

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

**Seventy-Sixth Session
May 9, 2011**

The Committee on Ways and Means was called to order by Chairwoman Debbie Smith at 5:05 p.m. on Monday, May 9, 2011, 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/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Debbie Smith, Chairwoman
Assemblyman Paul Aizley
Assemblyman David P. Bobzien
Assemblywoman Maggie Carlton
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblyman Randy Kirner
Assemblywoman April Mastroluca
Assemblyman John Ocegüera

COMMITTEE MEMBERS EXCUSED:

Assemblyman Marcus Conklin, Vice Chair
Assemblyman Kelvin Atkinson

GUEST LEGISLATORS PRESENT:

Assemblyman James Ohrenschall, Clark County Assembly District No. 12

Assemblywoman Melissa Woodbury, Clark County Assembly District No. 23

STAFF MEMBERS PRESENT:

Rick Combs, Assembly Fiscal Analyst
Mike Chapman, Principal Deputy Fiscal Analyst
Tenna Herman, Committee Secretary
Cynthia Wyett, Committee Assistant

Chairwoman Smith reminded participants that Ways and Means was a fiscal committee; it was not a policy committee. The Committee would not discuss policy merits of bills brought forward, with the exception of one bill which had been referred directly to the Committee: a policy discussion would be required on Assembly Bill 550. The other bills had received a thorough policy hearing in their respective policy committees.

Chairwoman Smith noted that many supporters were in attendance on behalf of autism programs. She was happy to have them show their support, but she wanted to be clear that no additional policy would be discussed.

Chairwoman Smith opened the hearing on Assembly Bill 315 and invited Assemblywoman Woodbury to testify.

**Assembly Bill 315: Establishes the Autism Treatment Assistance Program.
(BDR 38-986)**

Assemblywoman Melissa Woodbury, Clark County Assembly District No. 23, said she would provide an overview of the bill. The goal of Assembly Bill 315 was to provide consistency, improve outcomes for children with autism in Nevada, and reduce the long-term costs to taxpayers. She explained that autism services in Nevada were divided across three different divisions within the Department of Health and Human Services: the Aging and Disability Services Division, the Division of Mental Health and Developmental Services, and the Health Division. Assembly Bill 315 would add the current Autism Treatment Assistance Program (ATAP) within the Aging and Disability Services Division to the *Nevada Revised Statutes* and establish it as the primary autism

treatment program within the Department of Health and Human Services to coordinate autism services for children through 19 years of age.

Assemblywoman Woodbury said ATAP was originally established in 2007 and was continued in 2009 using one-shot money each biennium. The ATAP funded only evidence-based treatment and had demonstrated the ability to provide and promote more hours of Applied Behavior Analysis (ABA) treatment for children with autism than the Health Division's Nevada Early Intervention Services program. She said A.B. 315 would lay the foundation for the referral process between early intervention services and ATAP to allow children access to autism-specific, evidence-based treatment as early as possible. The bill required collaboration between agencies and providers for appropriate transitions. Assemblywoman Woodbury explained ATAP required ongoing data and intake and exit assessments to demonstrate treatment, effects, and outcomes. Research demonstrated that treatment needed to be at least 25 hours per week, although optimal benefits were received at 30 to 40 hours per week. She said the goal of ATAP was to educate families and assist them in providing additional treatment, thus improving outcomes. Policies needed to be developed in conjunction with the existing Nevada Commission on Autism Spectrum Disorders, the successors of the Nevada Autism Taskforce.

Chairwoman Smith thanked Assemblywoman Woodbury and asked whether there were any questions. The fiscal note was from the Aging and Disability Services Division. Chairwoman Smith reminded the Committee there were exhibits on the Nevada Electronic Legislative Information System (NELIS) that provided data and information about autism, treatment, and the need for the programs.

Mary Liveratti, Deputy Director, Department of Health and Human Services, testified there was no longer a need for the fiscal note because the recently closed budget for the Aging and Disability Services Division had addressed the Department's concerns. The Department would remove the fiscal note.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, clarified that the money that was originally eliminated from the Division of Mental Health and Developmental Services (MHDS) budget was added back, which resulted in the ability to withdraw the fiscal note.

Ms. Liveratti added that the add-back money funded the manager position and data system, which had been included in the fiscal note.

Ms. Liveratti added that she was a member of the Autism Spectrum Disorders Commission. The Governor had included ATAP in his recommended budget to

formalize the program. She said the Commission wanted A.B. 315 passed and the program put into the *Nevada Revised Statutes*.

Chairwoman Smith asked whether there was any testimony in support of, in opposition to, or neutral on A.B. 315. Seeing none, she closed the hearing on Assembly Bill 315 and opened the hearing on Assembly Bill 316 (1st Reprint).

Assembly Bill 316 (1st Reprint): Establishes provisions relating to persons with autism. (BDR 38-260)

Assemblywoman Melissa Woodbury, representing Clark County Assembly District No. 23, presented an overview of Assembly Bill 316 (1st Reprint). The bill included provisions for autism assessments and data collection and required the Aging and Disability Services Division of the Department of Health and Human Services to establish statewide standards through regulations to assess and evaluate persons with autism who received services through public programs. Some of the requirements were:

- Protocols for using best practices guidelines when individuals were assessed.
- Consistency among the assessments given to individuals with autism spectrum disorder among all state agencies and school districts.
- Direct observation by professionals administering assessments.
- Evaluation to measure autism-related behaviors, cognitive language and adaptive behaviors.
- Assessment and diagnosis by early intervention services when autism was suspected.
- Annual reporting of specific information regarding services provided to individuals with autism by certain state agencies, school districts, and charter schools to the Aging and Disability Services Division.

