

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

Seventy-Fifth Session  
May 20, 2009

The Committee on Ways and Means was called to order by Vice Chair Sheila Leslie at 8:13 a.m. on Wednesday, May 20, 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/](http://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](mailto: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:**

Senator Allison Copenig, Clark County Senatorial District No. 6  
Senator Dean A. Rhoads, Rural Nevada Senatorial District  
Senator Barbara Cegavske, Clark County Senatorial District No. 8  
Assemblyman John C. Carpenter, Assembly District No. 33

**STAFF MEMBERS PRESENT:**

Mark Stevens, Assembly Fiscal Analyst  
Tracy Raxter, Principal Deputy Fiscal Analyst  
Bob Atkinson, Senior Program Analyst  
Julie Waller, Program Analyst  
Connie Davis, Committee Secretary  
Vickie Kieffer, Committee Assistant  
Janice Wright, Committee Secretary

Vice Chair Leslie announced that the Committee would consider the bills out-of-agenda order beginning with Senate Bill (S.B.) 425.

**Senate Bill 425: Extends reversion for previous session appropriation for the Institute for Neuro-Immune Disease. (BDR S-1311)**

Michael D. Hillerby, Vice President, Whittemore Peterson Institute for Neuro-Immune Disease, a 501(c)(3) non-profit organization in partnership with the University of Nevada School of Medicine, provided the Committee with a document entitled, *Center for Molecular Medicine Fact Sheet* ([Exhibit C](#)).

Mr. Hillerby advised the Committee that the 2007 Legislature appropriated \$2 million toward the construction of the new Center for Molecular Medicine on the University of Nevada School of Medicine campus for which he provided the following information:

- The building construction, managed by the State Public Works Board, was financed by approximately \$60 million in University bonds, private donations (undisclosed amount), and \$12 million in state funding (\$10 million appropriated in 2005 and \$2 million appropriated in 2007).
- State law required the availability of all financing prior to awarding and signing of a construction contract.
- The contract was signed in the fall of 2008, and construction began in December 2008.
- State law required the initial expenditure of university bond money followed by private donations followed by General Fund appropriations.

Mr. Hillerby advised that because of the expenditure requirement and an inability to expend the General Fund appropriation by July 1, 2009, legislation was required to extend the date for the reversion of the General Fund appropriation.

Mr. Hillerby advised that University and Whittemore Peterson Institute staff continued to pursue research grants for the project, and, within the last year, the Peterson Institute was awarded approximately \$2.2 million in non-construction equipment only grants from the federal government. Additionally, the Whittemore Peterson Institute was recently awarded a Research Project Grant (RO1), defined as one of the most prestigious grant levels that could be awarded to fund research. Mr. Hillerby advised that the grants were used to purchase laboratory equipment for University researchers.

Vice Chair Leslie noted that passage of S.B. 425 would extend the reversion date for the previous session appropriation by two years.

Vice Chair Leslie asked whether others wished to speak in favor of, in opposition to, or from a neutral position to S.B. 425. Hearing no response, Vice Chair Leslie closed the hearing on S.B. 425.

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Vice Chair Leslie opened the hearing on Senate Bill (S.B.) 318 (R1)

**Senate Bill 318 (1st Reprint): Revises provisions governing tuition paid by persons in the Armed Forces of the United States and by veterans at campuses of the Nevada System of Higher Education. (BDR 34-744)**

Senator Allison Copening, Clark County Senatorial District No. 6, introduced S.B. 318 (R1) for the Committee's consideration and advised that the fiscal note ([Exhibit D](#)) reflected that the amended version of the bill had minimal fiscal impact on the Nevada System of Higher Education (NSHE).

Senator Copening provided the following information concerning the bill:

- Passage would provide free tuition at all NSHE campuses for certain veterans during the 12-month period after completion of active duty and the establishment of residency in Nevada.
- The group eligible for free tuition included non-residential military personnel who had completed active duty at a Nevada military base and who were attending a Nevada college or university while on active duty or military personnel who had just completed active duty at a Nevada military base and wanted to begin attending a Nevada college or university.
- Currently, tuition at NSHE colleges and universities was waived for active-duty members of the military and the members of their families despite residency status. However, if military veterans had not established residency upon discharge, they were charged out-of-state tuition fees or put their education on hold for a year until residency was established.

Senator Copening reported that S.B. 318 (R1) addressed the 12-month gap between the time members of the military completed active duty at a Nevada base and establishment of residency in Nevada. Senate Bill 318 (R1) extended the benefit by allowing veterans to continue their education in Nevada with no delays and at no cost.

A copy of a May 19, 2009 letter ([Exhibit E](#)) from Daniel Klaich, Executive Vice Chancellor, NSHE, that expressed support for the measure, was distributed to the Committee.

In response to questions Vice Chair Leslie asked regarding the benefit, Senator Copening advised that an Iowa resident stationed at Nellis Air Force Base, for example, could currently attend a NSHE college or university at no charge. However, upon completion of military service, the student would be charged out-of-state tuition for 12 months while residency was being established, and S.B. 318 (R1) waived tuition for the 12-month period.

In response to Vice Chair Leslie's questions concerning the difference between the terms tuition and fees, Senator Copening indicated that an out-of-state resident paid tuition while a person who had established residency paid fees. Senator Copening explained, however, that current law provided that military veterans who were residents were exempt from paying tuition.

Robert Dickens, Ph.D., Director, Office of Governmental Relations, University of Nevada Reno, NSHE, confirmed Senator Copening's explanation concerning the distinction between tuition and fees and that out-of-state residents paid tuition and residents paid fees. Dr. Dickens spoke of serving as a member of the Residency Appeals Board and advised that the statutory change would standardize the administration process for residency appeals on the University of Nevada, Reno campus.

