

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

**Seventy-Seventh Session
April 29, 2013**

The Assembly Committee on Ways and Means was called to order by Chair Maggie Carlton at 8:06 a.m. on Monday, April 29, 2013, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. 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 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 Crescent 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
Jeffrey A. Ferguson, Senior Program Analyst
Nate Helton, Recording Committee Secretary

Minutes ID: 964



Carol Thomsen, Transcribing Secretary
Cynthia Wyett, Committee Assistant

Chair Carlton opened the hearing on Assembly Bill 311.

Assembly Bill 311: Creates the Contingency Account for Victims of Human Trafficking. (BDR 16-715)

Assemblyman Michael Sprinkle, Washoe County Assembly District No. 30, presented A.B. 311. The bill would create the Contingency Account for Victims of Human Trafficking within the State General Fund to assist victims of human trafficking. Assemblyman Sprinkle explained that currently there was no contingency account or other method for those who wanted to raise funds and place those monies into the General Fund to help victims of human trafficking.

Assemblyman Sprinkle explained that A.B. 311 would establish the Contingency Account, and the monies deposited into that account would be used specifically to provide services for victims of human trafficking. Two unique features of the account were: (1) the Contingency Account would be administered through the Interim Finance Committee (IFC), whereby organizations or individuals could approach IFC for an appropriation from the fund. When an organization or individual was allocated monies from the Contingency Account, they would return to IFC and demonstrate how those funds had been used appropriately for victims of human trafficking; and (2) the monies would not revert to the State General Fund but would remain in the Contingency Account, and roll over from year to year.

Assemblyman Sprinkle indicated that there was no fiscal note attached to A.B. 311.

Chair Carlton asked why the IFC was selected to administer the account and whether Assemblyman Sprinkle had approached other agencies such as the Office of the Attorney General to administer the funds and report to IFC.

Assemblyman Sprinkle explained that discussions had taken place with the Fiscal Analysis Division and the Legal Division of the Legislative Counsel Bureau (LCB), along with the Office of the Attorney General. So that the monies could be used by multiple sources and would not be earmarked for one specific agency within state government, it was determined that the oversight should be provided by IFC, and once those monies had been allocated, the organizations would report to the IFC on how the funds were used.

Chair Carlton referred to section 6 of the bill, which authorized a nonprofit organization or any agency or political subdivision of the state to apply for an allocation from the Contingency Account. She asked about the definition of a political subdivision.

Assemblyman Sprinkle said that the LCB Legal Division had drafted language into the bill and that he was not sure about the definition of a political subdivision.

Chair Carlton wanted to ensure that a political subdivision was properly defined so there would be no confusion. The Chair said section 5 stated that IFC could apply for and accept gifts, grants, and donations or other sources of money for deposit into the Contingency Account and she asked for clarification.

Assemblyman Sprinkle said that the LCB Legal Division had also included language when the bill was drafted, and it was not intended that IFC would apply for grant funds. The proposed Contingency Account, he said, came about because individuals and private organizations were able to raise money but had no place to deposit the funds to help victims of human trafficking.

Chair Carlton asked whether there were questions from the Committee, and there were none. She noted that there were a few technical adjustments that should be addressed and offered her help moving forward.

Chair Carlton asked whether anyone wished to testify in support of A.B. 311.

Ron Dreher, representing the Peace Officers Research Association of Nevada (PORAN), asked the Committee to support the concept of A.B. 311. The Association, he said, was staunchly in support of the bill.

John Wagner, State Chairman, Independent American Party, also asked the Committee to support the bill.

Hearing no response to her request for testimony in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 311 and opened the hearing on Assembly Bill 338.

Assembly Bill 338: Provides certain protections and services for victims of human trafficking. (BDR 16-679)

Assemblyman John Hambrick, Clark County Assembly District No. 2, referred to Exhibit C, a letter dated April 25, 2013, from James Dold, JD, Senior Policy

Counsel, Polaris Project, and attachments, which were available for review on the Nevada Electronic Legislative Information System (NELIS).

Assemblyman Hambrick advised that section 2 of the bill required an owner or operator of certain establishments or facilities to post an informational sign regarding the National Human Trafficking Resource Center (NHTRC) hotline. The sign, he said, had to be obtained from the Department of Transportation or the Department of Business and Industry.

Mr. Hambrick further advised that the exhibit included copies of fiscal notes from the state of Alabama and the state of Louisiana: both states had introduced similar legislation with no fiscal effect.

Section 3, he said, required the Department of Health and Human Services (DHHS) to develop a statewide plan for the delivery of services to victims of human trafficking. The Department would have oversight for the plan and would bring the stakeholders together in a coordinated effort. Additionally, Mr. Hambrick pointed out that [Exhibit C](#) included the plan developed by the state of Tennessee.

According to Mr. Hambrick, section 5 of the bill required the Department of Education and the State Board of Education to develop and distribute certain informational material relating to the human trafficking of children. He called the Committee's attention to page 16 of the exhibit, which reflected the information available to educators from the National Human Trafficking Resource Center. The information was free to educators, school districts, counselors, and school nurses for use as a resource in determining human trafficking in schools.

Mr. Hambrick noted that representatives from the Department of Education and DHHS were present to confirm that there was no fiscal note attached to A.B. 338.

Chair Carlton asked whether there were questions from Committee members regarding the bill, and there were none.

Julia Teska, Office of Fiscal Accountability, Department of Education, said after working with Assemblyman Hambrick, the Department had received links to electronic information that could be disseminated and provided to the districts that would satisfy the mandates of A.B. 338. Therefore, there would be no fiscal effect on the Department of Education.

Amber Joiner, Deputy Director, Programs, Department of Health and Human Services (DHHS), said the Department had originally established a fiscal note because it understood that the bill would require the Department to prepare a strategic plan, which was time-consuming and costly. She said, however, Assemblyman Hambrick clarified that the intent was for the Department to offer a coordinated system of services internally within DHHS, and there would be no additional funds required.

Chair Carlton asked whether an amendment would be needed to change the language of the bill to reflect the oversight of DHHS. Ms. Joiner replied that as long as the intent was on record, DHHS was satisfied.

Chair Carlton asked whether there was anyone present who wished to testify in support of A.B. 338.

John Wagner, State Chairman, Independent American Party (IAP), stated that the IAP supported A.B. 338 and everything that could be done to help victims of human trafficking.

Hearing no response to her request for testimony in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 338 and opened the hearing on Assembly Bill 146 (1st Reprint).

Assembly Bill 146 (1st Reprint): Revises provisions governing servitude of a minor. (BDR 15-752)

Assemblyman William C. Horne, Clark County Assembly District No. 34, stated there were no fiscal notes attached to A.B. 146 (R1), but it was his understanding that there would be an effect on an agency budget account.

Chair Carlton said she believed that the fiscal effect would be for the Records and Technology Division, Department of Public Safety (DPS). It was her understanding that the costs of the requested positions could be absorbed by DPS as the new positions were allocated. Chair Carlton asked whether Assemblyman Horne had spoken with representatives from DPS. Mr. Horne replied that he had not.

Julie Butler, Records Bureau Chief, Records and Technology Division, DPS, explained that decision unit Enhancement (E) 350 in budget account 4709 [Criminal History Repository] requested three additional positions for the Nevada Sex Offender Registry. Although the effect of A.B. 146 (R1) would only add approximately 50 registrations per year, the Division was considering the

cumulative effect as the number of registrations increased yearly. Ms. Butler said the Division believed if it was granted the positions, the effects of A.B. 146 (R1) could be absorbed. She noted that the Division's budget was scheduled to close on April 30, 2013.

Chair Carlton thanked Ms. Butler and asked whether anyone wished to testify in support of A.B. 146 (R1).

John Wagner, State Chairman, Independent American Party (IAP), testified in support of A.B. 146 (R1).

Hearing no response to her request for testimony in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 146 (1st Reprint) and opened the hearing on Assembly Bill 7 (1st Reprint).

Assembly Bill 7 (1st Reprint): Revises provisions relating to the Gaming Policy Committee. (BDR 41-333)

A. G. Burnett, Chair, State Gaming Control Board, identified himself for the record and introduced Adriana Fralick, Senior Research Specialist, State Gaming Control Board, to the Committee. He explained that Gerald Gardner, Chief of Staff, Office of the Governor, was unable to attend the hearing and sent his apologies.

Mr. Burnett said he and Ms. Fralick were present to answer any questions from the Committee regarding A.B. 7 (R1), which added one more member to the Gaming Policy Committee, a statutory body that could be called upon by the Governor at any time to "weigh in" on matters pertaining to gaming policy.

Mr. Burnett explained that the recommendation in the bill, which had been proposed by the Office of the Governor, the State Gaming Control Board, and the Nevada Gaming Commission, added a representative of academia who possessed knowledge of matters relating to gaming. Additionally, the bill allowed for the creation of an advisory committee on gaming education that would assist and "weigh in" on four specific gaming-related tasks as listed in section 1, subsection 8 of A.B. 7 (R1).

Chair Carlton asked whether there were questions from members of the Committee, and there were none.

Chair Carlton asked whether the position would be funded from fees that were already being received by the State Gaming Control Board.

Adriana Fralick, Senior Research Specialist, State Gaming Control Board, explained that the costs for the position would be paid from the General Fund; she noted that fees collected by the Board were placed in the General Fund.

Chair Carlton asked about the amended fiscal note to A.B. 7 (R1).

Ms. Fralick said that the amended fiscal note ([Exhibit D](#)) streamlined the costs associated with the Gaming Policy Committee and the proposed advisory committee on gaming education. Originally, the fiscal note had requested travel for two staff members as well as two Gaming Control Board members. She said, however, that when the Governor convened the Gaming Policy Committee or the proposed advisory committee, the meetings could be planned around the monthly meeting of the State Gaming Control Board or Nevada Gaming Commission. Ms. Fralick said the amended fiscal note would remain to address the request for a current half-time position to become a full-time position to staff both the Gaming Policy Committee and the proposed advisory committee.

Chair Carlton asked for clarification concerning the recommendation in the bill to add a representative of academia to the Gaming Policy Committee who possessed knowledge of matters relating to gaming.

