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

## Seventy-Sixth Session
## May 12, 2011

The Committee on Ways and Means was called to order by Vice Chair Marcus Conklin at 5:28 p.m. on Thursday, May 12, 2011, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/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 Marcus Conklin, Vice Chair
Assemblyman Paul Aizley
Assemblyman Kelvin Atkinson
Assemblyman David P. Bobzien
Assemblywoman Maggie Carlton
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman Cresent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblyman Randy Kirner
Assemblywoman April Mastroluca
Assemblyman John Oceguera

**STAFF MEMBERS PRESENT**:

Rick Combs, Assembly Fiscal Analyst
Mike Chapman, Principal Deputy Fiscal Analyst
Sherie Silva, Committee Secretary
Cynthia Wyett, Committee Assistant

Vice Chair Conklin called the meeting to order. He opened the hearing on Assembly Bill 98 (1st Reprint).

**Assembly Bill 98 (1st Reprint): Enacts the Uniform Emergency Volunteer Health Practitioners Act. (BDR 36-56)**

Former State Senator Terry Care, representing himself in his capacity as a Uniform Law Commissioner, explained the Uniform Law Commission was an organization of lawyers that included federal and state trial and appellate court judges, law school professors, practitioners, representatives of legislatures, and attorneys general who met annually to formulate uniform policy across the states. The group had no political agenda.

Mr. Care said that Assembly Bill 98 (R1) arose out of the dual hurricanes in 2005, Katrina and Rita, and the difficulties that volunteer health care practitioners had getting into New Orleans. Some of them were able to get in, but it took a long time for them to get there, and others were actually turned away because there was no mechanism in place to move quickly enough to bring them in.

Mr. Care noted that the policy discussion on Assembly Bill 98 (R1) had taken place in the Assembly Committee on Government Affairs, and he was prepared to review any aspect of the bill at the Committee's request. He noted that since the hearing in the Committee on Government Affairs, the earthquake and tsunami had occurred in Japan.

Mr. Care explained the goal of the Uniform Law Commission was to adopt a universal system in all 50 states to allow health care volunteers to come into the state—veterinarians, nurses, doctors—to provide services in the event of a disaster or catastrophe. Mr. Care said the bill had been adopted in 13 jurisdictions, and 4 jurisdictions, including Nevada, were considering it this legislative session. He understood the bill had been referred to Ways and Means because Assemblywoman Carlton had a legitimate policy issue about whether a host state would be required to take a practitioner—a nurse or a doctor–from another state. Mr. Care had corresponded with the Uniform Law Commission's main office and obtained an answer, which he had shared with Chairwoman Smith and Assemblywoman Carlton. He hoped he had addressed their concerns.

Assemblywoman Carlton remarked she had not asked for the bill to be sent to Ways and Means. She had raised serious concerns about the bill because of the licensing work she had done over the years, and she did not want to see victims of a disaster become victimized again by individuals who were not qualified to

come into the state or did not meet the equivalent qualifications. She was aware that a number of states did not conduct background checks or fingerprint their health care professionals. She did not want lesser qualified persons to be allowed to come into the state as a way to get an emergency license very quickly. Those were her concerns, and she intended on voting against the bill when it came to the Assembly floor.

Mr. Care was aware Assemblywoman Carlton had concerns. He explained that licensure in another state would be required to register in Nevada in the event of a disaster. An individual would not be allowed to practice beyond the scope of what he was allowed to practice in his home state. He would be subject to discipline while in Nevada, and any offense would be reported to the regulatory agency in his host state. Mr. Care emphasized the state did not have to accept a volunteer whose qualifications were questionable.

Vice Chair Conklin suggested that Mr. Care and Assemblywoman Carlton continue their discussion on the policy aspect of the bill, but the Committee's purpose was to hear testimony from the Division of Emergency Management and/or the Risk Management Division regarding any potential fiscal effect for the state. However, it did not appear representatives from either agency were present to testify.

Mr. Care responded there was no fiscal note, and he did not recall any testimony indicating that there was when the bill was heard in the Committee on Government Affairs.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said that Fiscal staff would meet with staff from the Division of Emergency Management and the Risk Management Division to affirm that they had no concerns from a fiscal standpoint.

Larry Matheis, Executive Director, Nevada State Medical Association, testified the Association supported the bill, which he said would put Nevada in line with other states. Fortunately, the state had not experienced a major disaster requiring a lot of medically trained people from out of state, but Nevada nurses and doctors had been sent to Louisiana, Texas, and other areas with serious problems. Dr. Matheis said the state was already performing preparedness functions, and the bill was an extension of current preparations in disaster planning to determine how to have a sufficient and trained workforce to meet a disaster. He added it was up to the state to set the policy concerning who could register. If there were jurisdictions where the standards were below those of Nevada, the policy would state that professionals from those areas could not register in Nevada.