Vice Chair Leslie questioned whether a tuition charge assessed against students who were not residents of Nevada was in addition to registration fees or other fees assessed against students who were residents of Nevada and asked whether veterans were assessed those types of fees.

Dr. Dickens confirmed that students were assessed certain mandatory fees on a per credit basis and additional "flat fees" for self-supporting budgets, such as the student counseling center and the health center, would not be waived.

Vice Chair Leslie asked whether others wished to speak in favor of, in opposition to, or from a neutral position to S.B. 318 (R1). Hearing no response, Vice Chair Leslie closed the hearing on S.B. 318 (R1) and opened the hearing on Senate Bill (S.B.) 394 (R1).

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**Senate Bill 394 (1st Reprint): Makes various changes to provisions relating to off-highway vehicles. (BDR 43-501)**

Senator Dean A. Rhoads, Rural Nevada Senatorial District, appeared before the Committee to testify in support of S.B. 394 (R1), which related to off-highway vehicles.

Senator Rhoads reported that the Legislative Committee on Public Lands, which he chaired, had monitored off-highway vehicle use on public lands for a number of years. Additionally, he said that the number of off-highway vehicles (OHVs) that operated on public lands in Nevada had increased dramatically in recent years, and recent estimates reflected that Nevadans owned over 425,000 OHVs, including dirt bikes and snowmobiles. Senator Rhoads pointed out that the increased popularity of OHVs, as a form of recreation, posed significant land management challenges and that nearly all western states had some form of off-highway vehicle registration and regulation at the state level.

Senator Rhoads advised that formal deliberations concerning off-highway vehicle problems took place at seven of the nine in-state Legislative Committee on Public Lands' hearings in 2008, and that as Chairman, he was "diligent" in offering opportunities for all interested parties to discuss OHV regulation in Nevada. Senator Rhoads recalled that members of the Committee on Public Lands were "impressed" with the desire of many interested parties to collaborate on the legislation. In addition, he said that through the efforts of a working group, consensus was reached on many important components of OHV registration and regulations, and the Legislative Committee on Public Lands was pleased to "once again" support OHV legislation.

Vice Chair Leslie thanked Senator Rhoads for his diligent efforts concerning OHV registration and regulations and expressed her support for the bill.

Assemblywoman Smith, who served as a member of the Legislative Committee on Public Lands, also expressed her thanks to Senator Rhoads for his work in developing S.B. 394 (R1).

Jeremy Drew, Engineering Intern, Resource Specialist, Resource Concepts, Inc., and Co-Coordinator of the OHV Working Group, advised that the Working Group supported Amendment 4890 (Exhibit F). Mr. Drew apologized for any confusion that had resulted from the proposed amendment in previous hearings before other legislative committees and advised that the Department of Motor

Vehicles (DMV) had been provided a copy of the amendment when it was received from the Legislative Counsel Bureau.

Mr. Drew provided the following background information on the development of S.B. 394 (R1), which he said was a result of "a great effort" by the Working Group, from various points of view, to develop a consensus on the OHV bill. A document ([Exhibit G](#)) listed the members of the OHV Working Group and organizations that had testified in support of the bill.

Mr. Drew reported that between meetings of the OHV Working Group, members met with their constituents and other entities to examine concepts developed by the Group, which provided a broad perspective of various topics discussed during meetings. Members of the Group also provided testimony and updated the Legislative Committee on Public Lands on the Group's process. Additionally, the OHV Working Group presented the Legislative Committee on Public Lands with an outline consensus OHV Program that the Committee sponsored as one of its bill draft requests.

Mr. Drew advised that the Working Group asked for the DMV's participation throughout the process, and the bill was amended in the Senate in an effort to resolve DMV concerns regarding adequate long-term funding for the program. Mr. Drew pointed out that similar legislation was presented at three previous legislative sessions but that previous legislation was unable to strike a balance between all interest groups. Mr. Drew explained, however, that the OHV Working Group rallied around the shared theme of promoting the continued responsible use of OHVs on Nevada's public lands, and the result was legislation supported by a diverse set of interests, which he said addressed the need for legislation.

Concluding his remarks, Mr. Drew asked for the Committee's favorable consideration to amend and do pass S.B. 394 (R1).

Leah Bradle, Executive Director, Nevada Powersports Dealers Association and Co-Coordinator of the OHV Working Group, provided the following summarization of the bill and the fiscal impact the proposed amendment would create:

- Titling for all existing OHVs would be voluntary and mandatory for all new OHVs and resales, and the Department of Motor Vehicles (DMV) would be responsible for overseeing the process. Applications and vehicle identification number (VIN) inspections would be processed directly through authorized dealerships, and fees would be consistent with current vehicle titling fees and would be transferred to the DMV.
- Registration of all OHVs would take place annually and registration would range between \$20 and \$30. Initial registration would require a copy of the title for new OHVs, or a copy of the title, a physical VIN inspection, and signature of affidavit of ownership for existing OHVs, which would require proof of sales tax paid or a waiver of sales tax signed by the Department of Taxation.

Ms. Bradle explained that currently many Nevada residents went across state lines to purchase OHVs and did not pay sales tax upon returning to Nevada because they were evading the tax or were not aware of it, which created a loss of sales to local dealerships and a loss of sales tax to the state. Ms. Bradle advised that the Department of Taxation recently audited three Utah dealerships

that sold OHVs to Nevada residents. Those sales equaled over \$16.4 million and a loss of over \$1.2 million in sales tax to Nevada.

