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

## Seventy-Seventh Session
## May 24, 2013

The Assembly Committee on Ways and Means was called to order by Chair Maggie Carlton at 8:21 a.m. on Friday, May 24, 2013, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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 nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record might be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT**:

Assemblywoman Maggie Carlton, Chair
Assemblyman William C. Horne, Vice Chair
Assemblyman Paul Aizley
Assemblyman Paul Anderson
Assemblyman David P. Bobzien
Assemblyman Andy Eisen
Assemblywoman Lucy Flores
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman Cresent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Randy Kirner
Assemblyman Michael Sprinkle

**STAFF MEMBERS PRESENT**:

Cindy Jones, Assembly Fiscal Analyst
Michael J. Chapman, Principal Deputy Fiscal Analyst
Julie Waller, Senior Program Analyst

Brody Leiser, Program Analyst
Janice Wright, Committee Secretary
Cynthia Wyett, Committee Assistant

Chair Carlton said the Assembly Committee on Ways and Means needed to adjourn the previous night's meeting of May 23, 2013.

ASSEMBLYMAN GRADY MOVED TO ADJOURN THE MAY 23, 2013, MEETING OF THE ASSEMBLY COMMITTEE ON WAYS AND MEANS AT 8:22 A.M. ON MAY 24, 2013.

ASSEMBLYMAN SPRINKLE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Carlton said the Assembly Committee on Ways and Means must close some budgets, and she wanted to begin with the Capital Improvement Program (CIP).

**2013 CAPITAL IMPROVEMENT PROGRAM**

Brody Leiser, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, reviewed Exhibit C and presented the following information. He stated that the Assembly Committee on Ways and Means and the Senate Committee on Finance Subcommittees on K-12/Higher Education/CIP completed a review of the Treasurer-Bond Interest and Redemption budget account (BA) 1082 and the 2013 Capital Improvement Program (CIP) and made the following recommendations for the 2013-2015 biennium.

Mr. Leiser said the Subcommittees accepted a budget amendment that recommended funding contract arbitrage compliance services with a reduction to the reserve in BA 1082 of $142,200 over the 2013-2015 biennium. The Subcommittees also accepted a budget amendment to reflect the estimated net proceeds of minerals tax revenue of $6.9 million in fiscal year (FY) 2015 that was erroneously omitted from The Executive Budget. The Subcommittees approved the remainder of the account as recommended by the Governor.

Mr. Leiser explained that the Subcommittees did not approve CIP Project 13-C02 (Remodel Administration Building to Accommodate Execution Chamber, Ely State Prison) and reallocated the general obligation bond funding of $692,289 to Project 13-C08 (Renovate First Floor of Building No. 3, Southern Nevada Adult Mental Health Services).

Mr. Leiser reported that the Governor submitted a new CIP Project 13-C08 on May 14, 2013. The project was to design and construct a 14,000-square-foot renovation at Building No. 3, also known as the Stein Hospital, Southern Nevada Adult Mental Health Services, to create 15 rooms and up to 19 beds for patients. The amended project request included a funding split of 50 percent state funds and 50 percent tobacco settlement funds. In accepting the amendment to approve Project 13-C08, the Subcommittees increased the state funding by $692,289 to $1,727,688 and reduced the tobacco settlement funds by an equal amount, or from $1,035,399 to $343,110.

Mr. Leiser explained that the Subcommittees also approved a reduction of $222,969 in approving CIP Project 13-C03 (New TAG Plant, Stewart Conservation Camp, Northern Nevada Correctional Center) to remove moving costs, which had been funded in the agency's operating budget account. In addition, the Subcommittees approved the repayment of $3.8 million to the State Highway Fund for the costs of the project from license plate fee revenues over a five-year period, which was consistent with the closing actions of the License Plate Factory account, BA 4712.

Mr. Leiser said that the Subcommittees deferred recommending action to the Assembly Committee on Ways and Means and the Senate Committee on Finance on Project 13-C07 (UNR Academic and Student Services Building, Getchell Library Demolition). Project 13-C07 was submitted as a budget amendment on April 3, 2013, and included a recommendation to reimburse the University of Nevada, Reno (UNR) for a portion of the costs for the demolition of the Getchell Library. He recalled that questions were raised by the Subcommittees regarding the need for state funding to support the costs of the Getchell Library demolition, considering the Nevada System of Higher Education's (NSHE's) existing bonding authority and current legislation in the 77th Session (2013) to increase that authority for UNR. Senate Bill 185 increased NSHE's bonding authority for UNR by $79.36 million, or from $348.36 million to $427.72 million. The increase in bonding authority in S.B. 185 would augment existing bond capacity to fund the demolition of the Getchell Library, build a student achievement center, perform a seismic retrofit of Manzanita Residence Hall, build an indoor multipurpose practice facility, expand the Lombardi Recreation Center facility, and build a new residence hall.

Mr. Leiser said that NSHE had provided subsequent information regarding the project costs for the demolition of the Getchell Library and construction of the student achievement center. Initial project costs were estimated to be $36 million, which was the figure used to justify the increase in bonding authority in S.B. 185. The NSHE indicated that the updated cost estimate for the project was $40 million, or $4 million more than initially estimated.

As such, NSHE had indicated that the recommended state funding amount of $800,000 in CIP project 13-C07 was in addition to the $36 million amount used to justify the increase in the University's bonding authority in S.B. 185.

Mr. Leiser explained that the Subcommittees deferred action on the item. He asked whether the Committee on Ways and Means wished to accept the amendment to CIP Project 13-C07 to support a portion of the costs to complete the demolition of the Getchell Library at the University of Nevada, Reno.

Chair Carlton asked Mr. Leiser to continue and present the remaining items relating to the CIP, and then the Committee would consider its actions.

Continuing, Mr. Leiser explained that the Subcommittees approved Project 13-P01 (Design through Construction Documents, New DMV Office in Central Las Vegas), with a reduction in State Highway Fund support of $267,916, while adding an equal amount of emissions fee revenue to fund the project. The total cost of the project was $2.1 million.

Mr. Leiser recounted that the Subcommittees approved Project 13-S08 (Statewide Energy Efficiency Program), as amended, to include $1.2 million in authority to receive rebate funds. The program was a new statewide project in the Capital Improvement Program. As such, the Subcommittees approved the issuance of a letter of intent instructing the State Public Works Division (SPWD), Department of Administration, to report to the Interim Finance Committee on a semiannual basis on projects that had been completed, were in progress, or would be completed under the new program.

Mr. Leiser confirmed that the Subcommittees approved the remainder of the projects in the 2013 CIP, including the revisions noted and funding sources as identified on the closing worksheet. Finally, the Subcommittees approved the issuance of a letter of intent instructing the State Public Works Division to not execute a contract for construction of projects approved in the 2013 CIP that included federally authorized receipts until the SPWD had determined that the authorized federal funding was available for expenditure.

Mr. Leiser said that concluded the Subcommittees' report for the Treasurer-Bond Interest and Redemption budget account 1082 and for the 2013 CIP. The Committee would need to take action on Project 13-C07. He noted that in the closing motions, both BA 1082 and the 2013 CIP must be decided by the Assembly Committee on Ways and Means.

Chair Carlton said the Committee should address Project 13-C07 first. She relayed that the conversation that arose during the Subcommittees' deliberation

was that Project 13-C08 was funded in part with tobacco settlement funds, and the Subcommittees had apprehension about tobacco funds being used in the CIP. The discussion point for the last several days had been that S.B. 185 addressed many of the bonding matters for Project 13-C07 that had been approved. There was a possibility of subtracting the correct amount from Project 13-C07 to replace the tobacco funds in Project 13-C08 and solve that problem but still retain an extra amount in Project 13-C07 for the important projects. She wanted Committee members to understand the discussions of the Subcommittees.

Chair Carlton said the Committee on Ways and Means could consider whatever amount might be required to cover one-half of the tobacco funds in Project 13-C08 because that was the concern of the Subcommittees. There was no reason to subtract more than was actually needed for Project 13-C08.

