

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

Seventy-Fifth Session  
May 27, 2009

The Committee on Ways and Means was called to order by Chair Morse Arberry Jr. at 9:07 a.m. on Wednesday, May 27, 2009, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/75th2009/committees/](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 Maurice Washington, Washoe County Senatorial District No. 2  
Senator Steven Horsford, Clark County Senatorial District No. 4  
Assemblyman David Bobzien, Washoe County Assembly District No. 24  
Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District No.1

**STAFF MEMBERS PRESENT:**

Mark Stevens, Assembly Fiscal Analyst  
Tracy Raxter, Principal Deputy Fiscal Analyst  
Anne Bowen, Committee Secretary  
Vickie Kieffer, Committee Assistant

Chair Arberry adjourned the meeting from May 22, 2009.

Chair Arberry opened the hearing on S.B. 430.

**Senate Bill 430: Transfers money from the Trust Fund for Public Health and the Fund for a Healthy Nevada to the State General Fund. (BDR S-1214)**

Mike Torvinen, Deputy Director, Fiscal, Department of Health and Human Services, testified in support of Senate Bill 430.

Mr. Torvinen stated S.B. 430 transferred approximately \$60 million from the Trust Fund for Public Health and the Fund for a Healthy Nevada to the State General Fund. The transfer would cover shortfalls in fiscal year (FY) 2009, according to Mr. Torvinen.

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), explained that the transfers had been taken into account during a special session, therefore the bill needed to be passed to have the budget reductions included in The Executive Budget for FY 2009 take place. Mr. Stevens noted that it required legislation to "sweep" those amounts. Staff recommended approval of S.B. 430.

In answer to a question from Assemblywoman McClain, Mr. Stevens assured her that the transfer of funds contained in S.B. 430 was not a permanent change in statute; it was only an action to transfer funds from one account to another. While most of the funds were transferred from the Trust Fund for Public Health, the Fund would remain in place and again begin receiving deposits.

Chair Arberry closed the hearing on S.B. 430 and opened the hearing on S.B. 385 (R2).

**Senate Bill 385 (2nd Reprint): Revises provisions governing charter schools. (BDR 34-279)**

Senator Maurice Washington, Washoe County Senatorial District No. 2, testified in support of Senate Bill 385 (R2).

Senator Washington explained that Senate Bill 385 (R2) dealt with the proposed Nevada Charter School Institute. He said he was going to provide an overview of the genesis of the bill, and then staff would review the bill section by section if needed. Senator Washington said he understood that Dr. Rheault would talk to the Committee concerning the fiscal note.

According to Senator Washington there was some opposition to the bill because of the fees, but he thought there was a resolution to those concerns.

Senator Washington explained for those members of the Committee that did not have a background concerning charter schools, this was probably the last big piece that was left in completing a ten-year journey concerning charter schools.

Senate Bill 385 (R2) arose when the State Board of Education placed a moratorium on the formation and sponsoring of any charter schools. Senator Washington said the Board maintained there were not enough personnel to oversee the charter schools that were already operating. Additionally, Washoe County and Clark County put a moratorium on the sponsoring of any additional charter schools. Senator Washington noted there were also a few rural counties that did the same thing, which he believed was not in compliance with the state statute.

Senator Washington said a charter school institute had been formed in Colorado that had worked well for that state. He explained that a charter school institute performed tasks such as accepting the applications for new charter schools, checking for compliance in the applications, and ensuring that state and federal statutes were complied with, as well as actually overseeing the operations of charter schools.

In response to a question from Chair Arberry, Senator Washington explained that the proposed institute would be separate from the State Board of Education and would act only in matters regarding charter schools. He maintained there were two reasons for the proposed institute: one was that it eliminated the adversarial relationship between the charter school and its sponsor, and two, it put the state in a position to deal just with charter schools.

Senator Washington said what had been heard, time and time again, was that the State Board of Education was overwhelmed with not only its current duties, but additional duties regarding charter schools. He said it seemed logical to set up an institute, or another board, that primarily dealt just with charter schools.

Chair Arberry asked whether the members of the proposed institute or board would be the owners of the charter schools or a diverse group of people.

Senator Washington referred to section 21 of the bill which stated that the institute would create a seven-member board, two appointed by the Governor, two appointed by the Senate Majority Leader, two appointed by the Assembly Speaker, and one appointed by the Association of Charter Schools. There had been concern voiced that there was one member from the Association of Charter Schools. Senator Washington said he was agreeable to amend that provision if it was a concern to ensure that it was not a case of the "fox watching the henhouse."

Chair Arberry wondered whether someone from the Nevada State Board of Education should sit on the institute board.

Senator Washington explained the way it worked was the proposed institute and its board would oversee the operation and compliance of charter schools, but the applications for new charter schools would be submitted to the Department of Education. The Department would check for compliance and ensure standards were met. Once the application had been completed, the Department would forward the application to the institute and the institute would oversee the operations and maintenance of the charter schools.

Mindy Martini, Senior Research Analyst, Research Division, Legislative Counsel Bureau (LCB), testified regarding S.B. 385 (R2).

Ms. Martini remarked that as Research Division staff she was neither for nor against any legislation. She said there were several technical sections within the bill. The actual Charter School Institute was defined beginning in section 19 of S.B. 385 (R2). The term "director" was defined in section 20 of the bill and the Nevada Charter School Institute was created in section 21. Ms. Martini reiterated the composition of the Institute: seven members, two appointed by the Governor, two by the Senate Majority Leader, two by the Assembly Speaker, and one by the Association of Charter Schools. She noted the term for members would be three years.

Section 26 of S.B. 385 (R2) authorized the Nevada Charter School Institute to employ staff. Ms. Martini said the account for the Nevada Charter School

Institute was created in the State General Fund in section 27 of the bill. The interest and earned income would be credited to the account and any remaining funds would not revert.

Ms. Martini said section 35 of the bill discussed regulations and said the Nevada Charter School Institute may adopt regulations that carried out all charter school provisions, including the requirements for performance audits of charter schools. The Department of Education would retain the authority to adopt regulations for finances and budgeting. Ms. Martini said the State Board could only disapprove any regulation adopted by the Nevada Charter School Institute if that regulation threatened the efficient operation of schools or created an undue financial hardship. The State Board of Education would play a limited role under the provisions of S.B. 385 (R2).

Section 38 of S.B. 385 (R2) addressed fees. Ms. Martini explained that under the bill, the sponsor of a charter school could receive up to 2 percent of the total amount apportioned to charter schools. Currently, according to Ms. Martini, school district sponsors received 1.5 percent in the first year and 1 percent for each succeeding year. State Board of Education sponsored charter schools received 1.5 percent every year.

Senator Washington stated that the initial 1 percent fee that was added to the District sponsored charter schools had been to help those schools comply with not only state but also federal regulations and to oversee their application process. Senator Washington said that for charter schools sponsored by the state, the fee had initially been 1 percent, as well. The State Board of Education had requested an additional 0.5 percent in the 2007 Legislative Session because there was an additional employee needed because of workload.

According to Senator Washington, to add parity to the bill, initially there was a 2 percent assessment fee for all charter schools across the board. He acknowledged there was concern about the 2 percent fee, but he believed there would be a proposed amendment to reduce the 2 percent fee to 1.5 percent. He said the Department of Education would testify that the proposed institute could operate at 1.5 percent. The reduced fee would apply only to charter schools that were already sponsored by the Board of Education.

Chair Arberry asked whether all fees would be placed in the State General Fund.

Senator Washington replied that as with any other public school fees they would be deposited in the Distributive School Account (DSA). A school performed a "seat count" at a certain time of the year, turned in the results, and the school was paid quarterly. From those payments, schools were assessed a 1.5 percent administrative fee for oversight, special education, and any other state and federal regulations.

Assemblywoman Buckley commented that she was not sure what she thought about S.B. 385 (R2). She said it seemed that whenever there was frustration with the State Board of Education another apparatus was created. However, she understood the concern that the State Board of Education had just stopped processing charter school applications.

Senator Washington remarked that Colorado, under the same scenarios that Nevada was facing, had created an institute. Colorado created an institute for charter schools that not only monitored the proliferation of those schools but also ensured that the charter schools that were being established were meeting the requirements at the state and federal level, and for the students they

served. Senator Washington said he understood Assemblywoman Buckley's concern, but he believed this was a new opportunity for Nevada.

