

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

Seventy-Fifth Session
May 18, 2009

The Committee on Ways and Means was called to order by Chair Morse Arberry Jr. at 9:13 a.m. on Monday, May 18, 2009, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, 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
Steve Abba, Principal Deputy Fiscal Analyst
Russell Guindon, Senior Deputy Fiscal Analyst
Carol Thomsen, Committee Secretary
Vickie Kieffer, Committee Assistant

Chair Arberry stated that the Committee would hear bills. The Chair opened discussion regarding Senate Bill (S.B.) 400 (R1).

Senate Bill 400 (1st Reprint): Makes an appropriation to the Nevada System of Higher Education for stale claims owed to the Public Employees' Benefits Program. (BDR S-1252)

Andrew Clinger, Director, Department of Administration, advised the Committee that S.B. 400 (R1) provided for a supplemental appropriation that was included in The Executive Budget. The appropriation funded a portion of the premiums

owed to the Public Employees' Benefits Program (PEBP) on behalf of the Nevada System of Higher Education (NSHE). Mr. Clinger explained that the funding was for expenditures for fiscal years (FY) 2003 through FY 2006.

According to Mr. Clinger, between FY 2003 and FY 2006 the cost owed by NSHE to PEBP was \$799,861. In those four fiscal years, NSHE returned \$474,542 to the General Fund through the stale claims process, which addressed a portion of the cost it owed to PEBP. Mr. Clinger stated that \$215,518 was paid through the NSHE's self-supporting accounts, leaving a balance of \$110,800, which was the total amount of the supplemental request in S.B. 400 (R1).

Mr. Clinger explained that the expenditures were the result of a reconciliation process between the NSHE and PEBP via a manual tracking system. Since that time, said Mr. Clinger, PEBP had implemented a new generation of computer software to maintain account balances. Mr. Clinger noted that the current system used an electronic payment process that was fully integrated into NSHE's payroll system; therefore, account variances would be minimized and corrected in a timely manner in the future, thereby eliminating this issue.

Chair Arberry asked whether the amount requested in S.B. 400 (R1) was included in The Executive Budget. Mr. Clinger replied that the amount was included in the budget.

Chair Arberry asked whether there was further testimony to come before the Committee regarding S.B. 400 (R1), and there being none, the Chair closed the hearing.

Chair Arberry opened the hearing regarding Senate Bill (S.B.) 401 (R1).

Senate Bill 401 (1st Reprint): Makes an appropriation to the State Fire Marshal Division of the Department of Public Safety for refunds of certain fees. (BDR S-1262)

James Wright, Chief, State Fire Marshal Division, Department of Public Safety, explained that S.B. 401 (R1) dealt with stale claims regarding refunds for hazardous materials permits and plan reviews. Mr. Wright stated that the Division had discovered refunds that were owed to individuals who were not required to pay hazardous materials fees because of a change in the fire code laws or owed to individuals who had paid too much in plan review fees. The refunds were discovered after the Division had closed its budget for fiscal year (FY) 2008 and had reverted funds to the General Fund.

Mr. Wright advised the Committee that through the Division's diligent efforts to collect past due fees and permits, it had been able to reduce the stale claims amount in the bill to \$3,300.

Chair Arberry asked whether the amount was included in The Executive Budget, and Mr. Wright replied that the amount was in the budget.

Chair Arberry asked whether there was further testimony to come before the Committee regarding S.B. 401 (R1), and there being none, the Chair closed the hearing.

Chair Arberry opened the hearing regarding Senate Bill (S.B.) 403.

Senate Bill 403: Makes appropriations to restore the balances in the State Claims Account, Emergency Account and Reserve for Statutory Contingency Account. (BDR S-1264)

Andrew Clinger, Director, Department of Administration, stated that S.B. 403 made appropriations to restore the balances in the State Claims Account, the Emergency Account, and the Reserve for Statutory Contingency Account.

According to Mr. Clinger, within the State Claims Account, the requested appropriation was \$5.5 million to restore the balance. The requested appropriation for the Emergency Account was \$150,000, and the requested appropriation for the Reserve for Statutory Contingency Account was \$3 million. Mr. Clinger advised the Committee that the appropriations were contained within The Executive Budget.

