

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

**Seventy-Sixth Session
May 14, 2011**

The Committee on Ways and Means was called to order by Chairwoman Debbie Smith at 1:50 p.m. on Saturday, May 14, 2011, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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 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 Crescent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblyman Randy Kirner
Assemblywoman April Mastroluca

COMMITTEE MEMBERS EXCUSED:

Assemblyman John Ocegüera

STAFF MEMBERS PRESENT:

Rick Combs, Assembly Fiscal Analyst
Anne Bowen, Committee Secretary
Connie Davis, Committee Assistant

Chairwoman Smith opened the hearing on Assembly Bill 128 (1st Reprint).

Assembly Bill 128 (1st Reprint): Prohibits smoking on the property of the Nevada System of Higher Education. (BDR 15-911)

Assemblyman Paul Aizley, Clark County Assembly District No. 41, testified in support of Assembly Bill 128 (R1).

Assemblyman Aizley explained that the bill would ban smoking on the higher education campuses. He said that while there was a fiscal note, the proposed amendment ([Exhibit C](#)) submitted by the Chancellor's office would substantially reduce the fiscal note. Section 2, subsection 4, read "The police department of the System shall prepare, sign, and serve written citations on persons accused of violating this section." The proposed amendment suggested changing "shall" to "may," which according to the Chancellor's estimation could reduce the fiscal note by approximately \$80,000.

Assemblyman Aizley pointed out that the fiscal note did not affect the General Fund, and he also was aware of volunteers willing to cover some of the costs for the campuses.

Marcia Turner, Vice Chancellor, University of Nevada Health Sciences System (UNHSS) thanked Assemblyman Aizley for working with the University, and his willingness to support the amendment, [Exhibit C](#), "Proposed Amendment to Assembly Bill 128 (R1)." Ms. Turner said the amendment helped reduce the estimated enforcement costs and reduced the fiscal note by approximately two-thirds, but there was a remaining fiscal note as a result of the required signage and also there would still be an enforcement cost. Part of the enforcement cost was difficult to estimate because it would not be a typical intervention of a campus officer within the campus community because a smoking prohibition was classified as a misdemeanor.

Chairwoman Smith said she did not understand why the bill would lower the cost for signage.

Ms. Turner explained that the bill did not lower the cost for signage. The fiscal note related in part to signage and in part to enforcement and would reduce the enforcement part.

Chairwoman Smith asked where the funding would come from if not the General Fund.

Assemblyman Aizley replied that there were individuals and organizations that had volunteered to provide the signage if needed.

Chairwoman Smith requested specifics regarding the volunteers providing funds for signage.

Assemblyman Goicoechea said the amendment pertained to the fiscal note, but he had a problem with a law that said you "may" enforce it.

Assemblyman Aizley commented that the object of the bill was to provide clean air for students on the campuses. He did not care whether they were cited or not and, in fact, preferred that no citations were issued. He reiterated that he was not concerned about the misdemeanor or the enforcement parts of the bill.

Assemblyman Hambrick commented that he was very concerned that an enforcement officer who might be a smoker would let something slide, and then five minutes later another officer would come by and see a problem and "may" exercise his authority. He said that the word "may" when wearing a uniform really left things up in the air.

Ms. Turner said the request for this amendment was so that the officer could issue a warning. For instance, if a family visiting campus from another state was not aware of the law and decided to smoke a cigarette, the enforcement officer could issue them a citation. Ms. Turner said the amendment to the bill provided more flexibility and judgment for law enforcement, and additionally, the sponsor of the bill was supportive of this approach.

Chairwoman Smith called for public testimony in support of A.B. 128 (R1).

Christopher Roller, representing the American Heart Association, testified in support of A.B. 128 (R1). Mr. Roller noted that there were 466 campuses nationwide with smoke-free policies in place which were implemented and enforced in a variety of ways. He referred to signage and said the Heart Association and some other partners in the tobacco prevention control community could provide signage as well as gifts and grants. Mr. Roller suggested that the bill be amended to allow the Nevada System of Higher

Education (NSHE) to accept gifts, grants, and donations to carry out some of the provisions, such as signage to reduce the fiscal impact.

Chairwoman Smith asked Ms. Turner whether there was language in A.B. 128 (R1) that would allow NSHE to accept donations.

Ms. Turner said she believed NSHE had the ability through other avenues to accept funds, but she would confirm that information.

Chairwoman Smith said if that provision was in place already, there would be no need for an amendment to the bill.

Assemblyman Aizley stated the Alumni Association had already contributed signs for the campuses for a variety of reasons and most campuses also had foundations.

Assemblyman Grady referred to the community college campus in Fallon that was housed with the Fallon Convention Center. He said there was no smoking within the convention center, but a place was provided just outside where it was allowed. He wondered how that would fit in with A.B. 128 (R1).

Assemblyman Aizley replied that the campuses were under the control of NSHE, and if the convention center was not, then the convention center would set the rules.

Chairwoman Smith asked whether Ms. Turner had a further response to the question of shared campuses.

Ms. Turner said the way the bill was written it said anything that was owned or occupied which was another reason the permissive language was helpful. In a situation such as at the Fallon campus or the School of Medicine, which occupied space at University Medical Center, the no smoking policy was very difficult to enforce.

Chairwoman Smith said she believed the bill would need clarification. There would be some campuses where the smoking prohibition would not apply because of the situation such as the Fallon campus with shared space. That was a very different situation from a visitor on campus who was not aware of the rules.

Assemblyman Hickey asked how the policy would apply to someone in a vehicle on campus.

Assemblyman Aizley replied that if individuals were smoking in their car on the campus, they would be violating the policy.

