

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

**Seventy-Sixth Session
May 20, 2011**

The Committee on Ways and Means was called to order by Chairwoman Debbie Smith at 8:09 a.m. on Friday, May 20, 2011, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Debbie Smith, Chairwoman
Assemblyman 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
Assemblyman John Ocegüera

GUEST LEGISLATORS PRESENT:

Assemblyman Jason Frierson, Clark County Assembly District No. 8

STAFF MEMBERS PRESENT:

Rick Combs, Assembly Fiscal Analyst
Mike Chapman, Principal Deputy Fiscal Analyst
Janice Wright, Committee Secretary
Cynthia Wyett, Committee Assistant

Chairwoman Smith welcomed everyone to the meeting and said the Committee would hear several bills and hold a work session on several bills previously heard. She opened the hearing on Assembly Bill 300 (1st Reprint)

Assembly Bill 300 (1st Reprint): Revises provisions governing foreclosures on property. (BDR 9-668)

Assemblyman Jason Frierson, Clark County Assembly District No. 8, presented Assembly Bill 300 (1st Reprint) that changed Nevada's Foreclosure Mediation Program. Nevada had the worst home foreclosure rate in the nation. Nevada's economy struggled and more Nevadans would lose their homes unless the Legislature took action to improve the existing Foreclosure Mediation Program. Former Assembly Speaker Barbara Buckley and Assemblyman Frierson met with representatives of banks, homeowners, and mediators to talk about the Foreclosure Mediation Program. They determined what aspects of the Program worked and what aspects did not work. This bill was the product of information gathered from interested parties over several months.

Assemblyman Frierson presented Exhibit C and said A.B. 300 (R1) modified the Foreclosure Mediation Program and added measures requiring reporting. Data would be compiled to give legislators the opportunity to evaluate the Program. The original bill removed the language that allowed a loan modification as a sanction for banks that acted in bad faith. Assemblyman Frierson proposed an amendment (Exhibit D) to retain that language because it was a tool used by the banks.

Assemblyman Frierson said the most significant change was the bill created a rebuttable presumption for bad faith. It was difficult to prove bad faith and difficult to know what to do about bad faith. Assemblyman Frierson explained the rebuttable presumption was created if the lender or bank acted in bad faith and failed to do something that was required by the Foreclosure Mediation Program. As an example, if the bank failed to bring the proper documentation, did not send a person authorized to make decisions, showed repeated behavior that was clearly intended to delay or frustrate the Program, then there was a rebuttable presumption that the bank acted in bad faith. The bank could rebut that presumption and explain to the court why it failed to act properly. Passage

of Assembly Bill No. 149 of the 75th Session (2009) helped homeowners but had caused some frustration. Assemblyman Frierson said he learned how to improve the Foreclosure Mediation Program to help more Nevada homeowners in distress and A.B. 300 (R1) was the solution.

Assemblyman Frierson said he worked with the banks, homeowner representatives, and mediators on the language of the bill. There were differences of opinion, but the interested parties believed this bill was a good step to improve the existing Program without any undue burden to any of the parties and allowed for increased success of the existing Program.

Assemblyman Frierson said former Assembly Speaker Barbara Buckley was present, and he asked her to discuss the reporting measures that had given rise to some fiscal concerns. It was his understanding that the Supreme Court representative John McCormick was present and would discuss some increased costs that would be incurred.

Assemblyman Grady asked about the fiscal note and wondered about the fee of \$49.25 on each notice of default and wondered how the assessment was set.

John McCormick, Rural Courts Coordinator, Administrative Office of the Courts, Supreme Court, said there was a \$50 fee assessed on notices of default and filings. A small portion of the fee was paid to the recorder to cover expenses. The Foreclosure Mediation Program received \$49.25 of the fee assessed on a notice of default.

Barbara Buckley, representing the Legal Aid Center of Southern Nevada testified in support of A.B. 300 (R1). The Foreclosure Mediation Program was authorized by Assembly Bill No. 149 of the 75th Session (2009). A lender must participate in mediation before the lender could foreclose on a residential homeowner.

Four requirements were mandated for the lender:

- The lender must attend the mediation meeting in person or through a representative.
- The lender must have the authority to enter into a loan modification or other agreement.
- The lender must bring certain documentation such as the original note, deed of trust, and any assignment, and the lender must prove it owns the loan.
- The lender must participate in good faith.

Since the inception of the Foreclosure Mediation Program, the state conducted thousands of mediations and Nevada's Program was copied by many other states. The state of Washington copied the legislation that was enacted into law. The state of Hawaii copied the legislation, and that law was passed and signed by the Governor two weeks ago. Nevada assisted Utah and several other states in copying this legislation and the Program was a success.

Ms. Buckley said the Program statistics showed some good news. Out of 6,370 mediations, 3,963 cases resulted in agreements. That was good news because the large number of foreclosures in the market drove down prices for everybody else. About 85 percent of the foreclosures had loan amounts that exceeded the market values. The Program was a success, but the rest of the statistics caused some concerns. The lenders failed to comply with the four requirements and failed to participate in good faith in 1,613 cases. Lenders must follow the law. If the sanctions were not effective, there may not be sufficient incentive to follow the law.

Ms. Buckley said the purpose of A.B. 300 (R1) was to provide an incentive to lenders to follow the law and clearly set forth the sanctions that would be imposed if the law was not followed. The sanctions were discretionary, and a judge must consider the facts and the circumstances of each case. If the lender was not doing one of those four required things, then sanctions would follow with the judge being able to decide what was prudent under the circumstances.

Ms. Buckley said District Court Judge Patrick Flanagan in Reno conducted many hearings on foreclosures and used what he called "graduated sanctions." If there was a technical violation and the bank indicated that it wanted to cure, then he referred the case back to mediation and the lender was forced to pay the \$200 fee for the homeowner. But if Judge Flanagan determined there was a repeated course of noncompliant conduct by the lender, the sanctions would escalate. The bill established how this Program would operate.

Ms. Buckley explained A.B. 300 (R1) would allow the courts to have more tools available in dealing with foreclosures. The transparency provisions of A.B. 300 (R1) triggered the fiscal note. The bill would allow the aggregate data to be placed on the website. Ms. Buckley suggested that when you want to change behavior without creating a whole government apparatus, the best solution was to create some transparency. Put data on the website. Pursuant to section 6 of A.B. 300 (R1), the Administrator of the Program was required to collect and compile statistics on the participation of the beneficiaries. The Administrator was to document by beneficiary the number of mediations and whether the parties reached agreement and whether the beneficiary or a representative attended the mediation, brought the required documents, had the

authority to negotiate, and participated in good faith. Those statistics would be maintained on the website. It would not reveal personal information about the homeowner but would be aggregate data. No lender would want to be shown on the website as not working across the table from Nevadans in trouble. Ms. Buckley believed the participation rate would skyrocket because no one wanted to be named as not working with Nevadans.

