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

**Seventy-Sixth Session**
**April 11, 2011**

The Committee on Ways and Means was called to order by Chairwoman Debbie Smith at 8:05 a.m. on Monday, April 11, 2011, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT**:

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

**COMMITTEE MEMBERS EXCUSED**:

Assemblyman John Oceguera

**GUEST LEGISLATORS PRESENT**:

Senator Ben Kieckhefer, Washoe County Senatorial District No. 4

**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 Senate Bill 220.

**Senate Bill 220: Establishes the Kenny C. Guinn Memorial Millennium Scholarship. (BDR 34-594)**

Senator Ben Kieckhefer, representing Washoe County Senatorial District No. 4, explained S.B. 220 codified the intent of former First Lady Dema Guinn regarding the donations made in honor of the late Governor Kenny Guinn. When the Governor passed away, the family requested donations be made in his honor to the Nevada Millennium Scholarship program, and S.B. 220 was the implementation of that request. The goal of the donation was to help a senior millennium scholar, a student entering his senior year of college who expressed a desire to become a teacher in the State of Nevada, with a one-time supplement to his Millennium Scholarship to help fully fund the costs of his senior year. Senator Kieckhefer noted the donations were all private and totaled approximately $150,000 to date. The donations were in a separate account in the Office of the State Treasurer and could only be used for the stated purpose. He reviewed the details of the bill:

- Section 2 created the Memorial Millennium Scholarship, which was a component of the Millennium Scholarship Trust Fund.

- Section 3 outlined the financing for the scholarship and stated the money in the account was to remain in the account and would not revert to the Trust Fund or any other fund at the end of the fiscal year. All donations made toward the scholarship would stay within the Memorial Scholarship account.

- Section 4 provided that the criteria for applicants for the Memorial Scholarship be established by the Board of Trustees of the College Savings Plans of Nevada within the Office of the State Treasurer. The requirements were that one student would be selected who must:

- Be a senior at an eligible institution, which was a four-year college to become a teacher in Nevada.
- Be a millennium scholar with a gradepoint average of 3.5 or higher on a 4.0 scale.
- Have a declared major in elementary or secondary education.
- Commit to teach in Nevada after graduation.
- Have a commendable record of community service.

Senator Kieckhefer further explained the Board of Trustees of the College Savings Plans of Nevada would review applications and select a winner, who would receive up to $4,500 over his existing Millennium Scholarship payments to help pay registration fees, laboratory fees, for textbooks, and for course materials. He said the dollar amount was selected in an effort to close the gap between the amount covered for a student's senior year by the Millennium Scholarship and the actual cost of the senior year.

Senator Kieckhefer offered to answer questions and noted that representatives from the Treasurer's Office were present to answer questions as well.

Chairwoman Smith remarked that Mrs. Guinn had testified in support of the bill when the bill was heard in the Senate.

Senator Kieckhefer said Mrs. Guinn's testimony was emotional, and the bill was taken as an emergency measure on the floor of the Senate the same day to pass it while she was present. He thanked all 63 members of the Legislature for cosponsoring the bill; it was a fitting testament and tribute to Governor Guinn, who committed his life to service in an effort to improve education in Nevada.

Assemblyman Kirner asked whether the fund was an endowment or an account that would be drawn against. Senator Kieckhefer replied it was an account that would be drawn against, but all the funds would have to be invested in the same manner as other funds invested by the Treasurer.

Steve George, Chief of Staff, Office of the State Treasurer, explained that when Governor Guinn passed away, Mrs. Guinn called him to request that a fund be started as opposed to a request for flowers or other contributions. The Treasurer's Office worked with the Department of Administration to set up a different account number within the Millennium Scholarship Fund to keep the donations to the Memorial Millennium Scholarship in a separate account. The funds would never be comingled with any of the other scholarship funds: the money would always be maintained as a separate account. Mr. George stated the Treasurer's Office was very supportive of S.B. 220. He hoped the

Millennium Scholarship Trust Fund and the Memorial Millennium Scholarship Fund would live on for many years. The first scholarship would be for one student, but Mr. George speculated that as more donations were received, the program could be expanded to several students pursuing an education degree.

Jim Richardson, Nevada Faculty Alliance, testified in support of S.B. 220. The Faculty Alliance had made a contribution to the scholarship, and he encouraged others to do the same.

Marcia Turner, Vice Chancellor, University of Nevada Health Sciences System, Nevada System of Higher Education (NSHE), voiced support of S.B. 220 and appreciation to the Guinn family on behalf of the Chancellor, Board of Regents, and NSHE staff for establishing the Memorial Scholarship. She said the scholarship was not only an important source of financial assistance but also represented an honor to the recipient.

Hearing no response to a request for testimony in support of or in opposition to the bill, Chairwoman Smith closed the hearing on S.B. 220. She announced that she had a bill presentation to make in another committee, and in the temporary absence of Vice Chair Conklin, she appointed Assemblyman Atkinson to temporarily assume the duties of the Chair.

Assemblyman Atkinson opened the hearing on Assembly Bill 499.