Assemblywoman Woodbury said the purpose of the data collection was to give a true picture of autism in Nevada, to help understand the effect autism had on Nevada, and to demonstrate treatment results and provide educators and early intervention staff with accurate information to provide better programs and start treatment at the earliest possible moment. This program would lead to better outcomes for autistic children.

Chairwoman Smith asked for questions from the Committee; there were none. She then asked for testimony concerning the bill's fiscal note.

Jan Crandy, Chair, Nevada Commission on Autism Spectrum Disorders, testified that Proposed Amendment 6814 ([Exhibit C](#)) to A.B. 316 (R1) removed some of the fiscal note. She reviewed the revisions included in the amendment.

Ms. Crandy explained section 1 of the bill was proposed to be amended to require "at least one standardized assessment instrument that requires direct observation by the professional conducting the assessment." The Commission had originally requested that an Autism Diagnostic Observation Schedule (ADOS) be required as an assessment tool, but the ultimate goal was to require direct observation by the professional. She noted that the Nevada Psychological Association did not want to have a particular protocol identified.

Section 1 also directed the Aging and Disability Services Division, in cooperation with the Department of Education, representatives of the school districts, the Nevada Autism Task Force, and professionals who worked with children with autism, to develop through regulation a statewide standard for measuring outcomes and assessing and evaluating persons with autism spectrum disorders through 21 years of age.

Ms. Crandy noted that Proposed Amendment 6814 also changed the word autism to "autism spectrum disorders" throughout the bill, which would necessitate a number of changes in the Nevada Administrative Code (NAC) ([Exhibit D](#)).

Section 4 of the bill would be amended to require the Department of Education to report annually to the Aging and Disability Services Division the total number of pupils with autism spectrum disorders enrolled in public schools, regardless of their physical or mental impairment or disability. The school districts had agreed to provide the information, and the Department of Education did not require a fiscal note.

A new subsection 3 would be added to section 8 of the bill to allow the state to use the results of existing assessment evaluations and testing in making a determination on the evaluation of clients under the age of 22 years who may have autism spectrum disorder, if the current assessment was determined to be valid and reliable. Eliminating the need for the state to perform duplicate assessment evaluations would remove costs from the fiscal note.

Continuing, Ms. Crandy said the eligibility age for autism services would also be changed to include age 21 to coincide with the outcome measures for the school districts and Health and Human Services Early Intervention Services. She said outcome measures were necessary to determine whether the program treatment was effective.

Mary Liveratti, Deputy Director, Department of Health and Human Services (DHHS), said that the budget closing for the Aging and Disability Services Division had removed the DHHS fiscal note for the bill.

Jane Gruner, Deputy Administrator, Division of Mental Health and Developmental Services (MHDS), testified that A.B. 316 (R1) as currently written placed additional requirements on MHDS clinical staff to perform additional testing and more robust assessments. She said that Proposed Amendment 6814 to A.B. 316 (R1) removed the requirements for MHDS to perform additional testing, thereby eliminating the need for a fiscal note.

Chairwoman Smith asked Ms. Gruner to thoroughly examine the amendment and work with Fiscal staff to confirm that she was comfortable with canceling the fiscal note on the bill.

Chairwoman Smith noted that one fiscal note was removed, and it appeared the second note might be removed. She asked whether anyone else wished to testify on A.B. 316 (R1).

Nicole Rourke, representing Clark County School District (CCSD), testified there was a fiscal note on the bill from CCSD that needed to be addressed. However, she believed that the proposed amendment would remove the majority of the fiscal note, which was based on section 3 of the bill. The CCSD thought there might be some additional requirements, but it appeared those had been removed. She added there could be some minor costs for programming to include all students with any eligibility in the CCSD system.

Chairwoman Smith asked for further testimony on A.B. 316 (R1). Seeing none, she closed the hearing on Assembly Bill 316 (R1) and opened the hearing on Assembly Bill 345.

Assembly Bill 345: Revises provisions relating to services for persons with autism. (BDR 38-26)

Assemblyman James Ohrenschall, Clark County Assembly District No. 12, remarked that the current economic times were very tough, and it was difficult to ask the Committee for money, but it would be money well spent. He recalled that over the last two biennia, the Legislature had provided funding for children who were on the autism spectrum. He said whatever the expenditures, the dividends paid in the future could hardly be counted because of the lives that would be changed for young people who would be functioning citizens in society and who would have a chance to live up to their full potential.

Assemblyman Ohrenschall explained that Assembly Bill 345 sought to unify all autism services under the Autism Treatment Assistance Program (ATAP), and it included an appropriation of approximately \$1.5 million over the biennium. The appropriation would take 56 children off the waiting lists and provide treatment that had proven so effective.

Assemblyman Ohrenschall stated he had been lucky to be involved with the autism community since Speaker Buckley appointed him to the Nevada Autism Task Force after the 2007 Legislative Session. He had the opportunity to tour many of the schools and had seen the changes in the young people who had received autism treatment. The children were able to go from being unable to function in a regular classroom to getting good grades, graduating from high school, and going on to college.

Assemblywoman Mastroluca asked how long the average wait time was for children on the waiting list.

Assemblyman Ohrenschall replied there were over 350 children on the waiting list, and 115 of them had been waiting for over one year. He was unsure of the overall average wait time.

Assemblywoman Mastroluca responded that just knowing that many children had been waiting for so long was helpful.

Assemblyman Kirner noted that the Committee had heard a similar bill, Assembly Bill 315, and he asked what the primary differences were between the two bills.

Assemblyman Ohrenschall replied the biggest difference was the large appropriation requested in A.B. 345. There were other differences, but the primary similarity was that both bills would unify all autism treatment programs under ATAP.

Assemblyman Kirner asked how many more children A.B. 345 would serve.