Assemblywoman Buckley asked why one member would be appointed by the Association of Charter Schools. She opined that Nevada had a couple of really great charter schools, some charter schools doing some good work, and some horrible charter schools. Assemblywoman Buckley said she would rather have a retired superintendent on the institute board to ensure there was someone whose heart and soul was in education and not someone with a financial motive.

Senator Washington replied that the Association of Charter Schools requested someone from the Association be part of the board to represent the perspective of the charter schools.

Assemblyman Denis noted that he was concerned about the parental perspective, which he did not see in the makeup of the institute.

Senator Washington responded that the first parental involvement was the choice that the parent made to put their child in a charter school given the options available. Most charter schools solicited for students because that was how they derived income and the parental involvement was there through choice. Senator Washington said he was not opposed to creating an additional seat for a parent to sit on the board if necessary. But, he suspected that through the Governor's choice, the Majority Leader's choice and the Speaker's choice that one parent, or several parents, would be included on the board.

Assemblyman Denis said he agreed that could happen, but he did not see anything in the bill that suggested that parental input was desired. He said that when making policy decisions many times it centered on business matters, but sometimes a parent might have a different perspective on a particular policy. Assemblyman Denis said he was not requesting the creation of an additional seat, but he believed it was important to have that perspective.

Senator Washington said he did not oppose a parental perspective. He added that the governance of most charter schools had parents that sat on their governing board, and he surmised that the institute would be no different.

Ms. Martini continued with her presentation and noted there were a few more sections that were important. Section 47 of S.B. 385 (R2) repealed the Subcommittee on Charter Schools of the State Board of Education.

Section 50 was transitory and initiated the appointment of the director of the Nevada Charter School Institute. The appointment would occur on October 1, 2009, for a three-year term.

Ms. Martini said section 51 was also transitory and provided that the director would be able to hire an administrative assistant, an accounting assistant, and an educational consultant beginning on January 1, 2010. The management analyst position that had responsibilities relating to the charter schools in the Department of Education would be transferred to the Nevada Charter School Institute (NCSI) on January 1, 2010.

According to Ms. Martini, section 52.5 of the bill stated that on or before January 1, 2010, the members of the NCSI would be appointed, and those appointments would expire at intervals.

Ms. Martini said section 54 referred to the regulations. Any regulations adopted by the Department of Education or the State Board of Education prior to January 1, 2010, would remain in effect and would be enforced by the NCSI until they were changed.

Ms. Martini stated that in section 55, on or before January 1, 2010, the charter schools sponsored by the State Board of Education would be transferred to the NCSI for sponsorship.

Assemblywoman Smith asked whether any of the schools could migrate to the NCSI or whether only state-sponsored schools were required to migrate and the other schools could choose to or not.

Ms. Martini replied that in section 55 it stated that all of the charter schools currently sponsored by the State Board of Education "shall" be transferred over to the NCSI. It authorized the charter schools sponsored by the school districts to request to be transferred, and the NCSI was required to accept those transfers.

Assemblywoman Smith commented that there was a disparity in the fees. Currently, the different sponsors paid different fees, so if those sponsors migrated, unless there was an amendment, all schools would be paying the 2 percent assessment. She asked whether she understood that correctly.

Ms. Martini acknowledged that was correct, the fee would be 2 percent across the state.

Assemblywoman Smith noted the proposed institute could adopt regulations which then went to the State Board of Education for its approval and then to the Legislative Commission for approval. She said she wondered about the time frame and how long it would take for something to get through the process.

Carol Stonefield, Supervising Principal Research Analyst, Research Division, Legislative Counsel Bureau (LCB), said that she, and Ms. Martini were staff to the Legislative Committee on Education during the interim, and it was the Committee that initially requested this legislation. The proposal from the Committee was to transfer all rule making authority to the NCSI. Ms. Stonefield explained that the State Board of Education would no longer have any rule-making authority with regard to the charter schools. There was a provision at the end of the bill that provided that the rules of the State Board of Education would remain in effect until the NCSI had the opportunity to review them, and at such time the NCSI could decide to continue the existing rules, or change or modify them.

Assemblywoman Smith pointed out the bill said that the State Board could disapprove any regulation.

Ms. Stonefield replied that was only under the provisions already set out, and this was similar to language that was currently in the statutes, as it applied to the Commission on Professional Standards, the teacher licensing board. There were two specific conditions under which the State Board could review and overturn a rule of the NCSI. These were when a regulation either threatened the operations of schools or created an undue financial hardship. Additionally, Ms. Stonefield said the State Board of Education would have to prove that the condition was one under which it could overturn the rule.

Assemblywoman Smith referred to section 24 of S.B. 385 (R2) regarding the director of the institute. She said she had concerns about language that said the director shall not pursue any other business or occupation or hold other office of profit without the approval of the NCSI. She said it seemed to her that the institute would not want the director to be involved with another business if the position was full-time, and she had concerns about that language saying "without the approval of."

Senator Washington asked whether Assemblywoman Smith was asking to amend section 24, starting at line 11, and Assemblywoman Smith requested that "without approval" be deleted because she could not imagine the circumstances under which it would be permissible for the director to hold two jobs. Senator Washington said he did not have a problem with the director's job being a person's only job.

Assemblywoman Smith remarked that she would require some language in the bill that created a clear boundary between the persons serving on the board and the persons who were affiliated directly with the board of an individual charter school so there was no semblance of conflict. She explained language would be necessary that said a charter school board member serving in that capacity could not serve on the charter institute governing board at the same time.

Senator Washington agreed and said it was intended that members of the Charter School Association would have an opportunity to serve on the institute board. It was meant to be a three-year term, and after that term was served, the intent was to rotate another member of the association onto the institute board. Senator Washington said if the language needed to be clarified that could be done as well.

Assemblywoman Smith asked what happened if a district-sponsored charter school migrated to the institute, and whether they were still allowed to use district services or did they lose that opportunity. She used the example of buses for field trips.

Senator Washington replied that for some services, such as buses, charter schools would still operate as they operated before the institute.

Assemblyman Hardy asked where in the bill it explained that district sponsored schools could voluntarily join the new institute. Assemblywoman Smith said it was addressed in section 55.

Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of Education, testified regarding the fiscal note attached to S.B. 385 (R2). [Exhibit C](#), a handout entitled "Fiscal Note Attachment—Revised 4/8/09" was submitted to the Committee.

Dr. Rheault stated that he had developed the fiscal note for the bill and had written one specifically for the bills this session that included institute language. The fiscal note for S.B. 385 (R2) was the same as that for Assembly Bill 489.

According to Dr. Rheault, he was at odds with the State Board of Education which did not support S.B. 385 (R2). The Department of Education supported the bill for two primary reasons. Dr. Rheault said there was a conflict of interest in the special education piece of the State-Board-sponsored charter schools.

The State Board was required to provide the technical assistance in special education to the charter schools, and if issues arose and there were appeals regarding the individual education plans, the State Board was also the appeals officer. Dr. Rheault said it had set up a situation where the Board provided the technical assistance and also reviewed that assistance. In the future as more schools were added, Dr. Rheault said that system could be a problem.

Dr. Rheault said the second reason the Department of Education supported the bill was tied to federal programs. The State-Board-sponsored charter schools were in limbo because the federal government did not approve of the state organization. Under school-district-sponsored charter schools, the Department was allowed to funnel federal money to the districts because technically the districts were considered under a district local education agency (LEA). However, Dr. Rheault said, a State-Board-sponsored charter school was not governed by any agency that was authorized to receive federal funding. The Department of Education had been supportive of S.B. 385 (R2) for that reason.

Dr. Rheault said he had prepared a fiscal note that would phase-in with the program and would be revenue neutral. There would be no additional state appropriations required if the bill were passed, and the institute would be operated completely with administrative fees collected from the participating schools.

Dr. Rheault provided some background as to how the funds were collected. Currently, a 2 percent fee was assessed for new charter schools that came into the system for the first year and 1.5 percent was assessed for the following years. The statute required the collection of the assessment at the end of the school year. Dr. Rheault said when the school year ended, the charter schools were allowed time to finalize all expenditures, which was accomplished sometime in August. The Department looked at the final expenditures, made adjustments to the final payments, and then sent the schools a bill for the administrative fees sometime in August. The actual fee was collected in September and was deposited in the reserve. Dr. Rheault noted that it required an entire year to collect the fee.