Mr. Burnett explained that the Governor convened the Gaming Policy Committee in 2012, for the first time in many years, to analyze interactive gaming, which had become increasingly important. During several meetings of the Gaming Policy Committee, discussions indicated that perhaps an additional function of the Gaming Policy Committee would be in response to the challenges facing academia in studying gaming. It was determined that the Gaming Policy Committee could become a vehicle for the study of gaming-related matters as listed in section 1, subsection 8 of the bill.

Mr. Burnett stated that the University of Nevada, Las Vegas (UNLV) and the University of Nevada, Reno (UNR) supported a study of gaming-related matters.

Chair Carlton asked why the proposed advisory committee on gaming education would review and evaluate the Culinary Academy of Las Vegas, which did not appear to be involved with gaming as listed in section 1, subsection 8, paragraph (a) of the bill.

Mr. Burnett said the Culinary Union had requested that the Culinary Academy of Las Vegas be included in the language of A.B. 7 (R1).

Hearing no response to her request for 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 7 (1st Reprint) and opened the hearing on Assembly Bill 228 (1st Reprint).

Assembly Bill 228 (1st Reprint): Authorizes certain providers of health care to provide voluntary health care service in this State in association with certain organizations. (BDR 54-245)

Assemblyman Tom Grady, Assembly District No. 38, stated that A.B. 228 (R1) had been heard by the Assembly Committee on Commerce and Labor, and many conversations had taken place regarding the policy. Assemblyman Grady said the bill was before the Committee because of the fiscal note, but it was his understanding that the fiscal note would either be eliminated or considerably reduced. Mr. Grady said, however, he had no information about such action by the Health Division, Department of Health and Human Services (DHHS) and hoped that a representative from DHHS could come forward today and explain the fiscal note.

Chad Westom, Chief, Bureau of Health Statistics, Planning, Epidemiology and Response, Health Division, DHHS, stated that the fiscal note attached to A.B. 228 (R1) related to the requirement in the bill that the Health Division adopt regulations. The cost to adopt regulations, he said, was the sole purpose of the fiscal note.

Chair Carlton noted that the Health Division would need to adopt regulations whether or not mandated by the bill, and Mr. Westom agreed.

Chair Carlton asked whether the Division could absorb the costs or whether there would be an additional cost associated with adoption of the regulations.

Mr. Westom replied that the Division did not currently have plans to adopt regulations associated with the mandates of the bill. He asked for clarification concerning the language that stated that the Health Division "shall" adopt regulations. Mr. Westom pointed out that if the language was not included in the bill, the Division could develop policies rather than regulations.

Assemblyman Grady believed that the aspects of the bill could be handled with policies rather than adopting new regulations. Mr. Grady said he could not understand why the adoption of regulations would entail six staff members traveling to Las Vegas to attend two staff meetings at a cost of approximately \$4,000 of the requested \$8,000 in the fiscal note. Also, mailing materials to 400 people at a cost of \$800 appeared to be excessive. Mr. Grady believed

that the adoption of policies would be a more sensible way to address the mandates of the bill.

Assemblywoman Kirkpatrick advised that regulations tended to give agencies more authority when the laws passed by the Legislature were not followed. She asked about making the requirements a matter of policy and the length of time needed to adopt the policy.

Mr. Westom said section 9 of the bill stated, "The Health Division shall adopt regulations to carry out the provisions of sections 2 to 9, inclusive, of this act," which was very specific language. The adoption of policies would require notification to those who would be affected by the policies, but it was an internal process that could be initiated rather quickly.

Assemblywoman Kirkpatrick pointed out that there was a public policy procedure concerning the adoption of regulations and asked how quickly policies could be developed if the bill took effect on October 1, 2013.

Mr. Westom replied that the policy could be put into place by January 1, 2014.

Chair Carlton questioned the need for travel costs if staff routinely attended hearings of the State Board of Health. She noted that the cost to adopt regulations added to the fiscal note and asked Assemblyman Grady to determine whether the language in the bill should be changed to adoption of policies rather than regulations.

Assemblyman Grady said he would work with the Health Division to determine the language that would work best for the Division and offer the best protection for the citizens of Nevada.

Assemblyman Sprinkle asked whether the Health Division could absorb the costs of adopting regulations or whether additional funding would be required.

Chair Carlton said she believed that the Health Division would require additional funding to address the adoption of regulations but that the funding would be included in the Health Division's budget.

Chair Carlton asked whether anyone wished to testify in support of A.B. 228 (R1).

Ernest E. Adler, Attorney at Law, stated he was present to represent the Healthy Communities Coalition of Lyon and Storey Counties, which supported A.B. 228 (R1).

Hearing no response to her request for testimony in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 228 (1st Reprint) and opened the hearing on Assembly Bill 344.

Assembly Bill 344: Provides for the use of Physician Orders for Life-Sustaining Treatment in this State. (BDR 40-682)

Assemblyman David P. Bobzien, Washoe County Assembly District No. 24, stated that A.B. 344 provided for the use of Physician Order for Life-Sustaining Treatment (POLST) forms. Assemblyman Bobzien said that end-of-life issues were often very controversial. The 2007 Legislature had created the Living Will Lockbox to promote the use of advance directives and the filing of those forms with the Office of the Secretary of State for rapid access during times of emergency.

Mr. Bobzien said no matter what a person's personal, moral, or religious convictions were about end-of-life issues, most persons could agree that tragedies and controversies could be avoided when one's wishes were codified and accessible to physicians and healthcare providers in time of need.

Mr. Bobzien stated that the POLST form was a more robust way for a person to execute a declaration about their wishes regarding life-sustaining treatment other than the typical advance directive.

Mr. Bobzien advised the Committee that Lawrence Matheis was present and would provide additional information regarding the POLST forms. Additionally, he said that the fiscal note attached to A.B. 344 was from the Health Division for the creation of the regulations to adopt the mandates of the bill.

Lawrence Matheis, representing the Nevada State Medical Association, stated that during the past interim a coalition had been formed that consisted of stakeholders who had expressed an interest in end-of-life issues. The coalition consisted of representatives from hospitals, emergency responders, AARP, Nevada Disability Advocacy and Law Center (NDALC), nursing care facilities, and the Chartered Value Exchange (CVE), which worked to develop appropriate changes regarding the value and transparency of health care.

Mr. Matheis said the intent of the coalition was to identify the best method of adopting a Physician Order for Life-Sustaining Treatment (POLST) form for use in Nevada. He had submitted a copy of the form ([Exhibit E](#)), which was available for review on the Nevada Electronic Legislative Information System (NELIS).

Mr. Matheis advised that most states surrounding Nevada had already developed POLST forms, which were completed in consultation between the physician, the patient, and the patient's family. The form provided explicit directions to the healthcare system regarding the wishes of the patient. Mr. Matheis said the form was meant to be executed after the onset of a severe illness and would ensure that there was clear guidance for healthcare providers regarding the orders that might need to be executed in hospitals or nursing facilities.

Additionally, Mr. Matheis advised that the development and adoption of the POLST form ([Exhibit E](#)) was more than likely at the core of the fiscal note. The *Nevada Revised Statutes* pertaining to A.B. 344, he said, were specific about use of the form and extensive regulations should not be required other than the actual adoption of the form.

Chair Carlton asked what would occur when there was a conflict, and the patient no longer wanted to use the original advance directive.

Mr. Matheis said if a patient was not able to change his or her advanced directive, then the latest executed form would be used.

Chair Carlton asked whether there were questions from the Committee regarding A.B. 344.

Assemblyman Kirner asked whether an existing advance directive could be overridden if a person answered in the affirmative when asked by an emergency room physician whether he or she wanted to change their advance directive.

Mr. Matheis said the bill provided that if circumstances had changed since the time the person had executed the POLST form, consideration could be given to changing the advance directive. The emergency room physician would be required to contact the physician who had signed the form, but there were options for patients to reconsider their advance directive. Mr. Matheis explained that the patient could eliminate the order at any time and that control of the advance directive always remained with the patient and/or caretaker.

Assemblyman Kirner said the reason for his question was that his family had experience with an advance directive. He explained the situation with his mother-in-law, who was not of sound mind later in life, but she was of sound mind when the advance directive had been created.

Mr. Matheis said in those cases there might be a caregiver or family member who could make the decision if the competency of the patient was in question.

That contingency was also addressed in A.B. 344. The POLST form was meant to be used as a tool to help families during an extremely difficult situation.

Assemblyman Sprinkle commented that the fiscal note attached to A.B. 344 was identical to that for Assembly Bill 228 (1st Reprint), including the amount of money for the same number of people to attend the same conference. He wondered whether it would be possible for the mandates of A.B. 344 to also be added by policy rather than regulations.

Chair Carlton said that would require amending the bill, and the sponsor would need to address that possibility. The sponsor might want the mandates covered by regulation rather than policy.

Assemblyman Bobzien said that in matters of life and death, he believed that the mandates of A.B. 344 should be covered by regulation.

Chair Carlton asked whether anyone wished to testify in support of A.B. 344.

Dan Musgrove, representing the Valley Health System, stated that the hospital group supported A.B. 344, and he thanked Assemblyman Bobzien for bringing the bill forward.

Steven L. Phillips, M.D., introduced himself to the Committee as a geriatrician who had been practicing in Nevada since 1992. Dr. Phillips stated that he also represented HealthInsight, the Medicare Quality Improvement Organization for Nevada. Additionally, he was medical director for one of seven innovation grants from the Centers for Medicare and Medicaid Services (CMS), which over the next four years would work to prevent avoidable hospitalizations of long-term nursing home residents. One of the key elements of the four-year project was to work on end-of-life care and advanced-care planning.

Dr. Phillips stated that an advance directive did not address advanced-care planning because the document specified no resuscitation and designated others to make decisions when a person was incapacitated. The Physician Order for Life-Sustaining Treatment (POLST) form, he said, had been gaining acceptance throughout the country beginning in 1992 in Oregon, specifically because advance directives were not being honored or adhered to in hospital intensive care units throughout the country.

Dr. Phillips said the idea of advance directives began in the mid-1980s with publications in the *New England Journal of Medicine* and the *Journal of the American Medical Association*, when it was determined that no actual order or form existed. From the regulatory standpoint, because the POLST forms were

signed by a physician, it gave authority for others to recognize the request that a patient had declared. Dr. Phillips said the decision could always be reversed and would not replace an advance directive, and he believed that both the POLST form and an advance directive should be required. If a person already had an advance directive and POLST became available in Nevada, that person should also complete a POLST form.