Assemblyman Ohrenschall said that he had received statistics from Mary Liveratti, Deputy Director, Department of Health and Human Services, that 56 additional children per year could be served, which would amount to approximately \$13,000 per year per child for treatment.

Chairwoman Smith asked Ms. Liveratti to explain the funding and where it was located in the different budgets. Autism funding was difficult to track because

it was included in a number of agency budgets that had been cut but had received add-backs.

Mary Liveratti, Deputy Director, Department of Health and Human Services (DHHS), agreed that the funding could be confusing because autism services were available in three different divisions: Aging and Disability Services Division, Division of Mental Health and Developmental Services, and the Health Division. The autism-specific program was not going to be funded again in the Mental Health and Developmental Services budget. Currently there were 174 children in that program who would continue to receive services until they aged out at age 11, and then the program would be eliminated.

Ms. Liveratti explained the Autism Treatment Assistance Program (ATAP) was funded under budget account 3266 in the Aging and Disability Services Division. The program served children and youth up to the age of 19. The original Governor-recommended budget for the Program was approximately \$1.2 million each year. The Governor submitted several budget amendments, which increased the funding up to approximately \$2 million each year, of which \$1.75 million the first year and \$1.8 million the second year would be used directly for services. She said the funding would enable the Program to restore services to the 110 children in ATAP and an additional 22 children and youth the first year and 27 the second year. The Governor's recommended budget would only have funded 83 children each year of the biennium.

Ms. Liveratti noted there were approximately 200 children currently on the waiting list for the ATAP program, and about 150 children at MHDS were on the waiting list for autism services. It was harder to define the number of children receiving autism services under the Nevada Early Intervention Services (NEIS) because NEIS provided many services besides autism for any child with a developmental disability. She noted that NEIS only served children under the age of 3, and the program had a limited amount of funding in the past: approximately \$225,000 went toward the program in fiscal year 2010.

Assemblyman Ohrenschall said he believed the \$13,000 per child per year would save the state a tremendous amount of money in the future, and he urged the Committee to pass A.B. 345.

Chairwoman Smith asked for further testimony on the bill; there was none. She told the audience that the Committee understood the importance of autism funding and asked members of the audience to show their support of the bill by a show of hands. She then closed the hearing on Assembly Bill 345 and opened the hearing on Assembly Bill 188.

Assembly Bill 188: Revises provisions governing motor vehicles. (BDR 43-899)

Chairwoman Smith cautioned that the presenter of the bill should provide a brief description of the bill, and a discussion concerning the fiscal note only would follow.

Patrick Domholdt, In-House Counsel, Teamsters Local 631, testified that Assembly Bill 188 dealt with triple trailers, which was one of several configurations of the long-combination-vehicle (LCV) permit. The bill would outlaw three back-to-back 28-foot trailers and require trucking companies to reconfigure them to either two 28-foot trailers, a 48-foot trailer and a 28-foot trailer called a Rocky Mountain double, or two 48-foot trailers called a Turnpike double.

Chairwoman Smith noted that the bill had received a lot of attention, and it contained a large fiscal note. She asked representatives from the Department of Motor Vehicles (DMV) to discuss the fiscal note.

Wayne Seidel, Administrator, Motor Carrier Division, Department of Motor Vehicles (DMV), explained that the Motor Carrier Division had prepared the fiscal note based on some assumptions. In 2010, DMV sold over 3,400 long-combination-vehicle (LCV) permits. In January 2010, 66 percent of the permits sold were for triple trailers, and DMV based its analysis on the assumption that 66 percent of the total permits sold were for triple-trailer combinations. Mr. Seidel noted A.B. 188 would remove issuance of the triple-trailer permits and result in a loss of revenue to DMV. He added that if A.B. 188 went into effect October 1, 2011, DMV would probably be required to issue a three-month refund to the carriers because permit revenues were collected on an annual basis from January 1 to December 31; the refunds could total as much as \$849,000. Mr. Seidel said the DMV had calculated that the fiscal loss in the 2011-2013 biennium could be as much as \$6.8 million. There would also be an expense to the Department for 80 programming hours to remove the triple-trailer permit from the Department's computer program.

Chairwoman Smith asked whether DMV had written the fiscal note based on the worst case scenario. Mr. Seidel replied the fiscal note was written exactly to the bill, which would eliminate issuing the triple-trailer permits, and calculating the largest amount of revenue that could be lost. He said there had been discussion concerning the possibility that carriers would reconfigure their trailers into other types of combinations that would still require permits. Mr. Seidel said he would defer to the industry as to what those combinations might be because that was not his area of expertise. The DMV Motor Carrier Division was just the permitting agency.

Chairwoman Smith remarked that the fiscal note made the assumption that none of the carriers would reconfigure their trailers. It was a worst-case scenario fiscal note.

Mr. Seidel replied that he could not predict what those combinations would be. The opposite side of DMV's fiscal note was if carriers went to standard permits, under 70 feet in length, they would fall under the International Fuel Tax Association (IFTA) and International Registration Plan (IRP), and Nevada would collect its share of registrations and fuel tax based on mileages within the state. There would definitely be a huge fiscal effect if carriers started running under 70-foot lengths, which did not require any LCV permits. The projection was that DMV would collect about 10 to 20 percent of what it currently collected if the industry ran under 70-foot lengths, which would be similar to California law, which banned all carriers over 70 feet in length: triples, Rocky Mountain doubles, and Turnpike doubles. Mr. Seidel said that would be the worst-case scenario.

Chairwoman Smith asked whether a refund would have to be issued if a carrier reconfigured a triple trailer to a double and whether the truck, trailer, or both were licensed.

