

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

**Seventy-Eighth Session
May 21, 2015**

The Committee on Ways and Means was called to order by Chair Paul Anderson at 8:18 a.m. on Thursday, May 21, 2015, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/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 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

COMMITTEE MEMBERS EXCUSED:

Assemblywoman Teresa Benitez-Thompson



STAFF MEMBERS PRESENT:

Cindy Jones, Assembly Fiscal Analyst
Stephanie Day, Principal Deputy Fiscal Analyst
Carol Thomsen, Committee Secretary
Cynthia Wyett, Committee Assistant

After call of the roll, Chair Anderson opened public comment, and there was no public comment to come before the Committee. The Chair opened the hearing on Assembly Bill 430.

**Assembly Bill 430: Revises provisions governing channel clearing.
(BDR 48-1130)**

Assemblywoman Robin Titus, Assembly District No. 38, stated that she would provide the background for Assembly (A.B.) Bill 430, as shown in [Exhibit C](#). The bill contained a request for an appropriation to the Account for the Channel Clearance, Maintenance, Restoration, Surveying and Monumenting Program within the State Department of Conservation and Natural Resources (DCNR). The policy had been established in *Nevada Revised Statutes* (NRS) 532.220. When the program was established, the funding was used to clear river channels. Even though the state was currently experiencing a period of drought, there had been times when excessive water ran through the rivers, which damaged the channels.

Assemblywoman Titus explained that the funding would help maintain the river channels, not only for the Carson River, but all navigable river channels throughout the state. The requested appropriation of \$250,000 would be matched by local funding and would increase reimbursement almost tenfold through a community partnership. Assemblywoman Titus stated the program involved local conservation districts, local communities, and a substantial volunteer effort to maintain the state's waterways.

Edwin D. James, P.E., General Manager, Carson Water Subconservancy District, stated he had submitted a prepared statement ([Exhibit D](#)) for the Committee's review. Mr. James explained that the State of Nevada claimed ownership of all navigable rivers in the state to the mean high water mark. With land ownership came responsibility to ensure water deliveries, protect wildlife habitats, and reduce flood hazards. In the Carson River Watershed, it was the conservation districts that performed that task for the state.

Mr. James said, in the past, the conservation districts had used funds provided by the state through the Channel Clearance, Maintenance, Restoration, Surveying and Monumenting Program. Currently, NRS 532.230 established a channel clearing account that was administered by the State Engineer. Those funds had been used for many years by the conservation districts to conduct river projects throughout the state. In 2009, said Mr. James, because of the downturn in the economy, funding in the program account was removed from the budget. Over the years, the conservation districts and the Carson Water Subconservancy District had met with the State Engineer to discuss the need to reestablish the funding.

Mr. James said the State Engineer's staff understood the importance of the work that was performed by the conservation districts and requested funding for the 2015-2017 biennium; however, that funding was not included in The Executive Budget. Without funding from the state, less work would be accomplished, and the number of fallen trees and sandbars in the river channels would continue to increase. Those obstacles were hazardous to human recreation and reduced flow capacity from the river channels, which increased the potential for flood damage, as experienced in the 1997 flood. Mr. James stated that the Carson Water Subconservancy District respectfully requested that the Legislature restore funding to the Account for the Channel Clearance, Maintenance, Restoration, Surveying and Monumenting Program to meet the state's responsibility for ownership of the navigable rivers in Nevada.

Mr. James indicated that the Carson River was a fantastic waterway for canoeing, kayaking, and rafting when there was sufficient water. He stated he had taken youth trips down the river, but one thing that everyone had to be aware of when rafting or canoeing the rivers was the fallen trees and other debris. Many trees were established on the river banks, and over the years as the river banks eroded, the trees would fall into the river and could actually cover the entire riverbed. Mr. James stated it was quite dangerous if those fallen trees were not removed. In each year that had a good spring runoff, Mr. James said he floated the river in early spring to ensure that there were no snags. The funding was used to address public safety for those who used the rivers for recreation.

Assemblywoman Swank asked about the effect the channel maintenance would have on the natural wildlife habitats that already existed in the river areas. She opined that oftentimes rivers should remain natural, and she wondered about destabilization of the areas and the effect on wildlife and fish.