**Assembly Bill 499: Authorizes the Department of Health and Human Services to transfer sums appropriated to the Department among the various budget accounts of the Department under certain circumstances. (BDR 31-1171)**

Mike Willden, Director of the Department of Health and Human Services (DHHS), explained A.B. 499 was seeking authority for DHHS to be able to transfer appropriated sums among the various budget accounts in the Department. He recalled that similar language was included in section 36 of Assembly Bill No. 3 of the 26th Special Session which was passed in February 2010. The provisions of that bill would sunset on June 30, 2011.

Mr. Willden stated that, historically, the Appropriations Act passed by the Legislature each session typically limited the Department's ability to transfer funds among the various budget accounts, and DHHS was one of only a few state departments with those limits. There were usually sections in the Appropriations Act that had limits and exceptions for specific accounts among which funds could be transferred. He said transfers were allowed between Medicaid and Nevada Check Up and between some accounts in the Division of

Welfare and Supportive Services, but moving money among divisions was prohibited. For instance, savings in the Division of Mental Health and Developmental Services could not be moved to Medicaid, and if there was savings in Medicaid, it could not be moved to Mental Health. He reiterated that most of the state departments had some general flexibility.

Mr. Willden explained the bill was needed because of economic uncertainty. He recalled that flexibility had been granted by the 2009 Legislature during the economic turbulence, and it had been granted again for fiscal year 2011. He was sure the flexibility would be needed for at least the next two years.

Mr. Willden said flexibility was also needed because of uncertain caseload growth issues. The Department did its best to project caseload growth in the various budget accounts, but the projections were not always accurate. During the past week, federal revenue uncertainty was a huge concern because of the threat of a federal government shutdown.

One of the most important reasons for the bill, Mr. Willden went on to explain, was the Department was working on a project within the Medicaid program called the Private Hospital Upper Payment Limit (UPL) program, which could provide additional federal revenue to private hospitals. As included in the State Plan submitted to the federal government, private hospitals would create a 501(c)(3) community care collaborative, and the hospitals would purchase certain expenses in the mental health system, which would free up General Funds in the mental health budget. However, the freed-up funds would need to be transferred to the Medicaid program to act as the nonfederal share for the UPL program. Mr. Willden said the hospitals would receive additional payments for indigent care and could purchase mental health service contracts. The program could not be implemented without budget flexibility to transfer the funds between the divisions, unless provisions were written into the 2011 Appropriations Act.

Continuing, Mr. Willden said another issue beginning in 2014 was that the Patient Protection and Affordable Care Act would start taking effect, and flexibility would be needed among budget accounts to be able to implement the reform provisions of the Act.

Mr. Willden added that flexibility would allow the Department to not have to access the state Contingency Fund: when appropriate, DHHS could solve its own problems by transferring funds between accounts. The process would be simplified with the passage of A.B. 499.

Assemblyman Atkinson asked for questions from the Committee members; there were none. There was no testimony in favor of or in opposition to A.B. 499.

Assemblyman Atkinson closed the hearing on A.B. 499 and opened the hearing on A.B. 520.

**Assembly Bill 520: Revises provisions relating to the payment of compensation for and expenses of court-appointed attorneys. (BDR 1-1168)**

Diane Crow, J.D., State Public Defender, Office of the State Public Defender, testified A.B. 520 would revise *Nevada Revised Statutes* (NRS) 7.155, which provided the State Public Defender with General Funds to pay postconviction bills. She explained that after a defendant was convicted of a crime, he had the right to a direct appeal to the Supreme Court, and if the appeal was denied, he had the right to a postconviction hearing. Typically, at the postconviction hearing, the defendant would allege that his trial attorney and appellate attorney were ineffective and did not provide due representation.

Ms. Crow explained the postconviction hearings were held in district court at the county level, and the counties appointed both the trial attorney and the appellate attorney for the state. The state had no voice in the selection of the attorneys, and yet the state had to pay the costs of the hearings. Over the last three and a half years she had been in office, Ms. Crow had been reviewing the bills and statements submitted to the Office from the counties. She had found several instances of concern that would affect the General Fund.

Ms. Crow said in Washoe and Clark Counties, a court administrator reviewed the bills before sending them to the senior district court judge to approve before being sent to Ms. Crow's office for payment. The counties did not appear to be reviewing the bills from the attorneys very closely, and the court administrators seemed to be passing them on, as did the district court judges. She cited three instances of inappropriate claims for expenses:

- An expert witness was hired to travel from Los Angeles to Ely to interview an inmate at the Ely State Prison. The expert flew to Las Vegas with an assistant, stayed overnight in the Bellagio Hotel, rented a car and drove to Ely, met with the inmate, drove back to Las Vegas, stayed at the Bellagio, and flew home. In addition, the expert billed for the time she was out of her office. Ms. Crow speculated a state employee would have had to abide by the state's travel expense guidelines and would probably have flown into Las Vegas, rented a car the same day, drove to Ely, potentially stayed overnight in Ely, and then

drove back to Las Vegas to fly to Los Angeles. There would be no overnight stays in Las Vegas and no extra time billed for being out of the office.

- Another expert witness submitted a claim for New Mexico gross income tax.

- An attorney, in the middle of a billing statement for his hours, included a bill for $22 for renewing his driver's license.