According to Dr. Rheault there were two bills that included a change to the fee collection process that would aid with cash flow. Assembly Bill 100 had already been signed by the Governor and that bill would change the system to a quarterly fee assessment. Currently, the Department provided the services and then collected the funding after the fact. Dr. Rheault said when he developed the fiscal note it was based on the number of staff and the approximate makeup of the governing board. Dr. Rheault said he had used the current assessment fee, 2 percent for new charters and 1.5 percent for continuing charters, when writing the fiscal note. He said he had not used the 2 percent across the board, and should that remain the amount currently used in the bill, another \$90,000 each fiscal year would be added to the revenues.

Dr. Rheault referred to page 1 of Exhibit C, and said the Department expected to have \$136,000 in the administrative fund for the charter schools at the end of this fiscal year which would carry forward into the next year. The new funds assessed during the 2008-09 school year and available September 30, 2009, were estimated to be \$345,009. That figure was based on 1.5 percent times the actual state revenues that each charter school received from the state. Dr. Rheault stated there were two new charter schools added in the 2008/09 school year that were being assessed at 2 percent, which would result in an additional \$345,009. On October 1, 2009, there would be approximately \$481,000 in the charter school reserve fund.



Because there would not be adequate funding to fully operate until October 1, 2009, Dr. Rheault said he proposed a phase-in of the institute. Dr. Rheault explained that the phase-in piece, shown on page 2 of [Exhibit C](#), illustrated the cost to operate the institute for 2010. He estimated, according to the phase-in plan, that the total cost for the institute would be approximately \$352,000 in 2010 and approximately \$455,000 in 2011, when it was fully operational.

[Exhibit C](#) provided a "breakout of summary costs" as to what it would cost to operate the institute board in each fiscal year. The cost was based on the cost of the State Board of Education. Dr. Rheault said he used the \$80 per day payment which the State Board of Education members currently received for attending meetings. He estimated the cost to operate the board at \$17,700 for the first year beginning January 1, 2010, and \$35,400 for the second year.

Dr. Rheault said the full-time institute director would be the first position filled and the Governor would make that appointment. He said he had estimated an appropriate salary for the institute director by comparing the institute to the most comparable established commission position, which was the Western Interstate Commission for Higher Education's (WICHE) director. The WICHE had approximately the same number of proposed employees, and Dr. Rheault had used WICHE's unclassified director's salary, which was \$81,584, as the salary for the institute director.

The rest of the proposed staff for the institute and the costs associated with the positions was shown on page 3 and 4 of [Exhibit C](#). Dr. Rheault noted that one staff person at the Department was paid with the charter school reserve funds, a management analyst 1, and that position was currently filled. That position had also been included in the rent, state assessments, and miscellaneous office setup costs.

Dr. Rheault referred to page 5 of [Exhibit C](#), "Projected cash flow of proposed institute expenses," and reiterated that if a 2 percent flat fee was charged across the board, another \$90,000 in revenues would be added for each fiscal year.

Dr. Rheault commented regarding the phase-in of the institute and said the Department began collecting applications for new charters for fiscal year (FY) 2010-11 in September 2009. Because the institute would not be operational at that time, he proposed the Department of Education staff review the applications and prepare them for approval. Dr. Rheault said he did not foresee the institute ever having enough staff to perform that function. A review of a new charter application required approximately 12 staff from the Department with special education, audit, and fiscal employees. There were also curriculum specialists in English, math, science, and social studies to review core curriculum. Teacher licensing specialists reviewed proposed hiring and employment practices.

Dr. Rheault said all of those procedures still needed to be followed to ensure the new schools were following the law and the charter application was compliant. In the future, the Department of Education would still perform those tasks before turning applications over to the institute.

Assemblywoman Smith asked whether Dr. Rheault had an opinion about services at the local level if a district-sponsored charter school migrated to the

new institute. In response, Dr. Rheault opined that there would be nothing requiring the districts to provide such services.

Assemblywoman Smith said that was her concern with the institute, and she continued that one of her other concerns was the obligation the state shouldered by creating the institute. She said she was uneasy about creating something new at the same time there were severe cuts in other programs.

Assemblywoman Smith also wondered about the state's obligation and what would happen if 18 months down the road there was insufficient money and another agency had been created in the General Fund that was the state's responsibility.

Dr. Rheault replied that he envisioned the institute operating similarly to the teacher licensing office in the Department of Education. He believed it was very clear that the teacher licensing office operated only on the fees collected, and if the revenues went down, either staff was terminated or the office survived with what revenue was collected. Dr. Rheault maintained the institute would have to operate with the requirement that if their revenues went down, it would have to do the job with what it had.

Kathleen Conaboy, K-12 Inc., testified in support of S.B. 385 (R2). She said she represented K-12 Inc., which was an education management organization, under contract for curriculum and management services to Nevada Virtual Academy, a statewide, State-Board-sponsored charter school in its second year of operation.

Ms. Conaboy related some of the background of the concept for an institute. The institute, as Dr. Rheault described, would separate the oversight from the technical assistance process and foster best practices as well as the development of charter schools in the state. Ms. Conaboy said for that reason the Nevada Virtual Academy had lent support to the development of the legislation that was before the Committee today.

Ms. Conaboy said based on some of the questions asked this morning about the membership of the board, and Assemblywoman Smith's concern about the member appointed by the Association of Charter Schools, she had suggested that the Superintendent of Public Instruction be the person to appoint the seventh member of the board. She suggested that person could not be an employee of the Department of Education, a member of the State Board of Education, or an employee or board member of a charter school or an education management organization.

According to Ms. Conaboy, the Superintendent of Public Instruction could choose someone from one of the commissions or someone, including a parent, to represent a different interest on the board. The appointment would not be specific to the charter school industry.

Ms. Conaboy stated that with the Obama administration's renewed emphasis on charter schools and the nurturing of charter schools, she believed the institute could be a center for charter school best practices in the state. She said her client, K-12 Inc., had asked her whether the institute would help position the state for some of the competitive grant funding that was available through the stimulus package, which was called "Race to the Top" money in education. Ms. Conaboy said the new institute could be positioned as part of an innovative approach to the further development and nurturing of charter schools.

Anne Loring, representing Washoe County School District, testified in support of S.B. 385 (R2). Ms. Loring said that during this session she had worked with Kathleen Conaboy and other representatives of the charter schools along with the sponsors of both of the bills. She said she had come to an agreement on amendments that were inserted earlier in the process, and she was in support of the legislation and hoped the institute would be successful should it be formed.

Assemblywoman Smith asked whether Ms. Loring could answer the question about the services provided by the local school districts and if a district-sponsored charter school migrated to the institute, whether it would still have complete access to services.

Ms. Loring replied that her understanding of the intent of the bill was that the institute would be hiring staff that would provide much of the technical assistance that the Department of Education now provided to the state-sponsored schools, and the districts would provide those services to district-sponsored charter schools. She noted that the districts were required to offer access to specialty classes at public schools to private school students and homeschooled students, and she believed those classes would be available to charter school students.

Assemblywoman Smith inquired as to whether school buses and meals would be included.

Ms. Loring opined that on a contract basis those services would be available on a space-available basis.

Chris Ferrari, Imagine Schools, testified in support of S.B. 385 (R2). Mr. Ferrari stated that Imagine Schools currently had two charter schools in Clark County that educated approximately 900 students.

Mr. Ferrari stated the institute was a policy shift, but one he believed everyone in education viewed as important. He said that within the districts and within the Department of Education, there was a concern that the increase in the number of charter school applications was going to be difficult to accommodate under the current structure. The creation of the institute would provide needed oversight according to Mr. Ferrari.

Laura Granier, Nevada Connections Academy, testified in support of S.B. 385 (R2). Ms. Granier said the bill was in line with a national trend recognizing that charter schools were a big part of an effort to provide the very best in education to all students, including those who did not necessarily perform well in a traditional setting.

Leigh Berdrow, co-founder and administrator, Academy for Career Education (ACE) High School, a career and technical education charter school in Reno, testified regarding S.B. 385 (R2). Ms. Berdrow thanked Senator Washington for his work on charter school legislation.

Ms. Berdrow stated that ACE High School and its governing body supported the majority of S.B. 385 (R2), especially the creation of the institute for state-sponsored schools. However, as a district-sponsored charter school, the ACE Board opposed the increase in sponsorship fees from "not to exceed 1 percent" to "not to exceed 2 percent," as stated on page 52 of the bill.

Ms. Berdrow noted that the school district charged the ACE High School the full 1 percent fee even though it was the only charter school that had been exempt

from a compliance audit for the past three years. She said if the fee was increased to 2 percent, that would double the fees paid by the school. Ms. Berdrow pointed out that increase would equal two-thirds of a teacher's salary for ACE High School.