Mr. James said it was important to note that all river projects went through an environmental review process, and when trees fell into the rivers, it adversely affected the environment. He explained that when a tree fell next to the riverbank, the river changed course and the water could carve into the bank. There had been many riverbank stabilization projects because of fallen trees that had adversely affected the environment. Mr. James said many of the projects worked closely with, and actually enhanced, the environment. The river projects would not change the course of the rivers and would enhance the flow and keep wildlife habitats healthy.

Assemblywoman Swank said it was her understanding that over the course of time rivers did change course, and when a tree fell into a river and it changed course, which was part of the natural progression of a river. She was concerned about making sure the balance would be maintained and the rivers could be used for recreation. Assemblywoman Swank noted that some rivers had been overcontrolled in the past, which had adversely affected the rivers.

Assemblywoman Titus explained that one of the keys to the bill was that the funding was for conservation district projects rather than the U.S. Army Corps of Engineers' projects, which often changed the course of rivers. The flood in northern Nevada in 1997 took out the West Walker River and actually destroyed the natural environment. The project to restore the Walker River reconstructed the riverbanks, planted willows, and saved the habitat. Assemblywoman Titus said the projects funded from the account quite often involved youth groups that volunteered to help clean up the riverbanks and clean out the snags.

Mr. James commented that the conservation districts and the Carson Water Subconservancy District were trying to repair past projects completed by the U.S. Army Corps of Engineers to help prevent flooding. Those projects straightened the rivers and created many problems; some incised channels were over 30 feet high, and there were erosion and habitat problems. Over the years, the conservation districts and the Subconservancy District had been working to bring the rivers back to a natural status with a healthy habitat.

Assemblywoman Bustamante Adams questioned whether the \$250,000 appropriation was per fiscal year or one-time funding. She also asked how that money would be used.

Assemblywoman Titus stated the Carson Water Subconservancy District and the conservation districts had submitted a detailed budget regarding the cost of the projects and how the funding would be spent.

Mr. James said the Account for the Channel Clearance, Maintenance, Restoration, Surveying and Monumenting Program was established in *Nevada Revised Statutes* (NRS) 532.230 in 1973. The original appropriation was \$250,000 that would be reimbursed through the Office of the State Engineer over a period of time. The funding was to address damages along navigable rivers. Mr. James pointed out that because the Truckee River had not been properly maintained, the 1997 flood caused trees to fall into the river and become wedged against the bridges in Reno, which caused damage and created a safety hazard.

Mr. James explained that the Carson Water Subconservancy District was a funding source and provided matching funds to the conservation districts. Over the past approximately two years, the Subconservancy District had provided funding for projects, but its funding was limited and much of the work that had been done used a "Band-Aid" approach. When funding was available from the state in the past, the Subconservancy District was able to leverage those funds even further. The state recognized its responsibility, and after the 1997 flood, the funding was increased to \$250,000 by the Legislature because the state realized it had a responsibility to maintain the rivers. However, said Mr. James, because of the economic downturn in 2009, the funding was removed from the program. The Subconservancy District was attempting to restore the funding because work on the river channels was being neglected by the state, even though it claimed ownership of the navigable rivers. The maintenance programs for the rivers were completed by the conservation districts on behalf of the state, said Mr. James, and it was important that the state again fund the program.

Assemblywoman Bustamante Adams asked for clarification regarding the appropriation.

Chair Anderson explained that the request was for a one-shot appropriation of \$250,000, and when those funds were depleted, the conservation districts and the Carson Water Subconservancy District could again approach the Legislature for additional funding. The funds in the program were swept in 2009 because of the economic downturn and state budget concerns.

Assemblywoman Carlton asked whether the program would operate as a matching grant program the same as it had in the past. The original legislation established the program as a matching-grant program for local government and agencies.

Mr. James stated that was correct. The program would operate the same as it had in the past. He noted that the local conservation districts usually matched the state funding 10:1, because they recognized the importance of maintaining a healthy river.

Assemblywoman Carlton said it appeared that a water district or water authority could apply to the State Engineer for a grant under the program. Mr. James stated that was correct. The State Engineer had to approve the projects.

Assemblyman Sprinkle noted the state was currently experiencing a drought, and there was not much running water throughout the state. The Legislature was still rebuilding essential services for the state, and he asked for the justification for funding the Account for Channel Clearance, Maintenance, Restoration, Surveying and Monumenting Program at the present time.

