so that it did not apply to contracts eligible for the preferences.

Assemblywoman Gansert was uncertain of the definition of someone with a zero percent disability.

Assemblywoman Smith explained that often a veteran could be awarded a service-connected disability, but the percentage determination process could be quite lengthy. Therefore, during the interim the veteran was assigned a zero percent disability.

Under section 7, the definition of "local business," Assemblywoman Gansert noted the reference to an out-of-state company with an office in Nevada for not less than two years. In her opinion, it seemed that two years was a low threshold for a local business.

Assemblywoman Smith responded that the legislation was modeled after other legislation previously passed.

Greg Smith, Administrator, Purchasing Division, added that there were a number of businesses in the state that the Purchasing Division had contracts with that were technically not Nevada businesses. However, the businesses had warehouse operations within the state with hundreds of resident employees and thousands of dollars in inventory. The language in the bill attempted to address those businesses.

Assemblywoman Gansert understood the issue for those substantial businesses but believed the threshold was too low. It was disconcerting to her to give a 5 percent preference on $8 million to $10 million annual purchases during the current economic situation.

Assemblywoman Smith looked at the situation differently in that the preference could cost the state a little, but if the money went to a local business, and especially to a disabled veteran-owned business, the money would be circulated within the state. The benefits should be weighed carefully.

Assemblyman Grady believed there would be a fiscal impact given the 5 percent or 7 percent preference.

Assemblywoman Smith commented that there could be a fiscal note in that regard; however, there was not a fiscal note placed on the bill for implementation costs. There was no way to determine the fiscal impact of the preference. The state had a local business preference on public works in place. In her opinion, the state would gain by keeping the money in the state.

The Public Works Board had testified at an earlier hearing that an out-of-state contractor had come to Nevada to bid on a $120,000 contract. Assemblywoman Smith was concerned that the local contractors were not able to get the bids and keep the money in the state.

Responding to Assemblyman Hardy, Assemblywoman Smith explained the $100,000 was the threshold for application of the preference. It only applied to contracts of $100,000 or less.

Mr. Smith explained that this bill would apply to any commodity-based contract estimated to be over $25,000. Any public works contract estimated at $100,000 or less would also be subject to the preference.

Assemblywoman Buckley remarked that she had received many adverse comments from people about sending Modified Business Tax (MBT) payments out-of-state and wondered whether this bill had an effect on the Department of Taxation.

Mr. Smith replied that the MBT was a service-related contract and would not be affected by A.B. 223 (R1).

Assemblywoman Buckley requested an example of a product that would be covered under the bill and how the process would work.

As an example, Mr. Smith described a personal experience in Ely when several vendors complained that the local prison had made purchases outside of the state that could have been contracted for in the Ely area. The local True Value Hardware Store owner had attempted to bid for the work boot contract, but an out-of-state contractor had been able to supply the product at $1 per pair of boots less. An out-of-state vendor was chosen even though the money could have been kept in the state.

Assemblywoman Buckley commented that the out-of-state contractor would pay taxes to the state where the business was located, whereas the store in Ely would have been paying taxes to the State of Nevada. In her opinion, when comparing the value of A.B. 223 (R1), those issues must be taken into account. If the Ely store thrived because of a state contract, that was good for the local and state economy. It was important to help Nevada businesses.

Assemblywoman Smith agreed with Assemblywoman Buckley's opinion and remarked that what precipitated the bill was a new report regarding a small business in Reno who had bid on a laptop computer contract. The contract was lost by approximately $2,000 and was awarded to an out-of-state vendor. The money should have stayed in the state along with the tax revenue.

Assemblyman Hardy asked whether the $100,000 contract limit was based on the awarding of the contract or on what the contract was estimated to be.

Assemblywoman Smith believed the $100,000 was based on the award, not the advertised amount.

Assemblyman Hardy commented that the preference could produce additional revenue for the state.

Mr. Smith remarked that the amendments removed any fiscal impact from the Purchasing Division side.

There being no public comments on this issue, Chair Arberry closed the hearing on A.B. 223 (R1) and opened the hearing on A.B. 64 and A.B. 65 (R1).

Assembly Bill 64: Increases the number of judges in the Second and Eighth Judicial Districts. (BDR 1-371)

Assembly Bill 65 (1st Reprint): Provides for the collection and disposition of additional court fees. (BDR 2-372)

James W. Hardesty, Chief Justice, Nevada Supreme Court, provided an overview of Assembly Bill (A.B.) 64 and A.B. 65 (R1). Accompanying Justice Hardesty was Connie J. Steinheimer, Chief Judge, Second Judicial District Court, Washoe Region, and T. Arthur Ritchie, Jr., Chief District Judge, Eighth Judicial District Court, Clark Region.

Justice Hardesty explained that the court system was concerned about the capability to meet the serious needs associated with various caseloads. The Clark County District Court system had one of the highest caseloads in the United States. The caseload was exacerbated by the increasing level of construction defect cases, the increased level of medical malpractice cases, and the onslaught of cases filed in the aftermath of the endoscopy circumstance.

Over 446 cases related to the endoscopy litigation were filed through the end of February 2009 and were continuing to be filed. About 93 of the 400 other medical malpractice cases were beyond the two years called for by the statute to be tried.

The legislative subcommittee studying business courts made five recommendations to improve the business court services in Nevada, including the writing of published opinions by the business court judges. In Justice Hardesty's opinion, that could not be accomplished without additional resources in both districts.

The Legislature had recently adopted legislation that called for a veterans' court and a gambling court, and there was a bill pending in the Legislature which called for foreclosure mediation. Those measures requested that a significantly overburdened judiciary engage in a process to hear nearly 3,000 mediations per month in light of the foreclosure crisis existing in the State of Nevada.

Justice Hardesty testified that the judicial system could not respond to all of these demands without the additional judges requested in A.B. 64. To be responsible, the judicial system put together a business plan that called for reexamination of the civil filing fees, a process that the Legislature had not considered since 1993.

A comparison study had been completed and presented to the Assembly Judiciary Committee that showed even with a modification upward of the civil filing fees proposed in A.B. 65 (R1), the system would still be below the western regional states for civil filing fees. Adjustments had been made to accommodate complex litigation filing, an increase in the normal complaints, and the handling of class-action cases. The needs and requests proposed for enhanced services for legal aid had been accommodated, and petitions for minors act filing fees had also been adjusted.

Through the process, the judicial system had generated revenues sufficient to pay for the facility costs and the additional judges at the county level to handle nine additional civil judges in the Eighth Judicial District and one additional judge in Washoe County. Justice Hardesty reminded the Committee that there had not been a civil judge added to Washoe County's District Court for nearly 20 years. He believed it was important to address the increasing concern of litigators regarding access to justice in the general civil cases. Therefore, the request had been made to increase the civil filing fees and dedicate the new judges specifically to the civil needs that existed.

It was unacceptable, in the opinion of Justice Hardesty, to take three years and six months for a regular civil case to go to trial in the Eighth Judicial District. Additionally, to meet the increasing needs on the civil system, it was necessary to add the judges for these purposes.

Justice Hardesty stated that A.B. 65 (R1) was supported by NACO (Nevada Association of Counties); ACLU (American Civil Liberties Union), the Nevada Justices' Association; the State Bar, Board of Governors; various legal aid agencies throughout the state; and all of the state judges. It was not necessary to add new judges in the rural counties, but there was a serious need for a variety of technology services as well as construction services in those areas.

Increasing the civil filing fees provided a source of funds to enable places such as White Pine County to bond improvements such as a new courthouse. The judicial system urged Legislative consideration of A.B. 64 and A.B. 65 (R1)

because of the significant benefit for both the rural communities and the Eighth and Second Judicial District Courts.

According to Justice Hardesty, it had been a complex process assembled over several months. He believed it was a responsible way to deal with the substantial cost. It would have enormous benefits to the judicial system throughout the state and allow for the system to reduce the time to disposition in nearly all areas and permit the court system to respond to various programs enacted by prior Legislatures. He hoped it would enable the system to process cases on which the Legislature had placed time deadlines, such as medical malpractice, within the time constraints suggested.

In an attempt to reduce the backlog of cases beyond the period identified in the statute, the system senior judges were conducting 64 settlement conferences in the month of May 2009 in the Eighth Judicial District.

Chair Arberry asked how long it would take to get the qualified judges in place if both A.B. 64 and A.B. 65 (R1) were passed.

Justice Hardesty proposed that A.B. 65 (R1) become effective July 1, 2009. It would provide the startup revenue necessary to address the facility cost to accommodate the new judges. He also proposed that all of the new judges be elected in the 2010 cycle to take office on January 1, 2011.

Chair Arberry suggested that the system consider hiring temporary judges to assist with the backlog.

Justice Hardesty responded that the Supreme Court had appointed 22 senior judges. Those judges were providing the backstop needed by the judicial system. However, to address the Governor's requested reduction in the budget, $300,000 was cut from the senior judge program. Justice Hardesty planned to request the restoration of that $300,000 at his budget hearing on May 7, 2009. If the issue of critical labor shortage as related to judges was not resolved, there would not be any senior judges after July 1, 2009, who were not in the Public Employees Retirement System (PERS). That was a serious problem.