Ms. Crow stated A.B. 520 would put the burden back on the counties to pay for the postconviction hearings. She did not see why the State General Fund should pay the county bills. The defendants were entitled to a postconviction hearing, and the question was who should pay for it.

Assemblyman Hickey asked what percentage of defendants took advantage of the postconviction hearing. Ms. Crow replied she was not aware of the total caseload in the state, but she would guess approximately 50 percent. In the last fiscal year, she had paid out approximately $750,000 for the original petitions to the counties.

Assemblyman Hickey surmised Ms. Crow was hopeful that with passage of A.B. 520, the counties would provide greater scrutiny of the expenses. She replied that was her hope.

Assemblywoman Carlton wanted to address the actual policy of moving the responsibility to the counties and not just the misbehavior of contractors. She affirmed the problem was outsourcing for legal services and the accountability for expenses.

Ms. Crow replied the courts appointed an attorney, and the attorney would return to the court and request funding to hire experts when necessary. The state was being billed both for the attorney's time ($100 per hour for a noncapital case and $125 for a capital case), as well as for the expert witness fees, travel, and expenses.

Assemblywoman Carlton asked whether there were policies and procedures in place to provide the contractors with guidelines for what expenses were acceptable. Ms. Crow said she did not know whether the counties had such policies. She speculated the *Nevada Administrative Code* would apply, but it did not appear to her that the counties were applying those policies.

Assemblywoman Carlton asked what amount would be cost-shifted to the counties. Ms. Crow replied her budget started with $750,000, and every year a request was made to the Interim Finance Committee for an additional $200,000 to $250,000. The total would be between $750,000 and $1 million, depending on the number and severity of the cases.

Assemblywoman Carlton asked Ms. Crow to provide a breakdown of the individual counties' expenses. Ms. Crow did not have those figures with her.

Assemblywoman Carlton was concerned that a major capital case could cause a significant expense for a smaller county.

There being no further questions from the Committee, Assemblyman Atkinson asked for testimony in favor of A.B. 520; there was none. He asked for testimony in opposition to the bill.

Wes Henderson, Deputy Director, Nevada Association of Counties (NACO), spoke in opposition to A.B. 520, stating it was another example of a cost shift to the counties. There were numerous bills proposed that would transfer the responsibility for providing services or seeking reimbursement from the counties for services that had historically been provided by the state. He said the counties were already responsible for the provision of defense counsel for indigent defendants at a cost of over $62 million a year, and A.B. 520 would add another $1 million to that burden.

Assemblywoman Mastroluca asked whether the counties were aware of the concern about the inappropriate charges. Mr. Henderson replied to his knowledge, they were not aware.

Assemblywoman Mastroluca wondered whether the counties would be willing to put regulations in place to prevent the abuse of charges in exchange for the state's continued funding. Mr. Henderson believed the counties would be agreeable to implementing controls on the costs. Controlling the cost for indigent defense was a serious issue for the counties. When a defense counsel wanted to bring in an expert witness, the expenses were driven up, and there was a need for cost controls. He would consult with the counties concerning the possibility of implementing controls.

Assemblyman Goicoechea surmised that when a postconviction investigation occurred for an inmate in the Ely State Prison, White Pine County would be asked to cover the cost of the attorney. He did not believe White Pine County should be responsible for those expenses.

Ms. Crow explained the postconviction claims were heard in the county in which the case originated. Because the inmate was incarcerated in Ely did not mean that White Pine County would pay the expenses: the county of conviction would be responsible. The inmate she referred to earlier was convicted in Clark County.

Assemblyman Goicoechea observed if the inmate had been incarcerated in Clark County, the excessive expenses would not have been incurred, but Clark County had to pay the expenses because the inmate was housed in Ely.

Robert Hadfield, representing Storey, Lyon, and White Pine Counties and Carson City, stated that oversight was obviously needed, but the county commissioners did not have oversight over district court judges or court administrators. He said a good solution would be to have mandated state regulations regarding what expenses were and were not allowable. The district court judges' job was to ensure that defendants received everything possible to guarantee their rights. He suspected the inmates being discussed were indigents who were represented by the public defender in the original case for which action was being appealed. He stated the concern was the expense to the smaller counties.

Assemblyman Grady affirmed the district court judges were not employees of the counties: they were employed by the state. Mr. Hadfield replied Assemblyman Grady was correct.

Orrin Johnson, representing the Washoe County Public Defender's Office, stated his concern was there was an inherent conflict of interest: it was a policy argument rather than a money argument. The postconviction hearings were the first opportunity to observe the performance of the public defender. If the attorney who was looking at the case was getting paid by the same person who paid the public defender, it appeared to be a conflict of interest. He believed the review of postconviction attorneys should remain a responsibility of the state.

Jeffrey Wells, Assistant County Manager, Office of the County Manager, Clark County, submitted written testimony in opposition to A.B. 520 and requested it be made a part of the record (Exhibit C).

There being no further testimony in opposition, Assemblyman Atkinson closed the hearing on A.B. 520 and opened the hearing on A.B. 522.

