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

Seventy-Eighth Session
May 14, 2015

The Committee on Ways and Means was called to order by Chair Paul Anderson at 6:09 p.m. on Thursday, May 14, 2015, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Paul Anderson, Chair
Assemblyman John Hambrick, Vice Chair
Assemblyman Derek Armstrong
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Irene Bustamante Adams
Assemblywoman Maggie Carlton
Assemblywoman Jill Dickman
Assemblyman Chris Edwards
Assemblyman Pat Hickey
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Randy Kirner
Assemblyman James Oscarson
Assemblyman Michael C. Sprinkle
Assemblywoman Heidi Swank
Assemblywoman Robin L. Titus

GUEST LEGISLATORS PRESENT:

Assemblyman Harvey J. Munford, Assembly District No. 6

STAFF MEMBERS PRESENT:

Cindy Jones, Assembly Fiscal Analyst
Stephanie Day, Principal Deputy Fiscal Analyst
Janice Wright, Committee Secretary
Patricia Adams, Committee Assistant

The Committee Assistant called the roll and all members were present.

Chair Anderson reminded the Committee, witnesses, and audience members of the Committee rules and protocols.

Chair Anderson opened the hearing for public comment, and hearing no public comment, he opened the hearing on Assembly Bill 234 (1st Reprint).

Assembly Bill 234 (1st Reprint): Enacts provisions related to multicultural education. (BDR 34-102)

Assemblyman Harvey J. Munford, Assembly District No. 6, presented Assembly Bill (A.B.) 234 (1st Reprint). Assemblyman Munford said he had presented a multicultural education bill every session, but it had never been approved. Assembly Bill 234 (R1) would incorporate multicultural education into school districts in the state. There was a cost of $8,406 in fiscal year (FY) 2016 to enact the bill.

Chair Anderson explained there was a fiscal note from the Department of Education that listed $1,550 for review of regulations and $6,856 for 80 hours of computer programming changes at $85.70 per hour.

Assemblyman Hickey said he served on the Assembly Committee on Education with Assemblyman Munford, and A.B. 234 (R1) was unanimously approved by that committee. Assemblyman Hickey said Assemblyman Munford was well known for his service to the Legislature and his dedication to educating young Nevadans, and this bill was a testament to his legacy and contributions to the state. Assemblyman Hickey was proud to have been the first sponsor after Assemblyman Munford on this bill.

Assemblyman Munford responded that he appreciated the comments and support from Assemblyman Hickey.

Assemblyman Oscarson said he admired and appreciated the friendship and guidance of Assemblyman Munford. He applauded Assemblyman Munford for the example he set and his dedication.

Craig M. Stevens, Director of Intergovernmental Relations, Government Affairs, Clark County School District, testified in support of A.B. 234 (R1). He thanked Assemblyman Munford for the bill and his support of teacher licensure. The bill was thoughtful and promoted multicultural education standards.

Scott Baez, Government Affairs Specialist, Washoe County School District, testified in support of A.B. 234 (R1).

Jessica Ferrato, representing the Nevada Association of School Boards, testified in support of A.B. 234 (R1).

Juanita Clark, representing Charleston Neighborhood Preservation, testified in support of A.B. 234 (R1). She was excited to see standards mentioned in the bill for curriculum items, because multicultural education needed standards in the curriculum. She believed that in the past, parents and grandparents learned more during eight grades of school than students learned through high school now.

Ruben Murillo, Jr., representing the Nevada State Education Association (NSEA), testified in support of A.B. 234 (R1) and presented Exhibit C, a letter of support of the bill from NSEA.

Hearing no further testimony in support of, in opposition to, or neutral on the bill, Chair Anderson closed the hearing on A.B. 234 (R1) and opened the hearing on Assembly Bill 5 (1st Reprint).

Assembly Bill 5 (1st Reprint): Revises provisions relating to services for persons with intellectual disabilities and persons with related conditions. (BDR 39-416)

Assemblywoman Teresa Benitez-Thompson, Assembly District No. 27, presented Assembly Bill (A.B.) 5 (1st Reprint) and read her prepared testimony.

> During the past year and a half, I served as Chair of the Interim Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs, established by *Nevada Revised Statutes* (NRS) 218E.750. Appointed members of the committee were then-Senator Hutchison, Senator Spearman, Senator Manendo, Assemblywoman Spiegel, and Assemblyman Wheeler. The committee met four times and discussed important policy measures pertaining to these very important constituencies.

The bill draft request (BDR) was a result of our May 2014 meeting. At that meeting, Sherry Manning, Executive Director, Nevada Governor's Council on Developmental Disabilities (NGCDD), Department of Health and Human Services (DHHS), and Scott W. Harrington, Ph.D., Youth Transition Director, Nevada Center for Excellence in Disabilities (NCED), University of Nevada, Reno (UNR), jointly presented the following information on Employment First in Nevada. The committee was also presented with a position paper from the Nevada Governor's Council on Developmental Disabilities regarding integrated employment. At the heart of this statement is, "Nevadans with IDD [intellectual and developmental disabilities] must not be deprived of the opportunity to work within the general workforce and make a meaningful contribution."

As discussed at the hearing, Ms. Manning disclosed that the U.S. Department of Justice (DOJ) has filed several lawsuits regarding Employment First, which the NGCDD's position statement addresses. She offered to provide further documentation regarding the landmark agreement for Rhode Island. Ms. Manning suggested Nevada is vulnerable to a possible lawsuit by the DOJ, which is why the NGCDD's Employment First Ad Hoc Committee created the position statement on integrated employment.

Since the interim committee's last meeting in August, Governor Sandoval issued an Executive Order. Executive Order 2013-10 directs state agencies to make a concerted effort to include persons with disabilities as candidates for employment for "no less than 5 percent of the openings within the agency."

Why A.B. 5 (R1)? Simply, to further these efforts. It asks the Aging and Disability Services Division (ADSD) [Department of Health and Human Services (DHHS)] to work with employment contractors to establish goals and programs. At the August 15, 2014 meeting, members unanimously supported a bill draft resolution to draft a bill to require the ADSD, DHHS, in their application process for jobs and day-training providers to give preference to applicants that employ persons with disabilities at or above minimum wage. Since then, numerous conversations have been had with stakeholders, and consensus language is being presented today.

Assemblywoman Benitez-Thompson said there was no cost to A.B. 5 (R1). The bill would align some of the work that ADSD performed to support integrated employment. The goal was to provide gainful employment for persons with special abilities before those persons entered sheltered workshops. Sheltered workshops might be the only viable option for many of the disabled population, but other persons might have different options. It was important to work with multiple agencies to properly evaluate a person's capabilities to ensure those individuals found a meaningful way to support themselves.

Jane Gruner, Administrator, Aging and Disability Services Division, Department of Health and Human Services, testified that there was no fiscal impact.

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, clarified that the bill was approved on the day of the committee passage deadline. The Rehabilitation Division, Department of Employment, Training and Rehabilitation, indicated that the amendment resulted in a cost to the Division; therefore, the bill was referred to the Assembly Committee on Ways and Means. However, after the referral, the Rehabilitation Division indicated that, upon further review, no cost would be incurred.

Robin Renshaw, private citizen, Las Vegas, Nevada, testified in support of A.B. 5 (R1). He congratulated Assemblyman Munford for his many years of service. Mr. Renshaw said that Assemblyman Munford was his teacher about 30 years ago.

Mr. Renshaw posed a question to the Committee. He wondered how the members would like to work for four months just to be able to afford to see a movie. That was the case for many persons working in sheltered workshops, which began in the 1930s. Now it was time to move beyond sheltered workshops to allow persons with disabilities some dignity in employment and all other aspects of life. Mr. Renshaw asked that specific language be included in A.B. 5 (R1) regarding competitive employment to allow persons with disabilities to work in places with other employees who were not disabled. Mr. Renshaw also requested competitive wages at or above minimum wage be paid to the disabled population.

Terri Peck testified that she was the Chair of the Opportunity Village Foundation Board of Directors. She was the mother of Madi, who was 16 years old and currently attended John F. Miller School. There were approximately 125 children enrolled in John F. Miller School. Madi was a gift who had brought great joy into the lives of persons who knew her. Madi had a rare condition called Chromosome 18q- Syndrome that left her unable to speak or

walk, and Madi depended on her parents for everything. Ms. Peck said she had great dreams for Madi and looked forward to her being a vital part of her community. She expected that Madi would not ever possess the ability to be competitively employed. Section 1 of Assembly Bill 5 (1st Reprint) stated, "The agreement must include a provision stating that employment is the preferred service option for all adults of working age."