- All OHVs would be assigned a unique number that would be displayed on an identification tag. Reciprocity would be granted to riders with vehicles registered in other states that recognized Nevada's program and vice versa.
- The DMV would be responsible for registration oversight, but authorized dealers would submit registration applications on behalf of their customers.
- For the first year, 85 percent of registration fees collected would be provided to the DMV to cover start-up costs.
- After the first year, 15 percent of collections would be provided to the DMV for administrative costs, and all other monies would be deposited directly into a revolving fund for distribution through a grant process as follows:
  - Ø 60 percent of the funding would be provided through grants for projects related to studies or planning for trails and restoration of facilities for use by owners and operators of off-highway vehicles.
  - Ø 20 percent would be used for program enforcement.
  - Ø 15 percent would be used for OHV education and safety training.
  - Ø 5 percent would be used for administration of the Fund and to support a Commission created to oversee the Fund. The Commission would be comprised of 11 voting members of various representatives and enthusiasts. An advisory committee to the Commission would be created to help develop program regulations and the grant process. Additionally, a provision was provided for an executive secretary that would assist with the day-to-day operations.
- OHV dealers would be licensed through the DMV, which would allow dealers to assist their customers and OHV owners in the titling and registration applications process, which would eliminate visiting a DMV office.
- DMV projections reflected initial program start-up costs at approximately \$500,000. In order to neutralize the fiscal impact, the proposed amendment would eliminate the need for an allocation by creating a temporary trigger account for the receipt of gifts and grants from various sources to secure funding before actual implementation of the program. When the account reached the required dollar amount, the start-up process would begin, and the program would start 12 months from that date. If the funding requirements were not met by July 8, 2011, the legislation would sunset. The fiscal note was projected based on an estimated 200,000 OHVs, with \$1.8 million in profits projected for future biennia and a projected \$4.4 million placed in the OHV Revolving Fund annually.

Concluding her remarks, Ms. Bradle advised that the passage of the legislation with the proposed amendment would capture millions of dollars in sales tax that



was lost to out-of-state sales and would stimulate local business by increasing purchases and foot traffic at in-state dealerships.

In response to questions Assemblyman Denis asked concerning OHV owners visiting from states that had no registration program, Ms. Bradle advised that those visitors would be required to register their OHVs in Nevada.

Assemblyman Denis asked whether out-of-state visitors that were only in town for a weekend would be required to register their OHVs with a dealer.

Mr. Drew advised that a provision for a temporary registration stamp was included in S.B. 394 (R1); however, in an effort to avoid individuals working around the resident system, the provision was removed in the proposed amendment. Mr. Drew explained that most all of Nevada's neighboring states had registration programs, but a non-resident could obtain a Nevada registration for \$20.

In response to Assemblyman Denis, who asked how a Nevada resident visiting Utah or California would obtain a temporary registration, Mr. Drew advised that a Nevada resident visiting reciprocating states would be required to purchase that state's temporary registration sticker.

Assemblyman Hardy asked whether OHVs could be registered in other states by mail and whether Nevada enforcement officers would be empowered to register OHVs that were stopped for not being registered.

Mr. Drew advised that other states employed a variety of registration methods, but visitors to Nevada would be required to obtain a registration sticker through an OHV dealership. Mr. Drew further advised that the proposed amendment ([Exhibit F](#)) reflected that persons who violated the registration provision for off-highway vehicles would be guilty of a misdemeanor subject to a fine not to exceed \$100. Mr. Drew advised that the intention was not to punish violators in the first few years but to give warnings and to provide education concerning the program.

In response to Assemblyman Hardy, who questioned the \$2,500 administrative fine in the proposed amendment ([Exhibit F](#)), Mr. Drew explained that the \$2,500 administrative fine related to a violation of any provisions of sections 22 to 52, which covered the regulation of dealers and was consistent with existing motor vehicle laws.

In response to Assemblyman Hardy who asked about obtaining a temporary registration if a dealership was closed, Mr. Drew confirmed that a temporary registration could not be obtained until the dealership was open.

In clarification of an earlier question, Ms. Bradle advised that a vehicle inspection was required only for a first-time registration, and thereafter, registrations were renewable by mail or online.

Assemblyman Hardy asked whether an OHV owner could obtain a registration through a DMV kiosk, if a dealership was closed.

Ms. Bradle advised that the bill, in its present form, provided for the registration of OHVs through the dealerships only and not the DMV. Additionally, Ms. Bradle pointed out that most dealerships were open seven days-a-week.

In response to earlier concerns Assemblyman Denis expressed, Assemblyman Goicoechea referenced ([Exhibit F](#)), page 5, line 31, which provided that registration of an off-highway vehicle was not required if the off-highway vehicle was registered or certified in another state and was located in Nevada for not more than 60 days.

Assemblyman Denis provided clarification that his earlier question regarded OHV owners from other states that did not have a registration program.

Assemblyman John C. Carpenter, Assembly District No. 33, referenced Amendment 5208 ([Exhibit H](#)) page 5, line 28, which provided that *registration of an off-highway vehicle was not required if the off-highway vehicle was used solely for husbandry on private land or public land that was leased*. Assemblyman Carpenter pointed out that public lands were not leased and clarifying language in the amendment changed the terminology to read: *leased to or used under a permit issued to*.

Vice Chair Leslie noted that that Amendment 4890 proposed by the OHV Working Group appeared similar to Assemblyman Carpenter's Amendment 5208 and asked whether Amendment 5208 incorporated language into Amendment 4890 or whether it was a separate amendment to S.B. 394 (R1).

Assemblyman Carpenter advised that Amendment 5208 was proposed as an amendment to the original bill.

Ms. Bradle advised that some of the language in Assemblyman Carpenter's proposed amendment was not addressed in the OHV Working Group's proposed amendment but was supported by the Working Group.