Vice Chair Conklin asked for questions from the Committee; there were none. He asked for testimony in support of or in opposition to Assembly Bill 98 (R1)); there was none. Vice Chair Conklin closed the hearing on Assembly Bill 98 (R1) and turned the meeting over to Chairwoman Smith.

Chairwoman Smith opened the hearing on Assembly Bill 100 (1st Reprint).

**Assembly Bill 100 (1st Reprint): Enacts the Uniformed Military and Overseas Absentee Voters Act. (BDR 24-327)**

Assemblyman Tick Segerblom, representing Clark County Assembly District No. 9, explained A.B. 100 (1st Reprint) was a proposal to enact the Uniformed Military and Overseas Absentee Voters Act.

Former State Senator Terry Care, speaking as a Commissioner on the Uniform Law Commission, testified that the bill had a fiscal note from the Office of the Secretary of State (SOS), but after working with the SOS, the fiscal note had been removed.

Nicole Lamboley, Chief Deputy, Secretary of State's Office, stated she had notified the Fiscal Division of the reasons the amendment removed the Secretary of State's fiscal note. She recalled that in the 2009 Legislative Session, legislation was passed that addressed reforms to the military and overseas voter absentee ballot access, as well as the federal Military and Overseas Voter Empowerment (MOVE) Act. The reforms added additional provisions that the Secretary of State's Office felt could be addressed with no fiscal effect on the state.

Ms. Lamboley clarified the amendment to the bill dealt with concern that the definition of electronic access system was so broad that it would require all forms of electronic communication as opposed to just email and facsimile, which were already provided for in legislation. As originally proposed, section 23 of the bill included a definition of an electronic access system that included a telephonic system, which comprised the bulk of the cost for the Secretary of State's Office to maintain a 24-hour accessible telephone system for voters all over the world. Assemblyman Horne had clarified that electronic system largely referred to email, facsimile, and other forms that the Office was already addressing.

Chairwoman Smith asked for questions from the Committee; there were none. She asked for testimony in support of or in opposition to A.B. 100 (R1). There was no testimony, and she closed the hearing on A.B. 100 (R1) and opened the hearing on Assembly Bill 93 (1st Reprint).

**Assembly Bill 93 (1st Reprint): Provides for the establishment of a pilot diversion program within the Department of Corrections to provide treatment for alcohol or drug abuse or mental illness to certain probation violators. (BDR S-509)**

Assemblyman Tick Segerblom, representing Clark County Assembly District No. 9, explained A.B. 93 (R1) was similar to a bill sponsored by Senator David Parks in the 2009 Legislative Session to provide an inmate sanctions program for drug and alcohol abusers to give them an opportunity to have their sentences set aside upon successful completion of the program. Assemblyman Segerblom said the original version of the bill had a fiscal note, but with the help of Legislative Counsel Bureau staff and the agencies involved, an amendment was proposed to adopt a current ongoing program in Clark County. The program proposed in A.B. 93 (R1) would be conducted in conjunction with existing programs and existing funding.

Jeff Mohlenkamp, Deputy Director, Support Services, Department of Corrections, testified the Department had worked extensively with the Legislative Counsel Bureau Research Division and Assemblyman Segerblom to revise the initial bill, which would have been problematic for the Department. The bill currently codified an existing program at Casa Grande in Las Vegas involving District Court Judge Jackie Glass as an alternative measure for probation violators. Mr. Mohlenkamp said the Department of Corrections supported the bill in its current form and could implement the Department's portion of the program without additional costs.

Chairwoman Smith affirmed that the amended bill satisfied the Department. Mr. Mohlenkamp replied that A.B. 93 (R1) met the Department's needs and would not result in fiscal consequences.

Chairwoman Smith noted the bill still included a General Fund appropriation in each year of the 2011-2013 biennium of $250,000 for the Department of Health and Human Services. She asked whether Committee members had questions for Mr. Mohlenkamp; there were none.

Harold Cook, Ph.D., Administrator, Division of Mental Health and Development Services, Department of Health and Human Services, testified the Division was in support of A.B. 93 (R1). However, the current appropriation was not sufficient to operate the program at its maximum capacity of 50. The Division estimated that $250,000 would provide treatment for about 20 to 25 individuals at a time, and the current maximum capacity of the program was 50.