Mr. Leiser presented Committee members with a copy of the CIP worksheet (Exhibit D). At the top of page 2 of Exhibit D, the amount shown for "Other Funding" represented the tobacco funds in the amount of $343,110. The Committee might wish to consider reducing the state funding in Project 13-C07 by $343,110 and reallocating those funds to Project 13-C08, eliminating the need for the use of tobacco funds for Project 13-C08. That action would reduce the funding in Project 13-C07 to $456,890 and might address the concerns of Committee members.

Assemblyman Eisen said he was concerned about tobacco funds being used in Project 13-C08. He wanted to put on the record his concerns about the dollar amount as it related to the total bonding authority for NSHE and all of its projects. The student achievement center was the number one priority project for the University of Nevada, Reno, and he was glad because he thought that was a very important project. Assemblyman Eisen wanted to ensure that making the funding change to eliminate the use of tobacco funds for a capital project would not endanger the student achievement center project. He did not think it would hurt based on the plan he saw, but he wanted assurance from the University that the project would not be at risk.

Ron Zurek, Vice President, Administration and Finance, University of Nevada, Reno, testified that Assemblyman Eisen's observation was correct. The University would prefer to receive the entire $800,000, but other institutional funds would be found to bridge the shortfall to proceed with the demolition of the Getchell Library and the continued planning and construction of the student achievement center.

Assemblyman Eisen thanked Mr. Zurek for that clarification. He wanted to make sure that Mr. Zurek's assurance related to the entire CIP for UNR that included about $36 million of bonding authority for five projects on the CIP list. According to Mr. Zurek's testimony, the student achievement center remained the top priority for NSHE. Assemblyman Eisen wondered how many items on the priority list could be completed with the funds allocated and whether the $343,110 deduction would put the plan in jeopardy. It seemed as though the deduction amount was a small portion, but he wanted to ensure that the student achievement center was not at risk.

Mr. Zurek confirmed that that the student achievement center was not at risk.

Assemblyman Kirner said Assemblyman Eisen's questions addressed his concern that if the Committee on Ways and Means changed the funding, some of the projects at UNR might be in jeopardy. He understood that all of the projects could proceed.

> ASSEMBLYMAN EISEN MOVED TO REDUCE THE FUNDING FOR CAPITAL IMPROVEMENT PROGRAM PROJECT 13-C07 IN THE AMOUNT OF $343,110 AND REALLOCATE THAT AMOUNT TO PROJECT 13-C08 AND ELIMINATE THE TOBACCO SETTLEMENT FUNDS IN THE AMOUNT OF $343,110 FROM PROJECT 13-C08.
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> ASSEMBLYMAN HORNE SECONDED THE MOTION.

Assemblyman Bobzien commented that Project 13-C07 was an ongoing project, and he used to work in the building that was going to be demolished. He looked forward to the building being demolished and UNR being able to proceed. He appreciated UNR being flexible and working with the Legislature to achieve the goal of eliminating the tobacco funds from Project 13-C08 for Southern Nevada Adult Mental Health Services.

> THE MOTION CARRIED UNANIMOUSLY.

Brody Leiser, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated the action of the Assembly Committee on Ways and Means addressed the necessary action on Project 13-C07, reallocated the funds, and changed the funding for Project 13-C08. He asked whether the Committee wished to make a separate motion or one motion to address both the Treasurer's Bond Interest and Redemption account and the remainder of the 2013 Capital Improvement Program.

Chair Carlton said it was her preference to take one motion on both remaining items. She believed Committee members were comfortable with the information presented.

> ASSEMBLYMAN BOBZIEN MOVED TO APPROVE THE OFFICE OF THE STATE TREASURER BOND INTEREST AND REDEMPTION ACCOUNT (BA 1082) AND THE REMAINDER OF THE 2013 CAPITAL IMPROVEMENT PROGRAM AS RECOMMENDED BY THE GOVERNOR AND AUTHORIZE FISCAL ANALYSIS DIVISION STAFF TO MAKE NECESSARY TECHNICAL ADJUSTMENTS.
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> ASSEMBLYMAN HORNE SECONDED THE MOTION.
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> THE MOTION CARRIED UNANIMOUSLY.
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> BUDGETS CLOSED.

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**EDUCATION**
**DEPARTMENT OF EDUCATION**
**DISTRIBUTIVE SCHOOL ACCOUNT (101-2610)**
**BUDGET PAGE K-12 EDUCATION-17**

Chair Carlton said the Assembly Committee on Ways and Means members should have received a document, Exhibit E, dated May 24, 2013, which provided information on the unresolved budget closing matters. She reminded the Committee that money had been removed from the Distributive School Account (DSA) that had been built into the base and needed to be accounted for in a different way. She said she would accept a motion to reopen budget account 101-2610 to make the necessary adjustments.

> ASSEMBLYMAN HORNE MOVED TO REOPEN BUDGET ACCOUNT 101-2610 FOR CONSIDERATION.
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> ASSEMBLYMAN KIRNER SECONDED THE MOTION.
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> THE MOTION CARRIED UNANIMOUSLY.

Julie Waller, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, recalled that during the May 17, 2013, joint meeting of the Assembly Committee on Ways and Means and the Senate Committee on Finance budget closing of the Distributive School

Account (DSA), the Committees voted to approve a technical adjustment to eliminate approximately $37.9 million of one-time General Fund operating expenditures in each fiscal year of the 2013-2015 biennium. However, the Committees failed to provide Fiscal Analysis Division staff with direction on how to use the General Fund savings of $37.9 million in each year of the biennium.

Ms. Waller asked whether the Committee wished to add General Funds of approximately $37.9 million in each year of the 2013-2015 biennium to the DSA as an enhancement that would increase the statewide average basic support per pupil by $87 in each year to $5,590 in fiscal year (FY) 2014 and $5,676 in FY 2015.

Ms. Waller explained that the $37.9 million would be included in the DSA, but it would be an additional enhancement decision unit adding $37.9 million as opposed to just being included in the base funding.

Chair Carlton wondered whether the $37.9 million would be separated out so it could be seen distinctively.

Ms. Waller replied the $37.9 million would be part of the operating expenditures in the DSA and not a categorical line item in the DSA.

Assemblywoman Flores wondered whether the $37.9 million would be added to the DSA and distributed through the Nevada Plan.

Ms. Waller confirmed the $37.9 million would be added to the DSA and distributed through the Nevada Plan. The amount would be added to the statewide average basic support per pupil. Then, based on the allocation model, those funds would be divided among the 17 school districts.

Assemblyman Kirner said he was pleased with the proposed action. After the Committees met to discuss the DSA, a number of persons had expressed their concerns to him because they had already sent termination notices to employees based on what they perceived the DSA funding would be. Subtracting $37.9 million from the DSA created an annual problem. He was pleased the Assembly Committee on Ways and Means considered adding the $37.9 million, and he appreciated that it would be designated as a one-time General Fund operating expenditure.

Hearing no response to her request for further testimony, Chair Carlton called for public testimony. There being no public testimony, she called for a motion.

ASSEMBLYMAN KIRNER MOVED TO ADD GENERAL FUNDS OF APPROXIMATELY $37.9 MILLION IN EACH YEAR OF THE 2013-2015 BIENNIUM TO THE DISTRIBUTIVE SCHOOL ACCOUNT, BUDGET ACCOUNT 101-2610, AS AN ENHANCEMENT, WHICH WOULD INCREASE THE STATEWIDE AVERAGE BASIC SUPPORT PER PUPIL BY $87 TO $5,590 IN FISCAL YEAR 2014 AND $5,676 IN FISCAL YEAR 2015.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

BUDGET CLOSED.

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Chair Carlton opened the hearing on Assembly Bill 239.

**Assembly Bill 239: Makes various changes relating to energy. (BDR 58-224)**

Assemblywoman Marilyn K. Kirkpatrick, Clark County Assembly District No. 1, testified that Assembly Bill 239 was a comprehensive energy bill explained in Exhibit F. She worked with many diverse groups on the bill during the past year, and the groups agreed the concepts presented in the bill were good. Assembly Bill 239 was an effort to involve the affected parties in a solution to streamline the approval process for energy-related tax incentives and encourage more energy projects. The Legislature must decide whether Nevada would encourage more energy-related businesses. The energy policy was important to the state.