Ms. Buckley said the proposed amendment that Assemblyman Frierson discussed ([Exhibit D](#)) revised the language in section 7, subsection 7, paragraph (a) to provide sanctions, "Requiring a loan modification in the manner determined appropriate by the court." The reason for the amendment was there was a new court decision from the lower court modifying a loan. The circumstances were extreme and the homeowner called for help. The lender said it would not help the homeowner unless the homeowner defaulted. The homeowner defaulted and the lender agreed to modify the loan. The lender later told the homeowner the lender did not own the loan but was just the servicer of the loan. Ms. Buckley said it was important to not remove a tool that was being used to help homeowners.

Chairwoman Smith said it sounded as though this Program had helped many homeowners in the state. She appreciated that and knew much effort had gone into developing this Program. She had talked with several mediators and found the Program interesting.

Assemblyman Kirner wanted to understand the fiscal note shown on the Nevada Electronic Legislative Information System (NELIS) which listed a zero cost. He assumed the fees that would be charged would offset the expenses and the net effect was zero.

Mr. McCormick confirmed the fees should be sufficient to cover the expenses of the state for the cost of the statistical reporting. He pointed out that the month of April showed the lowest number of new notice of default filings since the Program started, and the foreclosure numbers were trending downward.

Ms. Buckley said if the trend was downward that was good news. She remained concerned because of the robo-signing scandal in which banks were accused of signing foreclosure documents without certifying the papers were proper. That led to a nationwide moratorium on foreclosures that caused the foreclosure numbers to decline. She was worried the foreclosure numbers could begin to increase. The best-case scenario was the foreclosure crisis had peaked, but she did not believe that.

Chairwoman Smith agreed and said everything she heard indicated there were a large number of foreclosures just waiting to be processed, and she believed there would be another wave of foreclosures beginning soon.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said he did not see anything in the legislation that caused any additional revenue to be generated by the Program. The way the fiscal note was put together it looked as though more revenue would be earned. But that was not what he saw in the legislation. In actuality the Program would use reserves to fund the additional expenditures from this bill. The Committee approved the use of some of the notice of default fees to help fund some of the budget reductions the Supreme Court took in its Supreme Court account. The Committee reduced the fee by \$5 in a previous piece of legislation. The court believed it could still accommodate this legislation with the existing fees. He had monitored the revenue during the interim, and it appeared the notice of default fees might be generating more revenue than needed to fund the Program. The Committee's actions would help level out the funding. Nothing in the bill raised the fee. The bill simply used the reserve levels that had been generated by the fees since the Program was created.

Barry Gold, Director of Government Relations for Nevada AARP, presented a letter of support ([Exhibit E](#)). He said he knew that homeownership was the largest single asset for most persons and it represented their security and ability to achieve and live the American dream. States should create a foreclosure deferral process to allow homeowners to modify existing mortgages or refinance into new mortgages. Nevada had a Foreclosure Mediation Program that allowed homeowners the ability to request mediation. Everyone heard how this Program had been working and how it had not been working. While there were many lenders who had followed the law, there were others that had not followed the law.

Mr. Gold said A.B. 300 (R1) further defined the process and provided clarification and protection to homeowners seeking a loan modification. Whether persons want to stay in their homes or find a way out of their loans without just walking away, there should be appropriate processes to help them. These processes should actually work to encourage lenders to participate in good faith and follow through. This would help Nevada families and the Nevada economy. The Nevada members of AARP wanted to stay in their homes. On behalf of the 305,000 members of AARP across Nevada, AARP Nevada supported A.B. 300 (R1) and urged this Committee to approve it to help persons stay in their homes where they wanted to be.

Kristen Schuler Hintz, Managing Attorney, McCarthy & Holthus, LLP, Las Vegas, said she represented mortgage lending institution servicers and attended a number of the mediations. Her biggest problem with A.B. 300 (R1) was it did not encourage transparency in the process because it did not compile any statistics or make data publically available as to what was occurring on the other side of the mediation table. She had attended mediations since this Program started. She found that one of the problems was there were unscrupulous consultants who would take a person's money to attend mediations without any idea of what they were doing, what to bring, or how to achieve a loan modification. She attended a number of mediations where the homeowner was badly represented. Sometimes she could get the homeowners into a loan modification, but it was despite the person who was with them and not because of the person who was with them. A senior citizen on a fixed income who paid \$3,000 to a consultant who had no idea what they were doing faced a difficult problem.

Ms. Schuler Hintz suggested if the Legislature was going to compile statistics, the collection should be applied equally to both sides of the mediation case. She wanted to protect the homeowners and ensure they had information about what the banks were doing, what to expect from the banks, and whether the person they hired to represent them was able to do the job. She believed the way A.B. 300 (R1) was drafted punished the banks and lending institutions for their participation in the Program. It was important to realize that bad faith and incompetence occurred on the part of the homeowners. She requested the Committee consider the lenders' perspectives, the ability to be afforded sanctions, and the ability to compile statistics on representation and behavior.

Assemblywoman Carlton asked whether Ms. Schuler Hintz presented her testimony to the Assembly Committee on Commerce and Labor when it heard the bill.

Ms. Schuler Hintz said she did not present her testimony to the policy committee because she was not available on that date.

Assemblywoman Carlton wondered whether she would follow this bill to the Senate side and whether she had followed any of the other mediation bills that had been heard this session.

Ms. Schuler Hintz said she had followed some of that legislation. Some of the problems that were arising were from licensed attorneys who do not fall under the loan modification consultant statutes. An attorney who represented a homeowner in foreclosure mediation that did not want to bother to become

qualified in foreclosure mediation was as great a problem as an unlicensed loan modification consultant.

Assemblywoman Carlton thanked her for following the legislation and asked her to reach out to the legislators if there was a need to address something to improve the Foreclosure Modification Program.

Chairwoman Smith asked whether anyone else wanted to testify who was in support of, opposed to, or neutral on the bill. Hearing no comments, Chairwoman Smith closed the hearing on A.B. 300 (R1) and opened the hearing on Assembly Bill 562.

Assembly Bill 562: Revises provisions relating to the subsidy for coverage of certain retired persons under the Public Employees' Benefits Program. (BDR 23-1187)

Jim Wells, Executive Officer, Public Employees' Benefits Program (PEBP), said Assembly Bill 562 implemented a portion of the PEBP budget. It amended *Nevada Revised Statutes* (NRS) 287.046 to provide a differential subsidy for Medicare retirees that resulted from a budget decision to transition Medicare retirees to the individual Medicare market with the Extend Health Medicare exchange. Section 1 of subsection 1, of A.B. 562 required the Department of Administration to establish an assessment to subsidize healthcare costs. Section 1, subsection 2 of A.B. 562 required assessment revenue to be deposited into the Retirees' Fund. Section 1, subsection 3 of A.B. 562 required that the portion paid be transferred from the Retirees' Fund to PEBP except for those hired after January 1, 2010, who must have at least 15 years of service.

Mr. Wells said section 1, subsection 4 of A.B. 562 set the subsidy level adjustments for non-Medicare retirees or early retirees based on the existing law for post-1994 retirees. Pre-1994 retirees received the unadjusted amount. Section 1, subsection 5 of A.B. 562 set the Medicare eligible retirees' subsidy for those who transitioned into the individual Medicare market exchange. Mr. Wells cited an example of the \$10 per month per year amount that was referenced in the budget account for section 1, subsection 5, paragraph (a) multiplied by 15 to come up with a base number of \$150 and for section 1, subsection 5, paragraph (b) multiplied by the years of service ranging from 5 to a maximum of 20 years or \$50 to \$200. Section 1, subsection 6 of A.B. 562 eliminated some duplicative language no longer necessary.

