

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

**Seventy-Sixth Session
April 19, 2011**

The Committee on Ways and Means was called to order by Chairwoman Debbie Smith at 7:36 a.m. on Tuesday, April 19, 2011, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

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

GUEST LEGISLATORS PRESENT:

Assemblywoman Irene Bustamante Adams, Clark County
Assembly District No. 42

STAFF MEMBERS PRESENT:

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

Chairwoman Smith opened the hearing on Assembly Bill 167 (1st Reprint).

Assembly Bill 167 (1st Reprint): Enacts provisions for the protection of the waters of this State from aquatic invasive species. (BDR 45-847)

Assemblywoman Irene Bustamante Adams, representing Clark County Assembly District No. 42, testified in support of Assembly Bill 167 (1st Reprint) regarding aquatic invasive species. An aquatic invasive species may be any type of animal that invaded the waters in Nevada. Most of the invasive species problems had occurred in southern Nevada, but there had been some problems in Lake Tahoe also. This bill created a program for the Department of Wildlife to fight aquatic invasive species problems in Nevada.

Patrick Cates, Deputy Director, Department of Wildlife, testified the Department originally submitted a fiscal note reflecting a zero effect. The amended bill established a fee for the aquatic invasive species so the Department provided another fiscal note for the amendment as Exhibit C.

Mr. Cates said Assembly Bill 167 (R1) assessed a fee on any vessel operated in the waters of Nevada. The bill affected motorized boats that currently registered with the Department of Wildlife. In the fiscal note, the Department estimated that fee would generate approximately \$500,000. The fee would also be assessed on nonmotorized boats such as kayaks and canoes. The Department was unsure of the number of nonmotorized boats in Nevada but made a conservative estimate of about 10,000 nonmotorized boats that would generate fees of approximately \$100,000.

Mr. Cates said A. B. 167 (R1) would generate approximately \$17,000 from fees on out-of-state boats. Other states such as Arizona had similar invasive species programs. He thought states could develop reciprocal agreements to honor other states' stamps for areas such as Lake Mead. The Department did not expect much fee revenue from out-of-state boats, but the amount could be more substantial than anticipated.

Mr. Cates said the fiscal note projected about \$643,000 of total revenue would be earned on an annual basis. Mr. Cates said the Department would have to

complete its regulatory process for the 2011-2013 biennium to develop expenditure projections. He knew the program would require some type of inspection, enforcement, and washing stations.

Mr. Cates said the Department currently employed a staff biologist in the Fisheries Management Division that was dedicated to aquatic invasive species. He believed the A. B. 167 (R1) fees could be used to fund that biologist position. An enforcement component would be required for aquatic invasive species. He estimated about one-half of one game warden's time may be dedicated to the aquatic invasive species, at least initially as the Department developed regulations and established the program.

Mr. Cates said the Department included in its fiscal note some part-time seasonal staff including conservation aides and two game wardens for six months each year to work on site to perform inspections and operate washing stations at bodies of water around the state such as Lake Mead. These positions would not have to be employed by the Department of Wildlife. The Department could develop partnerships and contract with Clark County Parks and Recreation.

Mr. Cates earmarked some money in the fiscal note for educational outreach. The Department would develop some publications and signage to educate the public.

Mr. Cates said four boat washers were needed along with four seasonal conservation aides. He wanted mobile washers that could be moved from location to location and those cost \$50,000 each. Grants to the Division of State Parks and the United States National Park Service could be made from fees earned to help implement this program.

Mr. Cates said the fiscal note assumed an aggressive schedule for the start date of January 1, 2012. The Department would schedule the beginning of the program to coincide with the start of the boat registration year to reduce publication costs and cause less disruption to boaters.

In response to a question from Chairwoman Smith, Mr. Cates said the Department was supportive of A.B. 167 (R1).

In response to a question from Chairwoman Smith, Mr. Cates said the game warden position was currently funded from general sportsman license revenue so this bill would generate a savings of the sportsman's dollar. He was unsure how long the game warden position would be needed. He believed the position may only be needed in the first year or two as the program was being

developed. The other aquatic invasive species positions were currently funded from some federal money from the United States Fish and Wildlife Service. He said the one-time money would fund the Department through the 2011-2013 biennium. After that money was used, the Department would use the federal Pittman-Robertson Aid or Dingell-Johnson Aid grants and sportsmen licensing dollars.

Chairwoman Smith said the Committee required clarification about the revenue, expenditures, and uses of any freed-up dollars.

Assemblyman Bobzien wondered about the fiscal note and the type of program that would be established. He saw there were expenditures for the seasonal positions and the grants to partners. He wondered about the type of program that would be established at Lake Tahoe and whether the Department would give the Division of State Parks grants to run a program at Sand Harbor. He wondered whether the plan was to use Department staff or conservation aides to roll in on the weekend with a mobile washing unit.

In response to questions from Assemblyman Bobzien, Rich Haskins, Deputy Director, Department of Wildlife, said the Department's involvement at Lake Tahoe would be limited because Lake Tahoe already had a well-funded aggressive aquatic invasive species program, which cost millions of dollars. The only way A.B. 167 (R1) would work statewide was to develop partnerships with such entities as the Division of State Parks, irrigation districts, Bureau of Reclamation entities, and others. The reference to the grants in the fiscal note was to offset costs for the Division of State Parks at Lake Lahontan and assist during the busy periods with inspectors on-site. An example where the Department could leverage money and provide more services was the partnership the Department was building with the Duck Valley Indian Reservation at Wild Horse State Recreation Area. Mr. Cates added that the Board of Wildlife Commissioners met this week and voted to support A.B. 167 (R1).

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said Fiscal staff examined the fiscal note, and the Department provided an updated fiscal note showing no effect on the General Fund from the program. From his standpoint there was no need to do anything in the bill to address the financial matters. He recommended asking for authority to update the budget. Later this week the Committee would close the Department of Wildlife budgets. He would ask for the authority to update the budget to reflect these amounts in the decision unit if there was time at the end of session and this bill passed. If there was not enough time and this bill passed, then the Department would be able to submit a work program to the

Interim Finance Committee to establish the revenue and expenditure authority because it did not involve General Funds.

Chairwoman Smith said it was a good reminder for the Committee to look at whether a bill had a fiscal effect, how the money was budgeted to be spent, and how it affected the budget.

Kyle Davis, Political Director, Nevada Conservation League, testified the League was in support of the fiscal concept of A.B. 167 (R1). He believed it was appropriate that the fees would cover the cost of this program. The bill established a cap to provide assurance that the fees would cover the costs to run the program. The League wanted to ensure this program was established. The states around Nevada had aquatic invasive species programs in place so it definitely made sense for Nevada to create the program. Nevada must work to ensure it kept invasive species out of Nevada's waters.

Chairwoman Smith asked whether this bill would require a two-thirds majority and wondered about the Governor's position because the bill included a new fee.

Mr. Haskins said the original bill did not contain a fee element. Assemblywoman Bustamante Adams worked with the Office of the Governor on alternatives. The bill language provided that the \$10 fee was actually a capped amount and the Governor was comfortable with that.

Chairwoman Smith asked whether there were further comments or questions regarding Assembly Bill 167 (R1), and there being none, the hearing was closed. Chairwoman Smith opened the hearing on A.B. 358.

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

Assemblyman David P. Bobzien, representing Washoe County Assembly District No. 24, testified Assembly Bill 358 (1st Reprint) resolved some problems with how Nevada regulated mobile and portable buildings.

Tom Clark, representing QuickSpace, and Gene Temen, President of QuickSpace were present to answer any questions about the bill from the Committee. Mr. Clark explained that A.B. 358 (R1) clarified how portable buildings were regulated by the Manufactured Housing Division. There had been many discussions about how portable buildings were regulated. Working with the Manufactured Housing Division, QuickSpace requested this bill to make sure regulation was clarified in statute.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said he had conversations with the Manufactured Housing Division after the bill was amended, and the Division was concerned about a possible effect resulting from the amendment. He hoped someone from the Manufactured Housing Division would testify about whether or not this bill had an effect on the agency.

James V. deProsse, Administrator, Manufactured Housing Division, Department of Business and Industry, testified the original bill included components for portable buildings that exempted small portable commercial coaches. The industry found a more suitable approach for small coaches. The Division worked with the industry to develop a definition of a portable building. The definition was the only component in the original bill. He submitted a fiscal note showing a zero effect to the Division because the Division planned to develop regulations to specify how buildings would be inspected and how the program would be organized. The Division intended to draft regulations to satisfy both industry and the Division. Mr. deProsse believed the outcome would be revenue neutral.

Mr. deProsse said Assembly Bill 358 (R1) included a portion of the commercial coach definition in section 5 as an exclusion that actually would affect the bill significantly and result in a financial effect to the Division. The single-wide commercial coaches not for public use generated about \$82,000 of revenue to the Division annually. If single-wide coaches were excluded that revenue piece would go away. The single-wide commercial coaches not for public use exclusion was not included in the original fiscal note because it was not part of the original bill.

In response to a question from Chairwoman Smith, Mr. deProsse said he had not submitted an amended fiscal note, but he would provide revised fiscal estimates ([Exhibit D](#)).

Mr. Combs clarified the fiscal note system applied to the original version of the bill. When the bill was subsequently amended, there was no process to amend the fiscal note accordingly. What agencies should do was provide amended information to the fiscal analyst at the Fiscal Analysis Division. A request for information from the agency to the Committee was appropriate in this case. The reason the agency did not submit an amended fiscal note was that the system did not allow for that, and the agency had not received a formal request to provide additional fiscal information. The agency should complete a normal fiscal note including the amended information and email it to the fiscal analyst. The Fiscal Analysis Division staff would then provide the amended fiscal information to the Committee.

Mr. Clark said he would work with his client and Mr. deProsse and see whether they could remove, change, or alter the bill language to reduce the fiscal effect of the bill. He wanted to ensure there were appropriate fees and inspections done to protect the safety of the public.

Assemblywoman Carlton recalled a discussion in the Assembly Committee on Commerce and Labor that implied the inspections would be done at the local level.

Mr. Clark said the day he testified on Assembly Bill 358 (R1) he also testified on Assembly Bill 363 that contained a provision for local inspections. That was a different bill.

Assemblywoman Carlton expressed concern that the effect was not addressed via a telephone call or meeting during the last couple of weeks.

Assemblyman Hardy agreed with Assemblywoman Carlton that, according to his notes, inspections would be done at the local level.