Dr. Cook noted that while the bill stated evaluation and treatment were required to "the extent practicable," the commitment courts were at times less than understanding of inadequate resources that delayed compliance with a court order, which could put the Division at odds with the judges. He said if the bill passed in its current form, the Division intended to meet with the judges in Clark County to discuss the program and develop an appropriate arrangement regarding scheduling and handling of court referrals. Dr. Cook said if the effort was unsuccessful, the substance abuse treatment provider for the program could be put in a situation in which a choice must be made between violating a court order or attempting to serve more clients than resources allowed. He added the situation could make it difficult to recruit providers for the program.

Chairwoman Smith asked whether the appropriation would be used strictly to fund the program. Dr. Cook replied that was correct: the appropriation was for the substance abuse treatment program.

Assemblyman Segerblom noted that section 2 of the bill stated, " . . . to the extent practicable within the appropriation provided." He said the intent was that the program would be conducted only within the funds available.

Chairwoman Smith affirmed the policy portion of the bill would be valid without the appropriation or with a smaller appropriation. Assemblyman Segerblom replied she was correct—within the amount of money included in the bill.

Chairwoman Smith asked Dr. Cook to confirm that the language in the bill was valid without an appropriation. Dr. Cook replied the language was appropriate. His only concern was that judges became impatient when their court orders were delayed, which could put the Division and provider at odds with a judge.

Assemblywoman Carlton remarked conditions of probation often required drug or alcohol counseling, and she was aware there were programs in southern Nevada that charged for those services. She asked whether the program in A.B. 93 (R1) would be established by the state and required reimbursement by the probationer, or whether there would be means testing to ensure the individual could not afford to participate in one of the programs for which the state would be billed.

Dr. Cook replied there was a provision in A.B. 93 (R1) to have the probationers pay for the service or be assigned community service as reimbursement. However, he said the Division anticipated there would be very little funding acquired from the program's participants.

Assemblywoman Carlton asked whether the program would accept anyone who had an order that he must receive counseling as a condition of probation. Dr. Cook replied once a court ordered a probationer to the program, the Division was compelled to accept him, even if he had resources.

Chairwoman Smith asked for testimony in support of A.B. 93 (R1).

Tony DeCrona, Lieutenant, Division of Parole and Probation, Department of Public Safety, echoed Dr. Cook's comments on behalf of the Division of Parole and Probation and stated the Division supported A.B. 93 (R1) as amended and viewed it as a positive supervision tool.

John Cracchiolo, Executive Director, Nevada Catholic Conference, representing the Reno and Las Vegas Dioceses, stated the Nevada Catholic Conference was a member of the Religious Alliance in Nevada (RAIN), an interfaith group comprised of mainline Christian denominations, and he would be sharing the view of the RAIN Board in addition to the Nevada Catholic Conference.

Mr. Cracchiolo stated his organizations were in support of A.B. 93 (R1). He read the following statement for the record:

> The bill and the pilot program it created allowed individuals with drug and alcohol addictions to be properly treated, as well as mental illness. Rather than incarcerating an individual for probation violations that are caused by these addictions or illnesses, this treatment would allow a person the chance to end the cycle. We believe the cost side of this in terms of creating this program will result in substantial reduction of taxpayer money that goes into incarceration. The estimated cost, as you probably well know, is somewhere around $20,000 per annum per inmate. If this person goes back into the system and does not get the necessary treatment to end the cycle, once released, he will be back again due to drugs and alcohol.
>
> The U.S. Catholic Conference of Bishops believes persons suffering from chemical dependency should have access to the treatment that could free them and their families from the slavery of addiction and free the rest of society from crimes they commit to support this addiction. This program frankly strengthens public safety. We urge the Committee to pass A.B. 93 (R1). Thank you.

Chairwoman Smith asked for testimony in opposition to A.B. 93 (R1); there was none. She closed the hearing on A.B. 93 (R1) and opened the hearing on A.B. 160 (1st Reprint).

**Assembly Bill 160 (1st Reprint): Revises provisions governing the financial reports of certain medical facilities. (BDR 40-559)**

Assemblyman Tick Segerblom, representing Clark County Assembly District No. 9, testified A.B. 160 (R1) expanded a current program in which hospitals provided information to the state which was posted on the state's website. There had been a fiscal note attached to the bill, but the state had indicated that the fiscal note was in error.

Chairwoman Smith asked for questions; there were none. She asked for further explanation of the fiscal note.

