

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

**Seventy-Sixth Session
June 2, 2011**

The Committee on Ways and Means was called to order by Chairwoman Debbie Smith at 8:13 a.m. on Thursday, June 2, 2011, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Debbie Smith, Chairwoman
Assemblyman Marcus Conklin, Vice Chair
Assemblyman Paul Aizley
Assemblyman Kelvin Atkinson
Assemblyman David P. Bobzien
Assemblywoman Maggie Carlton
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman 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
Mike Chapman, Principal Deputy Fiscal Analyst
Dave Ziegler, Principal Research Analyst, Research Division
Sherie Silva, Committee Secretary
Cynthia Wyett, Committee Assistant

Chairwoman Smith opened the hearing on Assembly Bill 526.

Assembly Bill 526: Repeals the requirement for the State Fire Marshal to inspect state buildings. (BDR 42-1204)

Mark Teska, Administrator, Administrative Services Division, Department of Public Safety (DPS), explained A.B. 526 was a bill to implement the 2011-2013 biennial budget. He said that because of staffing reductions in the upcoming biennium, the bill originally eliminated the requirement for the State Fire Marshal Division to inspect state buildings. However, an amendment (Exhibit C) had been proposed that would revise the inspection requirements rather than eliminate them.

Lieutenant Mike Dzyak, State Fire Marshal Division, Department of Public Safety, explained the original bill repealed the requirement for annual inspections of every state-owned and state-leased facility. The amendment instead would require the State Fire Marshal to maintain a prioritized schedule for the inspection of state buildings and allocate the resources remaining after staff reductions in the Division to get the highest possible percentage of state buildings inspected.

Lieutenant Dzyak said the State Fire Marshal would take priority occupancies into consideration: those include buildings where individuals slept or had restricted egress, such as prisons, detention centers, and dormitories, office buildings, critical infrastructure buildings, and hazardous facilities, such as above-ground storage tanks. He said the State Fire Marshal Division would use the six employees within the Division to conduct inspections, in addition to inspections performed by State Public Works Board inspectors, risk managers, facility safety managers, local fire departments, and outside inspection agencies.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, noted the language in section 1.5, subsection 1, paragraph (a) of the proposed amendment, "Maintain a prioritized schedule to inspect or cause to be inspected . . . " was a significant change. He pointed out that rather than

be required to inspect any facilities on an annual basis, the State Fire Marshal Division would just be required to maintain a prioritized schedule.

Lieutenant Dzyak said he had supervised the inspection of state facilities over the past four years, and violations had been reduced throughout the state. He said the State Fire Marshal's office had every intention of maintaining the inspections to the best of its ability. All available resources would continue to be maximized. The amendment would simply require the office to physically prioritize the list of required inspections.

Chairwoman Smith asked Lieutenant Dzyak to explain the process for prioritization of the inspections.

Lieutenant Dzyak replied priorities would be determined by the occupancy of the buildings and relevant subcategories, such as dormitories in universities that must be inspected every year. The State Fire Marshal's office would work with the Risk Management Division of the Department of Administration and the counties to ensure that the office inspected them or caused them to be inspected to the highest percentage possible. He noted there were more facilities in the larger population counties, which made the schedule more difficult. High priority would also be given to the rural counties that did not have inspectors.

Chairwoman Smith asked how the amendment would correlate with the legislative actions on the State Fire Marshal's budget.

Mr. Teska replied said there had been reductions in Department of Public Safety officer positions, and one of the officer duties would be to perform the inspections. Consequently, it was determined there was no physical way to inspect every state building annually. He again noted the original bill eliminated the inspection requirement, but subsequently it was determined that by working with the Risk Management Division and other agencies, the State Fire Marshal Division could at least perform a portion of the inspections, which was the reason for the amendment.

Assemblyman Hogan said the Committee had been concerned with the risks involved in this element of cost savings. He asked how many annual inspections were previously performed and an estimate of how many would be completed in the coming years. He wondered whether the change in policy would be an opportunity to set innovative performance standards to reflect the importance of the functions and the efforts to complete them in any way possible.

Mr. Teska replied the State Fire Marshal's office currently maintained statistics on inspection activities. A current and active list of all state-owned and state-leased facilities was maintained. He did not have the figures with him, but he would provide the information to the Committee. With regard to the percentages, he understood that approximately 100 percent of the facilities in all rural counties and 75 percent of the facilities in Washoe County were previously inspected. He noted that inspections at the University of Nevada, Reno, were the most difficult to schedule and perform, but all campus facilities were inspected or caused to be inspected every two years. Because of limited staff in Clark County, there was only one DPS officer, and only 25 percent of the facilities were inspected previously, with the prisons and university system buildings having high priority.

Assemblyman Hardy asked whether there were duplicate services provided by the cities and other entities.

Mr. Teska replied if a local jurisdiction was willing to inspect a state facility, the Fire Marshal would accept the report and the facility would not be reinspected. Duplication was eliminated through an updated inspection list. In the past, inspectors and investigators were assigned geographical areas to track and schedule. He noted there had been a reduction in the number of violations, and the program had been successful.

Assemblyman Hardy said he had spoken with the Chief of the Fire Department for the City of Mesquite, who had indicated that the department performed annual inspections on every public business and facility and strived to inspect the casinos twice a year. He said Clark County had indicated it was following the same pattern. Assemblyman Hardy suggested that the Fire Marshal Division use the local inspection reports.

Mr. Teska replied the State Fire Marshal would be more than willing to maintain the records for the local entities.

Chairwoman Smith wondered whether the language concerning development of the prioritized schedule could be clarified further.

Mr. Combs said passage of A.B. 526 was necessary to implement the State Fire Marshal Division's budget the way it was approved. He said the problem appeared to be that the language indicated the Fire Marshal had to maintain a prioritized schedule, but there was nothing in the *Nevada Revised Statutes* that would dictate what the priorities were. He suggested that the Committee could add a provision to the bill indicating that the State Fire Marshal would be required to adopt regulations that set forth the factors to be considered in

developing those priorities, which would give the Legislative Commission the opportunity to review the factors within the regulations.

Assemblywoman Carlton was concerned with the deletion of the following language in section 1.5, subsection 1, paragraph (a) of the proposed amendment: " . . . and order such fire extinguishing and safety appliances as the State Fire Marshal deems necessary for the protection of the property against fire. " She asked whether it would pose a risk to safety.

Lieutenant Dzyak replied the language was stricken because it was covered in the International Fire Code; the State Fire Marshal had the authority and ability to order those appliances, and the language was deemed unnecessary.

Because fire inspections would no longer be conducted on an annual basis, Assemblywoman Carlton asked whether the State Fire Marshal's office would assist the public entities with developing safety warnings and precautions.

Lieutenant Dzyak said it was the intention of the State Fire Marshal's office to work with the Risk Management Division, which had the largest presence in the workforce, and Occupational Safety and Health Administration-related standards to ensure continued safety measures.

Chairwoman Smith asked for testimony in support of or in opposition to A.B. 526; there was none. She closed the hearing on Assembly Bill 526 and opened the hearing on Senate Bill 421 (2nd Reprint).

**Senate Bill 421 (2nd Reprint): Revises provisions relating to certain funds.
(BDR 40-1170)**

Mike Willden, Director, Department of Health and Human Services (DHHS), introduced Mary Liveratti, Deputy Director, Programs, DHHS.

Mr. Willden explained S.B. 421 (R2) was necessary to implement the provisions in the budget related to the tobacco settlement funds. He recalled that Nevada had received tobacco settlement funds of between \$38 million and \$50 million each year over the last twelve years. The funds were currently distributed to three areas: 50 percent to the Fund for a Healthy Nevada, which funded a number of categories of services; 10 percent to the Trust Fund for Public Health; and 40 percent to the Governor Guinn Millennium Scholarship Program.