Mr. Clark said Assembly Bill 363 allowed local jurisdictions to take over inspections or cities and counties could opt out. He was involved in that piece of legislation which addressed another policy decision that involved manufactured housing.

Mr. deProsse said the Division discussed the notion that if some of these commercial buildings no longer fall under the jurisdiction of the Division, the inspections may become the responsibility of the counties. If the Division was not overseeing commercial buildings then the counties may choose to do so. If the inspections were omitted from the Division's responsibility through statute, then the counties could have the right through local codes to perform the inspections.

Lance Packer, Territory Sales Manager, Modular Space Corporation, testified in opposition to Assembly Bill 358 (R1). He said the bill was confusing and the language in section 3 said the Administrator would adopt regulations prescribing safety standards. However, section 5 said the Manufactured Housing Division would not have any regulation duties for portable buildings or single-wide commercial coaches not for public use. Many of the Modular Space Corporation buildings were for public use. The company supplied model home sales trailers, and the public was in those all the time. His buildings sat above the ground and must be tied down. Assembly Bill 358 (R1) would have a serious effect on his competitive advantage because ground mount units would not have to be tied down, but the trailers that sat above the ground would have to be tied down.

Mr. Packer believed that this bill would result in less taxes for the state and less money for vendors.

Mr. Packer said his biggest concern was language in section 5 that defined commercial coaches but he wondered what the difference was between a portable building and a commercial coach. They both had to be transported by a flat-bed truck or had tires on them and were transported by a semitruck. He was concerned that ground mount units would not be regulated, noting they were built in a yard and were not even approved by the state. He wondered how the public would know what codes those buildings that the public used were being built to. He was bothered by the lack of compliance to codes and regulations. It created a distinct financial advantage for persons who used ground mounts as mobile offices.

Mr. Packer said his buildings were more similar to a trailer and had to be transported and set up higher. Nevada had high winds so the units would have to be tied down. This bill would give a distinct advantage to another dealer, and it was going to make his business noncompetitive. His business would not be able to compete, and he might eventually have to shut down part of his business, which would result in lost revenue for the state and his employees. He wanted to see how this bill worked out for everyone and allowed competitive fairness.

Chairwoman Smith asked whether Mr. Packer testified on this bill in the policy committee.

Mr. Packer said he did not testify and was not aware the bill was going to the Assembly. In Las Vegas there were five dealers that met with Mr. Temen of QuickSpace before he presented the bill.

Chairwoman Smith asked that Mr. Packer contact Assemblyman Bobzien and discuss the bill with him and try to reach some agreement. The Committee generally focused on the fiscal effect of bills and not as much on the policy matters, although the Committee would discuss the merits of the bill as it moved through the Committee. She asked Mr. Packer to work with the sponsor of the bill. That would be very helpful.

Mr. Packer agreed to work with the sponsor of the bill.

Mark Cobb, representing Williams Scotsman Incorporated, spoke in opposition to Assembly Bill 358 (R1). He was opposed to the effect of the bill solely on one company in northern Nevada. One business pushed this bill to an unsafe standard. The bill clarified the definition of a portable building but did not

include a length requirement in the definition. For the safety of all consumers, Nevada should not allow buildings that could blow over in storage yards to not be anchored. He attended an earlier meeting and opposed the bill. Gene Temen said the companies were all in agreement on the bill, and that was not true.

Chairwoman Smith cautioned everyone about making personal assumptions and urged them to discuss the merits of the bill and hone in on the problems that could be addressed by the Committee. She asked Mr. Cobb to work with the sponsor of the bill to address any problems and resolve the concerns.

Mr. Cobb said the language in section 2 should include a length limit of no more than ten feet. Anything longer could contribute to the building tipping over. Section 5 was a concern because all construction trailers would have a public use, and the public would enter trailers such as a sales office for model homes. He thought this bill was unclear and needed to be refined.

Chairwoman Smith asked him to contact the sponsor, Assemblyman Bobzien, and work on resolution of the concerns.

Assemblyman Bobzien said this was the first time he had heard there was a fiscal effect from the bill. He would revisit the language in section 5 and the specific exclusion of the single-wide commercial coach not for public use. The real intent was to create a new definition for portable buildings. If portable buildings remained in the bill, it would still take care of what the bill was intended to do and mitigate or completely eliminate the need for a new fiscal note. This was the first time he heard that there was concern about the bill itself. He was happy to work with those expressing their opposition.

Chairwoman Smith asked whether there were further comments or questions regarding Assembly Bill 358 (R1), and there being none, the hearing was closed. The next bill for review by the Committee was Assembly Bill 525.

Chairwoman Smith 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, Senior Chief Deputy Whip, to temporarily assume the duties of the Chair.

Assemblyman Atkinson assumed the duties of the Chair and opened the hearing on Assembly Bill 525.

Assembly Bill 525: Creates the Wildlife Trust Fund. (BDR 45-1213)

Patrick Cates, Deputy Director, Department of Wildlife, testified that Assembly Bill 525 created a special Wildlife Trust Fund for the Department. The purpose of this bill was to establish a separate account that the Department could use to accept gifts and donations from private individuals and not have those funds comingled with General Fund money. Currently, the Department accepted gifts and deposited those in its operating accounts. The Board of Wildlife Commissioners had the Wildlife Heritage Trust Account that had authority to accept gifts on behalf of the Board. This bill would establish a separate and distinct budget account that could be used as a nonexecutive budget account, and those funds could be used in accordance with the donor's wishes. The funds would be held for the donor's specified purposes.

Mr. Cates said the Department collected donations. Every year the Department had many avid supporters, particularly the sportsmen's groups donate a lot of time, talent, and treasure to the Department's mission. In fiscal year (FY) 2010, the Department collected about \$190,000 in gifts, grants, and donations. Those funds were used for a variety of activities. The trap and transplant programs for sheep were supported by the Nevada Bighorns Unlimited group. When the Department had a major piece of equipment fail, often its supporters would step forward with funding. Because the Department accepted that money into a regular State General Fund account, donors experienced problems getting the funds used for the intended purposes. There was concern among donors that funds donated to a state entity could end up being used by the General Fund and not used for the intended purposes.

Mr. Cates said before his service with the Department of Wildlife, he worked for the Department of Cultural Affairs, which received donations for restricted purposes. Assembly Bill 525 was modeled after a separate gift fund for the Department of Cultural Affairs. Those gift funds were declared private under the statutes, and the Department of Cultural Affairs was exempt from requirements such as requesting approval from the Interim Finance Committee (IFC) to receive and expend the gifts.

Mr. Cates said often in the management of wildlife, things happen that were not predictable, such as equipment failing or disease outbreaks. Circumstances can change very quickly, and if a donor was willing to step up and give the Department money, the Department wanted to have a speedy mechanism to accept and use those funds. Often what happened was entities would buy something direct, and the Department was not able to count that as matching funds for federal grants. It was much better to receive a gift from someone in the form of cash. The purpose of this bill was to mirror the system used by the

Department of Cultural Affairs to receive the gift funds and use them as intended by the donor.

Yesterday, Mr. Cates submitted to the Fiscal staff some suggested language for an amendment to this bill ([Exhibit E](#)). The bill drafters did not use the original language suggested by the Department. The current language in the bill established the basic structure but lacked the exemption from going to IFC to accept and expend a gift. That IFC approval process may cause a three-month delay in the Department being able to accept a gift. The language suggested by the Department contained the IFC exemption.

Mr. Cates said his suggested language declared the funds private, allowed the Department to have an IFC exemption, and provided the Department some flexibility so that the Department could move faster.

Assemblyman Atkinson said the proposed amendment was available to the public on the Nevada Electronic Legislative Information System (NELIS).

Assemblywoman Carlton asked about the IFC exemption process and wondered whether not having to go to IFC was typical of this type of account for other agencies.

Mr. Cates said that the IFC exemption was typical, and the language was modeled after the provision of the gift account for the Division of Museums and History that contained the IFC exemption. Most of the other gift accounts he looked at tended to receive small amounts of money so those did not have to go to IFC. There was a \$10,000 limit for a private gift or grant, and any amount in excess of that limit must be presented to IFC for approval. He was not aware of other exemptions other than the one for the Division of Museums and History. He said the proposed language for Assembly Bill 525 included reporting requirements to IFC and the Budget Division, so it was not as if gifts would be received without the knowledge of IFC, but the Department would not need to appear before the IFC to receive approval of the gift.

Assemblywoman Carlton said some bills presented to the Assembly Committee on Natural Resources, Agriculture, and Mining caused concern about contractors, requests for proposals (RFPs), and fiscal agents. She noticed at the bottom of the proposed amendment to Assembly Bill 525, the Department may authorize independent contractors funded in whole or in part from this private money. She wanted some information on the process for authorizing expenditures for those independent contractors. She wondered whether there would be an RFP process or whether there would be two or three different ways for this money to be handled.

Mr. Cates said the language for Assembly Bill 525 was modeled after the language of the Division of Museums and History. The Division of Museums and History entered into small contracts such as an exhibit designer to do small-scale work. Generally, most of the contracts were granted sole-source exemptions from the Purchasing Division's RFP process because there were relatively few firms that could do the work. The Department of Wildlife would follow the normal RFP process. If the Department wanted to do a large contract, it must comply with the normal RFP process required by the Purchasing Division.

Assemblyman Aizley expressed concern about how the Department evaluated the purpose of the gift and decided whether the purpose was appropriate. For example, if someone were to give the Department \$2 million for the eradication of horses, the Department probably should not accept that gift.

Mr. Cates said the Department ensured that the use of any gift was consistent with the mission of the Department. The Department would not accept gifts for any purpose that was contrary to its mission and statutory authority. When someone made a major donation, the donor put something in writing that identified the reason for and the purpose of the gift to the Department. The Department evaluated the purpose before determining whether to even accept the gift. Sometimes persons gave money and let the Department use it for any purpose. Often the donors identified specific things that they intended that money be used for.

Assemblyman Aizley asked whether the evaluation was performed by someone in the Department or a committee.

Mr. Cates replied that the Department usually reviewed the gift and purpose with a staff biologist for big game or something of that nature. Generally the gift came from one of the Department's partners that wanted to help the agency. The Department evaluated the purpose before it accepted the gift. The Department also reported to the Board of Wildlife Commissioners all gifts that the Department received on a routine basis. At the Commission meeting, the Board voted to ask for an amendment for this bill to be named in the reporting requirements. Commissioner Capurro would address that matter.