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), explained that the effective date of S.B. 403 was July 1, 2009. However, the bill could not be passed until the funding bill for the Distributive School Account (DSA) had been passed by both the Senate and the Assembly. Mr. Stevens stated that S.B. 400 (R1) and S.B. 401 (R1) would become effective upon passage and approval, and therefore, could be passed in advance of the DSA funding bill.

Chair Arberry asked whether there was further testimony to come before the Committee regarding S.B. 403, and there being none, the Chair closed the hearing.

After a brief recess, Chair Arberry indicated that the Committee would consider bills for possible action.

The Chair opened the hearing regarding Assembly Bill (A.B.) 82 (R1).

Assembly Bill 82 (1st Reprint): Makes various changes relating to elections. (BDR 24-417)

Matt Griffin, Deputy for Elections, Office of the Secretary of State explained there were two amendments to the language of the bill, Amendment No. 5046 (Exhibit C) and Amendment No. 5149 (Exhibit D). Mr. Griffin stated that Amendment No. 5046 (Exhibit C) contained cleanup language regarding the reporting requirements for advocacy groups, along with other requirements. The amendment also addressed the criminal provisions included in the bill, as well as trigger language to address the online filing of cost and expenditure reports and ethics filings.

Mr. Griffin advised the Committee that the second Amendment, No. 5419 (Exhibit D) was proposed by Senator John Jay Lee and was supported by the Secretary of State's Office. Mr. Griffin stated that the amendment dealt with the disposition of unspent campaign funds, and would allow for such funds to be allocated to the Distributive School Account (DSA) or any other school fund. Mr. Griffin stated that the amendment (Exhibit D) also addressed the stipulations for disposing of any unspent contributions for a candidate who raised \$100 in campaign contributions, but who had not filed a declaration of acceptance of candidacy within four years after qualifying as a candidate.

Mr. Griffin reported that the two amendments created no fiscal impact on the Secretary of State's Office.

Assemblywoman Buckley referenced Amendment No. 5149 ([Exhibit D](#)) and asked for clarification regarding the language depicted on page 3, line 2, paragraph (b) of subsection 5 of section 32.7 of the bill, which indicated that after four years, a candidate who had not filed a declaration of acceptance would be required to dispose of any unspent contributions.

Mr. Griffin explained that *Nevada Revised Statutes* (NRS) 294A.160 provided that anyone who was elected to office had the option to retain campaign funding to use for that person's next election. For example, a person who was termed out and could not run for office again and who had raised at least \$100 could retain that funding and continue raising money because they had already been elected. Currently, said Mr. Griffin, there was no provision in statute that required a candidate to dispose of such funding within a given time period.

According to Mr. Griffin, the only trigger in the NRS that required a candidate to dispose of money was a candidate who was on the ballot and failed to win office, or a candidate who filed for office and then withdrew his name. Under current NRS, said Mr. Griffin, an incumbent who was elected and did not run for re-election could retain his campaign funds in perpetuity.

Assemblywoman Buckley said it appeared that the incumbent could retain campaign funding under the theory that the person would again run for office in the future, which could be as long as 20 years. However, she pointed out that at some point in time the person would be required to dispose of the campaign funding in the manner set forth in statute. Mr. Griffin stated that was correct.

Assemblywoman Buckley noted that current statute did not establish a time period for disposal of campaign funds. Mr. Griffin stated that was correct, as long as the person did not file for office. Assemblywoman Buckley stated that was interesting and something she was not aware of because most candidates disposed of campaign funding immediately.

Assemblyman Grady referenced the language in [Exhibit D](#), which allowed a candidate to donate campaign funding to the DSA, and he wondered whether that was already possible.

Mr. Griffin replied that under current NRS a candidate could not donate funding to the DSA, but could donate funding to a non-profit organization. He said that some candidates donated funding to entities such as high school bands that technically could be construed as a violation of the NRS if the band was not designated as a non-profit organization.

Chair Arberry called for a motion regarding A.B. 82 (R1).

ASSEMBLYWOMAN LESLIE MOVED THAT THE COMMITTEE
AMEND AND DO PASS A.B. 82 (R1) AS AMENDED.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Chair Arberry asked whether there was any discussion regarding the motion.