Mr. Willden further explained the tobacco settlement funds allotted to the Fund for a Healthy Nevada were distributed to a number of DHHS programs: 30 percent to the Independent Living Program for Seniors; 15 percent to

tobacco cessation programs; 10 percent to children's health programs; 10 percent to disability services; 30 percent to the Senior Rx program; and 5 percent to the Disability Rx program. He said there had been a problem with the specific funding percentages because as the programs' needs had changed over the years, the distribution of funds to the specific accounts had caused surpluses or reserve funds, which created an opportunity for those accounts to be swept for other purposes. Mr. Willden said in the last several years, the State of Nevada had swept over \$100 million from the Fund for a Healthy Nevada and the Trust Fund for Public Health, which resulted in \$100 million in services that were not funded.

Mr. Willden explained S.B. 421 (R2) provided the following:

- Repeal of the statutory language regarding the Trust Fund for Public Health. The fund was originally intended to expend only the principal balance, but the principal had been swept from the fund and the balance was depleted.
- Reallocation of the 10 percent Trust Fund for Public Health distribution to the Fund for a Healthy Nevada, increasing the allocation from 50 percent to 60 percent to fund services for seniors, disabled children, and other programs.
- Continuation of distribution of 40 percent of the tobacco settlement funds to the Governor Guinn Millennium Scholarship Program.
- Elimination of the specific percentage allocations to each of the programs to allow them to fluctuate dynamically as the needs changed over the years. Allocations would be made subject to legislative appropriations.

Mr. Willden said the Senate Committee on Finance had expressed concern about a public input process, and the bill was amended to add a process whereby DHHS would gather public input through coordinated efforts with the Grants Management Advisory Committee, the Nevada Commission on Aging, and the Nevada Commission on Services for Persons with Disabilities. He said prior to every budgetary cycle, the DHHS Director would evaluate the input on the needs of seniors, disabled individuals, public health and wellness, tobacco cessation, and pharmacy programs, and the input would be used to prepare the DHHS biennial budget. The percentage allocations of the tobacco settlement funds to the various programs would be established at that time. As the Director, Mr. Willden would be required to report back to the three public input entities as to how the dollars were allocated. The final allocation of the tobacco settlement funds would be decided by the Legislature through the appropriations

and authorizations process instead of according to the current fixed percentages.

Mr. Willden remarked that individuals from some of the tobacco cessation programs had concerns that the bill deleted the language in section 2, subsection 1, paragraph (f), which allowed funding to be allocated to them. He said the bill was amended to allow allocations from the Fund for a Healthy Nevada to all programs that improved the health and well-being of residents of the state. Any health or well-being program, including the tobacco cessation or control programs, could be funded under the amendment. Mr. Willden said there was a concern from the advocates and members on the Senate Committee on Finance that specific deletion of the funding of tobacco cessation and control programs may not be appropriate, and the Department had been working with the advocates to amend the bill and put the language back in. A specific allocation would not be guaranteed: the process would remain the same.

Mr. Willden said that in closing the 2011-2013 biennial budget, approximately \$6.4 million in tobacco control dollars were budgeted in fiscal year 2013 to fund the following programs or services:

- \$1.3 million – Family Resource Centers.
- \$1.3 million – Differential Response Program.
- \$1.5 million – Traumatic Brain Injury Program.
- \$1.2 million – Autism Programs.
- \$1.1 million – Mental Health and Developmental Services Family Preservation Program.

In response to questions from Assemblywoman Carlton, Mr. Willden clarified that the proposed amendment ([Exhibit D](#)) would simply reinstate section 2, subsection 1, paragraph (f) to allow allocation specifically to tobacco cessation, control, and prevention programs.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said he noted the term “subject to legislative appropriation” was used frequently in the bill. He said that technically, the funding was provided in the Authorizations Act, and he suggested the language be changed to “subject to legislative authorization.” He asked Mr. Willden to comment.

Mr. Willden replied he agreed: he had always understood that the Appropriations Act allocated funds from the General Fund, and the Authorizations Act provided authorization to expend other funds.

Mr. Combs pointed out that the method of allocation of the tobacco settlement funds was a policy decision for the Committee. When the Fund for a Healthy Nevada was created, there were staunch feelings that the Legislature needed to determine the percentages for each of the various programs. He said S.B. 421 (R2) would clearly change that process going forward to the extent that the allocation method could be changed each biennium. As he understood the bill, the Legislature would still be required to approve the percentages recommended by the Department each biennium. Mr. Combs said the bill would not take the final decision out of the Legislature's control: it would just allow the allocation to be adjusted each biennium without requiring legislation to make the adjustment.

Assemblyman Hogan recalled that tremendous support and outcry had emerged from the general public on the health issues. He believed there was a value to maintaining the potential support by keeping an identity between the programs and services being provided and the way the funds were distributed. There were many worthy causes with generalized needs and distribution, but the public seemed to respond more to specific programs to which they could relate. He liked the idea of maintaining an identity of specific programs to assure public support and awareness for health care issues in the future.

Chairwoman Smith called for public testimony in support of S.B. 421 (R2).

Barry Gold, Director of Government Relations, American Association of Retired Persons (AARP) Nevada, stated he appreciated Mr. Hogan's comments. The Independent Living Grants were the backbone of home- and community-based services provided by small providers in the community, as well as the Senior Rx program. He said AARP was comfortable with the bill and the language that was inserted by the Senate Committee on Finance providing public input. Mr. Gold said AARP was in support of S.B. 421 (R2).

Assemblywoman Carlton asked Mr. Gold whether he was comfortable with the tobacco cessation program being the only program specifically named.

Mr. Gold said he had not seen the language, but he knew that the bill also named the Aging and Disabilities Division and the Senior Rx program as receiving funds. He could not respond formally.

Jennifer Stoll-Hadayia, Public Health Program Manager, Washoe County District Health Department, testified that she believed the amendment to the bill honored the intent of the tobacco Master Settlement Agreement (MSA) while granting the Director's Office the flexibility it needed to meet budget projections. In response to Assemblywoman Carlton's concern about naming

tobacco cessation programs specifically, the bill named several other program areas: prescription drug programs, senior citizens programs, and persons with disabilities. Ms. Stoll-Hadayia said that in addition to removing the percentage allocations, the second reprint of the bill took tobacco cessation programs, which were named originally, completely out of the bill, and the amendment simply reinstated the original language along with the other named programs in the bill. Funding would still be allowed for tobacco cessation programs along with prescription drugs, senior citizens programs, and persons with disabilities as currently named in the bill. She reiterated that the end result would be tobacco cessation programs could be funded, it would honor the intent of the MSA, and the Director's Office would retain its budget flexibility.

Assemblywoman Carlton said she was still concerned that the tobacco cessation programs were specifically named in the bill.

Referring to section 2, subsection 1, paragraph (g), Mr. Willden clarified that the tobacco cessation programs would have been funded within the provision for health and well-being. The amendment was proposing to continue with the same language that had been in place for the last twelve years. As indicated by the previous speaker, Mr. Willden pointed out that specific programs were named in various sections throughout the bill: independent living programs and senior independent living programs, tobacco cessation, health and well-being, disability services, and Disability Rx and Senior Rx programs.

Assemblywoman Carlton was concerned that the new language did not specifically name children's programs, but those were not reinstated in the amendment.

