

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

Seventy-Fifth Session
May 22, 2009

The Committee on Ways and Means was called to order by Chair Morse Arberry Jr. at 8:13 a.m. on Friday, May 22, 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

GUEST LEGISLATORS PRESENT:

Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District No. 1

STAFF MEMBERS PRESENT:

Mark Stevens, Assembly Fiscal Analyst
Tracy Raxter, Principal Deputy Fiscal Analyst
Mark Krmpotic, Senior Fiscal Program Analyst
Linda Blevins, Committee Secretary
Vickie Kieffer, Committee Assistant

Chair Arberry adjourned the previous hearing of May 21, 2009, and opened the hearing on Senate Bill (S.B.) 421 (R1).

Senate Bill 421 (1st Reprint): Temporarily suspends longevity pay and merit pay increases for state employees. (BDR S-1193)

Stephanie Day, Deputy Director, Budget Division, Department of Administration presented a brief overview of Senate Bill (S.B.) 421 (R1). The bill temporarily

suspended longevity pay and merit salary increases for state employees for the 2009-11 biennium. The suspension was included in The Executive Budget.

Assemblyman Goicoechea asked whether there was a mechanism included to restore the longevity pay and merit salary increases.

Ms. Day responded that there was nothing included in the The Executive Budget but said that the bill could be amended.

Assemblyman Denis noted that the bill became effective on July 1, 2009, and ended on June 30, 2011. It appeared to him the increases would automatically be restored at that time. He asked whether Assemblyman Goicoechea was referring to a "trigger" to restore the increases between that time period.

Assemblyman Goicoechea commented that if the economy rebounded it might be possible to restore the increases prior to June 30, 2011.

Assemblywoman Buckley stated that the step increases must be restored to have parity in the state system. At the end of the biennium, that obligation would come back to the state. The state could not have the individuals whose salary increases were temporarily frozen being at a different rate than everyone else in state government. The Legislature intended to put a trigger into the Appropriations Act. If a trigger was not put into the Appropriations Act, the increases would be automatically restored on June 30, 2011. She was hopeful the economy would rebound by that time.

There being no additional public comments or questions, Chair Arberry closed the hearing on S.B. 421 (R1) and opened the hearing on S.B. 422 (R1).

Senate Bill 422 (1st Reprint): Makes a supplemental appropriation to the Department of Motor Vehicles for unanticipated shortfalls in revenue for Fiscal Year 2008-2009. (BDR S-1263)

Dennis Colling, Chief, Administrative Services Division, Department of Motor Vehicles (DMV), advised the members of the Committee that Section 1 of Senate Bill (S.B.) 422 (R1) made a supplemental appropriation for two budget accounts within the DMV:

- The first appropriation was \$980,000 from the State Highway Fund to the DMV Division of Field Services budget account (BA) 201-4735. Originally, the DMV had submitted a request for a supplemental appropriation of \$1,340,905.
- The second appropriation was for \$795,000 from the State Highway Fund to the DMV Administrative Services Division. Originally, the DMV had submitted a request for \$1,410,427.

Mr. Colling reported that the Senate Committee on Finance approved the reduced amounts based on revised DMV revenue projections.

Mr. Colling pointed out that the DMV had worked to reduce expenditures in both budgets but advised that the supplemental appropriations were necessary to continue operations.

There being no public comments or questions from the Committee, Chair Arberry closed the hearing on S.B. 422 (R1) and opened the hearing on S.B. 431.

Senate Bill 431: Authorizes expenditures by agencies of the State Government.
(BDR S-1317)

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), provided a brief review of Senate Bill (S.B.) 431, the Authorizations Act, for the Committee. Although the bill was not in the Committee, Mr. Stevens suggested that the bill could be heard and passed behind the bar on the Floor of the Assembly.

Mr. Stevens explained that the breakdown on pages 1 through 12 of the bill represented the non-General Fund and non-Highway Fund for all budget accounts as approved by the Senate Committee on Finance and the Assembly Committee on Ways and Means.

Regarding the furloughs for state employees, Assemblywoman Gansert asked whether the plan was to deduct eight hours of pay per month for each employee or whether the employee would be required to take the day off prior to the deduction.

Mr. Stevens responded that for classified employees the deduction would be for 96 hours annually. The employee could take the deduction in hourly increments; however, the unclassified and non-classified must take the furlough time in eight hour increments.