Assemblywoman Koivisto stated that Amendment No. 5149 ([Exhibit D](#)) had not been reviewed by the Assembly Committee on Elections, Procedures, Ethics, and Constitutional Amendments, which she cochaired.

Assemblywoman Koivisto said she took exception to the policy bill being considered by the Assembly Committee on Ways and Means. Assemblywoman Koivisto reiterated that the Committee on Elections, Procedures, Ethics, and Constitutional Amendments had not had the opportunity to review the proposed amendment No. 5149 ([Exhibit D](#)).

Assemblywoman Buckley stated that because Assemblywoman Koivisto was cochair of the aforementioned policy committee, she believed that the bill should be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments. Such action would allow Assemblywoman Koivisto and her committee to review Amendment No. 5149.

Assemblywoman Gansert stated that she had a number of concerns regarding A.B. 82 (R1) that she voiced when the bill was considered by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments. She believed that the language regarding electronic registration would be "putting the cart before the horse." Assemblywoman Gansert said the bill would give approval to the Secretary of State's Office to devise the means for electronic registration, which also implied approval before the Legislature had a chance to review the process. Another area that Assemblywoman Gansert viewed as problematic was the language pertaining to filing, and she stated that she would oppose passage of A.B. 82 (R1) and Amendment No. 5149.

Assemblywoman Buckley asked that the Committee defer action on A.B. 82 (R1) until the Committee on Elections, Procedures, Ethics, and Constitutional Amendments had been given the opportunity to review Amendment No. 5149.

Chair Arberry agreed and stated that the Committee would defer action regarding A.B. 82 (R1).

The Chair opened discussion regarding Assembly Bill (A.B.) 146 (R1).

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

Assemblyman Ocegüera explained that A.B. 146 (R1) was the business portal bill. He referenced Amendment No. 829 ([Exhibit E](#)) which would increase the business license fee from \$100 to \$200 and would add language that stated the fee would be paid by the owner "for each additional location in this State of his places of business."

Assemblyman Ocegüera stated that the amendment would also change the effective date from January 2010 to October 1, 2009, and include an appropriation to the Secretary of State's Office to design and implement the business portal. The appropriation would be allocated through the Interim Finance Committee (IFC), once a detailed plan and budget was submitted by the Secretary of State's Office. According to Assemblyman Ocegüera, the money earned through use of the business portal would be placed in the General Fund.

Assemblyman Goicoechea asked about the amount of the appropriation to the Secretary of State's Office. Assemblyman Ocegüera reported that the appropriation totaled \$6,520,349.

Assemblyman Hardy referenced page 5 of [Exhibit D](#). His concern was with the words "each" and "any" as listed in paragraph (c) of subsection 2 of section 11, which stated that an applicant for a business license must license

"each" additional location of his business. The word "any" was included in paragraph (d) of subsection 6 of section 11, which stated, "Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he is paid."

Assemblyman Hardy wondered whether a business that used multiple locations to sell its products, such as Krispy Kreme Donuts, that were sold in grocery stores, convenience markets, and other locations, would be required to license each location. He said it did not appear that the intent of the bill would be to capture such businesses, but perhaps it was and he would find that problematic.

Assemblyman Ocegüera explained that was not the intent of the bill. He stated that he had consulted with the Legal Division of the Legislative Counsel Bureau (LCB) when the bill was drafted, and the intent was to license each physical location of a business. In the example of Krispy Kreme Donuts, the plant where the donuts were produced would be the licensed location. Assemblyman Ocegüera said another example would be an owner of ten McDonald's franchises. In that case, the owner would be required to obtain a business license for each McDonald's location. However, said Assemblyman Ocegüera, if McDonald's hamburgers were offered for sale in several different convenience stores, the bill would not capture the various store locations.

Assemblyman Hardy said it appeared that a business location or a place of business meant the actual physical location at which the business was licensed.

Assemblyman Grady asked about bank locations; he wondered whether the \$200 business licensing fee would also apply to banks. He had been informed that in addition to the \$7,000 excise tax for each bank branch, banks would also be required to pay the \$200 business license fee for each location. Assemblyman Grady stated that he would question the additional fees for banks.