Ms. Berdrow stated ACE High School also operated with support from the construction industry, and that industry was also feeling the effects of the economic climate.

Lonnie Shields, Nevada Association of School Administrators, testified in support of S.B. 385 (R2).

Chair Arberry closed the hearing on S.B. 385 (R2) and opened the hearing on S.B. 47 (R2).

**Senate Bill 47 (2nd Reprint): Authorizes the Department of Corrections to perform random drug and alcohol testing on certain employees. (BDR 23-306)**

Howard Skolnik, Director, Department of Corrections (NDOC), testified in support of Senate Bill 47 (R2). Mr. Skolnik said the bill would allow the Department of Corrections to institute random testing of its peace officer staff. He said the bill would also authorize other state law enforcement agencies to implement such procedures. The current bill had been modified from its original form as a result of extensive discussions with employee associations, which were now in support of the bill.

In answer to a question from Chair Arberry, Mr. Skolnik stated that should his "number come up" he would also be required to be tested.

Mr. Skolnik said that over the years the Department had a number of employees who had been engaged in trafficking and/or using controlled substances. He said those individuals had been dealt with directly under existing legislation, but S.B. 47 (R2) would allow the Department to create an environment of zero tolerance for drug use among employees.

Mr. Skolnik explained that the Department would offer one opportunity to an employee to go to the employee assistance program and be referred for substance abuse treatment. The opportunity would apply whether the employee brought his drug use to the attention of superiors or whether he tested negatively during the random drug test. Mr. Skolnik said the random list would be generated and the drug testing conducted outside the NDOC. The NDOC would be using some of the funds now in place for the drug testing of inmates. Mr. Skolnik said when the Department expended its funding, it would stop random testing.

Assemblywoman Leslie asked whether the Department had developed a protocol.

Mr. Skolnik replied that the NDOC currently had an annual contract for drug testing because it was required by the federal government to perform a certain amount of drug testing for all substances on inmates. He said the Department would expand that drug testing program.

Assemblywoman Gansert asked whether the funding was already in the budget, and Mr. Skolnik replied that it was.

Kevin Ranft, representing the American Federation of State and Municipal Employees (AFSME) 4010, expressed support for S.B. 47 (R2).

Ronald Dreher, Government Affairs Director, Peace Officers Research Association of Nevada, testified in support of S.B. 47 (R2).

Chair Arberry closed the hearing on S.B. 47 (R2).

**Assembly Bill 18: Authorizes the issuance of bonds for environmental improvement projects for Lake Tahoe. (BDR S-375)**

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated Assembly Bill (A.B.) 18 had been heard some time ago, and the bill authorized the issuance of bonds for environmental improvement projects at Lake Tahoe. It would provide an additional \$100 million in general obligation bonds. The bill had been held until receiving the final numbers regarding the capital improvement program. Mr. Stevens said the bonds were included in the bond interest redemption account costs that staff assumed would be incurred during the upcoming biennium.

ASSEMBLYWOMAN LESLIE MOVED TO DO PASS  
ASSEMBLY BILL 18.

ASSEMBLYMAN GRADY SECONDED THE MOTION.

THE MOTION PASSED (Assemblywomen Buckley, Smith and Assemblyman Conklin were not present for the vote.)

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**Assembly Bill 385 (1st Reprint): Makes various changes concerning the supervision of convicted persons by correctional officers and parole and probation officers. (BDR 16-523)**

Assemblywoman Kathy McClain, Clark County Assembly District No. 15, explained that there was a proposed amendment to A.B. 385 (R1) to require private prisons to meet the requirements set for the Nevada Department of Corrections. Exhibit D, Proposed Amendment No. 5314, was submitted to the Committee.

ASSEMBLYWOMAN KOIVISTO MOVED TO AMEND AND DO PASS  
AS AMENDED ASSEMBLY BILL 385 (R1).

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

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

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

Assemblyman Mo Denis, Clark County Assembly District No. 28, explained that Exhibit E, Proposed Amendment No. 5368, revised certain language in Assembly Bill (A.B.) 561.

Chair Arberry asked whether the Department of Business and Industry or the Attorney General's Office would be handling complaints in the absence of the Consumer Affairs Division.

Assemblyman Denis said part of the authority of the Consumer Affairs Division would be repealed. He said the way it currently worked was the Consumer Affairs Division would perform the investigation, and if fraud was discovered, the information would be turned over to the Attorney General's Office. The Attorney General would still perform its same duties, but the Department of Business and Industry would not perform the same duties because of lack of staff.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 561.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

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

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**Senate Bill 7 (1st Reprint): Makes various changes to the Advisory Council on the State Program for Fitness and Wellness. (BDR 40-23)**

Assemblywoman Debbie Smith, Washoe County Assembly District No. 30, explained that that bill had been heard previously and the additional funding had been removed. [Exhibit F](#), Proposed Amendment No. 4990, was submitted to the Committee.

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, (LCB) clarified that \$100,000 had been provided to the Advisory Council on the State Program for Fitness and Wellness in 2007, and S.B. 7 (R1) would allow the program to continue to use those remaining funds. A provision for an additional \$100,000 previously had been removed from the bill, according to Mr. Stevens.

Additionally, Mr. Stevens stated the reversion language had been removed from the bill, but staff recommended the reversion language remain and be extended to fiscal year (FY) 2011. Instead of striking the reversion language as shown on page 3 of [Exhibit F](#), the reversion language would be changed to reflect dates of June 30, 2011, and September 16, 2011.

ASSEMBLYWOMAN LESLIE MOVED TO AMEND AND DO PASS AS AMENDED SENATE BILL 7 (R1) WITH CHANGES AS RECOMMENDED BY STAFF.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

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

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**Senate Bill 146 (1st Reprint): Provides funding to the Department of Wildlife for certain projects. (BDR S-652)**

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), explained that Senate Bill (S.B.) 146 (R1) would provide \$225,000 in Question 1 (Q1) bond funding for the Department of Wildlife for habitat protection.

ASSEMBLYWOMAN LESLIE MOVED TO DO PASS  
SENATE BILL 146 (R1).

ASSEMBLYWOMAN GANSERT SECONDED THE MOTION.

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

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Chair Arberry opened the hearing on S.B. 152 (R2).

**Senate Bill 152 (2nd Reprint): Enacts the Green Jobs Initiative. (BDR 58-172)**

Senator Steven Horsford, Clark County Senatorial District No. 4, testified in support of Senate Bill (S.B.) 152 (R2), which encompassed a number of additional amendments that were adopted through the work of Assemblywoman Kirkpatrick and the Assembly Committee on Commerce and Labor.

Senator Horsford presented an overview of S.B. 152 (R2), which was the green jobs initiative that created a process to effectively use the funding provided by the federal stimulus dollars. The initiative was envisioned to be a process whereby individuals who were unemployed or underemployed could be trained to acquire the skills to be part of Nevada's new green economy.

According to Senator Horsford, when S.B. 152 (R2) was first proposed the unemployment rate was 9.1 percent, and it had recently risen to just over 11 percent. He said there were currently 128,000 unemployed workers in Nevada, and in Washoe County unemployment in the construction sector was as high as 70 percent. Senator Horsford maintained that the state was facing significant challenges, and it would be necessary to develop innovative approaches to the problems.

The proposal in S.B. 152 (R2) used the funds from the federal stimulus dollars in several different ways. Senator Horsford said approximately \$6 million of the \$37.8 million authorized to the state for the weatherization program could be used for "green jobs training." This was the first allocation of what was going to be a \$500 million grant program that the Obama administration had created. He said this process was an opportunity to position Nevada to be able to receive additional federal dollars.

In addition to the \$37.8 million in weatherization funding, Senator Horsford said there was \$34.7 million that was allocated to the state Energy Program. He noted there was also an estimated \$32 million available for energy efficiency block grants, which could also be leveraged for the effort.

Senator Horsford commented that the current weatherization program administered by the Housing Division of the Department of Business and

Industry was already a productive program. He said that if Nevada had not had a major infusion of money that program would probably have sufficed; the problem arose in moving forward. Senator Horsford said the first problem was the need to train unemployed and underemployed workers.