Ms. Bradle confirmed Vice Chair Leslie's understanding that the language in Assemblyman Carpenter's proposed amendment was in addition to the OHV Working Group's proposed amendment. Additionally, Ms. Bradle advised that the OHV Working Group's amendment included language concerning the exemption of husbandry vehicles but agreed with the need for clarifying language concerning the issuing of permits for public land use.

Assemblyman Carpenter expressed concern regarding Nevada residents who currently registered their trucks and cars in adjacent states and who never registered their vehicles in Nevada. To avoid a similar problem with registration of OHVs, Assemblyman Carpenter proposed the following language on page 6, lines 7 through 11 of Amendment 5208: *The provisions of subsections 1 to 5, inclusive, do not apply to an owner of an off-highway vehicle who had registered the off-highway vehicle in another state until the next time that the registration from that other state expired*.

Assemblyman Carpenter indicated a need for stronger language but said that he wanted to ensure that OHV owners who were Nevada residents registered their vehicles in Nevada after the registration in another state expired.

Assemblyman Goicoechea advised that he and Assemblyman Carpenter would prefer stronger language because the proposed amendment still allowed a Nevada resident to register an OHV in an adjacent state. Assemblyman Goicoechea pointed out that language was needed that required OHVs based in Nevada for over 60 days to be registered in Nevada.



Assemblyman Carpenter agreed with the need for stronger language and reiterated that he wanted to avoid OHVs being registered in adjacent states and never being registered in Nevada.

In response to Vice Chair Leslie's request for suggested language to strengthen the proposed amendment, Assemblyman Goicoechea recommended using terminology to the effect that OHVs required a Nevada registration after 60 days.

Assemblyman Denis asked whether an OHV owner in Nevada for a weekend and who paid \$20 for a temporary registration would have to provide evidence that sales tax for the OHV was paid in his home state.

Assemblyman Carpenter responded that registration of an off-highway vehicle was not required if the off-highway vehicle was registered in another state and located in Nevada for not more than 60 days. Mr. Carpenter advised that some Nevada residents currently avoided registering their automobiles and trucks in Nevada and reiterated that he did not want to see that happen with OHVs as well.

Assemblyman Goicoechea indicated that under the bill's current structure, a Nevada resident could purchase and register an OHV in Oregon and never pay sales tax in Nevada.

In response to questions Vice Chair Leslie asked regarding capturing the sales during the registration process, Assemblyman Goicoechea indicated that the bill required proof that an owner of an OHV had paid all applicable taxes before the OHV could be registered.

Mr. Drew said that the Working Group viewed Assemblyman Carpenter's proposed amendment 5208 as friendly, but he suggested that the language on page 6, line 7, relating to the inapplicability of the registration provisions, be replaced by the language in amendment 4890 on page 5, line 31 that provides an exemption from Nevada registration for OHVs that are registered or certified in another state and located in Nevada for not more than 60 days.

In response to questions Assemblyman Hardy asked about low speed or converted side-by-side vehicles that could be used on the highway or off the highway, Mr. Drew advised that the consensus of the Working Group was not to include the on-highway, off-highway issue in the bill. Mr. Drew advised, however, that Chapter 490 of the *Nevada Revised Statutes* (NRS) allowed OHVs to travel up to two miles on highways from trailhead to trailhead.

In response to Vice Chair Leslie, who asked questions concerning the urgency associated with passing the bill, Ms. Bradle advised that the members of the Working Group were told to expect the bill to be vetoed. Ms. Bradle indicated that she assumed the Governor would veto the bill because of the inclusion of new fees even though most of the riding community, who would be paying the fees, supported the bill.

Mr. Drew confirmed that staff in the Governor's Office had indicated to the Working Group that the Governor could not support the bill because of the inclusion of new fees.

Assemblywoman Buckley commended the members of the Working Group for the time and effort they had put into developing the bill.

Vice Chair Leslie agreed to work to quickly move the bill, which she said had broad bipartisan support in both the Senate and the Assembly.

Ms. Bradle expressed the Working Group's support for the bill with both proposed amendments and asked the Committee members for their favorable consideration in approving the bill as quickly as possible.

Assemblyman Hogan advised that he heard the bill on the previous day in the Assembly Committee on Transportation and commended the Working Group on "a well-organized endeavor to incorporate diverse ideas" into what he described as a "remarkable achievement" that resulted in S.B. 394 (R1).

Vice Chair Leslie asked individuals who wished to speak in support of, in opposition to, or from a neutral position to move to the witness table.

Kyle Davis, Policy Director, Nevada Conservation League, spoke in support of S.B. 394 (R1) and told the Committee that the bill was one of four priorities for the Conservation Priorities for a Sustainable Nevada, which was a statewide coalition of 17 environmental and conservation groups. Mr. Davis discussed the effort that had gone into developing the bill and advised that all those involved in the development process reached consensus on the major issues. Mr. Davis asked for the Committee's "quick and favorable support of the measure."

Jeff Fontaine, representing the Nevada Association of Counties (NACO), asked that the record reflect NACO's support of S.B. 394 (R1).

Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association, testified in support of the bill. Mr. Adams told the Committee that from a law enforcement perspective, passage of the bill would help to eliminate the anonymity of off-highway vehicle riders who were damaging areas of public lands.

Additionally, Mr. Adams said that the bill would assist in the recovery of stolen vehicles because the titling and registering of off-highway vehicles would be required.

Mr. Adams also advised that passage of the bill would provide a percentage of funding to the Department of Public Safety that would be available through grants for the enforcement of laws on public lands.