Assemblywoman Kirkpatrick explained there were problems in the energy industry. The bill was not perfect and needed some technical changes. She had the most recent changes combined into a new bill mock-up. The remaining concerns were small technical matters that she wanted to resolve at this meeting. Assemblywoman Kirkpatrick presented proposed amendment 9234 as Exhibit G and said there were two major components to the bill that were problematic for many persons. Section 9 and section 27 removed local governments from granting approval of land use permits and provided that the Public Utilities Commission (PUC) of Nevada was the sole authority for granting approval of construction of certain utility projects. The local governments did not approve of those provisions, but agreed to work with the PUC on an alternate solution.

Assemblywoman Kirkpatrick said Assembly Bill 239 had a total fiscal note of $1 million. She knew there was a $289,000 fiscal note from the PUC, and she was unsure how to reduce PUC costs. The PUC would develop regulations to put the bill into effect.

Chair Carlton said she had a letter from the PUC dated May 22, 2013, (Exhibit H) that stated that the fiscal cost was $276,228. She asked about the effects on the PUC, which was primarily funded with mill assessments.

Donald J. Lomoljo, Utilities Hearings Officer, Public Utilities Commission of Nevada, testified that the PUC was 100 percent funded by the mill assessment.

Chair Carlton said the Legislature processed a mill assessment bill earlier in the Legislative Session that ensured the PUC had a reasonable reserve balance and would not exceed the mill assessment in the near future.

Mr. Lomoljo agreed that the costs of the bill would not exceed the mill assessment, but the mill assessment was a decision for the Executive Director of the PUC. The remaining fiscal effects of the bill were related to the economic development rate portion of A.B. 239, sections 10 through 20. The PUC would be required to complete the rule-making process, which would cost about $20,000. The remaining costs were for a half-time position for a regulatory economist and a half-time position for a financial analyst. Those two positions would be assigned to work on the economic development rate. The positions would perform audits on the rate when it flowed through the deferred energy process of a utility, and they would examine the participation in that rate to see whether there was any "clawback" in case certain requirements were not met. It was his understanding that the $276,228 cost of the bill would have little or no effect on the mill assessment.

Assemblywoman Kirkpatrick said she had worked with the energy companies for five years on the concepts in the bill. She heard that the state was not attractive to manufacturing businesses because the energy rates were too high. Many businesses in the state consumed a great deal of energy. She worked on the energy problem with Assemblyman Kirner during the 76th Session (2011). The proposed pilot program resulted from suggestions offered by the energy companies and the manufacturers, but the bill did not include everything that each party wanted. She apologized for not realizing that the PUC was affected, and she was willing to work with the PUC to lessen the fiscal effects. She had made a concerted effort to shift most of the work burden to the Office of Economic Development, Office of the Governor, but some work assigned to the PUC must have remained in the bill.

Chair Carlton asked whether the PUC would be using the money to fund existing positions to do new work or if the PUC would be adding new positions to address the workload from the bill.

Mr. Lomoljo replied that he needed to confirm that information with the Executive Director of PUC, and he would provide the information to the Committee.

Chair Carlton said she understood that existing PUC positions were funded by the mill assessments.

Mr. Lomoljo replied that both new and existing positions were funded by the mill assessments. He thought any effect of the costs of the new positions on the mill assessments would be minimal.

Judy Stokey, Director, Government and External Affairs, Government and Community Strategy, NV Energy, testified in support of A.B. 239. The utility had worked on the proposals for a long time and Assembly Bill 239 was a good bill. She suggested a small technical change in section 21.5 regarding transmission. If NV Energy decided to build transmission lines for purposes other than to serve NV Energy customers, NV Energy could do so, but NV Energy customers would not be charged for the costs. NV Energy wanted to streamline the process but ensure it was on the same level as other utilities.

Jack Mallory, Assistant Business Manager/Secretary-Treasurer, Director of Government Affairs, International Union of Painters and Allied Trades, District Council 15, testified in support of Assembly Bill 239. He appreciated being included as part of the working group. He was pleased that the partial tax abatements had been limited and believed that action would benefit local governments and local areas. The overall bill was a benefit to the state and construction workers.

Dagny Stapleton, Government Affairs Consultant, Nevada Association of Counties (NACO), testified in support of Assembly Bill 239. As part of the working group on the bill, NACO appreciated the consideration given to allow counties more flexibility and involvement in the oversight of the energy abatement process. The return of the county taxes that had been directed to the state Renewable Energy Fund resulted in a positive fiscal effect on counties.

Lisa Foster, representing Boulder City and the Nevada League of Cities and Municipalities, testified in support of Assembly Bill 239. She appreciated being included in the working group. Boulder City participated in writing the amendment for the bill. She looked forward to seeing the results of the

legislation. She suggested that some work be completed during the interim with the PUC to ensure that some model language for municipal ordinances was developed.

Patrick Sanderson, Laborers International Union Local #872, AFL-CIO, testified in support of Assembly Bill 239.

Alfredo Alonzo, representing Ormat Technologies, testified in support of Assembly Bill 239. There were a few small technical matters that he suggested be changed. Page 11, section 4, subsection 2, paragraph (a), of the proposed amendment indicated the Executive Director of the Office of Energy, Office of the Governor, would receive a recommendation from the counties regarding the amount of the energy abatement. He thought the most important matter was the financing. He had worked with Assemblywoman Kirkpatrick on the bill and would provide suggested clarification language.

Craig B. Mingay, Deputy District Attorney, Churchill County, testified in support of Assembly Bill 239 and the proposed amendment. The bill represented a good compromise, and he appreciated the hard work of Assemblywoman Kirkpatrick and the working group.

Tom Clark, representing Sempra Energy, testified in support of Assembly Bill 239. Sempra Energy had one of the largest solar facilities on earth in Boulder City. The company worked with Assemblywoman Kirkpatrick and supported the amendments.

Daniel O. Jacobsen, Technical Staff Manager, Bureau of Consumer Protection, Office of the Attorney General, testified that the Office was neutral on Assembly Bill 239. He focused on section 21.5, which allowed a public utility to build transmission lines that were not intended to serve Nevada ratepayers. The Bureau of Consumer Affairs watched utility costs and rates closely and appreciated the efforts of Assemblywoman Kirkpatrick. The Bureau was concerned that utilities might build transmission lines acknowledging that the lines were not needed by Nevada customers. However, in the future the utility might include the transmission line costs in rates if the utility could prove the lines were being used by Nevada customers. He understood Assemblywoman Kirkpatrick was not supportive of the inclusion of those costs in the rates. It was important that the legislative history show if a public utility built transmission lines that were not intended to serve Nevada ratepayers, those costs must not be included in the rates paid by Nevadans.

Chair Carlton said she understood his concerns. She knew it was impossible to direct the actions of a future legislature. Twenty years from now the world could change and the transmission lines might be needed by Nevada ratepayers.

Stacey Crowley, Director, Office of Energy, Office of the Governor, testified neutral on Assembly Bill 239 because she believed she must remain neutral on fee matters that were presented to the Office of Energy. The bill contained a considerable amount of policy. She thanked Assemblywoman Kirkpatrick for her support of the Office of Energy. Generally, she was in support of the concepts in the bill. Assembly Bill 239 contemplated a fee structure for both green building and the renewable tax abatements overseen by the Office of Energy. The fee structure was in lieu of the revenues received by the Office of Energy from the renewable energy projects that received tax abatements. The bill directed all the revenues from those projects to the applicable county. Ms. Crowley supported that redirection because the fee structure would help pay for the administration of the program. She had asked for an amendment that was included in Exhibit G to allow the Office of Energy to spend money in the Renewable Energy Fund (budget account 4869) to reduce the cost of electricity for retail customers. No new project revenue would be deposited in the Renewable Energy Fund. It was important to use the Renewable Energy Fund to its best advantage as the balance decreased over time.

Ms. Crowley said she wanted to see the amendment that NV Energy proposed regarding transmission lines. She believed the language in Exhibit G was good. She wanted to ensure acknowledgement in the process of any borrowing capacity, interest rates, or other changes. She committed to working with the counties on developing model and evaluation criteria to determine the amount of the abatement. It was important for the renewable energy industry to have consistency and stability.

