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

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

The Committee on Ways and Means was called to order by Chairwoman Debbie Smith at 8:08 a.m. on Wednesday, March 9, 2011, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Debbie Smith, Chairwoman
Assemblyman Marcus Conklin, Vice Chair
Assemblyman Paul Aizley
Assemblyman Kelvin Atkinson
Assemblyman David P. Bobzien
Assemblywoman Maggie Carlton
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman Cresent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblyman Randy Kirner
Assemblywoman April Mastroluca
Assemblyman John Oceguera

COMMITTEE MEMBERS EXCUSED:

Assemblyman John Hambrick

STAFF MEMBERS PRESENT:

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

Chairwoman Smith opened the hearing on Assembly Bill 12.

Assembly Bill 12: Transfers the authority to use the Parolees' Revolving Loan Account from the State Board of Parole Commissioners to the Chief Parole and Probation Officer. (BDR 16-458)

Rick Gimlin, Administrative Services Officer, Division of Parole and Probation, Department of Public Safety, testified A.B. 12 proposed to place the use of the Parolees' Revolving Loan Account under the Chief Parole and Probation Officer. He explained the use of the account was for the State Board of Parole Commissioners, but the control of the account was under the Chief Parole and Probation Officer. Under A.B. 12, both the use and control of the account would be under the Chief Parole and Probation Officer.

Mr. Gimlin said that during the initial hearing on the bill on February 10, 2011, in the Assembly Committee on Judiciary, the Chair of the State Board of Parole Commissioners, Connie Bisbee, proposed a friendly amendment that would abolish the account, and the Division of Parole and Probation did not oppose the amendment. After the hearing, Legislative Counsel Bureau staff contacted the Division concerning how the amendment might affect the disposition of the account. There was a current balance of $515, and loan repayments were deposited to the account. Mr. Gimlin said a General Fund appropriation provided the initial funding for the account, and therefore any cash balance and future loan repayments should be returned to the General Fund.

Chairwoman Smith said Fiscal staff had noted there would be a technical problem if the account was abolished: if repayments were received, there would be no place to deposit them. She asked Rick Combs to explain the possible solution.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained the amendment proposed by the Assembly Committee on Judiciary was withdrawn on the floor, and the bill currently being considered was the original version, which transferred all of the responsibility for the account to the Division of Parole and Probation. He said if the Committee wished to abolish the account, Fiscal staff recommended language be added indicating that the balance remaining in the fund at the time it was abolished and any subsequent payments would be reverted to the General Fund. Mr. Combs believed it would be helpful to provide a record of what should be done with repayments in the future.

Chairwoman Smith asked Mr. Gimlin to explain the original proposal and the related policy discussion.

Mr. Gimlin explained the proposal originated from the fact that the Chief Parole and Probation Officer reported to the Director of Public Safety. However, the Board of Parole Commissioners reported to the Governor. If there was dissension of any kind, there would be two agencies involved, and it would be preferable to put both the use and control of the account under one agency.

Connie Bisbee, Chair, State Board of Parole Commissioners, testified the account had originally been created during the height of the construction business. Inmates leaving the institution could become employed almost immediately, and the loan account provided loans for them to purchase boots, work clothes, and tools. Ms. Bisbee pointed out that was not the situation currently, and to her knowledge, only one individual had ever made an attempt to repay his loan, which was at a rate of $10 per year. The Board had never made decisions for the account, even though it had the authority; the Parole and Probation Division had made the decisions on granting loans and methods of collection. The Board and the Division agreed the account should be abolished and the balance of $515 returned to the General Fund.

Chairwoman Smith asked Mr. Gimlin and Ms. Bisbee to work with the Fiscal staff to develop amended language to the bill to facilitate reversion of the account and any future payments.

Chairwoman Smith asked for public testimony on A.B. 12; there was none. She declared the hearing on Assembly Bill 12 closed.

PRESENTATION REGARDING THE GOVERNOR'S RECOMMENDED COMPENSATION REFORM INITIATIVES FOR STATE EMPLOYEES PROPOSED FOR THE 2011-2013 BIENNIUM.

Andrew Clinger, Director, Department of Administration, noted Committee members had received the presentation document, which provided an overview of the compensation and benefit reform initiatives contained in The Executive Budget (Exhibit C). Mr. Clinger reviewed the outline of the proposed recommendations:

Salaries

- 5 Percent Salary Reduction—$379.7 million General Fund savings over the biennium.

Mr. Clinger explained two-thirds of the savings, $256.5 million, would come from the State Distributive School Account (DSA), savings of $57.5 million would come from the Nevada System of Higher Education (NSHE), and state employees' reductions would amount to $65.6 million.

- Salary Freeze—Suspend Step Increases—$204.9 million General Fund savings over the biennium.

Mr. Clinger clarified the salary freeze would also include the merit pool in the Nevada System of Higher Education, as well as increases for degree attainment for K-12 teachers. The DSA portion of the savings was $141.4 million, the NSHE portion was $34.9 million, and the state employees' portion represented $28.7 million.

Chairwoman Smith affirmed the intention of the recommendation was to freeze all employees at their current salary step. Mr. Clinger replied she was correct; salaries would be frozen at current levels: they would not be rolled back.

Chairwoman Smith asked whether the freeze was intended to be permanent for K-12 teachers, which would basically eliminate the current pay structure. Mr. Clinger replied the change would be permanent in K-12 and would be replaced with the pay-for-performance proposal included in The Executive Budget. He said the freeze on the step increases and merit increases would just apply to the next biennium.

Chairwoman Smith affirmed $141 million would be permanently eliminated from K-12 funding and replaced with $20 million. Mr. Clinger replied that was correct for the current biennium.

- Suspend Longevity—$6.9 million General Fund savings.

Mr. Clinger remarked the suspension of longevity pay was almost exclusively for state employees.

Five Percent Salary Reduction Versus Furlough

- Issues with Furloughs Experienced in the 2009-2011 Biennium.

  - Equity – allowance for exemptions created inequity.
  - Cost – from exemptions and PERS hold-harmless.
  - Public health and safety concerns.
  - Reductions in services to the public.

Mr. Clinger explained a 5 percent salary reduction instead of the 4.6 percent furlough reduction was recommended because the Public Employees' Retirement System (PERS) hold-harmless provision amounted to approximately $90 million. An additional $90 million in savings would be realized without the PERS hold-harmless for furlough reductions.

Mr. Clinger added that inequities were created by the furloughs in the current biennium. The Department of Corrections was granted exemptions on and off during the biennium.

Also, Mr. Clinger continued, a letter had been received from the U.S. Department of Agriculture (USDA) stating that any WIC (Women, Infants and Children) USDA Special Supplemental Nutrition Program employees funded with federal WIC dollars could not be furloughed. A second letter received from the U.S. Social Security Administration (SSA) indicated that positions funded from the SSA in the Bureau of Disability Adjudication could not be subject to furloughs. Mr. Clinger said not only were inequities being created within the state, but directives against furloughs were now being received for positions funded with federal dollars.

Mr. Clinger pointed out that because of furloughs at the Department of Motor Vehicles (DMV) for technicians that staffed the windows, wait times at the DMV offices often exceeded an hour. He clarified that furloughs were not the only reason for the wait times; the DMV had experienced position eliminations as well.

Assemblywoman Carlton observed the purpose of the furloughs was to save the state General Fund dollars. She asked what the purpose was for furloughing federally funded employees that had no effect on the General Fund.

Mr. Clinger said furloughing one employee and not another simply because of their source of funding created a significant morale problem. All employees should be treated equally.