**Assembly Bill 522: Authorizes the issuance of bonds for projects and programs to protect, preserve and obtain the benefits of the property and natural resources of this State. (BDR S-1211)**

Leo Drozdoff, P.E., Director, State Department of Conservation and Natural Resources, introduced Jim Lawrence, Administrator and State Land Registrar, Division of State Lands; Dave Morrow, Administrator, Division of State Parks; and Ken Mayer, Director, Department of Wildlife.

Mr. Drozdoff explained A.B. 522 provided authority to issue bonds for conservation and resource purposes over the next ten years. The bill would allow the Department to continue its existing resource and conservation program commonly referred to as Question 1, or Q1. Mr. Drozdoff recalled the Q1 program was approved in 2001 and authorized the issuance of bonds for critical wildlife habitat projects, state park improvement programs, and grants to local governments and nonprofit organizations for the construction of recreational trails and the protection of land with significant resource values. Mr. Drozdoff assured the Committee the program had been extremely successful and important in protecting and promoting Nevada's natural resources. Not only was the program critical for the protection of resources, it was also tied to capital improvement projects that created and retained jobs while helping to promote Nevada's recreational tourism economy.

Mr. Drozdoff highlighted projects that had been successful through the Q1 grant program:

- More than 15,000 acres had been protected for urban parks, working ranch lands, and open space.
- More than 100 miles of recreational trails had been constructed statewide.
- Critical wildlife habitat, such as sage grouse habitat, had been protected to adopted management plans.
- More than 20 river projects had been constructed, preserving riparian areas and enhancing recreational trails.

Mr. Drozdoff said the grant projects had been leveraged by more than $54 million in matching funds. Assembly Bill 522 would provide for the continuation of the program and authorize the sale of $75 million in bonds over the next ten years. The funds would specifically be used as follows:

- $20 million to the Department of Wildlife for the protection of habitat and facility improvements.

- $10 million to the Division of State Parks to support improvements and renovations within the parks program.

- $45 million to the Division of State Lands to continue with grant programs to state agencies, local governments, and nonprofit organizations for trail improvements, watershed restoration, protection of land with significant resources, and capital improvements and renovations in regional parks.

Mr. Drozdoff pointed out that the Office of the State Treasurer had indicated the state's capacity to sell bonds was extremely limited based on current projections, and the request was not in the Governor's budget for bond sales during the upcoming biennium because of the projections. Passage of A.B. 522 was important to provide the authority, and only the authority, to sell bonds when the state's debt capacity improved. He emphasized the bill was an authority bill, not an immediate funding bill. Mr. Drozdoff said the Department had discussed the bill with the Treasurer's Office, and the language in section 1 assured that no bonds would be sold if the state did not have the capacity. Based on discussions with the Treasurer's Office, a minor technical amendment was made to the bill (Exhibit D), and he asked Mr. Lawrence to discuss the amendment.

Jim Lawrence, Administrator and State Land Registrar, Division of State Lands, explained the amendment was a result of discussion with the Treasurer's Office and bond counsel concerning assurance that the continued authority for the program would fit within the parameters of the natural resources grant program. The words "historic or cultural resources" were removed from the bill because the Treasurer's Office was concerned that those projects would involve bricks and mortar and not necessarily a natural resource project. Mr. Lawrence reiterated the intent of the bill was to continue on with projects that might involve land that had historic or other environmental values attached. The language was amended to accommodate the Treasurer's Office but still comply with the intent to acquire lands for those purposes.

Mr. Lawrence went on to explain section 3, subsection 9 of the bill was amended to require consultation with the State Treasurer before the Division of State Lands could sell or lease any interests in land or water acquired by the state that were later determined not to be necessary to carry out the purpose of the act. He said the provision was in the current program but had never been

used, and he did not anticipate that it ever would be used, but the language was important to include in the event the provision was ever needed.

Assemblywoman Carlton affirmed the funds were Question 1 and totally separate from the Lake Tahoe bonding bill. She asked how the word "consultation" was defined.

Mr. Lawrence replied the language was added at the request of the State Treasurer, and he would define consultation as meaning the Division would not move forward without approval of the Treasurer's Office.

Assemblywoman Carlton noted the provision required permission rather than consultation, and the language may need to be clarified.

Assemblyman Bobzien requested the Department clarify what scenarios were contemplated that required the amended language in section 2, subsection 1, paragraphs (d) and (e) (Exhibit D).

Mr. Lawrence replied when the bill was drafted, it was thought a grant could be given to protect land that might have significant historic values, such as an old wagon trail or a Native American site. Because the bill was for natural resource grants, the Treasurer's Office was concerned the language "historic or cultural resources" would lead to construction of museums, which was not the intent of the program. However, the Treasurer's Office was comfortable with the acquisition of land to protect historic and cultural values, and the words enhancement of "land with, but not limited to" were added to allow the Division to acquire those types of land.

Assemblyman Bobzien questioned whether "but not limited to" would open the door to alternative uses. He asked the Treasurer's Office to testify.