Daryl E. Capurro, Commissioner, Board of Wildlife Commissioners and Chairman, Legislative Committee of the Board of Wildlife Commissioners, testified this bill was one of the legislative matters reviewed by the Commission. The Commission approved the contents of the bill. It did not appear the amendment would pose any concern to the Commission. The Commission would ask the Committee to consider adding a provision to page 2, section 1,

subsection 4, between lines 30 and 31, that would include Board of Wildlife Commissioners on the list of those to receive an itemized statement of the income and expenditures of the Department from the Wildlife Trust Fund.

Mr. Capurro said Mr. Cates suggested the idea of creating a trust fund when he came to the Department, and the Commission thought it was a good idea. It would help with funds received through the Heritage Account and with funds offered to the Department by outside sources.

Mr. Capurro said there was a serious bighorn sheep die-off in the north Ruby Mountains and the east Humboldt Mountains last year. Up to 95 percent of the sheep population in those areas was destroyed by a *pasteurella pneumococcus* disease. That resulted in resources being shifted to take care of the problem and protect the remaining herd. In that situation, the mechanism in A.B. 525 would provide a means to allow the Department to use gift funds for the specific purpose of studying the disease and similar outbreaks in Oregon and other states. That work was rather expensive. There were a number of individuals and organizations that were willing to help with an outbreak, but donors wanted to earmark their gifts. Under the current budget process, the Department could not earmark the funds. The Board of Wildlife Commissioners supported Assembly Bill 525 and asked the Committee to consider adding the amendment to include a reporting to the Board.

Assemblyman Atkinson asked and received clarification about adding paragraph (c) to subsection 4 of section 1, page 2 to include the reporting to the Board.

Assemblywoman Carlton asked whether there was anything that prohibited the Department from sharing this information about gifts with the Board. It seemed to her that it was public information. Even as a citizen request, she should be able to receive the information. She wondered about the purpose of adding the amendment.

Mr. Capurro replied that the Board had that type of reporting system on other parts of the law relative to the Heritage Account. It seemed similar, and if the Committee delineated who would receive this report it should go to the Board as part of that process. He was not worried about the current Department and the Board but changes occur, and it would be better to include the reporting requirement in the bill. The Department had no problems with the proposed amendment.

Assemblywoman Carlton said it did not seem necessary to add that proposed amendment.

Assemblyman Atkinson asked whether there were further comments or questions regarding Assembly Bill 525, and there being none, the hearing was closed.

Assemblyman Atkinson returned the duties of the Chair back to Chairwoman Smith.

Chairwoman Smith opened the hearing on Assembly Bill 527.

Assembly Bill 527: Makes an appropriation for the implementation and operation of a principal leadership training program. (BDR S-1154)

Dale Erquiaga, Senior Advisor, Office of the Governor, testified Assembly Bill 527 was an appropriations bill, and this money was not included in The Executive Budget. Some unappropriated ending fund balances became available after submission of The Executive Budget. It was the Governor's intention to bring this proposal to the Committee and let the Committee consider it on its merits and decide whether some of those unappropriated funds should be spent on creating a school principal leadership training program.

Mr. Erquiaga said the bill was modeled after special appropriation bills used in prior sessions. The bill appropriated \$500,000 to the Clark County Public Education Foundation through the Department of Administration. He said that was the typical process for doing this. The bill contained a trigger that prohibited the release of the money until it was proven that private dollars existed with the Foundation that matched or exceeded the state amount. The Governor and the Department of Administration felt that match was important. A leadership institute of this kind was an expensive undertaking and knowing how precious state resources were the Governor wanted to be sure there was private money involved and the Foundation created a partnership.

Mr. Erquiaga said Assembly Bill 527 also required the Clark County Public Education Foundation to work with all 17 school districts and the other public education foundations in the state. There were two or three foundations in the state, to the best of his knowledge, as well as other regional professional development programs (RPDPs). He believed this program could be statewide in scope and should be developed in a coordinated manner so that all the school districts benefited. The bill also contained some reporting mechanisms before and after the money was released so that both the Governor's Office and the Legislature saw how those dollars were used.

Mr. Erquiaga spoke about why this program was important to the Governor and to the state. He explained that everyone heard about performance evaluations. The Nevada Education Reform Blue Ribbon Task Force presented a plan on how to improve Nevada's educator evaluations. In the past, this Committee graciously gave up its Saturday morning to listen to Mr. Erquiaga talk about that topic a little more. Everyone agreed that it was critical the performance evaluation system change over this next year.

Mr. Erquiaga said he knew that the building leader—the school principal—was critical to any improvement process. He believed that as the building leader went, so went the building. Instituting more rigorous or more complete performance evaluation systems for the teachers in a building required having the best possible principal in the building lead that evaluation system. Nevada wanted the best possible principals in its schools.

It was Mr. Erquiaga's belief that a quasi-private group similar to the Clark County Foundation could build a coalition of business, education, and community nonprofit groups that would help design a leadership academy. He knew that a leadership academy once existed in the Clark County School District, but it lost funding during the last three years of budget cuts. It was a critical priority for the prior superintendent of the Clark County School District, and he was sure it was for the current superintendent.

Mr. Erquiaga said that the leadership academy was the genesis for this bill. The Governor thought that given the focus on performance evaluations and changes occurring in our schools, Nevada must reinforce the building leaders. Leaders would see us through these times and have a tremendous effect on the way teachers delivered education to students and on the way principals, assistant principals, and deans interacted directly with students. The Governor believed that a leadership program was critical for student development and for the future of this state.

Chairwoman Smith agreed with the need for this type of training. She said that often in the teacher exit surveys, leadership training was one of the reasons that teachers leave or stay in a particular school. This was incredibly important to her. She wondered why go to an outside entity such as the Foundation to do this rather than build that infrastructure within our own state system as we have with professional development.

Mr. Erquiaga said he thought the outside entity was more nimble than the state system, whether we built it at the Department of Education or picked the RPDs. He believed the Foundation could develop a more nimble program and would more easily include private sector participants in its design. He also

wanted to force the idea of leverage because this would be an expensive program, and the Foundation could more easily accept the private funds.

Chairwoman Smith asked how the Governor prioritized this proposal among the many requests for one-shot funding.

Mr. Erquiaga said this was one of the very few special appropriations that would come from the Governor's Office. The other requests were mostly supplemental requests. This proposal was a very high priority because of the discussion around performance evaluations and educator accountability in this session. But Nevada needed to have something extra and the Governor needed to do this piece. Insufficient funds existed to fund all the needs. The Governor had to make some very difficult decisions about education funding and felt it was critical to provide this at least as some counterbalance to other cuts.

Andrew Clinger, Director, Department of Administration, explained when he presented The Executive Budget, he had unspent General Fund appropriations of about \$16.7 million. To date with the budget amendments submitted based on current projections, about \$8.9 million of unappropriated funds remained. This \$500,000 would be funded from the \$8.9 million balance.

Brian Myli, Executive Leadership Resident, the Clark County Public Education Foundation in Las Vegas, presented his written testimony as [Exhibit F](#) and spoke in support of Assembly Bill 527. He also provided "The Leadership Institute Funding Roadmap" ([Exhibit G](#)). He recognized the critical importance of public-private partnerships. A change in expectations resulted from the current economy. The Foundation created a leadership training program that would blend all of the traditional educational and instructional concepts with proven and innovative best practices from the business sector.

Mr. Myli said school leaders needed the opportunity to engage in strategic thinking. The goals of the leadership training would be to identify, recruit, and invest in leaders from Nevada's schools, meet the demands of the knowledge age, build leadership capacity, and prepare and support talented leaders to manage high-performing schools. He believed this leadership training would transform public education through innovative high-performing leaders and schools.

Assemblyman Hickey said the National Judicial College did a good job of training judges outside the state. He said the state needed to train school principals within the state. He wondered whether the Foundation wanted to train principals in Nevada or outside the state.

Mr. Myli said the plan was to train school principals in Nevada in phase one. Phase two would include training for emerging leaders both in Nevada schools and in business and industry. Finally, the program would begin training executive talent interested in becoming principals.

Assemblyman Hambrick said some lofty goals were contained in this bill and he agreed with all of the goals. He wondered about the pragmatic problem of funding and overhead. He wanted to know the direct benefit of the training program.

Mr. Myli said in year one the Foundation hoped to secure private funds using the \$500,000 of public funds secured as demonstrated commitment. He hoped to secure a minimum of an additional \$1 million in private funds paired with the \$500,000 from the state. With that funding the Foundation had market entry, enhanced capabilities, and an expanded market plan to roll out the principal leadership program.

Mr. Myli said the Foundation hoped to have a design team to recruit staff, develop partnerships with the universities, and complete capacity building and the technology infrastructure. Significant overhead was present in year one. The program would begin to transition into actual delivery of service in year two. In years two and three, the Foundation hoped to develop curriculum using the case-methods model, provide online learning and social networking, and achieve accreditation. The Foundation hoped to enhance professional and faculty affiliations in years two and three; effect marketing strategies; increase research, development, and assessment; and enhance performance analysis using scalabilities, sustainability, and replicability.

Assemblyman Hambrick asked again for a percentage of the administrative costs. He understood the overhead, but the Foundation needed to project percentages for direct delivery and administrative costs.

Mr. Myli replied at this time the Foundation was looking at approximately 40 percent for administrative costs.

Assemblyman Kirner asked about the current capacity of the program and how many principals or candidates might move through the program in a given period of time. He wondered whether this was a two-year program or a three-year program.

Mr. Myli said the Foundation hoped to begin in Clark County and then expand to the state at large. Currently there were approximately 1,290 administrators at large, and the Foundation hoped to begin training at least one-third of the

administrators in Clark County. The Foundation hoped to offer training to all Clark County principals first and then move to a statewide model where all administrators and principals would have an opportunity to participate through years two, three, and beyond.

Assemblyman Kirner wondered about the length of the proposed training program.

Mr. Myli said the Foundation hoped to establish an individualized leadership plan. A principal could embark on his or her training to best meet his or her needs. One principal may have unique needs and be interested in more business models, business background training, or business strategy. Another principal may be more interested in global opportunities, scalability, tangible results, or assessment. The length of the program depended on the needs of the individual. The program would differ depending on the individual and the unique training needs of each and every principal. It may be a one-year program for some, and it may be a two-year program for others. The program was similar to a model used by the state of Florida where principals had an individualized leadership plan and could choose to take the core sequencing courses that best met their needs.

