

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

Seventy-Fifth Session
April 29, 2009

The Committee on Ways and Means was called to order by Chair Morse Arberry Jr. at 3:40 p.m. on Wednesday, April 29, 2009, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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 Ocegüera
Assemblywoman Debbie Smith

STAFF MEMBERS PRESENT:

Mark Stevens, Assembly Fiscal Analyst
Brian Burke, Principal Deputy Fiscal Analyst
Mike Chapman, Senior Program Analyst
Carol Thomsen, Committee Secretary
Vickie Kieffer, Committee Assistant

Chair Arberry indicated that the Committee would hear testimony regarding Assembly Bill (A.B.) 227 (R1).

Assembly Bill 227 (1st Reprint): Revises provisions relating to the provision of foster care. (BDR 38-187)

Thomas Morton, Director, Clark County Department of Family Services, indicated that there had been much discussion regarding A.B. 227 (R1). He advised that the stakeholders involved in child welfare shared concerns about the issues outlined in the bill. Mr. Morton stated that there were

approximately 900 children in Nevada currently placed in what was termed "treatment foster homes." He explained that Chapter 424 of both the *Nevada Revised Statutes* (NRS) and the *Nevada Administrative Code* (NAC) depicted the requirements for the licensing of foster homes and treatment foster homes. However, said Mr. Morton, the requirements in Chapter 424 of the NAC regarding the administrative "foster care agencies" that surrounded and provided oversight to those foster homes were very limited.

Mr. Morton reported that Chapter 424 of the NAC specified that a foster care agency that applied for a license must provide a program of services but failed to provide any guidance regarding what constituted an adequate program of services. The bill referred to children from child welfare entities, the juvenile justice system, and from families who had been assessed as severely emotionally disturbed and were, therefore, very vulnerable. Mr. Morton said that stakeholders believed it would be appropriate for foster care agencies that provided oversight and services in the placement of children in foster homes to be required to meet minimal standards that demonstrated their competence and ability to administer such a program of services.

Continuing his presentation, Mr. Morton stated that he had been unable to determine which states required licensure of foster care agencies that provided oversight and services to child placement agencies. He further explained that the term, "child placement agencies," referred to both adoption and foster care agencies. Mr. Morton indicated that Nevada licensed adoption agencies but did not license foster care agencies that provided oversight and services to agencies that placed children in either regular or treatment foster homes.

On the governmental side, said Mr. Morton, the failure to license was understandable because there was a wide array of administrative mechanisms that ensured quality. For example, the Division of Child and Family Services (DCFS) provided oversight and supervision of the programs operating in Washoe and Clark Counties and also directly administered programs in the rural areas.

However, said Mr. Morton, the private, non-profit, and other foster care agencies that provided services to agencies that placed children in foster care were not subject to regulatory oversight. Mr. Morton strongly believed that increasing the quality of care for the state's most vulnerable children, those with mental health and behavioral health issues, was a very important step. Great strides could be made over the biennium by moving toward the development of regulations for licensing of such foster care agencies.

Mr. Morton said that Clark County understood the state's economic and fiscal condition and that any economic burden which required additional resources from the state would not be possible. He stated that Ms. Comeaux would present suggested modifications to the original bill that would make the language for licensure permissive, which meant that individual jurisdictions, such as Clark County, Washoe County, and the state, could choose to license foster care agencies but would not be required to do so.

Secondly, said Mr. Morton, Clark County would be able to go forward over the interim with the development of regulations regarding the licensing of foster care agencies. Another provision in the bill would allow biennial licensure for agencies and foster homes, a practice that existed in many other states. Mr. Morton stated that Clark County could take on the additional financial responsibility without additional state funding.

Diane Comeaux, Administrator, Division of Child and Family Services (DCFS), Department of Health and Human Services, advised the Committee that, if approved, the amendment proposed by the DCFS would eliminate the fiscal note attached to A.B. 227 (R1). Ms. Comeaux explained that the first amendment proposed by the DCFS was in subsection 1 of section 2 of the bill, and would add the word "licensing" after the word "Screening." The language would then read: "Screening, *licensing*, recruiting and training of persons to provide family, foster care, specialized foster care and group foster care" Ms. Comeaux explained that the amendment was being brought forward so that after a foster care agency was licensed, the agency would have the ability to license its own foster homes.

The second amendment, said Ms. Comeaux, was in section 4 of the bill and would change the word "shall" to "may" on page 2, line 30. Ms. Comeaux stated that would create more permissive language. The amendment also requested deletion of sections 5, 6, and 7 of the bill, which included very prescriptive language and were areas that the DCFS believed could be addressed through regulations.

Chair Arberry asked whether the Committee had received a copy of the proposed amendments from the DCFS. Ms. Comeaux said that she had not yet provided a copy of the amendments but stated she would provide copies to the Committee and Fiscal Analysis Division staff today.

Ms. Comeaux said if the aforementioned amendments were added to the bill, and the language regarding licensure was permissive, the DCFS did not believe there would be a fiscal effect over the upcoming biennium.

Assemblywoman Smith asked whether the fiscal note would also be eliminated when the regulations were adopted. Ms. Comeaux replied that the DCFS would still be required to pay \$3,000 for adoption of the regulations, but that would be paid from the budget for the DCFS.

Assemblywoman Leslie asked about future costs. While she believed that the concept depicted in the bill was a good idea, the Legislature did not want to create an expectation that the state would eventually provide funding.

Ms. Comeaux said the change to the language as recommended by the DCFS in section 4 of the bill would allow the process to be permissive and would still allow a reasonable fee to be charged. She stated that the Nevada Youth Care Providers Association was also recommending an amendment to the language of A.B. 227 (R1), and would address the Committee today. Ms. Comeaux reiterated that changing the language of section 4 from "shall" to "may" would make it permissive to charge a fee for licensure.

Assemblywoman Leslie emphasized that the state did not have sufficient funding to support new programs. Ms. Comeaux stated that the DCFS hoped that the amendment would allow the DCFS to move forward with adoption of the regulations. That would give the DCFS a better idea of how many persons would actually choose to be licensed, along with a better idea of the workload. Ms. Comeaux stated that Clark County was willing to undertake the licensure requirement with its existing staff, and the DCFS would like to allow the county to proceed.

Assemblywoman Leslie said she had no objections to the bill, providing the counties were willing to assume the costs for the licensing requirements.

Ms. Comeaux reiterated that Clark County was willing to assume the costs. She stated that the DCFS would review its caseloads to determine the shifts that might occur. Ms. Comeaux pointed out that because the language of the bill would be permissive, other counties could choose whether or not to license foster care agencies.

Assemblywoman Leslie pointed out that such action would create a bifurcated system once again, and she was not sure that should occur. Ms. Comeaux stated that she understood.

Assemblywoman Smith asked about the language that would be included in the proposed regulations, and whether that language would also stipulate "The Division *may*," rather than "The Division *shall*," similar to the amendment to section 4 of the bill. Assemblywoman Smith asked about defining the regulations regarding the Division with permissive language thereafter.

Ms. Comeaux explained that initially the DCFS had wanted the language of the bill to read "The Division shall;" however, section 18 of the bill stated that the DCFS "shall, on or about July 1, 2010, adopt the regulations required." Ms. Comeaux explained that the language included in section 18 of A.B. 227 (R1) was not recommended for amendment by the DCFS.

Assemblywoman Smith stated that section 4 of the bill also discussed adoption of the regulations, and the DCFS proposed amending the language in that section from "shall" to "may." She simply wanted to clarify the intent of the DCFS. Ms. Comeaux said her only concern was whether or not actually adopting the regulations would remove the permissibility; she hoped that the Legal Division of the Legislative Counsel Bureau (LCB) would review and clarify the language. Ms. Comeaux stated that if the process was not permissive and the regulation was adopted, the DCFS might be required to implement the licensing process upon adoption of the regulation. Ms. Comeaux reiterated that section 18 of the bill would require the DCFS to actually adopt the regulation.

Assemblywoman Smith believed that would create somewhat of a conflict, because section 18 stated that the DCFS would adopt the regulation, "pursuant to section 4," which was the section in which the language would be changed from "shall" to "may." Assemblywoman Smith believed the language should be clarified by the LCB Legal Division. Ms. Comeaux agreed.

Mr. Morton commented that if the biennial licensure was adopted, Clark County would have the resources to exercise the permissive clause, and he did not expect to approach the Legislature in 2011 and seek additional resources to continue the process.

Chair Arberry asked whether there was further testimony to come before the Committee regarding A.B. 227 (R1).

Jennifer Bevacqua, Nevada Youth Care Providers Association (NYCPA), stated that she would testify in support of A.B. 227 (R1) and the amendments proposed by the DCFS. She advised the Committee that the NYCPA included the agencies that would be licensed if the bill were to pass. Ms. Bevacqua stated that the NYCPA fully supported the licensure and was committed to higher standards.

According to Ms. Bevacqua, the NYCPA represented approximately 27 agencies that believed licensure was an integral step in the process toward higher standards. Ms. Bevacqua said the NYCPA believed it was very important for

the Legislature to provide a licensing and regulatory structure to ensure that every child in agency foster homes would be afforded quality services. The NYCPA hoped that the regulation process could commence as soon as possible and supported the proposed permissive language, which would allow each jurisdiction to determine whether or not it could initiate the licensing process with existing resources.

For the record, said Ms. Bevacqua, the agencies represented by the NYCPA had agreed that a fee of approximately \$300 could be charged for initial licensing, with a \$150 biennial renewal licensing fee thereafter, as proposed in [Exhibit C](#). Those fees were consistent with other licensing within the state. Ms. Bevacqua said those licensing fees would cover regulatory fees required by the NYCPA. She said it was the hope of the NYCPA that the state would become the final licensing authority, with responsibility exercised through an interlocal agreement with the counties. Ms. Bevacqua stated that the NYCPA also hoped that the process would be maintained via a regulation that would promote consistency statewide, similar to the licensing procedure for foster homes.

Ms. Bevacqua explained that the amendment presented by the DCFS was fully supported by the NYCPA, and she reiterated that the association wanted to be part of the process and was hopeful that the bill would be passed and standards put into place.

Chair Arberry thanked Ms. Bevacqua for her testimony, and asked whether there was further testimony to come before the Committee regarding [A.B. 227 \(R1\)](#). There being no further testimony, the Chair declared the hearing closed.

The Chair opened the hearing on [Assembly Bill \(A.B.\) 461 \(R1\)](#).

[Assembly Bill 461 \(1st Reprint\):](#) Makes various changes relating to older persons. (BDR 15-126)

Assemblywoman McClain explained that [A.B. 461 \(R1\)](#) dealt with elder abuse issues. The bill was approved by the Assembly Committee on Judiciary after significant discussion and several amendments. She indicated that the first reprint of the bill contained two items pertaining to a fiscal note; however, the proposed amendment ([Exhibit D](#)) would completely eliminate the fiscal note.

Assemblywoman McClain reiterated that with the proposed amendment, there would be no fiscal note attached to [A.B. 461 \(R1\)](#) and the policy that remained was of utmost importance. Assemblywoman McClain said that the 2007 Legislature passed a bill that created the Unit for the Investigation and Prosecution of Crimes Against Older Persons within the Attorney General's (AG's) Office but failed to provide the funding for that Unit. She explained that the AG's Office had been struggling to comply with the mandates of the bill with its current staffing ratio, and she had hoped that funding would be available for the upcoming biennium.