There being no additional questions or public comments, Chair Arberry closed the hearing on S.B. 431 and opened the hearing on S.B. 433.

Senate Bill 433: Provides for salaries of certain state employees and provides for furloughs for certain public employees. (BDR S-1323)

Mark Krmpotic, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), presented an overview of Senate Bill (S.B.) 433 for the Committee.

Section 1 of the bill provided for maximum salaries for unclassified positions throughout state government. The salary levels printed in the bill reflected the current maximum salary. The salary levels would be reduced for the required 12 furlough days each year.

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, pointed out there were a few exceptions to the salary amounts contained in the bill.

Mr. Krmpotic stated that the Chief Ombudsman position in the Office for Consumer Health Assistance was retained at a current rate that was higher than the maximum salary established in S.B. 433. Under the Nuclear Projects Office, the Executive Assistant position was paid at a higher rate than provided for under the bill.

Mr. Stevens indicated he believed the State Treasurer had requested their investment deputy receive an additional increase. He thought the amount listed in the bill for that position was an increase from the current salary but not as high as requested by the Treasurer.

Mr. Krmpotic explained that the language in section 2 of the bill included language contained in prior pay bills. It provided for positions that might have been omitted from the bill in error or that contained typographical errors. In such cases, the Interim Finance Committee (IFC) would have the authority to set the position and salary. Additionally, section 2 provided for positions that were moved from the classified service to the unclassified service but were retained at the classified level.

Mr. Krmpotic continued, noting that section 3 of the bill provided for the one day furlough per month for unclassified and non-classified positions and 96 hours over the year for classified positions. On page 17 of the bill the furlough was exempted for Department of Cultural Affairs' employees whose work week was reduced from 40 hours per week to 32 hours per week.

Section 4 of the bill provided for the hold harmless on retirement service credit for employees subject to the furlough.

Section 5 of the bill, as described by Mr. Krmpotic, provided for exceptions to the furlough for positions deemed to be critical to public health, safety, and welfare. This section also provided for certain entities to determine the employees of critical need as follows:

- The State Board of Examiners for the Executive Branch of State Government.
- The Public Employees' Retirement Board for the Public Employees' Retirement System.
- The Supreme Court for the Judicial Branch of State Government.

Mr. Krmpotic stated that section 6 of the bill provided for an appropriation of \$23,882,673. This would provide for the difference between what was approved in The Executive Budget at the 6 percent reduction level for state employee salaries and what was approved in S.B. 433. The 12 furlough days equated to an approximate 4.6 percent reduction in the budget. The appropriation would be made to the Board of Examiners and would be accessible by agencies upon approval of the Board of Examiners.

Section 7 of the bill provided for a Highway Fund appropriation in the same manner as the General Fund appropriation under section 6. The Highway Fund appropriation totaled \$4,657,094.

Section 8 of the bill contained an appropriation of \$4 million from the General Fund to provide for funding to agencies for employees deemed to be of critical need and not subject to the furlough.

Section 9 of the bill provided for the IFC to project the ending fund balance in the General Fund as of June 30, 2010. According to Mr. Krmpotic, the purpose for projecting the ending fund balance in the General Fund was to determine whether trigger language included in sections 10 and 11 could be exercised.

Mr. Krmpotic described the trigger language of the bill beginning with section 10, which provided two triggers for employees of the Executive Branch. If the projected fund balance was at least \$390,000,000 at the end of fiscal year (FY) 2010, there would be a reduction in the number of furlough days from 12 unpaid furlough days to 9 unpaid furlough days for Executive Branch employees. Appropriations would be made from the

General Fund and Highway Fund to provide for the reduction in the number of furlough days.

The second trigger in section 10 and described by Mr. Krmpotic stated that if the ending fund balance was projected at \$425,000,000 or more, the funding would be provided to reduce the number of unpaid furlough days from 12 to 7 days for Executive Branch employees.

Section 11 of the bill contained triggers for employees of the school districts through the Distributive School Account (DSA) and the Remediation Trust Fund. These triggers were included in S.B. 433 with the same thresholds as Mr. Krmpotic described in section 10 with respect to the General Fund ending balances, but the provisions would provide a 1 percent increase under the first trigger for employees of the school district and a 2 percent increase under the second trigger.