Assemblywoman Titus agreed that there was a certain pot of money, and the Legislature had to determine where the money would be best spent; however, she believed that the investment in Nevada's rivers was critical, particularly in times of drought. Nevada was subject to very unpredictable weather, and the reality was that there had been many flash floods. When the torrents of rain caused flooding, the damage to the rivers and bridges was substantial. Assemblywoman Titus opined that investing \$250,000 in the program now would prevent costly damage in the future. Removing fallen trees and snags from the riverbanks and channels would protect rivers and bridges and eliminate costly repairs. She noted that A.B. 430 requested \$250,000 for prevention and maintenance, and as a clinician, she felt preventing damage was well worth the investment.

Assemblyman Oscarson mentioned that Assemblywoman Titus was a strong advocate of the conservation funding that was included in Senate Bill 476, which was passed by the Assembly on May 20, 2015. He asked what role the funding in that bill would play in assisting the conservation districts with the river cleanup.

Assemblywoman Titus said the request in A.B. 430 was a group effort and all 28 conservation districts had a role in the funding the Account for the Channel Clearance, Maintenance, Restoration, Surveying, and Monumenting Program. Some conservation districts indicated flood control plans were their main priority, and others listed priorities of weed control and situations unique to their districts. Assemblywoman Titus believed that when the state could supply the conservation districts with funding, the districts could parlay those funds with

matching federal funds, and that would go a long way toward helping the State of Nevada.

Assemblywoman Kirkpatrick stated there were many critical areas within the state budget, and she had the privilege of working with Jason King, P.E., State Engineer, Division of Water Resources, State Department of Conservation and Natural Resources (DCNR), on many water issues for the entire state. She believed the bill would affect the entire state, and the funding could be used at any location within Nevada. Assemblywoman Kirkpatrick said it was her understanding that the projects would be selected based on the list maintained by the State Engineer, and those projects could be at any location throughout the state.

Assemblywoman Titus emphasized that the funding in the program was to be used for all 28 conservation districts statewide. It was not a north/south battle for funding, nor was it a rural/urban battle because water concerns were statewide. Assemblywoman Titus pointed out that southern Nevada was subject to horrendous flash flooding at times, and the grants awarded from the fund were monitored by the State Engineer and were awarded based on applications submitted by the conservation districts.

Assemblywoman Kirkpatrick asked about the list of proposed projects, and whether that was a public document.

Jason King, P.E., State Engineer, Division of Water Resources, State Department of Conservation and Natural Resources (DCNR), stated that section 1, subsection 2 of the bill read, "This Program is to aid local governments in this state in the clearance, maintenance, restoration, surveying and monumenting of navigable rivers." Mr. King explained that navigable rivers did not include every river in the state. Navigable rivers included the Truckee River, the Carson River, the Walker River, the Colorado River, and the Virgin River; navigable waters also included Lake Tahoe, Washoe Lake, and Winnemucca Lake. Mr. King wanted everyone to understand that not every river was considered navigable, and the funding was limited to projects on navigable rivers and waters.

Mr. King stated that the list created and maintained by the State Engineer was a public document; the list was available by phone through the State Engineer's Office, but was not on the Division's website at the present time.

Assemblywoman Kirkpatrick said everyone had worked diligently to maintain transparency regarding the statewide water projects, and she believed the

information should be available on the Division's website, so persons could be directed to the list to see how the funding was being allocated.

Assemblyman Oscarson asked for the list of navigable rivers. He also wondered about the Muddy and the Virgin Rivers that also had debris problems and were subject to flooding. He wondered what opportunities were available for the state conservation districts to clear those riverbeds, or whether those rivers were handled by the U.S. Army Corps of Engineers.

Mr. King said the navigable rivers in northern Nevada included the Truckee River, the Carson River, and the Walker River. In southern Nevada the navigable rivers were the Virgin River and the Colorado River. The navigable waters were Lake Tahoe, Washoe Lake, Walker Lake, and Winnemucca Lake. Mr. King said the idea behind *Nevada Revised Statutes* (NRS) 532.220 was that the state owned the riverbeds and riverbanks of the navigable rivers up to the high-water mark, and the statute focused on those navigable rivers. The Muddy River was not within the purview of the conservation districts or DCNR because it was not listed as navigable. Mr. King assumed that work on the Muddy River would be handled by the U.S. Army Corps of Engineers.