Jennifer Stoll-Hadayia, Public Health Program Manager, Washoe County, testified in support of A.B. 128 (R1). She wanted to add for the record that the Public Health Program was one of the organizations that Assemblyman Aizley referenced that was willing to assist NSHE with signage.

Chairwoman Smith called for testimony in opposition to A.B. 128 (R1). She noted for the Committee that 532 postcards in support of the bill had been received from the University of Nevada, Reno (UNR), and 348 postcards in support were received from the University of Nevada, Las Vegas (UNLV).

Chairwoman Smith closed the hearing on A.B. 128 (R1) and opened the hearing on Assembly Bill 151 (R1).

Assembly Bill 151 (1st Reprint): Makes various changes concerning the use of a cellular telephone or other handheld wireless communications device while operating a motor vehicle. (BDR 43-12)

Assemblyman Kelvin D. Atkinson, Clark County Assembly District No. 17, testified in support of A.B. 151 (R1).

Assemblyman Atkinson said he intended to discuss the fiscal note because the policy had been discussed several times. He said he was assuming from reading the fiscal note that the Department of Corrections anticipated imprisonment should death result from a person violating the law. However, there were proposed fines in the bill that offset any fiscal note because for the first offense the fine was \$50, the second offense was \$100, and the third offense was \$250. For committing a felony the fine was \$2,000 to \$5,000.

According to Assemblyman Atkinson the state was in a "Catch 22" position, because the federal government was considering removing funding for highway transportation if states did not enact hands-free or antitexting laws. Indiana and North Dakota recently implemented hands-free laws which increased the total to 33 states with those laws. Assemblyman Atkinson said he believed the fiscal note was not reflective of what would happen if the state did not pass A.B. 151 (R1) because the loss of highway transportation dollars had not been included.

Robin Katz, private citizen, submitted written testimony ([Exhibit D](#)) in support of A.B. 151 (R1).

Chairwoman Smith closed the hearing on A.B. 151 (R1) and opened the hearing on Assembly Bill 202 (R1).

Assembly Bill 202 (1st Reprint): Provides for the partial abatement of certain property taxes for certain new manufacturing businesses in this State. (BDR 58-652)

Assemblyman Randy Kirner, Washoe County Assembly District No. 26, testified in support of A.B. 202 (R1).

Assemblyman Kirner said the bill was intended to bring jobs to Nevada. It was a tool for economic development, and it also provided short-term jobs in construction and longer-term jobs in what was called fundamental industry or manufacturing businesses in the state.

Assemblyman Kirner said he was particularly pleased to bring this bill forward and was also pleased to have the opportunity to thank his colleagues from across the aisle that had also helped, especially Assemblywoman Marilyn Kirkpatrick.

Assembly Bill (A.B.) 202 (R1) encouraged new manufacturing businesses that moved to the state or created a business in Nevada that hired 25 full-time employees. Manufacturing businesses that moved into an existing building and qualified under the Leadership in Energy and Environmental Design (LEED) criteria for green buildings could qualify for a first-year property tax abatement of 25 percent for silver level, 30 percent for gold level, and up to 35 percent for platinum level.

Assemblyman Kirner said if an existing building had been retrofitted to meet new energy efficient standards and when completed the owner received the abatement in the first year, the property tax would become new revenue. In the second year the owner would pay 100 percent of the property tax on an improved building. Assemblyman Kirner believed this was a winning proposition for both the owner and the state. When property was retrofitted, construction workers were hired, and when the building was completed and the manufacturing business started, at least 25 jobs had to be provided. He maintained that each new building or retrofitted building would bring in an estimated \$4 or \$5 million in revenue to the state in wages and property tax.

Chairwoman Smith remarked that the fiscal note seemed to be related to personnel on the economic development side and setting regulations on the Public Utilities Commission (PUC) side. She wondered whether there was

anyone present from the Commission on Economic Development or the PUC who wanted to address the fiscal note.

Assemblyman Kirner said he believed the PUC no longer had any interest in the bill, and the Office of Energy had since become interested.

Stacey Crowley, Director, Office of Energy, said her office had not submitted a fiscal note when the bill was released because it had not pertained to that office. Because of the amendments, the Office of Energy had become involved, and Ms. Crowley said the agency would have to revise regulations.

Chairwoman Smith asked whether the Office of Energy had prepared a fiscal note. Ms. Crowley replied that the Office of Energy had not prepared a fiscal note, but she imagined it would be similar to the PUC's fiscal note which was approximately \$18,520 just to adopt the regulations.

Chairwoman Smith asked whether the Office of Energy was supportive of A.B. 202 (R1) and whether it had the capacity to set the regulations. Ms. Crowley replied that the agency was supportive of the bill and had the capacity to set regulations.

Assemblyman Grady questioned whether local governments had the authority to weigh-in on any abatement in their area because it would also affect their tax stream.

Assemblyman Kirner said it was not intended that way and would not affect local governments. In the first year counties would be receiving tax revenue they would not have otherwise received. It was envisioned that the abatement grants would be administered through the Office of Energy.

Chairwoman Smith closed the hearing on A.B. 202 (R1) and opened the hearing on Assembly Bill 307 (R1).

Assembly Bill 307 (1st Reprint): Requires the monitoring of the effects of certain energy development projects on wildlife. (BDR 45-872)

Assemblyman David P. Bobzien, Washoe County Assembly District No. 24, testified in support of A.B. 307 (R1).

Assemblyman Bobzien stated that A.B. 307 (R1) came from the Assembly Committee on Commerce and Labor with an amendment but no recommendation. He was presenting another significant amendment to the bill and believed that some policy discussion would be warranted. Mr. Bobzien

presented [Exhibit E](#), "Proposed Amendment 6774 to Assembly Bill 307 First Reprint."