Mr. Lomoljo, Utilities Hearings Officer, Public Utilities Commission of Nevada (PUC), stated that the PUC was neutral on Assembly Bill 239. He was unaware of any other regulated utility in the nation that engaged through its regulated business in the construction of transmission lines not intended to serve its ratepayers. A utility that wanted to engage in that business and completely insulate ratepayers ought to do so through an unregulated subsidiary. He was comfortable with the language in section 21.5 of the proposed amendment as presented today.

Assemblywoman Kirkpatrick said she would work on the language and any remaining problems in the bill and asked the Committee to process the bill on the following day.

Hearing no response to her request for further testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 239 and opened the hearing on Assembly Bill 428.

**Assembly Bill 428: Revises provisions relating to energy. (BDR 58-797)**

Assemblyman David P. Bobzien, Washoe County Assembly District No. 24, testified that Assembly Bill 428 was an energy bill that was resurrected from policy contained in an energy bill from the 76th Session (2011). A.B. 428 represented the most responsible method of providing incentives and would improve the incentives program for renewable energy in Nevada. He presented Exhibit I, which was a proposed amendment. The policy concept in A.B. 428 was the adoption of performance-based incentives. He thought it was important to base the amount of the energy incentive for a renewable energy installation on the amount of electricity generated. Good and effective design for renewable energy projects should be rewarded by the incentives.

Assemblyman Bobzien said there was some earlier discussion about the role of the Bureau of Consumer Protection (Consumer's Advocate), Office of the Attorney General, in different utility rate cases. The Bureau represented the public consumer interests. *Nevada Revised Statutes* (NRS) 228.390 provided broad latitude to the Consumer's Advocate in determining whom to represent in cases of conflict between the public interest and any particular class of customers. That latitude was important, but it was equally important not to lose track of the broader public interest in those interventions.

Assemblyman Bobzien called the Committee's attention to sections 21.7 and 25.5 of Exhibit I. Section 21.7 enumerated the different considerations included in determinations of the public interest. Section 25.5 contained specific direction to the Consumer's Advocate that if it chose not to represent the public interest in a specific case, it must publish a public report supporting its decision. It was important for transparency to inform the public and policymakers on how the Consumer's Advocate worked on behalf of the public, consumers, and customers in the state.

Chair Carlton said she did not want to debate policy matters, but wondered about section 21.5 of Exhibit I that created a Lower Income Solar Energy Pilot Program with the goal of installing at least one megawatt of distributed generation solar energy systems throughout its service territory, which would benefit low-income customers. She asked what that one megawatt would do to the total solar program that currently existed. The program was a competitive program, and the bill would remove and set aside a piece from the competitive

program. She did not disagree with the concept, but she needed to understand the portion of the program that would be affected.

Judy Stokey, Executive Director, Government and External Affairs, Government and Community Strategy, NV Energy, replied that there was a two megawatt total allowed statewide for solar energy, with one megawatt for the north and one for the south. The two megawatts was a small amount compared to the overall program, which was why the program would be a pilot program. The current program was just over 50 megawatts total, but Assembly Bill 428 increased the net metering cap by 50 percent over the total approved during the 2011 Legislative Session. The total increased from 2 percent to 3 percent, and that was approximately 225 megawatts.

Assemblyman Bobzien added that he thought section 21.5 of Exhibit I was good. That section clarified that the state would pay attention to the particular class of solar projects for low-income citizens.

Chair Carlton appreciated the positive direct effect the bill had on the lower-income community, especially the services sector and the nonprofit organizations.

Assemblyman Bobzien said he would invite Ms. Stokey to explain each section of Assembly Bill 428, including how the development of the solar distributed generation incentive program would work, the specifics of the budget, the schedule for the program, and the study of net metering and fees. The bill was developed through much discussion and included many compromises. He wanted to put some legislative intent on the record about the "stepped-down" dynamic of the program. The goal was to give PUC broad latitude because PUC was the expert on energy and should create the design of the program. He did not want to include a lot of specifics in statute about how the incentives should be reduced over time. The program was a limited incentive program and would not be an ongoing program. He wanted to incentivize the renewable energy industry. If the state retained the incentive program in perpetuity, it might not achieve the goal of creating growth in the industry. The goal was for the incentive levels to decrease over time.

Chair Carlton called Assemblyman Bobzien's concept the "calculator theory." She recalled the first calculator that her father bought, and her mother was unhappy about the large amount of money her father spent on the calculator. Now calculators were given away because over time innovations had become less expensive.

Ms. Stokey thanked Assemblyman Bobzien for working with the large group of interested parties to develop the solutions in Assembly Bill 428 in which everyone received something and everyone lost something. That typically meant that the legislation was good. She clarified that the bill was the only distributed generation bill of the 77th Session (2013) that incorporated all those good ideas.

Ms. Stokey said the bill clarified for NV Energy that there was a single statewide budget total of $255.7 million for the renewable energy program. NV Energy spent approximately $169 million of the total budget over the last three years through its pilot program and its regular program and had about $86.7 million remaining to serve as many customers as possible. Residential customers commented that it was better to receive an "upfront" rebate to help offset the cost of renewable energy systems. However, commercial customers did not need the upfront rebate but wanted the performance-based incentive. The incentives were for commercial customers who would get paid over time based on the performance of their systems. NV Energy had two different programs, one for the residential upfront rebates and one for the commercial performance-based incentives.

Ms. Stokey added that performance-based contracts would be limited to a five-year payout period. Assembly Bill 428 provided that program would end in 2026. A performance-based contract that began on December 31, 2021, would have a payout period of five years.

In response to a question from Chair Carlton, Ms. Stokey replied no contracts would be accepted after December 31, 2021. She explained that the Lower Income Solar Energy Pilot Program was a small pilot program. NV Energy would be able to see how the program worked and monitor the results. There might be some persons who could not afford to install renewable energy systems on their homes, even though the rebates paid a large majority of the costs of the projects. NV Energy would report to the Legislature on the results of the pilot program.

Ms. Stokey said the legislatively mandated fees were currently added to all NV Energy customers' bills. The universal energy charge and the program fees funded the rebates for the program. NV Energy noticed that the net-metered customers who had renewable energy systems on their homes did not pay the legislatively mandated fees. Assembly Bill 428 allowed net-metered customers to be charged for legislatively mandated public policy costs. Those customers with systems on their homes would now pay those charges, and the other customers would no longer subsidize them.

Ms. Stokey said that the PUC would conduct a study through an independent third party to look at all the charges and costs associated with the program and its benefits. The state received some benefits from the program. The third party would conduct the study and report to the 2015 Legislature to explain any further changes that might be needed.

Russell M. Rowe, Esq., representing SolarCity, said SolarCity was the nation's largest installer of distributed generation rooftop solar systems. The company recently moved a portion of its headquarters to Las Vegas in Town Square and subleased space from the Chamber of Commerce. The company was seeking an additional 40,000 square feet. He thanked Assemblyman Bobzien for his leadership and Judy Stokey from NV Energy and Rose McKinney-James, representing Bombard Electric, for their work. Assembly Bill 428 created a sustainable distributed generation industry, as well as jobs. The previous program had been difficult from a business perspective because of how the incentives were awarded. Incentives often were oversubscribed and resulted in a lottery system to award them. A customer who wanted to install a solar system on his roof would be unaware of whether he might receive an incentive. That uncertainty made it difficult from a business perspective to offer any predictability to the customer.

Mr. Rowe said SolarCity worked closely with NV Energy on developing a program that was patterned after Assembly Bill No. 416 of the 76th Session (2011), which was vetoed. One of the key portions of the bill was awarding the incentives based on the performance of the energy system over a five-year period. That concept was good for the program and the incentives. The purpose of having the program was to develop solar systems that produced power. Sometimes an upfront incentive might be awarded for a system that did not operate well. A performance-based incentive was a positive thing.

Continuing, Mr. Rowe said that the other key portion of the bill was the provision of predictability and transparency for incentives. Businesses would know what the incentives were and how the incentives would decline over time. Businesses could base their business model on how those incentives would decrease and could become more efficient. The goal was not to continue to offer incentives, but to decrease incentives and end up with a thriving distributed generation (DG) industry. Arizona was phasing out its incentive program: the state had over 30,000 solar jobs and a strong DG industry.