Mr. Willden explained the reason the reference to services for children was deleted was not related to the tobacco cessation language. The tobacco funds were used to fund three new programs in the health and well-being section: family resource centers, differential response, and autism programs. The purpose was to create a broader category to include the programs that were funded in the final closing of the budget: the health and well-being of Nevadans. Chairwoman Smith suggested that language be added in a paragraph to section 2, subsection 1 specifically naming children's services to address Assemblywoman Carlton's concerns. She asked whether there was concern about removing the tobacco cessation language because of the ongoing Master Settlement arbitration.

Mr. Willden replied the bill had been reviewed with the Office of the Attorney General, which was the agency involved in the tobacco settlement. He thought

it would strengthen Nevada's case to specifically name tobacco cessation programs in the legislation, but he did not know that for a fact.

Michael Hackett, Alrus Consulting, representing the Nevada Tobacco Prevention Coalition, testified the Coalition was in support of S.B. 421 (R2) and the proposed amendment. He thanked Mr. Willden, Ms. Liveratti, and the Governor's Office for working with the Coalition on the amendment.

Bruce Arkell, representing Nevada Senior Advocates, testified his organization had worked closely with Mr. Willden on the bill. He pointed out that the program needs changed too rapidly to retain the locked-in percentages as had been done in the past. Over time, additional programs had been added to the various percentage categories, which he believed clouded some of the language in the statute. He said S.B. 421 (R2) allowed the Department and the public to provide input and develop a plan to spend the money, which he believed was an important step forward that had been needed for a long time.

Pat Sanderson, representing the Nevada Alliance for Retired Americans, voiced support for S.B. 421 (R2).

Chairwoman Smith asked for testimony in opposition to S.B. 421 (R2). There was none, and she closed the hearing on Senate Bill 421 (2nd Reprint).

Chairwoman Smith opened the hearing on Senate Bill 426 (1st Reprint).

**Senate Bill 426 (1st Reprint): Makes various changes related to energy.
(BDR 58-1156)**

Stacey Crowley, Director, Office of Energy, Office of the Governor, explained the purpose of S.B. 426 (R1) was to merge the Renewable Energy and Energy Efficiency Authority with the Office of Energy. The bill would require the Office of Energy and its Director to assume certain responsibilities of the repealed entities, and it was compatible with the budget closing approved by both the Assembly and the Senate.

Ms. Crowley said section 12 of the bill would allow the Office of Energy to enter into contracts for renewable energy and energy efficiency projects for the state, and section 23 clarified certain language on tax exemptions. Section 34 transferred authority for the program to track the use of energy in buildings occupied by state agencies to the Office of Energy from the Buildings and Grounds Division of the Department of Administration.

Assemblyman Bobzien asked Ms. Crowley to explain the language in section 23.5, subsection 3, which read, " . . . or adjacent to one or more buildings or an irrigation system in an agricultural operation . . . or buildings or irrigation system regardless of whether the owner of the system, building or buildings or irrigation system participates in net metering . . . "

Ms. Crowley replied the Office of Energy, the Department of Taxation, and the renewable energy industry had worked together to clarify the language in that section. There had been some question as to the definition of a project that was allowable for the tax exemption-qualified system. With the help of the Department of Taxation, the language was clarified.

Assemblywoman Carlton recalled the Assembly Committee on Commerce and Labor had heard testimony on bills earlier in the legislative session concerning net-metering. She asked how those bills related to the tax exemption bill.

Ms. Crowley replied they were compatible. She understood the bills Assemblywoman Carlton referred to dealt with the incentive program separate from the definition of a qualified system. The bills were separate but compatible.

Assemblywoman Carlton asked whether S.B. 426 (R1) would provide a new tax exemption that was currently not in statute.

Scott Scherer, Holland and Hart LLP, representing CleanPath Renewables Development Company, explained there was an existing tax exemption in *Nevada Revised Statutes* (NRS) 701A.200 that applied to the qualified systems regardless of whether they were owned directly by the building owner or separately by a third-party developer that was developing the system for the building owner, which was the way most of the solar energy systems were financed. He said in 2007, his company had met with the Department of Taxation and the Clark County Assessor's Office, who confirmed that the exemption applied to the solar array at Nellis Air Force Base, and his company had proceeded on the assumption that the exemption applied. The Clark County Assessor's Office had indicated in writing that it agreed that the exemption applied.

Mr. Scherer said recently a question arose with the City of Reno and solar facilities being built on municipal buildings. The Department of Taxation and the Office of the Attorney General had expressed concern that because the statute mentioned commercial and industrial buildings and did not mention municipal buildings or agricultural uses, it would not apply in those particular situations,

despite the fact that there had been a previous opinion concerning its application to Nellis Air Force Base.

Mr. Scherer explained that when the exemption was changed in the 2007 Legislative Session, it was moved from NRS Chapter 361 to NRS Chapter 701A. He had testified to the Senate Committee on Commerce and Labor and expressed concern that movement of the exemption from one chapter to another would not change the previous opinion, and the Committee had made it clear on the record that it was its intent that the exemption would continue to apply and the interpretation would remain the same. Mr. Scherer said the Director of the Department of Taxation was present at the meeting and confirmed the interpretation. However, the Attorney General's concern was the current statutory language of exemption, especially in light of the rule of construction that exemptions should be narrowly construed, did not match the legislative intent and the opinion previously given.

Mr. Scherer said the purpose of S.B. 426 (R1) was to make the language of the exemption match the legislative intent: it was not a new exemption. There was no tax currently being collected on the systems, and the systems were being installed on municipal buildings, which were tax-exempt in the first place. He said the fact that there was a third-party owner and developer providing the system to the state or local government had created the problem.

Chairwoman Smith asked Ms. Crowley whether there would be additional costs for the expansion of the taskforce membership. Ms. Crowley replied there would not; the taskforce was being expanded to provide more flexibility in the membership.

Chairwoman Smith asked for testimony in support of or in opposition to S.B. 426 (R1). There being none, she closed the hearing on S.B. 426 (R1) and opened the hearing on Senate Bill 440 (1st Reprint).

Senate Bill 440 (1st Reprint): Creates the Silver State Health Insurance Exchange. (BDR 57-1172)

Mike Willden, Director, Department of Health and Human Services (DHHS), introduced Brett Barratt, Commissioner of Insurance, Division of Insurance, Department of Business and Industry, and Charles Duarte, Administrator, Division of Health Care Financing and Policy, DHHS.

Mr. Willden recalled the Committee had previously heard testimony concerning the health insurance exchange and related budget items. He reviewed the timelines and activities related to the legislation:

- The federal Patient Protection and Affordable Care Act (PPACA) was passed in March 2010, and since that time, Mr. Willden had chaired a working group to develop procedures for implementation of the provisions of the PPACA. He noted that Mr. Barratt and Mr. Duarte were members of the working group.
- The money committees had closed several budgets relating to the PPACA, including the eligibility engine dealing with welfare and Medicaid and Nevada Check Up. Mr. Duarte had presented testimony on the Community Living Assistance Services and Supports (CLASS) Act and new staff to implement the fraud, waste, and abuse and provider enrollment and hearings provisions, all of which had been included in the budgets that were closed.
- Each state needed to have a health insurance exchange in place and operating by January 1, 2014, unless the provisions of the PPACA were deemed to be unconstitutional. On January 1, 2013, The Secretary of the U.S. Department of Health and Human Services had to report whether the states were making adequate progress toward implementation of a state-operated health insurance exchange. If the Secretary found the state was not making progress, the federal government would proceed with a federally managed health insurance exchange.