Neena Laxalt, representing the Nevada Cattlemen's Association, reported that the Association was a member of the OHV Working Group. Ms. Laxalt commended Jeremy Drew and Leah Bradle, whose work she said was instrumental in development of the bill. Ms. Laxalt expressed strong support for S.B. 394 (R1) on behalf of the Nevada Cattlemen's Association,

Michael Payne, representing the 10,000 riders and racers in the Motorcycle Racing Association of Nevada and also a member of the OHV Working Group, spoke in support of S.B. 394 (R1), which he said was a "significant step forward" for all of the reasons mentioned in previous testimony.

Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation, expressed support for the bill on behalf of the Federation.

Bjorn Selinder, representing Churchill, Eureka, and Elko Counties, expressed support for the bill on behalf of the counties.

Chris MacKenzie, Attorney, sportsman, and representing the Rural Nevada Alliance, a member of the OHV Working Group, expressed support for the bill on behalf of the Alliance.

Farrokh Hormazdi, Deputy Director, Department of Motor Vehicles, addressed the following concerns regarding S.B. 394 (R1):

- The bill did not provide or address non-highway funding to the Department to cover the cost for regulations, or the costs for employees needed for ongoing compliance enforcement, administrative hearings, or off-highway vehicle road designation.
- The bill only allowed the Department to use its portion of OHV funds for the administration of titling and registration of off-highway vehicles.
- The bill removed the authority from the Department of Transportation to grant approval for the designation of any portion of highway within a city or county for operation of off-highway vehicles and placed the responsibility with the DMV.
- The Department's fiscal note ([Exhibit I](#)) addressed the funding needed but not provided by S.B. 394 (R1) to cover the expenses associated with the mandate.

Additionally, Mr. Hormazdi advised that the fiscal note attached to the bill was "time and project sensitive," and the figures presented were relevant for the present time. He also said that, as written, the funding required to support the Department's start-up costs might not be received for up to two years, and considering the economy and the probability of an inflationary future, the Department could not project the level of funding or resources that would be required in the future to implement the bill.

In response to Vice Chair Leslie who asked for information on the fiscal note costs, Mr. Hormazdi advised that start-up costs were projected at \$477,473.

Vice Chair Leslie asked whether the fiscal note was reviewed in the hearing held by the Senate Committee on Finance.

Dennis Colling, Chief, Administration, DMV, responded that the fiscal note was brought to the attention of the Senate Committee on Finance and confirmed that the start-up costs were projected at \$477,473.

Mr. Hormazdi reiterated that the amount projected for start-up costs could change between the present time and the time the bill became effective.

In response to concerns Vice Chair Leslie expressed regarding the start-up costs, Mr. Drew advised that the amendment presented by the OHV Working Group contained language on page 11, line 32 regarding the establishment of a revolving fund that would provide assistance to the DMV. Mr. Drew explained that the OHV Working Group had taken it upon themselves to attempt to raise the start-up funds from the federal government and other sources for the assistance needed in carrying out the provisions of the Chapter.

In response to questions Vice Chair Leslie asked regarding raising the funds and the effective date of bill, Mr. Drew referenced Amendment 4890, page 4, line 28 and page 34, line 35, which reflected that the effective date would be

triggered through a proclamation issued by the Governor once the proper funding was raised.

Vice Chair Leslie expressed concern that the effective date would be triggered by a proclamation issued by the Governor since the Governor planned to veto the bill.

Assemblywoman Smith shared the same concern and advised that other legislative bills used language to the effect that an act would become effective upon the availability of funding. Assemblywoman Smith recommended discussing the issue with the Legislative Counsel's staff and that an additional amendment be prepared.

Vice Chair Leslie agreed and suggested that Assemblyman Goicoechea and Assemblywoman Smith work with the Legislative Counsel's staff on the preparation of a new amendment that would remove the Governor from issuing a proclamation to trigger the effective date of the bill and to incorporate the language of the OHV Working Group's Amendment 4890 and Assemblyman Carpenter's Amendment 5208.

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS  
AS AMENDED S.B. 394 (R1) WITH SUGGESTIONS BY THE VICE  
CHAIR.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

Assemblyman Denis recalled previous testimony that indicated law enforcement officials did not plan to ticket violators right away and expressed an interest in learning about the effectiveness of the bill. Assemblyman Denis suggested that a report be submitted to legislators during the 2011 Legislative Session regarding the value of the legislation.

Vice Chair Leslie asked the OHV Working Group coordinators to provide the report requested by Assemblyman Denis.

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

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Chair Arberry assumed the duties of the Chair and opened the hearing on Senate Bill (S.B.) 416 (R1).

**Senate Bill 416 (1st Reprint): Suspending temporarily the administration of norm-referenced examinations in public schools. (BDR S-1216)**

Keith W. Rheault, Ph.D., Superintendent of Public Instruction, Department of Education, spoke in support of S.B. 416 (R1), a bill that would suspend the norm-referenced testing program for the 2009-2010 and the 2010-2011 school years. The norm-referenced test compared a student's score against the scores of a group of students, called the "norming group," who had already taken the same examination.

Dr. Rheault advised that norm-referenced testing was the only state-required test that was not a part of the No Child Left Behind Act and pointed out that the Legislature had suspended the norm-referenced testing program for the 2009 school year because of budget reductions.

Dr. Rheault reported that Nevada was one of 16 states that suspended norm-referenced tests, and a recent article in *Education Week* noted that Florida's suspension of the program would save that state \$15 million in 2009. Dr. Rheault indicated that the norm-referenced test was the only test that could be suspended without affecting federal funding. Additionally, Dr. Rheault noted that norm-referenced testing was not included in the Governor's recommended budget nor was it included in budgets closed by the Legislature.

Julie Whitacre, Director of Government Relations, Nevada State Education Association, spoke in support of S.B. 416 (R1) and provided a proposed amendment ([Exhibit J](#)) to the bill.