Ms. Peck asked how this bill related to Madi. Madi's abilities were different and an employment assessment would determine her skill level, but she would be considered unemployable. Ms. Peck asked why Madi would be required to have an employment plan. Ms. Peck wondered why the providers of services would be limited to the day training offered by the state. Ms. Peck asked the Committee to amend A.B. 5 (R1). She believed the intentions of the bill were well founded, but the reality was that the bill might further segregate an already segregated population. Ms. Peck asked the Committee to please safeguard services for all members of the disabled population.

Ed Guthrie, Chief Executive Officer, Opportunity Village, Las Vegas, Nevada, testified that Opportunity Village was the largest provider of jobs and day-training services in Nevada. Opportunity Village also placed 55 individuals with intellectual disabilities in community-integrated employment at or above the minimum wage in the first ten months of fiscal year 2015. He believed that every individual with an intellectual disability should have the opportunity to choose community-integrated employment. Mr. Guthrie believed that every individual with an intellectual disability should have the information to make an informed choice about what services were needed and where to receive those services. He said members of the disabled population should be able to make a meaningful choice from a variety of employment options. He added that unless the Legislature and the Governor adequately funded services for the disabled, there would be few options for any types of services for persons with intellectual disabilities.

Mr. Guthrie explained that during the past ten years, no rate increases were approved for any type of services for persons with intellectual disabilities or jobs and day-training services. The services chosen by a guardian or an individual with a disability should be honored by the state and service providers, and the services should be provided in the setting of their choice. Mr. Guthrie would provide some language to the Committee to guarantee that Nevada honored the informed choice of an individual with disabilities and addressed the concerns of Ms. Peck and her daughter Madi.

Mr. Renshaw added another comment. He said that for every $4 that Nevada spent on segregated employment, the state only spent $1 for integrated

employment. He wanted to see language in the bill to reflect that integrated employment was the first and preferred option for persons with intellectual disabilities.

Hearing no further testimony in support of, in opposition to, or neutral on the bill, Chair Anderson closed the hearing on A.B. 5 (R1) and opened the hearing on Assembly Bill 77 (1st Reprint).

Assembly Bill 77 (1st Reprint): Makes various changes relating to the regulation of agriculture. (BDR 49-346)

Lynn Hettrick, Deputy Director, Division of Administration, State Department of Agriculture, presented Assembly Bill (A.B.) 77 (1st Reprint). Mr. Hettrick focused on five sections in the bill, and he presented Exhibit D, an explanation of the bill. Section 8 clarified that the State Department of Agriculture might operate or authorize the state fair. Section 8 allowed the Director of the State Department of Agriculture to determine the venue and frequency of the state fair, and allowed vendor fees and sponsors to offset the cost of the fair. The Department believed the state fair fees were voluntary and did not reflect a tax applied to everyone, because the fees were only assessed to persons who wanted a space or wished to donate. The Department would agree to remove section 8, subsection 3, of A.B. 77 (R1) if it caused problems with approval of the bill.

Mr. Hettrick explained that section 9 of A.B. 77 (R1) eliminated the requirement that a Nevada Fair of Mineral Industries be held annually in Ely, Nevada. The new language changed the name of the event to the "Nevada Mineral Exhibition" and did not require an annual event or specify the location. The change reflected the current practice.

Mr. Hettrick advised that section 99 of A.B. 77 (R1) clarified that the Department could conduct some field inspections and laboratory tests free of charge. The Director could determine the number of services provided without charge and set reasonable fees for additional services. The Department currently conducted a number of laboratory tests for free, and then charged a fee after reaching a certain maximum number of tests. The authority to charge fees already existed in statute. The Department added language to allow it to provide a certain number of field inspections for free and charge a fee after it reached a maximum number. The Department agreed to remove the language and no longer assess any fee if section 99 caused a problem.

Mr. Hettrick advised that section 102 of A.B. 77 (R1) did not raise the tax, but raised the maximum allowed tax (cap) from $.18 cents to $1.50 per head on all

sheep. The Nevada Woolgrowers Association was a member of the State Board of Agriculture and endorsed the change. The State Board of Agriculture could approve any fee increase, and the funding was used to provide needed services. The tax paid by the woolgrowers provided predatory animal control services, but the current assessment of $0.18 per head tax generated insufficient funds to provide predatory animal control services. Section 102 would raise the cap and require a two-thirds vote. Additional language eliminated county involvement in the State Sheep Inspection Account. In the past, some counties operated their own programs, but now all sheep inspections were performed at the state level. If the bill was approved, the woolgrowers would specify to the State Board of Agriculture what fee should be raised and what services should be funded from the increase. The Nevada Woolgrowers Association supported raising the cap. The State Department of Agriculture would agree to remove the language in section 102 if it caused problems. There were 211 sections in the bill, and the Department did not want the bill defeated because a few sections caused problems.

Mr. Hettrick explained that section 124 of A.B. 77 (R1) included provisions related to a "free-sale certificate." He cited an example of an instance of contaminated dog food imported from China that killed some animals. Foreign countries now requested a "free-sale certificate" for the state to ship products to them. That certificate specified that the product a foreign country wanted to buy from Nevada was freely sold in Nevada on a regular basis. That certificate assured the foreign country that the product complied with the laws. Section 124 would allow the Department to charge when a purchaser requested a free-sale certificate. The charge was not a tax and did not apply to everyone. The free-sale certificate was voluntary, and the $25 fee only applied to those entities asking for a free-sale certificate. Mr. Hettrick said that the Department would agree to delete that language if it caused problems.

Mr. Hettrick testified that section 125 of A.B. 77 (R1) authorized the Department to register produce vendors. The intent of the language was to register roadside vendors who were not Nevada-certified growers, but offered products for sale in Nevada. Nevada growers paid a fee to receive a certificate that their products were produced in Nevada. Nevada growers had to pay a fee and were subject to inspection, but out-of-state vendors were subject to nothing, and there was an uneven playing field and no traceability.

Mr. Hettrick said the Department planned to charge the same fee as a certified vendor in Nevada would pay to a produce vendor who sold out-of-state produce in Nevada. The Department's proposal was to move that tax across the state lines to the out-of-state vendors. He added that the Department would agree to delete the language if it caused problems.

Assemblyman Sprinkle wondered whether it was normal to charge fees to vendors who requested booths at a fair regardless of who organized the fair.

Mr. Hettrick responded that vendor fees were normally charged for any fair. He said the Department could charge a fee without adding the authority to the statute. However, the Department believed that if it was going to clarify the statutory provisions, it should also clarify the provisions regarding the fees.

Assemblyman Sprinkle asked whether problems would be created if the Department agreed to delete that specific fee language. He wondered whether the changes might affect the fiscal note from the Department of Health and Human Services, which indicated that fees charged by the State Department of Agriculture would reduce revenue received by the Department of Health and Human Services.

Mr. Hettrick agreed the original bill would have a fiscal impact on the revenue of the Department of Health and Human Services. The bill had been amended, and Mr. Hettrick understood that the fiscal impact had been eliminated.

Assemblywoman Titus said the bill was heard by the Committee on Natural Resources, Agriculture, and Mining, which she chaired. She had concerns about the fees in the bill and reached out to the groups affected by those fees. Assemblywoman Titus determined that the woolgrowers around the state supported the fees because the revenue would be used for predator control. She believed that the State Department of Agriculture needed enforcement tools to encourage compliance with its regulations, and enforcement tools were an important component in the bill. In the past, a violator of a regulation was charged with a misdemeanor. Violators would now be charged with a gross misdemeanor and possible jail time, imprisonment, or fines.

Mr. Hettrick said he appreciated the comments from Assemblywoman Titus. He said section 21 of A.B. 77 (R1) provided for a penalty of 364 days in county jail, but that section was merely being moved within the statute and already existed in the statutes. The penalty was not a new penalty. The Department changed every instance of a misdemeanor in A.B. 77 (R1) to a civil penalty, because misdemeanors had to be prosecuted by a district attorney. District attorneys lacked the time to prosecute a violator of an agricultural regulation because they concentrated on serious crimes. The Department was advised by the Legislative Counsel Bureau to change misdemeanors to civil penalties. The civil penalty language appeared throughout A.B. 77 (R1).

Mr. Hettrick said the penalty fees were distributed to a student loan program and the weed abatement program. The student loan program was available to

agricultural students under 21 years of age throughout the state to fund an agricultural project. The other half of the collected penalties was used to fund a noxious weed control program. Mr. Hettrick said the fines collected over the last biennium totaled $6,000. The penalties assessed were used for meaningful purposes and provided a deterrent to violators. The civil penalty language in every instance stated "not to exceed" and provided the ability for the Department to adjust the fees according to the seriousness of the violation.