Dr. Phillips stated that he was in favor of A.B. 344 and thanked the Committee for allowing him to present testimony.

Testifying next was Yolanda King, representing Clark County and University Medical Center (UMC) of Southern Nevada, who stated that both Clark County and UMC supported A.B. 344.

Chair Carlton asked whether anyone wished to present testimony in opposition to or neutral on A.B. 344.

Ryan High, Deputy for Operations, Office of the Secretary of State, stated that the Office of the Secretary of State was neutral regarding the bill. The only potential concern would be how to technically share the POLST forms with the Nevada Health Information Exchange (NHIE). The Office of the Secretary of State had not submitted a fiscal note regarding A.B. 344 because sharing was how the Office of the Secretary of State accepted, scanned, and posted information through Portable Document Format (PDF) files. Mr. High said if there was a different system in use for the POLST forms, the Office of the Secretary of State would need to work with the sponsor of the bill.

Assemblyman Bobzien believed that the method of filing a POLST form with the Office of the Secretary of State would be very similar to the filing of other advance directives.

Chair Carlton asked whether there was further testimony to come before the Committee regarding the bill, and there was none. Additionally, she asked that a Health Division representative address the fiscal note and discuss whether the Division could absorb the costs.

Chad Westom, Chief, Bureau of Health Statistics, Planning, Epidemiology and Response, Health Division, Department of Health and Human Services (DHHS), stated that the fiscal note attached to A.B. 344 was for \$8,500, which was the cost for adoption of regulations. He said, however, that regulations might not be needed unless problems were identified because of the mandates of A.B. 344.

Chair Carlton said she believed that regulations would be needed because the POLST forms should be regulated to prevent problems at hospitals or doctors' offices. She said that it appeared that the fiscal note addressed the same State Board of Health meetings and the need for public workshops, which would need to be addressed in the budget hearings for the Health Division.

Mr. Westom believed that was correct.

Assemblywoman Flores noted that the fiscal note attached to A.B. 344 was identical to that for A.B. 228 (R1). Staff of the Health Division, she said, attended the hearings of the State Board of Health in Reno and Las Vegas, and she asked why there was a separate identical charge for each bill.

Mr. Westom explained that the \$8,500 cost was estimated as the amount the Health Division would need to adopt regulations. He explained that while staff attended State Board of Health meetings, there was a requirement to schedule public workshops in advance of the State Board of Health meetings. The Division, he said, also met with the industry prior to the public workshops, and staff spent a significant amount of time drafting regulations.

Mr. Westom further explained that, as established in *Nevada Revised Statutes*, the Health Division paid \$2,840 per regulation to the Legislative Counsel Bureau. Additionally, he said that the Health Division was required to post the proposed regulation and its intent to adopt the regulation in a variety of public places, which included mailings. Mr. Westom reiterated that the average cost to adopt a regulation was estimated at \$8,500, as outlined in the fiscal note.

Chair Carlton stated that Fiscal Analysis Division staff would review the cumulative effect of the various fiscal notes on the Health Division to determine the amount of funding that actually needed to adopt the necessary regulations.

Mr. Westom said he would alert the fiscal staff of the Health Division so staff could work on the fiscal notes and the amount of funding that would be needed.

Hearing no response to her request for additional testimony regarding the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 344.

Chair Carlton declared the Committee in recess at 9:04 a.m. and reconvened the hearing at 9:22 a.m.

The Chair opened the hearing on Assembly Bill 273 (1st Reprint).

Assembly Bill 273 (1st Reprint): Revises provisions relating to the Foreclosure Mediation Program. (BDR 9-719)

Assemblyman Andy Eisen, Clark County Assembly District No. 21, stated that the fiscal note attached to A.B. 273 (R1) had changed significantly since the bill had passed out of the Assembly Committee on Judiciary. Assemblyman Eisen said that a mock-up of the proposed amendment ([Exhibit F](#)) to A.B. 273 (R1) was available for review on the Nevada Electronic Legislative Information System (NELIS).

Assemblyman Eisen stated that A.B. 273 (R1) made revisions regarding the Foreclosure Mediation Program. The program, established in 2009, created a pathway for resolution of homes in default and in the process of foreclosure that would be satisfactory to both parties. Assemblyman Eisen reported that although the program was quite active, there were concerns about the funding stream to maintain it going forward. He stated that A.B. 273 (R1) would attempt to streamline the process even further by changing from an opt-in program where the homeowner had to submit a form requesting entry to a program of presumed enrollment.

Assemblyman Eisen said he had intentionally not referred to the program as an opt-out program because that would be an inaccurate description of the bill. An opt-out program, he explained, would require that the homeowner take action not to participate in the program. The bill, however, would change the decision point so that upon issuance of a notice of default from the lender, the homeowner would be presumptively enrolled in the Foreclosure Mediation Program and would have the opportunity to opt out as an affirmative decision. However, if the homeowner failed to pay his or her \$200 portion of the mediation fee within 90 days, the homeowner would be dropped from the program.

Assemblyman Eisen said that the idea was to increase participation in the program and to remove the decision point upon initial receipt of the notice of default, which was a stressful time for a homeowner. The program would require that notification about the homeowner's enrollment in the program be provided both with the notice of default and under separate cover, so the notice of enrollment was not lost in the mass of paperwork involved in a notice of foreclosure or default.

Assemblyman Eisen said the proposed amendment ([Exhibit F](#)) would address the concerns about the funding for the Foreclosure Mediation Program moving

forward. He directed the Committee to page 5 of the amendment which reflected a change in the distribution of the funding from a notice of default fee. That fee was distinct from the mediation fee, which included \$200 from the homeowner and \$200 from the lender and was a pass-through to the mediator as payment for services. The \$200 notice of default fee that was borne by the lender was an existing fee and was currently distributed with \$150 to the General Fund, \$45 to the Foreclosure Mediation Program, and \$5 to the county treasurer.

Assemblyman Eisen explained that the proposed amendment ([Exhibit F](#)) would temporarily shift \$25 of the fee from the General Fund distribution directly to the Foreclosure Mediation Program. Section 6 indicated that the temporary shift in fees was prescribed only for the upcoming biennium.

Assemblyman Eisen said the idea was to ensure that the Foreclosure Mediation Program was adequately funded to continue through the biennium, particularly with the potential increase in participation. Additionally, he said there were provisions in A.B. 273 (R1) that placed time limits on the process that included the time of notification of the lender, whether a homeowner had opted out of the program, whether the mediation was complete, or whether it was determined that mediation was not necessary. To facilitate those time lines, he said the administrator of the program advised of the need for a data management system. The shifting of the fee revenue, he said, would sustain the program, provide for the purchase of the data management system, and allow the program to move more quickly and more efficiently.

Assemblyman Eisen pointed out that temporarily shifting the fees was intentional and provided an opportunity for the 2015 Legislature to reevaluate the program's effectiveness and financial standing and determine whether funding should continue. He asked the Committee to note that there was a request in The Executive Budget for approximately \$200,000 from the General Fund in fiscal year (FY) 2015, which would also offset the needs of the program.

Chair Carlton asked whether there were questions from the Committee.

Assemblyman Kirner said he had received an email from a constituent in the financial industry who felt that there was an issue regarding section 4, subsection 5 of the bill. He asked Assemblyman Eisen to comment on that section.

Assemblyman Eisen explained that section of the bill dealt with foreclosures by a common interest community or homeowners' association. Under current law,

when a homeowner was enrolled in the Foreclosure Mediation Program, the lender was not able to complete a foreclosure. The concept was that the homeowner would be working in good faith with the lender to resolve the issue, and participation in the program would prohibit the lender from completing the foreclosure process. He explained that under the proposed amendment ([Exhibit F](#)), the additional language in section 4, subsection 5 would prevent a homeowners' association from completing a foreclosure on a home that was in the Foreclosure Mediation Program. Additionally, he noted that if the homeowner and the lender were working through the Foreclosure Mediation Program to resolve the issue, the homeowners' association could not foreclose on the home during that time.

Assemblyman Kirner asked whether the homeowners' associations could collect on any fees that were due to the association.

Assemblyman Eisen replied that during the time the homeowner and lender were involved in the foreclosure Mediation Program, the homeowners' association could not collect any fees.

Chair Carlton asked whether there were other questions from members of the Committee.

Assemblyman Hickey said there were still residual effects from Assembly Bill No. 284 of the 76th Session (2011) and the unintended consequences of the Legislature attempting to help homeowners work their way out of a difficult situation. He asked whether Assemblyman Eisen was confident that with the proposed amendment and the backing of the financial industry, A.B. 273 (R1) would protect homeowners without creating roadblocks that would further delay the foreclosure process.

Assemblyman Eisen said that after discussion with stakeholders, provisions were added to include a 60-day time limit from the determination, whether that was a homeowner opting out, or mediation was not required or incomplete, that a certificate had to be issued by the Foreclosure Mediation Program to allow the process to move forward. Assemblyman Eisen said the stakeholders wanted to ensure that there was a solid time limit on the process.

Assemblyman Eisen said that the program would not facilitate ejection of the homeowner from his or her home, nor was it a program that facilitated keeping a homeowner in the home if that homeowner could not remain in good standing with the lender. The bill would allow the homeowner and lender to reach the best resolution for each situation in an efficient and effective manner. Assemblyman Eisen noted that the time frames were important, as was the

funding to put in place the technical infrastructure for the program to meet the time frames and facilitate the exchange of information.

Additionally, Assemblyman Eisen said some of the funding would be used to increase training for mediators. He explained that variability existed among mediators regarding homeowners defaulting again after mediation. Assemblyman Eisen said that while the rate of homeowners defaulting again after mediation would never reach zero because of unforeseen circumstances, it was important to take action to ensure that the result of the mediation was lasting, which he believed was a matter of sufficient training.

Chair Carlton asked whether there were further questions from the Committee, and there were none.

The Chair asked Assemblyman Eisen whether the proposed amendment ([Exhibit F](#)) would readjust the current fees and whether policy changes were included in the amendment.

Assemblyman Eisen said the proposed amendment would strike the original section 1 of the bill, which addressed a contingency account for the Foreclosure Mediation Program and instead directed funds to the program through a redistribution of existing notice of default fees. Assemblyman Eisen maintained that there were no policy changes included in the proposed amendment.