According to Assemblywoman McClain, the policy portion of [A.B. 461 \(R1\)](#) would enable the AG's Office to establish a multi-disciplinary team to deal with elder abuse issues. Assemblywoman McClain further explained that the bill would clarify the language regarding the reporting of statistics to the Repository for Information Concerning Crimes Against Older Persons pursuant to the *Nevada Revised Statutes* (NRS) 179A.450, and it would provide for additional training for peace officers through the Peace Officers' Standards and Training (POST) Commission.

Assemblywoman McClain commented that the bill would establish the framework necessary for Nevada to meet the requirements of the Elder Justice Act ([Exhibit C](#)), which was once again being considered by Congress. She reported that the Elder Justice Act included funding for various areas surrounding elder abuse, including reporting, collection of statistics, and creation of forensic teams, which would be met by the multi-disciplinary teams created by [A.B. 461 \(R1\)](#). Assemblywoman McClain hoped that the Elder Justice Act would be passed in the near future, and Nevada would be eligible to immediately apply for funding with a framework already in place within the AG's Office.

Chair Arberry asked whether there were other persons who would like to testify on behalf of, or in opposition to, [A.B. 461 \(R1\)](#).

Lee Rowland, Northern Coordinator, American Civil Liberties Union (ACLU) of Nevada, stated that the ACLU had no objections to passage of [A.B. 461 \(R1\)](#). Ms. Rowland noted that [Assembly Bill \(A.B.\) 8 \(R1\)](#), which would be heard by the Committee on April 30, 2009, also dealt with the elder abuse registry and included a number of similar provisions.

Chair Arberry informed Ms. Rowland that the Committee would not hear testimony pertaining to [A.B. 8 \(R1\)](#) at the current meeting.

Continuing her presentation, Ms. Rowland stated that [A.B. 461 \(R1\)](#) depicted an "older person" as a person 60 years of age or older, and the ACLU believed that age limit was too low. She commented that she had testified about that aspect of the bill in the past, and other bills included a higher age bracket to define an "older person."

Ms. Rowland stated that the ACLU was concerned that section 4 of the bill would place an undue burden on the criminal justice system. She noted that section 4 read, "If it appears that a prospective witness *is an older person or* may be unable to attend or prevented from attending a trial or hearing. . ." and that was language that the ACLU consistently opposed.

Ms. Rowland explained that the problem was when persons were excused from testifying in criminal trials simply because they were "older," particularly when the age limit was set fairly low at 60, and therefore, a significant number of persons might not be required to testify at trials. She stated that the ACLU believed that would increase the number of motions filed with the criminal justice system because defendants would argue that they had the right to confront the witnesses against them.

Ms. Rowland commented that both prosecutors and defense attorneys would probably have witnesses that were over 60 years of age, so the concern of the ACLU was that while it was a small provision, it might actually have a very wide-ranging effect within the criminal justice system. She stated that the ACLU believed that criminal defendants would be litigating the issue any time a witness was excused from testifying at a trial because of age.

Ms. Rowland said the ACLU would obviously oppose that issue on a constitutional basis, because it believed the right of defendants to confront the witnesses against them was a fundamental right. She also pointed out that the language might create a fiscal note simply because there would be increased motions filed regarding the issue in a high number of cases, particularly because of the age limit of 60.

Assemblyman Hardy referenced paragraph (m) of subsection 4 of section 1 of the bill, which indicated that a clergyman or other religious persons would be required to file a report of abuse, unless that person acquired knowledge of the abuse while hearing a confession. Assemblyman Hardy asked about a clergyman who was also a physician and had examined the patient.

Ms. Rowland asked whether Assemblyman Hardy was referring to a person who had privileges as both a clergyman and a doctor. Assemblyman Hardy replied that he was referring to a clergyman who might hear a confession regarding elder abuse, and realize that as a doctor, he had treated the person who was abused. That would create a conflict according to the language of the bill because a physician was required to report incidents of abuse, while a clergyman was not required to report knowledge acquired through confession.

Ms. Rowland said she would first read the law and assume that there was no intent to violate the first amendment. She opined that a court would review the situation and rule that the capacity the clergyman/doctor was serving in at the time he gained information regarding the abuse would be the role that governed the mandatory reporting requirement. Ms. Rowland believed that a court would not want to determine the issue, because it would appear to be an unintended loophole rather than the intent of the Legislature.

Assemblyman Hardy stated that he would like to establish legislative intent at today's hearing. He said if a clergyman heard a confession regarding elder abuse and the next day that clergyman, in his capacity as a doctor, treated the person who was abused, it would appear that because he had gained knowledge of the incident in his role as a clergyman, he would not be required to report that abuse.

Ms. Rowland said she believed that would be correct; however, she emphasized that she was not the "go-to" legal expert regarding legislative intent pertaining to A.B. 461 (R1).

Chair Arberry asked whether there was further testimony to come before the Committee regarding A.B. 461 (R1), and there being none, the Chair declared the hearing closed.

The Chair opened discussion of Assembly Bill (A.B.) 279 (R1).

Assembly Bill 279 (1st Reprint): Makes various changes relating to certain convicted persons. (BDR 14-518)

Ben Graham stated that he would present testimony on behalf of the Administrative Office of the Courts (AOC). He indicated that the bill came about after considerable study and work with the interim Advisory Commission on the Administration of Justice. Mr. Graham explained that the desire of all concerned was to ensure that the right person was sent to prison for committing a crime. Chair Arberry opined that almost every inmate within the Department of Corrections today would testify that he had been erroneously incarcerated.

Mr. Graham said the bill stipulated that when biological evidence was collected, it would be properly preserved. He opined that biological evidence was currently being properly preserved in about 99 percent of the cases. Mr. Graham stated that many of the stipulations included in the bill were already being addressed by the state's law enforcement community.

The second issue addressed by the bill, said Mr. Graham, was the authorization for offenders who had never been sentenced to prison to be committed to the Department of Corrections (DOC) or a local detention center for a certain period of time for evaluation. He recalled the former 120-day evaluation program where the courts would commit an offender to prison for an evaluation.

Mr. Graham said there had been several reasons for imposing the 120-day evaluation, one being that the offender would learn what it was like to be incarcerated. Another reason was so that staff of the DOC could conduct a psychological evaluation and determine whether or not the offender would be a good candidate for probation or should be sentenced to a longer term of imprisonment.

Mr. Graham stated that the judges believed a term of evaluation would be useful in sentencing. However, said Mr. Graham, it was his understanding that the DOC had some concerns regarding an evaluation program.

Mr. Graham indicated that he was unsure of the overall cost regarding the preservation of biological evidence, but he did not think the cost would be significant because most law enforcement entities already preserved such evidence. However, the evaluation program, which was favored by the Advisory Commission on the Administration of Justice, would create a fiscal note for the DOC.

Chair Arberry questioned the fiscal note attached to A.B. 279 (R1), in which the DOC estimated the cost of the evaluation program at \$200,000 per year. He asked for clarification.

Lucy Flores, representing the Rocky Mountain Innocence Center, explained that the fiscal note attached to the bill that addressed preservation of biological evidence had been amended out of the bill.

Chair Arberry asked which section of the bill had been amended out. Ms. Flores replied that she believed it was section 3. In terms of the actual preservation of biological evidence, Ms. Flores believed that there were procedures already in place for law enforcement entities regarding the preservation of evidence. Therefore, that portion of the bill would not create a fiscal impact.

Mr. Graham said that much of what the bill requested regarding collection of evidence was already being done, but the process had not been codified or standardized in statute. That was the primary effort behind the legislation.

Chair Arberry asked whether there was further testimony to come before the Committee in support of A.B. 279 (R1).

Harold Cook, Ph.D., Administrator, Division of Mental Health and Developmental Services (MHDS), stated that he supported A.B. 279 (R1). Dr. Cook said he would very much like to help the DOC provide services related to the intermediate sanctions portion of the bill, which provided for commitment of defendants to the custody of the DOC for treatment of substance abuse and mental health evaluation.

Dr. Cook stated that he would, however, propose an amendment to paragraph (c) of subsection 1 of section 4 of the bill, as depicted in [Exhibit E](#), which would eliminate the word "intensive" and would replace the word "will" with "*may*." Dr. Cook further explained that as currently written, it would be mandatory for individuals committed under that section to be provided

treatment under the supervision of the Director of the Department of Health and Human Services (DHHS). The proposed amendment would change that to permissive language. Dr. Cook stated that if treatment was mandatory for persons committed under section 4, the MHDS would require additional resources to provide that treatment.

Dr. Cook stated that the amendment would also remove the word "intensive" because not every individual in the program would require intensive services. Overall, said Dr. Cook, he supported the bill and would very much like to provide mental health services in conjunction with the DOC.

Assemblywoman Leslie said it appeared that additional resources might be needed by the MHDS to provide mental health services under A.B. 279 (R1). Dr. Cook replied that was correct, but he would very much like to provide mental health services in conjunction with the DOC.

Assemblywoman Leslie opined that section 4 of the bill would definitely create a fiscal note, and while she was not opposed to the policy and would also very much like the MHDS to work with the DOC regarding mental health treatment, the state could not absorb the additional costs. She noted there were many areas where costs would be increased for the DOC, and additional revenue would be needed to provide substance abuse treatment and job training. Assemblywoman Leslie wondered whether the assumption was that the MHDS was already providing mental health treatment services to offenders within the DOC.

Dr. Cook believed the assumption was that if the language was permissive, the DHHS or the Substance Abuse Prevention and Treatment Agency (SAPTA) could provide the services if resources were available but would not be obligated to provide services.

Assemblywoman Leslie referenced subsection 2 of section 4 of the bill that stated, "The Department of Corrections *shall* . . ." which was not permissive language. She noted that the program would be very beneficial, but there definitely would be a fiscal note.

Chair Arberry wondered about the cost to the MHDS, if the language of the bill was not changed, and the MHDS was required to provide mental health services to those persons committed to the DOC under the stipulations of the bill.

Dr. Cook informed the Committee that providing mandatory mental health services would create a cost to the MHDS of approximately \$1.2 million over the biennium. If permissive language was included in the bill, there would be no mandatory costs to the MHDS, and the Division could provide services as resources became available.

Chair Arberry said the major concern for the Committee was funding the program. If the Committee amended-out the mandatory language and made the language permissive, Chair Arberry asked whether the MHDS could provide the services without additional funding. Dr. Cook said with the language change contained in the proposed amendment ([Exhibit E](#)), the MHDS would not require additional funding over the biennium.

Testifying next before the Committee was Lee Rowland, Northern Coordinator, American Civil Liberties Union (ACLU) of Nevada, who stated that the ACLU supported the mandatory DNA collection for Category A and B felonies as outlined in the bill. She pointed out that in other states that required mandatory

collection of DNA samples, it was found that litigation costs were reduced because the state was able to maintain evidence that would quash falsely filed suits by prisoners who claimed they were wrongly imprisoned.

Chair Arberry asked whether there was further testimony to come before the Committee from persons who either opposed or whose position was neutral regarding A.B. 279 (R1).

Lt. Tom Roberts, Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department (LVMPD), indicated that he had signed in as neutral on the bill; however, he indicated that the LVMPD supported the first portion of the bill regarding DNA evidence preservation. Lt. Roberts stated that he had worked with the interim Advisory Commission on the Administration of Justice to trim the bill so that it would not create a significant fiscal impact on the LVMPD.