Mr. Krmpotic stated that section 12 of the bill contained new language that authorized call-back pay for psychiatrists, physicians, and pharmacists under employment in the Department of Health and Human Services. The salaries for these positions were limited as included under section 1 of S.B. 433.

Section 13 provided credential pay for certain employees of the Gaming Control Board. According to Mr. Krmpotic, this language was identical to the language included in the current pay bill.

Section 14 provided that the appropriations made under sections 6 to 8 inclusive not be committed for expenditure beyond the biennium.

Mr. Krmpotic noted that section 15 provided for the same appropriations under section 6 and 8 to be transferred and used for the requirements included in S.B. 433.

Assemblywoman Leslie asked whether there was language in the bill regarding application of the furlough for classified versus unclassified.

Mr. Krmpotic pointed out that subsection 2 of section 3 of the bill addressed the non-classified and unclassified employees. This section required those employees to take furlough leave in eight hour increments or one day per month. That was a distinction from classified employees included under subsection 3. The classified employees could take furlough leave in smaller increments, less than 8 hours, if the employee chose.

Assemblywoman Leslie explained that constituents were concerned that unclassified employees were not getting treated the same regarding the furloughs. It appeared that was not the case.

Assemblywoman Buckley commented that the Governor had recommended straight salary cuts. That meant the employee would have to make up that salary and could lose qualification for long-term benefits for the Public Employees' Retirement System (PERS) and for the Public Employees' Benefit Program (PEBP). In consultation, the majority of the legislators felt that the employees were appreciated, and anything that could be done to ameliorate the harsh effects should be done. The employees suggested that the legislators consider furloughs instead of salary cuts. Assemblywoman Buckley stated that it was easier to cut the salaries, but the furlough plan seemed to be fairer to the employees.

Assemblywoman Buckley explained that the legislative money committees had received a letter from the Governor that raised 19 questions about the furlough plan. The members of the legislative money committees met with the Governor's representatives, the Director of the Department of Personnel, and Fiscal Analysis Division staff to prepare the response to those questions. An example was the question regarding the furlough situation. The response stated:

The furlough will be applied to all state employees, including legislative and judicial branches. It will apply to all members of the System of Higher Education, PERS, and all other entities of state government.

According to Assemblywoman Buckley, the reason there was a difference in the furlough between classified and unclassified personnel was solely because of the federal Fair Labor Standards Act (FLSA). If the state had to pay overtime to unclassified employees, the salary savings would be defeated.

The reason the state went with the "banked" concept was because of a concern brought to the Legislature by the American Federation of State, County & Municipal Employees (AFSCME) that some individuals were barely able to provide for their families. Assemblywoman Buckley believed that by allowing employees to split the furlough into hours, these employees could take four hours from each paycheck and reduce the harsh effects of a salary cut.

Assemblywoman Buckley remarked that many of the issues mentioned in the letter from the Governor, including the federal dollars problem, were solved by the provision stating that the employees would be considered to have worked the days or portion of the days for all other purposes other than the payment of salary. She remarked that by the end of the meeting the Governor's legal counsel and the members of the Executive Branch were satisfied that the questions had been answered. She was appreciative of everyone who worked to make the furlough alternative work for the state.

Anne Loring, representing the Washoe County School District, commented that she was appreciative of the creativity used to resolve the salary issues. She requested clarification on section 4 of the bill regarding "other participating employers." She was curious whether section 4 would apply to the school districts in terms of holding their employees harmless with respect to PERS and PEBP.

Assemblywoman Smith assumed that section 4 would apply as all cuts were made in the same manner. She believed that it was the intent of the Committee that if furloughs were taken by employees in the kindergarten through grade 12 (K-12) education arenas they would be held harmless as far as PERS and PEBP was concerned.

Mr. Stevens pointed out that Legislative Counsel Bureau legal counsel would need to answer that question; however, it was his opinion that the intent of section 4 was to allow "other participating employers," which would be local governments and school districts, to use the furlough program as a budget reduction tool.

Assemblywoman Buckley commented that it was the intent of the Legislature to pass a uniform measure to prevent salary cuts. In some instances, other entities would make those decisions.

Assemblyman Goicoechea remarked that the scenario would have to be reviewed.

Mr. Stevens believed the furloughs were for state employees. Section 4 referred to "the state and other participating employers," which would be state and local governments. Section 3, beginning at line 20, stated "except as otherwise provided in section 5 of this act: (a) For the period of July 1, 2009, and ending on June 30, 2011, each employee of the State, other than a classified employee, shall take 1 day of unpaid furlough leave each month." Subsection 3 of section 3 applied the furlough to "each employee in the classified service of the State."