Assemblywoman Carlton asked whether the same argument could be made because of a decrease in pay. Mr. Clinger replied a 5 percent salary reduction would affect all state employees, not just positions funded with General Fund. He said the dollar amounts being provided represented the savings associated with the General Fund, but there would also be a reduction in federal funds.

Assemblywoman Carlton asked whether federal dollars would be reverted. Mr. Clinger explained the federal funds would be transferred from salaries to the program category. In essence, funds would be freed up from salaries to be spent on programs.

Assemblywoman Carlton was still concerned that federal matching funds could be lost.

Chairwoman Smith asked whether savings from the federally funded positions that were furloughed were able to be used elsewhere or whether they were reverted to the federal government.

Mr. Clinger replied the savings realized by the Bureau of Disability Adjudication, as an example, were used to add positions in the Bureau instead of being returned to the Social Security Administration. However, the Social Security Administration had recently expressed concerns with employees in the Bureau being subject to furloughs.

Assemblyman Conklin said he remained concerned because, from a human resource point of view, people were going to behave based on the incentives given them. Employees, particularly state workers, were disincentivized in the 2009 Legislative Session, and now it was occurring again. A worker was going to see the reduction was no longer a cut in pay through hours being cut back without an effect on his retirement, but now he would be asked to work more hours with less money and affect the outcomes of his potential earnings for retirement. Assemblyman Conklin said some employees may accept the reductions, but those with 10 to 15 years of service who were very good at their jobs, had survived layoffs, and were probably the most productive employees would be the employees that other employers would seek as the economy started to recover. State employees would be underpaid and under benefited and "ripe for the picking." Assemblyman Conklin asked whether the Administration had a plan to deal with the future loss of valuable employees.

Mr. Clinger replied there was no doubt that compensation was a consideration for employment, but it was not the only consideration. Surveys had indicated employees looked first for value as an employee, followed by job security.

He would ask Teresa Thienhaus to address the second portion of Assemblyman Conklin's question.

Assemblyman Conklin remarked he agreed an employee would choose to remain in or leave a position based on how valued he felt. However, compensation was a larger portion than Mr. Clinger was indicating. He noted the proposed cuts were not the first, and he understood why they were being proposed. However, he wondered at what point the state would determine further reductions could not be made: the cost could become greater than the savings.

Mr. Clinger replied assuming a $50,000 annual salary per employee, over 11,000 positions would have to be eliminated if the salary reductions were not made. He added that 80 percent of most budgets consisted of personnel expenditures.

Teresa Thienhaus, Director, Department of Personnel, testified from Las Vegas that the number one fringe benefit in state government was job security and compensation was a lower priority. Taking into account the amount being cut in salaries and elimination of the longevity and merit pay, overall the state was still offering employees job security, which surveys indicated workers wanted most. In addition, the state offered health benefits, life and long-term disability insurance, and a pension plan. Ms. Thienhaus said the studies indicated employees wanted health benefits for themselves and their families, job security, opportunities for advancement, consistent rules and policies, work/life balance, and talented managers and leaders. The studies maintained there was a new attitude in the workforce toward employment: compensation was one part, but not the key issue.

Assemblyman Conklin replied he had received hundreds of emails from employees who were concerned about their jobs. He questioned whether employees at the Nevada State Prison, the various NSHE institutions, and school districts across the state currently felt secure in their jobs. The message being sent with the proposed budget, in its totality, was public employees should be worried.

Ms. Thienhaus pointed out that in response to questions from the Joint Budget Subcommittee on February 11, 2011, the Department had submitted different plans to enhance recruitment and retention of qualified employees.

Chairwoman Smith remarked the survey information provided by Ms. Thienhaus demonstrated concerns of the Committee, which had long maintained that a strong benefits program rather than compensation was necessary to retain employees. She observed the benefits were now being eroded as well. She asked Ms. Thienhaus to provide the Committee with a chronological list of cost-of-living increases granted to state employees over the past ten years, as well as the reductions to salaries over the same period.

Assemblywoman Carlton remarked her spouse was a state employee, and they had moved from another state to Nevada for a better job. At the time the state was treating its employees well and had a strong family healthcare program and a retirement plan. She recalled that for years, state employees had received 2 percent or 3 percent raises, but they were satisfied because of the benefits provided. Even when the economy was doing well, minimal increases were granted to state employees. Assemblywoman Carlton stated state employees were the fabric of the state, and to send them a message that when times were good, they would not receive much, and when times were bad, the budget would be balanced on their backs, would affect the future of the state. Nevada was going to have the reputation of not being a good employer. She added many employees, particularly those in public safety, did their jobs because of passion, not just the money. She emphasized everything done in this legislative session would affect families in some way. The issue was not about survey statistics and numbers; it was about families who were trying to survive and wanted to work. They should not be continuously asked to do more with less.

Mr. Clinger stated a study commissioned by the Las Vegas Chamber of Commerce showed that state employee salaries were basically on par with the private sector.

Moving to page 4 of Exhibit C, Mr. Clinger continued with his presentation:

Other Salary Items

- Holiday Premium Pay—$2.7 million in General Fund Savings.

Mr. Clinger explained that currently an employee who worked on a holiday received double time-and-a-half pay. The recommendation was to reduce the amount paid for time worked on a holiday to double time.

- Shift Differential
  - Cap the number of hours per shift eligible for shift differential pay.
  - Require a minimum of six qualifying hours to be eligible.

Mr. Clinger explained there currently was no cap on shift differential pay, and the employee had to work at least four hours of a shift between 7:00 p.m. and

6:00 a.m. The recommendation was to cap shift differential pay at eight hours and require that a minimum of six hours of a shift must fall between 7:00 p.m. and 6:00 a.m. He said the reduction reflected $2 million in savings in the Department of Corrections' budget over the biennium.

In response to a question from Chairwoman Smith, Ms. Thienhaus stated the differential pay amounted to 5 percent.

- Rural Area Differential
    - Eliminate for all new hires effective July 1, 2011.

Mr. Clinger said elimination of the current differential pay for rural area employees would result in $600,000 savings in the Department of Corrections' budget over the biennium.

Chairwoman Smith remarked that the Committee often heard about the recruiting difficulties in rural Nevada, and she wondered whether the Administration had discussions with the agencies concerning future recruitment problems without the pay differential.

Mr. Clinger responded the recommendation had come from the Department of Corrections, which would experience the greatest effect of the change. There was no indication the Department was concerned that recruitment efforts would be hampered in rural Nevada.

Ms. Thienhaus added the Department of Corrections was currently recruiting for two correctional officer training positions in Ely and Tonopah. There was an applicant pool of 685 candidates, and the job announcement did not mention the 5 percent rural differential. As far as turnover, the Department was not finding that correctional officers were leaving their employment for better paying jobs; the 5 percent differential was not a factor in employees leaving employment.

Assemblyman Aizley agreed that under the current situation, the 5 percent differential in the rural areas was not important, but when the job market started to improve and employees could select their place of employment, he thought the 5 percent would have an effect.

Continuing, Mr. Clinger stated proposed leave accrual adjustments were included in a bill draft which had been submitted. He said after review of leave policies of ten western states, the following changes were proposed:

Leave Accrual Adjustments

- Sick Leave

  - Average of ten western states was 96 hours per year.
  - Currently Nevada state employees earned 120 hours per year.
  - Propose to reduce sick leave accruals from 120 to 96 hours per year effective July 1, 2012.

Mr. Clinger noted there was no direct savings to the budget by the reduction, but there was an accrued liability with sick leave, as well as an effect on productivity. He indicated the fewer sick leave hours would discourage employees from taking sick leave and would increase productivity.

Assemblyman Bobzien said he appreciated receiving the average leave hours from the ten western states, but he wondered what the range was from the lowest to highest. Mr. Clinger said the information would be supplied to the Committee.