Senator Horsford explained there was a new policy goal to create a green economy and a renewable energy industry in the State of Nevada. The infusion of federal resources, if used effectively, could position Nevada for a better future, according to Senator Horsford. The allocation for the current weatherization program was approximately \$3 million, and it assisted approximately 1,200 households per year. The current weatherization program was primarily funded from the universal energy charge (UEC) that was placed on all consumer electric and gas bills.

Senate Bill 152 (R2) proposed that the Department of Employment, Training and Rehabilitation (DETR) and the Housing Division of the Department of Business and Industry would contract with one or more qualified, nonprofit entities, called "collaboratives," for the purpose of establishing training programs in three regions of the state.

Senator Horsford said the new program would be called the Green Jobs Initiative, and a portion of the \$37 million that was currently available would be used to put people to work weatherizing homes. In addition to immediate employment opportunities, he noted that as new solar, geothermal, wind, and other types of green energy plants were developed, a workforce would be trained to fill those new positions. He said what had been heard repeatedly from the industry was that Nevada did not have a properly trained workforce. Senator Horsford maintained the only way that the state was going to be competitive was to begin to train its workforce in a better way.

The Green Jobs Initiative was envisioned to help workers get a start in a new industry, but by working with the community colleges and other educational programs, the goal was to educate those workers so they could advance their careers.

Senator Horsford said it was expected that the emerging industry would create a career ladder as well as skills that could be applied to renewable energy manufacturing, installation, and operations. For example, the new plant at El Dorado would provide an estimated 200 jobs, according to Senator Horsford. He said that as Nevada's economy was diversified, many different job opportunities would arise.

Senator Horsford explained that there were no General Fund dollars allocated to the initiative under S.B. 152 (R2). According to Senator Horsford, without the bill, the agencies responsible for using the funds would have offered the programs in the same manner as they had in the past. The goal of the Green Jobs Initiative was to create a more strategic process that delivered a better product.

Assemblywoman Leslie remarked that she liked the concept of the bill and believed it was a great idea to lay out a framework for the state. She said she was curious about section 9, where it referred to a "nonprofit collaborative." Assemblywoman Leslie asked whether a "nonprofit collaborative" was defined in the bill beyond how an organization qualified as one. She noted that having worked in many nonprofit collaboratives, someone had to be in charge and wondered whether there would be a lead nonprofit.



Senator Horsford replied that the nonprofit collaborative structure would be a labor management agency or other affiliated agency that had an apprenticeship program registered with the State Apprenticeship Council and a community college or other institution of higher education and had the ability to conduct training programs in at least one of the three geographic regions of the state. If the current board structure of the applicant did not meet requirements of a collaborative, the applicant could enter into a written agreement relating to the job training and career development activities with the trade association that had accredited skills training. That plan was based on a plan of the National Network of Sector Partners that performed work related to sector initiatives in workforce and economic development. Senator Horsford said the practice was one the National Governors Association (NGA) Center for Best Practices had adopted. The types of sector approaches that worked in workforce development were ones that aligned labor or non-labor organizations that had certified apprenticeship programs with community colleges and trade associations of a particular industry.

Assemblywoman Leslie said she was trying to envision how the program would work. She said as she understood it the lead agency would be a 501(c)(3) nonprofit Nevada organization which would have a link to an apprenticeship program, as well as a link to the community college system, but the entity signing the contract would be the nonprofit institution.

Senator Horsford replied that was correct.

Assemblywoman Leslie asked whether it was DETR who would decide which nonprofit it would contract with, and Senator Horsford replied that was correct.

Senator Horsford remarked that since the bill had originally been introduced some things had become more evident. Within the \$37 million in the weatherization pool, there was up to \$6 million that could be used for training. That money was separate and apart from the job training money that the DETR administered, which could also be utilized for training as decided by the DETR.

Assemblywoman Buckley said she supported the bill and believed it made sense to develop a strategic, long-lasting view of the stimulus money. Because there were so many Nevadans currently out of work who were trained and ready to work in green energy fields, Assemblywoman Buckley stated it was important to be strategic about using those workers and training the leaders of tomorrow.

Assemblywoman Buckley said it appeared to her that S.B. 152 (R2) was going to require follow-up to meet the vision, and the follow-up needed to be done in the Executive Branch. She asked Senator Horsford how committed he felt those agencies were in developing a green jobs initiative.

Senator Horsford stated that as everyone was aware when legislation was proposed, sometimes the intent was received and the provisions of the bill were implemented in exactly the way it was planned, and then there were times when programs proceeded in another direction. Senator Horsford said based on his work with the Director of DETR, as well as the Administrator for the Housing Division, that they understood the larger vision. He said it was going to be imperative upon those agencies during the interim to have 100 percent accountability for the implementation, the allocation, and the product that was received from the federal dollars. Senator Horsford said he hoped that accountability would come from the oversight committee that was being proposed to account for the federal funds.

Assemblywoman Buckley commented that she appreciated those sentiments and was aware Assemblywoman Kirkpatrick had drafted some additional accountability language to ensure the vision in the bill was carried out. With the stimulus oversight committee and with other energy legislation that was pending, Assemblywoman Buckley believed that Nevada's potential with regard to renewable energy was unlimited.

In response to questions from Assemblyman Hardy, Senator Horsford explained that it was his understanding that there were approximately four or five nonprofit collaboratives doing the weatherization program statewide. He said he was not aware of any for-profit entity that had received a grant. The nonprofit that received the grant often contracted with private subcontractors to do a portion of the work, because of the specifications that might be required for a particular project. Senator Horsford said there was a cost-benefit analysis that was performed by the Housing Division to determine how much funding should be expended and whether the cost of the weatherization upgrade outweighed the potential benefits.

Senator Horsford indicated the sponsors of the bill envisioned a comprehensive curriculum on renewable energy. There were components of that curriculum that could be implemented by apprenticeship programs along with other components that could be implemented by community colleges or in a partnership between community colleges and apprenticeship programs. Senator Horsford said almost all apprenticeship programs in Nevada were certified one way or another by community colleges, so there was already a partnership that existed. He commented that a new curriculum needed to be formulated in a way that did not duplicate efforts.

In answer to Assemblyman Hardy's question regarding how long the curriculum would be, Senator Horsford explained that the length depended on whether the curriculum covered just weatherization, included an energy audit, or was a more comprehensive curriculum. He said there had been a work group led by the Housing Division and the DETR, along with the community colleges, concerning the formation of the curriculum.

Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District No. 1, responded to Assemblyman Hardy's question regarding section 13 in Amendment No. 943 ([Exhibit G](#)) and explained that section addressed the requirement that the DETR and the Housing Division would be required to report to the IFC.

Assemblyman Hardy asked whether the accountability requirement existed for every component and not just for the weatherization portion.

Senator Horsford said it was his understanding that the agencies were authorized to issue the contracts based on the specifications of the bill, but reporting to the Interim Finance Committee on a regular basis was included for all the components including weatherization.

Vice Chair Leslie referred to page 6, line 34, subsection 8 of section 9, of S.B. 152 (R2), which said "The Department and the Division shall each report to the Interim Finance Committee at each meeting held by the Interim Finance Committee with respect to the activities in which they have engaged pursuant to this section."

Assemblyman Hardy asked whether the requirement that a nonprofit and/or contractor must hire 50 percent of the total workforce from the training program was realistic.

Senator Horsford explained that provision was intended to help those who took the initiative to enroll in the training and acquire the skills needed. If the nonprofit or contractor could not meet the 50 percent requirement, the director of the department was allowed to determine that the nonprofit or contractor had made reasonable efforts but there were not sufficient applicants to hire from the training. He said there were individuals that already had the skills and would not be required to receive additional training; if the project could be filled by hiring those workers, it would still meet the intent. Senator Horsford said the intent of the bill was to avoid hiring individuals without training when efforts to hire individuals who had finished the training had not been exhausted.

Vice Chair Leslie asked whether the contract that had appeared in the press this morning that went through Manpower related to the bill and the proposed hiring practices.

Senator Horsford replied that it did not, but suggested that Director Mosley of the Department of Employment, Training and Rehabilitation could speak to that issue. He remarked that the contract, as he read it in the newspaper, did not pertain in any way to the provisions of S.B. 152 (R2).

Larry Mosley, Director, Department of Employment, Training and Rehabilitation (DETR), testified regarding S.B. 152 (R2). Mr. Mosley emphasized that the contract published in the newspaper had nothing to do with the bill. He said that contract was specifically dealing with the overall strategic direction of the DETR.