Mr. Stevens believed the bill mandated the furlough for state employees at 12 days per year but did not mandate a furlough or specific days for local governments or school districts. However, if the furlough was used as a budget reduction tool, section 4 would apply.

Assemblyman Goicoechea clarified that an employee should "mix and match." The employee should not have 40 hours with a 4 percent pay reduction plus the equivalent furlough. If that employee opted to take the furlough, he must take the 96 hours of furlough. If the employee opted to take the salary reduction, he would not also take the furlough.

James T. Richardson, representing the Nevada Faculty Alliance, expressed his appreciation to the Committee for the creativity shown in the development of S.B. 433. He recognized the state's economic difficulties and commented that the Nevada System of Higher Education (NSHE) was willing to work to help develop a solution.

There being no additional public comments or questions, Chair Arberry closed the hearing on S.B. 433.

Mr. Stevens suggested the Committee consider the bills that must be moved out of the Committee.

Chair Arberry requested a motion from the Committee on S.B. 433.

ASSEMBLYWOMAN LESLIE MOVED TO DO PASS S.B. 433.

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

Assemblyman Denis disclosed that the bill would have a personal impact.

THE MOTION PASSED. (Assemblyman Ocegüera and Assemblyman Grady were not present for the vote.)

Assembly Bill 522: Makes various changes relating to energy. (BDR 58-1139)

Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District No. 1, presented a proposed amendment (Exhibit C) to Assembly Bill (A.B.) 522. Section 28 of the bill was clarified by the amendment to show that when an application was turned in to the Director of the Office of Energy, the local government would be notified. Additionally, it was clarified that when the abatement was given the local governments would again be notified of the process.

Assemblywoman Kirkpatrick explained that a "revolving loan" had been added to allow the energy fund to be used for the revolving loan money process from the American Recovery and Reinvestment Act.

In subparagraph (4) of paragraph (e) of subsection 3 of section 28, the wage had been increased during the construction period to at least 150 percent of the average statewide hourly wage, excluding management and administrative employees.

Assemblywoman Kirkpatrick pointed out that lines 30 through 34 of page 13 of the proposed amendment clarified the issue of the sales and use tax. The document must state the purchaser was required to pay sales and use taxes at the rate of 2.5 percent.

Assemblyman Goicoechea commented that there appeared to be some misinformation. He asked whether 20 percent going to the state for the renewable fund was only the abated portion of either the sales and use tax or property tax.

Assemblywoman Kirkpatrick responded that 55 percent of the property tax would be abated. Of the remaining 45 percent, 20 percent would go to the state and 25 percent to local government.

At Assemblywoman Kirkpatrick's request, Assemblyman Conklin noted the way the *Nevada Revised Statutes* (NRS) were written caused some confusion. Assemblyman Conklin said if 55 percent was abated, there was 45 percent left. Assemblyman Conklin then referenced line 33 of page 15 of the exhibit, which stated that forty-five percent of that amount is deposited in the unrestricted balance of the State General Fund, and fifty-five percent of that amount was distributed to the local government. He noted that 45 percent of the 45 percent of the taxes not abated was approximately 20 percent of the total property taxes, and the amount would be deposited in the General Fund. The remainder or approximately 25 percent of the total property taxes would be distributed to local governments.

Assemblyman Goicoechea stated that his constituents were concerned about entering into an abatement process that would become a shift of real property tax from local government to the state. He suggested it could become another access to property tax.

Assemblywoman Kirkpatrick explained this was new money and not money in from the general coffers. She believed this was a way for the state to reinvest in alternative energy.

Assemblyman Goicoechea understood that it was new money. He thought it was essential that the Churchill County Board of Commissioners be involved early and often in the process to gain a thorough understanding of the issues.

Assemblyman Conklin stated that there were many reasons for the counties to support A.B. 522. A portion of the money would be used to help facilitate development of renewable resources in the rural areas. The money would be reinvested in future growth, especially in the rural counties.

Assemblywoman Kirkpatrick agreed, adding that it would stimulate the need for manufacturing in some of the counties.

Assemblywoman Koivisto referenced page 11 of [Exhibit C](#) regarding salaries. She was concerned that the average included salaries from the low end but excluded salaries from the high end to come up with a salary average. She requested an actual figure to show what the average salary would be.