Assemblywoman Flores noted that Assemblyman Kirner had referenced receipt of an email from a concerned constituent regarding the language in section 4, subsection 5 of the proposed amendment, which apparently had been discussed by the policy committee. She asked whether that was correct and whether the only change that would be made with the proposed amendment was the distribution of the fees.

Assemblyman Eisen assured Assemblywoman Flores that the only changes that would be made by the proposed amendment was the disposition of the fees. The language in section 4, subsection 5 was included in the version of the bill passed out of the Assembly Committee on Judiciary.

Chair Carlton asked whether there were further questions from the Committee, and there were none. The Chair asked whether there was anyone present who wished to testify in support of A.B. 273 (R1) and the proposed amendment.

Robin L. Sweet, State Court Administrator and Director of the Administrative Office of the Courts (AOC), Supreme Court, testified that the Judicial Branch

had placed a fiscal note on A.B. 273 (R1). Ms. Sweet appreciated Assemblyman Eisen working with the AOC to reach a solution concerning funding for the Mediation Foreclosure Program. Ms. Sweet said the AOC believed that the presumptive enrollment mechanism included in the proposed amendment would help the program tremendously.

Chair Carlton asked whether there was further testimony to come before the Committee in opposition to A.B. 273 (R1).

Bill Uffelman, President and CEO, Nevada Bankers Association (NBA), thanked Assemblyman Eisen for the work done on A.B. 273 (R1). However, the NBA could not determine whether presumptive enrollment would slow the foreclosure process. Mr. Uffelman stated that 65 percent of the mortgages in Nevada were owned by federal agencies, and those agencies would not agree to principal reductions; therefore, the banks would be dealing with a smaller percentage of foreclosures.

Mr. Uffelman noted that over the years, the redefault rate had been in excess of 50 percent and pointed out that there were mediators who had successfully mediated every case while there were others whose cases had redefaulted. The NBA, he said was opposed to A.B. 273 (R1), but not “violently” opposed and would deal with the program going forward as it had since its inception.

Keith J. Tierney, Esq., Director and Managing Attorney, Senior Law Program of Northern Nevada, [former Director and Managing Attorney of the Washoe County Senior Law Project and, prior to that, an active Chapter 7 bankruptcy trustee in northern Nevada] testified that he currently represented homeowners for mediation up to the level of the Supreme Court. Homeowners, he said, were continually bombarded with literature in the mail from mortgage servicers and lending institutions and were very confused about the foreclosure process.

Mr. Tierney stated that in 2011 the United States Department of Justice had reviewed all foreclosure mediation programs in the country, including the State of Nevada’s program. At that time, Nevada, he said, had the lowest participation rate at approximately 21 percent, and the director of the Foreclosure Mediation Program had reported that the current participation rate was 11 percent.

Mr. Tierney said that one method to improve participation rates was to offer homeowners the opportunity to opt-out of the mediation program. The U.S. Attorney’s Office, he said, agreed that the provision should be simple for homeowners to clearly understand that he or she had the ability to opt-out of

the mediation program. Mr. Tierney said the easiest way to provide notice of the Foreclosure Mediation Program would be to send a notice directly from the program informing the homeowner that he or she was enrolled in the program but could affirmatively opt-out of the program.

Mr. Tierney noted that the Foreclosure Mediation Program was passed in July 2009, and in October 2009 the program hired the law firm of Fennemore Craig Jones Vargas, the law firm that represented Wells Fargo Bank. Over a nine-month period, the program paid the law firm approximately \$100,100 in attorney fees. Mr. Tierney said the law firm was billing the program \$395 an hour while representing financial institutions in the mediation process and before the Nevada Supreme Court in many pending mediation cases.

Mr. Tierney reported that from July 2009 to December 2012, the Foreclosure Mediation Program had collected \$8,104,000 from notices of default served on 158,565 Nevada properties. Those homeowners, he said, had lost billions of dollars in down payments. Mr. Tierney explained that he had an 81-year-old client who put \$100,000 down on his home, and he now viewed that down payment as a future payment on rent. That client, he said, was very ill and had been asked to leave his home and would soon enter into his second mediation.

Chair Carlton asked Mr. Tierney to narrow his testimony to the mandates of the proposed amendment that addressed the funding for the Foreclosure Mediation Program rather than the program itself.

Mr. Tierney reported that when the legislation pertaining to the Foreclosure Mediation Program was originally discussed, the intent had been to help keep homeowners in their homes. He said he felt the best way to do that was to tell homeowners that they were in the program and allow them the opportunity to modify loans with principal reductions. Mr. Tierney had submitted his written testimony ([Exhibit G](#)), which was available on the Nevada Electronic Legislative Information System (NELIS).

Assemblyman Eisen said the funds would be used for a data system to help the Foreclosure Mediation Program operate more efficiently, which had been a concern of the lenders. He commented that additional training for mediators should lower the instances of redefault. Assemblyman Eisen appreciated the Committee's attention to the bill and urged support.

Hearing no response to her request for additional testimony, Chair Carlton opened the meeting to public comment to which there was no response.

Chair Carlton closed the hearing on Assembly Bill 273 (1st Reprint) and opened the hearing on Assembly Bill 451.

Assembly Bill 451: Consolidates the Bureau of Services to Persons Who Are Blind or Visually Impaired and the Bureau of Vocational Rehabilitation within the Rehabilitation Division of the Department of Employment, Training and Rehabilitation. (BDR 38-1163)

Maureen Cole, Administrator, Rehabilitation Division, Department of Employment, Training and Rehabilitation (DETR), identified herself for the record and introduced Mark Costa, Administrative Services Officer 4, DETR. Ms. Cole advised that she had provided documentation ([Exhibit H](#)) regarding the consolidation of the Bureau of Services to Persons Who Are Blind and Visually Impaired with the Bureau of Vocational Rehabilitation within the Rehabilitation Division of DETR, as described in A.B. 451.

Ms. Cole clarified that A.B. 451 would take the final two steps in the consolidation of the Bureau of Services to Persons Who Are Blind and Visually Impaired and the Bureau of Vocational Rehabilitation. She explained that the administrative and programmatic consolidation of the two bureaus had occurred many years ago, and the Rehabilitation Division had been a combined agency for approximately 14 years.

Ms. Cole said, for reasons that had been lost over time, the *Nevada Revised Statutes* (NRS) were never updated to reflect the consolidation, and the budgets had remained separate, which was addressed by A.B. 451. Combining the budgets would create efficiencies and make it easier to review the status of the grant that was allocated to states per section 110 of the Rehabilitation Act of 1973, as amended [a single grant that could be used to serve all individuals with disabilities who qualified for services from the Rehabilitation Division].

Ms. Cole advised that [Exhibit H](#) illustrated the proposed single budget under the consolidation with the duplicate entries removed, but job numbers, which reflected expenditures for visually impaired or blind persons and general vocational rehabilitation clients, would be retained. She explained that the Division would be able to isolate expenditures for blind or visually impaired clients or for clients who suffered from other disabilities.

Ms. Cole advised that the Division's case management system also collected significant data regarding each client so it could create reports that reflected the expenditures made in support of services to persons by region, zip code, county, and individually. Ms. Cole said all information would be retained, and, in the interest of transparency, would be available to the public upon request.

Ms. Cole further advised that the exhibit included letters of support from the Nevada State Rehabilitation Council and the Nevada Commission on Services for Persons with Disabilities. Both entities included representatives, advocates, and stakeholders in the disability community, and both provided support for consolidation of the budgets of the Bureau of Services to Persons Who Are Blind and Visually Impaired with the Bureau of Vocational Rehabilitation within the Rehabilitation Division.

Ms. Cole said that the budget consolidation and updating of NRS would not change the philosophy, policy, and service availability for any group of persons with disabilities in Nevada, including those who were blind or visually impaired.

The Division, she said, would continue to:

- Recruit and hire staff that had specialized training and expertise in serving consumers who were blind or visually impaired.
- Provide training to new staff to serve consumers who were blind or visually impaired.
- Fund all appropriate goods and services according to the mutually agreed upon individualized plan for employment developed between the participant and the vocational rehabilitation counselor—that would apply across the board—which meant there would be no reduction in funds available to program participants who were blind or visually impaired.
- Report program performance by differentiating employment-related outcomes for participants who were blind or visually impaired and for those with all other disabilities.

Additionally, Ms. Cole said that the electronic case management system would continue to permit the Division to report data in ways that demonstrated the number of participants who identified a particular disability, the types of services received, and the dollar amount spent for each. The bill, she said, would merely streamline the bookkeeping and accounting process within the Rehabilitation Division and update the NRS and the efficiencies gained from consolidating the budget accounts would save time for the Division, the Budget Division, and the Legislature. Ms. Cole reiterated that the consolidation would have no effect upon program service delivery.

Ms. Cole advised that [Exhibit H](#) included a proposed amendment to [A.B. 451](#) to better use person-first language in amending current state law to reflect the long standing reality of Nevada's single, combined agency providing vocational

rehabilitation services. The Division believed the name "Bureau of Vocational Rehabilitation Services to Individuals who are Disabled, Blind, or Visually Impaired" would be responsive to concerns raised by some members of the disability community during discussion of the proposed bill.

In response to Chair Carlton who noted that persons who were not visually impaired also received services through the Rehabilitation Division, Ms. Cole advised that the Division served all qualified persons with disabilities, which encompassed a significant range of disabling conditions.

Chair Carlton said the concern during budget hearings was the possible loss of services for the blind or visually impaired once the budgets were consolidated.

Ms. Cole agreed that there had been concern that consolidating the budget accounts and updating NRS would signal a change in service delivery. However, as previously stated, she said the two bureaus had been combined under the Rehabilitation Division for several years. There had not been a change in services, and consolidating the budgets would not change the service delivery to disabled clients. Ms. Cole said the Division had the ability to code expenditures, based on the disability of the individuals being served such as blind or visually impaired, and would continue to differentiate those expenses after consolidation of the budgets.

In response to Chair Carlton who asked for the title currently used for the two bureaus, Ms. Cole advised that NRS referred to two bureaus within the Rehabilitation Division, the Bureau of Services to Persons Who Are Blind and Visually Impaired and the Bureau of Vocational Rehabilitation. The proposal included in the bill was to consolidate the two bureaus under the name "Bureau of Vocational Rehabilitation Services to Individuals who are Disabled, Blind, or Visually Impaired."