Assemblyman Oscarson asked for an explanation of the intent of the language in the bill regarding county fairs.

Mr. Hettrick replied that the bill authorized the Department to operate a state fair, but not a county or regional fair. The State Department of Agriculture would not affect any county that wanted to have a county or regional fair. The Department added the language in section 8, subsection 2, of A.B. 77 (R1) that stated, "The Director of the Department must determine the venue and frequency of any state fair or regional fair, except that a state fair or regional fair may not be held more frequently than once each calendar year." That language was added in the hope of starting the state fair again. The Department sought the ability to alternate the state fair venue from Washoe County to Clark County on a revolving basis every other year. The state fairgrounds in Washoe County were purchased by the state in 1896, and the agreement specified the state fair must be held on those lands, which was why the state fair had been held there on a continuing basis. The Department added new language in the bill to allow the state fair to be moved occasionally to a venue in Clark County, if the Department could organize the fair and acquire public support for the event.

Assemblyman Oscarson asked whether the intent of the Department in A.B. 77 (R1) was to make any change to county fairs.

Mr. Hettrick clarified that the intent was not to interfere with any county fair. If the state fair was held in Clark County, the county fair could be combined with the state fair. The Department did not want to overshadow the county fair, but wanted to make the state fair as big as possible.

Benjamin Griffith, representing Western Petroleum Marketers Association, supported the bill and submitted Exhibit E, a consumer protection amendment to A.B. 77 (R1).

Bart O'Toole, Administrator, Division of Consumer Equitability, State Department of Agriculture, testified that in 1981, he was one of the first persons to take advantage of the junior agriculture loan. His family included

two generations of beneficiaries of the loan program, and 20 years later, both of his sons took advantage of the loan program.

Mr. O'Toole said he worked with Mr. Griffith on the consumer protection amendment (Exhibit E). The current statutes were weak in categorizing motor fuels, and he supported passage of the amendment.

Mr. Hettrick advised that the amendment was written after the bill was prepared, and the Department supported the amendment. Vendors who marketed regular gasoline and the economy grade of fuel, which was two octanes lower, failed to provide any notice of the differences to the consumer. A typical consumer believed he purchased regular gasoline, but often purchased 85 octane rather than 87 octane. The amendment required pump labels if vendors sold 85 octane to allow the consumer notice of the octane level.

Mr. Hettrick presented Exhibit F, the Department's amendment to A.B. 77 (R1) to remove all language that required a two-thirds vote by eliminating sections 99, 102, and 137 of the bill. Mr. Hettrick said the Department forwarded another document (Exhibit G) to the Committee in response to some questions posed by the Advisory Council for Organic Agricultural Products (Organics Advisory Council). The Department had been operating the organics program since 1997. The organics program was supposed to be self-sustaining within two years, but had not been self-sustaining since inception. In the past, the Department received State General Funds to pay for the organics program, but no longer received General Funds and was unable to find funds to pay for the organics program. A private industry organics certification was available to any grower in the state that wished to continue an organics program.

Assemblywoman Bustamante Adams asked for some information about Exhibit E, the amendment for consumer protection.

Mr. O'Toole replied that most gas stations had pump labels for regular and premium grade fuels. An 85-octane fuel should be labeled as "economy." The amendment provided better definitions for the consumers. The labels had to comply with the Nevada Minimum Antiknock Index Requirements based on the National Institute of Standards and Technology. Nevada failed to adopt one section of the National Institute of Standards and Technology that dealt with motor fuel grades. Mr. O'Toole said he added that one section to the amendment, because he wanted consumers to know what grade of gasoline they purchased. Some service stations that sold 87-octane fuel labeled as "regular" believed it was unfair marketing for others to sell 85-octane fuel labeled as "regular." Service stations might advertise a cheaper price, but consumers would be unaware that they had purchased 85-octane fuel.

Assemblywoman Bustamante Adams asked whether there was a cost to the service station owner for labeling it differently, and who would pay for that change.

Mr. O'Toole said there was a cost to labeling fuel, and the vendors were already required by statute to label fuel.

Assemblywoman Bustamante Adams asked whether the amendment changed the current definitions, and Mr. O'Toole replied the amendment defined the antiknock index for Nevada, which had been loosely defined in the statutes.

Assemblywoman Bustamante Adams asked whether there would be any cost for the change.

Mr. O'Toole said the cost of labeling the pump would be the only cost to the service station owners who chose to market 85-octane fuel.

Assemblywoman Bustamante Adams wanted to know how many service station owners would be affected.

Mr. O'Toole said all services stations had the option to sell 85 octane, but very few service stations sold 85-octane fuel. A service station on Interstate 80 marketed the most inexpensive gas, and it sold 85-octane fuel. The Department received numerous complaints from other vendors about their inability to compete with a lower price because some service stations sold 85-octane fuel, but labeled it as regular.

Assemblywoman Carlton shared some of her experiences with labeling gas pumps. She tried to require ethanol labels on pumps because consumers might void the warranties on their cars by using ethanol. She was informed that labels on gas pumps cost too much money and confused the consumers. Assemblywoman Carlton wondered why labels on pumps were so inexpensive now, and she expressed concern that lower-grade octane fuel was being sold and not monitored.

Mr. Griffith said numerous studies showed that compressed gasoline cars could use 85-octane fuel above 5,000 feet mean sea level (MSL), but should use 87-octane fuel below 5,000 feet MSL.

Mr. O'Toole said Area VI allowed use of 85-octane fuel and included all areas north of the 38th parallel and east of the 114th meridian. Area VI included the northeastern part of Nevada. Nevada had not adopted one section of the

National Institute of Standards and Technology Uniform Laws and Regulations and, therefore, 85-octane fuel could be sold in Nevada.

Juanita Clark, representing Charleston Neighborhood Preservation, said she supported some sections of A.B. 77 (R1), had questions on some sections, and was opposed to some sections of the bill. Her group supported the clear and distinct fuel labels. The consumer had a right to know, and the cost of the labels for vendors was the cost of doing business. She needed to learn more about the Organics Advisory Council. Ms. Clark added that her group was opposed to the state fair language. She heard testimony that the state fair might be held in conjunction with the county fair. She believed that might be an advantage for the county fair, but expressed concern that the advertising might not be equal throughout the state. Her group in Las Vegas would need to know whether the state fair was moved to another location.

Rob Holley, representing Holley Family Farms, Dayton, Nevada, presented Exhibit H, his testimony in opposition to A.B. 77 (R1), and said that he was a member of the Organics Advisory Council. He understood that the organics program was not addressed in the bill. He was opposed to section 125 and section 133 of A.B. 77 (R1) for certification of produce vendors and growers. Section 133 mandated certification of all producers of agricultural products (other than livestock, livestock products, or poultry). Currently, the certificate was optional and cost an initial fee of $50 with a $30 annual renewal. The bill would require the certificate and it would no longer be optional. The certification required an application, an on-site inspection (and related time and mileage), and associated administrative time. The Department would be unable to pay the costs of doing the application work for $50 and, therefore, Mr. Holley asked that section 133 be deleted from A.B. 77 (R1).

Mr. Holley continued that section 125 of A.B. 77 (R1) authorized the Department to register roadside vendors who were not Nevada-certified growers, but offered products for sale in Nevada. He asked that section 125 be deleted from the bill. He had participated in farmers markets for a long time. Farmers in California could grow things that farmers in Nevada could not grow. He said a $30 annual fee would discourage fellow farmers coming from California who had to spend several hundreds of dollars for fuel to get here.

Mr. Holley said that according to the Department, nothing in section 125 or section 133 allowed the Department to raise fees. Mr. Holley believed that $50 would not cover the cost of the Department's work, and sufficient fees should be raised to remain self-sustaining. He stated that not all Nevada producers should be required to have a certificate, and he recommended no change to the current statutory language and deletion of the certification

requirements. The organics program would be eliminated because it was not self-supporting, and sections 125 and 133 should be eliminated because those programs would not be self-supporting.

Mr. Holley complimented the staff of the Department, but asked that the bill not be approved by the Committee.

Juanita Clark, representing Charleston Neighborhood Preservation, testified in a neutral position on A.B. 77 (R1) and questioned how the predatory control program worked. She had a flock of sheep, and she wanted to ensure that a coyote did not invade her flock to attack the lambs. She asked how she could get money from the state to set a trap or buy bullets for predatory control.

Mr. Hettrick explained that the predatory control program was operated by the Wildlife Services, a branch of the Animal and Plant Health Inspection Services, U.S. Department of Agriculture. Only the federal government had authority to shoot coyotes or poison mountain lions, ravens, or predatory animals that killed sheep or small calves.

Ms. Clark said she was not neutral on the predatory control program and could see no financial benefit to the state.