Mr. Willden said that the Governor had determined, and the working group recommended, that Nevada would create a state health insurance exchange, which did not necessarily mean it would only be a Nevada exchange: it may be possible to join a regional exchange. He noted there had been broad support for the creation of a state-run exchange. Mr. Willden reviewed the provisions of S.B. 440 (R1):

- Section 1 through 12 included definitions necessary for the Silver State Health Insurance Exchange.
- Section 13 established the Exchange and its purpose to facilitate the purchase and sale of qualified health plans to individuals and employees of qualified small employers, including provisions for:
 - Ø Assisting residents to have access to low-cost insurance.
 - Ø Subsidies that would be available to individuals with incomes below 400 percent of the federal poverty standard.
 - Ø Cost-sharing and reducing the number of uninsured persons.

- Section 14 contained language dealing with assisting small employers and facilitating enrollment of their employees into qualified health plans.

Mr. Willden said there was debate about whether the exchange should be subject to the State Purchasing statutes, and the working group recommended that the exchange would be subject to Purchasing Division statutes. There was discussion about whether the timelines would allow the state to get everything done using all the federal rules related to the Purchasing Division, and it was deemed there would be sufficient time.

- Section 15 established the governing Board (Board of Directors) of the Exchange. The recommendation approved by the Senate Committee on Finance was for seven voting members and three ex officio nonvoting members of the exchange. The Governor would appoint five of the voting members; the Majority Leader of the Senate would appoint one voting member; and the Speaker of the Assembly would appoint one voting member. Section 15 also included broad definitions of the type of expertise that the voting members should have, and an amendment to the consumer and advocate section from the American Association of Retired Persons (AARP) was adopted by the Senate.
- The ex officio members would be the Director of DHHS or his designee; the Director of Business and Industry or his designee; and the Director of the Department of Administration or his designee.
- Section 16 established the term of office of the voting members.
- Section 17 included standard language regarding the election of a Chair and Vice Chair and their terms.
- Section 18 related to compensation for the Board members. They would not be compensated for their service except for per diem and travel expenses, assuming funds were available.
- Section 19 included standard language concerning meetings and quorums. Proxy votes would not be allowed: members must be in attendance to make decisions.
- Section 20 provided that the Exchange would have several subcommittees.

Mr. Willden said there had been several town-hall meetings, and input was gathered from insurers and brokers, health care providers, and advocacy

organizations with a vested interest in the exchange. He said the commitment was to deal with the various elements of the exchange through subcommittees. The goal was to not have a conflicted Board, to have full transparency, and to address concerns through the subcommittee process.

- Section 21 directed the Board to comply with all state open meeting laws.
- Section 22 provided duties and powers of the Exchange and required several reports to be provided to the Legislature and the Governor, including annual audits, to guarantee full transparency to ensure the public understood the functions of the Board.
- Section 23 stipulated that the Board would appoint an Executive Director and hire staff.

Mr. Willden explained the positions were not yet identified in the state budget. The budget would be determined by the amount of the grant from the federal government, which he hoped would be provided in the summer of 2011. He said the state was using a \$1 million planning grant for planning purposes, and an application for the implementation grant would be submitted within the month. Once the implementation grant was received, the Department would approach the Interim Finance Committee to establish the budget for the biennium.

- Sections 24 and 25 dealt with full coordination from Health and Human Services, Medicaid, Nevada Check Up, and the Division of Insurance to work collaboratively with the Health Insurance Exchange.
- Section 26 allowed the Department to receive a 25 percent advance from the General Fund, if needed, while working on federal grants.

Mr. Willden said it was the intent of the Governor, the Department, and the federal government that funding would be available for planning and implementation until full implementation in 2014. In January 2015, there was a requirement that the state exchanges must be self-sufficient. The 2013 Legislature would have to determine how the Exchange would be financed in the future.

- Section 27 stated that no action taken by the Exchange would be construed to preempt or supersede the authority of the Commissioner of Insurance.

- Section 28 exempted the Silver State Health Insurance Exchange from the Nevada Administrative Procedure Act. The Exchange would need the exemption to keep up with the federal rule process over the next biennium.
- Section 29 delineated the terms of appointment of the Board of Directors.
- Section 30 required the Exchange to adopt a plan for implementation by December 31, 2011. Consultants and staff were available to ensure the plan would be available to the Governor and the Legislature by the end of the calendar year.
- Section 31 required the Director of the Department of Health and Human Resources to serve as the administrative arm of the Exchange until the Board was established and could hire an Executive Director.

Chairwoman Smith noted the Board members were to be appointed July 1, 2011, and she asked how the Board's expenses would be funded. Mr. Willden replied the initial planning grant would be used to pay per diem, travel, and staff needs for the Board. The ongoing costs would be part of the application for implementation funding.

Assemblyman Kirner noted there would be a federal government subsidy for persons in families below 400 percent of the poverty level, which would cover a large number of people in Nevada, if not all. He asked if that was a correct statement.

Mr. Willden replied the Health Insurance Exchange would be targeting individuals, small groups, and small employers that were not able to provide health insurance to their employees. There were approximately 500,000 Nevadans without health insurance, which was about 19 percent of the population. He said the goal of the Exchange would be to penetrate into the 19 percent and get them insured. Mr. Willden explained those with a very low income would obtain coverage through the Medicaid and Nevada Check Up programs, and those who did not meet the very low income threshold would be offered options through the Exchange, with or without subsidies. The income threshold for a family of four was approximately \$88,000 to qualify for a subsidy, which would be computed on a sliding fee scale according to the level of income.

Assemblyman Kirner noted the program was complicated, and he understood that in the year 2018, individuals currently in health care plans would have the option of taking the coverage being provided or, if a state employee, the

coverage provided by the state, or leave the plan and obtain coverage on their own. He speculated that if people left their current coverage and chose coverage under the exchange, there would be a huge exchange and only a few employers providing health care benefits.

Brett Barratt, Commissioner of Insurance, State Division of Insurance, Department of Business and Industry, replied the question had been raised in several of the stakeholders' meetings concerning what the incentive would be for employers, especially small employers, to continue to provide health care coverage once an exchange was created. He said that was a concern; however, the consultant that was hired to assist with the exchange implementation had been involved in the Massachusetts plan, and that scenario did not occur. A benefits package was a recruitment tool for employees, and employees wanted health care sponsored by their employer. Mr. Barratt said the Utah health exchange program's purpose was to assist small employers in providing their employees with more health care options. He said he was concerned that the number of plans available to consumers be maximized while minimizing potential adverse selection problems. He acknowledged Assemblyman Kirner's concern was valid, but it had not proven to be a problem in the two states that had created exchanges.

Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services, explained the subsidies were going to be paid directly by the federal government to the health plans, which would be recognized as credits to the individuals applying for insurance but paid directly to the health plan. There would be no state involvement other than calculating the subsidies and ensuring the health plans received the funds.

Referring to the staffing provisions in section 23 of the bill, Chairwoman Smith asked why the positions were nonclassified rather than unclassified.

Mr. Willden replied the positions were proposed to be nonclassified to expedite the recruitment and appointment of the staff, and he speculated salaries for similar positions would be very competitive. Another reason for establishing the positions as nonclassified was to avoid layoff and personnel issues in the event there was a problem with funding or implementation. He said there had been extensive discussion in the Senate Committee on Finance concerning establishing the positions as unclassified, but the decision was to make them nonclassified.

Chairwoman Smith asked Mr. Willden to explain staffing during the interim until permanent staff could be hired. Mr. Willden said there were two state employees and a number of contractors helping with the program, and once the

Board was appointed and the Executive Director was hired, there would be a clear vision of the plan going forward. Currently, resources were being used from his office and Mr. Barratt's and Mr. Duarte's offices. Two employees were being paid from the planning grant, but in any given week, there could be 50 to 70 staff members working on health care reform at one time or another. Mr. Willden said a time-tracking tool was put in place nearly a year ago to track the time spent on the program. He noted that Department and Division staff support would still be necessary after the permanent staff and program were established.