Assemblywoman Kirkpatrick said she was appearing in support of S.B. 152 (R2) as well as submitting [Exhibit G](#), Amendment No. 943. She said she had a concern with the weatherization portion of the bill and wanted to ensure that constituents were not just receiving a new air conditioner, but would actually receive an energy audit so that if weather stripping was needed that would be installed as well. Assemblywoman Kirkpatrick said she was also concerned with oversight because funding was federal stimulus money, and she did not want the state to be responsible because an agency decided not to report the required information.

In response to a question from Assemblywoman Gansert, Senator Horsford explained it was his understanding that \$6 million of the total could be used for training.

Assemblywoman Gansert asked whether a formula had been determined that indicated all \$6 million should be used for training.

Senator Horsford replied that the amount for training had not been specified in the bill, and the determination was something that would be left to the divisions, namely the Housing Division, which administered weatherization. The Division had done some estimates on the number of persons who could be trained and would be needed over the course of the three years that the federal stimulus funds were available. Senator Horsford said the Housing Division would be better suited to answer the question regarding how many people they expected to be trained.

Senator Horsford opined that the amendment Assemblywoman Kirkpatrick proposed for the bill (Exhibit G) strengthened it based on future objectives. He said the objective was to train people to perform other renewable energy jobs in addition to weatherization, although weatherization was still an element of the training.

Senator Horsford said the proposed amendment ([Exhibit G](#)) contained energy audit provisions designed to help any homeowner, regardless of income. Senator Horsford used himself as an example: he was married with three children living in a middle-class home, and his energy bill averaged \$400 to \$500 per month. He noted that while he was not aware of all the new technologies that were available from the energy efficiency rebate programs, just during the course of this session he had learned things that he could do to save 20 percent to 30 percent of his home energy costs. Senator Horsford said while he was aware that NV Energy had employees that would perform an energy audit upon request, there was a greater need than NV Energy could respond to. He said that with the new industry that was being created, the state needed workers to be trained to assist seniors and low-income and middle-income families, who could then benefit from this new economy and the technologies that would come from it.

Assemblywoman Gansert said she appreciated the energy audit portion of the amendment because she believed people needed to know where to begin concerning energy efficiency in their own homes. She said she had some concerns about the 50 percent rule and the fact the bill referred to only nonprofit collaboratives, even though nonprofits were allowed to hire private subcontractors. Assemblywoman Gansert said she was concerned about this language because she was not willing to rule out for-profit companies if they could be more cost-effective.

Vice Chair Leslie called for testimony regarding S.B. 152 (R2).

Larry Mosley, Director, Department of Employment, Training and Rehabilitation (DETR) testified regarding S.B. 152 (R2). He stated the Department of Employment, Training and Rehabilitation (DETR) was very much in favor of S.B. 152 (R2). Mr. Mosley said the Department had begun working on a strategic alliance consisting of the community colleges, labor groups, the southern and northern workforce boards, and Governor's Workforce Investment Board. The objective of that group was to develop an overall curriculum and structure with certification for energy skills, according to Mr. Mosley.

Vice Chair Leslie asked whether Mr. Mosley supported the proposed amendment ([Exhibit G](#)), and he replied that he did.

Vice Chair Leslie requested that Mr. Mosley address the controversy regarding the hiring of Lawrence Weekly, Clark County Commissioner, as the part-time outreach coordinator for southern Nevada.

Mr. Mosley read the following statement into the record:

Last year my executive team and I realized that Nevada has been referred to as the Saudi Arabia of renewable energy. We therefore put in place the concept of renewable energy training programs. In addition, the need for an energy sector initiative crossing state silos was communicated to agency directors speaking to the question, "What is the climate?" The agency directors consisted of (those

from) the Department of Energy, Economic Development, Business and Industry, Corrections, and Transportation.

Looking at how we can develop a collaborative approach to dealing with energy, strategic team representing education, business, labor unions, and non-unions was put in place to assist in the developing and training needs in this industry. A strategic component of the renewable energy endeavor was the concept of having a coordinator in the north and the south, specifically to reach out to the community, business, trades, and colleges for the purpose of developing renewable training programs for job seekers.

As the scope of this work was being developed the DETR team agreed that it was imperative that the green initiative coordinator would have to be someone with impeccable integrity, with strong community ties, and who understood the needs involved with administering a program and bringing immediate value. The team thought it prudent to be fiscally responsible and contract for a part-time, temporary person until the training requirements for renewable energy were better understood. This would allow the state to receive a greater return on the investment. The temporary hire model provided the DETR with a reduction in fees for selecting a candidate for the position as opposed to allowing the temporary agency to select the candidate.

I personally attest to Mr. Weekly's credentials that match well with the job description. He tentatively accepted the position with the caveat that he would pursue advice from his legal counsel. The advice he received confirmed that his acceptance of the position would not violate any code of ethics, nor would be in conflict, of interest. However, due to the perception of conflict, the Commissioner declined my offer of the position. It is important to note that Mr. Weekly, as the proposed green initiative coordinator, is separate from the initiatives related to (in) S.B. 152 (R2). He had absolutely no idea about the bill prior to coming to the DETR.

Now why did I seek out this person as I am currently looking at two people in the north. I felt very strongly since I came to the state, two years ago, from the private sector that we were not doing a good job reaching out into the community with people whose lives were most affected by the economic situation. We were not dealing with the people whose lives were most impacted by this. By the way, weatherization did not pay for this, it was a mistake made by my staff that was placed under stimulus and which should have been under formula money. It was placed back where it was correctly supposed to be. It was an oversight.

The \$6 million that Business and Industry has, has not been transferred to the DETR. The DETR has been working in partnership with the Department of Business and Industry to provide assistance in the development of training for partners and providers. But to this end, we needed someone that has the relationships and the ability to knock on the door if it is a weatherization project or (for) developing a wind project. We need somebody that the community has respect for.

Assemblywoman Smith stated that she did not believe anyone would question Mr. Weekly's integrity or his abilities, and she said it was important for the Committee to acknowledge that on the record. She said she thought the issue was whether the DETR was following a process regarding contracts. Assemblywoman Smith said she personally had an issue about using temporary agencies if a substantial fee was being paid to temporary agencies when that money could be used in other ways. She said she wanted to clarify what category of funding these jobs were coming out of if the funding was not being provided by weatherization.

Mr. Mosley explained that the funding came from the Workforce Investment Act (WIA) of 1998 that provided the opportunity to use experimental types of projects to fit people to work for positions in temporary employment.

In answer to a question from Assemblywoman Smith, Mr. Mosley stated the funding was not part of the American Recovery and Reinstatement Act of 2009 (ARRA), rather it was funded separately out of the Governor's reserve funding for workforce improvement.

Tom Clark, representing Sempra Generation, testified in support of S.B. 152 (R2). He stated that as Sempra Generation expanded and built new facilities he looked forward to working with the state to provide competent personnel to staff those facilities.

Clara Andriola, President, Associated Builders and Contractors (ABC), Sierra Nevada Chapter, testified in support of S.B. 152 (R2). Ms. Andriola referred to subsection 2 of section 9, on page 4 (line 25) which read, "A labor management agency or other affiliated agency which has established an apprenticeship program. . ." She emphasized that the ABC supported apprenticeship, and she served on the Apprenticeship Council and believed wholeheartedly in training. Ms. Andriola pointed out that there was no definition of "agency" contained in the bill.

Vice Chair Leslie asked whether Ms. Andriola was referring to a labor management agency or an affiliated agency. Ms. Andriola replied that she was referring to an affiliated agency.

Vice Chair Leslie said that "an apprenticeship program that is registered and approved by the State Apprenticeship Council" seemed to be a clear definition. Ms. Andriola said that technically a 501(c)(3) was an organization, not an agency.

Senator Horsford stated the term "agency" had been recommended by the Legislative Counsel Bureau legal counsel. He said "entity" had first been used, and the LCB Legal Division had changed it to "agency."

Ms. Andriola stated she also wanted to comment regarding the 50 percent rule and noted that the ABC, Sierra Nevada Chapter, was supportive of keeping as many people working as possible, especially in the north. However, she said it was her understanding there could be some restrictions in the stimulus package that said organizations that were not part of a labor organization might not be able to participate.

Ms. Andriola quoted page 6, line 1 of S.B. 152 (R2) which said, "Employ on each such project a number of persons trained as described in paragraph (b) of subsection 3 that is equal to or greater than 50 percent. . ." Ms. Andriola noted there were some programs that had certification in renewable energy and

trained workers that held those certifications, whether it be through an apprenticeship program or not. She said that some of the regulatory language on the stimulus money that was being distributed to the states was not all worked out, and there could be regulations that would only allow for trained workers that were part of a labor organization.