Justice Hardesty explained that the mental health and drug courts in Washoe County were being serviced by two senior judges who also serviced the drug courts in Churchill County, Carson City, Minden, Hawthorne, and Yerington, Nevada. If the system lost those two senior judges, there would not be a mental health and drug court in those communities.

Assemblywoman Leslie disclosed that she worked for the Second Judicial District Court and would not be engaging in the discussion.

Assemblywoman Buckley stated that A.B. 65 (R1) contained a section that provided money for legal aid organizations. Although the bill would not have a direct economic impact on her, she disclosed she was a director of a legal aid organization and would abstain from voting on the provision.

Assemblywoman Gansert asked whether the fees indicated in A.B. 65 (R1) were paid up front or whether there was difficulty in collection of the fees.

Justice Hardesty replied that the fees were paid at the time of filing, and there was no collection problem. In the criminal area, it was often difficult to collect fees and fines, but not in the case of civil filings.

Assemblywoman Gansert noted that in subsection 2 of section 2 the fees left in the account were used to provide court infrastructure. She believed that in the past the counties had paid for the buildings, and the state had assisted with operating costs.

Justice Hardesty responded that all operating and facility costs were borne by the county. The only cost paid by the state was the judges' salary.

It appeared to Assemblywoman Gansert that a portion of the funds would be used to reimburse the counties for capital costs. She was uncertain whether the fees had been used for that purpose in the past.

Justice Hardesty explained the fees were currently paid to the county general fund. The county could say the fees were used for that purpose. The purpose of stipulating the use of the fees in A.B. 65 (R1) was to designate the fees for these purposes so the use could be tracked. The court could monitor the use of the fees.

Chair Arberry asked approximately how much money would be generated with the passage of A.B. 65 (R1).

Justice Hardesty indicated that although the numbers had fluctuated, it was estimated that in the Eighth Judicial District Court the filing fees would generate $7.4 million annually, and in the Second Judicial District Court the amount would be approximately $1.7 million. In the rural counties the revenue could be from $100,000 to $250,000.

Chair Arberry requested that Fiscal Analysis Division staff receive a copy of the proposed business plan.

Responding to Assemblyman Grady, Justice Hardesty stated that in most counties, if a judge made a request for something, such as an elevator or video teleconferencing equipment, the county was under no obligation to provide the item if it did not have the financial resources. With the passage of A.B. 65 (R1), the counties would have access to alternative financial resources to meet the requests of the judges. Justice Hardesty submitted Exhibit D for consideration by the Committee.

T. Arthur Ritchie, Jr., Chief District Judge, Eighth Judicial District Court, expressed support for A.B. 64 and A.B. 65 (R1). He explained that the Eighth Judicial District Court in Clark County was the largest in the state. The Court had fallen behind in evaluation measures when trying to plan for adequate increases in judicial positions. The court measured the time to disposition, the clearance rate of cases, the age of pending caseloads, and trial certainties and had found that citizens had to wait an average of more than three years for a trial.

Judge Ritchie stated that they were asking for significant judicial resources in A.B. 64 to be able to make a significant improvement in the services provided to the citizens. The judiciary was proud of the innovations and efficiencies undertaken, both in the specialty courts, the adult drug court, the DUI (driving under the influence) court, habitual offender court, and other programs to help the citizens.

According to Judge Ritchie, there were tremendous challenges in the construction-defect cases, business court needs, and the medical malpractice case dockets. However, it was important to note that courts were failing to

help ordinary people bring cases to the civil courts. Additional resources in 2011 would provide the opportunity for the judicial system to resolve cases fairly and timely. Unfortunately, people looked to the courts during difficult times for assistance.

In 2007-2008 civil filings increased by more than 18 percent. Between January 2008 and January 2009, the increase had gone up to 24 percent. In the February 2008 to February 2009 comparison, the increase was 31 percent. In the opinion of Judge Ritchie, it was clear that additional judicial resources were needed.

Assemblyman Hardy asked whether there was a provision to sunset the positions when the economy turned around.

Justice Hardesty responded that the judicial system was behind in the civil filings fees. He believed this matter should be reexamined by the Legislature and should not sunset. Under current statutes a 6,000-person class action could be filed for a total fee of $151. The demand on the legal system was far beyond that cost. With the proposed adjustment, it would cost the same lawyer $250 to file the fee. Justice Hardesty commented that this would be a continuing source of revenue to pay for the judges in the future.

Connie J. Steinheimer, Chief Judge, Second Judicial District Court, testified in support of A.B. 64 and A.B. 65 (R1). She emphasized that Washoe County was also seeing increased caseloads in civil litigation. When there was sufficient money in the county, the judges who conducted settlement conferences regularly were able to settle the construction-defect cases. When the economy declined, the cases could not be settled at the same level; therefore, the cases were rising significantly. Washoe County needed another judge and needed the assistance of the Legislature.

Wes Henderson, representing the Nevada Association of Counties (NACO), expressed support for A.B. 65 (R1).

Ernest K. Nielsen with the Washoe County Senior Law Project expressed support for A.B. 64 and A.B. 65 (R1).

Sabra Smith-Newby representing Clark County expressed support for A.B. 64 and A.B. 65 (R1).

John Berkich, Assistant County Manager for Washoe County, supported A.B. 64 and A.B. 65 (R1).

There being no further testimony either in support of or opposition to these issues, Chair Arberry closed the hearing on A.B. 64 and A.B. 65 (R1) and opened the hearing on A.B. 149.

Assembly Bill 149 (1st Reprint): Revises provisions governing foreclosures on property. (BDR 9-824)

Assemblywoman Barbara E. Buckley, Assembly District No. 8, provided a PowerPoint presentation (Exhibit E) to provide an overview of Assembly Bill (A.B.) 149 (R1). The bill would make assistance available to homeowners who were facing foreclosure.

Because the 2009 Legislative Session was drawing to a close, Assemblywoman Buckley believed it was important to enact measures to stabilize the housing market, pass a budget that made sense for the State of Nevada, and to process bills to encourage the creation of jobs in the communities. Assembly Bill 149 (R1) addressed the stabilization of the housing market.

Assemblywoman Buckley pointed out that in 2008 Nevada had the highest rate of home foreclosures in the United States. Since 2007 the foreclosure rate had increased 126 percent. In the first quarter of 2009, 41,296 homes in Nevada received foreclosure filings. This was a 19 percent increase from the previous quarter and an increase of nearly 111 percent from the first quarter of 2008.

The passage of A.B. 149 (R1) would make foreclosure a remedy of last resort, and the bill only applied to owner-occupied residential properties. It required that a lender or mortgage servicer serve a borrower with a Notice of Default containing at least the following information:

1. Contact information for a person with authority to negotiate a loan modification on behalf of the lender.
2. Contact information for at least one local housing counseling agency approved by the U.S. Department of Housing and Urban Development.
3. A form explaining that a borrower had the right to request court-mediation to try to reach a loan modification with the lender, allowing the borrower to elect mediation or to waive mediation.

In conclusion, Assemblywoman Buckley noted that since she had first introduced A.B. 149 (R1), she had requested the Nevada Supreme Court's assistance with the bill. Members of the judiciary system had met with consumers and lenders to establish a working group to put together parameters of how the bill would work and how to ensure that the judiciary system would not be overwhelmed.

James W. Hardesty, Chief Justice, Nevada Supreme Court, pointed out that the Court was neutral on the bill, and it was a policy decision that should be made by the Legislature. Recognizing the overwhelming need that existed to address the foreclosure problem and that A.B. 149 (R1) proposed a structure by which the Supreme Court would announce rules to manage it, Justice Hardesty had formed an 18-person working group, consisting of a broad cross-section of lenders, consumers, lawyers, and justices to develop a matrix on how to operate the proposed system.

He noted that a draft set of rules and a flow-chart process had been developed. The working group had recruited over 300 lawyers throughout the state to serve as mediators.

Justice Hardesty provided Exhibit F, a mock-up of the bill with the proposed amendment number 4533. The proposed process would be for an individual borrower to notify the mediation administrator of a request to mediate. The following steps would occur:

- The borrower would be required to bring to the mediation the appropriate financial support to document his basis for modification.
- The lender would be required to participate and bring appropriate documentation proving its ownership of the loan.
- If the mediation was unsuccessful, the mediation would be concluded and the foreclosure would take place.

Justice Hardesty noted that there would be an attempt to complete the mediation process during the three-month Notice of Default period so the lender was not otherwise delayed in the process. Reasonable extensions could be granted for the process.

If the mediation occurred, but the lender did not participate in good faith, a recommendation by the mediator would be presented to the mediation administrator who would file the report with the district court, and a district court judge would adjudicate whether or not that mediation was conducted in good faith. Justice Hardesty pointed out that this process was no different than the district court review of recommendations that it received from magistrates and discovery commissioners, but it would require additional district court resources as noted in testimony on A.B. 64 and A.B. 65 (R1).

If the mediation process was successful, there would be a loan modification, and the matter would be terminated and dismissed with the consent of all parties.