Russell Guindon, Senior Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), indicated that the bill had been reviewed on May 16, 2009, by the Joint Assembly Committee on Taxation and the Senate Committee on Taxation. The testimony surrounded the proposed changes to the business license fee, which was currently set at \$100. Mr. Guindon said the bill would increase the fee from \$100 to \$200 per year. Currently, the statute pertaining to the business license fees indicated that the fee must be paid for each business entity. He referred to the example provided by Assemblyman Ocegüera regarding the owner of ten McDonald's franchises, and if the owner licensed those restaurants as one business entity, the fee would be \$100.

Mr. Guindon explained that A.B. 146 (R1) would change the statute to require the owner of several businesses to pay \$200 for each business location. He noted that at the Joint Taxation meeting on May 16, 2009, there was discussion about ensuring that the bill did not encompass several business entities. The language of the bill was amended on the advice of Brenda Erdoes, Legislative Counsel, Legal Division, Legislative Counsel Bureau (LCB), as depicted in section 7.5 of the bill (page 4, [Exhibit E](#)). Mr. Guindon pointed out that the amended language indicated that, "'Place of Business' means a facility maintained by a business at a fixed location where the owner or an agent of the business conducts any of the principal business activities of the

business." Mr. Guindon noted that the amended language was much more specific.

Also, said Mr. Guindon, the language of paragraph (c) of subsection 2 of section 11 of the bill would be amended to read, "Be accompanied by a fee in the amount of \$200 plus an additional \$200 for each additional location in this State of his places of business." He pointed out that the language of the bill addressed each separate business location.

Regarding banks, Mr. Guindon explained that banks were designated as a business, but the question arose at the Joint Taxation Committee meeting regarding ATM locations. He stated that ATM locations were not considered a separate business location, and it was not the intent of the bill to add those locations to the licensing regulations. It was correct that banks paid the branch bank excise tax and also paid the business license fee, but Mr. Guindon reiterated that the business license fee would not apply to ATM locations.

Assemblyman Hardy referred to his example of Krispy Kreme Donuts, and as he understood Mr. Guindon's explanation, the fixed location would be where the donuts were actually produced. Assemblyman Hardy believed that the language defining "fixed location" was still somewhat vague. However, according to Mr. Guindon, the bill had no intention of taxing a business that sold its product in other locations and provided the same exception as that provided for a bank ATM location.

Mr. Guindon stated that the language of the bill indicated that a fixed location was the location where business was actually conducted. For example, Krispy Kreme Donuts would only pay a licensing fee for the fixed location where the donuts were produced. Mr. Guindon said if Krispy Kreme Donuts had a fixed location within a convenience store where donuts were produced, that location would require licensure.

Assemblyman Hardy believed that the language should state that the business license fee was linked to a "fixed location" rather than a "fixed location where the business had an agent conducting their business."

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), noted that section 7.5 also stated that the location must be where the "business conducts any of the principal business activities of the business." Mr. Stevens believed that the location where Krispy Kreme Donuts were produced would be the location of principal activity. He stated that donuts being sold at various convenience stores would not equate to a principal business activity.

Assemblyman Hardy said he would view the sale of donuts as the place of principal activity for Krispy Kreme. Mr. Stevens pointed out that the principal activity of a convenience store was not selling donuts.

Mr. Guindon said that Dino DiCianno, Executive Director, Department of Taxation, had testified before the Joint Taxation meeting on May 16, 2009, and after reviewing the language of Amendment No. 829, he believed the amendment would help clarify the issue of "fixed location." Mr. Guindon stated that as the bill moved forward, regulations would be drafted that would be reviewed by the Legislative Commission.

Assemblywoman Buckley said if Fiscal Analysis Division staff, the Legal Division, and the Taxation Department believed that the language of the bill was sufficient, she was satisfied.

Assemblywoman Gansert offered the example of a slot machine route, and she asked whether those locations would require a business license.

Mr. Guindon stated that a slot route was more complicated because the licensed gaming devices that were installed in a restricted location, such as a bar or convenience store, could be put into place by a slot route operator, who was licensed by the Gaming Control Board. Also, the convenience store owner could apply for a gaming license from the Board and install the machines.

Mr. Guindon said that the principal business of a slot route operator was to install slot machines in various locations through revenue-sharing arrangements or space-lease arrangements with a convenience store to install the machines. The intent of the bill was not to encompass every location where a slot route operator had installed machines at a restricted gaming location.