Assemblyman Aizley wondered about the way the subsidy was calculated now at \$10 per year of service up to 20 years. He wondered whether that would change and should there be a way to change it.

Mr. Wells said that the subsidy bill was Assembly Bill 563 that would be heard next and would set the dollar amount of the subsidy, and this bill was the multiplier for that number. The dollar amount was set by the Legislature for each year.

Assemblywoman Carlton asked how this bill differed from the way the subsidy worked now.

Mr. Wells said the difference was that the new system differentiated the two tiers of retirees. The current mechanism only dealt with retirees. Now that there was a different subsidization policy for Medicare retirees versus non-Medicare retirees, PEBP must add some language that differentiated how that subsidy was calculated for the two different groups.

Assemblywoman Carlton believed a non-Medicare retiree was someone who retired before they were eligible for Medicare, and once they became eligible for Medicare, the retiree would transition to Medicare. She wondered whether there a different dollar cost for the retirees.

Mr. Wells said there was a difference between the way PEBP calculated the subsidy because PEBP calculated the subsidy as a percentage of the premium, and there was currently a differentiated subsidy for Medicare retirees versus non-Medicare retirees.

Assemblywoman Carlton asked whether non-Medicare retirees under this proposal would bear more burden now than they had in the past.

Mr. Wells said no.

Assemblyman Aizley asked what the two subsidies were for a single person who was a Medicare retiree and for a non-Medicare retiree.

Mr. Wells said under the self-funded Preferred Provider Organization (PPO) plan, the retiree subsidy for a non-Medicare retiree was \$392.27, and for a retiree with Medicare the subsidy was \$182.35 and that was for a person with 15 years of service.

Assemblyman Aizley was trying to determine the equity between persons having the same amount of service but one retiree with Medicare and one without Medicare both with maximum service of 20 years or more. He understood the amount to be \$200 per month.

Mr. Wells said the \$200 amount was for the new program and not for the existing program. The program that went into effect on July 1, 2011, capped the subsidy at \$200 for Medicare retirees and for non-Medicare retirees the amount was \$530.

Assemblyman Aizley said the Medicare retiree was being subsidized with \$200 per month and the non-Medicare one was being subsidized with \$530 per month, although both had equal amounts of service to the state.

Jim Richardson, Nevada Faculty Alliance, said this had been a very difficult matter for retirees. The state was in a budget crisis. Certain directions were given to the Board of the PEBP to deal with that crisis. The state had a history of previous Governors and commissions saying that it should eliminate Medicare retirees from the state health plan and that would be a disaster for many persons. The PEBP Board agonized over this problem and came up with a plan that had difficulties. This was a new proposal that was being implemented quickly with understandable problems. The Board tried to come up with a plan that offered some assistance as it moved to a new program rather than excluding Medicare retirees upon retirement.

Mr. Richardson said his group decided that on balance this plan was better than some of the alternatives that had been proposed by previous Governors and certain commissions. The plan tried to help the Medicare-eligible retirees as they moved into the private market exchange. For those retirees who did not move into the private market, they would face a \$1,900 deductible for a single person, a \$3,600 deductible for a family, and cuts in benefits. He heard the argument that most Medicare retirees would be better off in the private market exchange than they would be staying in the continually deteriorating PEBP health plan. The plan had been deteriorating for years and was an embarrassment and hurt the state in recruitment. It would be interesting to see what happened in the future, but it was quite arguable that Medicare retirees may be better off than any other state retirees.

Mr. Richardson suggested that this was a major transition being done in a hurry. It needed to be carefully reviewed. All members of the benefits coalition joined him in suggesting that the Legislature's Interim Retirement and Benefits Committee should ask for regular reports about how well things were going and what was really happening. He supported this change. He hoped the Committee would ensure the plan worked as well as could be expected and hoped for in future years.

Marty Bibb, Executive Director, Retired Public Employees of Nevada, said his group supported retaining funding for Medicare retirees who were being sent to

a private sector exchange for a brand of insurance that they had never had since the PEBP program began. He agreed it was good to receive \$50 to \$200 per month to help offset healthcare insurance based on when an individual retired and the number of years of service. The subsidy was a big decrease from the \$344 per retiree that was currently being put into PEBP today for those same retirees. That would be reduced to somewhere between \$50 and \$200. The question was what that amount would buy. There was speculation that in some cases it may buy something close to what the PEBP plan offered. There were other things that were going to be vastly different. There was a PEBP \$2,500 wellness benefit. Now, wellness for Medicare retirees was something that was going to be determined by the benefits of a Medicare Supplement or Medicare Advantage plan

Mr. Bibb said the pharmaceutical benefit was going to look different. The present pharmaceutical plan was better than the base program offered by Medicare in its Part D plan. As a result, the PEBP plan received money from the federal government because PEBP decided to keep its Medicare retirees in the plan. That money would go away once the Medicare retirees went to a private exchange sector program. The other concern was that Medicare retirees on the PEBP plan were not subject to the "donut hole" [a coverage gap] that existed and could cost up to \$2,000 per year. The PEBP plan was better. As a result some retirees may have to pay up to \$150 per month for a Medicare Supplement plan. A retiree may be able to get a good Medicare Advantage plan for about \$150 per month. A retiree could still get dental coverage through PEBP as a Medicare retiree but had to pay for it. The result was a mixed bag.

Mr. Bibb said there was \$27 million of benefits restored to PEBP through underutilization of the program during the last year. Restorations were made to health savings accounts for active employees and health reimbursement arrangements for early retirees, reductions were made to the large deductible, and some other things. None of that money was used to restore benefits for Medicare retirees. He thought that some restoration of benefits was good because there were a number of persons who were of Medicare age who would be affected. Since the PEBP plan was formed in the 1960s, these persons had always been in the PEBP plan. He was concerned that when a retiree had a problem they would no longer be able to call a dedicated and capable member service representative of PEBP but would need to call the private insurance company.

Mr. Bibb said his group supported finding additional funding for PEBP. This proposal was better than eliminating retirees who had spent a career working for the state. There were some 5,000 Medicare state retirees in the PEBP plan. There were another 4,000 local government retirees in the PEBP plan whose

employer paid for some of their insurance and contributed to the PEBP plan. The new proposal was better than not having any funding, but the question was would it prove to be adequate. He suggested that Nevada was the first state to enter this type of program, and the Legislature should request reports about the progress of this Medicare exchange and whether it served the retirees. There were significant benefit cuts and the question was would this work.

Assemblywoman Carlton asked about current retirees and thought there were no significant changes, but now she was hearing there were changes.

Mr. Bibb said the make-up of the plan would be significantly different.

Assemblywoman Carlton asked whether the subsidy would be different and whether the associated benefits would also differ.