Mr. Hettrick said Mr. Holley was a dedicated farmer who wanted the best for Nevada agriculture, as did the Department. The language in section 133 required the Department to set fees that approximated the cost for the services, and this was existing language in the *Nevada Revised Statutes.* The Department set the fees at $50 for the application and $30 for the annual renewal. He noted that the fees were less than the cost of services, but the Department knew that farmers had to survive, and the Department would not want to tax the farmers out of existence. The Department worked to balance the costs and the fees.

Mr. Hettrick said the organics program was not addressed in A.B. 77 (R1). Nothing prevented an organic grower from obtaining an organic certification from a private entity. Many growers were certified privately, and the bill would have no negative effect on the organics industry. The private entities might charge more than the Department, and that was why the farmers did not want a change in the statutes. The Department would be happy to continue the organics program, but lacked the money to pay for it.

Mr. Hettrick said section 125 of A.B. 77 (R1) was written because the U.S. Food and Drug Administration (FDA) Food Safety Modernization Act would require the states to provide traceability on every single product for human

consumption from the grower to the retailer. The only way the Department could accomplish traceability was to require a certificate showing where the product originated. That was why the Department needed to certify growers and why the Department needed a produce vendor certificate for the vendor from out of state who might poison Nevada citizens with a pesticide that could be traced to its source. The federal law would become effective in August 2015. The Department had no choice but to certify produce vendors now.

Hearing no further testimony in support of, in opposition to, or neutral on the bill, Chair Anderson closed the hearing on A.B. 77 (R1) and opened the hearing on Assembly Bill 316 (1st Reprint).

Assembly Bill 316 (1st Reprint): Revises provisions governing the taxation of certain deliveries and transfers of firearms. (BDR 32-918)

Assemblywoman Jill Dickman, Assembly District No. 31, presented Assembly Bill (A.B.) 316 (1st Reprint), which revised provisions governing the taxation of sales and delivery of firearms. The Assembly Committee on Taxation heard and approved A.B. 316 (R1), but referred it to the Assembly Committee on Ways and Means because of the fiscal note.

Megan Bedera, representing the Nevada Firearms Coalition, explained the bill. She said it was important to understand the burden the taxation policy placed on Nevada businesses when considering the fiscal effect of the bill. A problem developed late last year when the Department of Taxation issued a tax bulletin that explained that firearms dealers who delivered out-of-state firearms were liable for collecting the sales tax. Assembly Bill 316 (1st Reprint) was proposed because the situation was too complex for a tax bulletin to do it justice and apply the law fairly. The Nevada Firearms Coalition had many conversations with the Department of Taxation regarding the tax policy. It became clear that the *Nevada Revised Statutes* (NRS) needed clarification to provide direction on the taxation of firearm transfers.

Ms. Bedera proposed a solution to clarify who was responsible for paying the taxes while protecting the businesses that were facilitating the transfers. A person was not allowed to mail a firearm across state lines according to federal law. There had to be a background check on the purchaser, and thus the firearm had to be delivered through a person with a federal firearms license. Typically, a federal firearms licensee was a brick-and-mortar store, but not always. The federal firearms licensee did not resell the firearm. The licensee had no role in the sale of the firearm and made no profit on the firearm.

The licensee solely conducted a background check and delivered the firearm to the person who had already purchased the firearm out of state.

Ms. Bedera said a transfer was not a resale. A resale would occur when a store bought a product, resold it, and made a profit. A transfer was when a Nevadan bought a gun from out of state and had to pick it up in Nevada. It was a delivery, and Ms. Bedera said it should be treated no differently than any other product that was delivered by the U.S. Postal Service or FedEx.

Ms. Bedera said the taxation of retail sales of tangible personal property was defined in *Nevada Revised Statutes* (NRS) 372.050. Subsection 2 stated:

> The delivery in this State of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this State, is a retail sale in this State by the person making the delivery. He shall include the retail selling price of the property in his gross receipts.

Ms. Bedera said that when that statute was written in 1955, it made sense. Now, in the era of wholesale agreements and national corporations, it was more realistic for the sales tax to be collected by the business that conducted the sale. Firearms were uniquely regulated and had to be transferred through a federal firearms licensee who had no involvement in the retail sale, but was required by Nevada law to include the retail selling price of the property in his gross receipts.

Ms. Bedera said there were significant logistical challenges to requiring those businesses to enforce the collection of sales tax on sales that they did not make. The Assembly Committee on Taxation agreed and approved A.B. 316 (R1).

Ms. Bedera explained that the original draft of A.B. 316 (R1) would have classified all transfers of firearms as an occasional sale and would have exempted the transfers from all sales and use tax. That was not the intention. The Nevada Firearms Coalition worked with the legal advisor of the Assembly Committee on Taxation to clarify that a use tax was owed to the state. The tax should be a use tax and not a sales tax, because any other product would be subject to a use tax. The Department of Taxation disagreed with the amendment and did not remove its fiscal note. Ms. Bedera said changing the sales tax to a use tax would not result in any loss of revenue to the state.

Ms. Bedera cited an example. A $100 purchase of an item of tangible personal property in Clark County that had a sales tax rate of 8.1 percent was charged $8.10 in sales tax. A $100 purchase of an out-of-state item of tangible personal property in Clark County that had a use tax rate of 8.1 percent was charged $8.10 in use tax. Changing from an assessment of a sales tax to a use tax would not result in a loss of $1,303,462 in each year of the 2015-2017 biennium, as claimed by the Department of Taxation.

Ms. Bedera said a use tax was an acceptable way for the state to collect revenue on all items delivered by the U.S. Postal Service, and she thought the tax on firearms should be a use tax. The only tax form available from the Department of Taxation to report sales tax did not permit separation of the retail sale from delivery of firearms, thus requiring a store to report artificially high gross receipts. Ms. Bedera said there were numerous penalties to a business that reported artificially high gross receipts. The business received no profit from those sales, but paid more for insurance and business license fees based on gross receipts. A gun store had to make a judgment call about the value of the firearm, which could create a liability unless the consumer produced the receipt that proved the sales tax was paid. She wondered what would happen if the firearm vendor and the consumer could not agree on the value of the gun, or the firearm was a gift. Ms. Bedera asked the Committee to reject the fiscal note that was unreasonable and approve the bill that was beneficial for businesses in Nevada.

Assemblywoman Dickman advised that the California statutes stated that if an owner of a firearm and a purchaser had negotiated the terms of the sale in advance and the firearm was delivered to a company to meet statutory requirements, the company was not the retail seller of the gun and did not owe a tax or any other charges for the firearm. Assemblywoman Dickman said even California did not force its gun dealers to collect the sales tax.

Assemblyman Hickey asked for details of the fiscal note from the Department of Taxation representative.

Sumiko Maser, Deputy Director, Administrative Services, Department of Taxation, testified that the fiscal note reflected a loss of tax revenue of $1,303,462 in each year of the 2015-2017 biennium. That number was developed by querying historical data of firearms dealers. She said the fiscal note was not an exact science. The staff used the taxable sales from calendar year 2014 and based its estimate on information from the industry that showed that approximately 50 percent of taxable sales were firearms deliveries from out-of-state sales. The Department used that data to develop its fiscal note.

Assemblyman Hickey said the amendment changed the tax from a sales tax to a use tax.

Ms. Bedera said the retail sales tax law enacted in 1955 stated that delivery constituted a retail sale. The amendment adopted on April 7, 2015, stated that the delivery or transfer of a firearm was not a retail sale, and thus it would be treated as though the sale occurred before the delivery of the gun. An additional sale did not occur when the gun was delivered.

Assemblyman Hickey asked whether the fiscal note showed that the Department of Taxation would not receive the tax revenue from out-of-state gun sales that were delivered in Nevada.

Ms. Maser replied that the firearms dealers would no longer be required to remit the sales tax on the transfers of guns. If the statute was changed to specify that the use tax was due from the consumer when the firearm was delivered, then the use tax would still be collected and remitted by the consumer.

Assemblywoman Dickman reminded the Committee that the change in interpretation occurred in December 2014 by the Department of Taxation, which was a recent decision.

Assemblywoman Carlton said if she purchased something online, she should remit use tax to Nevada. If she purchased a gun out of state then she would pay a sales tax to that state. She wondered about the effect of remitting the use tax.

Ms. Bedera said many firearms dealers did the right thing and collected the sales tax. However, not every business collected the sales tax, because no federal law required out-of-state businesses to collect and remit the tax to the state of delivery. She said firearms could be taxed in a different manner, because firearms had a "stopping-off point" when they entered the state, but other items did not have a stopping-off point as they entered the state. Ms. Bedera said the equivalent would be the FedEx driver handing the purchaser an invoice when items were delivered or asking to see the receipt to prove the sales tax was paid.