When the process began, Justice Hardesty was concerned about the fiscal impact of A.B. 149 (R1), but he believed the working group had suggested a way to remove any fiscal note. He requested a $50 charge for the filing of a Notice of Default to fund the administrative costs associated with the program. No other expense would be coming from the state General Fund to accomplish the program. The program would be funded by the parties involved paying mediation fees to the mediator.

Assemblyman Hardy was not familiar with the ethics of mediation. He inquired whether the attorney who was volunteering to be a mediator could find he had been hired by the foreclosed party and become the attorney of record for the foreclosed party.

Justice Hardesty explained that the mediator would always serve as an independent mediator. The ethics issue surrounding this program was part of the rule review, but it would be no different than an attorney who served as the settlement judge for the Supreme Court. All of the rules would still apply, and the attorney could never represent a party to the mediation.

Another important aspect explained by Justice Hardesty was that all of the lawyers must be trained in mediation and in the area of real estate and foreclosures. This was not an easy area to mediate. What the court intended to do was conduct public hearings on rules and train mediators prior to July 1, 2009. It was estimated that there would be nearly 3,000 mediations in Clark County per month.

Justice Hardesty noted that the work group had requested start-up money from the General Fund of approximately $165,000, which would be repaid from the filing fees. He wanted to post the applications for the mediation administrator and staff immediately so that an office was in place on July 1, 2009.

Although he anticipated an accumulation in the filing fee account, a large portion would be used for the training and recruitment of attorneys and miscellaneous expenses. Any surplus in the account would be reported to the 2011 Legislature.

Chair Arberry asked whether the $165,000 start-up costs were a part of the proposed amendment (Exhibit F).

Justice Hardesty was not certain but believed the fee was placed in the Court's budget. Fiscal Analysis Division staff had been notified of the start-up cost.

Assemblywoman Leslie noted that on page 4 of the exhibit, it mentioned a fee of not more than $85 per hour for the mediation to be shared equally by the parties. She asked the length of a typical mediation and whether there was consideration made for persons who could not afford to pay the fee.

Justice Hardesty explained that the fees were capped at four hours. Additionally, he believed that if a borrower could not afford the $170 for the loan modification, that person could probably not qualify for the modification. If the person could not afford the mediation fee, he probably could not afford to make the house payments.

Assemblywoman Leslie requested the court work with individuals who could not immediately come up with $170 in cash.

Justice Hardesty was confident the court would consider alternatives. If there were additional funds available from the filing fees, it might be possible to provide assistance. The borrower must be prepared to make a financial commitment.

Assemblywoman Buckley commented that if it was a court-ordered eviction, the individual could file *in forma pauperis* to waive the fee. The intent was for people who could afford their mortgage but needed an opportunity to refinance to request mediation. The fee would help to ensure that the borrower was not using the mediation as a delaying tactic. The $50 fee included in A.B. 65 (R1) paid for the cost of administration of the program. She would work with Fiscal Analysis Division staff to develop appropriate language with regard to paying back start-up costs from the fee so that it would be revenue-neutral to the state General Fund in the first year.

Justice Hardesty added that if the additional structural amendments were made, the court was in a position to operate the program as described.

To confirm his understanding of the process, Assemblyman Goicoechea outlined the procedure. There would be legal counsel trained as mediators and a $50 filing fee, but Assemblyman Goicoechea was unclear whether the Supreme Court would be noticing the lender and the borrower. He was concerned about a failure to appear.

Justice Hardesty explained that the notice was provided in the rules. The bill required a notice by the lender to the borrower with the notice of default of the availability of their right to proceed with mediation. The borrower would then notify the lender and the court of their desire to mediate. That notice would be renotified through the court system and the mediation system. The mediator scheduled the mediations. It was hoped that when there was a common lender, group mediations would be possible.

Assemblywoman Gansert asked whether the $50 fee would be used to pay back the $165,000 in start-up costs borrowed from the General Fund and whether the $85 per hour would be placed in a set-aside account to pay the appropriate parties.

Justice Hardesty confirmed the use of the $50 fee as stated by Assemblywoman Gansert. He explained the $85 fee would be held by the mediation administrator and would be paid to the mediators who served.

Assemblywoman Gansert had attended a work group meeting where the timeframe for the process had been discussed. She understood that the mediation would take approximately three months. She was curious to know whether they anticipated multiple meetings for the mediations or whether there would be a cap of four hours.

Justice Hardesty replied that the lawyers and judges who had volunteered their time had agreed to spend as much time as necessary to assist with the mediation process. He believed the majority of the mediations would be completed in a four-hour period.

Assemblyman Hogan requested that Justice Hardesty describe the steps that would be taken to identify the lender and establish that the original lender had authority to make modifications to the loan even though the loan could have been purchased many times.

Justice Hardesty explained that most of the foreclosures in Nevada were initiated by title companies who recorded a Notice of Default and Election to Sell on the instruction of either the lender or loan servicer. When the process for mediation occurred, it was assumed the title company would go back to the party that made the request for Notice of Default and advise them that mediation had been requested and original documents should be supplied along with a person of authority to mediate. He believed there could be times when the title company had difficulty identifying who had that authority. In that circumstance, this bill created a situation where the lender might not participate in good faith because the lender either lacked the documents or did not appear. In that circumstance, under section 5 of the bill, the mediator would report to the district court and sanctions may or may not be imposed as a consequence of not participating in the process.

Assemblywoman Gansert asked about second mortgages and what would happen to those companies in the second position to the primary mortgage.

Justice Hardesty replied that the working group recommended amendments to the statute, Exhibit F, which would give the second mortgage holder notice and the ability to address those defaults. In owner-occupied homes, the reinstatement period was five days prior to the foreclosure sale. That would allow junior lienholders to make up the shortfall.

In response to Assemblywoman Gansert, Justice Hardesty stated that second mortgage holders were noticed and could be a party to the mediation.

Assemblyman Conklin commented that the Assembly Committee on Commerce and Labor and other interim committees had been dealing with the foreclosure issue for quite some time. This bill addressed the issue of an out-of-control foreclosure market which would continue until something was done to slow down the process. Although it may not been a perfect solution, this bill was the only solution available at this time. He fully supported the bill.

Assemblyman Conklin asked how quickly the mediation process could be put into place once A.B. 149 (R1) was passed.

Justice Hardesty pointed out that A.B. 149 (R1) became effective on July 1, 2009, and would, therefore, not apply to foreclosures currently pending, although the court would like to make reasonable accommodations to people who requested mediation. The process would begin with a Notice of Default and Election to Sell that was recorded on July 1, 2009. The court would expect requests for mediation approximately 30 days later.

Assemblyman Conklin confirmed that the Notice of Default was the first judicial action.

Justice Hardesty corrected that the Notice of Default was the first recorded document. It was not recorded in the Court but with the county recorder's office. The county recorders had agreed to accept the $50 filing fee and transmit the funds to the Court with a holdback for their costs. The Court would not become involved until it received a recommendation from the mediation administrator that someone had not acted in good faith.

Michael Randolph, a private citizen from Las Vegas, read Exhibit G into the record. Mr. Randolph opposed the passage of A.B. 149 (R1).

William Uffelman, representing the Nevada Bankers Association, expressed support of A.B. 149 (R1). Mr. Uffelman had been working with Assemblywoman Buckley and Justice Hardesty to ensure the bill would be effective. He also commented that a homeowner would have missed three payments before the foreclosure process took place. If the homeowners did not have the $170 to start the process, they probably could not make a mortgage payment.

Ernest K. Nielsen, representing the Washoe County Senior Law Project (Project), supported A.B. 149 (R1). As a Housing and Urban Development (HUD) counseling agency, the Project also operated a foreclosure prevention program. Although successful much of the time, he believed the project was only touching the "tip of the iceberg" in regard to the need. Another major issue remedied by the bill was that many servicers did not have the authority to negotiate modification of the loans.

Assemblyman Goicoechea asked when the mediation process could be started.

Mr. Uffelman responded that after the homeowner had missed three months of payments and had received a Notice of Default, the 30-day election period for mediation was triggered. When a servicer did not have authority from the lender, a notice of default would probably not be filed. In that case, the Court would impose the remedy, and it could be a lengthy process.

Alfredo Alonso with Lewis and Roca, LLP, representing HSBC North America Holdings Inc. (Household Bank), expressed support for A.B. 149 (R1). Household Bank believed it was good business practice to assist homeowners prior to foreclosure. It was important for everyone to understand that both parties must agree to the terms of the negotiation.

George Ross with Snell & Wilmer, LLP, on behalf of Bank of America, supported A.B. 149 (R1) and appreciated the thoroughness of Assemblywoman Buckley and Justice Hardesty.

Assemblywoman Buckley addressed the issue of accountability. The bill provided accountability to some of the lenders who issued exotic mortgages. Some people wanted to pay back their mortgages but could not because

refinancing was not available. If the Legislature did not help the homeowners, the state would continue to see chaos in the housing market.

There being no additional public comments or questions, Chair Arberry closed the hearing on A.B. 149 (R1) and, following a brief recess, opened the hearing on A.B. 283 (R1).