Ms. Whitacre advised that S.B. No. 110 of the 74th Session placed a limit on the number of tests that the districts could administer between July 1, 2007, and January 1, 2009, and the amendment proposed to extend the moratorium for the 2009-11 biennium. Ms. Whitacre justified extending the moratorium because of fiscal costs associated with the testing as well as the loss of instructional time. Ms. Whitacre advised that the downturn in the economy had contributed to less staff to prepare, administer, and analyze tests and that more of the burden associated with those duties fell on teachers and students, which prevented them from focusing on more productive instructional activities and other activities related to fulfilling the educational responsibilities of the school.

Chair Arberry asked whether others wished to speak in favor of, in opposition to, or from a neutral position to S.B. 416 (R1), and hearing no response declared the hearing on S.B. 416 (R1) closed.

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Chair Arberry opened the hearing on Senate Bill (S.B.) 293 (R2) and recognized Senator Barbara Cegavske.

**Senate Bill 293 (2nd Reprint): Makes various changes concerning the protection of children. (BDR 38-701)**

Senator Barbara Cegavske, Clark County Senatorial District No. 8, clarified, for the record, that S.B. 293 (R2) was amended in the Senate Committee on Health and Education, and the fiscal note was removed.

Diane Comeaux, Administrator, Division of Child and Family Services, Department of Health and Human Services, confirmed Senator Cegavske's testimony and advised that the first amendment to S.B. 293 removed the fiscal note. Ms. Comeaux reported that the revision to remove the fiscal note remained in the second reprint of the bill, and thus, implementation of the bill would have no fiscal impact on the Division of Child and Family Services.

Constance Brooks, representing Clark County, testified in support of S.B. 293 (R2) and expressed thanks to Senator Cegavske and Assemblywoman Mastroluca for calling attention to the administration of psychotropic medications to children. Ms. Brooks indicated that Clark County representatives looked forward to reviewing and improving policies in concert with the Division of Child and Family Services to improve services to children.

Assemblywoman Buckley testified in support of S.B. 293 (R2), which required the development of policies concerning certain psychotropic medications given to children in the custody of agencies that provided child welfare services. Assemblywoman Buckley described serious situations involving the

administration of psychotropic medications by doctors that produced adverse health reactions in children and discussed a situation that occurred in Clark County in which officials refused to interfere with a doctor's orders because of a liability issue. Assemblywoman Buckley expressed hope that passage of S.B. 293 (R2) would move state law in a direction that provided an improvement of services to children.

Chair Arberry asked whether others wished to speak in favor of, in opposition to, or from a neutral position to S.B. 293 (R2). Hearing no response, Chair Arberry declared the hearing on S.B. 293 (R2) closed.

\*\*\*\*\*

Chair Arberry opened the hearing on Senate Bill (S.B.) 423.

**Senate Bill 423: Makes appropriations to the Interim Finance Committee for allocation to assist state agencies in paying electricity, heating and cooling costs. (BDR S-1265)**

Stephanie Day, Deputy Director, Budget Division, Department of Administration, reported that with passage of S.B. 423, approximately \$5.3 million would be appropriated from the General Fund and \$464,000 from the State Highway Fund to the Interim Finance Committee for allocations to state agencies to assist in the payment of electricity, heating, and cooling costs. Additionally, Ms. Day reported that \$14.5 million had been placed in the Distributive School Account for the provision of basic support.

Jessica Ferrato, representing the Nevada System of Higher Education (NSHE), expressed support of S.B. 423 on behalf of the NSHE.

Chair Arberry asked whether others wished to speak in favor of, in opposition to, or from a neutral position to S.B. 423. Hearing no response, Chair Arberry declared the hearing on S.B. 423 closed and opened the hearing on Senate Bill (S.B.) 424.

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**Senate Bill 424: Makes an appropriation to the Fund for Insurance Premiums, commonly known as the Attorney General's Tort Claim Fund. (BDR S-1313)**

Stephanie Day, Deputy Director, Budget Division, Department of Administration, reported that S.B. 424 provided a \$2 million appropriation from the State Highway Fund to the Fund for Insurance Premiums, more commonly identified as the Attorney General's Tort Claim Fund. Ms. Day advised that the appropriation would replenish the balance of the Fund after a settlement related to the Nevada Highway Patrol was made from the Fund.

Chair Arberry asked whether others wished to speak in favor of, in opposition to, or from a neutral position to S.B. 424. Hearing no response, Chair Arberry declared the hearing on S.B. 424 closed.

\*\*\*\*\*

Chair Arberry opened the hearing on Bill Draft Request (BDR 18-1201).



**BDR 18-1201:** Eliminates the Consumer Affairs Division of the Department of Business and Industry and transfers certain duties and powers of the Division. (Later introduced as [Assembly Bill 561](#).)

Chair Arberry requested that the Committee consider introduction of Bill Draft Request (BDR) 18-1201, a bill that would eliminate the Consumer Affairs Division of the Department of Business and Industry. Chair Arberry noted that the elimination of the Consumer Affairs Division was included in the Governor's recommended budget.

ASSEMBLYMAN HOGAN MOVED FOR COMMITTEE  
INTRODUCTION OF BDR 18-1201.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Denis and  
Assemblywoman Buckley voted nay. Assemblyman Oceguela was  
not present for the vote.)

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Chair Arberry opened discussion on [Assembly Bill \(A.B.\) 355](#) and asked Committee members to review the bill, which was contained in their bill books.