According to Lt. Roberts, the LVMPD would have an issue with the language in paragraph (b) of subsection 1 of section 4 of the bill, which provided for short-term incarceration in the custody of local detention centers. That language could create a substantial fiscal impact on the LVMPD.

Currently, said Lt. Roberts, approximately 700 pre-sentencing reports were prepared for the Eighth Judicial District Court in Clark County each month; however, about 422 of those persons were out of custody while awaiting sentencing. Assuming a worst-case scenario that those persons would be incarcerated in a program for up to 30 days, Lt. Roberts stated that would create a fiscal impact of \$1.8 million per month for the LVMPD.

Captain Timothy Kuzanek, Washoe County Sheriff's Office (WCSO), said that he would echo the comments made by Lt. Roberts regarding the first section of the bill. The WCSO had no issues regarding the collection and retention of DNA evidence. However, the portion of the bill that provided for short-term incarceration in local detention centers would create a significant fiscal impact for the WCSO.

Captain Kuzanek explained that the Washoe County Detention Facility used the same formula as that explained by Lt. Roberts regarding the LVMPD to determine what the fiscal impact would be on the facility. There were approximately 220 pre-sentencing reports prepared for the court system in Washoe County each month, and Captain Kuzanek said that 40 percent of those persons were out of custody awaiting sentencing. The worst case scenario for Washoe County would add approximately 31,680 bed-days per year or approximately \$4 million per year for the Washoe County Detention Facility. Captain Kuzanek stated that was the reason the WCSO would oppose the bill.

Testifying next was Frank Adams, Executive Director of the Nevada Sheriffs' and Chiefs' Association, who stated that the Association represented all sheriffs and chiefs, and specifically those in the rural areas. He stated that the Association would support the DNA collection and preservation stipulations of the bill and believed that was appropriate action to take regarding biological evidence. He indicated that law enforcement entities would absorb the costs associated with retention of such evidence.

However, said Mr. Adams, the concern of the Association was with paragraph (b) of subsection 1 of section 4 of the bill, which provided for short-term incarceration in local detention centers. Not only would that affect the Clark County Jail and the Washoe County Detention Facility, it would also

affect other jails in Clark County, such as Mesquite, North Las Vegas, and Henderson, along with many rural county jail facilities. Mr. Adams stated that the average cost for jails to incarcerate a person was between \$80 and \$100 per day. He stated that would create a significant unfunded mandate for county facilities, and for that reason, the Association would not support that portion of the bill.

Mr. Adams referenced [Exhibit F](#), a letter from the Nevada Sheriffs' and Chiefs' Association dated April 22, 2009, and a proposed amendment to [A.B. 279 \(R1\)](#). Mr. Adams explained that the proposed amendment would delete the words "local detention center" as contained in paragraph (b) of subsection 1 of section 4 of the bill.

Assemblywoman Leslie agreed that the language of the bill would create a significant unfunded mandate for the detention facilities. However, removal of the language pertaining to local detention facilities from section 4 of the bill would not address the fiscal note for the state. Assemblywoman Leslie asked whether the language of the bill had been reviewed when the bill was heard by the Assembly Committee on Corrections, Parole and Probation.

Mr. Adams explained that the language regarding local detention facilities was added to section 4 of the bill at a work session of the Committee on Corrections, Parole and Probation. Mr. Adams reiterated that if the language pertaining to local detention facilities was amended out of the bill that would eliminate the fiscal impact on local detention facilities. The language regarding incarceration in the DOC would remain in the bill, and Mr. Adams noted that it would create a fiscal note for the state.

Assemblywoman Leslie agreed that the fiscal impact on the state would be significant, and she was surprised that the language was added to the bill without consideration of the additional costs created by such a program.

Chair Arberry asked whether there was further testimony to come before the Committee regarding [A.B. 279 \(R1\)](#), and there being none, the Chair declared the hearing closed.

The Chair opened discussion of [Assembly Bill \(A.B.\) 497 \(R1\)](#).

[Assembly Bill 497 \(1st Reprint\):](#) Provides for the collection and sharing of certain statistical data and information relating to the criminal justice system. (BDR 14-1154)

Ben Graham, representing the Administrative Office of the Courts (AOC), referenced section 5 of the bill, which indicated that the "Court Administrator" would assist in collecting statistical data and making reports regarding the operation of the criminal justice system in the state for the Legislature.

Mr. Graham stated that it would be very difficult for the money committees of the Legislature to determine how to expend funds on programs that were or were not working if there were not sufficient statistics and information to help the committees reach those funding conclusions.

Mr. Graham believed that [A.B. 497 \(R1\)](#) was introduced because of a recommendation from the interim Advisory Commission on the Administration of Justice and included good goals. Hopefully, the language of the bill would assist in gathering useful information that could assist the Legislature and the community in making decisions regarding where to spend the state's dollars.

Mr. Graham said that persons were present from the Department of Public Safety (DPS), and the AOC who would testify regarding the language included in the bill. He noted that while both entities gathered some statistics and some information, missing from the equation at the current stage, other than creating a unified court system, were the 17 county district attorneys and the various public defenders' offices, which should be included in the bill. Mr. Graham pointed out that the bill would create a substantial fiscal note for both the AOC and the DPS. The frustration on the part of the AOC and the DPS was the uncertainty surrounding the information being sought by the bill.

Mr. Graham hoped that over the next several days the AOC and the DPS could discuss what information could be provided as a stop-gap measure that would not create a significant fiscal effect. He believed the Committee should hear testimony from the AOC and the DPS regarding the fiscal impact of the bill.

Robin Sweet, Deputy Director, Judicial Programs and Services, AOC, introduced herself to the Committee. She indicated that she was in charge of the AOC's statistical data collection. The concern regarding the bill was that the AOC currently published information annually and also worked closely with the DPS to exchange data.

Ms. Sweet stated that the AOC was unsure about what additional information would be required and the scope of the additional information. The fiscal note would depend upon the end result regarding the information that was required. Ms. Sweet commented that the AOC might require additional staff and would certainly need additional technical resources to access codes or case management systems. She pointed out that several courts were not on the state-sponsored case management system and operated independently, and the AOC would be required to provide guidance to those courts regarding the information that would be required.

Captain Philip K. O'Neill, Chief, Records and Technology Division, DPS, introduced himself and Catherine Krause, Chief IT Manager, Records and Technology Division, DPS, to the Committee. Captain O'Neill stated that he and Ms. Krause were present to offer testimony regarding A.B. 497 (R1), which provided for the collection and sharing of information and statistics related to the criminal justice system in Nevada.

According to Captain O'Neill, the Records and Technology Division submitted a fiscal note on the bill as originally written. When the bill was introduced in the Assembly Committee on Judiciary, Captain O'Neill said the DPS worked with the author of the bill to address some of the concerns regarding the language, primarily with respect to the broad nature of the bill. Captain O'Neill stated that the DPS had revised the fiscal note as depicted in the proposed fiscal note narrative, [Exhibit G](#).

According to Captain O'Neill, A.B. 497 (R1) would expand the requirements of the Central Repository for Nevada Records of Criminal History (CHR) to compile and maintain records, reports, and computations of statistical data for a wider variety of agencies; facilitate the exchange of data, information, records, and reports between those agencies; and provide the Advisory Commission on the Administration of Justice with any available statistical data, information, and research as requested. Captain O'Neill stated that the requirements of the bill covered a broad spectrum of duties, which necessitated the fiscal note.

Currently, said Captain O'Neill, the CHR collected specific crime data from law enforcement agencies throughout the state and produced reports as directed by NRS 179A.075. After the bill's initial hearing by the Assembly Committee on Judiciary, the Records and Technology Division surveyed the Advisory Committee on Nevada Criminal Justice Information Systems, whose members included representatives from the Nevada District Attorneys Association, the Sheriffs' and Chiefs' Association, the Department of Corrections, the Attorney General's Office, and the Administrative Office of the Courts (AOC). Captain O'Neill reported that the responses received echoed the same theme that most entities did not have current databases with the level of detail required to respond to the types of inquiries alluded to in the bill.

Captain O'Neill stated that prior to Amendment No. 225, the Records and Technology Division submitted a fiscal note requesting additional staff to process the data received from the various entities outlined in the bill, along with a study regarding data collection solutions. Captain O'Neill said that because the language of the bill was unclear about what the workload or requested information would encompass, the Division focused on finding its own resolution for data collection. The solution avoided adding permanent full-time equivalent (FTE) employees and their associated ongoing costs; however, said Captain O'Neill, there were still challenges that needed to be addressed. He indicated that the DPS's Technology Bureau was critically understaffed, and its network infrastructure was at capacity.

Captain O'Neill stated that to facilitate the additional communication and functionality on the already stretched system would require a significant amount of infrastructure, and a Master Services Agreement (MSA) contractor would be necessary to actually implement the program. According to Captain O'Neill, the data collection that was envisioned to meet the new requirements would be one that utilized a web-based front end application. Agencies that were required to report statistical information to the CHR would submit their information electronically.

Assemblywoman Buckley asked whether the DPS could comply with the stipulations of the bill without additional funding. She said if the DPS could not comply without additional revenue, there was not much to discuss because the state did not have any additional funds. Assemblywoman Buckley explained that the Committee had eliminated existing positions within the Gaming Control Board budget at earlier budget hearings, and the state was facing an approximately \$2.7 billion deficit. Assemblywoman Buckley commented that unless the DPS could comply with the edicts of the bill without funding, there was no reason to continue the discussion.

Captain O'Neill reported that the DPS could not meet the requirements of the bill without additional revenue, and he appreciated Assemblywoman Buckley's honesty. Captain O'Neill concluded that he respected the bill's desire and the DPS supported the theory, but it would require either additional revenue for other support staff or to support the technology solution.

Assemblywoman Buckley stated that she too supported the concept of the bill, but the state simply did not have the funds to initiate the programs.

Chair Arberry asked whether there was further testimony to come before the Committee regarding A.B. 497 (R1) and there being none, the Chair declared the hearing closed.

Chair Arberry advised that A.B. 385 (R1) and A.B. 92 had been removed from the Agenda and would be rescheduled at a later date.

The Chair opened discussion of bills for possible Committee action; the first bill for discussion was Assembly Bill (A.B.) 99 (R1).

**Assembly Bill 99 (1st Reprint): Makes various changes relating to public safety.
(BDR 15-410)**

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), explained that the bill had recently been heard by the Committee. Testimony on behalf of the bill was presented to the Committee by a district judge and a representative from the Administrative Office of the Courts (AOC). Mr. Stevens stated that the bill would allow district judges to register a confidential address with the Secretary of State's Office.

According to Mr. Stevens, the bill originally contained a fiscal note; however, page 3 of the proposed amendment, Exhibit H, would add language to paragraph (c) of subsection 1 of section 18 of the bill that would allow the Secretary of State's Office to charge the participant for the costs associated with the postage to forward mail and for administration of the program. Mr. Stevens indicated that language would be added to the bill to address the fiscal impact of the bill.

Chair Arberry called for a motion regarding A.B. 99 (R1).

ASSEMBLYWOMAN LESLIE MOVED THAT THE COMMITTEE
AMEND AND DO PASS A.B. 99 (R1) AS AMENDED.

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

THE MOTION PASSED. (Assemblymen Denis and Hardy and
Assemblywoman Gansert were not present for the vote.)

Chair Arberry opened discussion of Assembly Bill (A.B.) 214.