Garrett C. Weir, Assistant General Counsel, Office of General Counsel, Public Utilities Commission of Nevada (PUC), testified that the fiscal note from PUC was associated with the rulemaking required by the bill. The PUC anticipated that the rulemaking would be a prolonged and complex

endeavor. The bill's effect on the mill assessment was minimal; the costs would result in a $.01 increase to a ratepayer's monthly bill. An additional cost not included in the fiscal note was the expense associated with engaging an independent third party to analyze the costs and benefits of net metering. He was uncertain of that cost but would provide that information as soon as possible to the Committee.

In response to a question from Chair Carlton, Mr. Weir replied that the rulemaking would require much time and many resources, and thus he anticipated a slight increase in the mill assessment. The existing budget was insufficient to absorb those costs. Ultimately, there might not be an increase needed in the mill assessment, but PUC believed it was possible.

Chair Carlton said she preferred to have the information presented to the Committee on Ways and Means now rather than learn about it later. She asked whether the utility would have 40 workshops or 40 days of workshops. She was unsure about the need for a consultant and unsure about the effect on small businesses of the investigations that would be required by chapter 233B of *Nevada Revised Statutes* (NRS). She asked how PUC conducted its noticing of hearings and workshops.

Mr. Weir replied that the PUC complied with the statutory requirements in chapter 233B of NRS, and proper noticing would be provided before any workshop could be held or comments requested.

Warren Hardy, representing Hamilton Solar, testified in support of A.B. 428. He had been advocating for several years for two of the concepts contained in the bill. Hamilton Solar was a leading installer of solar systems in northern Nevada, and the company was anxious to move the industry away from incentives and to progress forward. The bill, with the amendment, did what was needed: it contained the performance-based incentives that were requested and provided for the continuous availability of the incentives until they expired. The "boom-and-bust" nature of the current system of incentives was difficult for businesses. He hoped the PUC would wait until new regulations were adopted to proceed under the concepts that were contemplated by A.B. 428.

Chad Dickason, Hamilton Solar, testified that he echoed the comments of Warren Hardy and would be happy to answer any questions.

Stacey Crowley, Director, Office of Energy, Office of the Governor, testified in support of A.B. 428. She appreciated the work that Assemblyman Bobzien and the stakeholders had put into the bill and the amendment. Increasing distributed

generation technology in the state was important to the Governor as part of the state's energy policy.

Jack Mallory, Assistant Business Manager/Secretary-Treasurer, Director of Government Affairs, International Union of Painters and Allied Trades, District Council 15, testified in support of A.B. 428. He thanked Assemblyman Bobzien and all of the stakeholders for their work. He believed an important concept in the bill was the clarification about how the program applied to public agencies.

Daniel O. Jacobsen, Technical Staff Manager, Bureau of Consumer Protection (Consumer's Advocate), Office of the Attorney General, testified that the Office was opposed to two sections of A.B. 428. Section 21.7 in Exhibit I presented a new definition of the state policy regarding the public interest with respect to renewable energy. The proposed policy statement regarding public interest required consideration of the economic benefits, the noneconomic benefits, and environmental considerations. Section 25.5, subsection 4, in Exhibit I required the Consumer's Advocate to publish a report if the Consumer's Advocate declined to represent the public interest in some proceeding. The Consumer's Advocate must post the report on its website and make the report available to the public. The requirement appeared to pressure the Consumer's Advocate to attend proceedings and spend time advocating for the economic benefits of renewable energy.

Mr. Jacobsen said the Consumer's Advocate was usually the lone voice asking the PUC to focus on the effects of rate increases in almost every proceeding at which the PUC considered some type of rate increase to subsidize or help fund renewable energy. The Consumer's Advocate had not always opposed the other aspects of renewable energy and had not opposed Senate Bill 252, which made changes to the portfolio standard for providers of electric energy. As the lone voice trying to keep the focus on how much more ratepayers were going to pay to subsidize renewable energy, Mr. Jacobsen requested that the Committee not approve the provision that required the Consumer's Advocate to go to the extra work of producing a report every time it tried to emphasize how much more it was costing ratepayers to subsidize renewable energy. The Consumer's Advocate could produce a report, but it would be extra work.

Chair Carlton said the Legislature was always looking for data. It had been difficult to quantify what renewable energy had done for the state. The state promoted the industry but did not collect any data on the benefits, the amount of money being saved, the effects on businesses, or the return on investment. Chair Carlton asked where the data should come from if the

Consumer's Advocate did not want to supply a report. Everyone agreed that the Legislature should have data before making those decisions.

Mr. Jacobsen agreed that the benefits and the costs of supporting renewable energy ought to be considered. The PUC should look at both the environmental benefits and the economic benefits. The persons who made money from renewable energy typically presented evidence regarding the economic benefit in those proceedings. The Consumer's Advocate tended to be the lone voice focusing on what it would cost to subsidize the program. He agreed both sides of the matter should be examined, but he thought it was not productive to write a report and post it on the website every time the Consumer's Advocate focused on the cost to the ratepayers. The Consumer's Advocate would be pleased to look at the cost-to-benefit relationship.

Chair Carlton said she and Mr. Jacobsen might be talking about parallel positions, but it would take a few more conversations to cross paths.

Assemblyman Bobzien said that the Assembly Committee on Ways and Means was where policy and money came together. The bill made it clear that the public interest could be separate from individual consumer interests, and the Consumer's Advocate should represent both interests. The fact that the provision was in the statute meant that there should be latitude, and he appreciated the voice of the Consumer's Advocate on behalf of consumers, but it was also important to represent the broader public interests. The Consumer's Advocate worked on behalf of the public. He said that the bill in no way restricted the actions of the Consumer's Advocate, its latitude to make those decisions, or its voice. Assemblyman Bobzien just wanted to add some transparency. He had asked for an example in recent history when the Consumer's Advocate had chosen to represent the public interest rather than the immediate consumer's interest, and only one example was provided. The public was better served by some transparency in the process.

Hearing no response to her request for further testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 428 and opened the hearing on Assembly Bill 423.

**Assembly Bill 423: Revises provisions governing reports of presentence investigations. (BDR 14-741)**

Steve Yeager, Attorney at Law, Office of the Public Defender, Clark County, testified that Assembly Bill 423 was presented on behalf of the Advisory Commission on the Administration of Justice. Support for the bill was

nearly unanimous. The Commission was comprised of representatives of law enforcement, legislators, the American Civil Liberties Union, Division of Parole and Probation, Department of Corrections, Department of Public Safety, and judicial representatives. The Division of Parole and Probation was the only dissenting vote of the Commission on the bill. No opposition to the policy was presented when the bill was heard by the Assembly Committee on Judiciary. The only opposition presented was to the fiscal effects.

Mr. Yeager said A.B. 423 dealt with the presentence investigation report (PSI). He provided an example of a PSI to the Committee. The PSI was a report prepared by the Division of Parole and Probation, Department of Public Safety, which was generally about ten pages in length. The PSI was used by prosecutors, defense attorneys, and judges to decide the appropriate sentence for a defendant. Typically, when a defendant was found guilty at a trial or pled guilty to a felony offense, the judge would order the Division of Parole and Probation to prepare a PSI. If the defendant was in jail, the sentencing was scheduled 60 days after the trial to allow the Division of Parole and Probation two months to prepare the PSI. If the defendant was not in jail or in custody, the Division of Parole and Probation was allowed 120 days or four months to prepare the PSI. The 60- or 120-day period was not required by statute, but was typically the policy of Clark County, and he believed that policy was uniform statewide.

Mr. Yeager said few of the basic contents of the PSI were mandated by statute. Over the years, the PSI had developed to include more information such as social background, criminal history, description of the offense, and a recommendation from the Division of Parole and Probation on the appropriate sentence. At the time of sentencing, everyone could comment on the PSI, and then the judge made the determination. There were no rules in statute about when the PSI must be prepared other than that the report must be prepared before sentencing. Nevada's lack of rules contrasted with other states and the federal government. The federal government had a rule that the PSI must be given to the defendant 35 days before sentencing. Nevada lacked any similar requirement in statute other than to say the PSI must be completed before sentencing.