Assemblywoman Carlton said a gun sale was a taxable sale, and the Nevada resident should be paying tax on the purchase. That was the law.

Assemblywoman Dickman said every Nevada resident was supposed to pay the use tax on everything that was purchased from out of state.

Ms. Bedera said the company making the sale collected the sales tax. The difference was that Nevada firearms dealers were not making the sale, but were only delivering the gun to the purchaser. If a retail sale occurred, the retail store made a profit from the sale of a gun and collected the sales tax. However, when that firearm was just being delivered and no sale had been made, she asked that the use tax be charged, because there was no benefit to the firearms dealer to make the delivery. She asked for the same tax rate to apply, but be applied to the buyer and not the deliverer.

Assemblywoman Dickman said the firearms industry was the only industry that had been singled out in this manner. If the gun dealer charged a $25 fee for the background check and delivery, the dealer had to remit sales tax on the $25 service fee. No sales tax was charged on other services in Nevada.

Chair Anderson said he believed that few use tax forms were filled out and remitted with the use tax.

Ms. Maser said she was uncertain about the number, but could find out and provide the information to the Committee.

Chair Anderson said the difficulty was the tax was due and payable. The Department of Taxation assessed the tax to the federal firearms licensee delivering the firearm. The fiscal note showed a loss of $1,303,462 each year. The Committee could not assume that the use tax would be paid and eliminate the fiscal note without adding $2,606,924 to the budget for the biennium. He suggested that the sponsor work with the Department of Taxation to remove the gross receipts language so that the dealers did not pay tax on money they did not collect.

Assemblywoman Dickman asked why it was okay to tax firearms dealers, but it was not done with any other industry. It was easy to tax firearms dealers because dealers had records of every gun sold or delivered.

Carole Fineberg, private citizen, Reno, Nevada, testified in support of A.B. 316 (R1). If there was a brick-and-mortar store in Nevada, that store had to charge sales tax even if the gun was purchased from the store's website. If she bought something online and the company did not have a physical store location in Nevada, then no sales tax would be charged. Amazon changed its practice and began charging Nevada sales tax for online sales. The taxation of an out-of-state purchase of a firearm was wrong on many levels. The federal firearms licensee only delivered the purchase, and now the federal firearms licensee was forced to add to his gross sales the purchase price of the firearm, which could put the licensee into another tax bracket. The $25 transfer fee for

a service was also taxed, and Ms. Fineberg thought an illegal tax was brought forward by the Department of Taxation in December 2014. She said the Department of Taxation did not equally tax every out-of-state purchase and delivery; therefore, the tax was discriminatory against the firearms industry and a violation of the Second Amendment.

Juanita Cox, representing Citizens In Action, Sparks, Nevada, testified in support of A.B. 316 (R1). She cited an example. She might go to a gun show in Texas and purchase a gun for $1,000 and pay Texas sales tax. She would have the gun delivered to a federal firearms licensee, who was paid $25 to handle the paperwork and deliver the gun in Nevada. The tax had never been assessed until December 2014 when the Department of Taxation issued its new interpretation. The $1,000 sale was to be added to the federal firearms licensee's gross receipts, but the licensee received no money for the transaction. The federal law made the federal firearms licensee the gun dealer who had to complete the paperwork. This type of taxation was a margins tax. The federal firearms licensees would no longer perform the service and the result was a gun ban in Nevada. This was a Second Amendment violation to stop firearms in Nevada.

David Famiglietti testified in favor of A.B. 316 (R1), and read his prepared testimony.

> Mr. Chairman and members of the committee, for the record, my name is David Famiglietti and I am a small business owner/operator of a firearm retail business in North Las Vegas. I would like to thank Assemblywoman Dickman for bringing this bill forward and thank you all for letting me give testimony in favor of Assembly Bill 316 (1st Reprint).
>
> As a small business owner, I do not believe it should be my burden to collect sales tax on private sales of personal property that we are forced to handle by federal regulations imposed by the ATF [Bureau of Alcohol, Tobacco, and Firearms, U.S. Department of Justice].
>
> I also do not believe we should be charging sales tax on the "transfer fee" that we charge. We charge this small fee to cover the costs we incur when we receive the goods, log them into the systems per federal guidelines, contact the owner of the property, complete the required federal and county paperwork on the firearm, and so on. This is a service we perform, no different than any

other nontaxable service performed in the state and should not be a taxable item to the customers.

The service we perform as far as the state should be concerned is no different from that of a UPS [United Parcel Service] or FedEx worker when they drop a package off at a customer's home. They are not being forced to collect sales tax when they deliver goods, so I do not see why we should carry that burden either. It should be the burden of the end user and purchaser of the items. Just because the item in question is a firearm should not change that.

By collecting these additional taxes for the state, we endure a financial burden as well because most customers in this day and age pay by credit card, which we incur a 3 percent fee on. Last fiscal year, if we had collected the tax, we would have incurred an additional $8,000 in merchant service fees.

During the short period we have been collecting sales tax on these transfers and transfer fees, another problem we have run into is how to determine if the firearm was a gift or the value of the firearm if it was not. There is no law saying that a receipt must accompany the firearm purchased when the buyer has it shipped to our store, and 80 percent of the time, there is not one with the firearm. Does the customer get to tell us what he paid, or do we decide? Are we to argue with them if they claim it was a gift? Or if a gun we know to be valued at $500 they claim is worth only $100? Every one of my sales staff would appraise the gun at a different value, as it is a biased number. Who gets to decide, and who is responsible during a state tax audit? It is another burden that I do not believe we should be forced to bear.

The Department of Taxation did a random audit on our store about a year ago, and the agent assured us we were doing the right thing by not collecting the tax on the value of transfers or the transfer fee. I only learned about this bulletin because I am involved in the Nevada Firearms Coalition. As of today, no one from the state has visited us, sent us a bulletin, or contacted us directly to explain the "change" to us. When I posed questions on the collection of this tax and was advised I should add the value of these products that I did not buy or sell to my gross receipts, I knew I had to get involved. Our already high insurance, as well as city licenses to sell firearms, are both based off the gross receipts. The higher the gross receipts, the more we pay per period. There are several

> other industry dues and programs that also become more costly as my gross receipts go up. The Department's answer to these remarks was to keep an additional set of books. That in itself is an absurd suggestion, and I do not want to be the one to explain to an IRS [Internal Revenue Service] agent why I have two sets of books claiming different gross sales numbers to the tune of a $1.5 million difference yearly. Besides that, my administrative costs will get even higher for sales that I should not even be involved with.
>
> I would also like to remind you that every firearm transferred into Nevada from an out-of-state seller already brings in $25 to the Department of Public Safety, over $100,000 from my small store alone in fiscal year 2014. When asking our small businesses to incur the expenses of collecting this tax, please remember that we already make a smaller gross profit margin on firearms than the state does through the 8.1 percent sales tax.
>
> I ask for your support in passing the bill that singles out firearm owners and firearm retailers. Like I said earlier, any other product bought out of state can be dropped off at your house without the UPS man questioning if you paid tax or not or him having the burden to collect any tax due.
>
> Thank you for your time, and I would be happy to answer any questions you may have for a business owner directly affected by the hopeful passage of the bill.

Assemblyman Armstrong said the bill was heard by the Assembly Committee on Taxation. He observed that if Mr. Famiglietti collected sales tax on all the guns he sold last year, it would appear to cost about $8,000. The cost appeared to be a disparate effect compared to some of the benefits that retail gun storeowners would receive when persons came to the store to pick up the guns. Those persons would be more likely to shop at the store and purchase ammunition and accessories for the gun that they just bought. He wondered whether some of that $8,000 would be generated by free market sales revenue.

Mr. Famiglietti responded that there was a small benefit to having foot traffic through the store. Often customers would look at other items to purchase. The firearms industry was a very low-margin industry, and he competed against all the online retailers. Anything in the store could be bought online cheaper by businesses working out of warehouses that had low overhead. He was unable to compete with the online prices. Generally, more than 75 percent of the customers picked up the gun, paid for the background check, and left without

buying anything else. Mr. Famiglietti provided the following firearm transfer statistics: 2,450 firearm transfers occurred in 2014, which equaled $1.2 million to $1.8 million in value, and 5,500 firearms were sold in 2014.

Assemblyman Hambrick said he assisted in writing the Nevada Firearms Coalition by-laws and had some background in this area. He said it was not difficult to determine the value of a firearm. The National Rifle Association (NRA) and other groups had catalogs that listed the value of many guns. There was a method and manner to judge the value of most firearms based on the condition. He supported the bill, but wanted to correct that element of testimony.