Elizabeth Aiello, Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services (DHHS), confirmed that the first reprint of the bill removed the fiscal note, as Assemblyman Segerblom had stated. She explained that DHHS staff was currently collecting the information and displaying it on its website as required by law, and the small number of data elements to be added as outlined in the bill would not have a significant financial effect on the Department.

Chairwoman Smith asked for testimony in support of or in opposition to A.B. 160 (R1). There was none; she closed the hearing on A.B. 160 (R1). She opened the hearing on A.B. 114 (1st Reprint).

**Assembly Bill 114 (1st Reprint): Revises the amount of the fee for issuing and recording a certain permit for an existing water right for irrigational purposes. (BDR 48-209)**

Jason King, P.E., State Engineer, Division of Water Resources, State Department of Conservation and Natural Resources, explained that up until the 2009 Legislative Session, a fee of $200 was charged to change a point of diversion or place of use of an existing water right. In the 2009 Session, the fee was changed to $250 plus $3 an acre-foot, which resulted in a large fee increase. As recommended by the Legislative Committee on Public Lands, A.B. 114 (R1) proposed to change the fee to a flat $500. Mr. King said the concern was the fees were not commensurate with the amount of work required to process the change applications.

Mr. King explained the fiscal note was based on a ten-year average, and it was determined that charging a $500 flat fee instead of $250 plus $3 an acre-foot, would result in approximately $160,000 less per year going to the state General Fund. He added that the Division was neutral on the bill.

Assemblyman Goicoechea recalled the legislation Mr. King referred to was Assembly Bill No. 480 of the 75th Session (2009). He said in many cases the fee resulted in increases of 300 percent to 1,000 percent, which was clearly higher than ever intended. Assemblyman Goicoechea said the Assembly Committee on Government Affairs, on behalf of the Legislative Committee on Public Lands, had apparently established the $500 fee, and he assumed the Committee had determined the fee was reasonable, although he recognized the change was substantial. He noted that the revenues generated as a result of the 2009 fee increase exceeded what was anticipated by approximately $200,000.

Mr. King replied he did not recall the amounts collected. Assemblyman Goicoechea recalled that $450,000 was anticipated to be added through the fee increase, and the total was closer to $600,000.

Mr. King said that an additional $900,000 was actually collected, but he did not recall the amount projected.

Assemblyman Goicoechea said he supported the bill, although he understood it would have an impact on the Division of Water Resources. He asked whether the Division's budget was based upon passage of A.B. 114 (R1).

Mr. King replied the Division had not considered the fee change in its budget, but the Division's budget was not tied to the revenue it collected. The result would be a reduction in funds to the General Fund.

Assemblyman Goicoechea remarked he recognized the difficult economic times, but the large increase was clearly a mistake on his part; no one anticipated a 1,000 percent increase. He encouraged the Committee's support.

Chairwoman Smith asked about the disposition of the additional $900,000 collected. Mr. King replied the funds were deposited to the state General Fund; the Division did not have a reserve.

Chairwoman Smith affirmed that passage of the bill would have no fiscal effect on the Division: it would be a reduction in General Fund. Mr. King replied she was correct.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, agreed that Mr. King was correct, and the fiscal note submitted by the Division was appropriate. When preparing for the Economic Forum projections, the Fiscal Division asked state agencies to estimate the amount of revenue they provided to the General Fund each biennium. He said the Economic Forum's forecast for the 2011-2013 biennium was based on the current fee in statute, and a decrease in the fee would result in a decrease in revenue projected by the Economic Forum on May 2.

Assemblywoman Carlton was concerned whether $500 was the appropriate fee in comparison to household water fees. She realized there was a value to water and that it was a beneficial resource, and she wanted assurance that the state was receiving the appropriate revenues.

Mr. King again noted that the Division of Water Resources was neutral on the bill. He explained that the process was straightforward for some transactions involving agricultural land, and the Division's time was fairly minimal, which was an argument for a lower fee. Another argument was that a $30,000 fee for a transaction in a municipality was able to be spread out over a larger population.

Assemblywoman Carlton remarked it was a flat fee for an undetermined amount of water that would be drawn from a basin. Payment was not for actual water use: it was for access to the water. Mr. King replied she was correct.

Assemblyman Goicoechea explained a farmer would make a change in the point of diversion because his well went dry, but he would then need to pay between $50,000 and $80,000 to dig a new well, as well as an additional $10,000 power bill to pay to bring the water out of the ground. He stated the water was not free.

Assemblywoman Carlton noted that another revenue hole was being created.