Chair Carlton asked whether there were questions from the Committee regarding A.B. 451.

Assemblyman Hogan commended the agency for bringing the matter to the Legislature's attention and said that the consolidation of the budgets would be helpful to the agency and recipients. Assemblyman Hogan said he believed the NRS should reflect the correct language pertaining to the consolidation of the two bureaus.

Assemblywoman Kirkpatrick noted that consolidation of the budgets would allow the grant funds to be used for all persons with disabilities, including those who were blind or visually impaired.

Ms. Cole said consolidation of the budgets would eliminate the confusion of two budget accounts that dealt with funding from one grant source. The Rehabilitation Act of 1973 did not permit a vocational rehabilitation agency to make decisions based on the cost of services needed by clients. The agency, she said, must provide all services needed by a client regardless of disability and cost, and if the Division reached a point where it could not serve all clients in that manner, it would then enter into an order of selection. Ms. Cole emphasized that the state was not in an order of selection and currently served the needs of all clients.

Chair Carlton asked whether there was anyone present to testify in support of A.B. 451, and there was no one. The Chair asked whether there was anyone present to testify in opposition to the bill.

Rick Kuhlmeier, representing the Coalition of Nevada Blind and Deaf, spoke in opposition to A.B. 451. Mr. Kuhlmeier said the blind community had fought the same fight in 1981, at which time the Bureau of Services to the Blind and Visually Impaired had remained a separate entity, which allowed visually impaired clients to receive specialized counseling and other needed services.

Mr. Kuhlmeier stated that in 1983, the Rehabilitation Division submitted the same bill to combine the Bureau of Services to Persons Who Are Blind and Visually Impaired with the Bureau of Vocational Rehabilitation. The blind community opposed that bill, and the Legislature did not combine the bureaus.

In the 1990s, the Rehabilitation Division approached the Legislature to combine the two bureaus, and the Legislature asked the Department of Employment, Training and Rehabilitation (DETR) to conduct a study to determine whether the state would be better off combining the Bureau of Services to Persons Who Are Blind and Visually Impaired and the Bureau of Vocational Rehabilitation. The study indicated that it would be better for the state to retain two separate entities.

Mr. Kuhlmeier said once again, the Rehabilitation Division was asking the Legislature to take the final step to combine the two entities. Every blind organization and the blind people he had spoken to in Nevada, and both major national organizations, were opposed to consolidation of the two bureaus. Services had diminished and blind and visually impaired people were not receiving the counseling that would prepare them to live their lives because of the loss of visual acuity.

Mr. Kuhlmeier stated that blind and visually impaired people were not receiving the special training needed, were unable to find decent jobs, and were not being

taught to live with their blindness or visual loss before being pushed into a job. He said there were many ways in which services had diminished, and during the 2011 Legislature, the Rehabilitation Division lost \$6.2 million in funding because the Governor did not want to approve the matching state dollars.

Additionally, Mr. Kuhlmeier said that during the 2011 Legislature, the Rehabilitation Division and the Bureau of Services to Persons Who Are Blind and Visually Impaired gave up the life-skills program for those who were 55 and younger who were not ready to return to work. The Division had not asked for either the funding or the program to be restored, and Mr. Kuhlmeier emphasized that services were diminishing because the innocuous little agency was disappearing, and there were no longer people who understood the needs of the blind and visually impaired.

Mr. Kuhlmeier said he and the Coalition of Nevada Blind and Deaf asked that the Committee oppose A.B. 451. The best-case scenario, he said, would be to reestablish the Bureau of Services to Persons Who Are Blind and Visually Impaired.

Chair Carlton thanked Mr. Kuhlmeier for his testimony and received no response to her request for additional testimony in support of or in opposition to the bill. She opened the meeting to public comment to which there was no response.

Chair Carlton closed the hearing on Assembly Bill 451 and advised that the Committee would move to budget closings for the Office of Economic Development, Office of the Governor.

COMMERCE & INDUSTRY
ECONOMIC DEVELOPMENT
GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT (101-1526)
BUDGET PAGE ECONOMIC DEVELOPMENT-7

Jeffery A. Ferguson, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that the Committee was in receipt of Closing List #6 ([Exhibit I](#)), which was available on the Nevada Electronic Legislative Information System (NELIS).

Mr. Ferguson advised that the 2011 Legislature passed Assembly Bill No. 449, which created a new economic development strategy for the State of Nevada. The bill established the Office of Economic Development within the Office of the Governor (GOED). That Office was tasked with diversifying and strengthening the state's economy by attracting companies, subsidiaries, and divisions to locate in the state; assisting in the retention and expansion of existing Nevada

companies; and helping new companies start up in the state. The GOED worked with regional development authorities to identify, pursue, and achieve goals of the state economic development plan, which was released in February 2012.

Mr. Ferguson explained that the 2011 Legislature approved General Funds of \$4.29 million over the 2011-2013 biennium for the GOED account and placed \$9.16 million of General Funds in the Contingency Account of the Interim Finance Committee (IFC). The GOED was instructed to return to IFC with a comprehensive plan and request the funding, which had been done during the interim. The GOED had received approval from IFC for the additional \$9.16 million.

Mr. Ferguson stated that The Executive Budget recommended General Fund appropriations of \$13,850,022 for the 2013-2015 biennium, which represented an increase of 3 percent over the amounts approved for the account in the 2011-2013 biennium.

There were three major closing issues in budget account (BA) 1526, the first of which was decision unit Enhancement (E) 125. The Governor recommended General Funds of \$152,718 over the 2013-2015 biennium for additional in-state and out-of-state travel costs and operating costs. The travel costs would almost double the in-state and out-of-state travel expenditures in the account over actual fiscal year (FY) 2012 expenditure levels for a total of \$100,000 and \$50,000 respectively, in each year of the upcoming biennium.

Mr. Ferguson said, however, that the agency testified during the budget hearing that FY 2013 would be a better representation of the agency's travel needs because it had not been fully staffed during the base year. For example, the out-of-state and in-state travel costs approved for FY 2013 were \$68,800 and \$136,200 respectively. Mr. Ferguson noted that for the current fiscal year, the GOED had expended \$51,337 for out-of-state travel and \$99,612 for in-state travel.

With the additional funding in decision unit E-125, the Governor's recommendation provided out-of-state and in-state travel at a level roughly the same as had been spent year-to-date in FY 2013. Mr. Ferguson pointed out that the second closing issue in BA 1526 included a budget amendment that would bring the out-of-state and in-state travel amounts to the same level as approved for FY 2013.

Mr. Ferguson asked whether the Committee wished to approve the Governor's recommendation in decision unit E-125 to provide General Funds of \$152,718

over the biennium to provide out-of-state and in-state travel at a level comparable to the amount spent in the first nine months of FY 2013.

Chair Carlton asked whether there were questions from the Committee.

Assemblyman Eisen asked for clarification regarding the distribution of the travel funds and the amount needed for in-state travel.

Mr. Ferguson explained that there were a number of positions in GOED that were tasked with different responsibilities, and many of those positions worked closely with the regional development authorities throughout the state to coordinate the statewide economic development effort.

Assemblyman Sprinkle asked for clarification concerning the budget amendment that would eliminate two positions and use the funds that had supported those positions for grants and travel.

Mr. Ferguson advised that decision unit E-125 in conjunction with the budget amendment would bring the travel costs up to the amount approved for the current fiscal year, and it appeared that GOED would expend the full amount in the current fiscal year.

Chair Carlton asked whether there were further questions from the Committee, and there being none called for a motion.

ASSEMBLYMAN HAMBRICK MOVED TO APPROVE DECISION
UNIT E-125 IN BUDGET ACCOUNT 1526 AS RECOMMENDED BY
THE GOVERNOR.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Mr. Ferguson stated that decision unit E-150 recommended General Funds of \$100,000 in each year of the biennium for a marketing consultant contract and a small amount for operating supplies. The GOED, he said, indicated that the \$100,000 would allow expansion of Nevada's marketing presence in accordance with the state plan for economic development by:

- Increasing visual presence at key high-traffic venues such as airports and convention centers.

- Providing initial funding for international marketing to promote foreign direct investment and export growth.
- Expanding direct marketing, collateral, and public relations campaigns.

Mr. Ferguson said that during the budget hearing, GOED representatives indicated that those marketing services were illustrative of the types of activities anticipated, not necessarily the specific activity. The GOED further testified that the specific activity and the service providers beyond those already under contract would be dictated by market conditions and the need to support the mission of attracting, expanding, and growing businesses within the targeted sectors. Additionally, he said, the GOED identified the primary contractors that would be involved as the Ferraro Group for public relations services, KPS3 Marketing for marketing services, and Bernstein for global services.

Mr. Ferguson noted that the recommendation would maintain the same level of advertising expenditures as approved for FY 2013. He also pointed out that budget amendment A13A0010 included a technical adjustment moving the contract costs from the operating expenditure category to the advertising category.

Mr. Ferguson asked whether the Committee wished to approve the Governor's recommendation in decision unit E-150 for marketing activities with the technical adjustment recommended in budget amendment A13A0010.

Chair Carlton said the mission of GOED was to market Nevada to businesses, and approval of decision unit E-150 would provide even more funds for marketing. The Chair said she was confused about the extra \$100,000 in General Funds to expand Nevada's marketing presence and asked whether those funds would be used separately by the GOED for a specific marketing effort.

Mr. Ferguson said the funds would allow representatives of the GOED to further expand Nevada's marketing presence and would be separate from other routine marketing activities. The funds would allow a more focused approach to certain groups. Mr. Ferguson advised that representatives of the GOED had testified that other funds were earmarked for certain specific activities, none of which would be used for expanded visual, public relations, and global marketing efforts. The GOED indicated that even though the funding was a relatively small amount, not approving it would leave the agency without funding for expanded marketing efforts.

Chair Carlton asked whether supporting documents had been provided that substantiated the need for \$95,000 for marketing consultant contracts and \$5,000 for operating supplies.

Mr. Ferguson stated that specific supporting documentation had not been received, but the GOED indicated that as conditions dictated, it was looking for flexibility regarding spending the \$100,000. The agency had general ideas about how the funds would be expended, but the exact contracts and amounts had not been determined.