Continuing, Mr. Yeager explained that the impetus for the bill came from the court decision *Stockmeier v. Psychological Review Panel*, 122 Nev. Adv. Op. No. 50, June 1, 2006, of the Supreme Court of the State of Nevada No. 42063. The facts in the case were that a prisoner who was already housed at a Department of Corrections' facility and sentenced by the local jurisdiction disputed the accuracy of items in his PSI. The inmate disputed those items at the time of sentencing, but the judge did not resolve them. When the inmate

came up for parole, the inmate learned that the disputed items were factors in being denied parole. The inmate sued the Psychological Review Panel civilly asking that the disputed items be corrected. The Supreme Court noted that factual inaccuracies in PSIs must be addressed at the time of sentencing. An inaccuracy could not be addressed after an inmate went to prison, even if everyone agreed that there was a mistake. The Supreme Court noted that under the *Nevada Revised Statutes* (NRS), the process for making corrections was not entirely clear: there was no guidance on how to make corrections. However, the Supreme Court was clear that the defendant, the defense attorney, and the prosecutor must have an opportunity to review the PSI and lodge any objection to information that was believed to be inaccurate.

Mr. Yeager said A.B. 423 sought to standardize the process and put Nevada in line with other jurisdictions and the federal government. The bill required that the PSI must be provided 21 days before sentencing. The Advisory Commission initially considered adopting 35 days, which was similar to the federal rule. That period was negotiated to 21 days because the Advisory Commission believed that would give adequate time for all parties to lodge objections, as well as time for the Division of Parole and Probation to potentially investigate those objections if it felt that was warranted.

Mr. Yeager explained the reason it was important to have the correct facts in the PSI was that the PSI followed the inmate throughout the correctional system. A judge would look at the PSI at sentencing and decide what sentence was appropriate. Use of the PSI did not stop there. The Department of Corrections reviewed the PSI when deciding how to classify a defendant, what programming was appropriate for a defendant, and whether a defendant was going to a minimum or maximum security facility or a camp program. When an inmate was up for parole, a great deal of weight was given to information in the PSI. Errors would certainly follow the inmate and must be corrected at the time of sentencing.

Chair Carlton said she understood that some opposition to the bill at the Advisory Commission meeting was lodged by a couple of organizations and one dissenting vote from the Division of Parole and Probation. She asked whether the opposition related solely to a worker problem; she could not imagine any philosophical opposition. She suspected the opposition was based on fiscal costs, restricted budgets, and insufficient staff to comply with the requirements of the bill. She recalled that a PSI was completed by nonsworn personnel who were supervised by sworn personnel. She wanted to understand the opposition and whether it was really about the money. She asked for an explanation of the costs.

Mr. Yeager replied that the fiscal note costs submitted by the Division of Parole and Probation appeared to be overstated. The Division assumed that the new process would require an additional three to four hours to prepare each PSI, and he did not believe that was an accurate estimate. In his experience, only about 5 percent to 10 percent of the PSIs were disputed. Most PSIs were reviewed by defense counsel who found no problems and proceeded with sentencing. He believed it was unrealistic to assume that every PSI would require more time to complete. He agreed that disputed PSIs could require more time, depending on the type of dispute and what was needed.

Mr. Yeager continued that the fiscal note was based on the assumption that a total of 37 vehicles would be needed. He understood that the Division of Parole and Probation believed the bill required its representative attend court at the time of sentencing in Clark County. A representative of the Division of Parole and Probation attended court in all counties except Clark County. He believed a representative would only need to attend court in cases of a disputed PSI that was unresolved at the time of sentencing.

Mr. Yeager noted that A.B. 423 required the PSI to be submitted 21 days before sentencing of the defendant. According to his research, last year approximately 6,000 PSIs were submitted in Clark County, and 4,400 were provided in 7 days or less before sentencing. He understood the need to accelerate the work to comply with the 21-day requirement. Currently, most PSIs were submitted 3 or 4 days before sentencing. He understood that accelerating the time period would initially require more staff at the Division, but once compliance was achieved, the Division would no longer need additional staff. Therefore, he reiterated that he believed the fiscal note was overstated. He thought A.B. 423 did not make a major change in the preparation of the PSI reports, but merely provided more time for the defense counsel and the prosecutor to review and ensure accuracy of the reports.

In response to a question from Chair Carlton, Mr. Yeager replied that the state prepared the PSIs and billed the counties for 70 percent of the cost, and the state paid 30 percent of the cost. Some county representatives had testified in opposition to the costs.

Chair Carlton asked whether Mr. Yeager had data on how many continuances were granted in the 4,400 cases in which the PSIs were received in 7 days or less before sentencing.

Mr. Yeager replied he did not have that specific data. He knew that the Division of Parole and Probation had some data about how many continuances were requested. He assumed that on occasion the Division asked for

a continuance because it could not complete the report before sentencing, or it might be the first time the defendant saw the PSI. Sometimes the Division might acknowledge an error or the defense attorney might ask for a continuance, and the judge could grant a continuance of the case for 30 or 60 days. The testimony presented to the Advisory Commission on the Administration of Justice was that thousands of continuances were requested for those scenarios. He thought only a small percentage of the mistakes were ordered to be corrected.

Assemblyman Horne, who chaired the Advisory Commission on the Administration of Justice, said he agreed that the fiscal note was overstated. He thought the Division of Parole and Probation did not believe a problem existed but had sufficient staff to effect the change he sought. Assemblyman Horne had data showing there was a problem. In his private practice, he had received PSIs only days before sentencing, and sometimes his client would see the PSI on the day of the court hearing. There were differences in opinions on whether or not a problem existed. There was no debate on the cost of effecting a change and establishing time parameters.

Chris Frey, Deputy Public Defender, Washoe County Public Defender's Office, testified in support of A.B. 423 and agreed with the remarks of Mr. Yeager. He urged the Assembly Committee on Ways and Means to support the bill.

Major Tony DeCrona, Deputy Chief (North), Division of Parole and Probation, Department of Public Safety, testified that complying with A.B. 423 required more staff, resulting in a significant fiscal note on the bill. The Division had studied the length of time needed to complete the PSIs and have staff attend court sentencing hearings. The Division specialists did not attend court in the southern command, but they did attend court in the northern command. Only the Division's sworn line staff were allowed vehicles. The Division did not have vehicles for its specialists to travel to court, and specialists would have to use a vehicle assigned to a sworn officer to attend court.

Chair Carlton said the Division specialists currently did not have vehicles and she questioned what in the bill required them to have vehicles. The bill changed the time frames but not the content of the PSIs. She heard no criticisms about the content or the work product. The bill simply addressed the time frames, and she asked how the time frames created a need for the vehicles. She understood the position of the Division, but she needed to ensure everything was on the record. She had heard no criticism other than the Advisory Commission on the Administration of Justice wanted to have the PSIs submitted sooner. It appeared to her that once the Division was caught up and

able to comply with the 21-day requirement, the Division would experience no cost increases. She had difficulty understanding the need for vehicles.

Mr. DeCrona replied that new vehicles were required to allow the specialist to travel back and forth to court.

Chair Carlton reiterated that the bill did not require the Division to send a representative to court. The Division chose to assume that responsibility but had not sent representatives to court in the past. The Division would not have to send a representative to court to comply with the bill.

Mr. DeCrona replied that Chair Carlton's comments were true.

Chair Carlton said the Division could assign one or two persons to attend court and would not need a number of specialists traveling back and forth, depending upon the caseload at court at the time.

Mr. DeCrona replied that the Division assigned a specific specialist to attend court in the rural offices. One person was assigned to handle about three counties and traveled considerable distances. The specialist took a vehicle from the officer sometimes, and other times he used his personal vehicle to go to court.

Chair Carlton said everyone supported giving the Division the resources needed to do its job. She needed to ensure that the appropriate level of resources was addressed. A thorough conversation about resources was needed to determine the appropriate level.

Mr. DeCrona replied that if the Division was given the appropriate resources and staffing, it could fulfill the requirements of the bill. The Division had submitted a significant cost in the fiscal note.

Chair Carlton said she was uncertain about the appropriate level of resources needed.