Assemblywoman Mastroluca offered to share some background regarding the fees in A.B. No. 480 of the 75th Session (2009). In a conversation with the State Engineer, she had asked when the rates were last raised, and she was told they had not been raised in 20 years. She said a comparison had been made between raising the fee according to the rate of inflation or by a percentage, and the amounts were nearly the same. Assemblywoman Mastroluca said everyone came together: the ranchers, representatives of the water authorities, and other parties involved. She said many of the fees were raised higher than the Legislature had suggested.

Subsequently, individuals received extremely large bills they were not prepared to pay, which was devastating to some small ranchers.

Assemblywoman Mastroluca pointed out the revenue hole was not real: it was created by the Legislature by providing additional revenue the state never should have had. The state collected a windfall that was not real and was never meant to be sustained. She recalled that she and Assemblyman Goicoechea had realized the error shortly after the 2009 Session and attempted to correct it. She understood Assemblywoman Carlton's concerns, but the money was not meant to be realized in the first place.

Chairwoman Smith remarked it was difficult to separate the policy aspect from the fiscal note in the bill because one created the other; they were closely intertwined. She called for testimony in support of A.B. 114 (R1).

Debra Amens testified she and her husband owned a farm outside of Austin, Nevada, and they were affected by the change in fees in 2009. She had attended an Assembly Committee on Government Affairs' meeting in which the problem was discussed, and shortly thereafter she and her husband received a cease-and-desist letter from the Office of the State Engineer indicating that they were irrigating land different than what was shown on the records, and a change in paperwork was required. She met with a staff engineer at the Division of Water Resources, who was very helpful, and he told her about Assembly Bill 114 (R1). If the bill passed, the engineer estimated the cost of the Amens' paperwork at approximately $3,500; if the bill did not pass, the fee would be close to $30,000. Ms. Amens said she was in total support of the $500 fee.

Chairwoman Smith called for further testimony in support of or in opposition to the bill; there was none. She closed the hearing on A.B. 114 (R1) and opened the hearing on A.B. 137 (1st Reprint).

**Assembly Bill 137 (1st Reprint): Revises provisions governing programs of nutrition in public schools. (BDR 34-191)**

Assemblywoman April Mastroluca, representing Clark County Assembly District No. 29, explained A.B. 137 (R1) would require schools with more than 85 percent of their students qualified for free or reduced lunch to be served breakfast and lunch for free. She said that Provision 2 of Title 7 of the Code of Federal Regulations (CFR) Part 245.9, provided that schools with that level of children who qualified for free and reduced lunch would qualify for the program. Assembly Bill 137 (R1) required that schools meeting the criteria of Provision 2 feed all students who were eligible for free and reduced lunch.

Based on previous testimony from the school districts, Assemblywoman Mastroluca said that Washoe County School District currently complied with the regulations, and Clark County was in the process of implementing the program. She said adoption of the program throughout the state was a combined effort of school districts and their communities to feed hungry children.

Assemblywoman Mastroluca stated the fiscal note had been resolved, at least at the state level. The original version of the bill required additional reporting, which was removed by amendment.

Donnell Barton, Director, Office of Child Nutrition and School Health, Department of Education, testified the Department's fiscal note had been removed, and the Department was in favor of A.B. 137 (R1), which would increase participation in both breakfast and lunch programs for students. Ms. Barton said that Nevada ranked at the bottom of participation nationally. For breakfast, the national average was 25.67 percent and Nevada was at 13.11 percent, ranking 53rd in the nation. She believed passage of the bill would promote participation in the program.

Nicole Rourke, Clark County School District (CCSD), testified that the District had a fiscal note attached to A.B. 137 (R1), but the amendment reduced the number of schools affected, and the fiscal note was reduced to $231,265.85 per year, based on the existing costs for Provision 2 schools served in the CCSD. Ms. Rourke said there were currently eight Provision 2 schools in the district, and the threshold of participation was set at 95 percent. The district had to pay the costs for the remaining 5 percent of students at the free and reduced lunch level. She was not sure whether the level of participation would change in the future. However, Ms. Rourke continued, CCSD was implementing a free breakfast program in at-risk schools, beginning with 37 schools in the fall of 2011, with 38 schools being added in January 2012.

Chairwoman Smith asked whether the Clark County School District was in support of A.B. 137 (R1). Ms. Rourke replied the district was neutral on the bill at this point, based on the existing costs and the requirements to participate. However, it was the District's intention to continue to work on the program and increase participation; it was a priority of the new District superintendent.