Chairwoman Smith affirmed that receipt of the grant funds and staffing requests would come before the Interim Finance Committee (IFC) for approval. Mr. Willden replied a work program and the consultants' plan for implementation would be submitted to the Committee, and he anticipated that numerous requests would be forthcoming to IFC in the future.

Mr. Willden added that classifying the positions as either nonclassified or unclassified was not a major problem. He believed the Executive Director must at least be in the unclassified service, and more appropriately in the nonclassified service, but classification of the rank-and-file staff just involved a question of timeliness of recruitment and employee rights in the event of upsizing or downsizing.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, pointed out there was a provision in the unclassified salary bill that if an unclassified position was not included in the bill, the salary would be set by the Interim Finance Committee. He noted the Executive Director position would not be in the 2011 unclassified salary bill, but the salary could be set by IFC, which would provide flexibility in competitiveness and timeliness. Therefore, there was a mechanism in place to set the salary for the position for the upcoming biennium, and the salary would be set in the 2013 unclassified pay bill for the next biennium going forward. Mr. Combs said he concurred with Mr. Willden that the position was the type that would typically fall within the unclassified service rather than in the classified service if the Committee chose not to make it a nonclassified position.

Assemblywoman Mastroluca referred to section 26, which discussed the process if there was a delay in receiving federal funds, and asked why that process was chosen rather than IFC approval.

Mr. Willden replied the language was standard for an agency to receive General Fund advances. Because of the timing of the state and federal fiscal years, federal grants were often not received in time for the state fiscal year

and a 60- to 90-day General Fund advance was required until receipt of the grant award. The General Fund loan would be repaid immediately when the federal grant funds were received. He noted that in many instances the IFC process was not the most timely, and it was possible to be 45 to 90 days out before receiving IFC approval.

Assemblywoman Mastroluca asked whether 25 percent of the expected revenue would be sufficient. Mr. Willden replied he believed so; that amount was sufficient to cover one quarter of the year, which was the standard amount requested.

Mr. Combs concurred that the language was standard, and the reason was the agency would need funding at the beginning of the fiscal year and the first IFC meeting of the fiscal year was typically scheduled in September. He added that the Director of the Department of Administration was required to notify the Fiscal Division of any such advance, and if the Division had concerns with the necessity for the advance, the item would be placed on the following IFC agenda as an informational item. He noted the situation did not occur often, but the option was available.

Assemblyman Hambrick asked whether litigation of the Patient Protection and Affordable Care Act would affect any portion of S.B. 440 (R1).

Mr. Willden replied that the potential existed, and it was the Department's intention that the federal government would pay for the planning and implementation costs associated with the Health Care Exchange. The state did not intend to expend any more General Fund on planning and implementation than what had been approved in the budget closings. If any provision of the PPACA was deemed unconstitutional by the U.S. Supreme Court, all states would have to reevaluate what action to take going forward. Some states were proceeding with implementation while others had chosen to wait for the U.S. Supreme Court ruling. However, Mr. Willden had received direction from the Governor to proceed.

Assemblyman Kirner remarked the PPACA was a huge program, and the next Legislature would have to provide funding for it. He was aware there would be a Medicaid liability of over \$500 million as a part of the reform measure. He asked what amount of funding Mr. Willden predicted would be required in the years ahead.

Mr. Willden replied he could not predict the total cost: it was a monumental program involving information technology staffing, cultural changes, and numerous problems for insurers, brokers, consumers, and consumer advocates.

He said community town hall meetings had been well attended, and it seemed that everyone had a vested interest. Early estimates of the costs were made approximately a year before, and the Medicaid expansion would be the single largest problem for Nevada. Mr. Willden explained the problem was the individual mandate: individuals would have to be insured or face consequences, and therefore the lowest-income population must be funded through the Medicaid program. He reiterated that there were 500,000 uninsured Nevadans that needed to be covered under one program or another. There would be some very difficult choices to make about ongoing financing in the 2013 Legislative Session.

Mr. Duarte stated that of the 500,000 uninsured Nevadans, it was estimated that 145,000 would be new Medicaid-eligibles. The federal government would pay 100 percent of their medical costs the first three years of the program, but the state would start paying an increasing share of the costs through 2019 and ultimately pay up to 10 percent of the costs through the end of this decade. Mr. Duarte said most of the concern when estimating General Fund costs was from people coming into the Exchange because of the mandate and then determining they would be Medicaid-eligible or would have been Medicaid-eligible under the old system. He said many new Medicaid-eligibles were anticipated through that route, as well as low-salaried employees who would choose not to take employer health coverage.

In summary, Mr. Duarte said there would be an expansion of new Medicaid-eligible and the traditional Medicaid-eligible population, and most of the state dollars would be spent on expansion of the traditional Medicaid-eligible program. He recalled that Mr. Willden had often told his administrators that they would need to look through a new lense as to how the state provided services to individuals, whether they were for mental health or other needs.

Assemblyman Hogan said he was concerned about the deadline to create and adopt a plan for implementation and operation of the Health Insurance Exchange by December 31, 2011. He requested that Mr. Barratt address the changes and potential fiscal needs anticipated by the Insurance Division to meet the deadline.

Mr. Barratt replied it was difficult for him to answer questions from stakeholders concerning the program, and he felt it was inappropriate for him to answer questions from the Committee because the Exchange was the responsibility of the Board of Directors through the appointment process of the Legislature and the Governor. He agreed that seven months to develop a plan was a very aggressive timeline, and it was important to proceed with hiring an Executive Director and staff, rent space, and purchase equipment as quickly as possible. The consultant had estimated that the cost to build the eligibility

engine would be \$24 million, which was a substantial amount of information technology infrastructure. Mr. Barratt said the eligibility engine would not be a concern for the Insurance Division. He explained that Mr. Duarte's office would be primarily responsible for interfacing the eligibility engine with the Internal Revenue Service and Homeland Security and upgrading the current Medicaid system to be compliant so that when consumers purchased health insurance, they would use one portal to direct them to the appropriate program subsidies. The system would need to interface with employers and administer such things as the receipt of payments and the distribution of premium payments to appropriate insurers.

On a positive note, Mr. Barratt continued, Nevada was farther along in the process than most states. He had recently attended a meeting with 38 other states and the federal government, and everyone in the room stood up when they were asked whether they needed more time to implement their plans. Mr. Barratt thought the federal government would have to be flexible and give the states the support and time to implement their exchange programs.

Mr. Duarte stated that as a part of developing the grant application, which was to be submitted by the end of June, a business plan and general design had to be included for the federal government to review and be assured that funds were being granted for a viable plan. He said that while the plan would lack a lot of detail, it would provide a framework for what the Exchange might look like and what would be necessary to implement a functioning Exchange by 2014.

Assemblyman Hogan said his interest would continue to be in the quality of the insurance products available to the citizens of Nevada and their ability to evaluate and understand them, and that the state would provide as much help as possible to fill in the gaps. He said he hoped as the plan was developed, the state's focus would be on providing support services and playing a strong pro-consumer role.

Mr. Barratt agreed: an exchange was needed that would ease access to information to consumers, most of whom had never chosen a health care plan on their own: they had either been provided insurance by their employer, they were uninsured, or they were on a government assistance program. He would also state for the record that the plan was reform and things were changing, but he believed the brokers and agents must play a role in the Exchange in the future. He noted that Utah had 146 different health care plans available. An individual who had never purchased health insurance would need a professional's assistance to guide him through the process.

Chairwoman Smith recalled that Mr. Barratt had indicated Utah was not in compliance with the Patient Protection and Affordable Care Act (PPACA). She asked him to explain the status of Utah's program.