Vice Chair Leslie said she did not see where it said that, and Ms. Andriola interjected that it did not say that in the bill, but it was in the federal guidelines.

Vice Chair Leslie remarked that the Committee could not address the federal guidelines.

Senator Horsford said that while he could not speak with certainty, his experience indicated there was no way that the Department of Labor could pass programs that only allowed participation from labor entities. According to Senator Horsford there were precedents regarding the use of taxpayer money. Senator Horsford said it was the intent, based on the wording of the bill, that all apprenticeship organizations, labor or non-labor, were included.

Gustavo Nuñez, P.E., Manager, State Public Works Board, testified in support of S.B. 152 (R2) and stated the Public Works Board was ready to accomplish the tasks required under section 10 and section 11 of the bill.

Charles Benjamin, Director of the Nevada Office of Western Resource Advocates, testified in support of S.B. 152 (R2). Mr. Benjamin noted one collateral benefit of energy efficiency that had not been mentioned was that the more energy efficient Nevadans could become, the more dollars would remain in the state.

Vice Chair Leslie closed the hearing on S.B. 152 (R2).

Chair Arberry opened the hearing on S.B. 400 (R1).

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

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that S.B. 400 (R1) concerned an appropriation to the University System for stale claims owed to the Public Employees' Benefits Program (PEBP) in the amount of \$110,800 and was included in The Executive Budget. Staff recommended approval.

ASSEMBLYMAN HARDY MOVED TO DO PASS  
SENATE BILL 400 (R1).

ASSEMBLYMAN GOICOECHEA SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Conklin was not present for the vote.)

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

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), explained that S.B. 401 (R1) was an appropriation made to the State Fire Marshal Division. Mr. Stevens said the bill had been amended by the Senate Finance Committee and was included in The Executive Budget. Staff recommended approval.

ASSEMBLYMAN DENIS MOVED TO DO PASS  
SENATE BILL 401 (R1).

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Conklin was not present for the vote.)

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

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), explained that S.B. 403 would provide for the restoration of certain fund balances in the State Claims Account, the Emergency Account, and the Reserve for Statutory Contingency Account. Mr. Stevens recommended that the bill be amended and noted there was no current bill to replenish the Interim Finance Committee (IFC) Contingency Fund. The Executive Budget had \$7.5 million allocated for restoration of the fund balance for the IFC Contingency Fund, and staff recommended that amount be included in the bill.

Mr. Stevens further explained there were two agencies affected by the revenue bills that had been passed during this legislative session. One was the Department of Taxation and the other was the Department of Motor Vehicles (DMV). The DMV related to the governmental services tax and the agency had requested it be provided \$24,000 in additional funds for overtime costs for its information technology staff. Staff recommended the additional funds be provided to the DMV.

Mr. Stevens said the Department of Taxation had indicated it needed \$622,850 to implement various changes included in the various revenue bills that had been passed during the session. The Department needed \$95,000 of that funding immediately related to the Local School Support Tax (LSST), according to Mr. Stevens. Staff recommended that the remaining funds be appropriated to the IFC, and the Department of Taxation appear before the IFC with a more detailed plan. Mr. Stevens said staff had included approximately \$400,000 for costs related to the Department of Taxation's adjustments to its data processing systems, and he indicated there were sufficient funds available without going below the 5 percent minimum fund balance requirement. He said staff recommended \$95,000 be provided directly to the Department of Taxation and the remaining funds of \$527,850 be appropriated to the Interim Finance Committee for use by the Department.



In answer to a question from Chair Arberry, Mr. Stevens said the \$24,000 requested by the DMV and the \$622,850 requested by the Department of Taxation was not included in The Executive Budget.

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS  
AS AMENDED SENATE BILL 403 AS RECOMMENDED BY STAFF.

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Conklin was not present  
for the vote.)

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**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)**

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated S.B. 422 (R1) concerned a supplemental appropriation for the Department of Motor Vehicles (DMV) that was included in The Executive Budget and staff recommended approval.

ASSEMBLYWOMAN KOIVISTO MOVED TO DO PASS  
SENATE BILL 422 (R1).

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Conklin was not present  
for the vote.)

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**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)**

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated S.B. 423 provided for \$2.2 million in the first year of the biennium and \$3.1 million in the second year of the biennium in General Fund and \$189,000 in the first year of the biennium and \$275,000 of the biennium in Highway Funds for allocation to the Interim Finance Committee for additional utility costs that could be incurred by state agencies or the Nevada System of Higher Education. The amounts were included in The Executive Budget, and staff recommended approval.

ASSEMBLYWOMAN McCLAIN MOVED TO DO PASS  
SENATE BILL 423.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Conklin was not present  
for the vote.)

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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)

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), explained that S.B. 424 was a \$2 million appropriation from the Highway Fund to replenish the balance in the Attorney General's Tort Claim Fund. Mr. Stevens said there had been a large tort claim recently against the Fund, and this had been the proposed solution from the Budget Division and LCB staff concurred.

ASSEMBLYWOMAN LESLIE MOVED TO DO PASS  
SENATE BILL 424.

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Conklin was not present for the vote.)

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

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), explained that Senate Bill (S.B.) 425 extended the reversion date for a previous appropriation for the Institute for Neuro-Immune Disease. While the building was being constructed, the funding had not been used to date, and the bill would extend the reversion date so the funds could be used for that purpose.

ASSEMBLYMAN DENIS MOVED TO DO PASS SENATE BILL 425.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Conklin was not present for the vote.)

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**Senate Bill 430:** Transfers money from the Trust Fund for Public Health and the Fund for a Healthy Nevada to the State General Fund. (BDR S-1214)

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), said that Senate Bill (S.B.) 430 would sweep certain Tobacco Settlement monies from two accounts and would not amend the *Nevada Revised Statutes*.

ASSEMBLYWOMAN McCLAIN MOVED TO DO PASS  
SENATE BILL 430.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Conklin was not present for the vote.)

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**Assembly Bill 409 (1st Reprint): Makes various changes concerning the Local Government Employee-Management Relations Board. (BDR 23-1048)**

Assemblywoman Debbie Smith, Washoe County Assembly District No. 30, testified as a sponsor of Assembly Bill (A.B.) 409 (R1) and stated she had worked on the bill in combination with Senate Bill (S.B.) 540.

Assemblyman David Bobzien, Washoe County Assembly District No. 24, testified in support of A.B. 409 (R1) and submitted Exhibit H, Amendment No. 922 to A.B. 409 (R1). The amendment (Exhibit H) primarily would align A.B. 409 (R1) with the other fiscal issues that had been considered related to the Employee-Management Relations Board (EMRB), specifically the budget and assessment that was passed as a part of the Distributive School Account (DSA) budget. Assemblyman Bobzien said the amendment performed two functions: the filing fee in section 7.5 and the salary increase from \$80 to \$150 per day in section 10.5 were deleted. Assemblyman Bobzien summarized that all of the previously discussed and considered policy changes remained in the bill, but the fiscal pieces had been removed.

ASSEMBLYWOMAN McCLAIN MOVED TO AMEND AND DO PASS  
AS AMENDED ASSEMBLY BILL 409 (R1).

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Conklin was not present  
for the vote.)

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**Assembly Bill 540: Requires the Local Government Employee-Management Relations Board to charge and collect a fee from local government employers. (BDR 23-1208)**

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), explained that Assembly (A.B.) Bill 540 would change the funding mechanism for the Employee-Management Relations Board (EMRB) to a per employee charge to local governments. Mr. Stevens said the finances in each budget were based on A.B. 540 passing, and this bill implemented the Governor's recommendation and the way the Committee's closed the EMRB's budget. The bill would have to be approved for the financing of the EMRB to go forward, according to Mr. Stevens.

Dianne Cornwall, Director, Department of Business and Industry, explained that A.B. 540 was the original bill that was heard, and when the funding mechanism was developed, the language said up to "\$10" because there were several unknown factors. Ms. Cornwall said there was a provision in the bill that precluded the employees from paying that fee, and in fact, the local entities were responsible for paying the fee.

Mr. Stevens remarked that A.B. 540 indicated the fee was to be not more than \$10.

Ms. Cornwall said that calculations indicated that the fee might be approximately \$4, but the latitude was required because it had been impossible to pinpoint the correct amount of the cost.