Chair Arberry called for a motion.

ASSEMBLYWOMAN BUCKLEY MOVED THAT THE COMMITTEE
AMEND AND DO PASS A.B. 146 (R1) AS AMENDED.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Assemblywoman Gansert believed that the business portal was a very good idea because it would capture quite a few businesses that were incorporating. She noted that it would also streamline the process for the state. However, Assemblywoman Gansert was concerned about doubling the tax for some businesses; she stated she would support passage of the bill today but reserved the right to change her vote on the Floor of the Assembly.

THE MOTION PASSED. (Assemblyman Grady voted no).

Chair Arberry opened discussion regarding 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)

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that the bill was first heard by the Assembly Committee on Judiciary and referred to the Committee on Ways and Means. Mr. Stevens referenced [Exhibit F](#), a proposed amendment to A.B. 497 (R1). The bill addressed the collection and sharing of certain statistical data within the criminal justice system. Several groups that supplied criminal information, such as the Criminal History Repository, were included in the bill.

Mr. Stevens advised the Committee that the bill had been reviewed by the court system, the Criminal History Repository, and by a number of other persons, including the Chair of the Assembly Committee on Judiciary. All persons believed that the amended version of the bill removed any fiscal impact and that

the remaining policy changes regarding the collection and sharing of data within the criminal justice system would be appropriate.

Chair Arberry called for a motion.

ASSEMBLYWOMAN LESLIE MOVED THAT THE COMMITTEE
AMEND AND DO PASS A.B. 497 (R1) AS AMENDED.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Arberry opened discussion regarding Assembly Bill (A.B.) 543.

**Assembly Bill 543: Temporarily redirects a portion of the taxes ad valorem
levied in Clark and Washoe Counties to the State General Fund.
(BDR S-1187)**

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), explained that A.B. 543 would temporarily redirect 4 percent of the property tax that was currently being collected by Clark and Washoe Counties. The funding was included in The Executive Budget, and Mr. Stevens said amendments to the bill would be proposed that would address transportation funding in both Clark and Washoe Counties that would be included in the bill, if approved by the Committee.

Also, said Mr. Stevens, the proposed amendment would give the county commissioners the ability to raise the governmental services tax (GST) by 1-cent in Washoe County. There was also a proposal to include some local monies in the bill because of savings generated through the funding available from the American Recovery and Reinvestment Act of 2009 (ARRA) and move those local funds into the Indigent Supplemental Account (ISA) to provide funding for the ISA over the current biennium.

Assemblywoman Leslie asked Mr. Stevens to clarify the funding for the ISA and what would be the final amount. She understood that the funding from the ARRA would be fairly substantial.

Mr. Stevens explained that the funds would be saved at the local level because of increases in Federal Medical Assistance Percentage (FMAP) funding by the federal government. He noted that within the county match programs, the counties paid into Medicaid based on the county's long-term care costs, and that money was then matched by Medicaid to provide assistance to the counties. Mr. Stevens said the counties would save a substantial amount of money because of the FMAP increase that was built into the stimulus bill. The local entities would also save money in the county match programs, and Mr. Stevens explained that the proposal would move that savings into the county ISA. He believed the total was approximately \$31 million.

Assemblyman Goicoechea said he understood that the FMAP savings could be used to backfill the ISA, but he wondered how local governmental jurisdictions would access that funding in the ISA.

Mr. Stevens explained that it was his understanding that the savings generated at the local level would be placed in the ISA and be accessed by local governments in the same manner as it had in the past. The funding would flow to the hospitals based on the current criteria used within the ISA.

Assemblyman Goicoechea said it appeared the ISA would be backfilled and the funding would be administered by the Nevada Association of Counties (NACO), as previously established. Mr. Stevens said that was correct, but the funding level might not be exactly the same. There would, however, be funding available in the ISA for use by local governmental entities.

Lisa Gianoli, representing Washoe County, stated that she would attempt to explain the specificity of the ISA. She stated that it was her understanding that the FMAP funding would back-fill the ISA, as described by Mr. Stevens, and the county would simply use a different mechanism to access that funding.