Assemblywoman Kirkpatrick responded that was the way the process was currently set through the Department of Employment, Training and Rehabilitation (DETR). Page 11, line 16 of the amendment indicated that 110 percent of the state salary average must go to the employees who worked within the facility. For the construction piece, management and administrative employees were excluded, and the remainder of the employees must earn 150 percent of the statewide average salary.

Assemblyman Conklin remarked that the average wage was approximately \$20 per hour, and 150 percent of that would be a minimum salary of approximately \$30 per hour.

Assemblywoman Koivisto asked whether Assemblyman Conklin and Assemblywoman Kirkpatrick believed qualified individuals could be hired at the \$30 per hour rate.

Assemblyman Conklin pointed out that the language provided on page 11 of the proposed amendment was largely lifted from the current statutes on economic development. Assemblywoman Kirkpatrick had gone a step further by requiring that a minimum of 30 percent of the jobs be given to Nevada residents, and that there would be an increase above the average wage.

Assemblywoman Smith pointed out that when the top salary calculation was excluded it was not for determining what the rate would be, it was to ensure that when determining an average salary it was better for the worker. She also clarified that the 110 percent and 150 percent were the minimums that could be paid but not necessarily what would be paid.

Assemblywoman Kirkpatrick confirmed that the bill only indicated the minimum that could be paid. Through investigation, Assemblywoman Kirkpatrick had discovered that some projects of this type were \$900 million projects. In reviewing the process in surrounding states, she had learned that highly skilled laborers were required. Additionally, she noted that health benefits were typically included.

Assemblyman Conklin commented that the bill contained the minimum standard for salaries. There was nothing that precluded a business from bargaining for abatements with the Energy Commissioner. During negotiations a different or higher standard could be assigned. The abatements could be pulled if those standards were not met.

Assemblywoman Kirkpatrick added that there was an accountability measure so this would come before the Legislative Commission to determine whether the industry was meeting the criteria set by the state.

There being no additional discussion or public testimony, Chair Arberry requested a motion.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS AS AMENDED A.B. 522.

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Ocegüera, Assemblywoman Buckley, and Assemblyman Grady were not present for the vote.)

Following a recess, Chair Arberry opened the hearing on Senate Bill (S.B.) 426 (R1).

Senate Bill 426 (1st Reprint): Revises provisions relating to insurance. (BDR 57-1203)

Scott J. Kipper, Commissioner of Insurance, Division of Insurance, Department of Business and Industry, provided background information on Senate Bill (S.B.) 426 (R1). Mr. Kipper stated that the bill had two primary features. The first created a fund for insurance administration and enforcement. This fund would be paid for by additional assessments on those entities that the Division of Insurance regulated. Traditional insurers would be assessed an additional \$1,300 annually. The captive insurers would be assessed an additional \$250 annually. Insurance agents would be assessed an additional \$60 every three years when renewing their license.

Mr. Kipper explained that this fund was developed in discussions with the insurance industry. There was a need to address some staffing shortcomings in the Division as well as other resource issues. This independent fund for insurance administration and enforcement was seen as an optimal solution to this problem. The Division would be allowed to use this fund and eliminate the need for General Fund appropriations of approximately \$8 million over the biennium.

The Division needed additional full-time equivalent (FTE) employees. Mr. Kipper noted that the additional funding would allow the Division to unfreeze 4.5 FTE positions and to add 10 new positions. Most of the positions were in the corporate and finance area that oversaw company solvency and performed copy examinations to ensure solvency.

Mr. Kipper remarked that additional assessments would be effective starting July 1, 2009, and for the balance of this calendar year, there would be a pro-rata assessment with a full calendar year assessment beginning March 2010.

According to Mr. Kipper, the second part of S.B. 426 (R1) had to do with the viatical and life settlement language. This language dealt with the issue of "stranger-originated" life insurance, a type of sale where, primarily, senior citizens were approached by a broker or producer to purchase a life insurance policy. After a period of time that policy would be sold to the broker. The broker would be the owner and subsequent beneficiary of the life insurance proceeds. For a fee the insured would sell their policy to these brokers. At the death of the insured, the broker would receive the death benefit.