Chairwoman Smith asked whether the leave adjustments applied to state employees only, and whether any analysis had been done on the future long-term budget effects of the proposal.

Mr. Clinger replied the proposed changes applied to state workers only, and the changes were recommended to be long-term and permanent. Since The Executive Budget did not include leave payoffs or leave accrual, there was no fiscal effect. The liability was an issue when an employee left state service and was paid off for his sick leave up to a certain amount; Mr. Clinger had not done any calculations on those amounts. He added the effect would be on the number of hours an employee had available in a given year. There were really no direct savings to the budget: the effect would be more on productivity.

Chairwoman Smith asked whether an analysis had been conducted to determine whether the state had sick leave abuse problems. Mr. Clinger replied he did not know of an analysis, although he was aware of examples of sick leave abuse that had occurred in the past.

Ms. Thienhaus added that in the 2009 Legislative Session, the Department of Personnel was asked to provide the Fiscal Division with statistics regarding average amounts of sick leave usage. She did not recall the survey results, but she would provide the updated information to the Committee.

Chairwoman Smith observed if the proposal would have no effect on the budget, and salaries, shift differential, merit, and longevity pay were recommended for reduction, she was not sure why the changes were being made.

Assemblyman Kirner remarked that in private industry, leave accrual was a liability, but it was on the books as such. He asked whether it was on the state books as a liability. Mr. Clinger responded leave accrual was on the books as a liability, but he would have to get the dollar amounts for the Committee.

In looking at the number of sick and vacation hours state workers received, Assemblyman Kirner observed the benefits were very generous compared to the private sector. He believed the proposed reductions would still be competitive in the marketplace.

Mr. Clinger agreed. He noted that the benefits were not only generous compared to the private sector, but compared to the ten western states as well.

Assemblywoman Carlton recalled there was a time when sick leave was either used or lost, and she was not sure when the Legislature changed the policy. She did not believe the argument that reduced sick leave would improve productivity was valid, because after the policy was changed, employees seemed more likely to conserve their sick leave for eventual payoff. She requested a comparison of the usage of sick leave before the legislation was enacted and what the usage was after the legislation.

Mr. Clinger asked Ms. Thienhaus to provide that information to the Committee. He noted there were employees who would use all of their sick leave in any given year, and Chairwoman Smith replied that was a problem in every sector of employment.

Moving to annual leave, Mr. Clinger again reviewed the survey data from the ten western states and the current data for state employees:

- Annual Leave—Average of ten western states was 98 hours per year for entry level and 182 hours per year for the ending level.

- Current Nevada Annual Leave Schedule:

Years of Service	Annual Leave
0-10	120 hours per year
11-15	144 hours per year
16 +	168 hours per year

Mr. Clinger said the Administration's proposal was to add another tier to the accrual system; the other tiers would remain the same. Unlike sick leave, which could be carried over indefinitely, only 240 hours of annual leave could be carried from one year to the next. Hours in excess of 240 either had to be used or were subject to payoff if the employee was denied leave in that calendar year.

- Proposed Annual Leave Schedule (effective July 1, 2012):

Years of Service	Annual Leave
0-5	96 hours per year
6-15	120 hours per year
16-20	144 hours per year
21 +	168 hours per year

Chairwoman Smith asked why the annual leave for employees with over 20 years was not increased to the highest average for the ten western states since decisions were being based on those numbers.

Mr. Clinger replied the decision was based on the belief that the leave benefits being provided were very generous when compared to the private sector.

Mr. Clinger said he would briefly review the health insurance program changes recommended by the Public Employees' Benefits Program (PEBP) Board for fiscal year 2012, which included:

- High-deductible plan with a health savings account (HSA).
- Plan contribution of $700 per employee, plus $200 per dependent.
- Employees could make contributions to the HSAs up to the IRS limits.
- Wellness benefits remained.

Chairwoman Smith noted the Joint Budget Subcommittee had received a thorough overview of the proposed changes, and the PEBP staff had also appeared before the General Government Subcommittee.

Mr. Clinger said that in addition to the recommendations from PEBP, a bill draft request had been submitted for additional changes to the Public Employees' Benefits Program:

- Freeze the years of service for current employees' retiree subsidy effective July 1, 2012.

- Eliminate retiree subsidy for all employees hired or rehired on or after July 1, 2011.

Mr. Clinger added that with the addition of PEBP's recommendation for health savings accounts (HSA), employees could make contributions to their HSA, which he said could become a health retirement savings account that could be built up with employee contributions and investments, similar to a 401(k), specifically for health costs.

Mr. Clinger pointed out the reason changes to the retiree subsidy were being recommended was the state currently had a projected $3.3 billion unfunded liability in retiree health insurance. Prefunding of the liability was started six years ago, but through the budget reductions, the prefunding had been eliminated. He added the accrued liability as of July 1, 2009, was $1.9 billion.

Assemblyman Aizley recalled Mr. Clinger had earlier said attempts were being made to treat all employees equally. He asked whether that extended to all retirees being treated equally as well.

Mr. Clinger replied the changes proposed in the bill draft would not affect current retirees. Current employees' benefits would be frozen as of July 1, 2012, and new hires would be eliminated from the subsidy benefit as of July 1, 2011. He added PEBP had proposed changes that would affect employees separately.

Mr. Clinger went on to discuss the proposed PEBP changes for part-time state employees included in The Executive Budget:

- Currently employees who worked at least 80 hours per month received the same health benefit subsidy as full-time employees.

- Other benefits such as sick leave, annual leave, and retirement were prorated.

- The PEBP proposal provided for employees who worked between 50 percent and 74 percent a subsidy equal to 60 percent of a full-time employee.

- Employees who worked at least 75 percent would receive the full-time subsidy.

Mr. Clinger explained the reason for the proposed change was there was a large discrepancy between the benefits a part-time employee received versus a full-time employee. The benefits for a part-time employee working 50 percent or more comprised a much larger percentage of his salary than for a full-time employee. The recommendation was an attempt to make the subsidy equitable.

Chairwoman Smith said it was her understanding that during the Joint Budget Subcommittee hearings concerns had been expressed with the budget amounts used in this area. She asked whether Mr. Clinger had new information.

Mr. Clinger replied the questions specifically related to calculations for the Nevada System of Higher Education. He explained when the budget was developed, the 60 percent subsidy calculation was applied to all 0.50 to 0.75 full-time equivalent (FTE) positions. However, in NSHE and other accounts, the same individual could occupy two 0.50 FTE positions and was therefore employed full time. He said the figures were currently being recalculated.

Mr. Clinger proceeded to present proposed changes to the Public Employees' Retirement System (PERS). He explained the changes would not directly affect the current budget, but there would be effects in the future. A one-shot appropriation of $10 million had been included in this biennial budget to fund the PERS employees' buyouts because of eliminated positions and payoffs of accrued leave.

PERS Buyouts

Mr. Clinger explained the current policy for positions eliminated because of budget reductions provided that the employer must purchase up to five years of PERS service credit for the individual being laid off. The Administration proposed the following change to the current policy:

- Remove the provision for all employees hired on or after July 1, 2011, and replace with six months of subsidized health benefits (the first six months of COBRA would amount to the same subsidy as the employee received while employed). This policy would apply to permanent employees laid off as a result of a budget reduction.

Mr. Clinger clarified COBRA was a post-employment health insurance provision. He added the proposal would provide a much lower cost to the state when positions were eliminated resulting in layoffs.

Assemblyman Atkinson asked what the average monthly premium was for an employee currently and what the premium would be under COBRA.