Assembly Bill 283 (1st Reprint): Revises provisions governing the payment of compensation to certain victims of crime. (BDR 16-609)

Assemblyman Mark A. Manendo, Clark County Assembly District No. 18, presented the Committee with an overview of Assembly Bill (A.B.) 283 (R1) as follows:

> The Victims of Crime Program assisted victims by paying a variety of benefits, including lost wages, medical bills, counseling, burial expenses, relocation costs, and prescription drugs.
>
> The Victims of Crime Program is the first in the nation to adopt aggressive cost-containment measures, including medical bill review and application of insurance industry medical fee schedules to hospitals and other medical bills.
>
> Nevada Victims of Crime Program is among the most, if not the most, effective and efficient victim compensation programs in the country.
>
> I spent time looking at other states over the Internet and I did not find one single state that is more accessible, transparent, and responsive than ours. That credit goes to Bryan Nix, who is in Las Vegas, and he is going to be speaking in a few minutes. No one could provide assistance faster with less hassle or delay.
>
> Assembly Bill 283 (R1) increases from $50,000 to $100,000 the limit on the amount of compensation that may be awarded to a crime victim from the fund of compensation of victims of crime. The bill also authorizes the State Board of Examiners to provide an additional award up to $50,000 after considering the amount of money in the fund and the circumstances of the victim.

Bryan Nix of the Nevada Victims of Crime Program (VOCP) thought Assemblyman Manendo had provided an excellent overview of the program. The purpose of the bill was to allow the VOCP to pay more compensation on a limited number of claims where victims had suffered catastrophic injuries. He had testified on this bill before the Assembly Judiciary Committee and was not certain why the bill was now assigned to the Assembly Ways and Means Committee. He noted there had been no opposition to the bill, and there were only one or two victims per year who would qualify for extended benefits under the provisions of the bill. He did not believe there would be any fiscal impact on the VOCP or the state. The VOCP could absorb any additional costs that might occur as a result of claims filed for more than the current cap of $50,000.

Assemblywoman Smith was concerned about information she had received regarding the use of consultants and was under the impression that the VOCP had contracted with someone who was paid $5 million to manage the account.

Mr. Nix explained that approximately 15 years ago an aggressive cost containment program had been instituted in the VOCP. Nevada was the first state to use medical fee schedules to pay claims. Consequently, the VOCP contracted out the service to perform bill reviews and the cost containment function of the program. Over the years the program had grown and allowed the VOCP to pay over $40 million in satisfied victim claims for less than $10 million in state funding over the last two fiscal years. The contract was approximately $1 million annually from which the VOCP received a $10 million to $15 million annual benefit.

Assemblywoman Smith requested that Mr. Nix provide additional information on the contract.

Sandy Heverly, Executive Director and victim advocate for Stop DUI, testified in support of A.B. 283 (R1). Ms. Heverly related the story of Portia Hughes, who became the face of the story behind A.B. 283 (R1). While she was waiting for a bus, Mrs. Hughes was seriously injured when struck by a driver impaired by prescription drugs. Both of Mrs. Hughes' legs were amputated as a result of the accident.

Ms. Heverly stated that the statute had been amended to increase the current VOCP $50,000 cap by an additional $100,000. The design and effectiveness of prosthetics had improved over time, but they were very expensive. The needs of Mrs. Hughes would exceed the cap of $50,000.

Ms. Heverly said Mr. Nix had assured her that the VOCP fund was solvent with sufficient funds to address special circumstances such as Mrs. Hughes situation. Ms. Heverly pointed out that Stop DUI would not support any measure that had the potential to deplete, reduce, or otherwise jeopardize benefits for future crime victims. Innocent crime victims should not be discriminated against by denial of additional assistance.

There being no further questions or comments, Chair Arberry closed the hearing on A.B. 283 (R1) and opened the hearing on A.B. 146 (R1).

Assembly Bill 146 (1st Reprint): Provides for the establishment of a state business portal. (BDR 7-972)

Assemblyman John Oceguera, Clark County Assembly District No. 16, provided the Committee with an overview of Assembly Bill (A.B.) 146 (R1). The bill provided for the establishment of a state business portal to allow multiple state agencies to coordinate the payment of taxes and fees. Although there were some startup costs, Assemblyman Oceguera believed they would be offset by the collection of funds that had previously gone uncollected. It was estimated the state would have a financial benefit between $10 million to $16 million in the first year and $28 million to $50 million over the first five years of the portal program.

Ross Miller, Secretary of State (SoS), presented testimony in support of A.B. 146 (R1) and provided the Committee with Exhibit H, a description of the Nevada Business Portal.

Mr. Miller noted there were two main components of the legislation. The first authorized the SoS to establish the Nevada Business Portal, and the second would transfer the authority to collect the state business license fee from the Department of Taxation to the SoS.

Sections 1 through 4 of the bill gave the authority to the SoS to establish a statewide business portal. This would be a "one-stop shop" and would put in place technology architecture that would streamline the business establishment and maintenance processes. Mr. Miller hoped this would reduce complexity and eliminate redundancy in those processes.

According to Mr. Miller, one of the goals of the portal was to eliminate many of the inefficiencies associated with the manual entry of paper-based and Web forms that caused inaccuracy and created redundancy across agencies.

The steps to create a new business were not currently well-defined or apparent to the customer. Mr. Miller explained that the customer must use varying methods of payments and make physical trips to different agencies to complete the process. This resulted in a number of inefficiencies and uncaptured revenue. The portal would establish an electronic relationship with the customer by offering a single, Web-based point-of-entry where the customer would be guided through the process and could logout and return without having to reenter information. The customer could make a single payment for a variety of services to many governmental offices.

Currently in Nevada, a business would need to interact in some capacity with many different agencies, including the Secretary of State's Office, where they would incorporate; the Department of Motor Vehicles; the Department of Employment, Training and Rehabilitation; the Department of Taxation; the Department of Public Safety; and county and local offices. The technology would become a comprehensive and unified Nevada Business Portal that would have the potential for the state to save millions of dollars annually by developing a seamless integration of online services.

Mr. Miller pointed out that with over 300,000 entities on file, Nevada was second only to Delaware per capita in the number of filings. The Department of Taxation reported 174,200 customers with active state business licenses. This was a significant gap.

Using the data provided by the Department of Taxation in comparing that with the number of entities on file with the SoS, it was believed there was nearly $13 million of annual unrealized business license fee revenue.

Sections 5 through 40 of the bill required the payment of the business license fee at the time an entity was filed. This would create standardization of certain renewal dates which would reduce delinquency and improve compliance of payment with those fees. If a business failed to pay its annual business license fee, it would go into default and have one year to pay. If after a year the business license remained unpaid, the right to do business in Nevada would be revoked. The business license fee would be treated the same as the annual list.

According to Mr. Miller, because the development would take some time, a pilot stage had been developed for collection of the business license fee. The transfer of the business license fee process would serve as a demonstration project of the portal and showcase its value.

The revenue element was the catalyst in moving forward and establishing the portal but also resulted in some discussion as to who was currently required to pay the business license fee. Mr. Miller pointed out that this was defined under *Nevada Revised Statutes* (NRS) 360.780 which says that a state business license was required for any entity organized pursuant to Title VII of the NRS.

The SoS interpreted that to mean any entity or business domiciled in Nevada was subject to the business license fee because it was using and benefiting from the laws of the state to conduct business. Mr. Miller believed that was the intent of the 2003 legislation that put the fee into place. However, the Nevada Tax Commission issued a ruling that was in disagreement with the SoS interpretation and defined the conduct of business differently. This had caused some inconsistent compliance and confusion. Therefore, the SoS was seeking legislative clarification on the fee in regard to whom it applied. The clarification was addressed in Senate Bill (S.B.) 55 (R1).

Mr. Miller noted there were costs for developing the portal presented in the fiscal note, but it was also demonstrated as part of a cost-benefit analysis prepared by the Executive Branch Audit Committee. The costs were estimated at $2.8 million in the first year for the initial design, development, and implementation of the portal, and $1 million to allow for the development of the first services necessary to move the portal forward, including enhancements to the current system necessary to collect the business license fee and to transfer the associated fees from the Department of Taxation. In year two, there would be a $3 million cost associated with the portal that included the development of the base portal architecture and an interface between the SoS and the Department of Taxation.

In years three to five, the costs were mainly associated with the maintenance and routine enhancements of the portal.

Mr. Miller was confident that the proposal to support the creation of the Nevada Business Portal would revolutionize the business process in the state and how the business community would interact with state government, making a significant improvement to state efficiency. Nevada would be the first state to have a true "one-stop-shop portal," which would make the state a leader in commercial filing transactions.

Chair Arberry was concerned with section 16 of A.B. 146 (R1) that addressed the depositing of funds into a special account instead of funds being deposited into the General Fund.

Nicole Lamboley, Chief Deputy for the Office of the Secretary of State, explained the language was prepared by the Legal Division of the Legislative Counsel Bureau. She believed the goal was to collect the revenue and allocate the funding to run the portal as authorized through the budget process. The remainder of the revenue would be forwarded to the General Fund.