The language in S.B. 426 (R1) would expand current consumer protections by stating that unless there were extenuating circumstances or exceptions, the individual would not be able to sell their policy to the broker for five years from the time the policy was created. Mr. Kipper noted the bill included additional expansions of consumer protections and increased transparency regarding the broker and viatical company obligations to the consumer.

Mr. Kipper indicated that the language in the bill was based on a model bill created by the National Association of Insurance Commissioners and was being considered in a number of states across the country.

Mr. Kipper testified there were a number of other smaller issues built into this bill. In sections 7 and 8 there was language that eliminated counter-signature requirements to ensure compliance with a Ninth Circuit Court opinion. There was language included to match mandated acts in mental health parity, genetic information disclosure, and "Michelle's Law" which governed health insurance for college students. There was a section that required insurers to provide notice when a prescription drug formulary was changed within the plan year for drugs used to prevent the rejection of a transplanted organ.

In conclusion, Mr. Kipper noted the bill included provisions related to the Federal Deposit Insurance Corporation that would provide some assistance to the Division of Financial Institutions of the Department of Business and Industry.

Assemblywoman Buckley asked whether the Governor's Office supported the fee increases described by Mr. Kipper.

Dianne Cornwall, Director, Department of Business and Industry, responded that she was aware of the Governor's stance on new fees and taxes, but she believed because the Division was in the process of losing their accreditation the Governor would approve the required increases.

Assemblywoman Buckley was unclear how S.B. 426 (R1) differed from A.B. 480 (R2), a fee increase for the State Engineer, which was vetoed by the Governor. The bill was supported by the industry but not by the Governor. Assemblywoman Buckley supported S.B. 426 (R1) and thanked Ms. Cornwall for her efforts.

Assemblyman Conklin echoed the comments of Assemblywoman Buckley and hoped the Governor would support the bill. Assemblyman Conklin noted that section 38.5 read:

If a policy of health insurance issued pursuant to chapter 689A, 689B, 689C, 695A, 695B, 695C or 695G includes coverage for a prescription drug that is necessary for an insured to prevent the rejection of a transplanted organ, the insurer must notify the insured and, if known, the physician of the insured who prescribed the drug at least 30 days before a change in the formulary of the insurer within the plan year which affects that prescription becomes effective.

Assemblyman Conklin was uncertain what the statement in section 38.5 meant. It appeared problematic to him if the physician was unknown.

Jack Kim, representing the Nevada Association of Health Plans (NAHP), responded that the language in section 38.5 was prepared by the NAHP. He explained that in most cases the physician was known, but there were plans

where the physician was unknown. The intent was to notify the member there was going to be a change in formulary. The physician would still be able to write the prescription with either the generic or brand name drug. The language was meant to "cover all the bases."

Assemblyman Conklin wanted to know for certain that the physician had control over the formulary that the patient received.

Mr. Kim stated that the physician had control over what drug was prescribed. If the physician put "prescribe as written" on the prescription, that drug would be the drug dispensed to the patient.

Assemblyman Conklin asked Mr. Kim to explain the substantive change of this provision.

Mr. Kim explained that in the discussion with the Senate Committee on Finance it was noted that the member was not always aware there was a change in the co-pay for the prescription. The member should discuss generic or brand name drug options with their physician. The language was drafted to ensure that both the member and the physician were notified of any changes.

Assemblywoman Buckley commented that the previous Commissioner of Insurance submitted a voluminous insurance omnibus bill every session to update issues. The industry would attempt to include their own provisions in the bill. She strongly recommended to Mr. Kim that the industry not attempt to include their own provisions in the insurance bill. The insurance companies could work with the committee chairs to develop bills if necessary. Assemblywoman Buckley suggested the Commissioner of Insurance not attempt to get an insurance bill passed so late in the session. The bills had to be closely scrutinized and it endangered the passage of the bill.

Mr. Kipper believed the advice of Assemblywoman Buckley was salient and he would attempt to follow it.

Assemblyman Denis asked whether the Governor would sign S.B. 426 (R1).

Ms. Cornwall responded that she could not speak for the Governor, but he had indicated he supported the concept.

Fred L. Hillerby, representing the American Council of Life Insurers, testified in support of S.B. 426 (R1).

Todd Thakar, member of the American Council of Life Insurers, supported S.B. 426 (R1).

Robert A. Ostrovsky, representing Nevada Association of Health Plans and Employers' Insurance, testified in support of S.B. 426 (R1). The industry worked with the Division and believed this was an appropriate funding mechanism.