Jim Wells, Executive Officer, Public Employees' Benefits Program, responded the premium would depend upon the tier of coverage selected by the employee. The monthly premium for an individual employee only was about $44; the premiums would increase with coverage for spouses, children, and family. The COBRA plan required payment for both the employee and employer share, and the current monthly premium was approximately $520.

Chairwoman Smith affirmed the state would pay the full COBRA premium for six months in lieu of the PERS buyout. Mr. Clinger replied she was correct, and coverage was available for 18 months.

PERS Reform

Mr. Clinger said the Governor had submitted a bill draft request (BDR) for reform of the Public Employees' Retirement System. He reviewed the highlights of the reform proposals:

- The hybrid plan would include a lower defined benefit plan coupled with an optional defined contribution plan.
- Employees and employers would contribute equally for the first 12 percent of total contributions to the defined-benefit portion of the plan.
- The employer's maximum contribution would be capped at 6 percent for regular employees and 10 percent for police/fire members, approximately half of the current contribution amount for employees in PERS.
- Employees would be fully vested after 5 years of service and would not be allowed to purchase additional years of service credit.
- The defined benefit plan multiplier would be 1.25 percent for each year of service; the current multiplier was 2.5.
- Retiree compensation would be calculated on the average of the last 5 years of service; the current calculation was based on the average of the last 3 years of service.

Mr. Clinger added the rates as of July 1, 2011, would be 23.75 percent for regular members and 39.75 percent for police/fire members. He said the reforms basically would cap the state's liability for retirement contributions at the 6 percent level.

Assemblyman Aizley asked what effect the changes would have on the professional employees at the Nevada System of Higher Education. Mr. Clinger replied the PERS changes would not affect the professional employees. There were some current System employees on the PERS system, but the changes would only apply to new hires.

Chairwoman Smith asked Mr. Clinger to explain which employees in the state would be affected by the PERS reforms.

Mr. Clinger responded the reforms would apply to all future hires, not just employees of the state, but any employees currently in the Public Employees' Retirement System.

Assemblyman Hickey asked the reason for the change in calculation for retiree compensation from 3 years to 5 years. Mr. Clinger said the purpose was to take an average from over a longer period of time, which would lower the state's liability.

Assemblyman Conklin asked whether state employees would be eligible for Social Security under the new plan. Mr. Clinger responded he did not believe so.

Assemblyman Conklin observed that under the PERS plan, employees would pay 12 percent, which was nearly equal to what would be paid into Social Security, but they would actually be vested for less. An individual with 30 years of service would be vested at 37.5 percent of his salary. He surmised that employees would be offered the equivalent of Social Security, for which they were not qualified, and the state would be contributing in the defined contribution of the plan.

Mr. Clinger replied Assemblyman Conklin was correct. In addition to the defined benefit component, the recommendation included a defined contribution component that would be matched up to 2 percent. The state would match 50 percent of employee contributions up to 4 percent of the employee's pay, with an employer maximum contribution to the defined contribution plan of 2 percent. Mr. Clinger added this portion of the plan would be portable, which would encourage employees to maximize savings for retirement.

Assemblywoman Carlton was concerned with the proposal to add the 401(k) component because of the risk involved. She asked whether the proposal addressed the fact that many state employees' Social Security was substantially reduced because they had worked for the state and did not contribute to Social Security.

Mr. Clinger replied he was not aware of any discussion concerning that provision.

Assemblyman Kirner observed the proposal to keep a defined benefit in place with the multiplier would result in a much better benefit under the state plan than under Social Security. He believed the state plan was much safer and more reliable than Social Security as well.

Assemblywoman Carlton requested information on how state retirees were currently being treated, what the monthly benefit amounts were, and what the total effect of the proposed changes would be on their standard of living and quality of life.

Mr. Clinger replied the information provided at this meeting consisted of the highlights of the proposal. A bill draft request (BDR) would be coming forward, and further information could be provided when the bill was heard in the Committee.

Chairwoman Smith requested that Mr. Clinger be prepared to discuss whether an actuary had studied the proposals, responses on the Social Security questions, and the budget effects. From past information, she understood the changes would initially involve costs to transfer to the new plan. She asked Mr. Clinger when the bill would be introduced.

Mr. Clinger replied the BDR was submitted with all of the Administration's other budget bills.

Assemblyman Aizley again asked how the changes would affect the professionals at the Nevada System of Higher Education (NSHE). Mr. Clinger replied the changes would not apply to the NSHE professional staff now or in the future.

Chairwoman Smith asked whether the actuary had been involved in developing the plan or whether a study was contemplated. Mr. Clinger replied he was not sure whether PERS had reviewed the plan. He did not believe the actuary had calculated the numbers and consequences of the plan.

Assemblyman Conklin referred to a policy study from the American Association of Retired Persons (AARP) on how benefits were calculated for Social Security. He observed the state retirement plan would be better than Social Security for employees at the higher end of the pay scale, $4,000 a month and above. However, employees earning below that monthly amount would receive 50 percent of their average monthly pay indexed to today's dollars, which would result in a higher benefit than the state plan. Assemblyman Conklin remarked the state certainly had a number of employees making less than $4,000 a month, and he suggested when evaluating the plan, the Administration should consider the population that would benefit from Social Security.

Chairwoman Smith asked Mark Stevens to address Assemblyman Aizley's questions concerning retirement contributions for professional staff at the NSHE.

Mark Stevens, Vice Chancellor for Finance, Nevada System of Higher Education, explained the contribution rate for NSHE professionals was statutorily tied to the contribution rate of the Public Employees' Retirement System. Depending on how the BDR was written and whether the link between the two contribution rates was retained, the rate for NSHE professionals would decrease. If the link was severed and the current rate was retained, there would not be an effect.

Assemblyman Bobzien questioned the definition of a new hire. If a state employee currently in PERS was laid off and then rehired, he asked whether the employee would continue under the current PERS plan or whether he would be moved to the new system as a new hire.

Mr. Clinger was unsure of the answer. There were certain rules and restrictions that PERS would have to address in that situation.

Chairwoman Smith added she would also like clarification concerning situations other than layoffs, such as when an employee voluntarily left state service for a period of time and returned. She also requested that the Committee receive assurance that the new plan would qualify for exemption from Social Security.

Chairwoman Smith asked for public comment concerning the presentation.

Craig Stevens, Director of Government Relations, Nevada State Education Association (NSEA), testified NSEA was in strong opposition to the Governor's salary reductions. He asked how the sacrifice could be considered shared when educators were taking obscene amounts of cuts. The Governor was balancing the budget on the backs of educators. He questioned how Nevada would recruit good educators into the state in the future. The NSEA was in favor of a pay-for-performance system, but the system should be enhanced and not replaced. Taking away steps and replacing them with a pay-for-performance system would create a huge inequity. Mr. Stevens said the Governor's budget once again hurt the most at-risk students and educators who wanted to teach at the most at-risk schools. The salary scale had a purpose: educators may stay in the same classroom for their whole career. A teacher's career ladder did not exist unless he wanted to become an administrator, and teachers must receive raises as most other employees received as they moved up their career ladder. Nevada had always valued longevity in a classroom and attainment of a master's degree. He said the system laid out by the Governor was just simply unfair to educators.

Ronald Bratsch, American Federation of State, County, and Municipal Employees (AFSCME) Local 4041 and an employee at the Department of Corrections (NDOC), testified the NDOC Director and wardens seemed to be cutting staff and putting employees at risk. Recently a culinary worker at Ely State Prison was hit in the back of the head with a paddle, a large pot stirrer. He read a text message from the worker's son-in-law indicating he had suffered brain injuries and was in critical condition. At the Northern Nevada Correctional Center, a 70-year-old female employee was jumped by an inmate, and there was not appropriate staffing to react fast enough to protect her as should have been done. Mr. Bratsch understood state employees would be receiving a 5 percent pay cut, but cuts in the past two years had totaled 20 percent. He maintained if a state worker did his job at a satisfactory or above standard rate, he should receive a 4.2 percent raise as he was promised when hired. Each 4.2 percent increase amounted to approximately $2,500 a year, and he and other coworkers had two increases withheld, along with longevity pay. He suggested the steps, merit increases, and longevity be put back in place and, to be fair, reductions be taken across the top.