Lori Chatwood, Deputy of Debt Management, Office of the State Treasurer, testified the Treasurer's Office had two types of debt: one was subject to the debt limitation of the state and one was exempt from the debt limitation. Natural resource projects were exempt from the constitutional debt limit. Ms. Chatwood said the amended language was for the purpose of avoiding a conflict of a portion of the bill being subject to the debt limit and a portion not being subject to the limit. Projects involving construction of buildings would be in conflict with the intent of the bill.

Assemblyman Bobzien affirmed the Treasurer's Office was comfortable with the language, "but not limited to." Ms. Chatwood replied that bond counsel

believed the language would cover the cultural and historic land as long as it was an underlying natural resource of the state.

Assemblyman Atkinson asked whether the amount of $75 million in the bill was in addition to the $200 million authorized in Question 1. Mr. Lawrence replied the bill was a continuation of the Question 1 program and, as such, the $75 million was in addition to the $200 million.

Assemblyman Atkinson asked for testimony in favor of A.B. 522.

Kyle Davis, representing the Nevada Conservation League, testified the League was in support of A.B. 522 and felt it was a good idea for the state to continue to have authority similar to that under Question 1, even though funds were not currently available. He said the Question 1 program had been highly successful in protecting key lands and resources in the state and was a great model of how public money could be leveraged to provide private-sector jobs. He noted a lot of the restoration work had been done by Nevada companies. Mr. Davis said the bill was popular when it was passed by the voters and remained popular with the stakeholders who were a part of creating the projects.

Mr. Davis said there was still a significant need for projects in the state. It was important to note that Question 1 was probably the most significant investment made by the state in the protection of its natural resources, conservation, and environmental protection. The program was a large commitment to make in view of the current budget situation, but continued funding would allow future projects as bonding authority became available. The infrastructure was in place to continue the program well into the future.

Ken Mayer, Director, Department of Wildlife, stated that Question 1 had been an outstanding source of funding for the wildlife resources of the state. The program started with $20 million, there was approximately $6 million remaining, and $3 million in bonding was still available, but that had been impossible to do. He said the funds were used for a variety of projects: sage grouse preservation, hatchery refurbishments, and purchase of lands that benefited wildlife in the state. He expressed the Department of Wildlife's strong support of A.B. 522.

Assemblyman Atkinson called for further testimony in support of A.B. 522; there was none. He asked for testimony in opposition to the bill, and there was none. There being no further questions or testimony, he closed the hearing on A.B. 522 and opened the hearing on Assembly Bill 524.

**Assembly Bill 524: Increases certain fees for residential and general appraisers to cover an increase in federal registry fees. (BDR 54-1199)**

Brenda Kindred-Kipling, Appraisal Officer, Real Estate Division, Department of Business and Industry (B&I), stated A.B. 524 increased certain fees for residential and certified general appraisers to cover an increase in the National Registry fee. She explained the Appraisal Subcommittee was the federal agency that provided oversight of the appraisal regulatory programs established by the states and maintained the National Registry database, which contained information about state-certified general and residential appraisers as required by Title XI of the Reform, Recovery and Enforcement Act of 1989.

Ms. Kindred-Kipling stated only state-certified or licensed appraisers who were listed on the National Registry as having current valid certifications or licenses were authorized under federal law to perform appraisals for federally related transactions. State appraiser regulatory agencies submitted appraiser information to the national database at least monthly to keep the National Registry current.

Continuing, Ms. Kindred-Kipling explained the Appraisal Subcommittee charged a fee of $25 per appraiser per year to maintain the registry information. The fee was included in the licensing fee paid by all certified residential and general appraisers in Nevada. Effective January 1, 2012, the fee would increase from $25 to $40 annually, which translated to an increase of $30 for Nevada's two-year licensing cycle. Assembly Bill 524 would modify the fees paid by appraisers to cover the increase in the fees the state must pay to the National Registry. If the bill was not approved, the General Fund would need to appropriate additional funding to cover the shortfall. She noted the fee increase was included in The Executive Budget for the 2011-2013 biennium.

Assemblywoman Carlton noted appraisers were currently paying $25 per year to maintain the information in the National Registry. Ms. Kindred-Kipling replied the fee was actually $50 per license or renewal because appraisers obtained and renewed their licenses on a two-year cycle in Nevada.

Assemblywoman Carlton questioned the amount of $50 to maintain current information and ensure it was available if needed. Ms. Kindred-Kipling responded updates and changes were reported to the National Registry monthly. The fee was a federal fee charged to the Real Estate Division and was in turn charged to the appraisers, and the Appraisal Subcommittee had the ability to increase the fee.

Assemblywoman Carlton affirmed the fees were a total pass-through and the state did not retain any portion of them. Ms. Kindred-Kipling replied she was correct.

Assemblyman Atkinson asked for testimony in favor of or in opposition to A.B. 524; there was none. He closed the hearing on A.B. 524.

Pending the return of Chairwoman Smith, Assemblyman Atkinson called a recess at 9:05 a.m.

Chairwoman Smith called the Committee back to order at 9:25 a.m. for the work session portion of the meeting.

Chairwoman Smith opened the hearing on Assembly Bill 19. She recalled the bill had been heard in the Committee on Natural Resources, Agriculture, and Mining, and a previous hearing was held in Ways and Means to clarify the circumstances of the additional revenue.