**Assembly Bill 214: Revises provisions regarding industrial injuries and
occupational diseases. (BDR 53-25)**

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that A.B. 214 was heard by the Committee on April 10, 2009. Assemblywoman Parnell had presented testimony that the bill had also been heard by the 2007 Legislature. Mr. Stevens explained that the bill would include park rangers in the definition of category I peace officers under the heart/lung benefit for workers' compensation. He pointed out that there was a fiscal note attached to the bill of \$62,500 in FY 2010 and \$125,000 in FY 2011.

Mr. Stevens stated that should the bill go forward, an additional cost would be included in budget account (BA) 1352, Insurance and Loss Prevention. There was currently a reserve in that budget of approximately \$2 million, and there were concerns that the reserve level should be somewhat higher. Mr. Stevens indicated that if the bill passed, the funding needs would come from the reserve, which was currently underfunded, albeit not greatly underfunded.

Assemblyman Ocegüera stated that he would be willing to make a motion to do pass A.B. 214. He stated that he was reluctant to add to the heart/lung benefits under workers' compensation, but he realized that park rangers often faced serious situations involving weapons the same as other peace officers. Assemblyman Ocegüera believed that park rangers were also entitled to the additional benefits.

The Chair called for a motion.

ASSEMBLYMAN OCEGUERA MOVED THAT THE COMMITTEE DO
PASS A.B. 214.

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

Chair Arberry opened discussion regarding the motion before the Committee.

Assemblyman Goicoechea stated that he would reluctantly oppose the motion to do pass A.B. 214. He pointed out that the hours for park rangers had been cut to part-time or 32 hours per week. Assemblyman Goicoechea acknowledged that park rangers were classified as category I peace officers, but he did not think the Committee should use reserve funding to add park rangers to the heart/lung benefit program for workers' compensation.

Assemblywoman Buckley said she understood that the funding for adding park rangers to the benefit program would be funded from the workers' compensation reserve account.

Mr. Stevens explained that the funding could be taken from the reserve account, but the budget account for the Division of State Parks might be charged an additional workers' compensation rate. Mr. Stevens suggested that the Committee allow him to review the funding mechanisms for A.B. 214 and report his findings to the Committee.

Assemblywoman Buckley agreed and suggested that the Committee hold further action on the bill to give Mr. Stevens sufficient time to research the funding mechanisms. She stated that if the budget was not adversely affected and the funding would come from reserves, she would support passage of the bill.

Assemblyman Goicoechea stated that it was his understanding that the reserve account was already at a reduced level, and he did not think the Committee should take action that would further deplete the reserve.

Mr. Stevens said he would review the bill and would bring his findings back to the Committee as soon as possible.

Chair Arberry said it appeared that the consensus of the Committee was to hold action regarding A.B. 214.

* * * * *

The Chair opened the hearing on Assembly Bill (A.B.) 223 (R1).

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

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that the Committee had reviewed A.B. 223 (R1) on April 27, 2009. He referenced Exhibit I, a proposed amendment to the bill. Mr. Stevens explained that the bill pertained to advertisements for bids or proposals issued by the Purchasing Division and the State Public Works Board.

Assemblywoman Smith explained that A.B. 223 (R1) provided a preference for disabled veterans and a local bidder's preference. The amendments to the bill had removed the fiscal note.

Chair Arberry called for a motion.

ASSEMBLYWOMAN MCCLAIN MOVED THAT THE COMMITTEE AMEND AND DO PASS A.B. 223 (R1) AS AMENDED.

ASSEMBLYWOMAN KOIVISTO SECONDED THE MOTION.

THE MOTION PASSED, WITH ASSEMBLYMEN GOICOECHEA AND GRADY VOTING NO. (Assemblymen Denis and Hardy and Assemblywoman Gansert were not present for the vote.)

The Chair opened discussion regarding Assembly Bill (A.B.) 238 (R1).

Assembly Bill 238 (1st Reprint): Increases the penalty for soliciting a child for prostitution. (BDR 15-177)

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that the Committee heard testimony regarding A.B. 238 (R1) on April 27, 2009. The bill would increase the penalty for soliciting a child for prostitution.

The Chair called for a motion.

ASSEMBLYMAN GOICOECHEA MOVED THAT THE COMMITTEE DO PASS A.B. 238 (R1) AS AMENDED.

ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.

THE MOTION PASSED. (Assemblymen Denis and Hardy and Assemblywoman Gansert were not present for the vote.)

Chair Arberry opened discussion on Assembly Bill (A.B.) 337.

Assembly Bill 337: Creates the Office of Statewide Coordinator for Children Who Are Endangered by Drug Exposure in the Office of the Attorney General and makes various other changes concerning children who are endangered by drug exposure. (BDR 38-593)

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), explained that A.B. 337 was heard by the Committee on April 8, 2009. Mr. Stevens noted that Brett Kandt, Special Deputy Attorney General, Attorney General's (AG's) Office, had submitted a proposed amendment to the bill for the Committee's review, (Exhibit J). The amendment would change the language in section 1 of the bill to read, "Chapter 228 of NRS," rather than "Chapter 432B of NRS." Mr. Stevens said the bill would create the Office of Statewide Coordinator for Children Who Are Endangered by Drug Exposure within the AG's Office. He believed that the AG's Office planned to apply for federal funding for the Office.

Assemblywoman Leslie advised the Committee that there was no fiscal note attached to the bill. She said Nevada was currently unable to secure additional federal funding for drug-endangered children because it lacked an Office of Statewide Coordinator for Children Who Are Endangered by Drug Exposure. Assemblywoman Leslie indicated that the bill would allow such an office to be created within the AG's Office. The Committee had heard testimony from Washoe County Sheriff Mike Haley that he would like to donate private funding to the cause but could not do so because no office had been established.

The Chair called for a motion.

ASSEMBLYWOMAN KOIVISTO MOVED THAT THE COMMITTEE AMEND AND DO PASS A.B. 337 AS AMENDED.

ASSEMBLYMAN GRADY SECONDED THE MOTION.

THE MOTION PASSED. (Assemblymen Denis and Hardy and Assemblywoman Gansert were not present for the vote.)

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Chair Arberry opened discussion on Assembly Bill (A.B.) 534.

Assembly Bill 534: Makes a supplemental appropriation to the Office for Consumer Health Assistance in the Office of the Governor for unanticipated shortfalls in Fiscal Year 2008-2009 for the Bureau for Hospital Patients. (BDR S-1249)

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that A.B. 534 was the supplemental appropriation for the Office for Consumer Health Assistance. The supplemental appropriation was included in The Executive Budget and corrected funding allocations between General Fund, workers' compensation, and the other funding sources for the Office in prior fiscal periods.

The Chair called for a motion.

ASSEMBLYWOMAN SMITH MOVED THAT THE COMMITTEE DO PASS A.B. 534.

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

The Chair opened discussion.

Assemblywoman Buckley asked whether General Funds could be saved by not passing the bill. Mr. Stevens replied that the Office was financed via a cost allocation based on the workload in various areas and was funded by General Fund, workers' compensation, and other funding sources. Mr. Stevens explained that Fiscal Analysis Division staff "trued-up" the accounts so that the workers' compensation program was not paying for something that should be paid by the General Fund.

Assemblywoman Buckley said that she was simply "looking in the couch cushions for spare change," and she pointed out that several reserve accounts had been "swept," which normally would not be done by the Legislature. Assemblywoman Buckley asked what would occur if the Committee did not approve the bill; she assumed the Legislature could temporarily waive action to correct the internal cost allocation.

Mr. Stevens said failure to approve A.B. 534 would not be problematic, but the Legislature should rectify the account at some point in time.

Chair Arberry said it appeared that the consensus of the Committee was to take no action regarding A.B. 534 at the present time.

* * * * *

Chair Arberry opened discussion of Assembly Bill (A.B.) 536.

Assembly Bill 536: Requires the transfer of a certain sum of money from the Amateur Boxing Program Reserve of the Nevada Athletic Commission to the State General Fund. (BDR S-1213)

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that the bill was heard by the Committee on April 27, 2009, and was an administration bill. The bill required a transfer of approximately \$155,000 from the reserve in the Amateur Boxing Program within the budget for the Nevada Athletic Commission, and the amount was included in The Executive Budget.

ASSEMBLYMAN GOICOECHEA MOVED THAT THE COMMITTEE
DO PASS A.B. 536.

ASSEMBLYMAN GRADY SECONDED THE MOTION.

THE MOTION PASSED. (Assemblymen Denis and Hardy were not present for the vote.)

* * * * *

The Chair opened discussion regarding Assembly Bill (A.B.) 538.

Assembly Bill 538: Transfers the program for the medical use of marijuana from the State Department of Agriculture to the Health Division of the Department of Health and Human Services. (BDR 40-1180)

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that A.B. 538 was an administration bill and would transfer the program for medical use of marijuana from the State Department of Agriculture to the Health Division of the Department of Health and Human Services.

ASSEMBLYMAN GOICOECHEA MOVED THAT THE COMMITTEE DO PASS A.B. 538.

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

THE MOTION PASSED. (Assemblymen Denis and Hardy were not present for the vote.)

Chair Arberry advised that the Committee would commence with budget closing hearings.

SECRETARY OF STATE – BA 101-1050
BUDGET PAGE – ELECTED-127

Brian Burke, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), explained that the first closing issue in budget account (BA) 1050 was the replacement of special services revenue with General Fund, decision unit Enhancement (E) 325.

Mr. Burke stated that the Secretary of State's Office charged fees ranging from \$125 to \$1,000 for expedited document processing. Pursuant to current statute, one-half of the expedited services fee revenue must be deposited for credit to the Account for Special Services of the Secretary of State. Mr. Burke explained that the second half of the revenue was deposited directly into the General Fund. The money in the Account for Special Services had historically been transferred to the main operating account for the Secretary of State to create and maintain the capability to provide special services. Mr. Burke said in recent years, that source of revenue had represented more than half of the funding in the Secretary of State's main operating account.

Mr. Burke said that as discussed throughout the 2007-2009 biennium and also in recent session budget hearings, special services revenue had declined considerably because of economic conditions, as well as enhanced online filing capability and use. The following chart depicted the drop in revenues:

Special Services Revenues (50% Share)	
<u>Fiscal Year</u>	<u>Special Services Amount</u>
2005 (Actual)	\$5,457,251
2006 (Actual)	\$5,736,139
2007 (Actual)	\$4,673,409
2008 (Actual)	\$4,036,723
2009 (Projected)	\$2,840,710
2010 (Projected)	\$2,272,569
2011 (Projected)	\$1,818,056

Mr. Burke stated that as requested by the Secretary of State, the Governor recommended a statutory revision, Senate Bill (S.B.) 53 (R1), to eliminate the transfers to the special services account. Under that plan, 100 percent of the special services revenue would be deposited directly into the General Fund.

According to Mr. Burke, The Executive Budget increased General Fund appropriations by \$4.51 million in fiscal year (FY) 2010 and \$4.57 million in FY 2011. The net affect on the General Fund would be \$2.23 million in FY 2010 and \$2.75 million in FY 2011, and those amounts were accounted for within The Executive Budget.

The decision before the Committee, explained Mr. Burke, was whether it wished to approve the Governor's recommendation as requested by the Secretary of State to replace special services account revenue transfers with General Fund appropriations. Mr. Burke indicated that the passage of S.B. 53 (R1) would be necessary to allow the deposit of 100 percent of the special services revenue directly to the General Fund.

ASSEMBLYWOMAN MCCLAIN MOVED THAT THE COMMITTEE APPROVE DECISION UNIT E325 AS RECOMMENDED BY THE GOVERNOR.