Mr. Bratsch said he put his life at risk on a daily basis, and through the decisions of the NDOC Director and wardens, his life was even more endangered. Bills were being submitted to try to keep the level of security at the prisons at a safe level, but the Director and his staff could decide to cut staff further at their will. He said NDOC was considering even further cuts, including removing the senior rank, which would result in the loss of a promotional opportunity, and eliminating bilingual pay: Spanish-speaking officers would be expected to perform additional duties with no compensation.

Regarding job security, Mr. Bratsch said closing the Nevada State Prison would not affect him directly, but it did affect his coworkers, adding more stress to the regular stress of the job. He noted not all state employees worked holidays, but public safety employees did. Now they would not only be taken away from their families on holidays, they would be paid straight time rather than holiday pay. He did not agree that was fair. He thanked the Committee for its time.

Chairwoman Smith asked Mr. Bratsch to extend the Committee's concern to his coworker and the coworker's family.

Jan Gilbert, representing the Progressive Leadership Alliance of Nevada, testified the cuts, beyond the human effects on every person who worked for the state, also affected the economy. Economists had said over and over again that cuts were much worse on the economy than tax increases. Ms. Gilbert was disturbed to hear the amount of money to be taken from the economy, thus worsening the recession the state was already in. The cuts were not only going to hurt individuals, they were going to hurt whole communities by taking money out of the economy.

Ms. Gilbert said corporate profits in the state were an area that could be approached. Nevada was one of three states that did not have a corporate profits tax, which in her opinion, amounted to a lot of money that could be brought into the state without hurting small businesses and the economy. She hoped the Committee would consider her suggestion.

Jim Richardson, Nevada Faculty Alliance, testified several hundred faculty and staff at the universities had been notified that if the Governor's budget was approved, their lives would be totally disrupted. He said it was a very sad time in the state for a number of reasons. Looking to the future, he wanted to make the following points:

- It was true that System professional salaries had been competitive. It was also true that if the budget was approved, faculty would go four years without a raise as well as have their salaries cut by 5 percent, while at the same time health benefits would deteriorate and become more costly.

- Today's discussion of PERS added to the burden of trying to maintain a university system. Unless the Legislature decided to make a special arrangement to continue the contribution levels for retirement for university professional employees and not tie them to the new proposal, the professional employees would see their compensation decrease significantly.

- The fringe benefits for professional employees were 6 percent to 7 percent lower than the average fringe benefits for other universities and community colleges across the country because the state did not participate in Social Security.

- If the Legislature considered the Governor's new PERS plan, he hoped it would take into account that it would be more difficult to hire and retain faculty members in NSHE.

Dr. Richardson said the policy of reducing benefits for part-time employees was penny-wise and pound foolish. He had two part-time employees who were paid at much lower rates than they should command given their credentials, but they did so because they had access to healthcare benefits. His employees may decide to leave if the subsidy rate was reduced to 60 percent, or he would have to find the funds to pay them at least 75 percent time to retain them. He noted the policy only saved $1.6 million and, as Mr. Clinger had indicated, the savings were probably less.

Joyce Haldeman, Clark County School District, expressed grave concern with the proposed cuts in funding for educational attainment. She said payment for educational attainment was regarded as a promise made to teachers. She was surprised to learn that the plan was to rescind the salary supplements to current teachers' salaries for educational attainment. A teacher would be receiving a 5 percent salary cut, as well as elimination of the additional benefit for receiving a master's degree, which might result in financial disaster. Additionally, looking at effective ways to incentivize good teaching, she recognized that money was a key factor. She said the proposal was to replace the benefit given to teachers for educational attainment with $20 million to use for pay for performance, which she believed was an unequal trade and could not work. Teachers would be taking deep cuts based on the proposed plan.

Chairwoman Smith was not sure that it was well understood, even in the previous K-12 budget hearing, that the budget would eliminate $141 million in longevity and degree attainment pay and replace it with $20 million. She said the plan would completely dismantle the current pay system for educators.

Marty Bibb, Retired Public Employees of Nevada (RPEN), testified the effects on members of PERS of Social Security was a question well asked, and the answer needed to be determined because, unlike all but 11 other states, Nevada's employers and taxpayers did not have to contribute Social Security funds for members of the PERS. He found the proposed changes interesting, because the move to a defined contribution system would be historic relative to PERS. He said in the 1980s, Nebraska went exclusively to a defined contribution retirement system. In the several years since, the state found that because of healthcare improvements and other considerations, individuals were living longer, and five or six years ago, a defined benefit option was added back into the state's program. Because some employees were outliving their benefits, they found themselves on indigent care, which once again burdened the state's budget.

Mr. Bibb understood that in Nevada, the employer's portion of contributions into the defined benefit retirement system amounted to approximately 2.4 percent of all employers' budgets. The county-by-county breakout of checks PERS paid out indicated the return to the economy was somewhere in the range of $1 billion per year. He noted that the Nevada PERS was in the top third as far as rate of return of all public employee retirement systems, and it was in the bottom third in terms of risk, which was precisely where a system should be. The PERS had historically been very carefully managed, with a rate of return over the past 25 years of 9.5 percent, net of fees. The rate of return included reaching a low in March 2009 of about $15 billion in the fund, but which had increased to a current balance of approximately $24 billion.

Mr. Bibb continued by noting PERS had a plan in place for a rolling 30-year average to retire the future debt, and certainly part of the contribution rate into PERS helped to reduce the unfunded liability. He speculated there were ups and downs over the past five years in contribution rate increases and decreases, which tended to react to current market conditions. The average retirement benefit was currently in the range of $2,500 for those in the regular fund and $4,000 for those in the police/fire fund. He found it interesting that 49 percent of PERS recipients had a retirement benefit of less than $2,000 which, in most cases, would not include any Social Security benefit or one that was greatly reduced because of the Social Security windfall elimination provision.

Mark Coleman, Deputy Director, Clark County Association of School Administrators and Professional-Technical Employees, remarked public employees, including firemen, policemen, and teachers, were being asked to work harder and longer, stay committed, and get paid less. He said he hoped the Committee realized that something was wrong.

Vishnu Subramaniam, Chief of Staff, American Federation of State, County and Municipal Employees (AFSCME) Local 4041, testified his organization was opposed to the Governor's proposed budget cuts and salary reductions. He recalled the Director of the Department of Personnel had said the major factors that should be taken into account were employee value and job security, but he wondered what message was being sent to state employees when their pay, medical benefits, and pensions were being cut. He questioned current job security when there were potentially 1,000 layoffs being proposed: NSHE was notifying employees of their layoff at the very moment, and 80-plus presentence investigators were being eliminated. Mr. Subramaniam said if the argument was to not worry about salaries because the state would give you job security, then the Administration was being disingenuous; there was no job security for state employees, as was being learned every day.

Continuing, Mr. Subramaniam said Assemblywoman Carlton had questioned how there could be savings to the state when federally funded positions were taking 5 percent cuts, but there were no cost savings to the State General Fund. On the compensation side, state workers were doing more with less. Some employees in the Division of Welfare and Supportive Services had caseloads as high as 900, which was double their previous caseloads. He said the state expected state employees to do more, work harder, manage double caseloads, and increase their workload, while receiving salary and benefit cuts, pension cuts, and layoffs. This was not how to value employees, and the argument that job security was more valued than other factors was not valid.