**Assembly Bill 355 (1st Reprint):** Revises provisions related to certain public utilities that furnish water or sewage disposal. (BDR 58-693)

Assemblyman Goicoechea spoke in support of [A.B. 355 \(R1\)](#), a bill that pertained to small public utility companies that furnished water or sewage disposal. Assemblyman Goicoechea reported that the companies could raise or adjust rates with oversight from the Public Utilities Commission.

ASSEMBLYWOMAN LESLIE MOVED TO DO PASS [A.B. 355 \(R1\)](#)  
AS AMENDED.

ASSEMBLYMAN GRADY SECONDED THE MOTION.

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

\*\*\*\*\*

Chair Arberry recessed the hearing at 9:25 a.m. The Chair reconvened the Committee at 11:38 a.m. and opened the hearing on [Assembly Bill \(A.B.\) 562](#).

**Assembly Bill 562:** Makes various changes regarding state financial administration and makes appropriations for the support of the civil government of the State. (BDR S-1318)

Tracy Raxter, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, reported that [A.B. 562](#) was the General Appropriations Act for the 2009-11 biennium.

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, advised that the bill, in its current form, contained individual appropriations by budget account, which totaled \$1.9 billion in fiscal year 2010 and \$1.973 billion in fiscal year 2011. Mr. Stevens advised that additional bills

including the Distributive School Account bill and the General Authorizations Act included Committee recommendations for the entire budget.

ASSEMBLYWOMAN LESLIE MOVED TO DO PASS A.B. 562.

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

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

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Chair Arberry recessed the hearing at 11:41 a.m. The Chair reconvened the Committee at 5:21 p.m. and opened the hearing on Assembly Bill (A.B.) 563.

**Assembly Bill 563**: Ensures sufficient funding for K-12 public education for the 2009-2011 biennium. (BDR S-1322)

Bob Atkinson, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, at the Chair's request provided the Committee with the following overview of the bill that would ensure sufficient funding for K-12 public education for the 2009-2011 biennium:

- Section 1 provided basic support guarantee for school districts for fiscal year 2010 at a statewide average of \$5,251 per pupil. Page 2 of the bill provided a list of the basic support per pupil for each respective school district.
- Section 2 provided basic support guarantee for school districts for fiscal year 2011 at a statewide average of \$5,395 per pupil. Page 3 of the bill provided a list of the basic support per pupil for each respective school district.
- Section 3 provided basic support for each special education program unit of \$39,768 in each year of the 2009-2011 biennium. Page 6 of the bill provided a list of the basic support for each of the 3,009 special education units across the state school districts.
- Section 4 provided appropriations of \$1,201,169,591 in fiscal year 2009-10 and \$1,267,051,744 in fiscal year 2010-11 from the State General Fund to the State Distributive School Account.
- Section 5 provided for the Department of Education expenditure of \$158,732,161 in non-General Fund revenue from sources including mineral land leases, out-of-state sales taxes, and interest from the Permanent School Fund in the first year of the 2009-11 biennium. Additionally, an expenditure of \$163,551,195 was authorized for expenditure by the Department of Education in the second year of the biennium.
- Section 7 provided authorization for Department of Education expenditures from the Distributive School Account of \$21,170,456 for the 2009-10 fiscal year and \$22,673,833 for the 2010-11 fiscal year for the adult high school diploma program.
- Section 10 provided for a transfer from the State Distributive School Account of \$7,797,804 in each year of the biennium to the three school

districts listed on page 11 of the bill that would serve as fiscal agents for the respective regional training programs for the professional development of teachers and administrators.

- Section 11 provided a transfer of \$100,000 from the Distributive School Account in each year of the 2009-11 biennium for additional training opportunities for educational administrators in Nevada.
- Section 12 provided a transfer of \$3,338,875 from the Distributive School Account in each year of the 2009-11 biennium for early childhood education.
- Section 14 provided a transfer from the Distributive School Account of \$170,908 in each year of the 2009-11 biennium for transporting children from Indian reservations across county lines.
- Section 15 provided a transfer from the Distributive School Account of \$18,798 in each year of the 2009-11 biennium to school districts to pay the increase of salaries of professional school library media specialists.
- Section 18 provided a transfer from the Distributive School Account of \$144,263,320 for distribution to county school districts to hire 2,142 teachers to meet the required 16:1 pupil-teacher ratios in kindergarten, first, and second grades and 19:1 pupil-teacher ratio in third grade in fiscal year 2009-10.
- Section 19 provided a transfer from the Distributive School Account of \$145,935,501 for distribution to county school districts to hire 2,163 teachers employed by school districts to meet the required pupil-teacher ratios in fiscal year 2010-11.
- Section 22 provided for an appropriation from the State General Fund to the Other State Education Programs Account of \$10,278,761 for fiscal year 2009-10 and \$9,366,421 for fiscal year 2010-11. Five of the programs were listed on pages 23 and 24 for purposes of allowing the appropriation in each year of the biennium to be used in either year of the biennium because flexibility was required.
- Section 23 provided for an appropriation from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation of \$25,506,299 for fiscal year 2009-10 and \$25,474,591 for fiscal year 2010-11. Authorized revenue from interest on the money would be provided to continue the existing full-day kindergarten program.
- Section 26 provided an appropriation from the State General Fund to the Grant Fund for Incentives for Licensed Educational Personnel of \$24,777,056 to purchase one-fifth of a year of retirement service credit and other financial incentives for school year 2009-10 for certain licensed educational personnel. The members of the Joint Subcommittee on K 12/Higher Education funded the account with \$24,777,056 in the second year of the biennium to pay for the retirement credits and other incentives earned in the first year of the biennium. Section 25 allowed any money remaining in the Grant Fund for Incentives for Licensed Educational Personnel to be carried forward to fiscal year 2010 to be used to purchase one-fifth of a year of retirement service credit earned in fiscal year 2009. (This was explained as a timing issue based on when

the Public Employees' Retirement System could calculate the cost of the retirement credits that the school districts had to pay.)