Mr. Barratt replied the state of Utah began its exchange about five years ago. Recognizing that most of the businesses in the state were small, the Utah government wanted to provide a venue for small employers to assist them in retaining and providing health care coverage for their employees. Although Mr. Barratt would not necessarily consider that state's exchange a success with 2,000 or 3,000 persons covered, it was a valid model to consider. The employer could contribute a set amount to the employee's coverage, and the employee had the choice to select a plan of his choice, either within the amount of the employer's subsidy or more if he chose to contribute more himself. Mr. Barratt said when Utah began its exchange process, the PPACA had not yet been proposed, and now the state was grappling with how to interface its current exchange with the PPACA or whether it would develop a separate exchange.

Mr. Barratt said one of the things he took away from the meeting with the 38 other states was there was no "silver bullet." Nevada needed to recognize that everything would not be right the first time: flexibility, openness, and good communication with all of the stakeholders involved would be required to pursue the correct solutions.

Assemblywoman Carlton remarked she believed an exchange program would be a positive change. In her discussions with employers, hospitals, and doctors, the concerns were the payer mix, uncompensated care, and padded hidden costs within premiums. She believed that through an exchange, more doctors and hospitals would be compensated and employers would not have hidden costs built into the cost of their health care. She said the cost of health care for the uninsured in Nevada was being paid from somewhere: it just could not be identified in each component. Assemblywoman Carlton believed that in the long run, having an associated payer would benefit everyone in the state when trying to deal with the high cost of insurance. She said labor and the cost of health insurance together comprised the major cost of doing business. She saw a health exchange as a positive vehicle to bring more money into the state to cover the uncompensated care in the state.

Chairwoman Smith asked for further questions from the Committee; there were none. She thanked Mr. Willden, Mr. Duarte, and Mr. Barratt for their testimony, and asked for testimony in support of S.B. 440 (R1).

Barry Gold, Director of Government Relations, American Association of Retired Persons (AARP) Nevada, testified in support of the Silver State Health Insurance Exchange. It was his organization's belief that the new competitive health insurance marketplace would give consumers more control, quality choices, and better protection when purchasing insurance and bring greater transparency to the insurance industry. Mr. Gold said that AARP Nevada strongly supported S.B. 440 (R1) and urged the Committee to pass it [Mr. Gold's verbatim testimony is attached as [Exhibit E.](#)]

Elisa Cafferata indicated she was speaking on behalf of State Voices, which was a statewide organization of nonprofit organizations involved in voter engagement efforts. She said the health care reform envisioned a role for community navigators, which were specifically mentioned in the PPACA. The navigators were organizations that worked with underserved residents who typically did not have health insurance, and their role would be to assist them in obtaining services for which they were eligible. The navigators would refer their clients to insurance brokers and educate them about the exchange and the process. Ms. Cafferata noted that the state was aware of the need to provide education, training, and guidelines for any organizations that might serve the navigator role. She said although it was not referred to in S.B. 440 (R1), a strong navigator role was envisioned at the federal and state level. Ms. Cafferata expressed her organization's strong support for S.B. 440 (R1).

Pat Sanderson, representing the Nevada Alliance for Retired Americans, wanted to compliment the Governor and the state officials that had previously testified for attempting to plan for the future of medical care in the state. His organization was in support of S.B. 440 (R1) and believed those involved were capable individuals who would lead the program in the right direction. He added that health care was a concern of every Nevadan.

Chairwoman Smith asked for public testimony in opposition to the bill; there was none. She closed the hearing on Senate Bill 440 (1st Reprint) and opened the hearing on Senate Bill 443 (1st Reprint).

Senate Bill 443 (1st Reprint): Requires counties to pay a percentage of the expense of presentence or general investigations and reports made by the Division of Parole and Probation of the Department of Public Safety. (BDR 14-1202)

Bernie Curtis, Chief, Division of Parole and Probation, Department of Public Safety (DPS), introduced Rick Gimlin, Administrative Services Officer, Division of Parole and Probation.

Mr. Curtis explained Senate Bill 443 (1st Reprint) required counties to pay a percentage of the expense of presentence or general investigations and reports made by the Division of Parole and Probation. The bill was passed out of the Senate Committee on Finance and amended to require the counties to pay 70 percent of the expense of investigations and reports rather than the full cost. Mr. Curtis offered to answer questions from the Committee.

Chairwoman Smith asked for testimony in support of or in opposition to S.B. 443 (R1).

Alex Ortiz, representing Clark County, testified that Clark County opposed S.B. 443 (R1) because it maintained it was the state's responsibility to not only operate, but also to fund, the statewide function of the Division of Parole and Probation investigations and reports. He understood that as the budget was closed, 70 percent of the costs would be shifted to the counties and the state would pay 30 percent. Mr. Ortiz said the 70 percent could translate to more layoffs in Clark County.

Lisa Gianoli, representing Washoe County, testified in opposition to S.B. 443 (R1). She understood that the budget had closed with the provision that 70 percent of the costs would be paid by the counties, but the expense would be a burden to Washoe County.

Jeff Fontaine, Executive Director, Nevada Association of Counties (NACO), testified that NACO was also opposed to S.B. 443 (R1). He recognized the situation and the reason for the reduction and cost shift to the counties, but the bill was one of a number that the counties would receive quarterly, starting July 1, 2011, to pay for what NACO considered to be state services.

Chairwoman Smith closed the hearing on S.B. 443 (R1) and opened the hearing on S.B. 446 (1st Reprint).

Senate Bill 446 (1st Reprint): Revises provisions governing the composition of the State Department of Conservation and Natural Resources. (BDR 18-1209)

Kay Scherer, Deputy Director, State Department of Conservation and Natural Resources, explained that S.B. 446 (R1) implemented the changes that had previously been approved by the Joint Money Committee. The amended version of the bill restored the State Conservation Commission and the conservation districts. She noted the conservation districts were restored as a program rather than a division of the Department, explaining that the Department's divisions each consisted of hundreds of employees, and the Conservation

Districts Program would be staffed by one employee. Organizationally, restoration of the conservation districts as a program was consistent with the Nevada Natural Heritage Program, which consisted of only a few employees. Ms. Scherer said the Conservation Districts Program would be housed in the Department's Office of the Director where it could receive administrative and staff support.

Ms. Scherer said the remaining provisions of the bill reflected the removal of the advisory board, the reduction from two assistant directors to one deputy director of the Department, and the sunset of the Commission for the Preservation of Wild Horses.

There were no questions from the Committee. Chairwoman Smith asked for testimony in support of or in opposition to S.B. 446 (R1); there was none. She closed the hearing on Senate Bill 446 (1st Reprint).

Chairwoman Smith announced the Committee would move into work session.

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

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, recalled that Assembly Bill 93 (1st Reprint) was first heard by the Committee on May 12, 2011, and it was introduced by Assemblyman Segerblom. In its original form, the bill required the Department of Corrections (DOC) to establish a pilot diversion program for certain probation violators to receive treatment for alcohol, drug abuse, or mental illness.

Mr. Combs said the bill required the Department of Health and Human Services to provide the evaluation and treatment of the probation violators. Section 10 of the bill included an appropriation of \$250,000 in each fiscal year of the 2011-2013 biennium.

Mr. Combs explained an amendment had been submitted by Assemblyman Segerblom that in conceptual form would remove the provisions of the bill related to the Department of Health and Human Services and leave in the provisions that affected the Department of Corrections. It was his understanding that DOC had a similar existing program using federal funds. The Department had testified that the language in the bill would be helpful in supporting the existing program, but the Division of Mental Health and Developmental Services had testified that without the appropriation, it would

not be able to add more evaluation and treatment other than that currently being provided under the federal grant.