Carole Vilardo, Nevada Taxpayers Association (NTA), said she could sympathize and empathize with the comments she had heard from public employees; they were the same comments she had been hearing from NTA membership for four years. There were no easy choices. She had only one request of the Legislature: whatever was done, however it was done, make sure it would be sustainable. The phenomena of an economic downturn were not isolated, and the state had not experienced a downturn of this level before. The state spent every cent it had during the good times and then did not have sufficient backup during the bad times, because it did not consider what was totally sustainable. Ms. Vilardo urged the Legislature to consider all bills insofar as sustainability for the future. There would be hard choices, but in some cases the Legislature would be able to blend, marry, and avoid some of the choices and put them into a positive spin. She wished the Committee well and offered to help in any way possible.

Assemblyman Bobzien stated he valued Ms. Vilardo's perspectives and her presentation of tough information to be considered going forward. He had always appreciated the fact she approached the questions and issues from a standpoint of fairness and equity, and as some of the changes were contemplated, the principle that they would be applied to future scenarios—future employees, future teachers and future university faculty—was a good perspective to have. He shared the Committee's concerns about the potential cuts to the compensation system and the benefits, but he thought they were easier to accept because, in most cases, they had been couched in perspective.

Assemblyman Bobzien asked Ms. Vilardo to opine on the idea of eliminating the funding for educational attainment. He said the teachers he represented in his district wanted to advance and do better as teachers, and in order to do so, they pursued graduate education under difficult circumstances, which was a long-term investment. He understood the proposal going forward, but he found it appalling that funding would be taken away from those teachers who had already earned their advanced degrees.

Ms. Vilardo responded the matter was not easy to opine on, but in going forward, she agreed with Assemblyman Bobzien: changes would be necessary. She said there would still be issues of not having enough funding, and even if taxes were added to the mix, the state would still not have enough money to do everything. Part of the discussion must be whether the changes would be temporary and whether they could be made up in the future, which was part of sustainability. She said it was hard for her to opine on something she had not seen.

Assemblyman Bobzien remarked he thought sustainability, certainty, and commitment had to apply to all of the decisions presented to the Legislature.

Ms. Vilardo agreed, adding that many of the legislators would be looking at new services with an outcome base, which she thought would help them with the sustainability issue. She looked forward to a better dialogue and conversation that had not been necessary during the good times.

Chairwoman Smith said she would pursue clarification on whether teacher longevity and educational attainment were proposed to be frozen or totally eliminated. She had heard reference to both in testimony, and she wanted clarification prior to the next K-12/Higher Education Subcommittee hearing to understand the numbers and the implications.

Craig Hulse, representing Washoe County School District, testified school district employees were worried about losing their jobs. A 5 percent pay cut to the Governor’s budget and a 25 percent contribution to PERS amounted to an 11.65 percent cut in pay for teachers and administrators. Salaries and benefits were locally bargained, and the challenges would get passed down to the local entities. Mr. Hulse pointed out that longevity and degree attainment were also bargained locally. He and his colleagues from Clark County School District had no idea the proposal would repeal current funding received by teachers for their degree attainment. The 11.65 percent pay cut, combined with taking away an additional four or five years to attain an advance degree, would equate to close to a 20 percent total reduction.

Chairwoman Smith noted testimony was also received in the last K-12/Higher Education hearing that the total reduction would be close to 20 percent.

Chairwoman Smith asked Vice Chair Conklin to conduct the hearing on Assembly Bill 241.

Assembly Bill 241: Creates stabilization accounts for public education funding. (BDR 31-147)

Vice Chair Conklin opened the hearing on Assembly Bill 241 and welcomed Assemblywoman Smith to the testimony table.

Assemblywoman Debbie Smith, Washoe County Assembly District No. 30, explained A.B. 241 would create a rainy-day fund for both K-12 and higher education; a similar bill was passed in the 2009 Legislative Session and subsequently vetoed by the Governor. She believed the state needed to consider how to plan for the long term and how to mitigate the effects on education systems during a financial downturn. She noted A.B. 241 was significantly different than the 2009 bill, although some of the provisions and the basic concepts of creating the fund were the same.

Assemblywoman Smith referenced a handout "A.B. 241: Securing Financial Stability for Nevada's Education System" (Exhibit D) and pointed out Nevada currently ranked 43rd in per-pupil public school expenditures in grades K-12 and 46th in higher education per-capita expenditures. The K-12 education system had sustained major cuts over the past several years. In fiscal years 2008 and 2009, $176.2 million was cut: textbook funding, library books, and funding for programs such as gifted and talented. In the 2009 Session, $286.7 million was cut from the same programs. Higher education had endured cuts totaling $450 million over the last four years, which involved lost faculty positions and degree programs, as well as significant increases in student fees. She added that university programs were recommended for further cuts during the current budget crisis.

Continuing, Assemblywoman Smith said the K-12 education system had never benefitted from the boom times, which was also probably true for state employees and their cost-of-living increases. There had not been any significant changes to K-12 funding during the good years. She recalled in 2005, an interim legislative adequacy study was conducted on how education was funded in Nevada. The results of the study were quite accurate as far as the shortfall now being faced and the challenges to strengthen the education system.

Assemblywoman Smith recalled that she, Joyce Haldeman, and Dale Erquiaga, currently one of Governor Sandoval's key staff members, conducted meetings around the state to discuss the results of the adequacy study and the status of education in the state. The discussions also included the fact that tax increases were approved by the taxpayers of the state to support education, but many of those dollars were ultimately reverted to the General Fund. She said the premise of the presentation was to enlighten the public about the status of education funding, as well as the fact money that was expected to fund education actually did not: education funding had supplemented the General Fund for a very long time.

Assemblywoman Smith explained the rainy-day fund would also be used to incentivize the education systems, including higher education, and to better plan long-term, become more frugal and cost-effective, and set aside funds for times of crisis. She explained the K-12 system and higher education would have separate rainy-day funds to be used for a true financial crisis. Several other states that were looking at long-term budget planning were creating rainy-day funds, and it was time for Nevada to do the same.

Assemblywoman Smith remarked cutting the education system should be the last resort when facing a financial crisis, and providing some protections for the future would be beneficial to the operation of the state. In addition, there could be added financial benefits to the state, such as enhanced bond ratings.

Assemblywoman Smith said she would address certain sections of the bill that related to K-12 education, and Mark Stevens would review the provisions applicable to the Nevada System of Higher Education. She noted the 2009 bill had focused largely on revising the uses of redevelopment funds. Given the current economic situation and the fragility in the redevelopment area, she had removed those provisions and focused on reversion funds only. Assemblywoman Smith proceeded with her review of various sections of A.B. 241:

- Section 2, subsection 1, created the K-12 Public Education Stabilization Account within the Fund to Stabilize the Operation of the State Government.

- Section 2, subsection 2, provided that the State Controller shall, at the close of each odd-numbered fiscal year and before the issuance of the State Controller's annual report, transfer from the State General Fund:

  (a) Fifty percent of any money reverted from the State Distributive School Account (DSA) at the close of the previous fiscal year to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379.

  (b) Fifty percent of any money which was reverted from the State Distributive School Account at the close of the previous fiscal year to the K-12 Public Education Stabilization Account.

Assemblywoman Smith recalled the Account for Programs for Innovation and the Prevention of Remediation was created under Governor Guinn's leadership as a block grant fund for school remediation and innovation. It started with a balance of $100 million in 2005, but that money had been taken through the course of the last few rounds of budget cuts. A small portion used to fund full-day kindergarten teachers was still in the account, but the account now held the Governor's new block grant dollars. Assemblywoman Smith said the issue was complicated, and she would prefer to postpone further discussion of section 2, subsection 2, paragraph (a) until a later date. She was most focused on section 2, subsection 2, paragraph (b) that created the rainy-day fund for purposes of a financial crisis.