Paula Berkley, representing the Food Bank of Northern Nevada, testified that her organization was in support of A.B. 137 (R1). She added the bill included another feature to attempt to make it as cost-effective and fiscally independent as possible: breakfast would be served after the bell. Ms. Berkley said the reason for the provision was that if breakfast was served before the bell, the

students tended to prefer to play with their friends rather than eat breakfast, so nationally only about 25 percent of the students actually ate breakfast. However, if the students were in the classroom or were given breakfast to go, 95 percent of them ate breakfast, which made the program cost-effective.

Using Washoe County School District as an example, Ms. Berkley said that for the past 11 years, the District's program had been in the black for Provision 2 schools, as well as its non-Provision 2 schools. She said the District had always insisted its Provision 2 schools serve breakfast in the classroom to gain maximum participation. The Clark County School District had not yet had the experience of serving breakfast after the bell, but Ms. Berkley believed that District too would find it to be more cost-effective.

Continuing, Ms. Berkley said that if all of the eligible students in Nevada were served breakfast, the state would receive an additional $43 million in federal funds, which was why there was a performance measure included in A.B. 137 (R1). The Department of Education had endorsed the provision to compile statistics on the program and report the status of the program to the 2013 Legislature.

Chairwoman Smith reported that she had a message from the Washoe County School District that it was neutral on the bill, but it did not have a fiscal note.

Craig Stevens, Nevada State Education Association (NSEA), testified that NSEA supported A.B. 137 (R1) and believed that feeding students breakfast in the classroom was critically important. He said an educator in Sparks teaching at a school with breakfast in the classroom had told him that the difference between the students before the program started and after it began was monumental. He urged the Committee's support of A.B. 137 (R1).

Chairwoman Smith asked for additional testimony in support of or in opposition to A.B. 137 (R1); there was none. She closed the hearing on A.B. 137 (R1) and opened the hearing on Assembly Bill 334 (1st Reprint).

**Assembly Bill 334 (1st Reprint): Exempts from the limitation on the total proposed budgetary expenditures for a biennium any expenditures from the State Distributive School Account in the State General Fund. (BDR 31-1009)**

Assemblywoman Peggy Pierce, representing Clark County Assembly District No. 3, testified that there were individuals who believed very strongly that a government budget should only grow by the combined rate of change in population and inflation. She said *Nevada Revised Statutes* (NRS) 353.213,

using appropriations in the 1975-1977 biennium as a base, provided that General Fund spending proposed in the Governor's budget could not grow by more than the percentage change in population and the percentage of inflation or deflation since that biennium.

Assemblywoman Pierce pointed out the provision was adopted in 1979, but the limit had never been reached, even in 2003 when $800 million in taxes were added to the budget. She said many people did not realize that when the taxes were raised in 2003, Nevada was one of three states which, in the ten years before, had a General Fund that had not kept up with the rate of growth and inflation; Nevada still had one of the smallest governments in the country. She pointed out that in the past 35 years there had been a number of unfunded mandates from Washington, D.C., and there had been a change in people's expectations of government.

Assemblywoman Pierce believed Nevada would never achieve an education system worthy of the state without an increase in funding. In the 22 years she had lived in Nevada, the state's education funding had ranked 50th or 48th in the nation. Even if the state wanted to increase funding of education to raise its national ranking to 37th or 39th, it would be unable to do so because of the provisions of NRS 353.213.

Assembly Bill 334 (R1), Assemblywoman Pierce explained, removed the State Distributive School Account (DSA) from the limitations of NRS 353.213 so that at some point in the future, additional funding could be provided to education. She noted there was not a fiscal note attached to the bill.

Chairwoman Smith explained there was not a fiscal note, but the bill was brought into the Ways and Means Committee because it involved the state budget and the functions of the Committee. She asked for testimony in support of A.B. 334 (R1).

Craig Stevens, Nevada State Education Association (NSEA), thanked Assemblywoman Pierce for bringing the bill forward. He agreed that when the time came that additional funding could be provided to education, the cap could severely hinder the state's plans and ability to increase funding. He pointed out that taking the DSA out of the cap did not mean the cap would be exceeded. It simply meant that should the state want to fund education at a higher level, it could be done without limitation. He urged the Committee's support.

Assemblyman Hogan said it seemed to him that the formula behind the limit was not derived from any analysis of educational needs; it was just a theory

that was enacted. He was glad to see the bill and urged expeditious action to remove the artificial cap.

Mary Pierczynski, representing the Nevada Association of School Superintendents, stated the association was in support of A.B. 334 (R1), and she thanked Assemblywoman Pierce for bringing the bill forward. She acknowledged that the Legislature had been working hard on a very difficult budget, and it was not possible to revise caps at this point, but there was a large amount of support to fund education properly in Nevada, and she hoped that someday that could be done.