Assemblyman Grady said he heard the universities both north and south had dropped these training programs. He asked where this program would be housed and whether it was a short-term or a long-term process to get back into the universities for housing for the future.

Mr. Myli said the Foundation hoped to establish public-private partnerships. It wanted to extend its reach to colleagues at the colleges and universities. The Foundation hoped to secure facilities and deliver services. The Foundation hoped to deliver an online model, particularly for the rural areas, but certainly in urban areas as well. The Foundation wanted students to choose a delivery model that best met their needs, whether it was an online learning model or a traditional face-to-face model. It hoped to establish faculty connections through the colleges and universities, along the vein of a public-private partnership.

Assemblyman Aizley said this was an interesting proposal. On Saturday he heard testimony that extra or advanced degrees did not have any effect on teaching. He wondered whether this training had any effect on a good or a bad principal.

Mr. Myli believed that leaders who engaged in a cohort model and a case-study model would be exposed to a process that they may not have been exposed to in more formalized training through a college or university. The Foundation

hoped to engage both a traditional model of learning as well as a practitioner model of engagement. Participants would be asked to demonstrate proficiency not only in the conceptual components of each of the strands but also in the practitioner components as well. When scalability was discussed for example, it would be the program's goal for principals who engage in that particular strand to be able to demonstrate what scalability meant, what it looked like, and how scalability would work in their building or district. The program included both the conceptual piece as well as the practitioner piece. The Foundation did not have a position on whether or not degrees lent themselves to proficiency. The Foundation believed that professional experiences both conceptually and in practice led to better overall performance in a building.

Assemblyman Aizley wondered whether there was a degree or a certificate of completion and whether there would be an oversight group such as the Northwest Accreditation Commission that would supervise and approve the program.

Mr. Myli said the Foundation's goal was to become fully accredited, and oversight would then be provided by the Northwest Accreditation Commission.

Assemblywoman Carlton said she thought she had a basic understanding of the training program. She was aware of the Foundation's other programs, and she was concerned that some of those may suffer. Everyone wanted to donate to something new and innovative, but there were only so many dollars out there for donation. She worked with a nonprofit agency and had seen donations shrink over the last two years. She was concerned that some of these other programs would suffer because of this new leadership training program.

Mr. Myli said fears were understandable. However, the Foundation hoped to secure large corporate private funds for the Leadership Institute and the principal leadership training program. While some of the programs of the Foundation were funded by corporations, many programs were funded by citizens. The community valued the literacy programs and earmarked its donations specifically for that program.

Mr. Myli said the Foundation hoped to garner significant corporate donations for the principal leadership training program to enhance any type of public funds received. He hoped a "robbing Peter to pay Paul" phenomenon would not happen. The Foundation's other programs provided wonderful opportunities for students in Clark County and beyond.

Assemblyman Hardy said he had seen a great change in the Virgin Valley area from principal leadership, using the same teachers with the different principals.

The Virgin Valley area's ranking had increased from the bottom of Clark County schools to the top of Clark County schools within two years. Assemblyman Hardy believed the leadership training was a good idea.

Assemblyman Hardy understood that business persons wanted to focus on specific problems. Leadership training appeared to be an idea that the business community would support. It was good to know the state funding would motivate private donors to contribute. He agreed the other programs offered by the Foundation were important to support.

Assemblyman Kirner said much of this proposal depended on private investment, and he wondered what progress had been made on soliciting private support.

Mr. Myli said the Foundation had an upcoming presentation to a large corporate donor in Las Vegas worth up to \$5 million in funding. The donor was receptive, understood the need, and was interested in a cost-effective means of making significant strides to bring change throughout the State of Nevada through investment in a leadership training program for school principals.

Assemblyman Aizley said he was familiar with the work that Judith Steele had done in Las Vegas with The Public Education Foundation and she ran an excellent program. Her program was supportive of education, and he had been happy to work with her in the past.

Chairwoman Smith asked whether the Foundation could provide the Committee with a budget, a plan, and a timeline. She was more interested in how the \$500,000 would be spent, how the match would take place, and what the timeline would be for implementing the program.

Mr. Myli said the Foundation had that information available, and he expected Ms. Steele would address those questions.

Judith Steele, President and Chief Professional Officer, the Clark County Public Education Foundation, presented [Exhibit H](#) and testified the Foundation was dedicated to providing effective instruction, testing promising ideas, and developing best practices in southern Nevada's public schools. She urged the Committee to support [Assembly Bill 527](#). She believed the effectiveness of Nevada's education system could be transformed through quality leadership and good public policy. The Foundation had researched the best in educational leadership training. She presented [Exhibit I](#), The Leadership Institute booklet, and [Exhibit J](#), The Public Education Foundation brochures.

Ms. Steele said the most effective school leaders must professionally manage improvement strategies, hold teachers accountable, and use private sector systems to improve performance. The change in expectations of schools now required effective instruction and performance. Student achievement must be improved. School districts faced competition from entrepreneurship and alternative learning environments.

Ms. Steele said resources were limited and leadership was a cost-effective educational improvement strategy. Putting effective principals in every school was the best way to ensure improvement. The Foundation had the experience necessary to partner with private sector donors to provide leadership training to improve education.

Chairwoman Smith said she was interested in the funding road map, the budget, and the timeline from the Foundation.

Assemblywoman Mastroluca wondered about the partnerships the Foundation developed with businesses in different counties. She was unfamiliar with the Foundation partnerships outside of Clark County.

Ms. Steele said over the last 20 years, the Foundation worked with the Washoe County Public Education Foundation, participated with state agencies, and discussed problems with private organizations. The Foundation worked with two other public education foundations that evolved over the last few years in Nevada. The Foundation assisted in establishing those foundations and helping them learn how to generate private sector funding. The Foundation reached out to northern Nevada and southern Nevada entities. The Foundation looked around the country at other institutions providing leadership training. It sifted through those programs to find the best practices. The Foundation would provide Nevadans statewide with great learning and teaching opportunities so the state could grow more of an entrepreneurial spirit within the administrative ranks in the state.

Assemblywoman Mastroluca asked what business partnerships the Foundation developed outside of Clark County to allow it to raise the funding.

Ms. Steele said the Foundation had developed business partners in Clark County that had interests throughout the state, the nation, and the world. The Foundation had business partners interested in raising money for the state. Funds would not be used just for Clark County but would provide the training needed to have a great statewide education system.

Chairwoman Smith said she received the funding road map referenced by Ms. Steele but wanted more detail about how the money would be spent. She asked that a budget be provided to the Committee. She wondered why the Foundation showed \$250,000 of public money as revenue in both phase two and phase three.

Ms. Steele said the Foundation's intent was to identify other public sector funds after the first two years. The first year the Foundation expected to receive the \$500,000 and in the second and third year the Foundation would not be asking the state for funds but hoped to pursue other public funds. Ms. Steele understood there were persons interested in expanding leadership training, and the Foundation would seek private and public funds to continue.

Chairwoman Smith asked for a more specific budget and timeline for phase one.

Ms. Steele said she would provide a list of donors that had state involvement that the Foundation had been blessed to receive support from in the past.

Dawn Christensen, Vice President of Communications and Government Affairs, the Clark County Public Education Foundation, testified that she had a letter from Ann Lynch in support of Assembly Bill 527 that she would read into the record ([Exhibit K](#)). Ann Lynch served as the former President of the Nevada Parent Teacher Association. Ms. Lynch was one of the four original founders of the Clark County Public Education Foundation. She believed the Foundation allowed the blending of public and private funds to enhance educational and leadership opportunities for schools. She thought that new directions in education demanded new skills, and Nevada must provide leaders the skills needed for the new direction.

Ralph Cadwallader, Executive Director, Nevada Association of School Administrators, testified in support of Assembly Bill 527. His Association had over 1,000 members consisting of principals, assistant principals, and superintendents. He said the fields of medicine and engineering annually spent between 5 percent and 15 percent of their total expenditures on research and development. In contrast, even though education had a \$500 billion national budget, it spent less than \$1 billion on educational research and development or less than one-quarter of 1 percent. Assembly Bill 527 was an extraordinary opportunity for this state to partner with business. The training program was a wonderful business model. It was a multiagency partnership of the private sector and the public sector. For principals throughout the state to have an educational experience similar to this would be invaluable, forward thinking, innovative, and right on the cusp of the new normal. He was impressed by the preliminary outline of the new program. He supported the bill and was

impressed by the emphasis on innovative thinking and entrepreneurial best practices much needed in Nevada's educational environment.

Stephen Augspurger, Executive Director, Clark County Association of School Administrators and Professional-Technical Employees, testified in support of Assembly Bill 527. Prior testimony addressed the importance of having this program approved. His Association supported the bill and was committed to supporting this program in every respect and looked forward to working with Ms. Steele, the Clark County Public Education Foundation, and the collaborative partnership to deliver this kind of training statewide. He thought the requirements of the bill were clear about the matching funds. He thought there was no one better suited or more capable than the Clark County Public Education Foundation under the leadership of Ms. Steele to generate the necessary revenue stream to support this program at its inception and into the future as well. He looked forward to working with her in the development of this program and was in full support of the bill.

Dotty Merrill, Executive Director, Nevada Association of School Boards, testified the 17 school districts' boards recognized that administrative leadership was critical at the school level and the district level to improve student learning and student achievement. School boards across the state recognized the need for leadership professional development for school administrators. She supported moving forward with the proposal for the three-year probationary period to observe and evaluate the performance of teachers.

Ms. Merrill recognized it was important for school site leaders to be more welcoming to families and more willing to involve school staff with administrative functions. She remarked that \$500,000 was money that could be used for other programs in school districts that were being cut. She said this program sounded good and had important goals that could result in more effective school leaders.

Ms. Merrill discussed the importance of program evaluation, and she would question whether sufficient efforts would be made for follow-up. There was extensive research that supported the conclusion that drive-by professional development was not effective. She hoped that program follow-up would be included.

Ms. Merrill noted that all 17 school districts should have equal access to the leadership training program if state dollars were used in support of the academy.

Chairwoman Smith said connecting data to student achievement was important, so she asked the Foundation to consider how it would be able to do that. The

state kept working harder at its data. Evaluation of the program was important, and the program must be connected to student achievement.

Chairwoman Smith asked whether there were further comments or questions regarding Assembly Bill 527, and there being none, the hearing was closed. Chairwoman Smith opened the hearing on A.B. 531.