Assemblywoman Smith noted there was a cap on how much money could be accumulated and a process for how the money could be expended from the K-12 Public Education Stabilization Account (rainy-day account). She explained the reversion funds would be deposited to the rainy-day account from two sources:

- Excess funds when student enrollment as projected in the budget came in lower than projected. Assemblywoman Smith recalled that during the first round of budget cuts in December 2008, DSA reversion funds were one of the first sources to offset the budget shortfall. However, she believed those funds were part of what was anticipated to be budgeted for K-12 education, so the funds should not have been a loss to the education: they should have been kept in the K-12 budget.

- Currently, when local revenues came in higher than anticipated, they would also be reverted to the General Fund. Over time, a large amount of local revenues had been reverted, and voters had always assumed reversions from designated local funding would go to education. Assemblywoman Smith explained the bill provided that 50 percent of excess local revenue would be deposited to the rainy-day account as well.

Assemblywoman Smith pointed out that section 2, subsection 3, stipulated the balance in the K-12 rainy-day account must not exceed 20 percent of the combined sum of the anticipated apportionments, the local revenue funds, and the class-size reduction money, which had been changed in the Governor's current budget.

Assemblywoman Smith said the process for expending the funds from the rainy-day account was very carefully developed and provided that the Interim Finance Committee or the Legislature would make allocations from the fund based on a financial downturn. Provisions were also included outlining the process if the Legislature was not in session. She believed measures were in place to protect the funds and ensure they would be used at the right time and for the right reasons. She emphasized the purpose was to provide funds to education during a financial downturn in the economy rather than use the state Fund to Stabilize the Operation of the State Government (state Rainy-Day Fund).

Mark Stevens, Vice Chancellor for Finance, Nevada System of Higher Education, explained section 6 of A.B. 241 created the Nevada System of Higher Education Stabilization Account within the Fund to Stabilize the Operation of the State Government. He outlined the major provisions of section 6:

- Any amounts that remained unexpended at the close of the fiscal year from budget accounts within the Nevada System of Higher Education would be transferred by the State Controller to the Higher Education Stabilization Account before the issuance of the Controller's annual report in the fall of each year. The amounts unexpended at the end of the fiscal year would not be reverted to the General Fund.

- The balance of the account must not exceed 10 percent of the combined sum of General Fund appropriations plus property tax revenues authorized to support NSHE.

- Interest earned within the account must be credited back to the account.

- Funds within the account were not to be used to replace or supplant money otherwise available from other sources for the operation of the System.

- Funding could be accessed if NSHE was required to set aside reserves pursuant to *Nevada Revised Statutes (*NRS) 353.225 or other specific statute. *Nevada Revised Statutes* (NRS) 353.225 provided authority to the Chief of the Budget Division, with approval in writing from the Governor, to require agencies to set aside reserves of General Fund appropriations that had been approved to operate an agency if needed to address a financial emergency that might arise in the fiscal year.

- If NSHE was required to set aside reserves at the direction of the Budget Director, the Board of Regents may submit a request for an allocation from the Higher Education Stabilization Account in one of two ways:

- Ø Funds could be allocated by the Legislature when it was in session by resolution should the Legislature determine an allocation should be made.

- Ø If the Legislature was not in session, the Board of Examiners could recommend an allocation from the account, and the Interim Finance Committee would review the request and make a final decision on whether an allocation should be made.

Mr. Stevens said the Nevada System of Higher Education had historically not reverted large amounts to the General Fund at year-end. The current incentive was to expend all General Fund appropriations within a budget account, since there was no provision to carry forward funds to the next fiscal year, or to place unexpended funds in the state Rainy-Day Fund. He said it was anticipated that the System would generate more unexpended funds at year-end in future years if A.B. 241 passed, which would allow unexpended funds to be placed in an account that could be used to offset budget reductions when the next economic downturn occurred.

At Assemblywoman Smith's request, Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, explained that section 7, subsection 2, stipulated that the percentage of reserves set aside for K-12 education must not exceed the average percentage of reserves for all other accounts and funds that included General Fund appropriations for the operation of all departments and agencies of state government. Subsection 3 required the Chief of the Budget Division to submit a request to the Legislature, or if the Legislature was not in session, to the Interim Finance Committee, to determine whether an allocation should be made from the K-12 Public Education Stabilization Account in lieu of setting aside a reserve in the Distributive School Account and certain other funds and accounts for education.

Assemblywoman Smith said she appreciated the Committee's attention to the problem of K-12 education funding. She thought the bill would lend stability to education budgeting during tough economic times and encourage fiscal responsibility and more forward thinking in long-term planning, as well as help mitigate short-term crises. She added there was still much work to be done on the bill, including consideration of the fiscal effects.

Vice Chair Conklin noted there was a requirement that not more than 50 percent of the funds in the K-12 rainy-day account could be allocated in even-numbered years. He asked the reason for the provision.

Assemblywoman Smith replied the Legislature was not in session during the even-numbered years, and the provision would mitigate how much could be spent during the interim.

Mr. Stevens explained the provision was placed in the 2009 version of the bill at the request of Speaker Barbara Buckley, and the thinking was that 100 percent of the money in the rainy-day account should not be spent in the first year of the biennium because there would still be needs in the second year of the biennium.

Vice Chair Conklin questioned the wisdom of allowing the account to be drawn down to zero in any biennium as the bill implied. He suggested a stop-gap provision might be needed to prevent the account from ever being fully depleted because an economic crisis could extend beyond two years.

Continuing, Vice Chair Conklin referred to section 2, subsection 3, of the bill, which stipulated the balance in the K-12 rainy-day account must not exceed 20 percent of the combined sum of the DSA reversions and the local revenue portions in the account. He wondered how much money would be needed in the account to be prepared for a downturn and asked how a cap of 20 percent was chosen.

Assemblywoman Smith replied the K-12 rainy-day account was capped at 20 percent and higher education at 10 percent. She said balance was needed among education and other areas of state government, and the point was to provide a savings account—not to try to save the whole system. The rainy-day account would not be enough to resolve another crisis of the current magnitude.

Mr. Stevens explained the 10 percent figure for the higher education rainy-day account was suggested by the System because it wanted to have enough money to mitigate the next economic downturn without too much money being set aside.

Assemblyman Goicoechea was concerned that even though the rainy-day accounts were meant to be used for emergency purposes, their existence would be considered during the budget process.

Assemblywoman Smith said she agreed, adding that the state needed to think in a more long-term and broader way for planning purposes. This process was part of the bigger discussion about how the state would move forward and prepare to be sufficiently funded.

In response to a question from Assemblyman Aizley, Assemblywoman Smith clarified the rainy-day accounts for K-12 and higher education would be separate accounts because the monies would be accrued in different ways and had to be allocated separately.

Mr. Aizley asked whether the higher education account separated the different institutions in the System. Mr. Stevens replied it currently did not, but it would be a policy discussion between the System and the Board of Regents. It was his opinion that funds reverted by each institution should be available for use by that institution.

Assemblyman Grady asked whether an individual county would be able to access the funds it reverted or whether the problem would have to be statewide before the K-12 account could be accessed.

Assemblywoman Smith replied the intention was that the problem would have to be statewide during a financial downturn to stabilize K-12 funding.

Assemblyman Goicoechea observed there would be local government school support funds in the K-12 rainy-day account and asked whether it could be determined which counties would revert funds and what portion of the account were local government funds. He noted the university campuses would likely be able to access their portion of the funds.