- o Section 27 provided that the Clark County School District would provide \$10 million in each year of the 2009-11 biennium from the school district's fund for capital projects that would be used for operating purposes (would be counted as a part of their basic support calculations.)
- o Section 28 provided \$6 million for fiscal year 2009-10 and \$5.4 million for fiscal year 2010-11 in funding that would be received by the Clark County School District from the Clark County Redevelopment Agency (accounting for funding as an offset to the basic support guarantee.)
- o Section 29 reenacted the 2001 Legislative provision that would allow funding raised through general obligation bonds in the Clark County School District to be used for the purchase of biodiesel buses for the two years of the 2009-11 biennium.
- o Section 30 provided that the provisions of Assembly Bill (A.B.) 458, the K-12 Public Education Stabilization Account bill, if enacted, would not apply to any reversions of money from the State Distributive School Account to the State General Fund for fiscal year 2008-09.

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, referenced section 26 and clarified that the sum of \$24,777,056 to purchase one-fifth of a year of retirement service credit and other financial incentives for school year 2009-10 was actually booked in fiscal year 2011 to pay for the credits earned in fiscal year 2010. Mr. Stevens wanted to ensure the Committee's understanding that the funding was a fiscal year 2011 appropriation and not a fiscal year 2010 appropriation.

Assemblywoman Gansert asked how the \$5,251 per pupil basic support guarantee for fiscal year 2009-10 compared to the legislatively approved figure for fiscal year 2009 and the figure after the budget reductions were made.

Mr. Atkinson responded that the legislatively approved amount for fiscal year 2009 was \$5,323, and the decrease in textbook costs approved in the 24th Special Session reduced basic support for fiscal year 2009 to \$5,214.

Assemblywoman Gansert asked whether appropriations from the State General Fund to the Distributive School Account of \$1,201,169,591 for fiscal year 2009-10 and \$1,267,051,744 for fiscal year 2010-11 included stimulus funding.

Mr. Atkinson responded that the appropriations were entirely from the General Fund. Mr. Atkinson explained under the calculations for stimulus funding, the allocation of funds was based on the gap between the General Fund appropriation provided in fiscal year 2009 and General Fund appropriation provided in the previous fiscal year, and thus stimulus stabilization funding was not directed to K-12 education.

Assemblywoman Gansert asked how the appropriation amounts of \$25,506,299 for fiscal year 2009-10 and \$25,474,591 for fiscal year 2010-11 for Programs for Innovation and the Prevention of Remediation were developed.

Mr. Atkinson responded that the amount of the appropriations included the cost of existing full-day kindergarten teachers, and the existing program was reduced by 6 percent in the initial budget reduction phase with a 2 percent restoration of the initial reduction.

Assemblywoman Gansert referenced the portion of section 29 of the bill that addressed motor vehicles that used biodiesel, compressed natural gas, or a similar fuel formulated to reduce emissions and asked whether the school districts were required to buy the reformulated fuel or whether they were permitted to use additives.

Mr. Atkinson responded that he did not have information concerning reformulated fuel or additives, but school district representatives, in earlier discussions, had informed him they were purchasing buses that were even more restrictive regarding emissions than what the language in the bill addressed.

ASSEMBLYMAN CONKLIN MOVED TO DO PASS A.B. 563.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Buckley, Assemblywoman Leslie, Assemblywoman McClain, and Assemblyman Ocegura were not present for the vote.)

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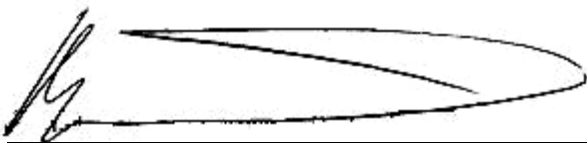
Chair Arberry recessed the hearing at 5:35 p.m. (The Chair, however, did not reconvene the Committee on May 20, 2009.)

RESPECTFULLY SUBMITTED:

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Connie Davis  
Committee Secretary

APPROVED BY:

A handwritten signature in black ink, appearing to be 'Morse Arberry Jr.', written over a horizontal line.

Assemblyman Morse Arberry Jr., Chair

DATE: \_\_\_\_\_

<u>EXHIBITS</u>			
Committee Name: <u>Committee on Ways and Means</u>			
Date: <u>May 20, 2009</u>		Time of Meeting: <u>8:13 a.m.</u>	
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Guest List
<u>S.B. 425</u>	C	Michael D. Hillerby, Vice President Whittemore Peterson Institute for Neuro-Immune Disease	Center for Molecular Medicine Fact Sheet
<u>S.B. 318 (R1)</u>	D	Nevada System of Higher Education	Executive Agency Fiscal Note: 6706
<u>S.B. 318 (R1)</u>	E	Daniel J. Klaich, Nevada System of Higher Education	May 19, 2009, Letter of Support
<u>S.B. 394 (R1)</u>	F		Proposed Amendment 4890
<u>S.B. 394 (R1)</u>	G	Jeremy Drew, Engineering Intern, Resource Specialist, Resource Concepts, Inc.	List of members of the OHV Working Group and organizations that had testified in favor of <u>S.B. 394</u>
<u>S.B. 394 (R1)</u>	H	Assemblyman John Carpenter, Assembly District No. 33	Amendment 5208
<u>S.B. 394 (R1)</u>	I	Department of Motor Vehicles	Fiscal Note Dated April 2, 2009
<u>S.B. 416 (R1)</u>	J	Julie Whitacre, Nevada State Education Association	Proposed Amendment to <u>S.B. 416 (R1)</u>