Mr. Seidel responded that the truck and the long-combination-vehicle were licensed for a year, and the refund would be for the unused portion of the calendar year. The carrier would receive credit for at least a portion of the last three months of the year if it converted the triple trailers to something else.

Assemblywoman Carlton wanted to clarify her understanding of the bill: three 28-foot trailers together would be prohibited. Other configurations were possible, such as a 48-foot trailer plus a 28-foot trailer, which was called the Rocky Mountain double. There could also be two trailers together, each 48 feet in length, which totaled 96 feet. Both of those configurations were above the 70-foot length and would need the LCV permit. She asked whether the other combinations were charged differently than the triples.

Mr. Seidel responded that the trucks and trailers were charged by the linear foot and per each thousand pounds.

Assemblywoman Carlton said it seemed logical that if the carriers were not going to run a triple, which was 84 feet, they would reconfigure to one of the other options. A 76-foot rig would still be over the 70-foot requirement and a permit would be required. She remarked it appeared to be difficult to actually quantify the fiscal note knowing that so many trucks were going to move to some other form of configuration, but it was unlikely that they would configure

to single trailers. She asked how the fiscal note could be adjusted to more accurately reflect the actual types of trucks and trailers and different combinations that would be operating on the road.

Mr. Seidel replied he would have to again defer to the industry because he did not think he could make those assumptions.

Assemblywoman Carlton believed that mathematically an adjustment could be made. If 66 percent of carrier vehicles were triples, a percentage of those would reconfigure to the 76-foot doubles or 96-foot doubles. That assumption would eliminate a portion of the fiscal note. The industry could supply some information, but Assemblywoman Carlton thought it was up to the DMV and Committee Fiscal staff to calculate how many trucks might be reconfigured and what the fiscal note might realistically be.

John Phillipenas, Secretary/Treasurer, Teamsters Local 631, stated that he was a 30-year driver with United Parcel Service (UPS). In his opinion, if triples were eliminated, carriers would be required to reconfigure to a double 40-foot or a 48-foot, 28-foot combination, which would not cause a loss of DMV revenue. If carriers decided not to use any other combination, they would be using doubles, which would generate over 356 jobs in Nevada. Mr. Phillipenas maintained the situation was positive for Nevada, and DMV would not really lose \$6 million because the vehicles would be reconfigured into other long-combination vehicles.

Mr. Domholdt stated that for every two triples there would have to be three tractors, an additional tractor for every two tractors to facilitate the same shipping volume, which would cause an increase in gasoline taxes and registration fees for a new tractor. If a carrier wanted to move the same amount of product through the state, it would have two options: to reconfigure the fleet to LCV vehicles or hire other drivers and buy and register more tractors and trailers. Mr. Domholdt believed that it would be more economically feasible to reconfigure an existing fleet to keep the same volume of product flowing through the state.

Assemblyman Hambrick did not think the fiscal note was realistic and asked how the Committee could arrive at different numbers than had been presented.

Mr. Domholdt responded that the assumption must account for the calculation of gasoline taxes and registration for additional tractors. He understood the fiscal note assumed the worst-case scenario, but it did not account for the probable increase in revenue.

Assemblyman Grady noted that Mr. Domholdt had provided two scenarios, but a third scenario was that carriers might decide to put their trailers on railroad cars.

Mr. Domholdt said he could not personally address that scenario, but the possibility would be discussed later in the hearing.

Assemblyman Grady remarked that the fiscal note relied too heavily on assumptions, which was not appropriate.

Peter Krueger, Nevada Petroleum Marketers and Convenience Store Association (NPM&CSA), testified his group included the liquid haulers, who thought they might be entitled to an exemption. He needed to understand the policy; no one had addressed his question, which directly reflected on the fiscal note. Mr. Krueger said many NPM&CSA operators ran Rocky Mountain doubles, but they also used a combination that was defined as a straight truck plus two trailers. His question on behalf of NPM&CSA members was whether that constituted a triple. He thought it was interesting that the bill did not address trucks. The language in section 3, subsections 1 and 2, did not mention the word "truck." He explained a straight truck was a vehicle that, in his case, had a tank on it plus the engine component: the cab to drive it. The truck was one component, and two tanks were hauled behind the truck. He asked again whether that constituted a triple.

Chairwoman Smith said that definition would be put on the record: a straight truck plus two trailers.

Paul Enos, Nevada Transport Association, said he needed to clarify that not every triple would be able to reconfigure to a Rocky Mountain double or a Turnpike double because of the axle weight. Federal and Nevada law limited axle weight to 20,000 pounds, and the weight had to be spread over the various axles. The weight distribution was possible with a triple trailer, but it might not be possible with a Rocky Mountain double or a Turnpike double.

For the record, Chairwoman Smith wanted to affirm that Mr. Enos was testifying against the bill. He responded that he was.

Assemblyman Bobzien said that DMV representatives had indicated that to consider the assumptions behind the fiscal note, they wanted to hear from the trucking industry. Spokesmen from the industry had testified from a number of different perspectives. Assemblyman Bobzien had heard one argument that freight would have to be moved even if carriers had to reconfigure their vehicles. He heard from motor transport that there were axle requirements, so

the conversion could be difficult. He said that logically, there would be some replacement of revenue; he did not think the worst-case scenario was accurate, but he needed to hear a margin of error in the estimate of revenue that could be recovered.

Mr. Enos explained that much of the movement of triple trailers in Nevada occurred through what was called a less-than-truckload (LTL) operation. Examples would be United Parcel Service (UPS), Federal Express (FedEx), the YRC freight company, and Con-way Freight. Those carriers would run two 28-foot trailers from California, add a third trailer in Nevada, and move the triple to points east. He did not anticipate those companies would change their configurations to a Rocky Mountain double or a Turnpike double; they would just move the reconfiguration terminal to a state that allowed triples. Mr. Enos pointed out it was very costly to reconfigure trailers: a standard box trailer could cost \$25,000, a refrigerated trailer could cost \$50,000, and a custom trailer could cost \$100,000. Reconfiguration was not cheap or easy.