ASSEMBLYMAN OCEGUERA SECONDED THE MOTION.

Assemblywoman Gansert asked for clarification regarding the projected amounts over the upcoming biennium and whether the recommendation was to add General Fund as projected in the aforementioned chart.

Mr. Burke replied that the special services revenue source had come to be relied upon as a primary source of revenue for the main operating account within the Secretary of State's Office. The Secretary of State had made budget reductions in an attempt to make up the loss in revenue, but the revenue had continued to decrease. Mr. Burke stated that the recommendation in The Executive Budget would replace that revenue loss with General Fund appropriations.

Ms. Gansert wondered whether the entire amount should be replaced, or whether some funding should be placed in the Secretary of State's budget account so that the Office could approach the Interim Finance Committee (IFC) for additional funding, rather than dedicating the entire amount now. Assemblywoman Gansert pointed out that the amounts for the 2009-2011 biennium were projected rather than actual amounts. She noted that the funding was projected to plummet in FY 2009, and she asked whether there had been an update regarding those projections.

Mr. Burke stated that he had recently received updated information regarding the projections. As of April 28, 2009, the balance of special services revenue collected was approximately \$2.5 million, and it appeared that the projections remained reasonable.

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

THE MOTION CARRIED. (Assemblymen Denis and Hardy were not present for the vote.)

Mr. Burke stated that the next closing issue was the Auction Rate Securities settlement, which was not included in The Executive Budget. He reported that

the Secretary of State recently announced that the Office had received \$1.62 million from the Auction Rate Securities settlements negotiated by the North American Securities Administrators Association.

According to Mr. Burke, pursuant to the provisions of *Nevada Revised Statutes* (NRS) 90.851, the Secretary of State deposited the settlement proceeds in the Investigations and Enforcement Revolving Account, budget account (BA) 1053. The Secretary of State estimated the unobligated balance in the revolving account, settlement plus reserves, was approximately \$1.7 million. Mr. Burke said the Secretary of State had proposed a number of uses for the settlement and unobligated reserve funding, including several add-backs:

1. Special Services revenue shortfall (FY 2009, BA 1050), \$900,000
2. HAVA match-special services revenue shortfall (FY 2009, BA 1050), \$42,000
3. Restore legal research assistant 1 position (FY 2010 and FY 2011, BA 1050), \$147,989
4. Restore legal secretary 2 position (FY 2010 and FY 2011, BA 1050), \$126,793
5. Add funding for equipment maintenance (FY 2010 and FY 2011, BA 1050), \$610,000
6. Add HAVA grant match (FY 2010 and FY 2011, BA 1051), \$36,527
7. Upgrade program officer position (FY 2010 and FY 2011, BA 1050), \$18,685
8. Restore compliance audit investigator 3 position (FY 2010 and FY 2011, BA 1053), \$119,599

Mr. Burke stated that the most significant item on the Secretary of State's list would fund the supplemental appropriation that was currently recommended in The Executive Budget. He explained that funding the supplemental appropriation with revenues made available from the Auction Rate Securities settlement would result in a General Fund savings of \$942,006 as compared to the Governor's recommended amounts.

According to Mr. Burke, the list provided by the Secretary of State was in priority order. Fiscal Analysis Division staff noted that the Auction Rate Securities settlement was a one-time funding source and the list provided by the Secretary of State included an equal mix of one-time and ongoing expenditures.

Mr. Burke said Fiscal Analysis Division staff would suggest that the Committee revert the Auction Rate Securities settlement proceeds and unobligated revolving fund reserves, a total of \$1.7 million, to the General Fund in FY 2009. Mr. Burke noted that staff would then request the authority to have legislation drafted to process the transaction, if necessary. Individual General Fund add-back decisions pursuant to the list provided by the Secretary of State could be discussed by the Committee as it reviewed each decision unit.

For the Committee's information, Mr. Burke noted that the Senate Committee on Finance had closed the budget accounts within the Secretary of State's Office including the add-backs requested by the Secretary of State.

Assemblyman Goicoechea asked about the total cost of the add-backs. Mr. Burke replied that the list presented by the Secretary of State totaled \$2,001,599; however, two of the priority items on the list would result in a General Fund savings, as compared to the recommendation in The Executive Budget.

Chair Arberry called for a motion.

ASSEMBLYWOMAN MCCLAIN MOVED THAT THE COMMITTEE APPROVE REVERSION OF THE AUCTION RATE SECURITIES SETTLEMENT PROCEEDS AND UNOBLIGATED REVOLVING FUND RESERVE TOTALING \$1.7 MILLION TO THE GENERAL FUND IN FY 2009, AS RECOMMENDED BY STAFF.

ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.

Assemblywoman Gansert wondered whether the number one priority on the Secretary of State's list, special services revenue shortfall in the amount of \$900,000, would be balanced against the General Fund. Mr. Burke explained that the first priority on the Secretary of State's list represented an FY 2009 appropriation because the Office had experienced a substantial shortfall in the current fiscal year.

Chair Arberry called for a vote on the motion currently before the Committee.

THE MOTION CARRIED. (Assemblymen Denis and Hardy were not present for the vote.)

The next issue for Committee review, said Mr. Burke, was the aforementioned supplemental appropriation. He stated that special services revenues had been budgeted at \$5.63 million for FY 2009. However, the Office currently projected revenue receipts at \$2.84 million, which was \$2.79 million less than the legislatively approved amount.

Mr. Burke pointed out that the Secretary of State had taken a number of actions in FY 2009 to address the shortfall, such as eliminating positions, reducing expenditures, reallocating costs to other accounts within the Office, and balancing forward the remaining revenue of \$717,977 from FY 2008. However, said Mr. Burke, those actions had not been sufficient to fully erase the \$2.79 million revenue gap.

According to Mr. Burke, the supplemental appropriation recommended in The Executive Budget was \$942,006 in FY 2009, which appeared to be reasonable. However, said Mr. Burke, additional information would be forthcoming regarding salary adjustments and further projections regarding special services revenue before a bill could be processed. Mr. Burke stated that if the Committee processed a bill draft request (BDR) for the supplemental appropriation, Fiscal Analysis Division staff would provide an update at the time the bill was heard.

Mr. Burke said the decision before the Committee was whether it wished to approve the Governor's recommendation for a supplemental appropriation, and if so, the Committee should direct that a BDR be processed to implement the action. Mr. Burke noted that the Committee had approved action to revert the Auction Rate Securities settlement proceeds to the General Fund, and the resulting General Fund savings could be used as a funding source for the transaction, which would result in a General Fund savings of \$942,006, as compared to the amounts recommended in The Executive Budget.

Chair Arberry called for a motion.

ASSEMBLYWOMAN BUCKLEY RECOMMENDED THAT THE COMMITTEE APPROVE THE SUPPLEMENTAL APPROPRIATION AS

RECOMMENDED BY STAFF AND REQUEST THE PROCESSING OF
A BILL DRAFT REQUEST TO IMPLEMENT THE APPROPRIATION.

ASSEMBLYMAN GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblymen Denis and Hardy were not
present for the vote.)

Mr. Burke said the next item for consideration by the Committee was the transfer of the Investigations and Enforcement Account, as depicted in decision units Enhancement (E) 903 through E911. He explained that as requested by the Secretary of State, The Executive Budget recommended elimination of the Investigations and Enforcement Account, BA 1053, and the transfer of all General Fund appropriations and other revenues to the main operating account.

Per Mr. Burke, the transfer had been an evolving issue over the past two biennia, and Fiscal Analysis Division staff fully supported the proposal to merge the two accounts and bring the Investigations and Enforcement positions back into the main operating account. However, said Mr. Burke, *Nevada Revised Statutes* (NRS) 90.851, included specific provisions regarding how the money in the Investigations and Enforcement account could be used.

Mr. Burke commented that Fiscal Analysis Division staff would suggest that related expenditures be removed from the general categories and segregated into unique expenditure categories. Mr. Burke explained that such action would improve expenditure tracking and ensure that the non-reverting portion of the funding was appropriately accounted for. He stated that NRS 90.851 also established an independent revolving account, and the Legal Division of the Legislative Counsel Bureau (LCB) advised that a statutory change would be required to proceed with the merger. Fiscal Analysis Division staff would suggest that if the Committee wished to approve the merger, authorization be given to staff to have legislation drafted to remove the revolving account provisions of NRS 90.851.

Mr. Burke reported that revenues from miscellaneous fines assessed by the Securities Division funded the operating expenditures associated with Investigations and Enforcement activities. The fluctuating nature of those activities and the subsequent fine revenues generated would make it difficult to predict the timing and amount of money that would be generated. Mr. Burke stated that as a result, it was necessary to retain a significant reserve to ensure cash flow was available at the beginning of the year to fund expenditures that were fund-mapped to that revenue source.

Mr. Burke stated that NRS 90.851 provided a balance forward provision, but there would be a conflict with the reversion provisions of the Authorizations Act. Fiscal Analysis Division staff would suggest that language be added to the Authorizations Act to allow the balance forward of fine revenues and to allow the Office to receive revenues beyond legislatively authorized amounts subject to the approval of the Interim Finance Committee (IFC).

According to Mr. Burke, the recommended merger of the Investigations and Enforcements account with the Secretary of State's main account appeared reasonable to Fiscal Analysis Division staff.

The Chair called for a motion.

ASSEMBLYWOMAN MCCLAIN MOVED THAT THE COMMITTEE APPROVE THE TRANSFER OF THE INVESTIGATIONS AND ENFORCEMENT ACCOUNT, DECISION UNITS E903 – E911, AS RECOMMENDED BY STAFF, WHICH WOULD ALLOW STAFF TO:

- “ CREATE UNIQUE EXPENDITURE CATEGORIES FOR INVESTIGATIONS AND ENFORCEMENT OPERATING COSTS.
- “ DRAFT LEGISLATION TO ENABLE THE MERGER OF THE ACCOUNTS BY REMOVING THE REVOLVING ACCOUNT, THUS ALLOWING REVENUES TO BE DEPOSITED INTO THE MAIN OPERATING ACCOUNT FOR THE SECRETARY OF STATE.
- “ ADD LANGUAGE TO THE AUTHORIZATIONS ACT, OR MAKE OTHER STATUTORY PROVISIONS AS NECESSARY, TO ALLOW THE BALANCE FORWARD OF FINE REVENUES AND TO ALLOW THE OFFICE TO RECEIVE REVENUES BEYOND LEGISLATIVELY AUTHORIZED AMOUNTS, SUBJECT TO APPROVAL BY THE INTERIM FINANCE COMMITTEE.

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

THE MOTION CARRIED. ((Assemblymen Denis and Hardy were not present for the vote.))

Mr. Burke stated that the next item for consideration by the Committee was budget reductions as depicted in decision unit Maintenance (M) 160. The Executive Budget recommended elimination of a total of 13.55 full-time equivalent (FTE) positions from the Secretary of State's main operating account. Mr. Burke reported that the elimination of positions was a continuation of the budget reductions made throughout the current biennium.

Per Mr. Burke, the Secretary of State reported that the position reductions would affect the office operations. The affects in the main account were being absorbed by existing staff, as well as an increased reliance upon online filing and processing. Mr. Burke reported that, according to the Secretary of State's Office, current staffing levels had been sufficient to meet the workload because of a decline in filing activity. However, the Office cautioned that as filing activities increased, processing time would be further extended.