Assemblywoman Pierce explained the cap applied only to the Governor's budget, and the Legislature was not restricted by it. However, if the Legislature decided to create a budget higher than the Governor's, the Governor would then have to reduce the next budget to comply with the provisions of NRS 353.213, which would create chaos.

Chairwoman Smith closed the hearing on A.B. 334 (R1) and opened the work session on bills.

**Assembly Bill 219 (1st Reprint): Provides that unredeemed slot machine wagering vouchers escheat to the State. (BDR 10-811)**

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said A.B. 219 (1st Reprint) was first heard in Committee on May 6, 2011, and there was extensive public testimony. The State Gaming Control Board had testified that the bill as introduced had a fiscal impact on the Board, but working with the sponsor, Assemblyman William Horne, an amendment had been prepared. Mr. Combs reviewed the revisions in the amendment:

- Provided that 75 percent of the value of any unredeemed slot machine wagering voucher must escheat to the state through the Gaming Control Board rather than through the Office of the State Treasurer.

Mr. Combs explained the bill was silent concerning what agency would be responsible for collection of the unredeemed vouchers, but all unclaimed property was currently handled by the Treasurer's Office. The amendment would provide that the Gaming Control Board collect and distribute the amounts instead.

- Provided that any unredeemed slot machine wagering voucher would expire 180 days after issuance, unless the Nevada Gaming Commission

adopted a regulation to provide a shorter time in which a slot machine wagering voucher must be redeemed.

Mr. Combs said the bill that came from the Assembly Committee on Judiciary had a 30-day period instead of 180 days. He assumed the amendment was part of the effort to reduce the fiscal impact on the Gaming Control Board.

- Provided that the act only applied to nonrestricted gaming licensees.

Mr. Combs explained the main concern of the Gaming Control Board was applying the bill to restricted gaming licensees, and this portion of the amendment specified that the bill only applied to nonrestricted gaming licensees.

- Clarified that any monies received by the state would be deposited in the State General Fund.

Mr. Combs pointed out that other than the language that the unredeemed vouchers escheated to the state, the bill did not specify that the funds were to be deposited to the General Fund.

Mr. Combs stated the amendment also provided that the bill would become effective October 1, 2011, and a provision would be added to require the Gaming Commission to adopt the regulations by January 31, 2012. Because of the October 1 effective date and the expiration of the vouchers within 180 days rather than 30 days, the first quarter for which the bill would apply would be the second quarter of fiscal year 2012, which would be after the deadline for adoption of the regulations. Again, he believed the amendments were all part of an effort to avoid any excessive work for the Gaming Control Board. The Gaming Control Board indicated the main additional duty would be the adoption of the regulations, and testimony during the hearing indicated the agency could manage the cost within its existing budget.

Assemblyman Kirner asked whether the Gaming Control Board had agreed to the 75/25 percent split between the state and the gaming establishment. Chairwoman Smith replied the Board had approved the bill as amended.

Assemblyman Kirner asked whether a projection of revenue generated from the bill was included in The Executive Budget. Mr. Combs replied an official revenue projection by the Gaming Control Board had not been provided to the Fiscal Division. If the bill was passed, the Fiscal Division would pursue the information.

Assemblyman Hickey asked whether the bill was combined with another bill sponsored by Assemblyman Horne. Chairwoman Smith replied Assemblyman Horne sponsored two bills to be heard by the Committee, but they were not related.

ASSEMBLYMAN CONKLIN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 219 (1ST REPRINT).

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Assembly Bill 258 (1st Reprint): Enacts provisions governing the licensing and operation of interactive gaming. (BDR 41-657)**

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained A.B. 258 (1st Reprint) was a bill from the Assembly Committee on Judiciary that was heard by the Committee on May 6, 2011. The bill required the Nevada Gaming Commission to adopt regulations relating to the licensing and operation of interactive gaming. He noted that a previous version of the bill had a fiscal note of approximately $1.3 million over the biennium.

Mr. Combs stated the bill stipulated that a license to operate interactive gaming would not become effective until the passage of the federal legislation authorizing interactive gaming or notification from the U.S. Department of Justice to the Commission that interactive gaming was permissible under federal law. He said the State Gaming Control Board had indicated the only cost until that notification was received would be to adopt the regulations required in A.B. 258 (R1) and have them in place when federal approval was received.

Mr. Combs noted that Assemblyman Horne had submitted an amendment to require the Commission to adopt the regulations pending federal approval of interactive gaming. The amendment established a deadline of January 31, 2012, for the Commission to adopt the regulations.