Assemblyman Bobzien asked whether a carrier would be able take an alternate route between Reno and Salt Lake City as they traveled through Nevada.

Mr. Enos responded that he did not anticipate carriers would take a different route. He thought that rather than stop in Reno to reconfigure, they would continue on as double 28-foot trailers until they got to Utah, where they could reconfigure into a triple trailer.

Assemblyman Hickey had heard about the potential fiscal cost to the state and to DMV. He asked whether the trucking industry had conducted a study or had a general idea of what the financial effect might be. He questioned the consequences, not just to the owners and operators in the trucking industry, but to Nevada's entire economy.

Mr. Enos cited an example of the effect on Nevada's economy. The YRC freight company, which was headquartered in Overland Park, Kansas, had a facility in Sparks, Nevada. The company had 100 employees, the average wage was \$73,000, and the employees received healthcare benefits. He said the value of the Sparks facility was in taking a double 28 from California, adding another trailer, and moving it into Utah and points east. The company's corporate office had indicated the Sparks facility would be reassessed and most likely moved to Utah if triple trailers were banned.

Assemblyman Hickey asked whether A.B. 188 could potentially affect the price of goods delivered to Nevada companies.

Mr. Enos anticipated the costs to move freight would rise, and those costs would be passed on to consumers.

Chairwoman Smith reminded the Committee to discuss the fiscal note on the bill and not the fiscal effects of its passage.

Assemblyman Kirner remarked he was a member of the policy committee that had originally heard the bill, and he was disturbed that some of the testimony he was currently hearing was very different from what he had heard in the committee.

Mr. Phillipenas did not think his company, YRC freight, would move to Utah. He said over 80 percent of all volume driven through Nevada went on to other states, with only 20 percent staying in Nevada. In Las Vegas there were only three sets of triples from his freight company, and those were LTLs (less-than-truckloads). The bill would have a minimal effect on them. Also, he said it was cost prohibitive for carriers to transport goods by rail because of the extremely high cost. The company would have to purchase a whole rail, and the time constraints between San Francisco and Salt Lake City were between five and six days.

Danny Thompson, representing the Nevada American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), said the assumption on the fiscal note was that triple trailers would not be replaced when, in reality, triple trailers were illegal in Arizona and California. Carriers had to comply with those state's laws. The AFL-CIO did not believe that A.B. 188 would have much effect. He agreed with DMV that refunds would have to be issued, but he suggested refunds could be eliminated by changing the effective date of the bill from October 1 to January 1, 2012, and carriers could then renew their registrations for a full year in January.

Mr. Seidel affirmed that all carrier registrations were issued on a calendar year basis and that an amendment to change the effective date of the bill to January 1, 2012, would reduce the fiscal note.

Assemblyman Kirner recalled testimony that triples were not allowed in Arizona and asked whether there was a waiver on Interstate Highway 15.

Mr. Thompson replied there was a waiver for a 10-mile stretch through the gorge from Utah to Nevada, which was a very narrow area.

Chairwoman Smith noted there was a conceptual amendment to the bill which would exempt construction trucks and hay haulers ([Exhibit E](#)). She asked Mr. Domholdt to discuss the amendment.

Mr. Domholdt explained that some construction companies had triple trailers that were not configured like the three 28-foot box trailers, and agricultural growers with hay haulers and alfalfa trucks would have difficulty complying with the restriction on triple trailers. An amendment to section 3, subsection 4 of the bill had been proposed to exempt both industries from the provisions of A.B. 188.

Assemblyman Hogan wondered whether the trucks exempted from the bill had been considered when the DMV calculated the fiscal note. Mr. Seidel replied that those vehicles had been included in DMV's long-combination-vehicle permit analysis.

Chairwoman Smith asked Mr. Seidel to work with Fiscal staff to recalculate the cost based on the amendment and the proposed change of effective date.

John Madole, representing the Nevada Chapter of Associated General Contractors, testified that without triple trailers, the cost of highway construction would increase: triple trailers were used to haul sand, gravel, and all other materials used for highway construction. He pointed out there would be increased costs to the very fund the Committee was addressing in the fiscal note. Mr. Madole stated that his group was opposed to the bill. If the amendment was to be considered, his opposition would depend on the exemption of the construction industry.

Chairwoman Smith suggested Mr. Madole work with the sponsors of the bill for clarification.

Dave Buell, Chief Financial Officer, Great Basin Ready Mix, said his company used triples in its business. Being a building materials supplier, he wondered whether Great Basin Ready Mix would be included in the proposed exemption of the construction industry. If the bill was passed as currently written, he said Great Basin Ready Mix would definitely drop a trailer; the trailer would not be reconfigured. Increased fuel costs and more highway miles would result, and the added expense to the company would have to be passed on to consumers. Mr. Buell noted that currently the housing and commercial areas were not the biggest users of concrete; the biggest users were local, state, and federal governments.

Chairwoman Smith suggested that Mr. Buell work with the sponsors of the bill to clarify the amendment.

Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation, expressed opposition to A.B. 188 on the basis of the probable effect on Nevada's alfalfa producers' ability to transport commodities to market. The Farm Bureau Federation had serious concerns, even with the proposed amendments.

Assemblywoman Carlton asked how many hay and alfalfa trucks would be affected. Mr. Busselman estimated 30 to 50 of those types of truck haulers were used to haul alfalfa and hay.

Assemblywoman Carlton remarked their use would be seasonal, and they would not be on the road every day. Mr. Busselman agreed that most of the hauling was done after the harvest, and the products were moved in all directions, including to Utah and other states where triples were allowed.