Assemblywoman Buckley said it seemed to be a great deal of latitude, and she was not comfortable with the higher-end fee, but the bill needed to move today. She suggested the issuance of a Letter of Intent saying the Committee did not expect the fee to be more than \$4, but if it was necessary to raise it, the Department could appear before the Interim Finance Committee (IFC) for permission.

Ms. Cornwall stated a Letter of Intent and appearing before the IFC was agreeable to her Department.

Assemblywoman Koivisto asked how the EMRB had been funded before and whether this was another cost shift.

Ms. Cornwall said the EMRB was a General Fund budget, but no state employee utilized the mechanism. She said it appeared that the EMRB was really there for other entities such as counties and cities or those individuals that were represented by unions. For that reason, Ms. Cornwell said the state should not have to accommodate the financial obligation to fund the EMRB process.

Chair Arberry remarked that when he was employed by the City of Las Vegas he had been a trustee in its union, and the union had used the EMRB to aid employees in job reinstatements. He said he believed the EMRB was a very important function for employees.

Assemblywoman Smith remarked that budgets had been closed based upon A.B. 540, and a fee of \$7 per member. Through the DSA, the school districts share of the fee had been funded. She said the overall funding for the EMRB would be increased because of the per-employee assessment.

Assemblywoman Gansert and Assemblyman Hardy asked questions about whether any employee, union or non union, could appear before the EMRB and whether the \$4 to \$7 fee applied to all employees.

Ms. Cornwall confirmed that any employee could appear before the EMRB. The fee had been developed by taking the number of employees covered under the process and dividing that number into the existing budget for the EMRB. There was another issue, however, that arose because the EMRB was not a General Fund budget, which was that the agency would be responsible for reimbursing the Office of the Attorney General for its fees. Ms. Cornwall said that amount, in addition to the existing budget, equated to a certain number, which was how the fee had been determined.

Robin Reedy, Deputy Director, Department of Business and Industry, testified that when the fee had originally been computed it had been figured without any additional assessment and had been estimated to be approximately \$4 per employee. Since then an estimate had been compiled including an estimated Attorney General assessment. Ms. Reedy commented that the compilation was truly an estimate because until the budget was completed the Department had no idea what the Attorney General's Office would assess. The fee would be billed at between \$4 and \$7.

In answer to a question from Assemblyman Hardy, Ms. Cornwall said the Letter of Intent regarding the fee should be for at least \$7 per employee, but the Department would prefer \$10.

ASSEMBLYWOMAN SMITH MOVED TO DO PASS ASSEMBLY BILL 540 WITH A LETTER OF INTENT ESTABLISHING THE FEE AT \$4.00 PER EMPLOYEE UNLESS IT BECAME NECESSARY TO RAISE THE FEE, AND IN SUCH CASE, THE DEPARTMENT OF BUSINESS AND INDUSTRY WOULD APPEAR BEFORE THE INTERIM FINANCE COMMITTEE FOR PERMISSION TO ESTABLISH A HIGHER FEE.

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

THE MOTION PASSED (Assemblyman Conklin was not present for the vote.)

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

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated Senate Bill (S.B.) 293 (R2) involved court-ordered admission of children to a locked facility and related to the Division of Child and Family Services (DCFS).

Assemblywoman Smith commented that the bill had been heard before, and it matched another Assembly bill that was passed that dealt with children who were in the custody of DCFS and the use of psychotropic drugs. Assemblywoman Smith offered Exhibit I, Proposed Amendment 5197 to S.B. 293 (R2).

Assemblywoman Smith said she had been learning more this session about the DCFS in her role as the Chair of the Health Committee. One of the things Assemblywoman Smith said she had discovered was that often, in court, the district attorney was using two different attorneys, one representing the child and one representing the family. It appeared to her that the state should be representing the best interest of the child, and that meant the district attorney should be representing the child welfare agency that was representing that child. She said she was offering the amendment to clarify that the role of the state was to represent the child for whom it was providing funding.

Assemblywoman Leslie stated she remembered the problem from her years as chair of the Health Committee and also remembered that it created a conflict when the same office was not clear on which client it was representing.

ASSEMBLYWOMAN McCLAIN MOVED TO AMEND AND DO PASS AS AMENDED SENATE BILL 293 (R2).

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Conklin was not present for the vote.)

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

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), explained that Assembly Bill (A.B.) 214 would include certain employees of the Department of Public Safety (DPS) and State Parks under the definition of police officer for various purposes related to industrial injuries and occupational diseases. The change for the Division of State Parks would cost \$16,615 in General Fund for each year of the biennium, and Mr. Stevens was not clear on whether there would be a cost for the DPS portion.

Assemblywoman McClain commented that someone from the DPS had told her there would probably be no cost to the Department of Corrections.

Mr. Stevens acknowledged that could be the case with the DPS, but State Parks had been investigated thoroughly, and it was staff's recommendation to include \$16,615 for each year of the biennium for the Division of State Parks.

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS  
AS AMENDED ASSEMBLY BILL 214 TO INCLUDE THE AMOUNT  
OF \$16,615 FOR EACH YEAR OF THE BIENNIUM FOR THE  
DIVISION OF STATE PARKS.

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Conklin was not present  
for the vote.)

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**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)

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), explained that Senate Bill (S.B.) 318 (R1) involved tuition paid by persons in the Armed Forces of the United States and by veterans at campuses of the Nevada System of Higher Education (NSHE). Mr. Stevens stated the fiscal impact of the bill would be minimal.

Assemblywoman Gansert asked whether the NSHE would absorb the cost of the lost tuition.

Mr. Stevens commented that the fees would be waived for the persons named in the bill, so there would be less student fee revenue received by the University System. For example, if the University waived \$2,000 in fees that would be \$2,000 it would not receive.

ASSEMBLYWOMAN LESLIE MOVED TO DO PASS  
SENATE BILL 318 (R1).

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Conklin was not present for the vote.)

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**Senate Bill 47 (2nd Reprint):** Authorizes the Department of Corrections to perform random drug and alcohol testing on certain employees. (BDR 23-306)

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), said Senate Bill (S.B.) 47 (R2) had been heard earlier today and involved drug testing for employees of the Department of Corrections.

ASSEMBLYWOMAN McCLAIN MOVED TO DO PASS AS AMENDED SENATE BILL 47 (R2).

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Conklin was not present for the vote.)

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**Senate Bill 152 (2nd Reprint):** Enacts the Green Jobs Initiative. (BDR 58-172)

ASSEMBLYWOMAN LESLIE MOVED TO AMEND AND DO PASS AS AMENDED SENATE BILL 152 (R2).

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

Assemblywoman Gansert commented that because of her concerns about the 50 percent rule, she would be voting no on S.B. 152 (R2).

THE MOTION PASSED. (Assemblywoman Gansert voted no and Assemblyman Arberry abstained from voting.) (Assemblyman Conklin was not present for the vote.)

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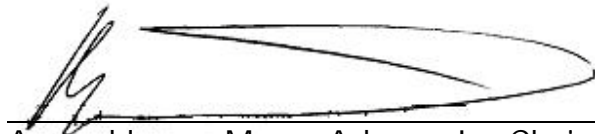
Chair Arberry recessed the meeting to the call of the Chair at 12:58 p.m.

RESPECTFULLY SUBMITTED:

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Anne Bowen  
Committee Secretary

APPROVED BY:

A handwritten signature in black ink, appearing to be 'M. 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 27, 2009</u>                          |         | Time of Meeting: <u>9:07 a.m.</u> |                        |
| Bill   | Exhibit | Witness / Agency                  | Description            |
|  | A       |                                   | Agenda                 |
|  | B       |                                   | Guest Sign-in sheets   |
| S.B.<br>385  | C       | Keith Rheault, Ph.D.              | Fiscal Note Attachment |
| A.B.<br>385  | D       | Assemblywoman Kathy McClain       | Amendment No. 5314     |
| A.B.<br>561  | E       | Assemblyman Mo Denis              | Amendment No. 5368     |
| S.B.<br>152<br>(R2)                                | G       | Assemblywoman Marilyn Kirkpatrick | Amendment No. 943      |
| S.B.<br>7<br>(R1)                                  | F       | Assemblywoman Debbie Smith        | Amendment No. 4990     |
| A.B.<br>409<br>(R1)                                | H       | Assemblyman David Bobzien         | Amendment No. 922      |
| S.B.<br>293<br>(R2)                                | I       | Assemblywoman Debbie Smith        | Amendment No. 5197     |