Chairwoman Smith said she would indulge the policy discussion and entertain the amendment.

Assemblyman Bobzien said there were a number of challenges in the state related to species of concern, most notably the sage grouse, a bird that was close to being listed on the Endangered Species Act list. He noted the ramifications of such a listing for communities and economies across the state were significant. The bird had a range that covered almost the entire state. Assemblyman Bobzien said there had been talk about the golden eagle being potentially another species of concern that could be listed in the coming months.

The issue that A.B. 307 (R1) contemplated was the effect of energy development on federal land and proposed projects for the Department of Wildlife (NDOW). The NDOW received the majority of its resources and funding from sportsmen's dollars, federal grants related to excise taxes on guns and ammunition, and license fees. Assemblyman Bobzien noted that NDOW received very little General Fund money, but was tasked with managing the state's wildlife resources.

An energy development application entered the process at the federal level. The federal agency, whether the Bureau of Land Management (BLM) or the U.S. Forest Service, sent a data call to the Department of Wildlife (NDOW) and requested a review of the plan as well as any data the Department might provide. Assemblyman Bobzien said the issue with A.B. 307 (R1) was the state's capacity to adequately rise to that challenge and do its part to manage the resource. He submitted that NDOW was having a hard time keeping up with the demand because of all of the work being done in Nevada to promote energy development, particularly renewable energy development. As those projects became viable, there was an unintended consequence of increasing the workload of the Department of Wildlife. According to Assemblyman Bobzien if the issue with the sage grouse was not addressed, all efforts to bring jobs to Nevada were at risk.

Assembly Bill (A.B.) 307 (R1) started with a fee for a conservation fund to deal with the review of plans, mapping, and surveying; much of the work that was already being done by the Department of Wildlife. The fee was set up to be anywhere between \$35,000 and \$100,000 for the projects. Assemblyman Bobzien said an energy project could be anything from a small geothermal plant that you might find in a centrally focused project or broad

transmission projects such as natural gas pipelines that went across the state. It was determined with that range of fees, the top-end fee probably would not account for the true impact on the agency, and the bottom-end fee might be too much.

There were additional conversations with industry and the Department about dropping the minimum and just retaining the maximum fee of \$100,000. After a conversation with the Governor's Office, it was decided that any sort of a fee was always going to have an arbitrary nature to it and perhaps the better way to assess and account for costs to the Department was to implement a cost-recovery system. Assemblyman Bobzien added that what was being proposed for the cost-recovery approach was similar to the system already in place with the Bureau of Land Management. When an energy project went forward under the National Environmental Policy Act (NEPA) process a bond was set up with the BLM, and as the project went forward through the NEPA process, the BLM was kept whole with costs related to the plan review.

Assemblyman Bobzien said the meat of the proposed amendment began in section 5 with basic definitions of energy projects. He said it was important to note that the start of section 5 listed the projects for the generation, transmission, and development of energy located on public or private land.

Section 7 of the proposed amendment ([Exhibit E](#)) required filing of a Notice of Energy Development with the Department of Wildlife. Assemblyman Bobzien said originally the Notice was to be filed with the Office of Energy. He further stated the proposed amendment restructured the relationship between those two offices and how the bill applied.

Assemblyman Bobzien referred to section 7, subsection 4 which said "the Department of Wildlife shall in consultation with the Office of Energy, adopt regulations to carry out the provisions of this section, including without limitation: (a) provisions setting forth the requirements for reimbursing the Department of Wildlife for any costs incurred by the Department of Wildlife in evaluating the effect upon wildlife or wildlife habitat from an energy development project for which a notice is filed pursuant to subsection 1." Assemblyman Bobzien said originally the fee was much broader but had been changed to provide for cost recovery only.

Section 8 of the proposed amendment ([Exhibit E](#)) provided for reporting requirements. The data that was going to be maintained by the Department of Wildlife could be used to track current projects as well as potential projects developers were considering.

Assemblyman Bobzien referred to section 9 and section 9.5 of [Exhibit E](#) which provided for two funds. Section 9 was the Energy Planning and Conservation Fund, which would not be funded this session, but the fund would be initiated and set up to accept and receive gifts. Section 9.5 of the proposed amendment would set up the Fund for the Recovery of Costs.

Assemblyman Hardy commented that most of the energy projects that he was aware of were further south where there had never been sage grouse. He wondered whether A.B. 307 (R1) had an effect on those projects.

Assemblyman Bobzien replied that despite the fact that the sage grouse was certainly the leading species of concern, some of the solar projects were not in sage grouse habitat, but there were issues with other species across the state. The projects being considered in the sage grouse area were transmission or geothermal projects.

Assemblyman Hardy wondered whether there was a plan in place for the protection of certain species such as the sage grouse and the golden eagle.

Assemblyman Bobzien said he could not comment specifically on the golden eagle, but there was a Sage Grouse Conservation plan. He said the Plan was very expensive, and A.B. 307 (R1) did not solve the problem of funding. He said his hope was with the fund created in section 9 of [Exhibit E](#) that a "placeholder" was being established if nothing else. He hoped to raise money from private donations to start the funding. According to Assemblyman Bobzien, the Department was always looking for ways to maximize federal grant money and work with other agencies to put portions of the Sage Grouse Plan in place.