Mr. Famiglietti agreed that there were "blue books" listing values of various firearms, just as there were for cars. Persons could argue over the price of cars for days and not agree on the price because the actual value might be subjective. The blue books were good for listing values of guns from the 1980s and older, but newer models were not listed in the books, and the majority of the guns delivered were the newer models.

Juanita Clark, representing Charleston Neighborhood Preservation, testified in support of A.B. 316 (R1).

Assemblywoman Dickman asked whether the Department would remove its fiscal note if the assessment of use tax was clarified in the bill.

Ms. Maser replied that if the retailer was no longer responsible for collecting and remitting the sales tax, the statutes required a consumer to be responsible for remitting the use tax, including purchases of items online or out of state.

Hearing no further testimony in support of, in opposition to, or neutral on the bill, Chair Anderson closed the hearing on A.B. 316 (R1) and opened the hearing on Assembly Bill 199.

Assembly Bill 199: Makes various changes to certain advisory committees and programs relating to health care. (BDR 38-552)

Assemblywoman Irene Bustamante Adams, Assembly District No. 42, presented Assembly Bill (A.B.) 199. She testified that she had the privilege of being the Chair of the Sunset Subcommittee of the Legislative Commission, and A.B. 199 was one of the bills presented on behalf of the Sunset Subcommittee. The bill made various changes to certain advisory committees and programs relating to health care. One specific entity reviewed by the Sunset Subcommittee was the Advisory Committee Concerning Sickle Cell Anemia. When A.B. 199 was

introduced, new language was added in section 6 that directed the State Board of Health to establish a program to promote public awareness of the importance of early screening for preventable or inheritable disorders, including, without limitation, sickle cell anemia. That provision resulted in the fiscal note by the Division of Public and Behavioral Health, Department of Health and Human Services, for $44,505 in fiscal year (FY) 2016, $10,000 in FY 2017, and $20,000 for each future biennia. The State Board of Health already operated a newborn screening program through an agreement with the University of Nevada School of Medicine. The Sunset Subcommittee assumed that the proposal in A.B. 199 recognized in statute what the State Board of Health already did. However, the Division of Public and Behavioral Health interpreted the bill as adding a new requirement and program.

Assemblywoman Bustamante Adams proposed to remove section 6 from A.B. 199 to eliminate the fiscal note. The change would allow the State Board of Health to continue to operate the newborn screening program under its agreement with the University of Nevada School of Medicine.

Assemblywoman Bustamante Adams presented Exhibit I, a mock-up of the proposed amendment that removed section 6 of the bill. She believed the amendment would also remove the fiscal note.

Mary Wherry, M.S., R.N., Deputy Administrator of Community Services, Division of Public and Behavioral Health, Department of Health and Human Services, testified that agency staff participated during the interim with the Sunset Subcommittee of the Legislative Commission. She appreciated the proposed amendment that deleted section 6 of the bill, which would eliminate the fiscal note. Ms. Wherry affirmed that the University of Nevada School of Medicine had a newborn screening program for sickle cell anemia that satisfied the intent of section 6 of the bill. The Division supported the bill with the amendment that removed the fiscal note.

Laurie Squartsoff, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services, testified in support of A.B. 199. She supported the bill because it extended the terms of the Medical Care Advisory Committee members appointed on or after July 1, 2015, to two years, providing consistency with committee members, and abolished the duplicative advisory committees: Advisory Committee to the Pharmacy and Therapeutics Committee and the Drug Use Review Board. Ms. Squartsoff said the bill had no fiscal note from the Division.

Juanita Clark, Charleston Neighborhood Preservation, testified in opposition to A.B. 199. She said the bill was government serving government and not

serving constituents. She said she was opposed to the Sunset Subcommittee of the Legislative Commission.

Hearing no further testimony in support of, in opposition to, or neutral on the bill, Chair Anderson closed the hearing on A.B. 199 and opened the hearing on Assembly Bill 389 (1st Reprint). To present Assembly Bill 389 (1st Reprint), Chair Anderson turned the duties of the Chair over to Vice Chair Hambrick. Vice Chair Hambrick asked Assemblyman Anderson to begin his presentation.

Assembly Bill 389 (1st Reprint): Revises provisions governing employee leasing companies. (BDR 53-766)

Assemblyman Paul Anderson, Assembly District No. 13, presented Assembly Bill (A.B.) 389 (1st Reprint). He testified that the bill had been amended several times because of the fiscal notes. The bill related to employee leasing companies. A company would hire an employee leasing company to help the company with benefit plans, payroll programs, and other services that a stand-alone business might be unable to afford. However, when a business aggregated with other businesses, it could gain savings for health benefits, workers' compensation, or other benefits. Assembly Bill 389 (R1) addressed several problems of high unemployment insurance rates or workers' compensation rates that were exorbitant for construction companies with many injuries or high turnover. Those rates could be higher because an employee leasing company might include a number of construction companies, plus some other companies, that might have lower workers' compensation and unemployment insurance rates. Some individual companies were unable to take advantage of the exemptions for the modified business tax because, aggregated together, the amounts would exceed the limits for the exemption rates even though the individual payrolls were not in excess of the exemption limit of $340,000 that was currently in statute.

Assemblyman Anderson said the fiscal notes were based on the assumption that if the separate companies reported individually through the employee leasing companies, some of the companies would fall below the exemption threshold in statute, which would reduce the revenue generated from the modified business tax. Aggregated together, the companies would not fall below the threshold, and more revenue would be generated for the modified business tax.

Todd J. Cohn, Executive Director, Advocacy and Regulatory Compliance, TriNet, an employee leasing company, testified TriNet had a presence in the Reno area. Section 4 of A.B. 389 (R1) generated the fiscal note. Section 4 deemed the client company that received services from the employee leasing

company to be the employer for unemployment insurance purposes. The employer responsible for reporting unemployment insurance tax determined how the modified business tax was applied. Mr. Cohn worked with the Department of Taxation on the fiscal note, and the Department had a hard time breaking out all the companies because it lacked specific data, and the estimated fiscal effect could be between zero and $5 million.

Mr. Cohn said that TriNet had worked with the Department of Taxation and the industry and projected an approximate $2 million loss. The individual businesses would not have to pay the tax, but because they used the services of an employee leasing company, they were assessed the tax as part of the aggregate. Small businesses joined employee leasing companies to gain access to more professional human resources payroll services and benefits for the employees. Because the modified business tax was changed, it unfortunately increased the cost for small businesses for the employees. Assembly Bill 389 (1st Reprint) solved that problem, but there was a fiscal cost to the bill. Mr. Cohn said it was never the intent to treat small businesses differently under the modified business tax rules. Assembly Bill 389 (1st Reprint) would ensure that would not occur.

Assemblywoman Kirkpatrick asked what might happen if the modified business tax structure changed and whether the provisions of the bill would still apply.

Assemblyman Anderson replied that depended on the limit for the exemption threshold. Some proposals would reduce the threshold and add more of those small businesses back into the modified business tax. If the threshold dropped to zero, all businesses would be included and there would be no cost. Many businesses currently did not report separately, and he suggested that maybe small businesses should report separately.

Assemblyman Armstrong asked about section 3, subsection 5, paragraph (a) on line 21, page 4, where language was deleted that stated, "Indicate that the applicant has . . ." and language was added that stated, "Demonstrate, in the statement, ..." Assemblyman Armstrong wondered why that language was changed.

Mr. Cohn said that section was not related to the fiscal note, but he could explain it.

Assemblyman Armstrong wanted an explanation even though it was related to policy and not related to the fiscal note.

Mr. Cohn replied that employee leasing companies were required under the law to provide annual audited financial statements that proved a positive working capital standard to ensure that the company had sufficient money to pay its bills. Mr. Cohn supported that concept. He said the original language in the statute was ambiguous, which caused the employee leasing companies to require an additional form from the auditors, beyond the audit, that cost many companies tens of thousands of dollars to prove something that was not a GAAP [generally accepted accounting principles] audit procedure. The language in the bill clarified that provision and required a company to demonstrate in the audit that the company met the standards.

Assemblywoman Dickman was confused by the fiscal note and asked for clarification of the $10 million cost projected by the Department of Taxation.

Sumiko Maser, Deputy Director, Administrative Services, Department of Taxation, testified that the fiscal note related to the original version of the bill. The Department received additional data clarifying the bill, and the fiscal effect would be approximately $2 million per year. The Department of Taxation correlated historical information from companies that the Department believed to be employee leasing companies and aggregated the information to develop its projection of $2 million.

Assemblywoman Dickman said the other fiscal note was from the Department of Employment, Training and Rehabilitation, and it showed a cost of $1,036,079 in fiscal year 2016.