Major Kim Madris, Deputy Chief (South), Division of Parole and Probation, Department of Public Safety, testified that the Division did not attend court in the Las Vegas area. There were 18 criminal courts in Clark County. On any given day, there could be a dispute about a PSI in each one of those courtrooms. The Division's problem was if it needed a court services representative in each one of those courtrooms, the Division lacked sufficient vehicles to provide transportation for them. The specialists would have to drive their private vehicles unless the Division was given more vehicles for them to

perform that function. A time study was completed in 2007 that compared the workload of the Division in the south to the rest of the state, and court time was not added into the workload. If the Division's representatives attended court, it would reduce the office time needed to write reports. That change would require more staff and more vehicles.

Chair Carlton reiterated that nothing in the bill mandated that the Division have a representative attend court, and the staff and vehicle problem could be addressed outside of A.B. 423.

Rick Gimlin, Administrative Services Officer 3, Division of Parole and Probation, Department of Public Safety, testified the fiscal note was not an attempt to kill the bill. He had tried to determine the appropriate resources needed to respond to an unknown. He did not want to understate resources and then realize the Division must request additional funds from the Interim Finance Committee. The costs to comply with A.B. 423 were unknown, and he was unsure what resources would be required. The bill would allow defendants to dispute facts in the PSI. The Division was uncertain how much time and effort would be required to comply with A.B. 423.

Dagny Stapleton, Government Affairs Consultant, Nevada Association of Counties (NACO), testified that NACO was opposed to the cost of A.B. 423 to the counties, but was neutral on the policy of the bill. The fiscal note included a $2.1 million cost assessed to the counties, which was a significant effect over the biennium. Counties were already being assessed $7.4 million for the cost of PSIs. The assessment, which began in 2011, reflected 70 percent of the cost to produce the PSI. The state paid 30 percent of the cost of a PSI, which NACO believed underrepresented the benefit and use that the state garnered from the PSI. The counties were assessed $7.4 million for PSIs plus the additional potential cost of A.B. 423. The counties were also assessed nearly $48 million for state health and human services in the 2013-2015 biennium. The $48 million was a continuation of assessments first enacted in 2011 to help the state balance its budget. Counties had to cut services, lay off employees, and raise taxes to pay those assessments. The message from NACO was that $2.1 million was a large cost for the counties to absorb.

Lisa Gianoli, representing Washoe County, testified that she echoed the comments of Ms. Stapleton. There were significant "push-downs" [unfunded mandates for costs that previously were paid by the state and were now obligations of the counties] approved during the 76th Session (2011). Washoe County had about $20.9 million added to its costs, and A.B. 423 would add an additional $400,000 in each year of the 2013-2015 biennium, as well as the $700,000 Washoe County paid each year for the 70 percent

push-down that the counties paid for PSIs. The counties were concerned about the continuation of the push-downs to the counties given the costs that the counties had already assumed.

Yolanda T. King, representing Clark County, testified that she echoed the comments made by the two prior speakers. The $2.1 million would have a significant effect on Clark County because it was the largest county and would pay the largest share of the proposed costs. Currently, Clark County paid about $2.4 million annually for PSIs. Clark County was opposed to the fiscal costs but was not opposed to the policy of A.B. 423.

Chair Carlton questioned whether the counties would be opposed to a smaller fiscal effect. She was unsure if the counties could accept any cost or a smaller cost. She asked whether there was a dollar amount that would be satisfactory to the counties to gain county support.

Ms. King replied her understanding was that there might be some cost for the Division of Parole and Probation to comply with the bill and change the time frame for the PSI to 21 days before sentencing. Clark County was willing to pay a one-time cost to get the Division into compliance with the proposed policy. She was unsure what that would mean on a long-term basis for continuing costs. She would need to have discussions with the Clark County management, but she was willing to consider a proposal.

Ms. Gianoli replied that she did not feel comfortable making a commitment for Washoe County but was willing to consider a reduced cost proposal. The County might agree to a minimal expense that was not ongoing, but currently she could not commit to paying a material fiscal cost.

Ms. Stapleton replied that she must verify with the members of NACO before committing to paying an additional cost. She echoed the comments of the two prior speakers.

Assemblyman Aizley summarized what he had heard. Errors in a PSI might result in an inmate's jail time. A life was at stake. The cost of the bill was too expensive to get the truth, which struck him as being incorrect.

Ms. Gianoli replied she did not believe the counties were saying it was too expensive to get the truth. The concern of the counties was that until 2011, the PSI was a state responsibility and no costs were assessed to the counties. The counties were concerned about the workload and who was the real beneficiary of the report. The counties now paid 70 percent of the cost of PSIs,

but the beneficiary of the reports was the state, which previously paid 100 percent of the cost.

Chair Carlton commented that she did not want to debate everyone, but she wanted to put something on the record. She noted that the longer defendants were in county jail, the more it cost the counties. There were many moving parts in the equation. She said one component to consider was the sooner defendants were out of jail and the sooner they went to court, the better off everyone would be.

Mary Walker, representing Carson City, Douglas, Eureka, Lyon, and Storey Counties, testified the counties supported the policy in A.B. 423, but were opposed to the fiscal effect. Lyon County was in the worst situation, having suffered through seven years of budget cuts and still going through cuts. The County laid off 14 employees for fiscal year 2014. Any fiscal effect was difficult for the counties to absorb, but the counties would like to participate in in development of other options.

Hearing no response to her request for further testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 423 and opened the hearing on Assembly Bill 426.

**Assembly Bill 426: Revises provisions relating to mortgage lending. (BDR 54-42)**

James Westrin, Commissioner, Division of Mortgage Lending, Department of Business and Industry, testified that Assembly Bill 426 contained two major changes. First, the bill directed the Legislative Commission to appoint a committee to conduct an interim study of Nevada's laws governing the mortgage lending industry. A number of federal and state mortgage laws had changed over the last several years. Mr. Westrin had reviewed the statutes and held conversations with the Advisory Council on Mortgage Investments and Mortgage Lending and other stakeholders in the industry. The common theme he found was that the mortgage laws had become burdensome, complex, confusing, and difficult to comply with or understand. He thought a study of the laws would be appropriate at this time.

Mr. Westrin said A.B. 426 also directed the Commissioner of the Division of Mortgage Lending to promulgate regulations to establish a program to license and supervise residential mortgage loan servicer companies that serviced loans in Nevada. Under current law, a mortgage loan servicer located within the state was required to be licensed. If that same mortgage loan servicer company was

located outside of the state, the company was not required to be licensed under Nevada law. The out-of-state company must merely register, and the Division had no regulatory or supervisory authority over those unlicensed mortgage loan servicers that registered.

Mr. Westrin explained that the Division was a fee-funded agency that derived its operating revenue from the licensed population that was supervised. The Division currently lacked the staff and resources necessary to absorb the licensing and supervisory duties over mortgage loan servicers. The fiscal note reflected that the Division needed at least one new licensing employee to process the license applications, six new examiners to conduct examinations of the mortgage loan servicers, and one supervisory examiner to oversee the mortgage servicer examination program.

[Chair Carlton left the room briefly and Assemblyman Bobzien assumed the duties of the chair.]

Vicki Leigh, Administrative Services Officer, Department of Business and Industry, presented Exhibit J, which was an unsolicited fiscal note she had prepared. The Division of Mortgage Lending lacked the staff to examine the anticipated 170 mortgage loan servicers that would be licensed under A.B. 426. The fiscal note from the Division of Mortgage Lending would provide funding for six examiners as of October 1, 2013. However, the Division did not anticipate hiring all six examiners on October 1, 2013. The agency believed that the examiners would be difficult to recruit because of the specialized nature of mortgage loan servicers and trust accounts, which was more involved than other program examinations. The costs included the operating costs, travel, accreditation costs, and other expenses that would be needed for the six new examiners. The total cost was $416,828; however, the agency had sufficient licensing revenue in fiscal year 2014 to offset those costs and actually had a carryover in the reserve of $8,172.

Assemblyman Bobzien said the costs of A.B. 426 were not included in The Executive Budget. A fiscal note was submitted, and he asked whether there were components of the bill that could be retained, but adjustments could be made to reduce the fiscal costs. He thought there might be incremental steps that could be taken to move in the policy direction and actions that could be adopted to lessen or eliminate the fiscal note.

[Chair Carlton returned to the hearing room and resumed the duties of the chair.]