Assembly Bill 531: Revises provisions governing the Fund for Manufactured Housing. (BDR 43-1191)

James V. deProsse, Administrator, Manufactured Housing Division, Department of Business and Industry, testified Assembly Bill 531 revised the provisions governing the Fund for Manufactured Housing. He said the Division collected fees for the services that it performed and deposited that revenue into one of two funds. The Business and Industry Mobile Home Lot Rent Subsidy account, budget account (BA) 630-3842, was used for the deposit of funds for the lot rent subsidy program. Any money deposited into that account accrued interest, and any interest accrued was returned to that fund. All other fees and services revenue was deposited into various accounts that were part of BA 271-3814 for Manufactured Housing. Currently, that fund was not returning any interest income to the Division. This bill would allow for any money collected and deposited into BA 271-3814 to earn interest to be returned to the Division and credited to the fund.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said he had no questions about the bill.

Chairwoman Smith asked whether there were further comments or questions regarding Assembly Bill 531, and there being none, the hearing was closed. Chairwoman Smith opened the hearing on A.B. 561.

Assembly Bill 561: Makes various changes concerning governmental financial administration. (BDR 31-1166)

Andrew Clinger, Director, Department of Administration, presented Assembly Bill 561 that contained several provisions to fund The Executive Budget for the 2011-2013 biennium. Mr. Clinger said current law required that 1 percent of the revenue projected by the Economic Forum plus any legislative changes be redirected and deposited into the Fund to Stabilize the Operation of the State Government (Rainy Day Fund). This was a provision that was put in place during the 75th Session (2009). Section 1 and section 10 of A.B. 561 delayed the implementation of that 1 percent transfer to

the Rainy Day Fund because of the economic conditions of the state and the state's limited resources.

Mr. Clinger said section 2 and section 14 dealt with the debt reserves of the school districts. Under existing law, the school districts were required to maintain reserves to account for the payments of bonds. Those reserve requirements were 10 percent of the outstanding principal or one year's debt service on those bonds. Section 2 of the bill eliminated the one-year reserve and enacted a 10 percent reserve requirement in Clark County and Washoe County and a 25 percent reserve requirement in the remaining 15 counties.

Mr. Clinger said as a result of section 2 and section 14 of this bill, The Executive Budget recommended \$302.1 million be transferred from those bond reserve accounts to the school districts' operating accounts to cover operating costs for the 2011-2013 biennium.

Mr. Clinger said section 4 of the bill dealt with the Modified Business Tax (MBT). Senate Bill No. 429 of the 75th Session (2009) changed the structure of the MBT from a single rate to a two-tiered rate system with a rate of 0.5 percent for wages under \$62,500 per quarter and a rate of 1.17 percent for wages over that amount. The provisions of S.B. No. 429 were scheduled to sunset June 30, 2011, and The Executive Budget maintained the two-tiered rate structure and maintained the 0.5 percent rate on wages under \$62,500 per quarter and reduced the rate for wages in excess of \$62,500 from 1.17 percent to 0.63 percent. This section resulted in a loss of \$16.7 million in revenue over the 2011-2013 biennium.

Mr. Clinger said section 3 revised the method for determining the amount of the tax due from a company that leased employees to client companies by requiring separate calculations of the tax for the wages paid to employees leased to each separate client company.

Mr. Clinger said section 5 and section 6 dealt with the short-term lease of passenger cars. Effective October 1, 2009, Senate Bill No. 234 of the 75th Session (2009) increased the rate imposed on the short-term vehicle rentals from 6 percent to 10 percent, with the proceeds equivalent to 9 percent being deposited into the State General Fund and 1 percent being deposited into the State Highway Fund. It also eliminated the 4 percent surcharge. The proposal in section 5 and section 6 was redirection of the 1 percent currently being deposited into the State Highway Fund into the State General Fund, generating additional revenue to the General Fund of \$7.977 million over the 2011-2013 biennium.

Mr. Clinger said sections 7, 8, 9, and 11 of the bill dealt with the Net Proceeds of Minerals Tax. Because of the sunset provisions of Senate Bill No. 2 of the 25th Special Session (2008), no taxes may be collected on activity related to mining in calendar year 2012. The Executive Budget extended the sunset provision of S.B. No. 2 through June 30, 2013, to ensure revenue was collected for fiscal year 2012, and the Budget Division included \$60 million as an anticipated receipt of revenues based on this extension.

Mr. Clinger said section 12 of A.B. 561 authorized the State Treasurer to securitize a portion of the proceeds of the tax on insurance premiums for the next 10 fiscal years. The Executive Budget included the securitization for the next five years and added an amount of \$190 million of revenue. The total of all of the provisions included in this bill was \$543.4 million of additional revenue that was in The Executive Budget.

Mr. Clinger said there were two potential amendments to Assembly Bill 561. The first was a transfer from the Fund to Stabilize the Operation of the State Government in fiscal year (FY) 2011 that should have been included in this bill. A total of \$41.3 million in the Fund to Stabilize the Operation of the State Government was transferred at the end of FY 2010. Those funds needed to be transferred out to balance the budget, and that was included in The Executive Budget.

Mr. Clinger said the other amendment involved the transfers related to the Governmental Services Tax (GST) included in the amendment to the debt-service-reserve proposal. He was not sure whether that language belonged in A.B. 561 or in the Distributive School Account (DSA) bill. The budget included some GST transfers in Clark County and Washoe County into the debt service account to help maintain those debt service levels in the future. He spoke to Fiscal staff about the amendment and would work with the Fiscal staff on putting the provisions in the appropriate bill.

Chairwoman Smith wanted to go back and walk through the different items in the bill. The first item was the idea of the school debt reserve in section 2 and she wondered where the new GST idea was and should that be included in an amendment on the GST. She preferred to have all of the components of the GST matter in one bill. She asked Mr. Clinger to explain the concept that in addition to taking the debt reserve on the bonds, the Budget Division would also be taking the GST. Also, she thought there should be a change about how low the debt reserve would go and whether there should be an amendment to accommodate Mr. Clinger's previous proposals.

Mr. Clinger said when he worked with the bill drafters on this he had them draft the bill at the levels based on the amended recommendations included in The Executive Budget. The bill established the reserve levels for Clark County and Washoe County at 10 percent and for the other 15 counties at 25 percent. Those were lower percentages than the original proposal.

Mr. Clinger said the other provisions on the Governmental Services Tax (GST) were not included in the original proposal but were later proposed by the Governor. The Budget Division reworked the forecast for the debt reserve transfers and included a proposal to transfer a portion of GST from the school districts into the debt service funds to assist the school districts with making the debt service payments. That amendment would need to be added to this bill to authorize those transfers from GST funds.

Chairwoman Smith asked whether Mr. Clinger had a current breakdown of what was expected from the debt reserves and GST and what the total amount was that would be available.

Mr. Clinger said based on the current projections, the Budget Division forecasted that \$151 million was available in FY 2012 and \$151.1 million was available in FY 2013. He had not had a chance to reconcile the numbers with the Fiscal staff, and the revised property tax forecast was prepared two weeks ago. He revised the property tax forecast for the 75-cent operating piece of the school district rate as well as the 17-cent state debt service piece. These amounts would change once he reconciled those revenue projections with the Fiscal staff.

Chairwoman Smith asked about the \$151 million in FY 2012 and \$151.1 million in FY 2013 included in both the debt reserve and GST.

Mr. Clinger confirmed that both amounts were included in the numbers he provided.

Chairwoman Smith asked whether this took virtually every dollar that was available from the school districts. She asked Mr. Clinger to explain the difference between the debt reserve and GST, how much of what was available would be transferred, and whether it was the same in all counties.

Mr. Clinger said it was not the same in all counties. What A.B. 561 proposed and what the Governor recommended in the budget was for the debt reserves of Clark County and Washoe County [given that they were larger and had a more stable tax base] to be drawn down to a 10 percent level. The Clark County School District and Washoe County School District were currently

required to maintain one year's worth of debt service or 10 percent of the outstanding balance in reserve. The Governor recommended in this bill and in the budget that those reserves be allowed to be drawn down to 10 percent of what the debt service payments would be in the next year. The result was a reduction of the reserves from 100 percent down to 10 percent.

Mr. Clinger said for the other 15 counties [because they were smaller and had a tendency to be more volatile in tax collections], the Governor recommended those reserves be reduced to 25 percent. Those counties would maintain in the debt service reserve 25 percent of what the next year's debt payments would be.

Chairwoman Smith said if the reserves were reduced to those levels, it would take virtually everything the school districts had available to reach that debt reserve requirement.

In response to a question from Chairwoman Smith, Mr. Clinger said the proposal transferred all available funds from the debt reserve accounts as well as GST funds for Washoe County for the next two years and GST funds for Clark County for the next four or five years.

Chairwoman Smith wondered whether GST was used for maintenance or equipment replacement when a boiler failed.

Mr. Clinger said that question was best directed to the school district staff. He had looked into the financial statements of the school districts. The uses of the GST in Washoe County in FY 2009 and FY 2010, for example, included land acquisition expenses. It appeared the GST was used for more than just maintenance costs.

Chairwoman Smith asked about GST uses for the other 15 counties and wondered about the forecasts.

Mr. Clinger said there may be one or two counties affected by the GST provision, but once he revised the forecasts he would have to revisit the GST for the other 15 counties.

Chairwoman Smith wondered whether there was an assumption of taking the GST from the other counties.

Mr. Clinger replied that there was no assumption of taking GST from the other counties.

Chairwoman Smith said the Committee discussed this proposal several times but the plan had evolved somewhat.

Mr. Clinger wanted to correct the record because he had previously said land acquisition expenses were one use of GST in Washoe County, but it was actually site improvement, and there was a big difference between land acquisition and site improvement.

Chairwoman Smith was bothered by the idea that the state would take money in this budget without having a clear understanding of how that money was used and what the implications would be for the school districts. She wondered what would happen if the school district had an extraordinary maintenance requirement, and she wondered whether a district would be required to use its general fund that was also being cut.

Mr. Clinger said Washoe County would still have a balance of \$2 million in reserves in the GST fund so the proposal did not take all of the funding that was available. The remaining balance could be used for emergencies. If the balance was depleted, then districts would have to use their operating account or some other account.

Chairwoman Smith said she recalled hearing about a provision to do some type of payback with the Local School Support Tax (LSST), but she did not see that language in the bill.