Patrick Cates, Deputy Director, Department of Wildlife (NDOW), testified in support of A.B. 307 (R1). Mr. Cates said the fiscal note had been filed before the amendment ([Exhibit E](#)); however, after reviewing the amendment he did not believe the dollars would change very much. Because there was no specific fee established and there would be a variable volume of projects, the NDOW had considered historical spending on those kinds of activities. For project review the NDOW spent approximately \$560,000 on project review activity in fiscal year (FY) 2010. Mr. Cates said approximately one-half of those activities were related to energy development projects; about \$280,000 of that was expended for energy project review. He said most of the \$280,000 was paid with federal funds, with about 70 percent of those federal funds coming from sportsman grants, and the rest was paid with state dollars, which were sportsman license fees. He was aware that NDOW was under capacity for the amount of projects that it had been asked to review. While the NDOW was doing the best it could,

Mr. Cates said if there were more projects and cost recovery that amount would increase. However, no one knew what the future would hold if the sage grouse was listed as an endangered species.

Mr. Cates said he believed the fiscal note was still valid, and it would address the cost-recovery fund for the project review. The Energy Office filed a fiscal note related to the original bill, and this amendment put some of that administrative responsibility on NDOW, rather than the Energy Office. Mr. Cates said he had an opportunity to study the fiscal note and did not believe NDOW would incur those costs. The NDOW already promulgated regulations, had staff that tracked projects, and the Department had mitigation funds it administered. Mr. Cates said he did not see the responsibilities adding significantly to administrative costs or the administrative burden.

Chairwoman Smith requested that someone from the Office of Energy comment.

Stacy Crowley, Director, Office of Energy, said the agency was supportive of the amendment and the new structure concerning cost recovery. She said the fiscal note submitted with the original bill was no longer valid and because most of the work went to NDOW, she believed the fiscal note should be eliminated.

Chairwoman Smith called for testimony in support of A.B. 307 (R1).

Kyle Davis, Political Director, Nevada Conservation League, testified in support of A.B. 307 (R1). Mr. Davis stated this piece of legislation through all of its different forms was the top priority of Nevada's conservation community, a group of 17 conservation organizations from throughout the state. He said the Nevada Conservation League had three specific goals: (1) Create a funding mechanism to pay for the state services that were being provided; (2) improve the quality of the environmental impact statements that were required for these companies that were developing energy projects; and (3) get renewable energy projects on line responsibly.

Mr. Davis said A.B. 307 (R1) accomplished those goals and moved toward a better system for energy project evaluation and would allow more resources to be used in the conservation of the specific species of concern.

Assemblyman Hardy commented that in southern Nevada a habitat conservation plan for the desert tortoise had been started. For years, money was collected but there was no plan developed to save the species. Assemblyman Hardy asked whether there was a plan in place to start saving the sage grouse and the golden eagle or would the money be collected again without a plan.

Mr. Davis said Assemblyman Hardy made an excellent point specific to the sage grouse, but he would probably answer the same as Assemblyman Bobzien had. There was a Sage Grouse Conservation Plan in place, and Mr. Davis said only the funding was missing.

Regarding the golden eagle, Mr. Davis said it was more recently a species of concern. He said the goal would be to develop a specific conservation plan for that species, and as funding became available, the plan could be implemented.

Bob Brunner, Director, Coalition for Nevada's Wildlife, Inc., presented his testimony in support of A.B. 307 (R1) ([Exhibit F](#)) to the Committee. The Coalition was comprised of leaders from various sportsmen and wildlife conservation groups who represented a broad-cross section of those interests statewide. Mr. Brunner said he would like to go on record in support of A.B. 307 (R1), including the proposed amendment. He also thanked Assemblyman Bobzien and the cosponsors for their hard work on this bill.

Tom Clark, representing Sempra Generation, testified in support of A.B. 307 (R1). Mr. Clark said that with these types of efforts, the rest of the state would be like the Eldorado Valley where all the preliminary work had been done, and the developers would know about habitats that needed to be addressed, conserved, and supported. He said that was why Sempra Generation supported the effort to send a strong message to the federal government that this issue was taken seriously. Other western states were doing the same, and A.B. 307 (R1) aided in that effort.

Joe Johnson, representing the Sierra Club, testified in support of A.B. 307 (R1). Mr. Johnson said the Sierra Club was a member of the Coalition for Nevada's Wildlife, Inc. and went on record in support of the policy position expressed in the proposed amendment.

Elmer Bull, Chief of Habitat, Department of Wildlife (NDOW) testified in support of A.B. 307 (R1). Mr. Bull said after listening to some of the questions and conversation, he believed it might be beneficial to clarify a few things. Concerning Assemblyman Hardy's questions and comments, certainly the first one had to do with the presence or absence of sage grouse in the southern part of the state. Mr. Bull said while it was a very astute observation, the state needed to be very aware of the presence of other species and what the effects might be on those species. He noted that the fastest way to move a species from a status of good standing to one of concern was to not pay attention to the status of that species. While some of the solar projects and wind projects that were being proposed for southern Nevada might not be in the area of the sage grouse, there were many other species that could be affected by actions in

those areas. Mr. Bull said anyone familiar with the Endangered Species Act, understood that it did not cover just large birds or mammals; it covered virtually everything that lived.

Another important point, according to Mr. Bull, was when a project was being proposed and NDOW was not able to do an adequate job of assessing the problems for wildlife. It was very possible that the project might start to move forward, money be expended by the proponent, and an advocacy group could challenge the completeness of the data as it was presented in the NEPA process. Mr. Bull said that had happened, and could happen again, if an inadequate job was done of assessing the effects of a potential project.

Assemblyman Hardy remarked that he was not being combative, but his frustration concerned what happened in the south with the desert tortoise. Money was collected and a plan formulated beginning in the late 1980s, and it was not until the mid-1990s when something was accomplished about the tortoise. Assemblyman Hardy said he wanted to ensure that the state would look after the species of concern while continuing to move ahead with the projects.