**Assembly Bill 19: Revises provisions governing the issuance of certain fishing licenses and permits. (BDR 45-471)**

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained the concern during the previous hearing was the requirement to issue the annual license to fish solely in the reciprocal waters of the Colorado River, Lake Mead, Lake Mohave, Lake Tahoe, and Topaz Lake. Fiscal staff received formal notification from the State Department of Conservation and Natural Resources that the revenue from the reciprocal fishing license would generate approximately $13,300 in fiscal year (FY) 2012 and $53,000 in FY 2013, and it was projected that over the course of the next five years it would generate approximately $200,000 per year.

Mr. Combs said the Department had also indicated in its written response that there would be no additional costs other than those included in the Governor's recommended budget. The anticipated costs would be typical expenses for regulations and programming of the system. There were no amendments to the bill.

Chairwoman Smith called for questions from the Committee; there were none. She called for a motion.

ASSEMBLYMAN HOGAN MOVED TO DO PASS ASSEMBLY BILL 19.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED. (Assemblymen Hambrick, Hardy, and Oceguera were not present for the vote.)

Chairwoman Smith opened the hearing on Assembly Bill 192.

**Assembly Bill 192: Revises various provisions relating to fees charged by county recorders. (BDR 20-901)**

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained A.B. 192 had been brought forward by Barbara Buckley, former Speaker of the Assembly and Executive Director of the Legal Aid Center of Southern Nevada. He recalled that youth in foster care, advocates for youth in foster care, and representatives of Washoe Legal Services had testified in favor of the bill. As introduced, the bill would require county recorders to charge a $2 fee for recording of a document, other than an originally signed marriage certificate. The $2 fee would be used to provide legal services for abused and neglected children.

Mr. Combs indicated an amendment had been submitted to make the fee permissive rather than mandatory and to authorize a board of county commissioners to impose the fee in an amount not to exceed $3 (Exhibit E). The rationale for the amendment was that each county would be allowed to determine its own needs and impose the fee county-by-county rather than the Legislature imposing a mandatory fee.

Chairwoman Smith noted that the amendment also addressed a concern expressed by Assemblyman Grady by allowing the fees to be provided to an organization operating the program for legal services rather than specifying a specific agency.

Assemblyman Kirner expressed concern that there were many worthy nonprofit organizations, and because the fee was at the county level, the state would lose all transparency at the state level. He questioned why the state was authorizing a fee for a specific nonprofit organization.

Assemblyman Conklin responded it was not uncommon at every level of government in all states to grant monies to nonprofit organizations for services that the state was obligated to provide but could not. He stated the counties and cities did the same for child welfare services and other causes. He emphasized it was the state's obligation to provide the services, but it did not, which left a void for a nonprofit to assume the services. Assemblyman Conklin stated the cost to the state would be less than the cost of losing a future

lawsuit to someone who did not get the representation he deserved because the state was not providing necessary services.

Assemblyman Conklin said he understood Assemblyman Kirner's concern, and he realized the state needed to be judicious about how services were provided, but legal services would not be available to abused and neglected children unless the state paid the cost. In his opinion, the program was extremely necessary to prevent growth of the homeless population.

Chairwoman Smith clarified that because the bill was considered enabling legislation and the fee was no longer mandatory, the two-thirds majority vote requirement for passage no longer applied.

Assemblyman Grady asked whether the counties had reviewed the amendment. Chairwoman Smith asked county representatives to approach the testimony table.

Assemblyman Goicoechea was concerned the language read, "the organization operating the program for legal services," which he thought indicated a specific organization. He asked whether there was more than one organization providing services.

Chairwoman Smith replied she had understood from testimony that there were not multiple organizations that could or would provide similar services.

Assemblyman Goicoechea stated he would be more comfortable if "the organization" was replaced with "an organization." Otherwise, the county commissions would be forced to provide the fees to a specific organization.

Lisa Gianoli, representing Washoe County, stated Washoe County was neutral on the bill. The county currently paid for some of the services from its general fund, and discussions had been held with Ms. Buckley concerning the prospect of the bill relieving the costs given the upcoming budget shortages. She added the amendment to make the fee optional would provide the county latitude.

Alex Ortiz, representing Clark County, stated that Clark County had been neutral on the bill, and since the language was now enabling, it would remain neutral. He understood Assemblyman Goicoechea's concerns, but Clark County was comfortable with the bill as amended.

Mr. Combs explained that currently organizations received a portion of the filing fee for a civil suit, and the language included in A.B. 192 was identical to the language in *Nevada Revised Statutes* (NRS) 19.031, which indicated that the

money should be remitted quarterly to the nonprofit organization operating the program for legal services. The concern with amending the bill to make the fees available to multiple organizations was there would need to be a procedure put in place to determine how much each organization would receive. The current law established that one organization in each county would receive the funds.

Chairwoman Smith was also under the impression that the bill was written in conformance with existing statutes and procedures.

Ms. Gianoli said in Washoe County there were three entities that provided legal services: Washoe Legal Services, the Senior Law Project, and the Nevada Disability Advocacy and Law Center (NDALC). The organizations had been in discussions about how to allocate the funding among the three of them.