Mr. Clinger said that language was not included in A.B. 561. He was not sure why it was not included in this bill, but that could be a potential amendment for this bill or the DSA bill. The Budget Division's intent and recommendation was that LSST revenues that exceeded the forecast be allowed to revert back to the school districts at the end of the biennium. Mr. Clinger recommended that excess LSST collections compared to forecasts be allowed to replenish the debt reserve accounts to the extent that the state transferred funds from those accounts.

Chairwoman Smith said she had hoped to build a Rainy Day Fund for school districts from those reversions. She wanted further discussion on this item.

Chairwoman Smith wanted to discuss section 3 and the employee leasing matter. This was the first time she had heard of this proposal. She did not remember hearing about this in the budget overview and wondered whether this was something new.

Mr. Clinger said he did not believe this item was discussed during the budget overview. This was something new. What he recommended was a clean up to the Modified Business Tax language for leasing companies. Currently, those leasing companies were charged a rate based on a tiered structure on the collective number of their employees, including their leased employees. The rate was not based on the employees allocated to their individual clients. In other words, their \$62,500 threshold per quarter was counted on all of their employees regardless of where the employees were and regardless of how many clients they had for those employees. What this proposal attempted to do was to put leasing companies on an even footing with other businesses. If a leasing company had enough employees in one business and exceeded that \$62,500 threshold then that would push the leasing company into the next tier, but the leasing company's employees collectively were not treated that way.

Chairwoman Smith said she needed some clarification. She wondered who was considered the employer and whether the employer was the leasing company or the temporary employer. She asked who paid the Modified Business Tax (MBT).

Chris Nielsen, Interim Executive Director, Department of Taxation, said under the two-tiered rate the employer or the individual actually remitting MBT was the employee leasing company. This bill attempted to put the clients or the individual businesses [who were working underneath the umbrella of the employee leasing company] on the same footing as every other business in the state. The companies do not hit that tiered rate until they individually get to that \$62,500 threshold per quarter.

Chairwoman Smith said she assumed that this would cause a reduction in tax collections. She assumed that was the point of these employers wanting this bill. She needed to see the fiscal effect of this proposal.

Mr. Nielsen said his staff looked specifically at the fiscal effect of the bill and could revisit it again but the Department of Taxation could not determine with any sort of precision what that fiscal effect could be. Certainly it was logical to assume a reduction of tax revenue. The Department could study the effect again, and if it could develop a reasonable number, it would submit that to the Committee.

Chairwoman Smith said it was hard for her to imagine that somebody was out there advocating for this bill if it did not provide a benefit for them. She wanted to know the fiscal effect. She was still confused about who paid the tax, the employer or the temporary employee agency. She wondered who paid for the other benefits such as unemployment insurance and wanted to know if it was the temporary employee agency or the employer.

Mr. Clinger said he believed it was the temporary employee agency that paid the tax. But the way the temporary employee agency worked, it would pass those costs on to their client companies, but the temporary employee agency was paying those taxes out of its receipts.

Chairwoman Smith said that the temporary employee agency must be paying all taxes including MBT and others.

Assemblywoman Carlton said temporary employee agencies were distinctly different from employee leasing companies, and the Committee must be careful because there was an actual contractual relationship between small employers who leased their employees through the employee leasing company that handled all the typical accounting functions for that employee. The concern she had was the logistics and burden of being able to break this down for each client company. An employee leasing company could have 6,000 or 7,000 employees going through its system, and the employees were leased to other employers. Employees were actually the employees of the leasing company. Assemblywoman Carlton had a hard time figuring out where companies would draw the line to extrapolate the data to make sure that each company paid appropriately.

Mr. Nielsen said the Department could develop a way to administratively ensure that information was properly captured and reported without having the Department incur any significant costs. Currently, the Department used the wages reported to the Employment Security Division (ESD) for the purposes of calculating the unemployment insurance and MBT. The Department verified the wages by comparing them on a systematic quarterly basis to the wages reported to ESD. If a discrepancy was noted between wages reported to the Department of Taxation and ESD, the wages were investigated. An invoice was sent to those taxpayers from the Department of Taxation. He was unsure whether there would be any administrative burdens but would report back to the Committee, along with any fiscal effect if the Department could develop something. There may be an additional administrative cost, but his understanding was the Department would be able to sufficiently absorb the cost.

Assemblywoman Carlton said she was even more confused now. When she read this bill it appeared as though the burden would fall on the leasing company to make these delineations and not upon the Department of Taxation.

Mr. Nielsen said this was no different than any other tax type and the Department relied upon self-reporting from the businesses. This tax type was audited. It was one of the better tax types as far as compliance went because

the Department had an independent number from ESD to verify the wages. These verifications would be picked up through the Department's systematic review from ESD and through the traditional field audits that were currently undertaken by the Department.

Assemblywoman Carlton asked whether this language was requested by the Department of Taxation.

Mr. Clinger said this language was a recommendation from the Governor's Office.

Chairwoman Smith said this proposal was going to require a lot more work. She wondered about the concept of one segment of employers having the benefit of the rates they paid on unemployment insurance because of the volume of employees and their experiences. In this case the proposal was going in the opposite direction and bifurcating the tax for certain employers. This language did not make sense to her.

Assemblyman Conklin said page 7, section 3, subsection 1 was the language everyone was concerned about. He said a leasing company was not a temporary employee agency. They were completely different and mutually exclusive. A temporary employee agency was the employer of record and all employees that it sent out to a location were ultimately still employees of the temporary employee company. There was a minor coemployment relationship such that wherever it sent employees the company using the employees must ensure the employees performed the work safely and explained what work the employees were supposed to do. But the entire tax and accounting burden fell back on the temporary employment company.

Assemblyman Conklin said an employee leasing arrangement was something different and resulted in more coemployment problems and a lack of understanding about who the employee was actually employed by. Traditionally in employee leasing arrangements a company would send all of their employees to a leasing company, including maybe even the owner, as a way to leverage their small number of employees with other groups of employers to gain the benefit of similar retirement benefits, health insurance benefits, and so on. The leasing company would then hire those persons in aggregate and send them back to the original employer, and the employer would simply pay a monthly bill that included the entire payroll, all the benefits, and some markup for the employee leasing company doing that work and doing the accounting associated with that arrangement.

Assemblyman Conklin said if one truly wanted to capture who was paying that tax, then it really was not the leasing company. It was the company that held the employment relationship and that was the business that was leasing those employees. It was similar to a payback arrangement. An example would be the following: I am sending you these employees and I want you to do all the paperwork and do the background checks and then send the employees back to me to work.

Chairwoman Smith said that was not what the Committee heard in testimony. The Committee heard that in this case the employer was the leasing company.

Assemblyman Conklin said the employer of record and the technical employer of record was the leasing company. He had no doubt about that because that was how companies were able to bargain for better benefits. As an example, an MGM Grand business might have 50,000 to 70,000 employees and when they bargained for benefits they got a better reduced price because they had a large market share. For the rest of the small employers, they may have 3, 4, or 5 employees, or even 10 or 100 employees, but paid a lot higher price for benefits. By aggregating employees in this sort of leasing company arrangement, the cost of benefits was lower. But at the end of the day, the company that was paying the leasing company was still the decision maker unlike the temporary employee company. A temporary employee company made its own decisions about its employees.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said he wanted to provide a little bit of history about the Modified Business Tax (MBT) when it was enacted by the 72nd Session (2003). The Legislature's intent was to model MBT after the unemployment insurance (UI) provisions for ease of administration and tracking the wages that were paid. At the time when MBT was enacted, those provisions were put in place to mirror what was required under UI law. That was why the employee leasing companies were treated under MBT the way they were because that was the way they were treated under UI law. The employee leasing company was deemed [under UI law] to be the employer of the employees it leased to client companies. The company had a primary responsibility for submitting the reports that were required to ESD as well as the payment of the unemployment taxes. This bill would seem to change that for the purposes of MBT. But it did not change the requirements for the purposes of UI law.

Mr. Nielsen said he believed the reason the Department could not develop better information with respect to the fiscal effect was the distinction Assemblyman Conklin explained. There was not a broad category of temporary

employee agencies and employee leasing companies. It was a rather small subset. The Department would try to develop a number of the so called employee leasing companies in the state and try to get some figures for the Committee.

Chairwoman Smith said in the scope of budget items this was a brand new idea that the Committee had not heard until now. There were more important matters before the Committee. The Department could certainly provide more information and let the Committee know what the effect to the budgets would be. But Chairwoman Smith was not looking forward to hearing something that was going to cost the state any money. The Committee would continue talking about this. The bill had important elements in it, but this section was problematic to her.

Chairwoman Smith wanted to discuss section 4 that contained the Modified Business Tax (MBT) provision. She believed this was the provision that would take into consideration the changes made during the 26th Special Session (2010) when the Legislature lowered the rate for smaller businesses for MBT [that equated to about 73 percent of businesses], and the rates would not go back up with the sunset provisions.

Mr. Clinger confirmed Chairwoman Smith was correct and said section 4 would maintain that lower rate for companies that had wages below \$62,500 per quarter. Without this bill, that rate would increase to 0.63 percent.

Chairwoman Smith said this would not require a two-thirds majority vote for approval because the bill was lowering the rate. It did have a fiscal effect on the budget.

Assemblyman Hickey asked whether the lower rate of MBT was included in The Executive Budget.

Mr. Clinger said the lower rate was included in The Executive Budget and noted in fiscal year (FY) 2012 the budget would lose \$8.3 million and in FY 2013 would lose \$8.4 million in revenue as a result of maintaining the lower-tier rate.

Chairwoman Smith said there were no questions about section 5 regarding the state highway fund transfers. Section 6 dealt with the transfer of short-term car lease funds. She asked for details on section 6 and its affect to the State Highway Fund.

Mr. Clinger said section 5 and section 6 dealt with the short-term auto lease tax. Currently that tax rate was 10 percent, of which 9 percent went to the

General Fund and 1 percent went to the State Highway Fund. The Governor's recommendation in The Executive Budget was that the 1 percent that was currently going to the State Highway Fund would be deposited in the General Fund, and that generated about \$3.9 million in each fiscal year in additional revenue to the General Fund.

Chairwoman Smith asked about section 12 that provided for the securitization of the insurance premium tax. She was surprised about how simple that language was. She wondered whether there was other language needed to define how that securitization would take place or what the repayment plan would be.