Mr. Bibb said the benefits would be different based on the particular option selected. There were 200 various choices for a retiree. The choices would determine what the amount of the premium would be. It could be more or less. The choices would depend on whether the retiree was someone who used specific pharmaceuticals. The subsidy amount was what was put in to the program for all retirees, but that amount of money may not cover all the expense depending on the coverage selected. The subsidy depended on the cost of the different tier levels.

Assemblywoman Carlton said she heard discussion about a vendor from Arizona being one of the choices.

Mr. Bibb said there was a Medicare exchange that was an insurance broker, and the one selected was Extend Health located in Utah. The company would manage and oversee the various insurance options and was in contact with the retirees to try to help those persons make the best choice they could make for particular benefits and plans they wished to participate in. That work was ongoing. The difference was retirees were dealing with a private insurance broker located out-of-state trying to get the retirees signed up. The question was would they prove to be adequate.

Assemblyman Kirner said Extend Health was an insurance broker, and its job was to connect retirees with a Medicare Advantage program that would best suit their individual needs based on the questions asked about what prescriptions and medical conditions they had. The options were many depending on where the retiree lived. There were several options for everyone. Nevada was the first state to do this. Other states had dropped Medicare retirees from state health coverage entirely.

Mr. Bibb said Idaho and Indiana had elected not to support those retirees who had been in the state program.

Assemblyman Kirner said some other states had looked at what Nevada chose to do as a possibility for their states.

Mr. Bibb said he was not positive about that but had heard anecdotally that other states had considered this same type of program.

Assemblyman Kirner said the choices depended on the types of medications used and the types of medical conditions that the retiree had. The good coverage and the donut-hole matter could be mediated based on the choices and decisions made by the retiree.

Mr. Bibb said a person could find a pharmaceutical program costing as little as \$14.80 per month. The benefits were far different than the PEBP plan currently provided. The premium could be \$100 or more for better coverage based on the needs of the retiree. He hoped that retirees were matched well to the plan that best suited them.

Assemblyman Kirner said whether you were a 20-year employee or more you would receive \$200 per month. That \$200 covered most of the plans that were being offered. It would buy a "Cadillac plan."

Mr. Bibb said \$200 would be adequate unless a retiree spent \$100 or more per month on a pharmaceutical plan. The other germane problem was that some retirees who retired before January 1, 1994, would only get a maximum of \$150 per month.

Assemblyman Kirner wondered whether there were many pre-1994 retirees in the system.

Mr. Bibb said there were no more pre-1994 retirees coming into the system, and the numbers remaining in the system were declining every year so there were not too many now.

Assemblyman Grady wondered about the reaction of the Medicare-eligible retirees that had to move to the Medicare exchange. He wanted to know the reaction to the interview process with Extend Health providing counseling to retirees about what health plan to select.

Mr. Bibb said the reactions had been varied. He heard that some Medicare eligible retirees had been comfortable with the interviews. Others had reported

they were not happy with the interviews and the advice provided. That was why one of his major considerations was careful reporting must be provided to the Legislature to determine whether this proposal was going to work.

Mr. Bibb cited an example of one member who was a Medicare retiree. She may be okay on this Medicare exchange because it appeared things would work fairly well for her. She had an aged mother over 80 years old who was also a Medicare retiree on this program and was currently in assisted housing. She lacked funds and was not able to continue paying the difference. She would be forced into some type of indigent health care such as Medicaid. Mr. Bibb did not believe that was the intent of this healthcare coverage change. The information gathering was critical to survey that type of information.

Dan Aalbers testified that he was neutral on A.B. 562. He was appearing on behalf of his parents, Dan and Carol Aalbers, who retired from the state with more than 44 years of combined service. The proposal might be the best out of a bad set of options. The move to the private Medicare exchange had been a terrible circumstance for his family. In working with Extend Health and with Mr. Wells, the family had spent hours to get the proper coverage. Under the best-case scenario, his parents would pay about \$1,000 more each year. The transition was saving the state money and forcing his parents to pay the difference. Under the worst case scenario, their costs would increase 400 percent.

Mr. Aalbers said his mother caught a rare disease, and only one pharmaceutical company made the drug that she needed to live. There were no generic or other alternative drugs she could take. Before the onset of this disease, his parents were paying \$12,000 per year for their PEBP program benefits. Under the worst case scenario, his parents would pay \$34,000 per year out of pocket, which was more than many Nevadans made in a year. This experiment of taking Medicare retirees and putting them on the private insurance exchange market was very costly.

Mr. Aalbers said this experiment had created a great deal of anxiety. His parents had taken on a part-time job of trying to determine which insurance option out of the thousands that were available would be the best choice for their needs. This was a flaw in a retirement system. In a retirement system you had to know how much your expenses would be. When his parents worked for the state, they expected their PEBP retirement expenses to be more predictable. Now the increased cost would require his parents to modify their retirement plans significantly. He asked the Committee to ensure that his parents would continue to receive their subsidy, not to cut the subsidy, and not to believe that the thousands of plans on the Medicare exchange would offer

the same benefits as the PEBP plan but at a lower cost. The privatization plan was creating anxiety and frustration and would cost more money. It shifted the burden to the retiree.

Mr. Aalbers said his parents were teachers. They could have earned more money in the private sector but chose to work for less pay teaching children as a public service. That gave them a more noble cause and more meaning in life. Their money was contributed into the state system that now treated them as a burden. It was important to evaluate this Medicare exchange experiment to see whether it really worked and lived up to its promise of the same benefits for less money.

Frank Papaiani, American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO, testified the Medicare exchange worked fairly well for the younger retirees. It did not work well for the older retirees who were in their 80s. The PEBP operations officer, Kateri Cavin was probably tired of seeing him because she handled most of his problems with Extend Health. Extend Health responded better to PEBP than to individuals because it had a deadline of May 31, 2011, to transition 19,000 retirees into the Medicare exchange system. Mr. Wells assured him there would be a safety net, and no one would fall through the cracks, but he did not believe that. This was a massive turnover. Persons in their 80s had difficulty responding and making all these changes unless a younger family member assisted them.

Mr. Papaiani heard from one retiree that she had five big folders filled with paperwork from going through this Medicare exchange process. The average phone call lasted 2½ hours to get all the information that Extend Health needed to make a recommendation. Extend Health would make a recommendation of several plans that might work best for the retiree. In northern Nevada there were fewer plan options than in southern Nevada. The options were even more limited in the rural areas. Transportation was a problem to get retirees to the doctor's offices and hospitals when medical help was needed. Some rural areas had urgent care centers that provided limited services. There was confusion about the amount of money that was being provided as a subsidy. The health reimbursement arrangements (HRAs) were complex. The confusion should be clarified now, and those retirees should be contacted to eliminate their confusion. The original contact from Extend Health was supposed to be in person, but the personal contact soon turned into just a telephone call. Mr. Papaiani said Extend Health had to hire 100 employees to handle the volume of telephone calls. Extend Health had never completed a state transition similar to this before.