ASSEMBLYMAN KIRNER MOVED TO AMEND AND DO PASS ASSEMBLY BILL 258 (1ST REPRINT).

ASSEMBLYMAN GOICOECHEA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Assembly Bill 259 (1st Reprint): Requires a portion of certain existing fees to be used for certain programs for legal services. (BDR 2-817)**

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, recalled that Barbara Buckley had testified before the Committee on A.B. 259 (1st Reprint) the day before. The bill provided two different funding sources for legal services for the indigent:

- In counties with less than 100,000 population, the use of civil action fees was expanded to include support of legal services to the indigent. In counties of over 100,000 population (Clark and Washoe), $20 of the total fee collected for each civil action was required to be submitted to a program for legal services for the operation of programs for the indigent.

- $10 of each fee collected for recording a notice of default and election to sell must be submitted to a program for legal services for the operation of programs for the indigent.

Mr. Combs explained that Ms. Buckley had presented an amendment that would reduce the portion of the fee collected from notices of default from $10 to $5. Currently the total fee of $50 went to the Supreme Court for its Foreclosure Mediation program. He said the Supreme Court budget had been closed, and some of the reserve funds in the budget were used to offset a portion of the General Fund added by the Joint Subcommittee on General Government because of a reduced projection of court Administrative Assessment revenues. Fiscal staff was not advocating whether the fees should be used as proposed in A.B. 259 (R1), but Mr. Combs said the Supreme Court should be able to withstand the $5 fee reduction and the closing actions of the Committee without future financial concerns in the Foreclosure Mediation program.

Chairwoman Smith noted that Supreme Court Associate Justice James Hardesty had testified in support of the bill.

> ASSEMBLYMAN CONKLIN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 259 (1ST REPRINT).
>
> ASSEMBLYMAN ATKINSON SECONDED THE MOTION.

Assemblyman Grady asked whether the fee would be an additional fee or whether it would be diverted from the current fees being collected by the Supreme Court. Mr. Combs replied the current $50 fee to the Court would be reduced to $45, and $5 would go to legal services; the fee amount would remain the same.

Assemblyman Grady asked whether all legal services agencies or just one agency would be able to draw on the fees.

Assemblyman Conklin said he understood there were two components of the bill. One component was for Washoe and Clark Counties, and the other was an addition to allow the rural counties more options. He noted the program was ongoing, and the components were in existing statutes. Currently the rural counties had eight options, and the bill added a ninth, for how they could choose to use the funds.

Mr. Combs explained the bill affected two different fees. The fee for the civil actions allowed counties with a population of less than 100,000 to add legal services as another option for use of the money collected. Counties with over 100,000 population were required to use $20 of the existing fee for legal services for the indigent. The $5 notice of default fee would no longer go toward the Foreclosure Mediation program; it would be required to be used for legal services for the indigent as well.

Assemblyman Hardy asked whether the legal aid organization was a single organization or multiple organizations. Mr. Combs replied he understood the way the statute was worded there was one organization designated in each county to receive the fees for the legal services, as referred to in Assembly Bill 192 (R1): " . . . to the organization operating the program for legal services for the indigent that receives the fees charged pursuant to NRS 19.031."

> THE MOTION PASSED. (Assemblyman Hardy voted no. Assemblyman Kirner reserved the right to change his vote on the Assembly floor.)

**Assembly Bill 419 (1st Reprint): Revises provisions relating to groundwater basins. (BDR 48-299)**

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that A.B. 419 (1st Reprint) had been heard the day before, and it required the State Engineer to designate certain groundwater basins as critical management areas in certain circumstances. He recalled that Jason King, the State Engineer, had testified that although the bill had a fiscal impact, the impact was on the groundwater basin accounts, which were outside of The Executive Budget. The Fiscal Analysis Division had determined there would be no fiscal effect on the General Fund.

ASSEMBLYMAN GRADY MOVED TO DO PASS AS AMENDED ASSEMBLY BILL 419 (1ST REPRINT).

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairwoman Smith called for public testimony; there was none. There being no further business to come before the Committee, she adjourned the meeting at 6:58 p.m.

RESPECTFULLY SUBMITTED:

_____
Sherie Silva
Committee Secretary

APPROVED BY:

_____
Assemblywoman Debbie Smith, Chairwoman

DATE: September 20, 2011

## EXHIBITS

**Committee Name: Committee on Ways and Means**

**Date: May 12, 2011** **Time of Meeting: 5:28 p.m.**

| Bill | Exhibit | Witness / Agency | Description |
|---|---|---|---|
| | A | | Agenda |
| | B | | Attendance Roster |