Assemblyman Segerblom's amendment would remove the appropriation to DHHS and remove the requirements currently in the bill for MHDS to provide evaluation and treatment of the probation violators. The bill would merely provide authority for the Department of Corrections to conduct a program very similar to the one it currently had in place.

Assemblyman Hickey asked whether the Department of Corrections had indicated the additional program would not have a fiscal effect. Mr. Combs replied housing was available at Casa Grande, and the Department's only concern was the inability to provide additional evaluation and treatment.

In response to a concern expressed by Assemblywoman Carlton, Dave Ziegler, Principal Research Analyst, Research Division, Legislative Counsel Bureau, explained he understood the pilot diversion program would treat felony probation violators under structured supervision at a level in between normal probationary supervision and imprisonment. The judge could remand the violator to the structured supervision program, and he would be under the jurisdiction of Casa Grande while in the program. Upon release from the program to regular probation, the violator would automatically return to the jurisdiction of the Division of Parole and Probation.

Assemblywoman Carlton affirmed the judge could require the probationers to pay for the program. Mr. Ziegler replied she was correct.

ASSEMBLYMAN AIZLEY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 93 (1ST REPRINT).

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Kirner voted no.)

Senate Bill 421 (2nd Reprint): Revises provisions relating to certain funds.
(BDR 40-1170)

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, recalled that S.B. 421 (R2) implemented changes to the Fund for a Healthy Nevada and eliminated the Trust Fund for Public Health. He said an amendment had been submitted by the Department of Health and Human Services in response to concerns about removing the tobacco cessation

language from the statute. The tobacco cessation program was restored as one of the programs for which funding could be used.

Mr. Combs said Assemblywoman Carlton had expressed concern about the language for health services for children, and that language was broadened to cover the well-being of residents of the state. He suggested that section 2, subsection 1, paragraph (g) of the bill be amended to read, "Subject to legislative appropriation, allocate, by contract or grant, money for expenditure for programs that improve the health and well-being of residents of this state including, but not limited to, programs that improve health services for children."

Mr. Combs requested authority to research the term "appropriation" as used in the bill. He believed it should be amended to read "authorization."

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
SENATE BILL 421 (2ND REPRINT), TO INCLUDE AN AMENDMENT
TO RESTORE LANGUAGE SPECIFYING THAT FUNDING WOULD BE
PROVIDED FOR TOBACCO CESSATION PROGRAMS AND HEALTH
SERVICES FOR CHILDREN.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Senate Bill 443 (1st Reprint): Requires counties to pay a percentage of the expense of presentence or general investigations and reports made by the Division of Parole and Probation of the Department of Public Safety. (BDR 14-1202)

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, noted S.B. 443 (R1) had been heard earlier in the meeting, and it required the counties to pay 70 percent of the expense of presentence or general investigations and reports made by the Division of Parole and Probation. He recalled opposition to the bill was expressed by Clark County, Washoe County, and the Nevada Association of Counties.

Mr. Combs said there were no amendments recommended to the bill.

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS
SENATE BILL 443 (1ST REPRINT).

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Assemblyman Goicoechea said he realized the bill was a component of the Governor's recommended budget and it was necessary to support it, but for the record, he stated that the larger counties had restored funding as a result of the Supreme Court ruling on the Governor's recommended budget, but most of the smaller counties had not. He said the additional expense would have a serious effect on many of the rural jurisdictions.

Chairwoman Smith agreed with Assemblyman Goicoechea, adding that it would not have been her choice to pass costs on to the counties.

THE MOTION PASSED. (Assemblyman Grady voted no.)

Senate Bill 446 (1st Reprint): Revises provisions governing the composition of the State Department of Conservation and Natural Resources. (BDR 18-1209)

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, recalled the bill had been presented earlier by Kay Scherer, the Deputy Director of the State Department of Conservation and Natural Resources. The bill would implement revisions to the Department's budgets that had been closed by the money committees. The Senate Committee on Finance had amended the bill to restore the State Conservation Commission and the conservation districts, but there were no amendments suggested by the Ways and Means Committee.

ASSEMBLYMAN GOICOECHEA MOVED TO DO PASS SENATE BILL 446 (1ST REPRINT).

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairwoman Smith declared the Committee in recess at the call of the Chair.

Chairwoman Smith reconvened the meeting at 6:15 p.m. She announced the Committee would proceed with bills in the work session.

Assembly Bill 484: Makes an appropriation to the Interim Finance Committee for allocation to the State Treasurer for interest payments due the Federal Government for the loan that was made available to the State upon depletion of Nevada's Unemployment Compensation Fund. (BDR S-1245)

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained A.B. 484 was the appropriation to the Interim Finance Committee for the interest payments due to the federal government for the loan to the state for the depletion of the unemployment compensation fund. Mr. Combs recalled the total amount was amended from \$66,355,000 to \$64 million through budget amendment submittals.

Fiscal staff recommended that based on the Clean Water Coalition case and the loss of the mining claims fee revenue, the appropriation should be split into multiple years to maintain the fund balance. He recommended that \$23.9 million be appropriated in fiscal year (FY) 2010-11 and be allowed to balance forward to FY 2011-12 and FY 2012-13 and that the remaining \$40.1 million be appropriated in FY 2012-13. The schedule would meet the required interest payment due dates.

Mr. Combs said the Fiscal Division requested authority to add a provision to the bill that would allow the funds to be used as an unrestricted Contingency Fund appropriation if the federal government waived the interest payments. He recalled that there had been discussion during the budget hearings that the President's budget and a number of bills in Congress included provisions that would not require the states to pay the interest on the unemployment insurance loans. Mr. Combs said that, unfortunately, that decision would not be made until after the 2011 Legislature had adjourned. There were a few unresolved items that could require an appropriation from the Contingency Fund during the upcoming biennium, and therefore it would be preferable to not have the amount restricted to interest payments only if the federal government ultimately did not require repayment of the interest.

Continuing, Mr. Combs said another amendment had been submitted by the administrator of the Employment Security Division when the bill was heard in Committee. The amendment would allow the state to take advantage of some additional federal funding that was available for state extended benefits. The amendment would temporarily change Nevada's look-back law from two years to three years to mirror the current federal provisions, which would have the effect of lowering the total unemployment rate that the state would need to have on federally funded extended benefits through the end of calendar year 2011. The Department of Employment, Training and Rehabilitation had indicated that \$49 million in federally funded employment benefits could be available.

The Employment Security Division's amendment also proposed an adjustment to the trigger-off mechanism to four weeks rather than three weeks before the last week of full funding for the extended benefits program, which would prevent

the state from paying 50 percent of the benefits for a week and save the state approximately \$1.6 million. Mr. Combs said Fiscal staff had reviewed the proposed amendment as well as the current statute, and it appeared to be a reasonable way to continue unemployment benefits without requiring the state to provide the funding.

Mr. Combs summarized the proposed amendments to A.B. 484:

- Split the appropriation for interest payments to the federal government between two fiscal years, for a total of \$23.9 million in FY 2010-11 and \$40.1 million in FY 2012-13.
- Add a provision to allow the funds to be used for another purpose within the Contingency Fund if the federal government did not require repayment of the interest.
- Adopt an amendment requested by the Employment Security Division to enable the state to take advantage of additional federal funds available for unemployment benefits.