Mr. Papaiani said the state employees and the state retirees became the villain of an unbalanced budget every time the Legislature met. He worked for the state for 26 years and spent 18 years as a retiree. He said state employees continued to serve the needs of the state. The Sahara Hotel closed yesterday and over 1,800 workers would now be unemployed. Because of all the state layoffs, those workers would have to wait when they filed for unemployment or looked for a job through the Employment Security Division. They would have to wait when they had phone calls about their unemployment benefits. There were fewer active state employees paying into the system, and there were more retirees using benefits. He was afraid the Legislature would eliminate the subsidies for retirees during the next session.

Mr. Papaiani said PEBP assured him that if a problem developed that could not be handled through Extend Health, the retiree could return to PEBP staff for assistance. He was no longer enrolled with the PEBP system but advocated on behalf of the members of his organization who had concerns.

Lynn Wuestenberg, state retiree, testified she was a retired registered nurse and was accustomed to dealing with medical issues. The Extend Health process began with an appointment with Extend Health for a telephone call. Her hearing was fine, but many retirees did not have good hearing. She was also used to dealing with Medicare issues and a computer, and all retirees did not have her level of skill. She went online to Extend Health's website and investigated all of the supplement and drug plans. By the time she had her telephone appointment, she was aware of what plan she wanted and which would best serve her needs.

Ms. Wuestenberg said the plan she wanted was the same plan that was recommended by the Extend Health counselor. She ended up needing four file folders because of the volume of paperwork. She signed up with Extend Health to get the subsidy. She signed up for AARP's Drug Plan D that would cost \$38.20 per month, plus the insurance did not cover medications in the "donut hole." Then she signed up for the Medicare Supplement from UnitedHealthcare. This was complicated. She had to provide the same information to UnitedHealthcare and get their Plan F that cost \$191.95 per month. She maintained a PEBP folder for her dental plan that cost a little over \$33 per month. Her total insurance cost would be over \$250 per month. She retired before 1994 so she received \$150 as her subsidy. This insurance package was more expensive, and she was not sure what her final costs would be for her insurance coverage. Many persons were confused and had difficulty understanding how to navigate this process.

Nora Chipman testified that she was 86 years old and being dropped from the PEBP plan had caused her extreme anxiety. Her family had to step in to help her with this transition. She called her doctor to see whether he would accept the Medicare Advantage plan, and most doctors said they would not accept the Medicare Advantage plans. That meant she must find a new doctor who would accept the Advantage plan. She thought the state was making a big mistake in dropping coverage of the elderly and causing such anxiety. She would have less coverage and would pay more but was unable to find a doctor who would accept the Medicare Advantage plan.

Chairwoman Smith said these had been difficult times and difficult decisions. These choices had not been easy for the legislators. Chairwoman Smith asked whether anyone else wanted to testify who was in support of, opposed to, or neutral on the bill. Hearing no comments, Chairwoman Smith closed the hearing on A.B. 562 and opened the hearing on Assembly Bill 563.

Assembly Bill 563: Establishes for the next biennium the amount to be paid to the Public Employees' Benefits Program for insurance for certain active and retired public officers and employees. (BDR S-1223)

Jim Wells, Executive Officer, Public Employees' Benefits Program (PEBP), said Assembly Bill 563 established the PEBP subsidies for the 2011-2013 biennium based on The Executive Budget. Section 1 set the active employee subsidy at \$644.81 for fiscal year (FY) 2011-12 and \$733.64 for FY 2012-13. Section 2 set the subsidies for non-Medicare eligible retirees at \$418.41 in FY 2011-12 and \$472.64 in FY 2012-13. Section 2, subsection 2 set the subsidy for Medicare pre-1994 retirees at \$150 per month and at \$10 per month for active years of service from 5 years service to a maximum of 20 years service for those who retired after 1994.

Mr. Wells said A.B. 563 included section 2, subsection 3 and subsection 4 to specify that the PEBP fund would not pay for any non-state retiree who had not participated in the PEBP plan for 15 years, and those subsidies would be charged to the local governments by PEBP.

Jim Richardson, Nevada Faculty Alliance, was supportive of this bill. All of the concern was a direct result of the financial problems that the state faced and the directions given to the PEBP board for the 2011-2013 biennium. No increases in funding would be forthcoming. This bill tried to ameliorate some of the difficulties with the transfer of Medicare retirees out of the PEBP system. About 10,000 retirees must be transferred out of PEBP to the Medicare exchange. He offered a conceptual amendment ([Exhibit F](#)) to allow any surplus funds that would become available to be used to increase the subsidy for the

Medicare retirees for FY 2013. This amendment would allow the PEBP Board to have a precedent to use reserves to reduce the payment of retirees. This amendment did not have any effect on the General Fund. This would also allow PEBP flexibility to reduce payments when the actual experience indicated that the expenditures of PEBP were less than forecasted in the budget. He was open to suggestions of what consumer price index (CPI) should be used to calculate the percentage increase for the adjustment. Every dollar of assistance would help the retirees.

Marty Bibb, Executive Director, Retired Public Employees of Nevada, said he had not reviewed the amendment suggested by Mr. Richardson but supported the concept of flexibility for restoration of the subsidy within the plan as the reserve situation permitted. That could apply to the active and retired employees. Medical inflation was significantly ahead of normal inflation. In recent years, PEBP had been plagued with near and greater than double-digit inflation. Any effort to continue the subsidies would be a good idea. If there was anything positive in these difficult economic times, it was the significant reduction in the Governmental Accounting Standards Board (GASB) liability that had been a concern of states that cut more than half the amount of money contributed for Medicare retirees.

Roger Bremner, retired state employee, said in 1981 and 1983 he chaired the Assembly Committee on Ways and Means. He spoke in opposition to the bill because of the disparity in the way Medicare retirees' premiums were calculated. What PEBP had done was create two separate classes of retirees. One class was the Medicare retiree and the other class was the non-Medicare eligible retiree. The PEBP Board changed the premium support radically.

Mr. Bremner said there were many horror stories about retirees who could not purchase the same amount of coverage with the amount of support provided. He cited several examples of former legislators whose premiums increased radically. Vision coverage from Extend Health was available for purchase, but the person must pay the insurance premium one year in advance for coverage. This unilateral change to the benefit was not right. State employees and retirees had done what they were expected to do and paid the Medicare premium that was expected. Now they were expected to buy insurance coverage on the open market with a voucher that was inadequate. He argued that there was a vested right that retirees receive the premium subsidy, and there was an Attorney General Opinion for Eureka County that substantiated that vested right. The idea that the state could drop coverage for the Medicare retirees was erroneous. He did not think the Legislature or PEBP Board could do that. It was wrong to discriminate against Medicare retirees who had done everything they were expected to do. Premium money was being shifted from

them, and they were being left in the plan to support other members and that was not equitable. That would be argued if necessary.

Bob Johnson, Retired Public Employees of Nevada, said he had been lobbying for over 20 years and asked the Committee to do the right thing. Many had called his home and asked for help in understanding the transition for Medicare retirees. He was not enrolled in the PEBP benefits plan. He wanted to help others. He wondered what would happen to retirees who had unexpected medical problems. If the premiums increased many retirees would be unable to pay for coverage. He used the owl as the time-honored symbol of knowledge and wisdom. He hoped his advice and actions would always be based on true knowledge and ripened with wisdom. He charged the Committee to remember the owl and asked the members to use knowledge and wisdom when addressing the future problems of the state.