Mr. Bull said the NDOW planned for a web-based geographic information system (GIS) program that would eventually allow project proponents to look at areas where they were contemplating a project to determine whether there might be concerns before the process started. Mr. Bull related that the agency was currently dealing with a geothermal project in the central part of the state where a company started a project after receiving approval to do exploratory work. The NDOW expressed some concern about the sage grouse in that area early on, but it did not have a clear picture of the extent of the sage grouse resource. Through additional research NDOW had discovered the area was a substantial habitat for sage grouse. The company had already expended a great deal of money, and the agency was trying to deal with the situation. Mr. Bull said a comprehensive GIS program would alleviate problems of that nature and benefit everyone.

Judy Stokey, representing NV Energy, testified as neutral on A.B. 307 (R1). Ms. Stokey said NV Energy was neutral on the bill, but it was supportive of a program being implemented because it understood the importance and did not want the sage grouse, golden eagle, or any other species to be put on the list. She said any species placed on the list would be detrimental to economic development in a renewable area.

Ms. Stokey said her concern was with the financial piece and the cost of the projects. The original bill provided a cap for the cost, and the revised fiscal note

provided for straight cost. She wanted to make sure that the straight cost was not more than the cap in the original bill.

Chairwoman Smith closed the hearing on A.B. 307 (R1) and opened the hearing on A.B. 511 (R1).

Assembly Bill 511 (1st Reprint): Revises certain provisions governing transportation. (BDR 43-1109)

Mike Draper, R & R Partners, testified on behalf of General Motors Corporation in support of A.B. 511 (R1). Mr. Draper said Assembly Bill 511 (R1) was geared to helping Nevada position itself to promote and embrace the newest in vehicle technology. There were two distinct ideas presented in A.B. 511 (R1) according to Mr. Draper. The bill created an electric car parking program that helped Nevada become plug-in or hybrid electric ready. The parking program would be administered through the local municipalities. Mr. Draper explained that if someone purchased a qualified electric vehicle, the owner would be allowed to participate in an optional program that would provide access as an electric vehicle driver to High Occupancy Vehicle (HOV) lanes and all publicly owned, pay-for-parking facilities. The driver would be able to park free at publicly owned meters, in parking garages, and in surface lots. However, the owner would still be required to adhere to all the applicable rules for that area; for instance, a driver could not park overnight in an area that only allowed two-hour parking.

Mr. Draper submitted Exhibit G "Proposed Amendment No. 785." He said he talked to LCB counsel immediately before the hearing, and there had been some question on exactly how a municipality would administer the program. The bill provided for a municipality to charge an optional administrative fee, up to \$10, to administer the program. On page 3, section 7, subsection 3, line 34 of Exhibit G, it said local authority may charge a fee for the distinctive decal, label, or other identifier issued pursuant to section 2 in an amount not to exceed \$10 annually. Mr. Draper said Legislative Counsel Bureau (LCB) staff suggested that it might be reasonable to change the phrase "local authority" to "the board of county commissioners or governing body of the city."

David Goldwater, representing Google, testified in support of A.B. 511 (R1). Mr. Goldwater referred to section 8 of the bill which allowed the DMV to create a regulatory environment that placed an endorsement on the Nevada driver's license that made the driver responsible for cars that drove themselves.

Chairwoman Smith requested that Mr. Draper restate the amendment in Exhibit G.

Mr. Draper referred to page 3 of the bill, section 7, subsection 3, line 34, said the amendment suggested removing the term "local authority" and changing it to read "the board of county commissioners or governing body of the city" may charge a fee. The amendment would provide for elected representatives of that municipality to impose this optional administrative fee, which was capped at \$10 annually.

Chairwoman Smith commented that the fiscal note was for more than one portion of the bill, if she was reading it correctly.

Mr. Draper said that when DMV was first introduced to this bill, a couple of months ago, there were fiscal ramifications for both sections of the bill. Since then the bill was amended in the Assembly Committee on Transportation, and the DMV, as part of that hearing, removed the fiscal notes from the bill.

Bruce Manning, Central Services Manager, Department of Motor Vehicles (DMV), agreed that the fiscal note had been removed for the amendment.

Assemblywoman Mastroluca disclosed that she owned one of the electric vehicles and did not believe A.B. 511 (R1) would affect her any differently than anyone else.

Assemblyman Hardy asked for clarification whether the bill included alternative vehicles that plugged-in and also used fossil fuels.

Mike Draper replied that vehicles that were powered by an electric battery, but also used gasoline, would meet the criteria in the bill.

Chairwoman Smith closed the hearing on A. B. 511 (R1).

Vice Chair Conklin opened the hearing on A. B. 255 (R1).

Assembly Bill 255 (1st Reprint): Revises procedures relating to certain accidents occurring in the course of employment. (BDR 53-102)

Assemblywoman Maggie Carlton, Clark County Assembly No. District 14, testified in support of A. B. 255 (R1). She said the bill was one of the three occupational safety and health bills that were brought to the legislative session. Assembly Bill 255 (R1) had the nickname of the "family involvement bill" and ensured that after someone had lost a loved one in an industrial accident or a catastrophic accident with three or more people being hurt, that the family remained involved and kept informed about the investigation.

Assemblywoman Carlton noted the bill had been greatly amended and no longer required a fiscal note.

Donald E. Jayne, Administrator, Industrial Relations, Department of Business and Industry (B&I), testified that because of the amendments made to the bill, he believed the agency could handle the issue internally, which would remove the fiscal note.

Vice Chair Conklin closed the hearing on A.B. 255 (R1) and opened the hearing on A.B. 552 (R1).