Assemblywoman Gansert thought the Nevada Business Portal was a good idea. Every division had a different account number, but the information was redundant. She believed the state could collect more fees because often a business was not aware it should file with another agency. She knew there was a fiscal note but thought the bill should be considered.

Tray Abney representing the Reno-Sparks Chamber of Commerce, expressed support for A.B. 146 (R1). He served as vice chair of the City of Reno Business License Task Force. The Task Force was working on the city level to make it an easier process for businesses. The City of Reno was getting closer to businesses being able to renew their licenses online.

George Ross with Snell & Wilmer, LLP, on behalf of the Las Vegas Chamber of Commerce, testified in support of A.B. 146 (R1). Businesses wanted efficiency

and one-stop shopping when dealing with the government, and he believed this bill was a step in that direction.

Matthew Taylor, Vice President of the Nevada Registered Agents Association (NRAA), supported A.B. 146 (R1). Mr. Taylor noted that the membership of NRAA represented approximately 200,000 corporations and LLCs (Limited Liability Company) on file in the State of Nevada. He believed it would make the process of staying in compliance with appropriate regulations and fees more efficient.

Dino DiCianno, Executive Director of the Department of Taxation, expressed his support of A.B. 146 (R1). According to Mr. DiCianno, based on the amendments the original fiscal note that the Department of Taxation had supplied was no longer applicable. Mr. DiCianno explained the change in the language from business to entity of the amended version of the bill clarified the issue of whether someone was required to have a business license or not based on the decision of the Tax Commission. Any entity that incorporated in Nevada would be required to have a business license.

Mr. DiCianno centered his discussion of the bill on "shell corporations" that did not have an actual place of business. These corporations filed incorporation papers in Nevada but did not conduct business in the state. Consequently, the Tax Commission decided these corporations should not be required to have a business license.

Bryan S. Wachter, representing the Retail Association of Nevada (RAN), testified in support of A.B. 146 (R1).

There being no further public comment or questions, Chair Arberry closed the hearing on A.B. 146 (R1) and opened the hearing on A.B. 148 (R1).

Assembly Bill 148 (1st Reprint): Requires certain health and safety training for construction workers and supervisors. (BDR 53-276)

Assemblyman John Oceguera, Clark County Assembly District No. 16, provided the Committee with an overview of Assembly Bill (A.B.) 148 (R1). The bill required 10 hours of health and safety training for employees on a construction site and 30 hours of health and safety training for construction-site supervisors. The bill would impose fines on employers whose employees did not receive the required certification within 15 days of their hire date.

Assemblyman Oceguera believed that construction safety could not be taken for granted and that the bill moved the state in the right direction to save lives on construction sites. The fiscal note had to do with the training of state employees and administrative requirements on the Nevada Occupational Safety and Health Administration (OSHA).

Assemblyman Goicoechea noted that hiring seemed to be the trigger for the bill. He was under the assumption that an individual would not have to be recertified for every job.

Assemblyman Oceguera explained the certification would be valid for five years.

In response to Assemblyman Grady, Assemblyman Oceguera stated that either the employer or employee could be financially responsible for the training.

Assemblyman Oceguera believed that in some cases employers could refuse to hire someone who did not have the certification. In other cases, the employers could permit the employee to obtain the certification within 15 days. Assemblyman Oceguera noted the courses were readily available and reasonably priced.

Assemblywoman Gansert remarked that the bill had been heard in the Assembly Commerce and Labor Committee where it received broad support. After the bill was amended from a 60-day requirement to a 15-day requirement, there appeared to be a "change in the tide" from persons who were concerned about being able to comply within the 15-day limit. She wondered whether Assemblyman Oceguera had considered amending the bill to extend the time limit.

Following the amendment of the bill, Assemblyman Oceguera was surprised and disappointed with the barrage of emails received from northern Nevada contractors. The 15-day limit was imposed in an attempt to create a culture of safety. He did not believe that waiting 60 or 90 days would provide the atmosphere of safety he was attempting to create. The implementation date of October 1, 2009, provided ample time for the construction workers to obtain the required certification. He was amenable to extending the implementation date but would not consider changing the 15-day time limit.

Assemblywoman Gansert thought that extending the implementation date would probably be helpful.

Kent L. Cooper, Assistant Director, Engineering, Nevada Department of Transportation (NDOT), suggested adjustments and amendments to the bill (Exhibit I). Although not required by either federal or state law, NDOT provided 10-hour OSHA training, as well as Mine Safety and Health Administration (MSHA) training similar to the OSHA training. He believed the NDOT met the 30-hour requirement; however, as the bill was written, it was specific to the OSHA training. The NDOT would be required to do additional training, hence the original fiscal note the NDOT had attached to the bill.

Mr. Cooper suggested amending section 4 of the bill to read "or equivalent 10-hour course developed or contracted by the employer and taught by a competent trainer to include federal health and safety regulatory requirements specific to their industry."

According to Mr. Cooper, if the language was specific to OSHA, there would be an additional fiscal consequence to the NDOT.

Additionally, Mr. Cooper suggested language regarding the five-year lapsing of the certification. He believed that if employees were receiving refresher courses, the timeframe could be extended.

In closing, Mr. Cooper noted that the NDOT did not generally participate in construction projects, and therefore, the bill did not have a large impact on the Department. However, depending on the definition, there were often a large number of the NDOT employees on construction sites. He would work with Assemblyman Oceguera on amendments to the bill.

In response to Chair Arberry, Mr. Cooper explained that originally the NDOT added a fiscal note of approximately $120,000 for both years of the biennium. If the NDOT could include the MSHA training to satisfy the requirements of the bill, the fiscal note could be eliminated.

Jonathan Friedrich, an instructor at the College of Southern Nevada, supported A.B. 148 (R1) and provided suggested amendments for the bill (Exhibit J). Mr. Friedrich would be teaching a course entitled "Construction Site Safety" in the fall. He had reviewed the bill and amendment number 245 and had a few items to bring to the attention of the Committee.

Under section 3, the definition of a construction site did not mention the demolition of a structure, which he believed should be added.

Section 6 mentioned a supervisory employee having authority. Under the OSHA statute, the term "competent person" was used. He suggested that the term "competent person" be added to the bill.

In section 12 the penalties seemed to be stiff. He suggested that the first violation should be a warning and that fines began with the second offense.

Subsection 2 of section 12 stated, "For the purposes of this section, any number of violations discovered in a single day constitute a single violation." The section should be clarified or defined to cover contractors having multiple sites with multiple violations.

In Mr. Friedrich's opinion, the implementation of the bill should be on a two-tier basis. The first tier would be the supervisory or "competent person" who would be required to have 30 hours of training. The bill was a statewide requirement that could affect thousands of workers. It was unrealistic to have everyone trained by October 1, 2009. The second tier would encompass the employees receiving the 10 hours of training.

Megan Jackson, Government Affairs Liaison for the Associated Builders and Contractors, Inc. (ABC), Sierra Nevada Chapter, was neutral on A.B. 148 (R1). The ABC supported safety on the job and the "culture of safety" as described by Assemblyman Oceguera.

Ms. Jackson requested the Committee consider a January 1, 2010, implementation date to allow time for everyone to update their cards. As far as the 15-day requirement, she had been advised that from the day the class was taken until the day the card was received was often longer than 15 days.

Additionally, during these times of economic hardship, Ms. Jackson was hopeful that consideration would be given to the cost of the classes and the impact on both the employees and employers.

Donald E. Jayne, Administrator of the Division of Industrial Relations (DIR), Department of Business and Industry, provided clarification on the fiscal note added to A.B. 148 (R1). Initially the fiscal note was fairly significant. A revised fiscal note had been submitted recently following the amendment of the bill; however, there was still a fiscal impact which included hiring a clerical person to run the registry and other training obligations.

Mr. Jayne believed it was reasonable for DIR to train employers with less than 250 employees. This could be monitored through the current registration process. The cost for the training was estimated at $440,000 in the first year for approximately 10 percent of those who most needed the training.

According to Mr. Jayne, there were many vendors who provided the training. The DIR was willing to keep a registry of the OSHA-certified training institutes.

Built into the second year of the fiscal note was the potential for hiring two individuals, one in northern and one in southern Nevada, to be responsible for continued OSHA training.

In conclusion, Mr. Jayne noted that recently DIR was informed that OSHA had money available through stimulus funding for OSHA training and enforcement. The DIR had prepared a submission for the stimulus money to offset the cost of hiring a trainer for the first year of the biennium.

There no further public comment or questions, Chair Arberry closed the hearing on A.B. 148 (R1) and opened the hearing on A.B. 229 (R1).

Assembly Bill 229 (1st Reprint): Enacts provisions governing fire-safe cigarettes. (BDR 42-568)

Assemblyman John Oceguera, Clark County Assembly District No. 16, provided the Committee with an overview of Assembly Bill (A.B.) 229 (R1). The bill enacted provisions to govern fire-safe cigarettes: cigarettes that had a reduced propensity to burn when left unattended. The most common fire-safe technology used by cigarette manufacturers was to wrap the cigarette with two or three thin brands of less porous paper that acted as "speed bumps." When the user was not puffing on the cigarette, it would burn out, or if the cigarette was thrown from a car window, it would self-extinguish.