Chairwoman Smith asked whether anyone else wanted to testify who was in support of, opposed to, or neutral on the bill. Hearing no comments, Chairwoman Smith closed the hearing on A.B. 563 and recessed the hearing briefly.

Chairwoman Smith reconvened the meeting and opened the hearing on Senate Bill 97 (1st Reprint).

Senate Bill 97 (1st Reprint): Extends the prospective expiration of certain provisions governing the list of preferred prescription drugs to be used for the Medicaid program. (BDR S-940)

Charles Duarte, Administrator, Division of Health Care Financing and Policy, testified that Senate Bill 97 (1st Reprint) was the preferred drug list bill. The bill revised *Nevada Revised Statutes* (NRS) 422.4025. The original intent of the bill was to eliminate a sunset date to allow the Division to manage certain types of prescription medications particularly anticonvulsant and antipsychotic medications through a preferred-drug-list program. The Senate included an extended sunset date rather than eliminating the sunset date. The new sunset date was June 30, 2015. The bill included a budget savings amount of \$1,666,673 in General Funds for the 2011-2013 biennium. The Division's budget was closed on Saturday and included this budget savings amount.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said this was a bill that should be approved to reconcile with the budget closing actions of the Committee.

Jeanette Belz, representing the Nevada Psychiatric Association, said the Association advocated extending the sunset date to 2015. She presented a letter ([Exhibit G](#)) in support of this bill. She said the Association looked forward to better financial conditions that would permit the use of these drugs without limitation. The Association believed that decompensation led to more expensive treatment and higher cost in the long term. The Association understood the financial situation facing the state and appreciated the extension of the sunset.

Chairwoman Smith asked whether anyone else wanted to testify who was in support of, opposed to, or neutral on the bill. Hearing no comments, Chairwoman Smith closed the hearing on S.B. 97 (R1) and opened the hearing on Senate Bill 444.

Senate Bill 444: Eliminates the Administrative Services Division of the Department of Public Safety. (BDR 43-1183)

Mark Teska, Administrator, Administrative Services Division, Department of Public Safety, said when the Department of Public Safety budgets were closed on April 26, 2011, the Administrative Services Division was proposed to be merged with the Director's Office. This bill eliminated the Division and reflected that merger with the Department.

Chairwoman Smith asked whether anyone else wanted to testify who was in support of, opposed to, or neutral on the bill. Hearing no comments, Chairwoman Smith closed the hearing on S.B. 444 and opened the hearing on Senate Bill 450.

Senate Bill 450: Makes an appropriation to the Interim Finance Committee for allocation to the State Treasurer for a consultant to assist with the development of a request for proposals for the E-payment and Merchant Services contracts. (BDR S-1249)

Andrew Clinger, Director, Department of Administration, said Senate Bill 450 and Senate Bill 481 went together and could have been combined into one bill. Senate Bill 450 appropriated \$25,000 from the State Highway Fund and S.B. 481 appropriated \$75,000 from the State General Fund. These appropriations were made to assist the Office of the State Treasurer with developing a request for proposal (RFP) for the E-payment and Merchant Services contracts. The current contract was set to expire in 2012. These appropriations would allow the State Treasurer to hire consultants to help her work through that process. Some of the tasks that the consultants would assist with included writing the RFP and evaluating the proposals. The total

appropriation for the two bills totaled \$100,000 to assist the State Treasurer with the RFP.

Assemblywoman Carlton asked about the process of allowing citizens to use credit cards to make payments to the state agencies. She was concerned with the costs to the state associated with the use of credit cards. The state paid to allow the consumer to have the convenience of using credit cards. She suggested the state find a way to allow the consumer to pay the costs for the convenience of using credit cards.

Mr. Clinger said the state started a pilot program two years ago in the Real Estate Division of the Department of Business and Industry to allow consumers to pay the costs. He said there had been a bill in the 75th Session (2009) that would allow the state to charge a convenience fee up to the amount of the fees that the credit card companies charged [see Assembly Bill No. 548 of the 75th Session (2009)]. The state had a pilot program and the statutes were in place and must be approved by the State Board of Finance, but he thought the state had the mechanism to do that. It was a policy decision about whether the state would charge a fee for that convenience. He thought there was a bill for the Department of Motor Vehicles to enhance the kiosk program and allow the consumer to pay that fee.

Chairwoman Smith said there was discussion that the state could impose a flat convenience fee but could not impose a percentage fee.

Mr. Clinger said it was really the agreements with the credit card companies that prohibited the state from imposing a percentage fee, but the state could impose a flat fee. That was one of the reasons that the state created a pilot program because it was difficult to estimate what those fees might be because it depended on the number and size of the transactions. The state tried to find the right fee to ensure it was not charging more to the consumer than necessary. The pilot program would provide the state with some experience in setting those fees.

Chairwoman Smith asked whether anyone else wanted to testify who was in support of, opposed to, or neutral on the bill. Hearing no comments, Chairwoman Smith closed the hearing on S.B. 450 and opened the hearing on Senate Bill 481.

Senate Bill 481: Makes an appropriation to the Interim Finance Committee for allocation to the State Treasurer. (BDR S-1237)

Andrew Clinger, Director, Department of Administration, said Senate Bill 450 and Senate Bill 481 went together and his testimony would be identical to the previous bill. He had been asked why these two bills were not combined into one single bill. Mr. Clinger said he believed the timing was difficult, and the Department tried to get all the bills out by the deadline, and that may have caused the split into two bills.

Chairwoman Smith said similar circumstances had occurred before, and she believed the difference was this bill was a \$75,000 appropriation from the State General Fund.

Mr. Clinger said Senate Bill 450 appropriated \$25,000 from the State Highway Fund and S.B. 481 appropriated \$75,000 from the General Fund. The money would help the Office of the State Treasurer prepare a request for proposal for E-payment and Merchant Services contracts. The money would go to the Contingency Fund and the State Treasurer would appear before the Interim Finance Committee to request allocation of those funds.

Chairwoman Smith asked whether anyone else wanted to testify who was in support of, opposed to, or neutral on the bill. Hearing no comments, Chairwoman Smith closed the hearing on S.B. 481 and opened the hearing on Senate Bill 472.

Senate Bill 472: Makes a supplemental appropriation to the Department of Corrections to cover stale claims for prison medical care. (BDR S-1228)

Andrew Clinger, Director, Department of Administration, said Senate Bill 472 was a supplemental appropriation to the Department of Corrections in the amount of \$9,579 in the Prison Medical Care account. This was for military leave for one of its employees.

Chairwoman Smith was confused about why this bill was for stale medical claims but the explanation was the funds would pay for military leave.

Mr. Clinger said the amount was for the Prison Medical Care account, but he was told the funds would pay for military leave. The employee went on military leave, and the Department paid for part of the leave but needed the balance of \$9,579 to pay the remainder of the military leave.

Chairwoman Smith did not understand the connection.

Mr. Clinger agreed and said the way the bill was worded was confusing.

Chairwoman Smith said the Committee would review this bill to make sure the funding was correct and understood the purpose before the bill was processed by the Committee.