Assembly Bill 552 (1st Reprint): Revises provisions related to the collection of biological specimens for genetic marker analysis. (BDR 14-539)

Assemblywoman Debbie Smith, Washoe County Assembly District No. 30, testified in support of A.B. 552 (R1). Assemblywoman Smith explained the bill required a law enforcement agency to take certain actions when a person was arrested for a felony or a sexual offense. If the arrest was for a felony, the bill required the agency to submit the person's name and personal information to the Central Repository for Nevada Records of Criminal History and, upon booking and before release from custody, obtain a biological specimen that a forensic laboratory overseeing genetic marker analysis could use. If the felony arrest occurred without a warrant, the agency could not submit the specimen for analysis until a court or magistrate found that probable cause existed for the arrest.

Assemblywoman Smith said the policy discussion had taken place, but the fiscal effect was equally important because this was an issue that required funding. She hoped in this session to make the commitment to start collecting a fee to begin the process of collecting DNA on felony arrests. This bill was brought forward by the family of Brianna Denison. The Committee had heard many stories about this type of issue and that future crime might be prevented, but it also allowed accused persons to be exonerated through the use of DNA.

According to Assemblywoman Smith, because there were no funds to run the DNA already collected under the current law that provided for the taking DNA upon conviction, it certainly would not provide the funding to do what A.B. 552 (R1) required. Presently, the bill stated that a fee would be taken upon the imposition of a fine. Assemblywoman Smith said she accepted that several testifiers had a variety of opinions about not changing court assessments and looking for other methods of funding. But, she pointed out, those from the north remember that when the DNA backlog in Washoe County needed to be tested to apprehend the killer of Brianna Denison, there was no

money available to even run that DNA. Through a fundraising effort that DNA was finally processed, but Assemblywoman Smith believed it was time to find a funding source for this need.

Currently the bill required an assessment for each \$10 of every fine that was imposed. Assemblywoman Smith stated she would be proposing an amendment to change that assessment to a flat fee so that it would be less onerous for the court system. She did not want to change what the bill currently provided, which was the assessment would be collected when the fine was imposed on someone convicted.

Assemblywoman Smith referred to [Exhibit H](#), "Proposed Conceptual Amendment Assembly Members Ocegüera and Smith to A.B. 552 (R1)" and [Exhibit I](#), "Department of Public Safety 2011 Legislative Session Proposed Bill Amendment," which were submitted to the Committee. She said the amendments were proposed after discussion with law enforcement entities to address concerns about procedures and technical aspects of collecting DNA specimens. The following sections from [Exhibit H](#) described the proposed technical amendments to the bill:

- Section 3, subsection 1 and section 3, subsection 2 were requested by the Washoe County Sheriff's Office to comport with current procedures.
- Section 3, subsection 3 was requested by the Department of Public Safety (DPS) to comport with procedures at the Central Repository.
- Section 3, subsection 4 was requested by the Washoe County Sheriff's Office to permit the collection of the DNA sample when a sex offender was required to register with a Nevada law enforcement agency under other statutory provisions if the offender had not previously provided one.
- Section 3, subsection 5 was requested by the Washoe County Sheriff's Office to recollect DNA if the first sample was inadequate.
- Section 3, subsection 11 and section 3, subsection 12 were also requested by the Washoe County Sheriff's Office to permit the use of a match between information in the Combined DNA Index System (CODIS) and biological specimens from criminal investigations to be used to obtain warrants to get a confirming biological specimen from a suspect.
- Section 3, subsection 19 was also from the Washoe County Sheriff's Office to reflect the actual procedure that would be needed to expunge records.
- Section 3, subsection 22 was requested by the Washoe County Sheriff's Office to ensure confidentiality of DNA sample information and database.
- Section 13 and section 14 were amendments requested by the Washoe County Sheriff's Office to add sex offender registration

requirements regarding whether the offender's genetic marker information had been entered into CODIS.

Assemblywoman Smith offered her support to the concept of changing the percentage fee to a flat fee. She suggested a \$2.50 flat fee for cost recovery when someone was assessed a fine to be collected in the same way it was outlined in the bill.

Lauren Denison, private citizen, testified in support of A.B. 552 (R1). She thanked Speaker Ocegüera and Assemblywoman Smith and the rest of the stakeholders for their hard work on the bill. Ms. Denison said A.B. 552 (R1) would save the State of Nevada money in the long run, and she said she would love to see Nevada be the 25th state to pass this law.

Brett Kandt, Special Deputy Attorney General appearing on behalf of Attorney General Catherine Cortez Masto, testified in support of A.B. 552 (R1). Mr. Kandt said the Attorney General supported the public policy considerations behind the bill.

Renee Romero, Director, Forensic Science Division, Washoe County Sheriff's Office, testified in support of A.B. 552 (R1). Ms. Romero said while the Washoe County Sheriff's Office was in support of the bill, as with any DNA bill, it had a fiscal effect in the laboratory. To determine the fiscal impact, Ms. Romero had contacted other states that had this legislation in place and requested program costs. Approximately \$75 per sample had been established, which covered costs. There was an average of 30,000 felony arrests per year in Nevada. Ms. Romero said typically Washoe County processed approximately one-third of the offender samples, and Las Vegas processed approximately two-thirds of the total samples from convicted offenders. After applying that formula to the number of arrestees, Washoe County arrived at a fiscal impact of \$75 multiplied by 10,000 samples for a total cost of \$750,000 per year.

Patrick Conmay, Division Chief, Records and Technology Division, Department of Public Safety (DPS), submitted [Exhibit J](#), "Analysis of Assembly Bill 552, First Reprint." Mr. Conmay said the Department of Public Safety fully supported A.B. 552 (R1) but had identified some fiscal and operational challenges. Some of those challenges had been addressed by Assemblywoman Smith's proposed amendment. One challenge that Mr. Conmay indicated was problematic was the language that required the Records and Technology Division to make a notification concerning individuals and their samples, and he said the Division's systems were not set up to perform that function.