Assemblywoman Carlton asked whether Mr. Busselman knew the current actual costs to move a long combination vehicle. Mr. Busselman did not know the cost, but it would be the same as everyone else using triples paid. He noted that most of the Nevada Farm Bureau Federation members that hauled hay were small, family-owned operations. In all likelihood, he did not think they would be able to do a reconfiguration; they had a lot of money invested in equipment and a small profit margin.

Assemblywoman Carlton wanted a realistic fiscal note calculation. She requested information on how many trucks would be involved, how many months out of the year they would be on the road, and the average number of trips that would be taken in a given time period.

Assemblyman Goicoechea said that at least 50 percent of the permitted triples were hay haulers or truck and two-trailer combinations. It was important to the fiscal note to know whether those vehicles would be excluded from the requirements of the bill.

Chairwoman Smith said the Committee would receive additional information on the bill. She closed the hearing on Assembly Bill 188 and opened the hearing on Assembly Bill 550.

Assembly Bill 550: Provides for the construction, operation and maintenance of state ports of entry. (BDR 35-892)

Chairwoman Smith noted the hearing on Assembly Bill 550 would be different because it had been referred to the Committee, and a policy discussion was needed. She invited the sponsor to present the bill.

Patrick Domholdt, In-House Counsel, Teamsters Local 631, explained the goals of the Nevada port of entry ([Exhibit F](#)) were to:

- Reinforce established laws and regulations on employers by inspecting drivers, vehicles, and load restrictions.
- Promote safe vehicles and roads through regular inspections of safety equipment.
- Strengthen the state's ability to enforce registration and permitting.
- Keep Nevada's citizens free from negligent handling of hazardous materials.
- Generate revenue through the enforcement permit fees and taxes which companies could currently evade.
- Clamp down on the transportation of contraband and other illegal merchandise in the state.

Mr. Domholdt said that for Nevada to enforce laws to ensure that transport was safe and well-equipped, there was a reasonable cause standard that allowed a police officer to pull a truck over if he thought it might be ill-equipped, had an unsafe condition, or did not comply with safety emissions. Nevada also had several portable weigh stations that could monitor whether a truck was overweight. If a peace officer or inspector felt he had reasonable cause, he could pull trucks over at the portable weigh stations. The Department of Transportation (NDOT) could establish centers for inspection of motor vehicles' tires and brakes, but that was the extent of the Department's authority.

Mr. Domholdt said there were several portable weigh stations across Interstate 80 (I-80) and Interstate 15 (I-15), but they were not permanent or official, and they were not open on a regular basis. The weigh stations were used sporadically, similar to a driving-under-the-influence (DUI) checkpoint. The problem was that they were not open to inspect every truck or make sure that the carriers were complying with different safety regulations. Some violators would be stopped at the portable weigh stations, but the stations were not as consistent as a port of entry.

Mr. Domholdt said A.B. 550 provided a framework to establish ports of entry when or if funds ever became available. It gave NDOT the authority to adopt

regulations to provide for permanent ports of entry in a cost-efficient manner when funds became available in the future.

Mr. Domholdt pointed out that many states had ports of entry that monitored state and federal laws and regulated inspections. Other states did not have ports of entry, but they had permanent weigh stations that inspected motor vehicles. Nevada and New York were the only states that did not have any kind of permanent weigh stations.

Continuing, Mr. Domholdt reiterated that a port of entry would serve the citizens of Nevada by reinforcing established laws and regulations. Currently the state had several size, weight, and load restrictions, and a port of entry would provide a way to enforce those restrictions and require adherence to both state and federal laws. He explained weigh stations were spread out and not used on a consistent basis, and the inspection of safety equipment was randomly done. Peace officers and inspectors authorized to do inspections enforced both state and Federal Motor Carrier Safety Administration (FMCSA) laws, which involved:

- Making Nevada roads safe, ensuring that proper and safe equipment was being used, and checking that several different base levels of safety were maintained.
- Enforcing proper registration and long-combination-vehicle and overweight permits for oversized vehicles greater than 70 feet in length and/or greater than 80,000 pounds. There were regular permits for tractor trailers, which could all be checked at any port of entry.
- Inspecting hazardous materials being transported under the requirements established by the Federal Motor Carrier Safety Administration.
- Cracking down on contraband, drugs, and other illegal merchandise considered illegal under federal or state laws.

Mr. Domholdt said he realized that to build ports of entry to enforce the federal and state laws was not currently economically feasible. Assembly Bill 550 would give NDOT the necessary authority to begin the investigative process to see how Nevada could have a cost-efficient port of entry system in the future.

Assemblyman Kirner did not understand why the Committee would consider a bill that would obligate the state to do something in the future should certain circumstances take place at a significant cost for permanent facilities and staffing when there was no information on what that cost might be. He

believed the Committee should wait until the state could afford the project and consider the bill with the proper fiscal note at that time.

Mr. Domholdt said that depending on federal funding, he believed it was best to start the process now and begin investigating when ports of entry might be cost effective. He recalled that Assembly Bill No. 374 of the 74th Session (2007) had a fiscal note that included construction of four points of entry, and the cost was significant. Assembly Bill 550 would start the process of finding funding sources, possibly federal funding and grants, to eventually provide for the safety of transport on Nevada roads.

Assemblyman Kirner said as he read the bill, it required the Department of Transportation to provide by regulation the establishment of ports of entry. If the Committee passed A.B. 550, ports of entry would be a requirement. He did not believe this was the time for the bill.