Mr. Clinger said this funding was included in The Executive Budget.

Chairwoman Smith asked whether anyone else wanted to testify who was in support of, opposed to, or neutral on the bill. Hearing no comments, Chairwoman Smith closed the hearing on S.B. 472 and said that concluded the bills that the Committee needed to hear today. The Committee started its work session.

Senate Bill 38 (1st Reprint): Revises provisions governing apportionments to school districts, charter schools and university schools for profoundly gifted pupils. (BDR 34-507)

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said Senate Bill 38 (1st Reprint) was heard by the Committee yesterday. This bill was not exempt and was subject to the deadline even though it was before this Committee. Dr. Keith Rheault, Ph. D., Superintendent of Public Instruction, Department of Education, had testified that this bill was the sanction for the Department of Education over the county school districts to encourage compliance. In order to receive funding from the Department, the schools must provide the proper reports. It provided the Department some ability to withhold funds to ensure that the school districts were in compliance with the Department's requirements.

ASSEMBLYMAN GRADY MOVED TO DO PASS SENATE BILL 38 (1st REPRINT).

ASSEMBLYWOMAN MASTROLUCA SECONDED THE MOTION.

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

Chairwoman Smith asked Assemblyman Grady to present the floor statement on this bill.

Assembly Bill 518: Consolidates the Manufactured Housing Division of the Department of Business and Industry within the Housing Division of the Department. (BDR 18-1224)

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said Assembly Bill 518 was heard by the Committee on April 30, 2011. This bill combined the Manufactured Housing Division within the Housing Division of the Department of Business and Industry. When the Joint Committee of the Assembly Committee on Ways and Means and the Senate Committee on Finance closed the budget, it was closed without combining the two agencies. If the decision not to consolidate the two agencies was still the intent of the Committee then the appropriate action would be to indefinitely postpone this bill.

ASSEMBLYWOMAN MASTROLUCA MOVED TO INDEFINITELY POSTPONE ASSEMBLY BILL 518.

ASSEMBLYMAN KIRNER SECONDED THE MOTION.

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

* * * * *

Assembly Bill 528: Authorizes the transfer of money received to carry out provisions relating to the medical use of marijuana for certain purposes. (BDR 40-1182)

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said Assembly Bill 528 was heard by the Committee on April 30, 2011. This was a budget bill that would authorize the Health Division to transfer to the Division of Mental Health and Developmental Services (MHDS) some money from the Medical Marijuana Registry Program to be used by MHDS for alcohol and drug abuse programs for persons who were referred by a child welfare agency. Passage of this bill would be consistent with the Committee's action in closing the budgets for both MHDS and the Health Division.

Mr. Combs said there was a substantial amendment. The original bill as drafted indicated that the transfer was to the State Grant and Gift Account for Alcohol and Drug Abuse rather than the Substance Abuse Prevention and Treatment Agency (SAPTA) Account. The proper motion would be to amend and do pass.

ASSEMBLYWOMAN MASTROLUCA MOVED TO AMEND AND DO PASS ASSEMBLY BILL 528.

ASSEMBLYMAN OCEGUERA SECONDED THE MOTION.

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

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Chairwoman Smith asked Assemblyman Hardy to present the floor statement on this bill.

Assembly Bill 529: Revises provisions relating to the Fund for Hospital Care to Indigent Persons. (BDR 38-1194)

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said Assembly Bill 529 was the bill that would revise provisions relating to the Fund for Hospital Care to Indigent Persons. This bill was approved by the Joint Committee of the Assembly Committee on Ways and Means and the Senate Committee on Finance to transfer property tax receipts to the General Fund. This was a continuation of a transfer that had been made for the last three years, and this bill would continue that transfer for another two fiscal years. The first amendment changed the dollar amounts in section 3 of the bill. The amounts changed because of a revised projection of property tax numbers consistent with property tax projections used for the K-12 funding bill. The second reason for the change was because of the budget amendment submitted to continue to transfer money from this account to the Health Insurance Flexibility Accountability (HIFA) Holding Account to pay for the HIFA program through its termination at the end of October 2011. The new dollar amount was \$19,112,621 for fiscal year (FY) 2011-12 and \$19,218,718 for FY 2012-13.

Mr. Combs said there was some concern about the language in the bill stating, "and any other purpose authorized by the Legislature." The concern was the language might dictate how this money might be used. The fear was that the Committee might not want to make that permanent change but may want to make the change just for the 2011-2013 biennium. The Committee may wish to expire the amendatory provisions of the bill on June 30, 2013, if it wanted to have those provisions removed.

Chairwoman Smith asked whether that expiration was preferred rather than just deleting that language.

Mr. Combs said that language needed to remain in the bill because the Legislature was changing the manner in which the funding was being used for the 2011-2013 biennium. The language must remain in the bill, but if the

Committee wanted it to be effective only for the next two years, it could expire the amendatory language in 2013.

Assemblywoman Mastroluca thanked Mr. Combs for that explanation. She said it was very important to sunset this transfer because the state cannot continue using these funds and must find another solution. The Committee should include the sunset and change the dollar amounts as explained by Mr. Combs.

ASSEMBLYWOMAN MASTROLUCA MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 529.

ASSEMBLYMAN GOICOECHEA SECONDED THE MOTION.

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

* * * * *

Chairwoman Smith asked Assemblyman Goicoechea to present the floor statement on this bill.

Assembly Bill 148 (1st Reprint): Revises provisions governing the voluntary relinquishment of an infant to a provider of emergency services. (BDR 38-589)

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said Assembly Bill 148 (1st Reprint) was heard on April 20, 2011. This was Assemblywoman Mastroluca's bill about Safe Haven. There were some concerns expressed by a representative of the Office of the Attorney General at the earlier hearing regarding some of the language in the bill. The Division of Child and Family Services indicated that there was no significant fiscal effect that it could not absorb. The language that the Attorney General expressed concern about was included in section 1, subsection 2, paragraph (c). The amendment presented by Assemblywoman Mastroluca resolved the concerns of the Office of the Attorney General. The amendment stated, "The law enforcement agency shall notify the Clearinghouse established pursuant to *Nevada Revised Statutes* (NRS) 432.170 and investigate further as necessary using any other resources to determine whether the child had been reported as a missing child."

Mr. Combs said the original language said that the law enforcement agency would investigate through the Clearinghouse. This amendment language required the law enforcement agency to notify the Clearinghouse and then to

investigate further as necessary. A full-fledged investigation would not necessarily be performed every time one of these instances arose. He said there would be no fiscal effect from the amendment.

ASSEMBLYMAN HAMBRICK MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 148 (1st REPRINT).

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

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

* * * * *

Senate Bill 441: Revises provisions governing the processing at self-service terminals or kiosks of certain transactions with the Department of Motor Vehicles. (BDR 43-1184)

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said Senate Bill 441 was heard yesterday and pertained to the Department of Motor Vehicle's (DMV) kiosk program. The bill was consistent with how the Joint Committee of the Assembly Committee on Ways and Means and the Senate Committee on Finance closed the Department of Motor Vehicles' Director's Office budget. The primary language being added to the bill was in section 1, subsection 5. The language authorized the Director to enter into a contract with a supplier of self-service terminals or kiosks. The bill authorized the supplier to process DMV transactions through those kiosks.