Mr. Westrin replied he was unsure whether there was a way to incrementally adopt the mortgage loan servicer licensing requirements. The removal of the servicer licensing requirements would eliminate the need for the fiscal note. If the mortgage loan servicer licensing requirements were not adopted but instead were included in the study, the costs would be eliminated. The agency could include the mortgage loan servicer licensing requirements in the future comprehensive study and could consider licensing of servicers in the future.

Assemblywoman Kirkpatrick thought the study portion of the bill was removed during a hearing of the Assembly Committee on Legislative Operations and Elections. The reason she had considered removing the study was the agency had a staff of six employees that could conduct a study. There were several other bills that required the Division to conduct the same study. The agency had a staff of six, and the Legislature could only ask for five interim studies total. She asked about the agency's expectation and whether someone would review all the statutes related to the Division. She did not understand the purpose of the mortgage law study, and she believed the Division's staff could conduct the study, develop bill drafts, and work with the Legislature. The Division had enough staff to conduct the two studies it requested. She asked whether the Legislature would benefit from the studies or the benefit would be just to the Division.

Mr. Westrin replied that A.B. 426 still contained the study; it had not been deleted from the bill.

Mr. Westrin replied that Senate Bill 354 included a study of the statutes, and he thought the two studies would be included together and completed as one study. There was no need for two separate studies.

Chair Carlton said she would work Legislative Counsel Bureau (LCB) staff to clarify the situation. She determined that section 9 of A.B. 426 still contained language that required the study be performed. The history of the bill indicated that A.B. 426 was heard by the Assembly Committee on Commerce and Labor, then heard by the Assembly Committee on Legislative Operations and Elections, and then was sent to the Assembly Committee on Ways and Means. She said staff would study the bill's status as it related to the study before the bill was processed to ensure that everyone had the same information on the study component.

Assemblywoman Kirkpatrick said she would also check with the Assembly Committee on Legislative Operations and Elections.

Hearing no response to her request for further testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 426 and said she would work with LCB staff to verify the record of actions on the bill.

Chair Carlton announced the Committee would proceed to work session to consider several bills.

**Assembly Bill 419: Revises provisions governing the Public Employees' Benefits Program. (BDR 23-1119)**

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained that Assembly Bill 419 revised provisions governing the Public Employees' Benefits Program. The bill was heard by the Assembly Committee on Ways and Means on May 20, 2013. The bill changed the composition of the Board of the Public Employees' Benefits Program from nine to ten members by adding one additional retiree member. That member must be retired from public employment and appointed by the Governor.

Chair Carlton noted that too many Committee members were out of the room to move a bill. She said the Committee had been working hard and had processed over 100 bills in the last ten days. The Committee had been assigned over 140 bills and 10 or 12 bills remained to be processed, and there were new ones being added. She suggested that the Committee hold a work session in the morning to process bills before the Assembly floor session.

Assemblywoman Kirkpatrick said the goal was to finish the next day's Assembly floor session by noon, if the members could arrive on time and get organized, and there would probably be no floor session on the following day [Sunday]. She wanted the Committee to continue to process bills, and she suggested that the Committee should meet on Monday at 9 a.m. to work session bills. The Assembly could hold an hour-long floor session to process the bills after the Committee's work session.

Chair Carlton said the Assembly Committee on Ways and Means would hold its work session the following morning [Saturday] to provide Fiscal Analysis Division staff sufficient time to prepare bills for Monday's meeting.

Chair Carlton noted that several members of the Committee had returned to the meeting, and she resumed the work session.

**Assembly Bill 413 (1st Reprint): Revises provisions relating to taxation. (BDR 32-1010)**

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained Assembly Bill 413 (1st Reprint) revised provisions relating to taxation and was originally heard by the Committee on Ways and Means on May 23, 2013. The bill authorized certain larger counties to impose additional taxes on fuels for motor vehicles, providing for the administration, allocation, disbursement, and use of the additional taxes, and removing the exemption for the sale of revenue bonds secured by county fuel taxes from certain requirements. Passage of the bill did not have any fiscal costs. The bill and the proposed amendments were presented by Assemblyman Hardy and Assemblywoman Kirkpatrick.

Chair Carlton asked whether the Committee members had any questions or comments on the bill.

Assemblywoman Kirkpatrick said she had spoken with representatives from Washoe County and asked whether they wanted the same enabling legislation. She believed the Legislature could amend the bill to include language for Washoe County at the hearing before the Senate Committee on Finance.

> ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 413 (1ST REPRINT).
>
> ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Assemblyman Hambrick voted no. Assemblywoman Flores was not present for the vote.)

**Assembly Bill 419: Revises provisions governing the Public Employees' Benefits Program. (BDR 23-1119)**

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained that Assembly Bill 419 revised provisions governing the Public Employees' Benefits Program. The bill was originally heard by the Assembly Committee on Ways and Means on May 20, 2013. The bill changed the composition of the Board of the Public Employees' Benefits Program (PEBP) from nine members to ten members by adding one additional retiree member to the Board. That member must be retired from

public employment and appointed by the Governor. Several stakeholders testified in support of the bill; however, the PEBP Board through its Executive Officer, James R. Wells, testified against the bill. The PEBP submitted an unsolicited fiscal note of $4,596 for each year of the 2013-2015 biennium. Mr. Wells testified that the cost could be absorbed with existing resources.

Assemblyman Kirner said ten was a bad number for a board, particularly for the PEBP Board because of the way the Board worked. He agreed with the premise that the retirees might be underrepresented on the Board. He was in a dilemma as to how to vote on the bill, but he thought he would support the bill because it was better than not making a change. He suggested that the Assembly Committee on Ways and Means approve the ten members and see how that number worked during the interim. Any adjustments to the Board could be made during the 78th Session (2015).

Chair Carlton asked whether Committee members had any questions or comments on the bill. Hearing none, she called for a motion.

> ASSEMBLYMAN SPRINKLE MOVED TO DO PASS ASSEMBLY BILL 419.
>
> ASSEMBLYMAN AIZLEY SECONDED THE MOTION.
>
> THE MOTION PASSED. (Assemblywoman Flores was not present for the vote.)

**Assembly Bill 215 (1st Reprint): Provides for the collection and application of graywater for a single-family residence. (BDR 40-3)**

Chair Carlton said Assembly Bill 215 (1st Reprint) was a bill related to graywater presented by Assemblyman Ohrenschall. She said she had received proposed amendment No. 9128, and the bill was the first reprint. The status of the bill showed it was reprinted with amendments adopted on April 22, 2013, but proposed amendment 9128 was dated May 20, 2013. She wanted to verify that she had the correct amendment before asking the Committee to vote on the bill; she would hold the bill for a later work session.

Chair Carlton called for public testimony. There was none. There being no further business before the Committee, she adjourned the meeting at 10:44 a.m.

RESPECTFULLY SUBMITTED:

_____
Janice Wright
Committee Secretary

APPROVED BY:

_____
Assemblywoman Maggie Carlton, Chair

DATE: _____

## EXHIBITS

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

**Date: May 24, 2013** **Time of Meeting: 8:21 a.m.**

| Bill | Exhibit | Witness / Agency | Description |
|---|---|---|---|
| | A | | Agenda |
| | B | | Attendance Roster |
| CIP | C | Brody Leiser, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau | Closing Documents for CIP and Treasurer |
| CIP | D | Brody Leiser, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau | Recommended CIP for 2013-2015 biennium |
| DSA | E | Julie Waller, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau | Distributive School Account |
| A.B. 239 | F | Assemblywoman Marilyn K. Kirkpatrick, Clark County Assembly District No. 1 | Handout for A.B. 239 |
| A.B. 239 | G | Assemblywoman Marilyn K. Kirkpatrick, Clark County Assembly District No. 1 | Proposed Amendment Mock-Up 9234 for A.B. 239 |
| A.B. 239 | H | Crystal Jackson, Executive Director, Public Utilities Commission of Nevada | Revised Fiscal Note |
| A.B. 428 | I | Assemblyman David P. Bobzien, Washoe County Assembly District No. 24 | Proposed Amendment Mock-Up 9169 for A.B. 428 |
| A.B. 426 | J | Vicki Leigh, Administrative Services Officer, Department of Business and Industry | Unsolicited Fiscal Note |