Mr. Combs explained the local dollars would not actually be reverted; the local dollars would be freeing up the state funds for reversion.

Assemblyman Hardy asked whether the higher education rainy-day account could be used to increase salaries and benefits for the employees.

Mr. Stevens replied the only time the Higher Education Stabilization Account could be accessed based on the current language in the bill was if the Budget Director, with the approval of the Governor, required the System to satisfy reserves to deal with a financial crisis. The Budget Director would indicate to the System that a specific amount of money needed to be designated for reversion to the General Fund to deal with the financial crisis. At that point, the Board of Regents could request from either the Legislature or the Board of Examiners and Interim Finance Committee an allocation to offset some of the reserves being requested by the Budget Director.

Joyce Haldeman, Clark County School District (CCSD), stated CCSD was extremely supportive of A.B. 241. She said it was disappointing that the previous bill, Assembly Bill No. 458 of the 75th Session (2009), was passed by both committees and vetoed by the Governor, and the Legislature was one vote short of overriding his veto.

Ms. Haldeman said A.B. 241 was a common-sense bill that embraced a common principle: when available, money should be set aside for future needs. She pointed out the funds were earmarked, dedicated, and collected in the name of education, and they should be saved for educational purposes.

Ms. Haldeman referred to a document that had been distributed (Exhibit E), a one-page chart from the Las Vegas Chamber of Commerce education briefing series titled, "Funding Schools in Nevada" (December 2010). The chart reflected a history of net reversions to the State General Fund and the estimated historical effect of legislative reductions to basic support per student.

Referring to a column titled "Reverted from Distributive School Account to State General Fund," Ms. Haldeman noted the various amounts assessed through property taxes for education were substantial. Some taxpayers had asked her why education was always struggling when so much of their taxes went to education, and she had to explain the funds were meant for education but were reverted to the General Fund for other purposes. The next column, she explained, was the amount of supplemental appropriations required by the Legislature to match the per-pupil funding guaranteed by the state each biennium. She reviewed the total figures:

- 2003-05 Biennium: $175.8 million was reverted from the Distributive School Account.
- 2005-07 Biennium: $163.7 million was reverted.
- 2007-09 Biennium: No reversion, but a supplemental appropriation of $323.8 million to the DSA was required for per-pupil match.

Ms. Haldeman noted it was ironic that she and Assemblywoman Smith had conducted community discussions during a "road trip" in 2006, and the following biennium the Legislature had to find $323.8 million to make up the shortage in per-pupil funding. Had the rainy-day fund existed at that time, it would have mitigated the $323.8 million appropriation to supplement the Nevada Plan because the guaranteed per-pupil funding did not come in. She pointed out the chart did not reflect all of the cuts that had been made to education over the years. Some went as far back as 2001, and those cuts were never made up. It had been especially difficult for educators to watch the dollars earmarked for education revert to the General Fund and see the state make substantial budget cuts, increase class sizes, and eliminate programs. Ms. Haldeman said the rainy-day account was welcomed by educators to help mitigate the cuts in bad times and avoid further cuts as those currently being experienced.

Continuing, Ms. Haldeman said if money continued to come in higher than what was allocated with the per-pupil funding, it could be disseminated back to the education programs that were known to work to improve student achievement. There had been many pilot programs over the years that were funded and proven to work, but could not be fully implemented because support was taken away. Ms. Haldeman stated that the school districts knew what to do and wanted to do it, and A.B. 241 would go a long way toward getting there.

Vice Chair Conklin called for public testimony in support of A.B. 241.

Jim Richardson, Nevada Faculty Alliance, testified his organization viewed A.B. 241 as an excellent bill that had been needed for years, and he urged the Committee's support. It actually incentivized savings and efficiency. He concurred with Assemblyman Aizley's concerns that there may need to be preferred access to the higher education rainy-day fund to allow NSHE institutions to access their respective reverted funds, but he urged the Committee to not address the issue in the bill. He was confident the Board of Regents would develop a policy that would make sense.

Craig Stevens, Director of Government Relations, Nevada State Education Association (NSEA), testified that for all of the reasons stated in the presentation, the NSEA was in full support of A.B. 241, and he thanked Chairwoman Smith for submitting the bill. During poor economic times, students still had to be educated, and the bill would give the state the ability to continue successful programs through crises so that students' quality of education would not be determined on the boom and bust cycles of Nevada's economy.

Mark Coleman, Deputy Director, Clark County Association of School Administrators and Professional—Technical Employees, stated Ms. Haldeman and Mr. Stevens had expressed his group's support. He thanked the Committee for its support.

Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of Education, expressed full support for A.B. 241 on behalf of the Department of Education. He said the K-12 community had been seeking similar legislation for a number of years. The bill provided a straightforward process, even though it might be limited regarding access to the funds. Dr. Rheault said starting programs and then stopping them because of lack of funding probably affected K-12 students more than any other group in the state.

George Ross, Las Vegas Chamber of Commerce, testified that on behalf of the Chamber, he would echo the comments made by others in support of the bill. He was somewhat concerned that the Legislature not be handcuffed in its ability to prioritize funding needs, but aside from that small issue, the Chamber was very much in support.

Mary Pierczynski, Nevada Association of School Superintendents, testified her organization endorsed A.B. 241 and thanked Chairwoman Smith for bringing it forward. She added the Nevada Association of School Boards was also supportive of A.B. 241; Dr. Merrill could not attend, but members should have received an email indicating the Association's support.

Helaine Morres, Vice President of Development, Western Nevada College (WNC), stated the bill represented an issue that the President of WNC had been pursuing for several legislative sessions. The Higher Education Stabilization Fund would allow NSHE institutions to be a part of the solution in a financial emergency through prudent and sound fiscal management policies. The current system did not reward them for efficient management of their funds. She noted that 10 percent of WNC's General Fund would be $1.8 million and would take years to save, but at least if the college had a physical plant or operational emergency, the rainy-day fund would be available to cover it. She also thanked Chairwoman Smith for introducing the bill.

Kathleen Conaboy, representing K-12 Inc. and the Nevada Virtual Academy, a statewide charter school, expressed full support of the bill. She was particularly pleased to hear that the distribution methodology would allow all schools to have equal access to the account based on a statewide issue.

Jan Gilbert, Progressive Leadership Alliance of Nevada, voiced support for the bill, stating it would go a long way toward resolving some of the problems during an economic downturn. She appreciated the Committee's support.

Craig Hulse, Washoe County School District, expressed the District's full support of the bill and thanked Chairwoman Smith for bringing it forward, as well as the members of the Committee who supported the measure in the 2009 Legislative Session. He looked forward to their support again this session.

Lonnie Shields, Nevada Association of School Administrators, stated the Association was in full support of A.B. 241.

Vice Chair Conklin asked for testimony in opposition to the bill. There was none. He declared the hearing closed on A.B. 241.

Chairwoman Smith asked for further public comment to come before the Committee; there was none. She thanked the Committee and adjourned the meeting at 11:00 a.m.

RESPECTFULLY SUBMITTED:

Sherie Silva
Committee Secretary

APPROVED BY:

Debbie Smith

Assemblywoman Debbie Smith, Chairwoman

DATE:

EXHIBITS

Committee Name: Committee on Ways and Means

Date: March 9, 2011 **Time of Meeting: 8:08 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Andrew Clinger, Director, Department of Administration	*Compensation and Benefit Reform Initiatives 2011-2013 Governor's Executive Budget*
	D	Assemblywoman Debbie Smith	"A.B. 241: Securing Financial Stability for Nevada's Educational System"
	E	Joyce Haldeman	Appendix 5: History of Net Reversions to State General Fund