Mr. Burke stated that the Committee should note that the Secretary of State asked for consideration to make two modifications to the Governor's recommendation regarding position eliminations. The first modification was the restoration of two Elections Division positions: a legal research assistant 1 and a legal secretary 2. Mr. Burke pointed out that the cost of the add-backs would be approximately \$136,117 in FY 2010 and \$138,665 in FY 2011.

According to Mr. Burke, the Secretary of State indicated that if the positions were not restored, the staffing level within the Elections Division would be diminished by 40 percent. The two positions were priority numbers 3 and 4 on the Secretary of State's add-back list. Mr. Burke advised that the decision before the Committee was whether it wished to restore the legal secretary and legal research assistant positions that were currently recommended for elimination in The Executive Budget.

Assemblyman Goicoechea asked about the total staff reduction if the Committee restored the two positions for the Election Division. Mr. Burke replied that The Executive Budget recommended a reduction of 13.55 positions, and the Secretary of State requested that two positions be restored in the Elections Division. Assemblyman Goicoechea pointed out that there would still be a reduction of 11.55 positions to which Mr. Burke agreed.

The Chair called for a motion.

ASSEMBLYMAN GOICOECHEA MOVED THAT THE COMMITTEE RESTORE THE LEGAL SECRETARY AND LEGAL RESEARCH ASSISTANT POSITIONS AS REQUESTED BY THE SECRETARY OF STATE.

ASSEMBLYWOMAN KOIVISTO SECONDED THE MOTION.

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

Mr. Burke stated that the next issue for Committee consideration was to retain eliminated positions on the roster. Rather than eliminating 6.0 FTE positions that were left vacant in FY 2009, as recommended in The Executive Budget, the Secretary of State asked to retain those positions on the roster without funding. Mr. Burke stated the positions included four administrative assistants, one personnel technician, and one accounting assistant. The Office indicated that such action would allow the Secretary of State to request funding through the IFC for individual positions should the need arise and providing the Office submitted appropriate justification.

Mr. Burke indicated that Fiscal Analysis Division staff would make no recommendation regarding the request, but if additional staffing needs arose over the interim, IFC approval would be required to provide funding for the positions regardless of whether or not the positions remained on the roster.

For the Committee's information, Mr. Burke advised that the Senate Committee on Finance closed the Secretary of State's budget without approval to retain the eliminated positions.

Assemblywoman Leslie said her concern was that if the Committee took such action for one agency, there would be others who also requested to retain vacant positions. She pointed out that if the need arose, the Secretary of State's Office could come before the IFC and request an additional position.

Mr. Burke stated that was correct. He added that when the Senate Finance Committee declined to approve the request to allow the positions to remain on the roster, the Secretary of State's Office raised no objections to that action.

Mr. Burke stated that the other issue for Committee consideration was whether the Committee wished to approve the balance of the Governor's position elimination recommendation as reflected in The Executive Budget.

Chair Arberry called for a motion.

ASSEMBLYWOMAN LESLIE MOVED THAT THE COMMITTEE NOT APPROVE RETENTION OF THE 6.0 FTE POSITIONS THAT HAD REMAINED VACANT IN FY 2009 ON THE ROSTER FOR THE

SECRETARY OF STATE AND THAT THE COMMITTEE APPROVE THE GOVERNOR'S POSITION ELIMINATION RECOMMENDATION AS REFLECTED IN THE EXECUTIVE BUDGET.

ASSEMBLYMAN GRADY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Mr. Burke stated that other closing items within budget account (BA) 1050 included decision unit E674, which recommended deferral of the proposed salary increase for the Secretary of State. Mr. Burke indicated that the information was being presented to the Committee for informational purposes, as a decision regarding the salaries for elected officials would be made independent of budget closing action.

The next item for review by the Committee was the Registry of Advance Directives for Health Care (Living Will Lockbox). Mr. Burke explained that A.B. No. 158 of the 2007 Session provided that the Secretary of State would establish and maintain the Registry of Advance Directives for Health Care. Pending approval of the IFC, the Budget Division had approved a request from the Secretary of State to reclassify an existing grade 25 administrative assistant 2 position to a grade 31 program officer 1 position. Mr. Burke explained that the reclassification was slated to be heard at the April 20, 2009, IFC meeting but was held pending action of the legislative money committees. The Secretary of State indicated that the upgrade was requested in large part because of the significant additional duties assumed by the position in administering the Living Will Lockbox program.

Mr. Burke explained that funding for the upgrade was not included in The Executive Budget, and additional costs for salary and fringe benefits would total approximately \$8,382 in FY 2010 and \$8,769 in FY 2011. The upgrade was identified as priority number 7 on the Secretary of State's add-back list. Mr. Burke stated that the request to upgrade the position appeared reasonable to staff. The decision for the Committee was whether it wished to approve the Secretary of State's add-back request to upgrade the position.

Chair Arberry asked about the action taken by the Senate Committee on Finance. Mr. Burke replied that the Senate Committee on Finance had approved the add-back list as submitted by the Secretary of State.

Chair Arberry called for a motion.

ASSEMBLYWOMAN KOIVISTO MOVED THAT THE COMMITTEE APPROVE THE REQUEST TO UPGRADE THE EXISTING ADMINISTRATIVE ASSISTANT 2 POSITION TO A PROGRAM OFFICER 1 POSITION.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Mr. Burke explained that the next issue for consideration by the Committee was the contract with Northrop/Grumman to maintain the Secretary of State's ESOS system. He said the current contract was set to expire on July 15, 2009. In the adjusted base request, The Executive Budget proposed to reduce the Northrop/Grumman contract services line item from \$705,750 per year to \$55,000 per year.

Mr. Burke advised that the Secretary of State expressed concerns that the funding included in The Executive Budget would be insufficient to adequately maintain and support the ESOS system. An example provided by the Secretary of State reported that in January 2009, there were significant problems with the ESOS system that resulted in shutdowns and delays. According to the Office, said Mr. Burke, time spent by Northrop/Grumman to identify the source and nature of the problem, exclusive of a resolution to the problem, cost approximately \$55,000 in one month.

Per Mr. Burke, the Secretary of State proposed restoration of the funding for the ESOS system maintenance as priority number 5 on its add-back list, at a cost of \$305,000 per year. In addition to the amounts included in the base budget, that amount would provide 200 hours of maintenance programmer support per month.

The decision for the Committee, said Mr. Burke, was whether it wished to approve General Fund appropriations of \$305,000 per year to restore maintenance funding for the ESOS system, as requested by the Secretary of State in priority number 5 on the add-back list. Mr. Burke noted that the Senate Committee on Finance had concurred with the request.

Assemblyman Grady asked whether the Secretary of State could approach the IFC for additional funding if the funding was insufficient to provide needed maintenance, rather than approving the significant add-back in General Funds.

Mr. Burke explained that the Secretary of State was eligible to approach the IFC for a Contingency Fund allocation. However, he pointed out that a request for \$305,000 per year would be a substantial request from the Contingency Fund.

Assemblywoman McClain commented that the state was running the risk of system failure at the Secretary of State's Office if its ESOS system was not properly maintained. She opined that the Committee did not have much choice in the matter of maintenance.

Assemblywoman Buckley asked Mr. Miller whether the maintenance contract was offered at the best possible price.

Ross Miller, Secretary of State, replied that the maintenance contract with Northrop/Grumman was offered at the best price. He explained that the ESOS system was an award-winning system within the Secretary of State's Office for processing paperwork. Mr. Miller stated that before the system was in place it would take up to six weeks for paperwork to be processed for establishment of a Limited Liability Company (LLC). That processing time had been reduced because of the ESOS system, which was responsible for Nevada now being number 2 in the number of entities on file with the state, behind only Delaware. Mr. Miller explained that jurisdictions from throughout the country came to Nevada to observe the ESOS system.

Assemblywoman Buckley asked whether 200 hours of maintenance would be needed each month. Mr. Miller referenced the example provided to the Committee by Mr. Burke of the system shutdown experienced in January 2009, when the system collapsed and the maintenance cost for that incident alone was \$55,000. Mr. Miller believed that approaching the IFC for a Contingency Fund allocation would create a timing issue, because the Secretary of State would not be able to immediately request assistance from the contractor to restore the system. He emphasized that the ESOS system was responsible for the revenue generated by the Secretary of State's Office.

The Chair called for a motion.

ASSEMBLYWOMAN BUCKLEY MOVED THAT THE COMMITTEE APPROVE A GENERAL FUND APPROPRIATION OF \$305,000 IN EACH YEAR OF THE 2009-2011 BIENNIUM TO RESTORE MAINTENANCE FUNDING FOR THE ESOS SYSTEM.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Mr. Burke stated that the next item for Committee consideration was credit card discount fees. As requested by the Secretary of State, the Governor recommended an additional \$200,000 in FY 2010 and \$230,000 in FY 2011 for projected increases in credit card fees paid to card issuers. Mr. Burke explained that was primarily because of the significant rise in revenues generated through credit card transactions.

In FY 2005, said Mr. Burke, the Secretary of State reported that credit card revenues represented approximately 12.7 percent of the total commercial recordings revenues. In FY 2011, credit card revenues were anticipated to increase to 52 percent of total revenues.

Mr. Burke said the decision for the Committee was whether it wished to approve \$200,000 in FY 2010 and \$230,000 in FY 2011 in credit card fees paid to card issuers.

Chair Arberry called for a motion.

ASSEMBLYWOMAN MCCLAIN MOVED THAT THE COMMITTEE APPROVE \$200,000 IN FY 2010 AND \$230,000 IN FY 2011, AS RECOMMENDED BY THE GOVERNOR, FOR PROJECTED INCREASES IN CREDIT CARD FEES PAID TO CARD ISSUERS.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Mr. Burke provided an explanation of the remaining closing issues in BA 1050 as follows:

- Position reclassification, decision unit E805, as requested by the Secretary of State. The Executive Budget included a reclassification of an administrative assistant 2 position to an information technology professional 3 position. The recommendation appeared reasonable to Fiscal Analysis Division staff.
- Replacement equipment, decision unit E710, included General Fund appropriations of \$161,088 in FY 2010 and \$273,776 in FY 2011 for various pieces of replacement hardware and software.
- Telephone cost transfer, decision unit E901, would reduce General Fund appropriations by \$611 in FY 2010 and \$555 in FY 2011.

For the Committee's information, Mr. Burke stated there was a conflict between the language in the Unclassified Pay Bill and the NRS regarding the status of the administrator of the Securities Division; however, no action would be required by the Committee regarding that item.

Mr. Burke stated that the decision for consideration by the Committee was whether it wished to approve the remaining closing items as recommended by the Governor in The Executive Budget.

Chair Arberry called for a motion.

ASSEMBLYWOMAN LESLIE MOVED THAT THE COMMITTEE APPROVE THE REMAINING CLOSING ISSUES OUTLINED BY STAFF AS RECOMMENDED BY THE GOVERNOR, INCLUDING AUTHORITY FOR FISCAL ANALYSIS DIVISION STAFF TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY.

ASSEMBLYMAN GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

BUDGET CLOSED.

* * * * *

Chair Arberry opened discussion regarding budget account (BA) 1051.

SOS-HAVA ELECTION REFORM – BA 101-1051
BUDGET PAGE – ELECTED-139

Brian Burke, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that there were three major closing issues in BA 1051.

The first item for review by the Committee was the additional HAVA funding that was not included in The Executive Budget. Mr. Burke indicated that the Secretary of State reported that the 2009 Omnibus Appropriations Act provided an additional \$694,006 in federal HAVA grant funding to Nevada for implementation of the federal election administration and technology requirements under Title III of HAVA. Mr. Burke advised that Nevada must provide a match of 5 percent or \$36,527.