Assemblywoman Buckley said that regarding the 4-cent property tax and the transportation funding from Washoe County, she believed it would be fair to state that the Legislature viewed the counties as its partners. She noted that Assemblyman Ocegüera had been meeting with representatives from both Clark and Washoe Counties to determine what would occur should the state use the county's funds to help provide education and health care services in Washoe County and what action could be taken by the state to compensate the county and keep it whole.

Assemblywoman Buckley understood that Washoe and Clark Counties had submitted proposals that perhaps could be amended into A.B. 543 so the state could help keep Washoe County whole. She asked Ms. Gianoli to explain that proposal to the Committee.

Ms. Gianoli explained that Washoe County was also dealing with a very difficult budget situation, and one option would be to use the remaining 1-cent optional GST. The request from Washoe County was that it be allowed to impose that tax, preferably through legislative action. Ms. Gianoli stated that those funds would then be available to address the 4-cent loss incurred by the county because the funding from the ISA would be used by the state.

Assemblywoman Buckley stated that, assuming the Legislature gave the county the ability to impose the remaining 1-cent GST, the Legislature would more than likely request that the Board of Commissioners consider taking such action. She asked whether Ms. Gianoli would recommend that the Legislature put a sunset provision on the 1-cent increase in the GST or whether Washoe County would prefer that the Board of Commissioners be allowed to make that decision. Assemblywoman Buckley said the Legislature was aware that Washoe County had already reached the cap on property tax and that the lawsuit regarding property in Incline Village was ongoing. She indicated that the Legislature was concerned about the ongoing financial issues facing Washoe County.

Ms. Gianoli stated that the county's preference would be to maintain those revenues because, as stated, the county was at the cap on property tax, and the Incline Village lawsuit was still looming. Ms. Gianoli pointed out that the lawsuit could have a significant impact in the future on Washoe County, the Washoe County School District, and other entities that were part of the countywide rate. Those entities would also be required to reimburse tax revenue, should the plaintiffs prevail in the lawsuit regarding the Incline Village property. She concurred that the Board of Commissioners would be required to impose the tax increase after holding public hearings; however, currently there was not a consensus from the Board that it would be willing to impose the remaining 1-cent GST.

Ms. Gianoli said the county's preference would be that the increase could be a part of the entire legislative process, where the tax increase could be imposed along with other tax increases proposed by the state as part of its budget process.

Assemblywoman Buckley said there was also concern about the time remaining within the 120-day session, and the Legislature wanted to ensure that adequate public hearings would be held so that citizens had a chance to weigh-in on the issue.

Chair Arberry asked whether there was a representative present from Clark County who could address the bill.

Sabra Smith-Newby, representing Clark County, introduced herself to the Committee. Chair Arberry stated that Ms. Smith-Newby had heard the comments made by Assemblywoman Buckley and Ms. Gianoli from Washoe County, and he asked Ms. Smith-Newby to comment on behalf of Clark County.

Ms. Smith-Newby stated that she was not aware of Clark County's response to the proposal that the state use the funding from the county's Indigent Supplemental Account (ISA). She indicated that she did not know whether Clark County would support the proposal; however, if the Legislature passed the bill including the stipulation that the counties could opt-in, she believed Clark County would concur with that action. Otherwise, said Ms. Smith-Newby, the funding that would be freed-up through receipt of additional ARRA funding would be spent elsewhere within the county where there was obviously a significant need. She said it was not the intention of Clark County to put the ARRA funds into another "pot" with the state.

Assemblyman Ocegüera stated that he had discussed the issue regarding the ISA funds with both Clark and Washoe Counties in an attempt to address the funding needs of the counties as well as the state. He pointed out that the state was certainly in a difficult situation, and the Legislature was attempting to address the budgetary needs of the state without affecting the counties. However, said Assemblyman Ocegüera, the proposal by the Legislature was to use the funding from the ISA and attempt to assist the counties in replacing that funding. He asked Ms. Smith-Newby whether Clark County had any ideas regarding ways that the Legislature could assist the county.