Assemblywoman Kirkpatrick commented that there had to be some flexibility regarding marketing, but there also had to be accountability concerning the expenditure of the funds. Mrs. Kirkpatrick said the number one complaint throughout the country was that Nevada did not spend sufficient money on marketing, and few were aware of what Nevada had to offer businesses. She said she believed that marketing had to be in the forefront and explained that when times were tough in her business sector [food sales], more advertising was used to promote the sector. The regional development boards were determining how to refocus attention to the great opportunities available in Nevada.

Chair Carlton believed that in such a large budget, the \$100,000 could be absorbed and that if the Committee was comfortable with the recommendation, she would accept a motion.

Assemblywoman Kirkpatrick said she was comfortable with the request but reiterated that there also had to be accountability concerning expenditure of the funds. The Legislature, she said, had not invested in marketing in the past and would be taking a chance on the GOED using the funds for marketing. Assemblywoman Kirkpatrick opined that it was a sign of the times, and the same had occurred in the gaming industry with the new technology. Other states were marketing to attract businesses and the film industry, and she believed Nevada should be marketing in the same way.

The Chair called for a motion.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO APPROVE
DECISION UNIT E-150 IN BUDGET ACCOUNT 1526 AS
RECOMMENDED BY THE GOVERNOR AND THE TECHNICAL
ADJUSTMENT RECOMMENDED IN BUDGET AMENDMENT
A13A0010.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION CARRIED. (Chair Carlton voted no.)

Continuing his presentation, Mr. Ferguson explained that the next item for consideration was the request in budget amendment A13A0010 to eliminate two positions and use those funds for grants and travel. The budget amendment, in addition to technical adjustments, eliminated two nonclassified positions and directed those funds to expenditure categories for grants to development authorities and in-state and out-of-state travel. The elimination would result in \$109,808 in fiscal year (FY) 2014 and \$113,642 in FY 2015 to the grants to development authorities category; \$19,000 in each year of the biennium for out-of-state travel; and \$30,000 in each of the biennium for in-state travel. The recommendation would be revenue-neutral.

Mr. Ferguson pointed out that the elimination of the two positions and the increase in grant and travel funds had not been discussed during the budget hearing for the Governor's Office of Economic Development (GOED). In response to questions from Fiscal Analysis Division staff, the agency indicated that the two positions that would be eliminated would be the chief of protocol and an executive assistant. The chief of protocol position was currently vacant, and the executive assistant position would be vacant by the end of FY 2013.

Mr. Ferguson advised that the GOED had indicated that the chief of protocol position was initially established to deal with international markets to ensure that protocol was followed for the various countries. However, as the staff of GOED had gained experience, there were others in the office who could assume that role. The GOED indicated that the need for the changes were identified after the initial budget preparation process was completed, and therefore, the changes were not included in The Executive Budget. The agency stated that the need to redirect the funding was because the 2013-2015 budget was built on base year 2012, at which time the agency was very different from the one that currently existed.

Mr. Ferguson said the GOED indicated that the FY 2013 budget, which was approved by the Interim Finance Committee (IFC) in early FY 2013, represented a more realistic baseline for the agency. He noted that the additional \$19,000 per year for out-of-state travel and an additional \$30,000 for in-state travel, and the additional funding for the grants to development authorities would bring the expenditure authority in those categories to approximately the same as the amount approved by IFC for the current fiscal year.

Mr. Ferguson asked whether the Committee wished to approve the portion of budget amendment A13A0010 that would eliminate two vacant positions in the

GOED account and redirect the associated funding to grants to development authorities, in-state travel, and out-of-state travel, thereby funding those expenditures at a level similar to the amounts approved for FY 2013.

Chair Carlton asked whether there were questions from the Committee.

In response to Assemblyman Eisen, who asked whether the funding recommended in the budget amendment would be in addition to the travel dollars approved in decision unit E-125, Mr. Ferguson said that it would. The amounts approved in decision unit E-125 and the amount requested in the budget amendment would bring the total travel expenditures for GOED to the same level as the current fiscal year.

Hearing no further questions, Chair Carlton called for a motion.

ASSEMBLYMAN KIRNER MOVED TO APPROVE THE PORTION OF BUDGET AMENDMENT A13A0010 THAT WOULD ELIMINATE TWO VACANT POSITIONS IN THE GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT, BUDGET ACCOUNT 1526, AND REDIRECT THE ASSOCIATED FUNDING TO GRANTS TO DEVELOPMENT AUTHORITIES, IN-STATE TRAVEL, AND OUT-OF-STATE TRAVEL.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Eisen voted no.)

Mr. Ferguson reported that there were two additional items included in budget amendment A13A0010. The first item was the addition of \$54,696 in federal State Trade and Export Promotion (STEP) grant funds in fiscal year (FY) 2014 in accordance with the current contract.

The second item was the authority to accept a gift of \$60,000 in each year of the upcoming biennium from the Nevada Mining Association (NMA) to pay approximately one-half of the annual costs for the recently hired mining industry specialist position located in Elko County. The use of NMA funds to help defray the cost for the position in FY 2013 was approved at the April 18, 2013, IFC meeting. Mr. Ferguson stated that both items continued the action approved by IFC into the upcoming biennium.

Mr. Ferguson asked whether the Committee wished to approve the portion of budget amendment A13A0010 that added \$54,696 in federal STEP grant

funding in FY 2014 and a gift of \$60,000 in each year of the biennium to defray the cost of the mining industry specialist position.

Chair Carlton asked whether the STEP grant funding could be used for purposes other than funding the position.

Mr. Ferguson explained that the STEP grant funds were not used for the position. Previous testimony indicated that the grant funds would be used for international trade missions. However, the \$60,000 gift in each year of the biennium from the NMA was specifically earmarked for the position.

Assemblywoman Kirkpatrick asked why the NMA could not pay more toward the position and whether a formula existed for the funding.

Mr. Ferguson advised that he was unsure of whether a funding formula existed or whether the NMA could pay more toward the position. He was aware, however, that an agreement existed between NMA and GOED that NMA would pay one-half of the costs for the position.

Steve Hill, Executive Director, Office of Economic Development, Office of the Governor, explained that the NMA was the only outside organization that contributed directly into the economic development effort. He stated GOED had requested that NMA pay one-half of the costs for the position in September 2012, and NMA had agreed to do so. The request to split the costs appeared equitable because the position benefitted both the industry and the economy of the state.

Assemblywoman Kirkpatrick asked about the accountability for the position and asked whether that person worked more with the local development boards or GOED.

Mr. Hill advised that the mining industry specialist was a state employee and worked in the GOED office, as did the other industry specialist positions. He explained that the mining industry specialist's responsibility was in the areas of initiatives, recruiting, retention, helping businesses to grow, workforce development, and the housing issue in northeast Nevada. Mr. Hill said that other than the funding mechanism, the position's responsibilities reflected those of other industry specialists.

Chair Carlton asked whether there were questions from the Committee, and there being none called for a motion.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO APPROVE THE PORTION OF BUDGET AMENDMENT A13A0010 THAT ADDED \$54,696 IN FEDERAL STEP GRANTS IN FY 2014 AND A GIFT OF \$60,000 IN EACH YEAR OF THE BIENNIUM IN BUDGET ACCOUNT 1526 TO HELP DEFRAY THE COST OF THE MINING INDUSTRY SPECIALIST POSITION.

ASSEMBLYMAN GRADY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Mr. Ferguson stated that the next major closing item was the Governor's recommendation to transfer three nonclassified positions from the Rural Community Development budget account (BA) 1528 to the GOED account in decision unit Enhancement (E) 900. The transferred positions would include one fiscal manager, one program specialist, and one administrative assistant. The GOED, he said, indicated the three positions were currently funded from General Funds, and while the funding source would not change, the transfer of the three positions would provide greater clarity about which positions were funded federally and which were funded by the state and would allow GOED to balance workload with other needs. Mr. Ferguson stated that the general responsibilities for those positions would not change, and all positions would remain in their current location in Carson City.

Mr. Ferguson asked whether the Committee wished to approve the Governor's recommendation to transfer three positions and associated revenues and expenditures from the Rural Community Development account (BA 1528) to the GOED budget account.

In response to Chair Carlton who asked whether the positions would remain unclassified, Mr. Ferguson confirmed the positions would remain unclassified.

Chair Carlton asked whether there were questions from the Committee, and there being none called for a motion.

ASSEMBLYMAN HARDY MOVED TO APPROVE DECISION UNIT E-900 AS RECOMMENDED BY THE GOVERNOR TO TRANSFER THREE POSITIONS AND ASSOCIATED REVENUES AND EXPENDITURES FROM THE RURAL COMMUNITY DEVELOPMENT ACCOUNT (BA 1528) TO THE GOED BUDGET ACCOUNT (BA 1526).

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Carlton asked the Committee to review other closing items beginning on page 5 of [Exhibit I](#). The first item was decision unit E-710, replacement equipment, which would require authority for Fiscal Analysis Division staff to remove the cost of the antivirus software. The second item was decision unit E-801, cost-allocation adjustment, and the third item was decision unit E-912, transfer membership fees for the Western United States Agricultural Trade Association to the Agriculture Registration/Enforcement budget account (BA 4545).

Chair Carlton asked whether there were questions from the Committee regarding other closing items, and there being none called for a motion.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO APPROVE OTHER CLOSING ITEMS—DECISION UNITS E-710, E-801, AND E-912—AS RECOMMENDED BY THE GOVERNOR AND TO AUTHORIZE FISCAL ANALYSIS DIVISION STAFF TO MAKE APPROPRIATE TECHNICAL ADJUSTMENTS.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

BUDGET CLOSED.

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Chair Carlton indicated that the next budget for consideration by the Committee was budget account (BA) 1527, Nevada Film Office.

**COMMERCE & INDUSTRY
ECONOMIC DEVELOPMENT
NEVADA FILM OFFICE (101-1527)
BUDGET PAGE ECONOMIC DEVELOPMENT-15**

Jeffrey A. Ferguson, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that Fiscal Analysis Division staff was responsible for developing closing recommendations for the account, which had not previously been heard by the Committee.