Assemblyman Goicoechea stated that California still provided truck inspections, as did Idaho and Utah. Trucks at ports of entry did not get a thorough inspection: the ports of entry were not inspecting even one percent of transport vehicles. He speculated that if all trucks on I-80 were stopped and inspected, the line would be backed up to Elko. Ports of entry inspections were not realistic; they primarily caught overweight trucks. Truck drivers who were unsafe could find alternate routes around permanent ports of entry. Ports of entry were very expensive, and Assemblyman Goicoechea believed that far more unsafe trucks were found in truck inspections where trucks were cited for bad brakes, spindles, or springs.

John Phillipenas, Teamsters Local 613, said he had driven trucks for 30 years and actually drove across I-15 all the way to Missouri. Other states had ports of entry; they stopped every truck, and they made random inspection checks; they also acted as weigh stations. Truck drivers were pulled over on a random basis, and it was feasible that the same thing was happening in every other state in the United States.

Assemblyman Goicoechea reiterated that he believed that only one percent actually got inspected in a port of entry.

Assemblyman Hardy asked how many inspections were done at the Utah-Arizona port of entry on I-15, an area he was very familiar with.

Mr. Phillipenas said he did not know that number, but as a United Parcel Service (UPS) driver, he had been inspected on two occasions going through that particular port of entry. He said highway patrolmen could testify that drivers

were caught on the portable scales that were randomly set up. As a driver, he knew that once a portable scale was set up, all drivers were notified through the citizens' band (CB) system, and if they were not legal, they would pull over and wait for the scales to come down. The portable weigh stations were not operated 24 hours a day, and if a truck driver was illegal in any way, he would find a way around the temporary stations. Mr. Phillipenas stated that Nevada needed permanent stations.

Assemblyman Hardy asked whether Mr. Phillipenas was aware that Utah had been closing the I-15 port of entry. Currently only 4 to 5 percent of the trucks passing through the station were stopped. The majority of the trucks bypassed the port of entry.

Mr. Phillipenas said he understood Utah's budget constraints. This purpose of Assembly Bill 550 was to give Nevada a start at looking into ports of entry and having the Department of Motor Vehicles (DMV) or the Department of Transportation (NDOT) investigate when it might be financially feasible to build them. He believed Nevada was losing revenue without permanent ports of entry.

Assemblyman Hardy said he was also connected with the trucking industry from the construction aspect. He had heard comments that drivers in the construction field out of Utah were more afraid of Nevada's portable system than they were of permanent ports. They did not know where or when the portable weigh scales would be set up, which made them more nervous about maintaining their trucks than they were in their own hometowns.

Mr. Phillipenas said that he had lived in Las Vegas most of his life and he found most construction companies were compliant and understood the heavy fines they could receive. The biggest problem was the out-of-state truckers who ran through Nevada illegally.

Assemblywoman Carlton said she had recently obtained information about high-tech ports. The trucks did not have to stop; there were cameras and x-rays, and the main focus was on security. As freight was being shipped across the country, law enforcement could actually decipher the signature of a truck and have an idea of what was being transported inside. The focus was on security, which might involve Homeland Security because of unknown freight being shipped across the country. She wondered where those types of ports might already be established.

Mr. Phillipenas said he thought New Mexico was implementing something similar, using sensors and scanners for freight, because of the amount of drug traffic through the state.

Danny Thompson, representing the Nevada American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), testified that the AFL-CIO supported A.B. 550 for several reasons, one being the revenue side of the equation. He recalled that after the North American Free Trade Agreement (NAFTA) legislation was passed, trucks were flooding into the U.S. from Mexico with no brakes, without proper safety equipment, and bad tires. It was a problem for every state, and it was as much about safety as it was about revenue. Although [the ports envisioned in] A.B. 550 could not be implemented immediately, the AFL-CIO thought it was prudent to pass bill now, from the standpoint of both financial and safety reasons.

Jack Mallory, Director of Government Affairs, International Union of Painters and Allied Trades (IUPAT), District Counsel 15, representing the Southern Nevada Building and Construction Trades Council, testified in support of the bill. He did not wish to repeat the potential safety and fiscal positive impacts of establishing permanent port of entry stations; he wanted to address the jobs aspect. Although there was no current funding available, based on the assumption that it would be fiscally possible to build ports in the future, there was a prospect of creating jobs. Someone would have to build permanent stations, even though temporary stations existed.

Paul Enos, Chief Executive Officer of the Nevada Motor Transport Association (NMTA), testified in opposition to A.B. 550. He said the NMTA was absolutely in favor of truck safety and wanted safe trucks on the road. However, establishing ports of entry and expending significant funds to construct and maintain those facilities would not encourage truck safety. The trucking industry was currently experiencing its own transformation on how it would be regulated for safety through a program called the Comprehensive Safety Analysis (CSA2010). Roadside inspections would be conducted by the Highway Patrol and local law enforcement, and violation and citation data would be submitted to a centralized system within the Federal Motor Carrier Safety Administration. Seven Behavior Analysis and Safety Improvement Categories (BASIC) would be examined during the roadside inspections that included:

- Unsafe driving
- Fatigued driving (hours of service)
- Driver fitness
- Controlled substances or alcohol
- Vehicle maintenance

- Cargo-related
- Crash indicators

Mr. Enos explained every violation would have a different weight based on its severity. For example, the weight for not using a turn signal would not be as great as a violation for bald tires. A recent violation would carry more weight than a violation that happened two years before. Roving law enforcement officers would be able to identify trucking companies with repeat violations through the federal CSA system.

Mr. Enos agreed with Assemblyman Goicoechea that if drivers were afraid to go through a port of entry, they would evade that point of entry, which was why he thought roving enforcement would be more effective. Having the database from the Federal Motor Carrier Safety Administration to determine which companies were generally safe and which companies were not would be an excellent tool.