Mr. Burke indicated that because the information only recently became available, the grant and the state match were not included in The Executive Budget. The Secretary of State identified the HAVA grant match as priority number 6 on the add-back list.

Mr. Burke stated that the decision for the Committee was whether it wished to add a General Fund appropriation of \$36,527 in FY 2010 to enable the Secretary of State to match \$694,006 in additional HAVA federal funding.

Assemblywoman Buckley asked whether the General Fund appropriation was included in The Executive Budget. Vice Chair Leslie believed that the appropriation was not in the budget because the information had been recently received, and Mr. Burke agreed.

Vice Chair Leslie called for a motion.

ASSEMBLYWOMAN MCCLAIN MOVED THAT THE COMMITTEE APPROVE A GENERAL FUND APPROPRIATION OF \$36,527 IN FY 2010 AS MATCHING FUNDS FOR ADDITIONAL HAVA FEDERAL FUNDING AND DIRECT STAFF TO ENSURE THE

APPROPRIATIONS ACT INCLUDED LANGUAGE TO ALLOW THE SECRETARY OF STATE TO BALANCE FORWARD THE MATCHING APPROPRIATION AS NECESSARY.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION CARRIED. (Chair Arberry was not present for the vote.)

Mr. Burke explained that the second item was access to the Interim Finance Committee (IFC) Contingency Fund. The Executive Budget recommended adding \$100 in each year of the biennium to allow BA 1051 access to the IFC. Mr. Burke stated that the recommendation appeared reasonable because of the loss of the revenue from the special services account. Mr. Burke commented that the Committee's approval of the additional HAVA funding would eliminate the need for the \$100 in the first year of the biennium.

Vice Chair Leslie called for a motion.

ASSEMBLYMAN HARDY MOVED THAT THE COMMITTEE APPROVE ADDING GENERAL FUND OF \$100 IN THE SECOND YEAR OF THE BIENNIUM TO ALLOW ACCESS TO THE INTERIM FINANCE COMMITTEE CONTINGENCY FUND.

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

THE MOTION CARRIED. (Chair Arberry was not present for the vote.)

Mr. Burke stated that the next closing item was a balance forward reconciliation, which was not included in The Executive Budget. He explained that Fiscal Analysis Division staff would request authority to incorporate the results of a reconciliation conducted by the Secretary of State's Office. Mr. Burke reported that staff at the Secretary of State's Office had conducted a comprehensive reconciliation dating back to the inception of the HAVA program and reconciled balances forward and grant awards.

Vice Chair Leslie called for a motion.

ASSEMBLYWOMAN MCCLAIN MOVED THAT THE COMMITTEE AUTHORIZE FISCAL ANALYSIS DIVISION STAFF TO PREPARE ANY RECONCILING ADJUSTMENTS TO ACCURATELY REFLECT CARRY FORWARDS AND BALANCES WITHIN BA 1051.

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

THE MOTION CARRIED. (Chair Arberry was not present for the vote.)

Continuing his presentation, Mr. Burke reported that other closing items included:

- Computer hardware and software replacement, decision unit Enhancement (E) 710. The Executive Budget recommended \$933,480 for hardware and software needed to improve the administration of elections. The bulk of the equipment would be distributed to the counties. The recommendation included 63 laptops, 244 desktop PCs,

44 network printers, 19 servers, Microsoft Windows and SQL server software; 27 scanners, 134 bar code readers, and 125 label writers. The Secretary of State reported that the funding was needed to replace aging components of voting systems at the county level. The equipment was purchased with a two-year warranty, which had been extended for a fee by the vendor up to a maximum of two additional years, for a total of four years. The Secretary of State indicated that the Office could not risk failure of election equipment that was not covered by warranty.

- Programmer support, decision unit E275. The Executive Budget recommended \$4,286 in FY 2010 and \$4,204 in FY 2011 to fund four hours per month of programmer time to maintain and support electronic voting system and statewide voter registration system needs.
- HAVA operating transfers, decision units E501 and E901. The decision units would transfer \$611 in FY 2010 and \$555 in FY 2011 of HAVA costs from the main operating account to the HAVA account and modify the funding source from General Fund to reserves.

Mr. Burke said the decision for the Committee was whether it wished to approve the other closing items as recommended by the Governor, including technical adjustments.

ASSEMBLYMAN HARDY MOVED THAT THE COMMITTEE APPROVE THE OTHER CLOSING ITEMS AS RECOMMENDED BY THE GOVERNOR, INCLUDING AUTHORITY FOR FISCAL ANALYSIS DIVISION STAFF TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY.

ASSEMBLYWOMAN KOIVISTO SECONDED THE MOTION.

THE MOTION CARRIED. (Chair Arberry was not present for the vote.)

BUDGET CLOSED.

Vice Chair Leslie opened discussion of budget account (BA) 1053.

SOS – INVESTIGATIONS AND ENFORCEMENTS – BA 101-1053
BUDGET PAGE – ELECTED-146

Brian Burke, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that there were two major closing items in BA 1053. The first issue, said Mr. Burke, was the transfer of the Investigations and Enforcement account, decision units Enhancement (E) 903 through E911. That issue was addressed by the Committee in its previous action today regarding the budget accounts within the Secretary of State's Office.

Mr. Burke indicated that the second closing issue was budget reductions and position eliminations, decision unit Maintenance (M) 160. The Executive Budget proposed to eliminate 9 of the 27 positions within BA 1053. Mr. Burke said as noted in the closing issues for BA 1050, the Secretary of State requested the restoration of a compliance audit investigator position. The restoration of that position was the priority number 8 on the Secretary of State's add-back list, with a General Fund cost of \$58,413 in FY 2010 and \$61,186 in FY 2011.

Pursuant to the request of the Secretary of State, Mr. Burke asked whether the Committee wished to add General Fund appropriation.

According to Mr. Burke, The Executive Budget recommended elimination of nine positions and the Secretary of State was asking for restoration of one of the compliance audit investigator positions; therefore, only eight positions would be eliminated.

Vice Chair Leslie called for a motion.

ASSEMBLYWOMAN MCCLAIN MOVED THAT THE COMMITTEE APPROVE THE RESTORATION OF ONE COMPLIANCE AUDIT INVESTIGATOR POSITION WITHIN BA 1053 AND APPROVE ELIMINATION OF THE EIGHT REMAINING POSITIONS.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION CARRIED WITH ASSEMBLYMAN HARDY VOTING NO. (Chair Arberry was not present for the vote.)

Mr. Burke said there were only two remaining minor closing items:

1. Investigator Armament Recertification, decision unit E250.
2. Replacement equipment, decision unit E710.

Mr. Burke stated that the decision before the Committee was whether it wished to approve the other closing items as recommended by the Governor.

Vice Chair Leslie called for a motion.

ASSEMBLYMAN DENIS MOVED THAT THE COMMITTEE APPROVE THE OTHER CLOSING ITEMS AS RECOMMENDED BY THE GOVERNOR WITH THE AUTHORITY FOR FISCAL ANALYSIS DIVISION STAFF TO MAKE NECESSARY TECHNICAL ADJUSTMENTS.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

THE MOTION CARRIED. (Chair Arberry was not present for the vote.)

BUDGET CLOSED.

Vice Chair Leslie opened discussion of budget account (BA) 1000.

OFFICE OF THE GOVERNOR – BA 101-1000
BUDGET PAGE – ELECTED-1

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), advised the Committee that there were no major closing items in BA 1000. Other closing items included:

- Decision unit Maintenance (M) 160 reduced General Fund support by a total of \$374,166 in FY 2010 and \$374,186 in FY 2011.

- Decision units Enhancement (E) 670 through E674 would implement temporary salary reductions and the recommendations of the Spending and Government Efficiency (SAGE) Commission.
- Decision unit E900 had a provision for the physical relocation of the High Level Nuclear Waste Project Office from non-state-owned building, but that was eliminated through budget amendment number 137.

Mr. Stevens stated that the decision before the Committee was whether it wished to approve BA 1000 as recommended by the Governor with the inclusion of budget amendment number 137 to eliminate the physical relocation of the High Level Nuclear Waste Project Office. Mr. Stevens pointed out that the budget accounts for that Office had been closed assuming approval of the budget amendment.

Vice Chair Leslie called for a motion.

ASSEMBLYMAN DENIS MOVED THAT THE COMMITTEE APPROVE
BA 1000 AS RECOMMENDED BY THE GOVERNOR, INCLUDING
BUDGET AMENDMENT NUMBER 137.

ASSEMBLYMAN GOICOECHEA SECONDED THE MOTION.
THE MOTION CARRIED. (Chair Arberry and Assemblywoman
Buckley were not present for the vote.)

BUDGET CLOSED.

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Vice Chair Leslie opened discussion of budget account (BA) 1001.

GOVERNOR'S MANSION MAINTENANCE – BA 101-1001
BUDGET PAGE – ELECTED-7

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that there were no major closing issues in BA 1001. He indicated that other closing issues included decision unit Maintenance (M) 160, adjustments to the Host Fund and the food budget in the adjusted base within BA 1001. Mr. Stevens stated that Fiscal Analysis Division staff did not recommend adjustments and recommended that the budget be closed as recommended in The Executive Budget.

ASSEMBLYMAN CONKLIN MOVED THAT THE COMMITTEE
APPROVE BA 1001 AS RECOMMENDED BY THE GOVERNOR.

ASSEMBLYWOMAN GANSERT SECONDED THE MOTION.

THE MOTION CARRIED. (Chair Arberry and Assemblywoman
Buckley were not present for the vote.)

BUDGET CLOSED.

* * * * *

Vice Chair Leslie opened discussion regarding budget account (BA) 3920.

PUBLIC UTILITIES COMMISSION – BA 224-3920
BUDGET PAGE – PUBLIC UTILITIES COM-1

Mike Chapman, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that there was one closing issue in BA 3920 for the Committee's review.

Mr. Chapman explained that the Public Utilities Commission (PUC) was funded primarily through a mill assessment against the gross utility operating revenues. The budget for the 2009-2011 biennium had been built upon the current mill assessment rate of 1.95 mills in both years of the biennium. However, said Mr. Chapman, the revenues projected at that mill rate, combined with the recommendations included in The Executive Budget, would increase the ending reserve level to \$4.15 million in fiscal year (FY) 2010 and further increase the reserve level to \$4.80 million in FY 2011. Mr. Chapman advised the Committee that there were no General Funds in BA 3920.

Regarding the reserves, Mr. Chapman said while the ending reserve level in FY 2011 was projected at \$4.80 million, there were some adjustments that had not been reflected in The Executive Budget. The first adjustment was the \$800,000 one-time transfer from the PUC's reserve to the General Fund, which had been approved by the 25th Special Session. Mr. Chapman stated there was also a minor technical adjustment. The ending FY 2009 work program amount had been overstated by approximately \$81,000. Mr. Chapman stated that Fiscal Analysis Division staff included technical adjustments to address those two items.

According to Mr. Chapman, the Governor's recommendations for salary and fringe benefits adjustments was one of the primary reasons for the high reserve figures in both years of the upcoming biennium. However, said Mr. Chapman, if the Governor's recommendations were not approved, the reserve amount would drop to approximately \$2.5 million by the end of FY 2011. Conversely, if the Governor's recommendations were approved, the PUC anticipated the loss of between eight to ten staff through retirement, at a cost of approximately \$200,000.