Mr. Ferguson advised that the mission of the Nevada Film Office (NFO) was to proactively promote, pursue, and facilitate the production of motion pictures and

all other forms of media projects using Nevada locations, vendors, services, crew, personnel, and performance talent. The NFO was funded primarily through a transfer of room tax revenue from the Commission on Tourism and fees charged for sales and associated advertising related to the Nevada Production Directory created by the NFO.

Mr. Ferguson stated that there were no major closing issues. Other closing items included decision unit Enhancement (E) 710, replacement equipment, and E-801, cost-allocation adjustment. Fiscal Analysis Division staff recommended that the account be closed as recommended by the Governor.

Mr. Ferguson advised the Committee that Senate Bill 165 had been referred to the Senate Committee on Finance and would authorize the Governor's Office of Economic Development (GOED) to approve certain tax credits from producers of films or other productions in the state under certain circumstances. The tax credits, he said, would be handled through the Department of Taxation, and most of the work would be associated with that Department. Therefore, the GOED indicated that there would be no fiscal effect on its budget account.

Chair Carlton asked whether there were questions from the Committee, and there being none called for a motion.

ASSEMBLYMAN AIZLEY MOVED TO APPROVE BUDGET ACCOUNT 1527 AS RECOMMENDED BY THE GOVERNOR AND TO AUTHORIZE FISCAL ANALYSIS DIVISION STAFF TO MAKE APPROPRIATE TECHNICAL ADJUSTMENTS.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

BUDGET CLOSED.

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Chair Carlton stated that the next budget for consideration was budget account (BA) 1528, Rural Community Development.

**COMMERCE & INDUSTRY
ECONOMIC DEVELOPMENT
RURAL COMMUNITY DEVELOPMENT (101-1528)
BUDGET PAGE ECONOMIC DEVELOPMENT-20**

Jeffrey A. Ferguson, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that Fiscal Analysis Division staff was responsible for developing closing recommendations for budget account (BA) 1528, which had not previously been heard by the Committee.

Mr. Ferguson advised that the Rural Community Development program administered the state's Community Development Block Grant (CDBG) program on behalf of small cities and rural counties in Nevada. The goal of the CDBG, he said, was to develop viable rural communities by assisting to provide suitable living environments, expanded economic opportunities, and adequate housing, primarily for low- to moderate-income persons.

Mr. Ferguson reported that the total funding in the budget account was recommended at approximately \$2.3 million in each year of the biennium, the majority of which consisted of the federal CDBG grants of \$2.1 million annually. The amount of General Fund support recommended by the Governor was \$327,344 over the biennium in state matching funds.

There were no major closing issues within BA 1528, and other closing items included decision unit Enhancement (E) 710, replacement equipment, and decision unit E-900, transfer of three positions to the Governor's Office of Economic Development (GOED) account, which the Committee recently approved.

Mr. Ferguson recommended that the account be closed as recommended by the Governor, and, consistent with the Committee's closing actions in the GOED account, provide staff authority to make appropriate technical adjustments.

Chair Carlton asked whether there were questions from the Committee, and there being none called for a motion.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO APPROVE BUDGET ACCOUNT 1528 AS RECOMMENDED BY THE GOVERNOR AND TO AUTHORIZE FISCAL ANALYSIS DIVISION STAFF TO MAKE APPROPRIATE TECHNICAL ADJUSTMENTS.

ASSEMBLYMAN GRADY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

BUDGET CLOSED.

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Chair Carlton advised that the next budget for consideration was budget account (BA) 4867, Procurement Outreach Program.

**COMMERCE & INDUSTRY
ECONOMIC DEVELOPMENT
PROCUREMENT OUTREACH PROGRAM (101-4867)
BUDGET PAGE ECONOMIC DEVELOPMENT-25**

Jeffrey A. Ferguson, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that Fiscal Analysis Division staff was responsible for developing closing recommendations for budget account (BA) 4867, which had not previously been heard by the Committee.

Mr. Ferguson explained that the Procurement Outreach Program assisted Nevada businesses in obtaining federal government contracts by alerting them to procurement opportunities and providing training and technical assistance to be competitive in the federal procurement process.

Mr. Ferguson advised that the account was funded primarily with federal funds from the U.S. Department of Defense (DOD) and General Funds for matching state dollars. The total funding recommended by the Governor was \$1,092,549 over the 2013-2015 biennium, which was slightly more than the legislatively approved funding of \$1.04 million for the 2011-2013 biennium. The General Funds in BA 4867 were used to meet the minimum match requirements, which fluctuated depending on the indirect cost rate negotiated with the DOD on an annual basis.

Mr. Ferguson reported that there were no major closing issues in the account. Other closing items included decision unit Enhancement (E) 710, replacement equipment. Mr. Ferguson noted that a position had been increased from half-time to full-time. He explained that the 2011 Legislature reduced the only clerical position in Las Vegas from full-time to half-time to provide General Fund savings; however, during fiscal year (FY) 2013, the nonclassified position was restored to full-time. Accordingly, the base budget included continuation of the position as full-time for the upcoming biennium. The overall General Fund increase of \$43,597 over the biennium was attributable to the restoration of the

position to full-time. Based on the information provided by the agency, Mr. Ferguson stated that the recommendation appeared reasonable.

Mr. Ferguson recommended that BA 4867 be closed as recommended by the Governor with authority for Fiscal Analysis Division staff to make technical adjustments.

Chair Carlton asked whether there were questions from the Committee, and there being none called for a motion.

ASSEMBLYMAN HORNE MOVED TO APPROVE BUDGET ACCOUNT 4867 AS RECOMMENDED BY THE GOVERNOR AND TO AUTHORIZE FISCAL ANALYSIS DIVISION STAFF TO MAKE APPROPRIATE TECHNICAL ADJUSTMENTS.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Flores was not present for the vote.)

BUDGET CLOSED.

* * * * *

Chair Carlton stated that the next budget for review was budget account (BA) 1529, Nevada Catalyst Fund.

**COMMERCE & INDUSTRY
ECONOMIC DEVELOPMENT
NEVADA CATALYST FUND (101-1529)
BUDGET PAGE ECONOMIC DEVELOPMENT-29**

Jeffrey A. Ferguson, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), advised of one major closing issue in the Nevada Catalyst Fund. The Governor, he said, recommended a General Fund appropriation of \$3.5 million in fiscal year (FY) 2015 in addition to the \$10 million appropriation for the Catalyst Fund that was approved by the 2011 Legislature. During the budget hearing there was discussion regarding why there had been no expenditures from the Fund in the current fiscal year; however, the Governor's Office of Economic Development (GOED) stated that a performance grant had recently been awarded to TakeTwo Interactive Software, Inc., of up to \$600,000. Mr. Ferguson noted that the agreement

with TakeTwo Interactive Software, Inc. provided up to \$120,000 per year for five years, with the goal of 100 jobs created per year.

Mr. Ferguson said since the budget hearing, the GOED reported to Fiscal Analysis Division staff that there were two additional applications for Catalyst Funds, which were reflected on page 14 of [Exhibit I](#). A recent award, he said, was made to SolarCity of up to \$400,000 per year for three years for expansion of the clean energy company located in Las Vegas. A second award was made to Cristek Interconnects, Inc. of up to \$200,000 over three and one-half years for the nanominiature and microminiature connector technology firm that would locate in Minden, Nevada.

Mr. Ferguson pointed out that certain incentives were required for the grants, and the amounts received were based on the type and number of jobs created along with the wages. He stated that if the performance criteria were not met, no funding would occur.

Mr. Ferguson said that during the budget hearing, the Committee questioned the calculation of the \$3.5 million, and the GOED responded that the \$3.5 million represented the amount of Catalyst Funds that were anticipated to have been committed in fiscal year (FY) 2013. The GOED stated that amount was created by analyzing known potential Catalyst Fund applications that might be approved in FY 2013 and placing a probability percentage of acceptance on each one. He recalled that concerns were expressed during the budget hearing about how the performance and effectiveness of the Catalyst Fund would be measured. The GOED reported that the Catalyst Fund would assist in the creation of jobs in Nevada at a cost of up to \$4,000 per job. The initial \$10 million was intended to assist in the creation of at least 2,500 jobs, and the additional \$3.5 million would increase that total to 3,375 jobs.

The GOED testified that the performance criterion for each company was negotiated individually with all job creation goals and salary expectations clearly identified. Mr. Ferguson advised that many of the grants were performance based so no funds would be received by a business unless the mutually agreed upon job creation goals were met. The goals included only direct jobs associated with the companies receiving the grants. Mr. Ferguson stated that any business that failed to use the money in accordance with the terms of agreement would be required to repay the amount of the grant or loan received with interest. The GOED further indicated that it anticipated the entire \$13.5 million would be committed by the end of FY 2015.

Mr. Ferguson called the Committee's attention to the table on page 15 of [Exhibit I](#), which reflected information requested by the Committee regarding the

anticipated funds available, funding commitments, and expenditures over the next five years, without the addition of the recommended \$3.5 million.

Mr. Ferguson asked whether the Committee wished to approve the Governor's recommendation to provide a General Fund appropriation of \$3.5 million in FY 2015 for the Catalyst Fund.

Assemblywoman Kirkpatrick recommended holding the budget for further review based on concern of the many pending bills that would affect the Catalyst Fund.

Assemblyman Hogan advised the Committee that a hearing would be held in the Senate regarding Assembly Bill 281, which would have an effect on the workforce development performance of the agencies and industries that received Nevada governmental contracts. He said that the bill had passed out of the Assembly, and it appeared that Senate action would be favorable. He thought perhaps the \$3.5 million for the Catalyst Fund or other expenditure plans could help contribute to the efforts by state agencies and state contracting to increase the diversity of the workforce. Assemblyman Hogan agreed that the budget account should be held to review pending legislation.

Chair Carlton agreed that the Committee would take no action regarding budget account (BA) 1529, Nevada Catalyst Fund and would reschedule the closing for consideration for a later date.

Chair Carlton stated that the next budget for review was budget account (BA) 1521, Nevada SSBCI Program.

COMMERCE & INDUSTRY
ECONOMIC DEVELOPMENT
NEVADA SSBCI PROGRAM (101-1521)
BUDGET PAGE ECONOMIC DEVELOPMENT-31

Jeffrey A. Ferguson, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), advised that Fiscal Analysis Division staff was responsible for closing recommendations for the State Small Business Credit Initiative (SSBCI) account, which had not previously been heard by the Committee.