Chairwoman Smith asked what procedure they followed currently. Ms. Gianoli replied she thought it would depend on the issue. The Senior Law Project dealt with matters concerning the elderly, Washoe Legal Services was providing services to children, and the NDALC served the disabled population.

Assemblyman Kirner said that programs for legal services were also requesting funds in A.B. 259 with a $10 per notice of default recording fee. He was concerned that there were three organizations in the north, and the Washoe County Recorder had indicated she was not in favor of the bill.

Chairwoman Smith noted that the bill was now enabling legislation, and the counties would make the decision whether to participate.

Assemblyman Goicoechea affirmed the policy was imposed by ordinance, and he did not want to handcuff boards of county commissioners by limiting what organizations could participate. He reiterated he did not agree with the terminology "the organization."

Assemblywoman Mastroluca wanted to remind the Committee that the problem went back to the difference between front-end services and back-end services. This was an opportunity to provide front-end services to help guide foster children as they entered the world by themselves, without which they could end up on the welfare rolls. She understood some of the members' concerns about multiple organizations. She thought it would be good to have ten organizations in every county, but unfortunately that was not the reality. Assemblywoman Mastroluca encouraged passage to provide front-end services rather than to ultimately support larger welfare and prison populations.

Chairwoman Smith commented the Committee had heard testimony concerning the need: less than half of the children and youth received the services they needed, which was troublesome to her. There may be other sources available, but the children and youth needed representation.

Assemblywoman Carlton said there were designated organizations willing to represent children, and the Committee had heard earlier testimony that a contracted private attorney either did not provide needed services or billed exorbitant fees. She noted this was a nonprofit organization that represented children so they could have a voice in the process. The original intent of the bill was to represent children who did not have a voice, and there were very few organizations allowed to provide legal representation. She stated that was the program supported by the bill, and she did not want to see the program changed, services contracted out, and children not being represented.

Chairwoman Smith remarked the current language of A.B. 192 was written to provide legal representation for children; the intent would not be changed.

Assemblyman Conklin said the language in the bill was very clear: section 1, subsection 3, paragraph (a) read: "Two dollars to the organization operating a program for legal services as set forth in NRS 19.031 to be used to provide legal services for abused and neglected children." The bill referred to NRS 19.031, which described what the organization was, and the language throughout the statute referred to "the organization." Current statutes defined the organization based on what it could provide, who it had to be licensed by, and who would benefit from the services. Assemblyman Conklin believed the language in A.B. 192 should be consistent with the existing statutes.

Chairwoman Smith called for further testimony on A.B. 192; there was none. She called for a motion on A.B. 192.

> ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS ASSEMBLY BILL 192.
>
> ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.
>
> THE MOTION PASSED. (Assemblymen Goicoechea and Kirner voted no.) (Assemblymen Hambrick, Hardy, and Oceguera were not present for the vote.)

Chairwoman Smith opened the hearing on Assembly Bill 478.

**Assembly Bill 478: Revises the limitation on the principal amount of bonds and other securities that may be issued by the Board of Regents of the University of Nevada to finance certain projects. (BDR S-887)**

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated A.B. 478 was heard in Committee on April 6, 2011, and the bill increased the authorized amount of bonds and other securities that could be issued by the Board of Regents to finance projects at the University of Nevada, Reno (UNR). Section 1 currently capped the amount that could be financed at $312,695,000, and the bill requested to increase that amount to $348,430,000. Mark Stevens, Vice Chancellor of Finance, Nevada System of Higher Education (NSHE), had testified that the amount should be amended to $348,360,000.

Assemblyman Goicoechea noted the Committee had just heard that there was no Question 1 bonding capacity available, and he asked whether bonding capacity was available for NSHE.

Mr. Combs replied the bonds were financed through student fees collected by the university, and the System had determined the proposed amount was the financing capacity going forward.

Chairwoman Smith called for a motion.

> ASSEMBLYMAN BOBZIEN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 478.
>
> ASSEMBLYWOMAN MASTROLUCA SECONDED THE MOTION.

Assemblyman Aizley asked whether bonds were available for the other seven campuses of the System. Chairwoman Smith replied the funds were student fees collected at the University of Nevada, Reno campus.

Mr. Combs noted section 1, subsection 1, paragraph (a) of the bill authorized the issuance of bonds and securities of the University of Nevada, Reno, in the amended amount not to exceed $348,360,000 and a total principal amount not to exceed $422,155,000 for facilities at the University of Nevada, Las Vegas. He said in this case, UNR had determined it had projects and that funding was available to issue the bonds and requested an increase in the bonding capacity. The University of Nevada, Las Vegas had not made a similar determination that it had money available for projects in the upcoming years.

THE MOTION TO AMEND AND DO PASS ASSEMBLY BILL 478 PASSED. (Assemblymen Hambrick, Hardy, and Oceguera were not present for the vote.)

Chairwoman Smith opened the hearing on Assembly Bill 523.