Assemblyman Oceguera explained that the fiscal note on the bill was from the State Fire Marshal's office and had been greatly reduced. There was a fee involved in the bill that the manufacturers supported and which would offset any costs for enacting the bill.

Assemblyman Oceguera noted that Nevada would be the 39th state to enact this legislation.

James M. Wright, Chief, Fire Marshal Division, Department of Public Safety, testified in support of A.B. 229 (R1), and provided the Committee with a revised fiscal note (Exhibit K). He noted that expenses in fiscal year (FY) 2010 were anticipated to consist mainly of the review of regulations, operational supplies, and modifications to an agency database program to support certification for the cigarettes.

In response to Chair Arberry, Mr. Wright stated that there was still a fiscal note, but it would be covered by the certification and registration fees.

Sam McMullen, representing Altria Group, Inc., the parent company of Philip Morris Companies Inc., testified in support of A.B. 229 (R1). Mr. McMullen was also supportive of the fee in the bill, and he was not aware of any cigarette manufacturers or tobacco companies that did not support the fees.

Assemblywoman Buckley asked whether there were any major cigarettes that did not meet the standards described in the bill.

Mr. McMullen believed that most manufacturers had gone to the fire-safe cigarettes.

Alfredo Alonso with Lewis and Roca LLP, on behalf of R. J. Reynolds Tobacco Company, supported the bill. It was a national safety issue, and he believed the majority of cigarette manufacturers were already using the fire-safe paper.

In response to Chair Arberry, Mr. Alonso noted that the paper was not for "roll-your-own" cigarettes. In the past the paper that was used to make fire-safe cigarettes was patented and had to be purchased from certain parties. This caused difficulty for some cigarette manufacturers. This was no longer the case, and the paper was readily available. He was not aware of any manufacturer who opposed the fee included in the bill.

Assemblyman Hardy stated that it appeared to him that with 38 states requiring fire-safe cigarettes, the cigarettes were probably already selling in Nevada.

Mr. Alonso did not know whether that was the case but would research the issue.

Mr. McMullen commented that he had been working with the Department of Taxation, the State Fire Marshal, and the Attorney General's Office. All of the parties had worked together to ensure the bill would be cost-effective to implement.

There being no additional public comments or questions, Chair Arberry closed the hearing on A.B. 229 (R1) and opened the hearing on A.B. 542.

Assembly Bill 542: Temporarily delays the statutory deadline for notifying certain school employees of reemployment status. (BDR S-1301)

Assemblywoman Debbie Smith, Washoe County Assembly District No. 30, presented the Committee with an overview of Assembly Bill (A.B.) 542. The bill was very important to the school districts in Nevada. Because of the budget crisis and the unresolved budget issues facing the state, the school districts were in a difficult situation regarding how to deal with rehiring of staff for the next school year.

Currently, the statute required the school districts to give teachers the notices of intent to rehire by May 1 of each year. Based on the Governor's recommended budget, there would be many layoffs in the school districts. However, until budget issues had been resolved, the school districts would not know whether or not the layoffs would be required.

Assemblywoman Smith explained that a reduction in force (RIF) process was quite an onerous process in larger school districts. In the small school districts, it was likely teachers would leave if they did not receive a Notice to Rehire.

The bill extended the provision requiring notification of certain school employees of their reemployment status for the 2009-2010 school year from May 1 to May 15, thereby eliminating the need for unnecessary layoff notices. She was hopeful that by May 15 the Legislature would be able to provide the school districts with the budget information to make better layoff decisions.

Assemblywoman Smith pointed out that the Mineral County School District had a different provision, which was addressed in subsection 4 of section 1. She had reviewed all school districts to ensure their needs were accommodated.

Assemblyman Grady disclosed that his daughter was a teacher, and he would not be participating in the discussion of the bill.

Assemblywoman Gansert noticed the bill stated that if an employee did not receive a notice by May 15, 2009, the employee was deemed reemployed. She asked whether that was the current policy.

Assemblywoman Smith replied that the only thing changed in the statute was the date.

Responding to Assemblywoman Gansert, Assemblywoman Smith explained that changing the date was precautionary. Because the budget situation was tenuous, the school districts were prepared to use the Governor's recommended budget as a total funding source. That could result in layoffs.

Assemblyman Denis did not see a reason to reject A.B. 542 and suggested the bill had to be passed immediately.

ASSEMBLYWOMAN BUCKLEY MOVED TO DO PASS A.B. 542.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

MOTION PASSED. (Assemblyman Grady abstained from the vote.)

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Chair Arberry closed the hearing on A.B. 542 and asked the Committee to consider introduction of the following two bill draft requests:

- **BDR 38-1266**—Revises provisions governing the State Plan for Medicaid.

  ASSEMBLYWOMAN LESLIE MOVED FOR COMMITTEE INTRODUCTION OF BDR 38-1266.

  ASSEMBLYMAN DENIS SECONDED THE MOTION.

  THE MOTION CARRIED UNANIMOUSLY.

- **BDR S-1187**—Temporarily redirects a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund.

  ASSEMBLYWOMAN LESLIE MOVED FOR COMMITTEE INTRODUCTION OF BDR S-1187.

  ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

  THE MOTION CARRIED UNANIMOUSLY.

Chair Arberry requested the Committee consider budget closings for the Attorney General's Office.

ATTORNEY GENERAL'S OFFICE
ADMINISTRATIVE FUND (101-1030)
BUDGET PAGE ELECTED-47

Joi Davis, Program Analyst for the Fiscal Analysis Division, Legislative Counsel Bureau, presented an overview of budget account (BA) 1030 for the Committee. The issue for the Committee's consideration was the Attorney General's cost-allocation plan.

Budget amendment 147 recommended a reduction in General Fund of $70,014 in fiscal year (FY) 2010 and an increase in General Fund of $675,682 in FY 2011 to properly align these revenue sources in the services that were received by the non-General Fund agencies. Staff recommended the approval of budget amendment 147 and sought authority to make any additional adjustments that might be necessary based on the closing of other budget accounts.

Other closing items included the following:

1. Enhancement (E) decision units E670 through E673 did not accurately capture the eight full-time equivalents FTE that comprised the tobacco enforcement unit. Fiscal staff requested authority to adjust the revenue in that series based on the ultimate decisions of the Legislature.
2. The recommendation for the transfer of the High Tech Crime Unit to the Attorney General Administrative Account (E901 through E910) in The Executive Budget was made by the Attorney General. Based on the National Association of Attorneys General, the concept of having like practices together was preferable, and the Attorney General sought to restructure the office to keep investigators in those types of positions together. The agency ensured they would be able to track expenditures and revenues regarding the High Tech Crime Unit through the use categories in BA 1030.
3. Decision unit E900 recommended the transfer of two Deputy Attorney General positions from the Consumer Advocate budget account to this budget account to provide for an increased number of criminal prosecutions related to crimes committed against the elderly and mortgage fraud.

Ms. Davis recommended this budget be closed with the approval of budget amendment 147 and corresponding adjustments and an adjustment to revenue sources in the E670 to E673 decision units as discussed in item 1 above, and that the remainder of the account be closed as recommended by the Governor. She also noted that the budget documents reflected adjustments that might be needed to the statewide cost allocations and assessments and the ultimate decisions in the Governor's recommendation regarding salary and benefits.

> ASSEMBLYWOMAN MCCLAIN MOVED TO APPROVE BUDGET AMENDMENT 147 AND ADJUSTMENTS TO REVENUE SOURCES IN E670 TO E673 AS RECOMMENDED BY STAFF AND TO CLOSE THE REMAINDER OF THE ACCOUNT AS RECOMMENDED BY THE GOVERNOR AND AUTHORIZE STAFF TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY.

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

MOTION CARRIED UNANIMOUSLY.

BUDGET CLOSED.

* * * * *

ATTORNEY GENERAL'S OFFICE
HIGH TECH CRIME (101-1044)
BUDGET PAGE ELECTED-59

Joi Davis, Program Analyst for the Fiscal Analysis Division, Legislative Counsel Bureau, presented an overview of budget account (BA) 1044 for the Committee. Based on the action of the Committee to approve the transfer of this budget account to BA 1030, it was necessary for the Committee to close this budget account.

ASSEMBLYMAN DENIS MOVED TO APPROVE THE CLOSING OF BUDGET ACCOUNT 1044.

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

MOTION CARRIED UNANIMOUSLY.

BUDGET CLOSED.

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ATTORNEY GENERAL'S OFFICE
SPECIAL FUND (101-1031)
BUDGET PAGE ELECTED-66

Joi Davis, Program Analyst for the Fiscal Analysis Division, Legislative Counsel Bureau, said that at an earlier hearing the Committee had agreed to hold this budget account closing until May 12, 2009. At that time, the agency could determine how many of the contentions regarding the licensing proceedings involving the Yucca Mountain High Level Nuclear Waste Repository would be heard before the Nuclear Regulatory Commission.