Assemblyman Anderson replied that the Department of Employment, Training and Rehabilitation had removed its fiscal note, which had been prepared prior to the amendment.

Neil Lombardo, Senior Attorney, Department of Employment, Training and Rehabilitation, testified that the Department removed its fiscal note based on the language in the amended version of the bill.

Helen Foley, representing TriNet, testified that she heard from Steve George, Administrator, Division of Industrial Relations, Department of Business and Industry, that an employee leasing company was going out of business, and he wanted to ensure that he had all the needed safeguards. One of his concerns was with the language in section 5 of A.B. 389 (R1). Section 5 deleted the obligation for companies to have brick-and-mortar operations in Nevada: companies just needed to have resident agents. If an audit was needed, Mr. George did not want to send his auditors to New York or out of state. Ms. Foley said TriNet supported deleting section 5 of the bill; that change would

require a company to have an office in Nevada. She asked that section 5 be deleted.

Chris Ferrari, representing the National Association of Professional Employer Organizations (NAPEO), testified in support of A.B. 389 (R1).

Hearing no further testimony in support of, in opposition to, or neutral on the bill, Vice Chair Hambrick closed the hearing on A.B. 389 (R1). Assemblyman Paul Anderson resumed the duties of the Chair, recessed the hearing at 8:22 p.m., and reconvened at 8:53 p.m. Chair Anderson opened the work session for Assembly Bill 21.

Assembly Bill 21: Extends the maximum period of maturity for certain special obligation bonds issued to provide funding for highway construction projects. (BDR 35-375)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, advised that Assembly Bill (A.B.) 21 extended the maximum period of maturity for certain special obligation bonds issued to provide funding for highway construction projects. Ms. Jones said the bill was submitted on behalf of the Department of Transportation and was heard on March 23, 2015. The existing law required the State Board of Finance, when requested to do so by the Board of Directors of the Department of Transportation, to issue special obligation bonds to provide funding to complete pending and currently projected highway construction projects. The bill extended the period within which those bonds had to mature from not more than 20 years to not more than 30 years from the date of issuance. Testimony indicated that the bill provided repayment flexibility and potentially lowered annual payments to maintain the State Highway Fund minimum balance needed to protect the state's credit rating. While projects that were bonded for longer than 20 years might have a higher cost of financing than those bonded for 20 years or less, the Department indicated there were no immediate plans to bond projects beyond 20 years. The bill only provided flexibility to do so if, in the future, it was deemed appropriate to bond a project for longer than 20 years.

ASSEMBLYWOMAN TITUS MOVED TO DO PASS ASSEMBLY BILL 21.

ASSEMBLYWOMAN DICKMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Anderson asked Assemblywoman Titus to present the floor statement on A.B. 21.

Assembly Bill 437: Makes an appropriation to restore the balance in the Reserve for Statutory Contingency Account. (BDR S-1217)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, advised that Assembly Bill (A.B.) 437 made an appropriation to restore the balance in the Reserve for Statutory Contingency Account. The bill was submitted on behalf of the Department of Administration, and the bill was heard by the Committee on March 26, 2015. Assembly Bill 437 made an appropriation of $1 million to restore the balance in the Reserve for Statutory Contingency Account to support claims for the remainder of fiscal year (FY) 2015. The pending claims totaled approximately $888,361 based on the most recent information, and $1 million would leave a balance of $111,639 in case any other claims were submitted before the end of FY 2015. Ms. Jones noted that Senate Bill 497 also made an appropriation from the State General Fund to restore the balance of the Stale Claims Account, Emergency Account, Reserve for Statutory Contingency Account, and Contingency Account for the upcoming 2015-2017 biennium. The appropriations in A.B. 437 were included in The Executive Budget to support the remainder of FY 2015.

ASSEMBLYWOMAN DICKMAN MOVED TO DO PASS ASSEMBLY BILL 437.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Anderson asked Assemblywoman Dickman to present the floor statement on A.B. 437.

Assembly Bill 448 (1st Reprint): Revises provisions relating to education. (BDR 34-746)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, advised that Assembly Bill (A.B.) 448 (1st Reprint) revised provisions related to education. The bill was heard by the Committee on May 5, 2015. Assembly Bill 448 (R1) created an Achievement School District within the Department of Education; authorized certain underperforming schools to be converted to achievement charter schools sponsored by the Achievement School District; prescribed requirements for the conversion of a public school to

an achievement charter school and the operation of an achievement charter school; provided for the use of certain school buildings by an achievement charter school without compensation; authorized a school district to provide services to an achievement charter school under certain circumstances; prescribed certain conditions of employment for a teacher at an achievement charter school; authorized the conversion of an achievement charter school to a public school in a school district or a charter school; revised provisions governing the use of school buildings owned by the board of trustees of the school district by a charter school; and made reassignment of the employees of an achievement charter school outside the scope of collective bargaining.

Ms. Jones explained that A.B. 448 (R1) specifically required the Superintendent of Public Instruction, Department of Education, to appoint an Executive Director of the Achievement School District. The Department of Education originally submitted a fiscal note of $208,311 in fiscal year (FY) 2016 and $216,390 in FY 2017 to support an executive director position and an administrative assistant position. However, at the hearing on May 5, 2015, the Superintendent of Public Instruction, Department of Education, submitted a letter that removed the fiscal note and stated that the cost would be covered by other funds.

Ms. Jones said a proposed conceptual amendment was submitted by Chair Anderson as Exhibit J. The proposal was to amend section 20, subsection 3, to limit the number of eligible public schools that might be converted to achievement charter schools in each year to six such schools. The amendment would clarify that if a school was converted to an achievement charter school, the school district in which the achievement charter school was located would not be required to give the charter school priority for capital projects; however, the school district may not remove the achievement charter school from any priority of capital projects that existed before the school was converted to an achievement charter school. The amendment also deleted the provision section 22, subsection 3, stating that a pupil had to be enrolled in the achievement charter school upon the request of the parent or guardian of the pupil (the opt-in provision) and instead provide an opt-out provision for the parent or guardian of the pupil.

Assemblywoman Dickman wondered why a limit of six schools was added in the amendment.

Chair Anderson said the intent of the limit on converting six public schools was to ensure the Achievement School District was doing its best for achievement schools and to measure the effectiveness of the achievement schools.

Many schools could be eligible for conversion, and the Achievement School District should not take on too much. It was a difficult task to improve the performance of six schools each year.

Assemblywoman Kirkpatrick expressed some concerns. She said section 25 was confusing, and she wanted to ensure there was a transportation plan for students. She was willing to support the bill and continue working on her concerns.

Chair Anderson agreed that some ambiguity still existed, and he committed to working on improvements. He wanted to ensure that parents had an opportunity to study a transportation plan to help them understand how the children would get to school if there was a considerable distance problem.

Assemblyman Sprinkle expressed appreciation for the work done by all parties on the bill. He had concerns about what the bill would do for the public education system, and some good things done for the system could be lost by turning public schools into charter schools.

Assemblywoman Bustamante Adams asked about the fiscal note.

Ms. Jones explained that there was a fiscal note on the bill, but at the hearing on May 5, 2015, a letter was submitted by the Superintendent of Public Instruction removing the fiscal note. The Department of Education would use funds from other sources to pay the costs of the executive director and administrative assistant positions.

Assemblywoman Bustamante Adams said she had some concerns, but would support the bill to move it out of Committee. She appreciated Chair Anderson's commitment to continue working on the bill.

> ASSEMBLYMAN EDWARDS MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 448 (1ST REPRINT).
>
> ASSEMBLYMAN KIRNER SECONDED THE MOTION.
>
> THE MOTION PASSED. (Assemblymen Carlton, Sprinkle, and Swank voted no.)

Chair Anderson asked Assemblyman Edwards to present the floor statement on A.B. 448 (R1).

Assembly Bill 469: Creating the Office of Finance in the Office of the Governor. (BDR 18-1180)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, advised that Assembly Bill (A.B.) 469 created the Office of Finance in the Office of the Governor. The bill was submitted on behalf of the Department of Administration. Assembly Bill 469 was heard by the Committee on March 31, 2015. Testimony was provided by the Budget Division, Department of Administration, about the perceived conflicts that could arise from one director position fulfilling both roles as budget director and Director of the Department of Administration. The Assembly and Senate finance committees approved the companion decision units to A.B. 469 on May 5, 2015, contingent upon passage of A.B. 469.

Ms. Jones said section 7 of A.B. 469 placed the staff of the Office of Finance, Office of the Governor, into the nonclassified service. An amendment (Exhibit K) from the Department of Administration was submitted to the Fiscal Analysis Division on April 21, 2015, that eliminated section 7 and, therefore, the staff positions would remain in the classified and unclassified service as indicated in the approved budgets for the Department of Administration and Office of Finance, Office of the Governor, if the amendment was approved.