Mr. Clinger said he relied on the work of the Legal Division of the Legislative Counsel Bureau. He was not sure what language was needed for statutory revisions. The Legal Division believed the language presented would suffice.

Chairwoman Smith was looking at the effective dates for the provision and the sunset in FY 2021. She wondered why would there be a ten-year effective date included in the bill because an earlier discussion indicated a four-year or five-year repayment period.

Mr. Clinger said the original proposal was a five-year repayment schedule. When the bill drafters crafted the language they included a ten-year repayment period provision perhaps to grant the state more flexibility. He was receptive to changing that to a five-year repayment period.

Chairwoman Smith wondered about the basis for the five-year repayment schedule.

Mr. Clinger said the number of years that was included in The Executive Budget was five years for the repayment period.

Chairwoman Smith said that was something that the Committee needed to put on the list to be discussed.

Assemblywoman Carlton asked about the purpose of securitizing the insurance premium tax. She wondered what the state received and did not understand the benefit.

Mr. Clinger said the state would receive \$190 million in fiscal year (FY) 2012 to help balance The Executive Budget. The repayments would start in FY 2014 and there were no payments budgeted in the 2011-2013 biennium. The benefit

was the securitization would bring \$190 million to help balance the budget now. That amount must be repaid.

Assemblywoman Carlton said this proposal was similar to putting this on a credit card and the state would pay it off in a few years.

Mr. Clinger said the interest cost was projected at 2.7 percent thus the cost to the state was 2.7 percent over the life of this securitization. If the receipts from the insurance premium tax in FY 2014 and FY 2015 came in above the forecasts, that excess could be used to pay back the balance sooner. Otherwise, it was a five-year payback on those funds

Chairwoman Smith said her concern was all of the items in this legislation were onetime solutions to balance the budget. The Committee had this discussion before. This bill was a onetime fix.

Mr. Clinger said the securitization of the insurance premium tax was certainly a onetime fix. Some of the other provisions in the bill such as the debt reserve transfer were also onetime solutions. There were certain other provisions in this bill that could be extended. The Net Proceeds of Minerals Tax was scheduled to sunset in this biennium, but the Governor proposed extending it into the next biennium. The Legislature would have to come back and revisit this issue in two years to determine whether that tax would get extended again or not. So some of these solutions were onetime in nature and others could certainly be revisited.

Assemblyman Conklin said he struggled with this idea of securitization. This was kind of complex. The state had a budget hole and was borrowing to fill a budget hole. Specifically, the state was borrowing to fill a \$190 million hole and the budget hole would still be there in the 2013-2015 biennium. Except that next time the state would have the \$190 million budget hole plus the \$110 million owed [\$55 million paid each year of the biennium] so in the 2013-2015 biennium there would be a \$300 million budget hole just to fill the \$190 million in the 2011-2013 biennium. He was not sure that was the logical intelligent way to fill a budget hole.

Mr. Clinger said it was a complex matter and not even as simple as Assemblyman Conklin attempted to explain it. There were other factors that must be considered in two years, such as what would happen with the state's caseload and what would happen with the state's expenditures. Mr. Clinger said to take a snapshot today and say that this was going to translate into a \$300 million hole ignored the fact that the state would experience changes in revenue and caseload. Mr. Clinger suggested Assemblyman Conklin was

viewing this from an economic standpoint and trying to say how it would look in two years but was not assuming any revenue growth or other factors that would change.

Assemblyman Conklin said he was looking at securitization from an accounting perspective and not an economic standpoint. It bothered him because he thought the state would not have as much growth as anticipated. Assemblyman Conklin said the years of double-digit growth were behind us. The state must be careful about projections made for the future. There was a possibility growth could occur, but the state could also face stagnation. If that happened, then that hole became bigger than his simple math. The question was how risky was the Legislature willing to be with the 2011-2013 biennium in the hopes that things might get significantly better. Assemblyman Conklin said these were tough choices.

Mr. Clinger said he agreed with Assemblyman Conklin's assessment and the state's future economy could be worse. The farther out into the future you try to predict, the more difficult it became. The Governor explained that along with some of the cuts required, the Legislature would need to make other difficult decisions. This was certainly not the first choice of the Budget Division in how to balance The Executive Budget, but Mr. Clinger felt it was necessary given the fiscal restraint needed.

Craig Hulse, Director, Government Affairs, Washoe County School District, testified he had been confused along the way as well as everyone else. The ideas had evolved from the Governor's State of the State Address to the proposal heard today and the potential amendments proposed for the Governmental Services Tax (GST). The school district opposed the proposal initially because it swept \$25 million from the debt service reserve account that contained voter-approved bond money. The District would have to go back to the voters in 2012 and try to get its new bond approved. The District believed the bill would hurt voter confidence. Assembly Bill 561 would cripple a lot of what the District was trying to do in its capital projects program. What the new proposal did was sweep 90 percent of the reserves. The District would have about \$75 million less in bonding capacity over the next four or five years. It would take Washoe County School District out of the bonding business until about 2016 or 2017. Mr. Hulse said many of the legislators were aware of the needs for capital projects in the Washoe County School District.

Mr. Hulse said the amendment for the GST proposal would take 100 percent of the District's GST for the next two years. The proposal would take 80 percent of Clark County's GST for the next two years and nothing from the other 15 school districts. He opposed any proposal that would inequitably single out

Washoe County School District when the legislators were aware of the dire needs of the school district.

Mr. Hulse said he would provide a list to the Committee on the uses of the GST that totaled approximately \$3 million per year. The District used GST for emergencies. When a boiler failed and cost \$500,000, the GST funds would be used to replace the boiler. This bill proposed to leave a balance of about \$2 million for emergencies in the GST account.

Mr. Hulse said when he considered the District had about \$1.5 billion of replaceable infrastructure and the reserve was only \$2 million for emergencies, that was similar to a \$200,000 valued home in Reno with a reserve of \$266 in a savings account to pay for emergencies. He was unsure whether that was enough to take care of a home. It caused him concerns.

Chairwoman Smith brought up the boiler example because in some discussion in the last few months Dr. Morrison talked about a boiler going out right after he arrived on the job, and the boiler cost about \$500,000. The boiler was very expensive, and she worried about how to replace those expensive pieces of equipment if these reserve funds were transferred.

Mr. Hulse said he had the same concerns. He worried about how much bonding capacity this would leave the District. The District had current projects that were in the system that had been approved by the bond oversight panel and approved by the Board. The District was unsure what it could go forward with and what it could keep in reserves just in case this bill was approved. Emergencies do arise in the District's aging schools. Sweeping of the reserves caused a lot of distress in the capital projects world for the Washoe County School District. He would like to see something settled so there was something predictable for the District.

Sharla Hales, President, Douglas County School District Board of Trustees, presented [Exhibit L](#) and said the school buildings averaged over 40 years old in the District. Many were in need of major infrastructure renewal. Knowing this, the Board convened a facilities committee made up of members of the community. Senator Settlemeyer was the leader of that group. The committee spent over a year scrutinizing existing buildings and carefully weighing needs and eliminating wants that were brought forward to them. Based on the recommendations of that committee, the Board authorized a bond measure that was approved by the voters in 2008.

Ms. Hales said the previous bond measure passed in 1992 and the two bond measures before that failed. Because of those failed bond measures, the

District was forced to enact year-round schools and move the ninth graders out of the main high school into the middle schools. During the 1992 bond campaign, the Board promised that it would not return to the voters with a bond measure for ten years. The Board was careful with its funds and was able to go 16 years before going back to county voters with a bond question.

Ms. Hales said the Board had known for many years that housing ninth graders in the middle schools made it difficult to provide students with a rigorous relevant education. Students did not have access to higher level classes and failed to understand that the grades they made that year would be reported on their higher education applications. During the 2008 bond campaign, the Board promised voters certain things would be done with those funds. One of those promises was that the Board would move the ninth graders back to the main high school.

Ms. Hales said the Board made promises regarding safety and efficiency improvements. It promised to revitalize Gardnerville Elementary School. That school had become so old that taxpayer money was wasted trying to keep it warm and safe. The oldest building on that campus was built in the early 1900s. The ceiling in that building was literally collapsing, and students needed to be moved out of that building.

Ms. Hales said the Board's carefully crafted plan included revitalizing the other buildings of that elementary school and enlarging them to house the students that needed to move out of that old building. Ms. Hales said to revitalize the other buildings in that school would cost about \$4 million or \$5 million. If that was put on hold, those buildings may be too old to revitalize when the time came that the District was able to afford the project. A new school would cost \$15 million or \$20 million to build instead of the \$4 million or \$5 million that was required to take care of the maintenance problem right now. That was an example of one of the efficiencies that the Board built into the master plan based on the work on the facilities committee. That was an example of an efficiency that would be lost if this money was swept away.

Ms. Hales said other problems would be created if this money was swept away. There would be irreparable harm. She cited some of the problems the District could encounter. The plan to move ninth graders would be abandoned or at best deferred for many years. Plans to retrofit schools to attain efficiency and safety would be delayed or eliminated. The District would not be able to fulfill its promise to voters thereby losing trust and almost certainly making it impossible to pass bonds in the future. The District's bond rating would be negatively affected resulting in higher interest rates and, therefore, a further waste of taxpayer dollars. The sale of the next bond would be delayed and

possibly jeopardized. Pay-as-you-go revenue would be delayed. The needs of the District already outweighed the resources available. The current list of capital projects exceeded the District's bonding capacity in the current economy. Every dollar in the debt service fund was needed to continue with important projects; some projects were already under way, and all of the funds were needed.

Ms. Hales asked the Committee to not betray the trust of the voters by using these funds for purposes not authorized by the voters for the use of this money. She asked the Committee to please not jeopardize the safety and education of the District's students by pulling this money from its intended and authorized use.

Craig M. Stevens, Director of Government Relations, Nevada State Education Association (NSEA), testified sections 2 and 14 of A.B. 561 were a concern to his association. Providing more money to public education especially for the attraction and retention of Nevada's educators was critical. The NSEA was grateful to the Governor for putting in black and white that Nevada's schools were in desperate need of more funding. But that was exactly what Assembly Bill 561 was: it was a desperate attempt to fund Nevada's schools.

Mr. Stevens said debt reserves voted by the taxpayers should not be swept. Sweeping money that the taxpayers voted to use for a specific purpose eroded voters' confidence and was disingenuous to their intentions. Actions such as these would make it more difficult for counties to pass future bond questions if at any time the public confidence was undercut by the Legislature and it used voter's money for other purposes. This bill not only weakened the financial stability of Nevada's counties but did not add any more funding to Nevada's schools.