ATTORNEY GENERAL'S OFFICE
MEDICAID FRAUD (101-1037)
BUDGET PAGE ELECTED-70

Joi Davis, Program Analyst for the Fiscal Analysis Division, Legislative Counsel Bureau, presented an overview of budget account (BA) 1037 for the Committee. There were no major closing issues for this account.

Ms. Davis noted that at the end of fiscal year (FY) 2011, the anticipated reserve balance of $1.7 million appeared to be excessive. The agency was directed to determine if some of the reserve balances could be used for the state Medicaid program. The agency contacted the Office of the Inspector General (OIG) who indicated use of those funds for the state Medicaid program would not be possible based on federal regulations. The agency indicated that in the upcoming biennium it might request additional personnel or equipment to expand the services in the Medicaid Fraud Control unit.

There were other budget enhancements for replacement and new equipment purchases that appeared reasonable to Fiscal Analysis Division staff. In conclusion, Ms. Davis recommended the budget be closed as recommended by the Governor.

Assemblyman Hardy asked where the money came from that was put into the reserve. He suggested the possibility of stopping the addition of money to the reserve account.

Ms. Davis responded that the reserve had been built up because of unusually high recoveries, which was not a historical trend. The agency did not anticipate that would be a common occurrence in the future. She was not aware of other contributions to the reserve.

Catherine Cortez Masto, the state Attorney General, testified that money was deposited in the reserve because of the Medicaid fraud cases and associated fines. That was the only money put into the reserve account, and it was difficult to anticipate the amount.

Assemblyman Hardy believed that if it was a varying amount, it would seem unwise to hire additional staff to assist with the program. If the fines paid into the reserve account were reduced, the state could not afford to pay for the added staff.

Chair Arberry requested a motion from the Committee.

> ASSEMBLYWOMAN MCCLAIN MOVED TO APPROVE BA 1037 AS RECOMMENDED BY THE GOVERNOR.
>
> ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.
>
> MOTION CARRIED UNANIMOUSLY.
>
> BUDGET CLOSED.

* * * * *

ATTORNEY GENERAL'S OFFICE
WORKERS' COMP FRAUD (101-1033)
BUDGET PAGE ELECTED-77

Joi Davis, Program Analyst for the Fiscal Analysis Division, Legislative Counsel Bureau, presented an overview of budget account (BA) 1033 for the Committee. This budget account was for the Workers' Compensation Fraud Unit (WCFU) and an Insurance Fraud Unit (IFU). There were no major closing issues in this budget.

Ms. Davis noted that three vacant positions were eliminated in the current biennium. At the earlier budget hearing, the agency was directed to work with the insurance industry to determine whether the insurance fraud assessment rate could be increased to help fund the IFU within this budget account. The agency reported it had received support from the insurance industry and was reviewing which of the bills under consideration by the 2009 Legislature could carry the proposed language to support the increase.

Fiscal Analysis Division staff was seeking the authority to increase the insurance fraud assessment revenue in this budget based on any approval of a rate increase that might occur. If the increase was approved, the deputy attorney general position and the insurance investigator position could be restored.

Ms. Davis stated that the replacement equipment enhancement decision units appeared reasonable to staff. Staff recommended the budget be closed with the authority to increase the transfer and insurance revenue if the rate increase was approved and the two positions were restored. The remainder of the budget account should be closed as recommended by the Governor.

> ASSEMBLYMAN DENIS MOVED TO CLOSE BUDGET ACCOUNT 1033 AND AUTHORIZE STAFF TO INCREASE THE TRANSFER AND INSURANCE REVENUE IF THE RATE INCREASE WAS APPROVED AND THE TWO POSITIONS WERE RESTORED AND CLOSE THE REMAINDER OF THE BUDGET ACCOUNT AS RECOMMENDED BY THE GOVERNOR AND AUTHORIZE STAFF TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY.
>
> ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.
>
> MOTION CARRIED UNANIMOUSLY.
>
> BUDGET CLOSED.

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ATTORNEY GENERAL'S OFFICE
CONSUMER ADVOCATE (330-1038)
BUDGET PAGE ELECTED-83

Joi Davis, Program Analyst for the Fiscal Analysis Division, Legislative Counsel Bureau, presented an overview of budget account (BA) 1038 for the Committee. There were no major closing issues in this budget account.

Ms. Davis noted that mill assessment rate was yet to be determined because of the wait for the projected revenues from the Public Utilities Commission. Staff requested the authority to adjust the revenues and corresponding adjustments to the reserve category in this budget account if necessary based on the mill assessment rate to be determined in May 2009.

Ms. Davis explained that the Governor had recommended the transfer of two deputy attorney general positions to the Bureau of Criminal Affairs in the Attorney General's Administrative account. Following these adjustments, Ms. Davis recommended the remainder of the account be closed as recommended by the Governor.

> ASSEMBLYWOMAN LESLIE MOVED TO ACCEPT STAFF RECOMMENDATIONS AND TO CLOSE THE REMAINDER OF THE BUDGET ACCOUNT AS RECOMMENDED BY THE GOVERNOR AND TO AUTHORIZE STAFF TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

BUDGET CLOSED.

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ATTORNEY GENERAL'S OFFICE
CRIME PREVENTION (101-1036)
BUDGET PAGE ELECTED-90

Joi Davis, Program Analyst for the Fiscal Analysis Division, Legislative Counsel Bureau, presented an overview of budget account (BA) 1036 for the Committee. There were no major closing issues in this budget account, and staff recommended the account be closed as recommended by the Governor.

ASSEMBLYMAN DENIS MOVED TO CLOSE THE BUDGET ACCOUNT AS RECOMMENDED BY THE GOVERNOR.

ASSEMBLYMAN GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

BUDGET CLOSED.

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ATTORNEY GENERAL'S OFFICE
TORT CLAIM FUND (715-1348)
BUDGET PAGE ELECTED-95

Joi Davis, Program Analyst for the Fiscal Analysis Division, Legislative Counsel Bureau, presented an overview of budget account (BA) 1348 for the Committee. The major closing issue in this budget account was the assessment rate change increase and the payout of two large claims.

Ms. Davis indicated that one of the claims was estimated at $4.75 million. Through negotiations it was determined that $2 million would be paid in fiscal year (FY) 2009. Ms. Davis explained that this portion of the claim was approved by the Board of Examiners, and the transfer of the reserve into the General Fund claims category was approved by the Interim Finance Committee on April 20, 2009.

Ms. Davis stated that the Budget Division had indicated that the $2 million portion of the negotiated claim would be reimbursed to the Tort Claim Fund through a Highway Fund supplemental appropriation. When this budget account was closed in the Senate Finance Committee, the Budget Division introduced a bill draft request (BDR) that was approved by the Senate Finance Committee. The remaining portion of the claim represented attorney fees and costs that could total nearly $2.75 million and would be determined through a formal adjudication and court judgment.

Ms. Davis noted that because of the large claim payouts, Fiscal Analysis Division staff met with the agency and the Budget Division to determine whether a rate adjustment was needed. Based on the following two items, no change to the tort assessment rate was anticipated:

- The General Tort Claims category was budgeted at 100 percent when typically the category was budgeted at 75 percent.
- The 2009-11 Attorney General Cost Allocation Plan paid from this budget was reduced by $689,934 in FY 2010 and $678,452 in FY 2011.

Ms. Davis pointed out that closing documents reflected a 25 percent reduction in the General Tort Claims category, balanced to reserve, to align it with the historical level budgeted (75 percent) for General Tort Claims. Staff recommended the remainder of this budget account be closed as recommended by the Governor.

> ASSEMBLYWOMAN LESLIE MOVED TO APPROVE STAFF RECOMMENDATIONS TO CLOSE THE BUDGET ACCOUNT WITH RECOMMENDED REDUCTIONS AND TO CLOSE THE REMAINDER OF THE BUDGET AS RECOMMENDED BY THE GOVERNOR AND TO AUTHORIZE STAFF TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY.
>
> ASSEMBLYMAN DENIS SECONDED THE MOTION.
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> THE MOTION CARRIED UNANIMOUSLY.
>
> BUDGET CLOSED.

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ATTORNEY GENERAL'S OFFICE
EXTRADITION COORDINATOR (101-1002)
BUDGET PAGE ELECTED-100

Joi Davis, Program Analyst for the Fiscal Analysis Division, Legislative Counsel Bureau, presented an overview of budget account (BA) 1002 for the Committee.

Ms. Davis explained the major closing issue in this budget account was the budget reduction for the Extradition Coordinator Program. She noted that in decision unit Enhancement (E) 660, the Governor recommended the reduction of $97,464 in fiscal year (FY) 2010 and $100,730 in FY 2011 for extradition costs. At a previous hearing, the Committee expressed concern that if the extraditions went beyond the amount recommended by the Governor, the funds to pay for the costs came from the Statutory Contingency Fund (General Fund), and therefore, there would not be a General Fund savings.