James Wadhams, representing American Insurance Association, the Nevada Association of Health Underwriters, the Nevada Association of Insurance and Financial Advisors, and Anthem Insurance Company, strongly supported S.B. 426 (R1).

Alfredo Alonso, Lewis and Roca LLP, representing the Life Settlement Association, supported the fees in S.B. 426 (R1) but had an issue with the viatical section of the bill. The bill did not focus on the "stranger-originated" concept, but only made it more difficult for the arrangements to occur. The bill focused on the provider rather than the broker. He asked the Committee allow him a few minutes to discuss the issue with the Commissioner of Insurance.

Assemblywoman Buckley pointed out that the bill had to be processed immediately, and there was no time to prepare an amendment. The funds were needed to implement the budget, and the budget was based on the fees outlined in the bill.

Trevor Hayes, representing Coventry, recognized that the bill would be moving forward but wanted to speak on behalf of the viatical section. He believed there was better language that could be used rather than the five-year ban indicated in S.B. 426 (R1).

There being no additional comments or questions, Chair Arberry closed the hearing on S.B. 426 (R1) and opened the hearing on S.B. 428.

**Senate Bill 428: Revises provisions governing state financial administration.
(BDR 31-1303)**

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, provided a brief overview of Senate Bill (S.B.) 428 stating there were two areas covered in the bill. Currently up to 3 percent of the Millennium Scholarship Trust Fund (Fund) could be used to pay the costs of administering the Fund. Section 1 allowed the college savings plan funds to also be used for administration of the Fund. This was recommended by the State Treasurer to extend the life of the Millennium Scholarship program before additional funds would be required to continue the program. The proposal was included in The Executive Budget.

Sections 2 and 3 of the bill eliminated the revolving account for investigation enforcement and education in the Secretary of State's Office and moved the funds and activities into the general administrative budget account of the Secretary of State. This proposal was included in The Executive Budget.

Additionally, the bill allocated \$942,000 from a settlement received by the Secretary of State to offset a supplemental appropriation recommended in The Executive Budget because of lower than anticipated expedite fees being experienced by the Secretary of State. The remaining \$763,000 would be deposited to the State General Fund.

There being no public comments or questions, Chair Arberry closed the hearing on S.B. 428 and requested a motion from the Committee.

ASSEMBLYWOMAN BUCKLEY MOVED TO DO PASS S.B. 428.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Arberry requested the Committee consider S.B. 426 (R1).

Senate Bill 426 (1st Reprint): Revises provisions relating to insurance.
(BDR 57-1203)

ASSEMBLYMAN CONKLIN MOVED TO DO PASS S.B. 426 (R1).

ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Arberry requested the Committee consider S.B. 431.

Senate Bill 431: Authorizes expenditures by agencies of the State Government.
(BDR S-1317)

ASSEMBLYWOMAN MCCLAIN MOVED TO DO PASS S.B. 431.

ASSEMBLYWOMAN KOIVISTO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Arberry requested the Committee consider S.B. 421 (R1).

Senate Bill 421 (1st Reprint): Temporarily suspends longevity pay and merit pay increases for state employees. (BDR S-1193)

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, reminded the Committee that this bill would temporarily suspend the longevity and merit pay for state employees.

ASSEMBLYWOMAN LESLIE MOVED TO DO PASS S.B. 421 (R1).

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Assemblyman Denis disclosed that the measure would affect him the same as any other state employee.

THE MOTION CARRIED UNANIMOUSLY.

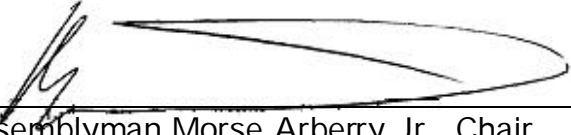
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The meeting was recessed at 12:07 p.m., and because of time constraints, was not reconvened. The meeting was adjourned at 8:15 a.m. on May 26, 2009.

RESPECTFULLY SUBMITTED:

Linda Blevins
Committee Secretary

APPROVED BY:



Assemblyman Morse Arberry Jr., Chair

DATE: _____

EXHIBITS			
Committee Name: <u>Committee on Ways and Means</u>			
Date: <u>May 22, 2009</u>		Time of Meeting: <u>8:13 a.m.</u>	
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 522	C	Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District 1	Proposed amendment