Ms. Smith-Newby said Clark County appreciated the budget predicament that the state was experiencing. However, Clark County did not have any particular plans to offer the Legislature or anything to "exchange" in place of the ISA funding. Ms. Smith-Newby said Clark County's position remained the same; it could not support the diversion of tax revenue from local governments. According to Ms. Smith-Newby, should the Legislature choose to act in that manner, Clark County hoped that the Legislature would "spread the pain" among many local governments and not target Clark and Washoe Counties. She reiterated that at the present time, Clark County was not prepared to offer anything in exchange for the ISA tax revenues.

Assemblyman Goicoechea said it appeared from Ms. Smith-Newby's comments that the county believed the stimulus money would flow to local governments anyway, and the proposal in A.B. 543 would simply shift the funding to cover the ISA. He asked Ms. Smith-Newby whether that was correct.

Ms. Smith-Newby replied that it was the county's understanding that the increase in FMAP funding was intended to relieve a portion of the county's burden regarding long-term care rates, which would create a small savings for local governments. She noted that the same would apply to the state, because the ARRA funding was intended to relieve the state's burden for Medicaid, thereby generating additional funds that the state could use for education, Medicaid, or to address budget shortfalls. Ms. Smith-Newby's understanding was that the ARRA funding could be similarly used at the local level, and it

would be the decision of local governments how to use the additional funds that would be generated because of the increase in FMAP funding.

Assemblyman Ocegüera stated that the Legislature was asking Clark County to come forward with a plan for the state to assist the county because the state would utilize the county's ISA funding. However, it appeared that Ms. Smith-Newby had no ideas or plans to submit to the Committee.

Ms. Smith-Newby commented that Clark County believed that the taxes levied in Clark County were sufficient to run Clark County. Should the state temporarily divert those funds, the county would be forced to deal with the ramifications of that action. Ms. Smith-Newby said it was the county's intention not to simply raise another tax to supplant the funds that were taken by the state.

Assemblyman Ocegüera said the state was not asking Clark County to raise another tax but rather was asking whether there was some action that the state could take that would "ease the pain." He pointed out that the Committee did not want to imply that the Legislature was giving Clark County the authority to raise another tax, although that could be done. Assemblyman Ocegüera hoped that some action could be taken by the Legislature to ease the burden on Clark County.

Ms. Smith-Newby stated that Clark County certainly appreciated past discussions with members of the Legislature in an effort to determine what could be done to ease the burden; however, she had stated Clark County's stance, that the county would not necessarily support the diversion of revenue. According to Ms. Smith-Newby, if the revenue was to be diverted, Clark County had proposed an alternate plan where the state would access the tax for capital improvement revenues. She pointed out that the revenue from the tax for capital improvements had traditionally been used for the county's infrastructure needs, and as the Legislature was aware, Clark County had not grown as much recently as in past years, so use of the tax for capital improvement revenue by the state over the biennium would make the most sense.

Ms. Smith-Newby explained that the 4-cent proposal from the state would come out of Clark County's operating tax. The operating rate in Clark County was 47-cents and a reduction of 4-cents would equate to 10 percent of the county's operating funds. Ms. Smith-Newby noted that the revenue from the capital improvement tax came from local government operations and was paid by the people. She stated that if Clark County were to ask the Legislature for anything while it was considering the state budget shortfall and how the state would fill the holes, it would be to consider taking funds from the county's capital improvement tax. Ms. Smith-Newby said the plan for the state to use the revenue from the capital improvement tax had been provided to the Legislature and would "spread the pain." The Legislature was asking how to "ease the pain" and "spread the pain" among many local governments without targeting Clark County or its citizens, and the county believed that could be accomplished through use of the revenue from the capital improvement tax.

Assemblywoman Buckley stated that should the Legislature go forward with the plan to adopt the one-year freeze on depreciation for the governmental services tax (GST), that action would yield additional money for Clark County. She asked Mr. Stevens whether those figures were available.

Mark Stevens stated that he did not have that information available at the meeting.

Assemblywoman Buckley believed that the additional revenue would be between \$10 million and \$20 million. She stated that she would provide the exact figures to Ms. Smith-Newby, assuming that she would like to have that information.

Ms. Smith-Newby stated that Clark County was obviously at the mercy of the Legislature, and at this point, \$8 million would replace the funding that would be taken from the ISA. She indicated that Clark County would, "take whatever we can get, certainly."

Assemblywoman Buckley stated that she had the exact figures for the depreciation freeze on the GST. The revenue would be \$7.4 million in the first year of the biennium and \$8.9 million in the second year of the biennium.