Mr. Chapman said the PUC had statutory authority to annually adjust the mill assessment rate. Historically, the PUC evaluated its budget requirements in May of each year and forwarded assessment notices to the regulated entities by June of each year. Mr. Chapman stated that the PUC typically adjusted its mill assessment rate upwards or downwards depending on its authorized expenditures and in an attempt to achieve the targeted reserve level.

If the Committee desired, said Mr. Chapman, it could instruct the PUC to submit semiannual reports regarding the reserve level to the Interim Finance Committee (IFC) through a Letter of Intent. Mr. Chapman indicated each report would cover a six-month period, ending June 30 and December 31 each year. The report would be an advisory issue for consideration by the IFC over the interim period.

Mr. Chapman stated that Fiscal Analysis Division staff would request approval of the aforementioned two technical adjustments.

Vice Chair Leslie believed that the Committee should request semiannual reports to the IFC through a Letter of Intent.

ASSEMBLYWOMAN GANSERT MOVED THAT THE COMMITTEE APPROVE THE TWO TECHNICAL ADJUSTMENTS RECOMMENDED BY FISCAL ANALYSIS DIVISION STAFF AND INSTRUCT THE PUC, THROUGH A LETTER OF INTENT, TO PROVIDE SEMIANNUAL REPORTS REGARDING THE RESERVE BALANCE TO THE INTERIM FINANCE COMMITTEE.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

Assemblyman Denis disclosed under Assembly Standing Rule 23 that he was employed by the PUC and even though the action of the Committee would not affect him any differently than other employees of the PUC, he would abstain from voting on the budget accounts for the PUC.

THE MOTION CARRIED WITH ASSEMBLYMAN DENIS ABSTAINING. (Assemblywoman Buckley was not present for the vote.)

Mr. Chapman stated that other closing items included decision unit Enhancement (E) 250. The Executive Budget recommended reserve funding of \$115,289 in FY 2010 and \$65,289 in FY 2011 be added to the base funding amount of \$19,711 in each year of the biennium for expert consultants to supplement the PUC's staff in support of financial and technical issues.

Mr. Chapman indicated that the PUC estimated a funding need of \$135,000 in FY 2010, \$75,000 of which would be to cover consultant fees for depreciation studies for Sierra Pacific Power Company and Westpac Utilities to address an anticipated rate case. Mr. Chapman said that \$50,000 would also be needed for consultants to evaluate the ability of Sierra Pacific Power and Nevada Power to adequately finance the Ely Energy Center; an additional \$10,000 would be used to provide technical support for the "Call Before You Dig" program.

Mr. Chapman reported that in FY 2011, The Executive Budget recommended additional funding of \$85,000. He explained that \$75,000 would be used to conduct a depreciation study for Nevada Power Company and \$10,000 for technical assistance for the "Call Before You Dig" program.

According to Mr. Chapman, at the March 16, 2009, budget hearing, there had been some changes within the corporate structure of Nevada Power Company and Sierra Pacific Power Company. As a result, the PUC would not need the \$75,000 in FY 2010 for the consultants for depreciation studies. Additionally, said Mr. Chapman, the project at the Ely Energy Center had been deferred and an amended filing had been made with the PUC to evaluate a transmission line between northern and southern Nevada. As a result, the PUC estimated that it would only need \$25,000 in FY 2010 for contract services.

Accordingly, said Mr. Chapman, Fiscal Analysis Division staff recommended a reduction in the funding amount from \$115,289 to \$15,289 in FY 2010 based upon the aforementioned changes.

Mr. Chapman explained that decision unit E251 recommended reserve funding of \$33,467 in FY 2010 to convert the agency's phone system in Las Vegas to transition from the local service provider, Embarq, to the Department of Information Technology's (DoIT) phone system. Mr. Chapman stated that the recommendation appeared to be reasonable and would actually reduce the agency's monthly phone charges. He said that Fiscal Analysis Division staff had

worked with the PUC and received an updated price quote on the system, which would decrease the cost by \$6,229 from the recommended amount.

Mr. Chapman stated that decision unit E710 addressed replacement equipment. He pointed out that a combination of federal Gas Pipeline Safety grant funds totaling \$26,249, Rail Safety Inspection fees totaling \$48,298, and reserve funds totaling \$186,527 would be used to fund the replacement equipment. Mr. Chapman said the funding would replace four vehicles and technology equipment for the agency.

Mr. Chapman stated that based upon the information provided by the PUC, the recommendation appeared reasonable; therefore, the decision before the Committee was whether it wished to approve decision units E250, E251, and E710 as recommended by the Governor, as well as the technical adjustment decreasing the cost of the new phone equipment.

Vice Chair Leslie called for a motion:

ASSEMBLYWOMAN MCCLAIN MOVED THAT THE COMMITTEE APPROVE DECISION UNITS E250, E251, AND E710, AS RECOMMENDED BY THE GOVERNOR, AND AUTHORIZE FISCAL ANALYSIS DIVISION STAFF TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY IN BA 3920.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED WITH ASSEMBLYMAN DENIS ABSTAINING. (Assemblywoman Buckley was not present for the vote.).

BUDGET CLOSED.

* * * * *

Chair Arberry opened discussion regarding the budget accounts for the Nevada Legislature.

NEVADA LEGISLATURE INTERIM – BA 327-2626
BUDGET PAGE – LCB-6

Lorne Malkiewich, Director, Legislative Counsel Bureau (LCB), stated he would address the three budget accounts for the Nevada Legislature. He referenced [Exhibit K](#), which depicted the closing issues for budget accounts (BA) 2626, BA 2631, and BA 1330.

Mr. Malkiewich stated that the first budget was the Interim Nevada Legislature, BA 2626, which included the Chief Clerk of the Assembly, the Secretary of the Senate, and their staff. The issues for consideration were:

1. Restore funding in the first year of the biennium to address an error in the base budget. A debit and credit of \$14,174 was mistakenly shown as a debit twice, reducing the base appropriation to the Interim Legislature by \$28,352.
2. Restore personnel adjustments of \$67,668 in FY 2010 and \$75,032 in FY 2011. The entire non-personnel budget of the Interim Legislature was approximately \$30,000, and it had already been cut back to meet

the targeted reduction of 14.2 percent. The budget could not absorb additional reductions without a reduction in staff.

LEGISLATIVE COUNSEL BUREAU – BA 327-2631
BUDGET PAGE – LCB-1

Mr. Malkiewich indicated that the next budget for review was the Legislative Counsel Bureau, BA 2631. The items for consideration by the Committee were:

1. Eliminate out-of-state travel for legislators. The amount had been reduced substantially in the proposed budget by removing out-of-state travel for statutory committee members and by cutting trips for legislators from three trips per year to one trip per year. The current recommendation would eliminate the remaining funding for out-of-state travel for legislators.
2. Reduce personnel adjustments to approximately \$1.5 million per year. The remaining personnel adjustments would be in addition to reductions in operations and in the decision unit Enhancement (E) 670 series. The total reduction in the personnel budget would be approximately \$4 million per year even with the recommended restoration.
3. Restore contract services balance for the Fiscal Analysis Division. The Executive Budget did not include increases in the cost of the Fiscal Analysis Division's contract services. An error was made when the budget was prepared regarding a \$100,000 contract that had been cancelled. The additional \$40,000 included in the amount would add funding to the IN\$ITE contract for use over the biennium. The total restoration for FY 2010 and FY 2011 would be \$240,717.
4. Authorize payment of terminal leave directly out of the Legislative Fund. For the past few budget cycles, money had been allocated to the Director's Office to pay excess terminal leave should there not be sufficient funds within the budget accounts. Those funds had never been used but would be used for the upcoming biennium. The amount would depend on the number of persons who would retire from LCB. A Letter of Intent was being requested that authorized payment of such leave directly from the Legislative Fund.
5. Authorize technical corrections to the budget. The technical adjustments to the Maintenance (M) 100 decision unit had been discussed with the Budget Division, and amounted to approximately \$15,000 for the biennium. For FY 2010, the resulting appropriation in BA 2631 would be \$28,420,917, a decrease of approximately 16.3 percent. For FY 2011, the resulting appropriation would be \$27,586,397 a decrease of approximately 18.77 percent.

PRINTING OFFICE – BA 741-1330
BUDGET PAGE – LCB-9

Mr. Malkiewich explained that the budget for the Printing Office was fee-supported and there were no General Fund appropriations in BA 1330. There were some technical adjustments in decision unit Maintenance (M) 100 that amounted to a \$50 difference for the biennium.

Mr. Malkiewich requested authority to make necessary adjustments to the Enhancement (E) 670 series and the various contribution rates for all of the budgets.

ASSEMBLYWOMAN LESLIE MOVED THAT THE COMMITTEE APPROVE BA 2626, BA 2631, AND BA 1330 AS RECOMMENDED BY MR. MALKIEWICH ([EXHIBIT K](#)) AND AUTHORIZE HIM TO MAKE ANY NECESSARY ADJUSTMENTS TO THE BUDGET ACCOUNTS.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

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

BUDGETS CLOSED.

Chair Arberry asked that the Committee consider introduction of BDR S-1286, which would make an appropriation to the City of Las Vegas to encourage the creation of small businesses.

- BDR S-1286—Makes appropriation to the City of Las Vegas to encourage the creation of small businesses. (Later introduced at [A.B. 545](#).)

ASSEMBLYWOMAN LESLIE MOVED THAT THE COMMITTEE APPROVE INTRODUCTION OF BDR S-1286.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

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

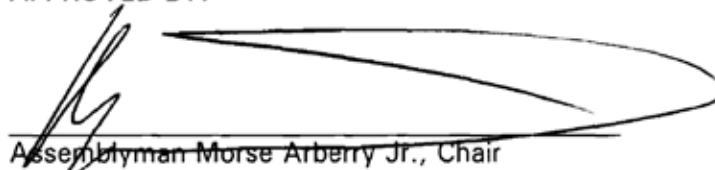
With no further business to come before the Committee, Chair Arberry adjourned the hearing at 5:47 p.m.

[Diane Comeaux, Administrator, Division of Child and Family Services, submitted [Exhibit L](#), a proposed amendment to [A.B. 227](#), after the hearing was adjourned.]

RESPECTFULLY SUBMITTED:

Carol Thomsen
Committee Secretary

APPROVED BY:



Assemblyman Morse Arberry Jr., Chair

DATE: _____

<u>EXHIBITS</u>			
Committee Name: <u>Committee on Ways and Means</u>			
Date: <u>April 29, 2009</u>		Time of Meeting: <u>3:40 p.m.</u>	
Bill	Exhibit	Witness / Agency	Description
***	A		Agenda
***	B		Attendance Roster
AB 227	C	Jennifer Bevacqua, NYCPA	Proposed amendment.
AB 461	D	Assemblywoman McClain	Proposed amendment and information from the Elder Abuse Coalition
AB 279	E	Dr. Harold Cook, MHDS	Proposed amendment
AB 279	F	Frank Adams, NV Sheriffs' and Chiefs' Association	Letter
AB 497	G	Captain Philip K. O'Neill, DPS	Revised fiscal note
AB 99	H	Mark Stevens	Proposed amendment
AB 223	I	Mark Stevens	Proposed amendment
AB 337	J	Mark Stevens	Proposed amendment
***	K	Lorne Malkiewich, LCB	Budget closing document.
AB 227	L	Diane Comeaux	Proposed amendment.