Mr. Ferguson explained that on September 27, 2010, President Obama signed into law the Small Business Jobs Act of 2010 to help increase credit availability for small businesses. That Act created the SSBCI and appropriated \$1.5 billion to be used by the U.S. Department of the Treasury to provide direct support to

states for use in programs designed to increase access to credit for small businesses and small manufacturers. The primary program in the SSBCI account was the Nevada Collateral Support Program (NCSP). The intent of the NCSP was to increase the value of collateral supplied by borrowers, thereby enhancing the bank's ability to underwrite loan transactions.

Mr. Ferguson noted that the SSBCI program had been established through a work program at the October 25, 2011, meeting of the Interim Finance Committee.

Mr. Ferguson reported that there were no major closing issues or other closing items in BA 1521, and the Governor recommended revenues and expenditures totaling \$2,128,181 in fiscal year (FY) 2014 and \$3,128,181 in FY 2015 to provide collateral assistance to small businesses in Nevada.

Mr. Ferguson said Fiscal Analysis Division staff recommended that the account be closed as recommended by the Governor.

Chair Carlton asked whether there were questions from the Committee, and there being none called for a motion.

ASSEMBLYMAN KIRNER MOVED TO APPROVE
BUDGET ACCOUNT 1521 AS RECOMMENDED BY THE
GOVERNOR.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Flores was not present
for the vote.)

BUDGET CLOSED.

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Chair Carlton stated that the next budget for review was budget account (BA) 1533, Nevada Knowledge Fund.

**COMMERCE & INDUSTRY
ECONOMIC DEVELOPMENT
NEVADA KNOWLEDGE FUND (101-1533)
BUDGET PAGE ECONOMIC DEVELOPMENT-33**

Jeffrey A. Ferguson, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that there was one major closing issue in budget account (BA) 1533. The Governor recommended a General Fund appropriation of \$5 million in each year of the biennium to establish a new budget account (BA 1533) to house the Knowledge Fund. The Knowledge Fund was created by section 19 of Assembly Bill No. 449 of the 76th Session (2011); however, while there was authority for the Fund, no funding was recommended or provided, and therefore, a budget account for the Fund currently did not exist. The Governor, he said, now recommended establishment of the budget account.

Mr. Ferguson said the requirements for the Knowledge Fund were contained in *Nevada Revised Statutes* (NRS) 231.1597, as reflected on page 19 of [Exhibit I](#), which indicated the four categories allowed for Knowledge Fund expenditures.

Mr. Ferguson stated that the Executive Director of the Governor's Office of Economic Development (GOED), in consultation with the Chancellor of the Nevada System of Higher Education (NSHE) and the GOED Board, would be responsible for determining the grants awarded from the Knowledge Fund, and the GOED technology commercialization manager would have responsibility for monitoring the progress.

Mr. Ferguson advised that the three recipients of the Knowledge Fund would be the University of Nevada, Reno (UNR), the University of Nevada, Las Vegas (UNLV), and the Desert Research Institute (DRI). The GOED, in consultation with the research institutions and companies in knowledge-based industries throughout the state, would designate an advisory committee of no less than seven members to provide insight with respect to high potential, targeted clusters and review applications for the funds.

Mr. Ferguson advised that there were questions during the budget hearing concerning how the GOED would measure the success of the Knowledge Fund. The GOED, he said, had provided performance metrics, as reflected on page 19 of [Exhibit I](#). The GOED had also testified that the near-term benefits of the fund would likely be generated through licensing revenue, technology transfer (companies contracting with the research institutions to advance innovation), companies attracted to Nevada, and enhanced student learning and experience that would equip students for higher-paying jobs. The medium-term benefits

would be more company start-ups, more investments in Nevada companies, and an increasing number of jobs because of the program.

Mr. Ferguson also advised that legislators and Fiscal Analysis Division staff had asked several questions about the Knowledge Fund during the budget hearing, and the GOED provided the following answers:

- The research institutions would be focused on the industry sectors defined by GOED.
- The program would provide support for the development of early intellectual property, which would lead to commercializable products and spinoff or start-up businesses.
- Projects funded by the Knowledge Fund might attract companies from out of state to create a presence in Nevada.
- If included in successful applications, the funds could be used to attract new faculty and researchers. Funds could be used for base salary, research support, and fellowships for post doctorates and students.
- Funds could be used for the outfitting and furnishing of labs and the enhancement and development of research facilities. The construction of buildings was not intended for Knowledge Fund support.
- Knowledge Fund investment amounts would not be subject to indirect cost rates for facilities and administration at the respective research institutions.

Mr. Ferguson said concerns were expressed at the budget hearing about how the performance of the Knowledge Fund and each individual grantee would be measured. In response, representatives of the GOED indicated that the research universities and DRI would be required to submit biannual reports to the Knowledge Fund director, the advisory council and GOED's Executive Director, reporting on the status of the projects and initiatives sponsored by the Knowledge Fund. The Knowledge Fund director, advisory council, and the GOED's Executive Director would meet regularly to review progress on Knowledge Fund sponsored projects. Additionally, Mr. Ferguson said that the representatives of the GOED indicated that the universities and DRI would be given a set of metrics against which each funded project would be measured. The Executive Director would set those metrics in consultation with the advisory council and the Knowledge Fund director.

Grantees would have to include in their biannual reports whether those metrics had been met.

Mr. Ferguson noted that NRS 231.1595 required that on or before November 1 of every year, the Executive Director was required to submit a report on the Knowledge Fund to the Governor and the Director of the Legislative Counsel Bureau. That report would include the following information:

- The number of research teams and faculty recruited and retained.
- A description of the research being conducted.
- The number of patents that had been filed.
- The amount of research grants awarded to the research teams.
- The amount of all grants, gifts, and donations to the Knowledge Fund.
- The number of businesses that had been created or expanded.
- The number of jobs that had been created or saved through the program.

Mr. Ferguson said that the GOED anticipated submitting the first report on or before November 1, 2013.

Mr. Ferguson advised that in response to questions asked at the budget hearing, the GOED anticipated allocating 50 percent of the available funding in each year of the 2013-2015 biennium. In addition, the GOED stated that continuous additional General Fund allocations to the Knowledge Fund in future biennia would be required to ensure the success and sustainability of the program.

Mr. Ferguson said there had been discussion at the budget hearing that the Knowledge Fund was modeled after the Utah Science Technology and Research (USTAR) initiative of the University of Utah, which was reported to be very successful.

Mr. Ferguson noted that Senate Bill 173 would provide General Funds of \$10 million in fiscal year (FY) 2013 to the Knowledge Fund and provide an additional General Fund appropriation of \$5 million in each year of the 2013-2015 biennium. The bill, he said, had been referred to the Senate Committee on Finance.

Mr. Ferguson asked whether the Committee wished to approve the Governor's recommendation to provide General Funds of \$5 million in each year of the 2013-2015 biennium for the Knowledge Fund.

Chair Carlton asked whether there were questions from the Committee.

Assemblywoman Kirkpatrick suggested holding budget account (BA) 1533 because of pending legislation that would affect the funding for the Knowledge Fund. She emphasized that she supported the USTAR program, which was quite effective, and she felt the Knowledge Fund would also be effective.

Chair Carlton agreed that there were many pieces to the Knowledge Fund and many unanswered questions.

Chair Carlton asked whether there were other questions from the Committee regarding the Knowledge Fund.

Assemblyman Aizley commented that he did not believe sufficient funding was being put into the Knowledge Fund and expressed concern that there would be competition for the funding.

Assemblywoman Kirkpatrick noted that Utah had allocated \$50 million dollars to the USTAR program for three consecutive years, and the state was still allocating money to the program. She said, however, that the program had been very successful and believed that every funding avenue should be explored prior to closing the budget and because of the pending legislation.

Chair Carlton asked whether there were further questions from the Committee.

Assemblyman Hogan agreed with Assemblywoman Kirkpatrick and said that it would be beneficial for the Committee to delay action regarding the budget for the Knowledge Fund. He said that he believed Assembly Bill 281 would affect the Knowledge Fund as well as the Catalyst Fund.

Chair Carlton asked whether there were further questions from the Committee, and there were none.

Chair Carlton advised that the Committee would take no action on BA 1533 and would reschedule the account for further consideration at a later date.

The Chair opened the meeting to public comment, and there was none.

Chair Carlton noted that the following exhibits had been submitted to the Committee for review and inclusion in the record and were available on the Nevada Electronic Legislative Information System (NELIS):

- [Exhibit J](#): Letter from Barry Gold, Director of Government Relations for AARP Nevada, in support of Assembly Bill 344.

- [Exhibit K](#): Letter of April 28, 2013, from Sally P. Hardwick in support of Assembly Bill 344.
- [Exhibit L](#): Letter from Jay Bloom in opposition to Assembly Bill 273 (1st Reprint).
- [Exhibit M](#): Letter of April 29, 2013, and suggested amendments from Mary Law regarding Assembly Bill 273 (1st Reprint).

There being no further business to come before the Committee, Chair Carlton adjourned the hearing at 11:07 a.m.

RESPECTFULLY SUBMITTED:

Carol Thomsen
Transcribing Secretary

APPROVED BY:

Assemblywoman Maggie Carlton, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Ways and Means

Date: April 29, 2013

Time of Meeting: 8:06 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 338	C	Assemblyman Hambrick	Letter dated April 25, 2013, from James Dold, JD, and attachments
A.B. 7 (R1)	D	Adriana Fralick, Gaming Control Board	Amended fiscal note for A.B. 7 (R1)
A.B. 344	E	Lawrence Matheis	POLST form
A.B. 273 (R1)	F	Assemblyman Andy Eisen	Mock-up of Proposed amendment
A.B. 273 (R1)	G	Keith J. Tierney	Written testimony
A.B. 451	H	Maureen Cole, DETR	Written testimony and packet of information regarding consolidation of bureaus under DETR
* * *	I	Jeffrey A. Ferguson, LCB	Closing List #6, April 29, 2013
A.B. 344	J	Barry Gold, AARP Nevada	Letter in support of bill
A.B. 344	K	Sally P. Hardwick	Letter dated April 28, 2013, in support of bill
A.B. 273 (R1)	L	Jay Bloom	Letter in opposition to bill
A.B. 273 (R1)	M	Mary Law	Letter of April 29, 2013, and proposed amendment to bill