Assemblyman Hardy wondered whether Clark County had any plans, needed to make any plans, or wished to have permission to make plans, such as outlined by Ms. Gianoli for Washoe County regarding the GST.

Ms. Smith-Newby said it was her understanding that the GST was set up differently in Clark County than it was in Washoe County. As far as making plans, after the Legislature was over and Clark County knew what the full toll would be, the county would consult with its Board of Commissioners, the taxpayers and, of course, with city management to devise a plan.

Assemblyman Hardy again asked whether Clark County needed legislative approval or additional permissive language.

Ms. Smith-Newby stated that she did not believe that legislative approval was necessary at the current time.

Chair Arberry asked whether there was further testimony to come before the Committee regarding A.B. 543, and there being none, the Chair called for a motion.

ASSEMBLYWOMAN LESLIE MOVED THAT THE COMMITTEE
AMEND AND DO PASS A.B. 543 AS AMENDED.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Chair Arberry opened discussion regarding the motion.

Assemblywoman Gansert asked whether the amendment was available in written format for review by the Committee.

Mr. Stevens stated that the amendment was not available in written format at the current time. Assemblywoman Gansert asked Mr. Stevens to verbally review the proposed amendments to the bill.

Mr. Stevens explained that the proposed amendment included three elements: (1) Use by the state of some property tax redirected from Clark and Washoe Counties; (2) Authorizing the Washoe County Board of County Commissioners to impose an additional 1-cent on the GST; and (3) Language to allow a portion of the local funds totaling approximately \$31 million, which would be freed-up because of ARRA funding, to be used to replace the funding in the county's ISA.

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

THE MOTION PASSED UNANIMOUSLY.

* * * * *

Chair Arberry opened discussion regarding Assembly Bill (A.B.) 552.

Assembly Bill 552: Increases fee charged by State for collecting local sales and use taxes. (BDR 32-1188)

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that the Committee heard the bill on May 13, 2009. At that time, Andrew Clinger, Director, Department of Administration, presented testimony regarding the bill, which provided for the increase in the collection allowance retained by the Department of Taxation for collection and distribution of sales tax.

Mr. Stevens explained the bill would require amendment because it included the local school support tax. He noted that the funding for the Distributive School Account (DSA) and the local school support tax offset General Funds and, therefore, should not be included in A.B. 552.

At Mr. Clinger's request, Mr. Stevens said Fiscal Analysis Division staff would recommend that the local school support tax be amended out of the bill, and the collection allowance increased only on the remaining rates.

In addition, said Mr. Stevens, there had been discussion regarding another potential amendment to A.B. 552. He explained that the 25th Special Session had reduced the taxpayer allowance retained by businesses for liquor, cigarettes, and sales tax. Mr. Stevens noted that there was a sunset provision on that reduction of June 30, 2009, and there had been discussions about removing the sunset provision and retaining those funds over the upcoming biennium.

Chair Arberry called for a motion.

ASSEMBLYWOMAN MCCLAIN MOVED THAT THE COMMITTEE
AMEND AND DO PASS A.B. 552 AS AMENDED.

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

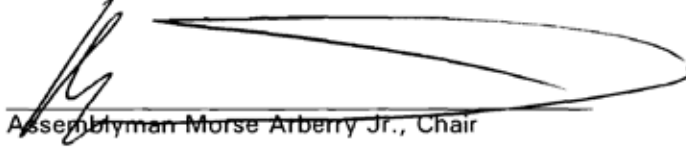
* * * * *

With no further business to come before the Committee, Chair Arberry adjourned the hearing at 10:32 a.m.

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>May 18, 2009</u> | | Time of Meeting: <u>9:13 a.m.</u> | |
| Bill | Exhibit | Witness / Agency | Description |
| **** | A | | Agenda |
| **** | B | | Attendance Roster |
| AB 82 (R1) | C | Matt Griffin, Secretary of State | Proposed Amendment |
| AB 82 (R1 | D | Matt Griffin, Secretary of State | Proposed Amendment |
| AB 146 (R1) | E | Assemblyman Oceguera | Proposed Amendment |
| AB 497 (R1) | F | Mark Stevens | Proposed Amendment |