ASSEMBLYMAN HARDY MOVED TO DO PASS SENATE BILL 441.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

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

* * * * *

Chairwoman Smith asked Assemblyman Kirner to present the floor statement on this bill.

Assembly Bill 247 (1st Reprint): Authorizes an agricultural user to apply to the Motor Carrier Division of the Department of Motor Vehicles for the issuance of a license plate and decal to operate a farm tractor or

motorized implement of husbandry on a highway in this State under certain circumstances. (BDR 43-300)

Assemblyman Goicoechea said he understood that the Department of Motor Vehicles (DMV) was present with an amendment ([Exhibit H](#)) that had a positive effect.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said Assembly Bill 247 (1st Reprint) was heard by the Committee on April 30, 2011. The bill authorized an agricultural user to register a farm tractor or motorized implement of husbandry to get a license plate for that vehicle so it could be operated on a highway. The owner could obtain insurance for liability purposes on the registered vehicle.

Mr. Combs said there were some concerns about programming costs that DMV would incur, as well as the cost of the materials needed to make the license plates. The amendment made two changes. The fee in the original version of the bill was \$10.50 and that fee was increased in the proposed amendment to \$20.50. Part of the problem was the original bill would not generate enough revenue to cover the expenses of DMV. The other change was the effective date that was extended until January 1, 2014. The additional time would allow DMV staff to complete the programming so there would be no need to pay for a contractor to complete the programming.

Mark Froese, Administrator, Management Services and Programs Division, DMV, testified that Mr. Combs was correct. Moving the effective date to January 1, 2014, would allow DMV staff to complete the required programming without any costs for outside contractors. Increasing the fee from \$10.50 to \$20.50 would generate sufficient revenue to offset the costs. A third change in the amendment eliminated these types of implements of animal husbandry from having to be tested for emissions per the statute. The Department put together an unsolicited fiscal note taking all those changes into consideration. The fiscal note would show a net gain. He estimated 3,750 implements of animal husbandry would participate in the program. The new applications in January 2014 would generate \$98,605. The renewal of applications would generate \$26,900. There were DMV expenses for license plates of \$5,291, and for decals of \$1,988, for a total net gain of \$118,226.

Assemblyman Goicoechea said he knew there was a difference between the \$20.50 original application fee and the \$10 annual renewal fee, but he pointed out in all likelihood there was not much farming and ranching going on in December. The fees paid would probably be \$20.50 a year because the farmers would not remember to register the implement until June when they

moved the tractor. Because they did not renew they would need to pay the \$20.50 as a new registration. He thought that portion of the revenue estimate was low and would probably generate more revenue than expected.

ASSEMBLYMAN GRADY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 247 (1st REPRINT).

ASSEMBLYMAN OCEGUERA SECONDED THE MOTION.

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

* * * * *

Chairwoman Smith asked Assemblyman Goicoechea to present the floor statement on this bill.

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

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said Assembly Bill 552 (1st Reprint) was heard on Saturday, May 14, 2011. This bill was a Committee bill that imposed an additional administrative assessment on a person convicted of a gross misdemeanor or felony. The funds from that additional administrative assessment would be used to defray the cost associated with obtaining biological specimens and genetic marker analysis. The bill required that a biological specimen be obtained from any person arrested for a felony or a sexual offense punishable as a misdemeanor. The bill provided that the specimen must be kept if the person was ultimately convicted of the felony or the sexual offense. The specimen and all records relating to that specimen must be destroyed and expunged if the person was not convicted. The law prohibited a person from sharing or disclosing information relating to another person's biological specimen or genetic marker analysis and increased the penalty from a misdemeanor to a category C felony.

Mr. Combs said that during the hearing a number of amendments were submitted. An amendment was submitted by Chairwoman Smith and Assemblyman Ocegura. Section 3 of the bill added clarification that the required specimen would be taken through a cheek swab. The specimen may be collected by any authorized agent of any law enforcement agency. Section 3, subsection 3 of required that the forensic laboratory hold the sample at the laboratory pending a query of the records maintained by the Central

Repository for Nevada Records of Criminal History. The lab sample would be released upon verification that records maintained by the Central Repository reflected there was something to be reported.

Mr. Combs said another amendment was submitted by the Records and Technology Division of the Department of Public Safety that addressed the query from the Central Repository and the verification of those records. That amendment was incorporated into the amendment submitted by Chairwoman Smith.

Mr. Combs said the final amendment submitted was from the Nevada Judges of Limited Jurisdiction. The judges were concerned about the administrative assessment being used as the funding mechanism. Their amendment would delete the requirement to impose the additional administrative assessment. They proposed adding a section that allowed the creation in the State Treasury of a biological specimen and genetic marker testing fund that would hold any gifts, grants, or donations to help support the costs of the program.

Chairwoman Smith said all those amendments were posted on the Nevada Electronic Legislative Information System (NELIS) along with the document that explained each item in the bill. Chairwoman Smith said she thought the Committee should amend the bill to change the assessment at the recommendation of the courts to a flat fee and she recommended \$2.50. The courts did not like the idea of the assessment of \$1 for every \$10 in fines or fees because that was more difficult to keep track of. Chairwoman Smith said the amendment incorporated both the wishes of the Central Repository and the Washoe County Sheriff's Office.

Assemblyman Hickey wondered whether the program would need a certain level of gifts or grants to be deposited before triggering the implementation of the bill.

Chairwoman Smith said funding from gifts, grants, and donations would provide some start-up funds so the program could begin right away. Without any gifts, grants, or donations the program would not be able to start until the fees accumulated in the account to allow the testing to take place.

ASSEMBLYMAN OCEGUERA MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 552 (1st REPRINT).

ASSEMBLYMAN HICKEY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

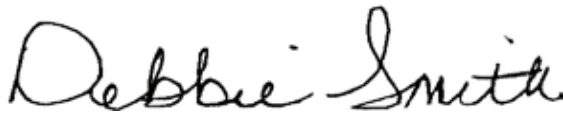
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Chairwoman Smith said the Committee accomplished a lot of work today. The Committee would begin another hearing tomorrow morning to hear more bills and complete another work session. She asked whether there was any public comment and there was none. There being no further business before the Committee, she adjourned the meeting at 10:58 a.m.

RESPECTFULLY SUBMITTED:

Janice Wright
Committee Secretary

APPROVED BY:



Assemblywoman Debbie Smith, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Ways and Means

Date: May 20, 2011

Time of Meeting: 8:09 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Sign-In Sheet
A.B. 300 (R1)	C	Assemblyman Frierson and Barbara Buckley	Presentation
A.B. 300 (R1)	D	Assemblyman Frierson	Proposed Amendment
A.B. 300 (R1)	E	Barry Gold, AARP	Letter of Support
A.B. 563	F	Jim Richardson	Proposed Amendment
S.B. 97 (R1)	G	Jeanette Belz, representing the Nevada Psychiatric Association	Letter of Support
A.B. 247 (R1)	H	Assemblyman Goicoechea	Proposed Amendment