Mr. Stevens said taking rent money to pay for food when a better paying job was out there just did not make sense. A person may have to work harder but would still have food and shelter. The same analogy applied here. There were more tax dollars out there to fund Nevada's schools. It would just take a bold and difficult decision by this body and the Governor. Because Governor Sandoval had shown that he believed education funding was needed, he should support a responsible plan, one that raised revenue without undermining the school districts' fiscal situation.

Joyce Haldeman, Associate Superintendent, Community and Government Relations, Clark County School District, said Assembly Bill 561 had a detrimental effect on the District in several ways. The bill affected how the District could meet its existing bond obligations, meet its current construction

needs, and meet its future construction needs. The loss of voter trust was what the District feared. This money grab was a short-term fix for the state but a long-term problem for the Clark County School District.

Ms. Haldeman reminded the Committee that although the sweep of reserves would help get the state out of the budget bind right now, it would create some situations for the District that would take two or three decades to get out of. She provided a copy of the campaign materials ([Exhibit M](#)) that the District produced in 1998 and drew the Committee's attention to a sentence that said, "The bonds can be used only for the construction and equipage of new schools and bus yards, the renovation of existing schools, or the purchase of land. By law, the funds cannot be used to pay administrators, teachers, or other non-construction related costs." That was exactly what the Committee was hearing about in direct violation of a promise that Ms. Haldeman and many other persons in the community made to voters as the community went out and promoted this bond question in 1998.

Jeff Weiler, Chief Financial Officer, Clark County School District (CCSD), testified there had been much discussion about the percentages and what funds remained in CCSD. Sweeping any of the debt service reserves put CCSD in the situation of having to enact additional taxes whether by increasing the rate, extending the mortgage out more years, or not allowing the property tax rate to decrease as much as it could because CCSD needed all of its reserve for the next five years to pay its debts.

Mr. Weiler said he did not have the latest numbers on the Governmental Services Tax (GST) but would like to see those and whatever balances remained would be minimal. The CCSD used GST for other budget challenges. The CCSD considered using GST to increase class sizes, remove walls in classrooms to make rooms bigger, and move portable classrooms around. The CCSD faced very real problems for next year. Any funds taken from CCSD's capital funds would leave it with no alternative but use its general fund that was already short of revenue.

Pat Zamora, Vice President, Nevada State Bank, said the Clark County School District was in a unique position. The CCSD completed its roll-over period. The CCSD's reserve fund was now a sinking fund. The money in the sinking fund would be used to pay principal and interest on outstanding bonds in the future. If those moneys were used for any other purpose, those moneys would have to be replaced. Replacement of those moneys could be done in one of two ways, either through growth or an increase in revenues. The only revenue that could be increased by the school district was the property tax.

Chairwoman Smith said she heard there were certain triggers that would occur with property tax values so this proposal looked problematic to her.

Martin Johnson, President, JNA Consulting Group, testified that he worked with many school districts in Nevada. He had been involved in over two dozen bond election campaigns. This proposal went against what voters were told when bond questions were placed on the ballot. Campaign supporters go to voters and ask them to pay their property tax money to improve school facilities and improve the educational environment for their children. Mr. Johnson said he did not know who would explain to the voters the school districts had no idea how this money would be used. Sweeping this money from the school districts would be a setback. Citizens had worked too hard for too long to get voters to have the confidence in the school districts, and this proposal would set them back years.

Mr. Johnson was concerned about the law of unintended consequences. His understanding was some of the original proposals did not take money from a couple of districts because it was thought the sweep may trigger property tax increases. Assembly Bill 561 was written to include every school district that had outstanding roll-over bonds. If money is taken from some school districts, those districts may have to increase their property tax rate. That created a whole host of other problems.

Chairwoman Smith recalled attending a town hall meeting in Fallon several weeks ago during which one school board member from Churchill County School District said the District passed its last bond question by only 257 votes. The Board member thought the District would never again be able to pass another bond question because the sweep would impair the voter's trust. Chairwoman Smith had worked to pass a bond question in a rural county where it took a few attempts to pass the bond question. She was frustrated because by the time the voters finally approved the bond question, the District could have built a much bigger facility for what funds were approved on the second or third try.

Mary Pierczynski, representing the Nevada Association of School Superintendents, testified the Association's big concern was voters' credibility with passage of bonds for the school districts. The Association opposed Assembly bill 561 for that reason.

Dotty Merrill, Executive Director, Nevada Association of School Boards, testified that on February 28, 2011, the Board of Directors and the Executive Committee voted unanimously in opposition to sweeping debt service reserve funds and other proposals that would negatively affect facilities and school modernization

in the states' school districts. Projects may be deferred but debt payments may not. Deferring needed repairs may result in catastrophic system failures and higher emergency repair costs in the future. Minimal fund balances resulted in a slim margin for error to cover reduced property tax collection rates from the decline in assessed value fluctuations in net proceeds and increasing debt service. Minimal fund balances may result in the need to increase the property tax rate. Voter trust would be impaired and make it difficult, if not impossible, to pass school bonds in the future. School improvements such as facilitation technology, learning environment upgrades, and improvements in facilities would be postponed. This bill would adversely affect the ability of students to learn and achieve. Ms. Merrill made a point about page 12 of the bill in section 14 that described taking funds that were in the account as of July 1, 2011. That proposal would adversely affect the Carson City School District and the bond proceeds that were in the debt service account.

Mr. Johnson said the solution could not be a one-size-fits-all solution. All school districts were different. The Carson City School District deposited \$1.5 million into its debt service reserve fund from bond proceeds. Because that money was from bond proceeds, it could not be taken and used for operations without incurring federal tax consequences. It was important for the Committee to consider those types of situations.

Ms. Merrill said there was an exhibit on NELIS ([Exhibit N](#)) from the White Pine County School District describing the effect of sweeping the debt service reserve funds.

Ron Dreher, representing the Washoe County School Principals' Association, testified that for all the reasons expressed by the earlier opponents of Assembly Bill 561, his Association also stood in opposition to this bill and asked the Committee to oppose A.B. 561.

Carolyn Edwards, President, Clark County School District Board of School Trustees, said the Board submitted a resolution opposing the debt service reserve sweep. The resolution was unanimously passed by all members of the Board. She indicated that this sweep would result in taxes being raised in Clark County to replenish the District's reserve. Her concern was whether in two years the Legislature would sweep that as well. Within five years over one-half of the District's schools would be 20 years of age or older and would require things such as roof replacement and heating, ventilation, and air conditioning (HVAC) replacement that the District would be unable to afford. She asked the Committee to oppose this bill.

William E. Roberts, Superintendent, Nye County School District, and President, Nevada Association of School Superintendents, testified in opposition to Assembly Bill 561. The District planned a major construction project to replace a school in Tonopah. The District spent several hundred thousand dollars on architectural engineering and was ready to begin a government construction project in Tonopah to replace the school that was nearly 60 years old. That project would create a number of jobs for the local economy. About \$11 million or \$12 million would be spent for the project. The District would have to stop that project until the Legislature decided what would happen to the District's ability to finance the project.

Assemblyman Hardy asked how much would that school cost if Nevada did not have a prevailing wage requirement. He wondered how much more did prevailing wage add on to that school cost.

Dr. Roberts said the prevailing wage added an additional 20 percent to the cost of construction.

Chairwoman Smith said along with that cost, one should consider what was taken out of the economy and the taxes that went along with that.

Mr. Clinger said Assembly Bill 561 was permissive, and the Budget Division looked at sinking funds and took those things into consideration as it made its projections. The proposal presented took those things into consideration as well as looked at the projection on property taxes. The Budget Division did not propose anything that it believed would result in the necessity to increase property taxes.

Chairwoman Smith said the Committee would continue talking about this and needed to determine the exact numbers.

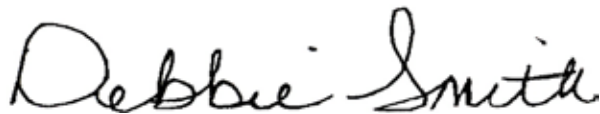
Chairwoman Smith asked whether there were further comments or questions regarding Assembly Bill 561, and there being none, the hearing was closed.

Chairwoman Smith asked for any other business before the Committee or public comment, and there being none, she adjourned the meeting at 10:47 a.m.

RESPECTFULLY SUBMITTED:

Janice Wright
Committee Secretary

APPROVED BY:



Assemblywoman Debbie Smith, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Ways and Means

Date: April 19, 2011

Time of Meeting: 7:36 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Sign-In Sheets
<u>A.B. 167 (R1)</u>	C	Patrick Cates, Deputy Director, Department of Wildlife	Revised Fiscal Note on <u>Assembly Bill 167 (R1)</u>
<u>A.B. 358 (R1)</u>	D	James V. deProsse, Administrator, Manufactured Housing Division	Revised Fiscal Note on <u>Assembly Bill 358 (R1)</u>
<u>A.B. 525</u>	E	Patrick Cates, Deputy Director, Department of Wildlife	Proposed Amendment to <u>Assembly Bill 525</u>
<u>A.B. 527</u>	F	Brian Myli, Education Leadership Resident, The Clark County Public Education Foundation	Written Testimony
<u>A.B. 527</u>	G	Brian Myli, Education Leadership Resident, The Clark County Public Education Foundation	The Leadership Institute Funding Roadmap
<u>A.B. 527</u>	H	Judith Steele, President and Chief Professional Officer, The Clark County Public Education Foundation	Written Testimony
<u>A.B. 527</u>	I	Judith Steele, President and Chief Professional Officer, The Clark County Public Education Foundation	The Leadership Institute Booklet
<u>A.B. 527</u>	J	Judith Steele, President and Chief Professional Officer, The Clark County Public Education Foundation	The Public Education Foundation Brochure
<u>A.B. 527</u>	K	Dawn Christensen, Vice President of Communications and Government Affairs, The Clark County Public Education Foundation	Letter from Ann Lynch

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<u>A.B.</u> <u>561</u>	L	Sharla Hales, President, Douglas County School District Board of Trustees	Written Testimony
<u>A.B.</u> <u>561</u>	M	Joyce Haldeman, Clark County School District	1998 Building Program Proposal
<u>A.B.</u> <u>561</u>	N	Dotty Merrill, Nevada Association of School Boards	White Pine County School District Written Testimony opposing <u>Assembly Bill 561</u>