According to Mr. Conmay, the only other challenge was in section 3, subsection 6 which required a DNA sample to not be collected from an arrestee if one had already been collected. The Repository verified fingerprints on individuals submitting DNA samples to confirm their identity as the person who submitted the sample before posting that DNA was available on the rap sheet. Mr. Conmay said he understood there was currently a backlog of samples in the county labs that required fingerprint verification, and for the Repository to comply with the bill requirement not to collect samples that had already been collected, that backlog would have to be cleared. He said clearing the backlog would require the reinstatement of one full-time equivalent (FTE) fingerprint records examiner that was planned for elimination as part of the 2011-2013 budget submittal, as well as require overtime for staff. Mr. Conmay said those were the two areas of concern, but otherwise the Division was fully supportive.

Charles Callaway, Sergeant, Las Vegas Metropolitan Police Department (Metro), testified in support of A.B. 552 (R1). Sergeant Calloway said Metro supported the bill and had used the same formula for its fiscal note that Washoe County had used.

John Tatro, Carson City Justice of the Peace, representing the Nevada Judges of Limited Jurisdiction Association, testified in opposition to the funding source for A.B. 552 (R1). Judge Tatro emphasized that the Nevada Judges of Limited Jurisdiction Association did not oppose the policy portion of the bill. The Association opposed the funding source as it was written in the bill. He explained that administrative assessments had increased from \$10 in 1983 on a fine for any misdemeanor traffic charge to, currently, an administrative assessment of \$92 on a \$100 fine. Judge Tatro said he was happy to hear Chairwoman Smith's willingness to amend the funding source and lower it to a flat rate.

Judge Tatro said he had several concerns with any administrative assessment being added because there was no nexus between DNA testing and the main funding source of traffic citations. If a driver was cited for an illegal left turn he or she would pay an administrative assessment to fund DNA testing. Judge Tatro's other concern was that administrative assessments were collected by statute. The way the system worked was that there were fines and administrative assessments, and the administrative assessments were collected from each case before the fines were collected. If administrative assessments continued to be added to the top, the amount of fines collected would be reduced. The system basically kept fines from being paid to the counties because not all fines were collected. Judge Tatro acknowledged that the lower courts were experts in collection and had great methods for

collecting, but the pie was very large and when constantly added to, fines were not collected and the counties and the cities ended up without the revenue.

John McCormick, representing the Administrative Office of the Courts (AOC), submitted on behalf of the Nevada Judges of Limited Jurisdiction Association, an amendment, [Exhibit K](#), "Conceptual Amendment to A.B. 552," that would remove the administrative assessment funding mechanism from the bill.

Orrin Johnson, Washoe County Public Defender's Office, testified in opposition to A.B. 552 (R1). Mr. Johnson said it was not his intention to discuss the policy of the bill any more than necessary. He said, for purposes of the hearing, the Washoe County Public Defender's Office joined in the arguments against the funding mechanism. He said he opposed the policy generally because of constitutionality issues which had been discussed in the policy committee.

For the purposes of this hearing, Mr. Johnson noted that all public defender clients were indigent and did not have the resources to pay fines and fees. Ultimately if those clients remained indigent, at some point, the fines and fees became uncollectible.

Finally, Mr. Johnson said, if the bill was found unconstitutional, the money that was spent to implement it would have been wasted. Mr. Johnson urged the Committee to wait until it was certain that any law would not be overturned or convictions would be lost.

Vice Chair Conklin closed the hearing on A.B. 552 (R1) and opened the work session on bills previously heard.

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

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated the bill was heard on May 12, 2011. Mr. Combs said this was a bill sponsored by Assemblyman Tick Segerblom, which enacted the Uniform Emergency Volunteer Health Practitioners Act. Agencies, including the Division of Emergency Management, had not identified any fiscal impact resulting from the passage of the Act, so staff had no concerns should the Committee wish to take action on the bill.

ASSEMBLYMAN GOICOECHEA MOVED TO DO PASS AS
AMENDED ASSEMBLY BILL 98 (R1).

ASSEMBLYMAN HICKEY SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Carlton voted no.)
(Assemblymen Atkinson and Ocegüera were not present for the
vote.)

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

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), said A.B. 100 (R1) was heard on May 12, 2011. This bill enacted the Uniformed Military and Overseas Absentee Voters Act. The Secretary of State had testified that the office received clarification on the intent of the bill that eliminated the fiscal note originally submitted. Mr. Combs said there were no amendments submitted on this bill, and although there was a local government note, the impact reported by all local governments that responded was zero. Fiscal staff had no concerns if the Committee wished to take action.

ASSEMBLYMAN CONKLIN MOVED TO DO PASS AS AMENDED
ASSEMBLY BILL 100 (R1).

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

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

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

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), explained that A.B. 137 (R1) was heard on May 12, 2011, and was Assemblywoman April Mastroluca's bill. Mr. Combs said it was his understanding that the bill would require schools that had more than 85 percent of students participating in the Free and Reduced-Price Lunch Program (FRL) to provide a free breakfast and free lunch program in those schools. The school districts had submitted a fiscal note, and there was testimony at the hearing that the fiscal note had been reduced significantly to approximately \$231,000. Donnell Barton, Office of Child Nutrition and School

Health, Department of Education testified there was no fiscal impact to the Department of Education.