Mr. Enos said that there were 37 ways in and out of Nevada. Section 1 of the 2007 bill, A.B. No. 374, directed the Department of Transportation to construct four ports of entry on Interstate Highway No. 15 and Interstate Highway No. 80, one near each location where the Interstate Highways crossed the state border. He recalled that the fiscal note was approximately \$245 million, and that was prior to new upgraded high-tech facilities with the gamma rays that would enable views of inside the trucks to determine the contents of the vehicle.

Mr. Enos agreed with Assemblyman Goicoechea that it would be impossible to inspect every truck on the road, and many states had adopted one of two preclearance systems: North American Preclearance and Safety System (NORPASS) and PrePass, which was an intelligent transportation system (ITS) service that electronically verified the safety, credentials, and weight of commercial vehicles at participating state highway weigh stations. Nevada was a PrePass state, which meant commercial carriers enrolled in PrePass that had complied electronically were authorized to bypass the weigh stations.

Continuing, Mr. Enos said there were no Mexican trucks currently operating legally in the United States except for a 20-mile cross border area where Mexican trucks could come into the U.S. and American trucks could go into Mexico and unload or change loads and then return to their respective countries. A pilot program was currently under consideration that would allow 100 trucking companies, no more than 1,000 trucks, to come into the U.S. from Mexico. Every truck coming into the country would have to meet the same safety standards as the American trucks, which would require meeting the

seven BASIC standards. The trucks coming from Mexico would be equipped with electronic onboard recording devices to track them to prevent the freight from being stolen. Mexican trucks would be prohibited from picking up a load in the U.S. and delivering it inside the U.S. Mr. Enos said the purpose of the electronic tracking device was to prevent trucks from Mexico from competing with American truckers and businesses.

Mr. Enos believed that the Nevada Motor Transport Association (NMTA) had a good system in place for truck safety. Truck-related fatality rates were currently the lowest they had been since 1975 when those statistics began being recorded, and the NMTA always strived to improve that number. Mr. Enos said the NMTA did not believe that ports of entry would contribute significantly to that goal and would only force truckers to take alternate routes. He pointed out that the construction of ports of entry would also divert funds from the Highway Patrol and the roving enforcement program.

Assemblyman Kirner noted the bill did not have a fiscal note. He asked whether a fiscal note would be required if the bill was passed.

Chairwoman Smith responded that the current bill had a fiscal note of zero, but the fiscal note on the 2007 bill was \$245 million; she assumed the amount would be similar for A.B. 550.

Mr. Enos agreed. He said that the 2007 bill also included language concerning charging fees for inspections. He did not believe charging fees would be legal because of interstate commerce laws, but the fees in the original 2007 bill's fiscal note could have offset some of the cost. He noted that an opinion had been issued by the American Trucking Association that indicated fees would be illegal because of the interstate commerce clause in the *U.S. Constitution*.

Tracy Larkin-Thomason, Assistant Director of Planning for the Department of Transportation (NDOT), testified the Department was neutral on the bill. Assembly Bill No. 374 of the 74th Session (2007) required NDOT to construct four ports of entry at a cost of \$245 million. She noted that operating and maintenance costs for the portals would be in addition to the \$245 million, and studies indicated that those costs could not be met by the revenue generated.

Ms. Larkin-Thompson pointed out that NDOT did not typically perform enforcement. Assembly Bill 550 would have a greater effect on the Department of Public Safety (DPS) because law enforcement would staff the stations and funding of those positions would have to be considered along with administrative costs.

Chairwoman Smith asked for additional testimony on the bill. Seeing none, she closed the hearing on Assembly Bill 550 and opened the hearing on Assembly Bill 483.

Assembly Bill 483: Makes a supplemental appropriation to the State Distributive School Account for unanticipated shortfalls in Fiscal Year 2010-2011 in certain tax revenue. (BDR S-1225)

Chairwoman Smith said the Committee would move into a work session and consider Assembly Bill 483, which made a supplemental appropriation to the State Distributive School Account (DSA).

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained A.B. 483 was heard in Committee on April 27, 2011, and at that time, some urgency was expressed because the school districts needed the money by the end of May. The Committee had to wait for the Economic Forum projections on sales tax before it moved the bill out of Committee. As a result of the Economic Forum's updated projections of the 2 percent sales tax and property tax revenues, Fiscal staff recommended reducing the amount of the supplemental appropriation from \$140.8 million to \$96,983,227.

Chairwoman Smith said she would entertain a motion to amend and do pass A.B. 483.

ASSEMBLYMAN OCEGUERA MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 483 WITH A REVISED APPROPRIATION OF
\$96,983,227.

ASSEMBLYMAN HICKEY SECONDED THE MOTION.

THE MOTION PASSED. (Assemblymen Atkinson and Conklin were not present for the vote.)

Chairwoman Smith asked for further public comment; there was none. She adjourned the hearing at 7:01 p.m.

RESPECTFULLY SUBMITTED:

Tenna Herman
Committee Secretary

APPROVED BY:

A handwritten signature in cursive script that reads "Debbie Smith".

Assemblywoman Debbie Smith, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Ways and Means

Date: May 9, 2011

Time of Meeting: 5:05 p.m.

Bill	Exhibit	Witness / Agency	Description
	A	*****	Agenda
	B	*****	Attendance Roster
AB 316 (R1)	C	Assemblywoman Woodbury	Proposed Amendment 6814
AB 316 (R1)	D	Jan Crandy – Commission on Autism	NAC 388.387 - Eligibility of pupils with autism for special services
AB 188	E	Patrick Domholdt, Teamsters Local 631	Conceptual amendment To <u>A.B. 188</u>
AB 550	F	Patrick Domholdt, In-House Counsel, Teamsters Local 613	Presentation - Port of Entry