The agency was directed to review the Governor's recommendation, and it suggested an alternative to reduce the extradition costs by elimination of a program officer 1 position. Ms. Davis noted the position was filled, and the agency would attempt to provide the person filling the position with options for other positions with comparable salary. The elimination of the position would result in a reduction of $63,914 in FY 2010 and $64,416 in FY 2011 that could be redirected to restore a portion of the extradition costs. The remainder of the costs could be offset with General Fund vacancy savings of $33,550 in FY 2010 and $36,314 in FY 2011 added to this account and offset in

BA 1030, the Attorney General Administrative Fund, by an increase in vacancy savings.

Ms. Davis stated the only other item for the Committee's consideration was that recoveries from extradition costs from the offenders had been declining. Recoveries in FY 2005 were $118,177, in FY 2006 they were $93,123, in FY 2007 they were $86,740, and in FY 2008 they were $78,546. The agency was directed to review best practices in other states, but none were identified. Only 11 states received reimbursement of extradition costs.

Ms. Davis sought a decision on the restoration of the extradition category through the elimination of the program officer 1 position and the increase in vacancy savings in the administrative fund and recommended that the remainder of the account be closed as recommended by the Governor.

Chair Arberry asked whether the eliminated position was considered essential to the program.

Catherine Cortez Masto, the state Attorney General, explained that other units had been cut back, and the remaining positions had to increase their workloads. She was hoping to work with the Controller's Office and the Administrative Office of the Courts to see whether the amounts could be recovered, but it was difficult to get the money from the offenders. The position would be missed, but the cutbacks were necessary.

Chair Arberry requested a motion from the Committee.

> ASSEMBLYWOMAN LESLIE MOVED THAT THE PROGRAM OFFICER 1 POSITION BE ELIMINATED, THE REMAINDER OF THE ACCOUNT CLOSED AS RECOMMENDED BY THE GOVERNOR, AND THE STAFF AUTHORIZED TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY.
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> ASSEMBLYMAN DENIS SECONDED THE MOTION.
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> MOTION CARRIED UNANIMOUSLY.
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> BUDGET CLOSED.

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ATTORNEY GENERAL'S OFFICE
COUNCIL FOR PROSECUTING ATTORNEYS (101-1041)
BUDGET PAGE ELECTED-105

Joi Davis, Program Analyst for the Fiscal Analysis Division, Legislative Counsel Bureau, presented an overview of budget account (BA) 1041 for the Committee. There were no major closing issues in this budget account, and staff recommended the account be closed as recommended by the Governor.

> ASSEMBLYMAN GOICOECHEA MOVED TO CLOSE THE ACCOUNT AS RECOMMENDED BY THE GOVERNOR.
>
> ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION

THE MOTION CARRIED UNANIMOUSLY.

BUDGET CLOSED.

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ATTORNEY GENERAL'S OFFICE
VICTIMS OF DOMESTIC VIOLENCE (101-1042)
BUDGET PAGE ELECTED-110

Joi Davis, Program Analyst for the Fiscal Analysis Division, Legislative Counsel Bureau, presented an overview of budget account (BA) 1042 for the Committee. There were no major closing issues in this budget account.

Ms. Davis noted the new revenue source recommended in The Executive Budget to continue operations of the program, including the Ombudsman position. The new revenue would come from administrative assessments collected pursuant to *Nevada Revised Statutes* (NRS) 176.059, which provided for the collection of administrative assessments from defendants who pled guilty to or were found guilty of a misdemeanor. Currently those assessments were distributed 51 percent to the courts and 49 percent to a variety of Executive Branch agencies. This agency would be added to the agency list for the 49 percent distribution and provided $76,423 in fiscal year (FY) 2009 and $76,853 in FY 2010. Ms. Davis stated that to effectuate this funding and amend NRS 176.059, Assembly Bill (A.B.) 531 would have to pass.

Ms. Davis recommended the budget account be closed as recommended by the Governor.

ASSEMBLYWOMAN LESLIE MOVED TO CLOSE BA 1042 AS RECOMMENDED BY THE GOVERNOR AND TO AUTHORIZE STAFF TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

BUDGET CLOSED.

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ATTORNEY GENERAL'S OFFICE
VIOLENCE AGAINST WOMEN GRANTS (101-1040)
BUDGET PAGE ELECTED-115

Joi Davis, Program Analyst for the Fiscal Analysis Division, Legislative Counsel Bureau, presented an overview of budget account (BA) 1037 for the Committee. There were no major closing issues in this budget account.

Ms. Davis noted that this budget account was scheduled to receive approximately $1.5 million from the American Recovery and Reinvestment Act (ARRA). A work program was approved by the Interim Finance Committee (IFC) to receive $3,750 of that amount to begin the process of developing a new implementation plan, which required a statewide multi-disciplinary committee to begin meeting. The ARRA funds were reflected in the budget closing documents.

Ms. Davis pointed out that 10 percent of those funds could be used for administration and recommended that the budget account be closed with the approval of receipt of the ARRA funds and corresponding expenditures in accordance with the STOP Violence Against Women grant and ARRA requirements. The remainder of the budget account should be closed as recommended by the Governor.

> ASSEMBLYWOMAN LESLIE MOVED TO CLOSE BA 1040 WITH THE APPROVAL TO RECEIVE ARRA FUNDS WITH CORRESPONDING EXPENDITURES IN ACCORDANCE WITH THE FEDERAL STOP GRANT AND ARRA REQUIREMENTS, TO CLOSE THE REMAINDER OF THE ACCOUNT AS RECOMMENDED BY THE GOVERNOR, AND TO AUTHORIZE STAFF TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY.
>
> ASSEMBLYWOMAN SMITH SECONDED THE MOTION.
>
> THE MOTION CARRIED UNANIMOUSLY.
>
> BUDGET CLOSED.

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ATTORNEY GENERAL'S OFFICE
DEPARTMENT-WIDE ISSUE
BUDGET PAGE ELECTED-47

Joi Davis, Program Analyst for the Fiscal Analysis Division, Legislative Counsel Bureau, presented an overview of the agency's request to move unclassified law enforcement investigators within the Attorney General's Office to the classified service as criminal investigators. The request was not included in The Executive Budget; therefore, the agency had requested consideration by this Committee.

According to Ms. Davis, the agency anticipated a General Fund increase of approximately $56,000 over the biennium; however, that was based on 2008 salary figures and did not include any changes that might occur based on the Enhancement (E) 670 decision units. To reach an estimate, the agency projected these investigators on the classified state service classification system; however, if the Legislature approved this policy decision, the Department of Personnel would still need to evaluate each position and determine where on the classified pay scale the positions would be placed.

Ms. Davis explained that the investigator positions were not strictly General Fund supported. The classified range for the criminal investigator series started at $43,180 (grade 36/step 1) and topped out at $88,510 (grade 43/step 10). Pursuant to the unclassified pay bill, with the 2 percent and 4 percent increases received in the current biennium, the salary range for those investigators started at $65,951 and topped out at a chief investigator at $81,584. The agency indicated that moving the investigators from the unclassified to classified state service would help with recruitment and retention efforts.

Ms. Davis provided the following options for Committee's consideration:

1. The Committee could choose not to approve the agency's request to move 38 unclassified investigator positions to the classified state service

as criminal investigator positions because the full impact on the General Fund could not be determined.

2. The Committee could choose to approve the agency's request to move 38 unclassified investigator positions to the classified state service as criminal investigator positions using the agency's grade and step scenario and allow staff to make technical adjustments as necessary.

In response to Chair Arberry, Ms. Davis stated that the Senate Finance Committee had requested Fiscal Analysis Division staff to work with the agency to gain a more accurate picture of the General Fund impact after the decision was made for decision units E670.

Assemblywoman Buckley believed the Senate Finance Committee recommendation seemed a reasonable course of action. She supported the move, but if it was going to require a large amount of additional General Funds, it was unfair in this biennium to have salary increases of a significant amount while cutting everyone else back. She suggested the Committee defer any decision until additional information was received.

There being no public comments or additional questions, Chair Arberry adjourned the hearing at 11:27 a.m.

RESPECTFULLY SUBMITTED:

_____
Linda Blevins
Committee Secretary

APPROVED BY:

_____
Assemblyman Morse Arberry Jr., Chair

DATE:_____

EXHIBITS

Committee Name: Committee on Ways and Means

Date: April 27, 2009 **Time of Meeting: 8:10 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 223	C	Assemblywoman Debbie Smith, Washoe County Assembly District No. 30	Proposed amendments and written testimony
A.B. 65 (R1)	D	James W. Hardesty, Chief Justice, NV Supreme Court	Proposed amendments
A.B. 149 (R1)	E	Assemblywoman Barbara E. Buckley, Assembly District No. 8	PowerPoint presentation
A.B. 149 (R1)	F	James W. Hardesty, Chief Justice, NV Supreme Court	Proposed amendment
A.B. 149 (R1)	G	Michael Randolph, private citizen	Prepared testimony
A.B. 146 (R1)	H	Ross Miller, Secretary of State	Nevada Business Portal
A.B. 148 (R1)	I	Kent L. Cooper, Assistant Director, Engineering, NDOT	Proposed amendment
A.B. 148 (R1)	J	Jonathan Friedrich, private citizen	Proposed amendment
A.B. 229 (R1)	K	James M. Wright, Chief, Fire Marshal Division	Fiscal note