In response to a question from Mr. Combs, Assemblywoman Mastroluca replied that the fiscal note was approximately \$235,000 and the Clark County School District testified that it was planning on rolling this project out in the future and would be bringing additional schools online in 2012. The Clark County School District would be spending more money, but it was not money it had been required to spend.

ASSEMBLYMAN BOBZIEN MOVED DO PASS AS AMENDED
ASSEMBLY BILL 137 (R1).

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

THE MOTION PASSED. (Assemblymen Goicoechea, Grady, Hambrick, Hardy, and Hickey voted no.) (Assemblymen Atkinson and Ocegüera were not present for the vote.)

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

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), said Assembly Bill (A.B.) 160 (R1) was heard on May 12, 2011. The bill required various changes to the statements that were filed by hospitals, including financial information about the hospital. Mr. Combs remarked that although the revised version of the bill would add data elements, there should be no additional funding required. Fiscal staff had no additional concerns, and there were no amendments presented on the bill.

Assemblyman Hardy requested clarification that the bill excluded the rural communities.

Mr. Combs noted that in section 2 of the bill there was a requirement in the existing language that the hospital had to have 100 or more beds.

Assemblywoman Mastroluca said the language in section 2 of A.B. 160 (R1) provided an exemption for rural counties.

Assemblyman Kirner commented that while he recognized the fiscal note had been changed on the bill, it seemed to add an extra requirement to the hospitals, and he was not clear whether that was an issue.

Chairwoman Smith remembered the hospitals were supportive and asked Assemblywoman Mastroluca whether she remembered.

Assemblywoman Mastroluca said the hospitals had written the final amendment and agreed to it.

ASSEMBLYMAN CONKLIN MOVED DO PASS AS AMENDED
ASSEMBLY BILL 160 (R1).

ASSEMBLYWOMAN MASTROLUCA SECONDED THE MOTION.

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

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**Assembly Bill 358 (1st Reprint): Revises provisions governing certain
manufactured buildings (BDR 43-1069)**

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), said Assembly Bill (A.B.) 358 (R1) was heard on April 19, 2011, and was sponsored by Assemblyman David Bobzien and pertained to commercial coaches. Section 3 of the bill required the administrator of manufactured housing to adopt regulations proscribing safety standards for the construction, transportation, installation, inspection, maintenance, and repair of portable buildings. There was some concern expressed during the hearing about exempting singlewide commercial coaches not for public use from regulation as a commercial coach and that might cause some considerable loss of revenue to the Manufactured Housing Division. Tom Clark, [a registered lobbyist] had submitted an amendment [Exhibit L](#), "Amendment to A.B. 358, On Behalf of Quickspace" that basically, referred to section 5 of the bill and the definition of commercial coach. The last sentence of that definition excluded recreational park trailers and portable buildings and then also singlewide commercial coaches. Mr. Combs said the amendment was to strike out the language exempting singlewide commercial coaches not for public use from that section. It was Mr. Combs' understanding from talking to the administrator of Manufactured Housing that the amendment would remove the fiscal note from the bill.

Assemblyman Kirner asked whether the amendment cleaned up all the loose ends from Assemblyman Bobzien's perspective.

Assemblyman Bobzien replied that the amendment was specific to the potential of lost revenue and the fiscal note. There was testimony from others in opposition to the bill, and Assemblyman Bobzien said he received further input from those individuals, but did not get much that he considered substantive.

Assemblyman Bobzien said he heard from a number of persons in the construction business in northern Nevada who said this was a good way to go. This was a special set of circumstances, and they welcomed the opportunity to break this out and deal with it separately.

Assemblyman Hardy said the discussion was about the C containers that were on the ground and did not need the same tie-down methods as regular trailers did when they were up high. He said he agreed with them—a tie down was not needed for a C container structure that stayed flat on the ground.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 358 (R1).

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

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

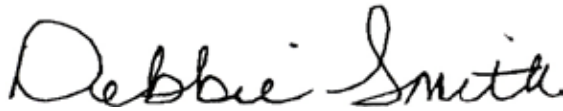
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Chairwoman Smith asked for further questions or comments from the Committee members or public comment and there was none so she adjourned the meeting at 4:05 p.m.

RESPECTFULLY SUBMITTED:

Anne Bowen
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 14, 2011

Time of Meeting: 1:50 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Guest sign-in sheet
A.B. 128 (R1)	C	Marcia Turner, Nevada System of Higher Education (NSHE)	Proposed Amendment
A.B. 151 (R1)	D	Robin Katz	Written testimony supporting A.B. 151 (R1)
A.B. 307 (R1)	E	Assemblyman David Bobzien	Proposed Amendment 6774 to A.B. 307 (R1)
A.B. 307 (R1)	F	Bob Brunner, Director, Coalition for Nevada's Wildlife	Testimony in Support of A.B. 307 (R1)
A.B. 511 (R1)	G	Mike Draper, R & R Partners	Proposed Amendment to A.B. 511 (R1)
A.B. 552 (R1)	H	Assemblywoman Debbie Smith	Proposed Conceptual Amendment Assembly Members Ocegueda and Smith A.B. 552 (R1)
A.B. 552 (R1)	I	Assemblywoman Debbie Smith	Department of Public Safety 2011 Legislative Session Proposed Bill Amendment
A.B. 552 (R1)	J	Patrick Conmay, Division Chief, Records and Technology Division, Department of Public Safety (DPS)	Analysis of Assembly Bill 552, First Reprint
A.B. 552 (R1)	K	John McCormick, Nevada Judges of Unlimited Jurisdiction Association	Conceptual Amendment to A.B. 552 (R1)

A.B. 358 (R1)	L	Tom Clark on behalf of Quickspace	Amendment to A.B. 358 (R1)
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