ASSEMBLYWOMAN MASTROLUCA MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 484.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assembly Bill 487: Makes an appropriation to the State Board of Examiners for employee retirement buyouts and terminal leave payments for eliminated positions. (BDR S-1242)

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained A.B. 487 appropriated funds to the State Board of Examiners for employee retirement buyouts and terminal leave payments as a result of positions being eliminated and the incumbents being within five years of retirement. He said the Governor's original recommended amount was \$7 million, which was lowered to \$4.5 million through an amendment. The \$2.5 million reduction resulted from the decision to have 30 percent of the presentence investigation function performed by the Parole and Probation Division rather than transferring the entire function to the counties. In addition, Fiscal staff had identified savings as a result of restoration of positions that were originally eliminated in the Governor's recommended budget. It was Fiscal

staff's recommendation that the amount of the appropriation could be reduced to \$3.3 million.

Mr. Combs noted an amendment had been received from the Budget Division for a \$134,000 appropriation from the Highway Fund that was inadvertently left out of the Governor's recommended budget.

Assemblywoman Carlton affirmed the amount addressed the number of positions identified as being eliminated in the budget, but it did not address the voluntary retirements that employees may be contemplating because of the changes made to state employee compensation in the budget.

Mr. Combs replied that in those particular instances, a person would leave a position that had been fully funded. If the position was not immediately filled, the salary savings could be used to fund the payoff costs. Typically when an employee retired from a position, he was at the top of the pay scale, and the person who filled the position would not be at the top of the scale, which also would provide salary savings. He explained that terminal annual leave, terminal sick leave, and retirement buyouts had never been funded in agency budgets.

ASSEMBLYMAN HOGAN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 487.

ASSEMBLYWOMAN MASTROLUCA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assembly Bill 494: Makes appropriations to restore the balances in the Stale Claims Account, Emergency Account, Reserve for Statutory Contingency Account and Contingency Fund. (BDR S-1267)

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained that as recommended by the Governor, the amounts to restore the various fund balances were \$5.5 million to the Stale Claims Account, \$150,000 to the Emergency Account, \$3 million to the Reserve for Statutory Contingency Account, and \$5 million to the Interim Finance Committee (IFC) Contingency Fund. He said with the exception of the IFC Contingency Fund balance, Fiscal staff had identified reductions that could be made to the appropriations included in the original Governor's budget because, for the most part, when the Budget Division developed the budget, it had to anticipate how much would be expended from the funds during the remainder of the fiscal year. Now that the fiscal year was less than a month from over, it was easier to identify the remaining funds.

Mr. Combs recalled that in the closing action on the Prison Medical Care account, a new expenditure category was created for stale medical claims, and approximately \$1 million in each fiscal year of the biennium was appropriated for that purpose, which eliminated the need for the Prison Medical account to request funds from the State Claims account in the future. Mr. Combs noted the Prison Medical account was one of the largest participants in the State Claims Account, and therefore the balance in the State Claims Account could be reduced to \$3.5 million from \$5.5 million. Based on the balance in the Emergency Account, Fiscal staff recommended the appropriation be reduced from \$150,000 to \$50,000, and based on the balance in the Statutory Contingency Account, the appropriation could be reduced from \$3 million to \$2.2 million.

The total Governor's recommended amount for the various funds was \$13,650,000, and the recommended reductions would reduce the total appropriation to \$10,750,00, for a reduction of \$2.9 million.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 494.

ASSEMBLYWOMAN MASTROLUCA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assembly Bill 560: Makes various changes relating to the compensation and benefits of state employees. (BDR 23-1158)

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained section 1 of A.B. 560 addressed the elimination of holiday premium pay for state workers. Sections 2 and 3 reduced the rate at which state employees accrued annual and sick leave effective July 1, 2012. Section 4 eliminated the benefit for the purchase of service credit for the Public Employees' Retirement System (PERS) for certain employees who agreed to retire when a state agency was required to reduce its workforce. Section 5 continued the suspension of merit pay and longevity pay, which the Committee had previously approved when the budgets were closed.

Mr. Combs noted that the bill did not include a provision which the Governor had recommended that in lieu of the PERS buyout, insurance premium payments would be provided for six months up to the amount of the PEBP allotment to purchase private coverage for the first six months after termination. There would need to be amended language added to the bill if the Committee chose to fully implement the Governor's recommendation and approve section 4.

Mr. Combs said amended language concerning holiday premium pay had been submitted by the Department of Personnel which clarified the policy. Currently, an employee working a holiday would be paid for the holiday plus time-and-one-half. Consistent with the budget closing action, the amendment would change the policy to pay the employee for the holiday and additional straight-time pay for the hours worked on the holiday.

Mr. Combs noted that section 5, subsections 1 and 2, continued the suspension of longevity pay and merit increases.

In response to a request for clarification from Assemblyman Conklin, Mr. Combs explained that suspension of the merit increases and longevity payments produced General Fund savings. The reductions in sick and annual leave accrual would not result in a budget increase or decrease because the budget was built on the formula of each employee working 2,080 hours a year, which included the amount paid for annual and sick leave as if the employee was at work. The amount budgeted in any given fiscal year would not be affected by the decrease in leave accrual.

Assemblyman Conklin remarked that given the fact that state employees would be paying more for health insurance and would have no opportunity for growth in annual income through merit or longevity payments, he saw no budgetary reason to reduce holiday, annual leave, or sick leave benefits. He suggested the leave accrual provisions be left intact.

Chairwoman Smith agreed, adding that the same situation existed in section 4, subsection 3, paragraph (e), which discontinued buyout provisions for PERS retirement credit for service in the case of layoff for employees hired after July 1, 2011.

ASSEMBLYMAN CONKLIN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 560, EXCLUDING THE CHANGES IN SECTION 2
REGARDING ANNUAL LEAVE, SECTION 3 REGARDING SICK
LEAVE, AND SECTION 4, SUBSECTION 3, PARAGRAPH (E)
CONCERNING THE PERS BUYOUT PROVISION.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

Assemblyman Kirner stated he would support the motion for the reasons cited by Assemblyman Conklin. He noted that while the provisions did not affect the budget per se, they were a liability that continued to grow, and at some point it would have to be paid. He suggested that the PERS provisions could be studied

during the interim. He believed the state was overly generous in its annual and sick leave provisions, but he agreed state workers had sacrificed in other areas.

Mr. Combs clarified that sick and annual leave accrual was not booked as a liability. The State Controller would report an accounting of it as a liability when preparing the CAFR (Comprehensive Annual Financial Report). However, it was not budgeted as a liability in the biennial budget. He noted that there would not be actual growth in accrued annual leave because the amount of leave that could be carried forward was limited, and the employee was paid for any annual leave balance upon termination. Mr. Combs acknowledged there would be growth in the sick leave accrual because eventually employees were paid for part of their accrued sick leave upon retirement.

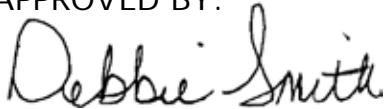
THE MOTION PASSED. (Assemblyman Hardy voted no.)

Chairwoman Smith asked for public testimony; there was none. There being no further business to come before the Committee, she adjourned the meeting at 6:43 p.m.

RESPECTFULLY SUBMITTED:

Sherie Silva
Committee Secretary

APPROVED BY:



Assemblywoman Debbie Smith, Chairwoman

DATE: September 20, 2011

EXHIBITS

Committee Name: Committee on Ways and Means

Date: June 2, 2011

Time of Meeting: 8 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 526	C	Lieutenant Mike Dzyak, State Fire Marshal Division	A.B. 526 – Proposed Amendment
S.B. 421 (R2)	D	Mike Willden, Director, Department of Health and Human Services	S.B. 421 (R2) – Proposed Amendment
S.B. 440 (R1)	E	Barry Gold, American Association of Retired Persons Nevada	Written Testimony in Support of S.B. 440 (R1).