**Assembly Bill 523: Revises provisions relating to the coverage of dependents under the health care plans of the State and local governments. (BDR 23-1188)**

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, testified Assembly Bill 523 was heard in Committee on April 6, 2011, and the testimony indicated the federal Patient Protection and Affordable Care Act (Health Care Reform) law required health care plans that provided dependent coverage must make the coverage available for children until they reached the age of 26 years. Assembly Bill 523 would bring state law with respect to the Public Employees' Benefits Program (PEBP) and local government health care plans into compliance with the federal health care provision. He noted there was no opposition to the bill during the hearing, and there were no amendments.

Assemblyman Conklin stated he was in support of the bill, but he wondered why there was not a fiscal note. He asked whether the state was already in compliance and if the change was needed in statute.

Mr. Combs replied there was no fiscal note because even if the bill was not passed, the federal requirement in the law would prevail. The PEBP would have to cover dependents up to age 26, and the bill simply tried to bring state law into line with the federal provision.

Jim Wells, Executive Officer, Public Employees' Benefits Program, said there was one person with a dependent between the ages of 23 and 26 on the PEBP plan that would be affected by the bill. The dependent was currently not on the PEBP plan, but would be added as of July 1, 2011. The reason there was no fiscal note was the employee had other children, and therefore the premium rate would not change.

ASSEMBLYMAN KIRNER MOVED TO DO PASS ASSEMBLY BILL 523.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

Assemblywoman Carlton questioned that there was only one person eligible for the coverage. Mr. Wells replied the provisions in the law applied only to

dependents of police or firefighters who were killed in the line of duty. All of the normal eligibility requirements for coverage of dependents up to age 26 were in the PEBP master plan document rather than in statute. The provision was very narrow.

Mr. Wells further explained the provisions of the Health Care Reform law required all plans to cover children up to age 26 by January 2014. However, the grandfather clause provided that a current employee did not have to cover children up to age 26 until 2014. If the employee did not designate his plan as a grandfathered plan, children up to age 26 would have to be covered as of the plan year that began September 23, 2010. Mr. Wells said the next plan year would begin in July 1, 2011, at which time PEBP would cover children up to age 26. A local government that had a grandfathered plan was not required to cover children up to age 26 until it decided to do so.

Chairwoman Smith recalled the discussion during the hearing went beyond the scope of A.B. 523 because there were many questions concerning the general provisions of the Health Care Reform law.

Mr. Wells agreed. He added that in most normal situations, eligibility requirements were not included in statute: they were covered by the master plan documents for the individual plans. The very narrow circumstances in the two sections of A.B. 523 related only to spouses and children of policemen and firefighters killed in the line of duty.

Chairwoman Smith remarked the bill addressed a very narrow provision that was one of the only pieces actually in statute that needed to be amended to be in compliance with the Health Care Reform law. Because the scope was so narrow, only one dependent would be affected; the additional dependents who qualified would be covered under the provisions of the master plan.

> THE MOTION TO DO PASS ASSEMBLY BILL 523 PASSED. (Assemblymen Hambrick, Hardy, Hogan, and Oceguera were not present for the vote.)

Chairwoman Smith opened the hearing on Assembly Bill 556.

**Assembly Bill 556: Changes the fund into which certain subsidies paid for coverage under the Public Employees' Benefits Program are deposited. (BDR 23-1186)**

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained A.B. 556 was requested by the Public Employees'

Benefits Program (PEBP) to resolve some accounting problems. Currently, subsidies paid by state agencies for coverage of their employees were deposited into the Fund for the Public Employees' Benefits Program. Assembly Bill 556 created the Active Employee Group Insurance Subsidy Account and required that the subsidies be deposited into that account instead. Funds from the account would then be transferred to the Fund for the Public Employees' Benefits Program periodically based on the actual cost of the subsidies for that period. Mr. Combs stated there was no testimony in opposition to the bill, and no amendments had been requested.

ASSEMBLYMAN ATKINSON MOVED TO DO PASS ASSEMBLY BILL 556.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED. (Assemblymen Hambrick, Hardy, Hogan, and Oceguera were not present for the vote.)

**Assembly Bill 496: Makes a supplemental appropriation to the Budget and Planning Division of the Department of Administration for increased costs of the single audit. (BDR S-1176)**

Chairwoman Smith announced Assembly Bill 496 would not be considered at this meeting.

Chairwoman Smith called for public testimony; there was none.

There being no further business to come before the Committee, Chairwoman Smith adjourned the meeting at 9:59 a.m.

RESPECTFULLY SUBMITTED:

Sherie Silva
Committee Secretary

APPROVED BY:

Assemblywoman Debbie Smith, Chairwoman

DATE: August 18, 2011

## EXHIBITS

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

**Date: April 11, 2011** **Time of Meeting: 8:05 a.m.**

| Bill | Exhibit | Witness / Agency | Description |
|---|---|---|---|
| | A | ********** | Agenda |
| | B | ********** | Attendance Roster |
| A.B. 520 | C | Jeffrey Wells, Assistant County Manager, Office of the Clark County Manager, Clark County | Written Testimony in Opposition to A.B. 520 |
| A.B. 522 | D | Leo Drozdoff, Director, Department of Conservation and Natural Resources | A.B. 522 – Proposed Amendment |
| A.B. 192 | E | Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau | A.B. 192 – Proposed Amendment Submitted by Barbara Buckley |