ASSEMBLYMAN EDWARDS MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 469.

ASSEMBLYMAN KIRNER SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Titus voted no.)

Chair Anderson asked Assemblyman Kirner to present the floor statement on A.B. 469.

Assembly Bill 477: Revises provisions concerning the duties of the Taxicab Administrator. (BDR 58-1192)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, advised that Assembly Bill (A.B.) 477 revised provisions concerning the duties of the Taxicab Administrator. The bill was heard by the Committee on April 22, 2015. Assembly Bill 477 required the Taxicab Administrator to appoint a staff attorney to perform the legal services as a hearing officer. The Subcommittee on General Government recommended approval of the position, and the Subcommittee report would be submitted to the full Committee on May 15, 2015, for final approval. The Committee asked

Fiscal Analysis Division staff to research the need for the position in statute rather than in the budget. Fiscal Analysis Division staff determined that *Nevada Revised Statutes* (NRS) 228.110, subsection 1, stated, "The Attorney General and the duly appointed deputies of the Attorney General shall be the legal advisors on all state matters arising in the Executive Department of the State Government." However, a provision allowed agencies to directly hire their own counsel if they had statutory authority to do so. Therefore, in order for an attorney to be an advisor to the Taxicab Administrator, the position would have to be established in statute.

Assemblywoman Dickman asked how long the Taxicab Authority had gone without an attorney and why it needed one now. She wondered about the cost of the new attorney position compared to current practices.

Lisa Figueroa, Administrative Services Officer, Department of Business and Industry, replied that the Taxicab Authority had relied on contract attorneys or hearing officers. For those cases that needed to be heard within a designated period by statute, the Taxicab Authority borrowed an attorney from the Department of Transportation.

Ms. Jones explained the attorney position was included in The Executive Budget, was recommended for approval by the Subcommittee on General Government, and would be included in the Subcommittee presentation of the Subcommittee report on May 15, 2015.

Assemblywoman Dickman said she would support the bill, but reserved the right to change her final vote during the Assembly floor session.

Assemblywoman Titus said she would not support the bill.

> ASSEMBLYMAN KIRNER MOVED TO DO PASS ASSEMBLY BILL 477.
>
> ASSEMBLYMAN SPRINKLE SECONDED THE MOTION.
>
> THE MOTION PASSED. (Assemblywoman Titus voted no.)

Chair Anderson asked Assemblyman Sprinkle to present the floor statement on A.B. 477.

Assembly Bill 486: Revises provisions governing the budget accounts of the Division of Insurance of the Department of Business and Industry and certain fees collected by the Division. (BDR 57-1169)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, advised that Assembly Bill (A.B.) 486 revised provisions governing the budget accounts of the Division of Insurance, Department of Business and Industry, and certain fees collected by the Division. Assembly Bill 486 was heard by the Committee on April 2, 2015, and the bill was a budget bill that facilitated recommendations in The Executive Budget concerning the consolidation of certain accounts of the Division of Insurance. The Subcommittee on General Government recommended approval of the consolidation of the accounts, and the Committee would hear about the consolidation in the full report to be presented on May 15, 2015. Ms. Jones received a proposed amendment (Exhibit L) from the Division of Insurance, Department of Business and Industry. The agency proposed a change to the annual fee due date in section 4, subsection 2, paragraph (b), from March 1 to "the date established by the Commissioner by regulation." The reason for the change was the data collected to calculate the fee was not provided to the agency until March 31 of each year.

Assemblywoman Titus said she would vote the bill out of the Committee, but reserved the right to change her vote on the Assembly floor.

Assemblyman Sprinkle expressed concerns about the amortized rate and not having a cap on the fee. The agency indicated that the cap would be addressed by regulation. He never received good answers about the regulations and would not support the bill.

Assemblywoman Dickman said she would not support the bill.

> ASSEMBLYMAN EDWARDS MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 486.
>
> ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.
>
> THE MOTION PASSED. (Assemblymen Dickman and Sprinkle voted no.)

Chair Anderson asked Assemblywoman Carlton to present the floor statement on A.B. 486.

Chair Anderson said there were several bills that were heard earlier in the meeting that he would like the Committee to take action on now.

ASSEMBLYMAN EDWARDS MOVED TO SUSPEND RULE NO. 57 OF ASSEMBLY RESOLUTION 1.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assembly Bill 5 (1st Reprint): Revises provisions relating to services for persons with intellectual disabilities and persons with related conditions. (BDR 39-416)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, advised that Assembly Bill (A.B.) 5 (1st Reprint) was heard earlier by the Committee. The bill revised provisions relating to services for persons with intellectual disabilities and persons with related conditions. The Department of Employment, Training and Rehabilitation indicated that the amendment adopted on April 21, 2015, would result in a fiscal cost to the agency. However, after the bill was referred to the Committee, the Rehabilitation Division sent an email to Fiscal Analysis Division staff that the amended version of the bill would not have a fiscal effect.

Assemblywoman Titus said she would vote the bill out of the Committee, but reserved the right to change her vote on the Assembly floor.

ASSEMBLYWOMAN DICKMAN MOVED TO DO PASS AS AMENDED ASSEMBLY BILL 5 (1ST REPRINT).

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Anderson asked Assemblywoman Benitez-Thompson to present the floor statement on A.B. 5 (R1).

Assembly Bill 199: Makes various changes to certain advisory committees and programs relating to health care. (BDR 38-552)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, advised that Assembly Bill (A.B.) 199 was heard earlier in the

meeting. The bill was proposed by the Sunset Subcommittee of the Legislative Commission. The bill made various changes to certain advisory committees and programs relating to health care and provided that certain advisory committees would be discontinued. There was a proposed amendment (Exhibit I) to remove section 6 of A.B. 199 to eliminate any fiscal note previously submitted by the Division of Public and Behavioral Health, Department of Health and Human Services.

ASSEMBLYWOMAN TITUS MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 199.

ASSEMBLYMAN EDWARDS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Anderson asked Assemblywoman Bustamante Adams to present the floor statement on A.B. 199.

Assembly Bill 234 (1st Reprint): Enacts provisions related to multicultural education. (BDR 34-102)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, advised that Assembly Bill (A.B.) 234 (1st Reprint) was heard earlier this evening by the Committee. The primary sponsor of the bill was Assemblyman Harvey J. Munford, representing Assembly District No. 6. Assembly Bill 234 (R1) enacted provisions related to multicultural education; required the standards of content and performance for a course of study in social studies created by the Council to Establish Academic Standards for Public Schools to include multicultural education; and required certain licensed teachers to complete a course in multicultural education for renewal of the license. Ms. Jones said there was a fiscal note that required an amendment to the bill with an appropriation to support the cost of $8,406 in fiscal year 2016.

ASSEMBLYMAN EDWARDS MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 234 (1ST REPRINT).

ASSEMBLYMAN HICKEY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Anderson asked Assemblyman Munford to present the floor statement on A.B. 234 (R1).

Chair Anderson opened public comment and hearing no public comment, he adjourned the meeting at 9:22 p.m.

RESPECTFULLY SUBMITTED:

Janice Wright
Committee Secretary

APPROVED BY:

Assemblyman Paul Anderson, Chair

DATE: September 29, 2015

EXHIBITS

Committee Name: Assembly Committee on Ways and Means

Date: May 14, 2015 **Time of Meeting: 6:09 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 234 (R1)	C	Ruben Murillo, Jr., representing the Nevada State Education Association	Letter of Support
A.B. 77 (R1)	D	Lynn Hettrick, Deputy Director, Division of Administration, State Department of Agriculture	Bill Explanation
A.B. 77 (R1)	E	Benjamin Griffith, representing Western Petroleum Marketers Association	Proposed Amendment
A.B. 77 (R1)	F	Lynn Hettrick, Deputy Director, Division of Administration, State Department of Agriculture	Proposed Amendment
A.B. 77 (R1)	G	Lynn Hettrick, Deputy Director, Division of Administration, State Department of Agriculture	Response to questions posed by the Organics Advisory Council
A.B. 77 (R1)	H	Rob Holley	Testimony in opposition
A.B. 199	I	Assemblywoman Irene Bustamante Adams, Assembly District No. 42	Proposed amendment 6917
A.B. 448 (R1)	J	Assemblyman Paul Anderson	Proposed Conceptual Amendment
A.B. 469	K	Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau,	Proposed Amendment from the Department of Administration

A.B. 486	L	Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau	Proposed Amendment dated April 21, 2015 from the Division of Insurance, Department of Business and Industry