Mr. King stated that Assemblyman Sprinkle had asked why the riverbanks and river channels were being repaired during the current drought, and he indicated that the State Engineer's Office was neutral regarding A.B. 430. However, he believed it was one of the best programs regulated by the State Engineer's Office, which was a regulatory agency. The funding was not contained in The Executive Budget, and there was a fiscal note attached to the bill. Mr. King explained that periods of drought were the best times to work on the rivers because of the low water flow.

Assemblyman Edwards asked whether it was not only faster to work on riverbeds and riverbanks during periods of drought, but also cheaper. He believed it would be far cheaper to work on dry riverbeds to remove snags and fallen trees, without dealing with the water flow.

Mr. King said it was absolutely faster and cheaper to address the riverbeds and channels during drought conditions.

In the absence of Chair Anderson, Vice Chair Hambrick opened the testimony in favor of A.B. 430.

Ron Penrose, P.E., Superintendent, Carson-Truckee Water Conservancy District, stated that the Carson-Tahoe Conservancy District supported A.B. 430 and reinstatement of the funding as indicated in the letter of support provided to the

Committee, [Exhibit E](#). The District's perspective was the safety of the public, and when snags and debris were allowed to accumulate in the rivers over a period of time, it exacerbated flood conditions. Mr. Penrose noted that flooding would occur again, and there might be a flood situation later this year, even with the drought conditions. When debris was allowed to collect in river channels, it could ultimately lodge against bridge abutments and could worsen floods, raise the water level of the flood, cause property damage, and create public safety problems. Mr. Penrose indicated that removal of debris would also remove entrapment hazards for swimmers and/or boaters, which was another element of public safety.

Rob Holley, Manager, Dayton Valley Conservation District, stated that as pointed out earlier by Mr. James, part of the bill dealt with state ownership of the river channels up to the high-water mark. Mr. Holley said the Dayton Valley Conservation District had submitted a letter in support of [A.B. 430](#) ([Exhibit F](#)) for review by the Committee, which appealed to the state to provide funding for the statutory requirements to maintain the Carson River channel.

Mr. Holley agreed with previous statements that it was far cheaper and easier to work on the channels when the water was low. Also included in [Exhibit F](#) were photographs that showed the fallen trees that had been removed from the river channel and the restoration work on the riverbank. The environmental effect was also reduced when work was completed on river channels during times of low water. The use of equipment in the riverbeds to remove debris caused further erosion to the riverbanks during high water flows, and the Dayton Valley Conservation District preferred to keep equipment out of the channel during that time and conduct the work when it would not affect the river.

Mr. Holley remembered the times of flooding along the Carson and Truckee Rivers, and he indicated that it was not uncommon to have extreme high water events on any rivers within the state. The projects to clean debris and fallen trees from the river channels allowed the conservation districts to eliminate the strain on bridges and diversion structures from the debris during times of high water. Mr. Holley explained that the Dayton Valley Conservation District used the funding from the state to leverage additional county funding, U.S. Fish and Wildlife Service funding, and Division of Environmental Protection, State Department of Conservation and Natural Resources funding, which usually resulted in a threefold to tenfold funding increase, depending on the state funding available.

Mr. Holley explained that the Dayton Valley Conservation District put the projects out to bid with local excavating businesses that performed the work. The state funds leveraged a significant amount of additional funding that was of

great benefit to the river itself, to those who lived on the riverbanks, and to the communities.

Mike Hayes, Coordinator, Carson Valley Conservation District, pointed out that the Carson Valley Conservation District was involved with natural resource management, and water was one of the most precious resources available in Nevada.

Mr. Hayes noted there was some agriculture in the Carson Valley Conservation District, which used surface water for irrigation. There were diversion structures in the Carson River that conveyed the surface water to fields for irrigation. The debris in the river blocked or damaged the diversion structures, and materials gathered around the post and piers of bridges. Mr. Hayes submitted photographs ([Exhibit G](#)) of the various materials that were found in the river channel annually that threatened to block surface water conveyance structures. Mr. Hayes stated that the Carson Valley Conservation District did not attempt to influence the flow of the river and simply removed debris. The riverbank projects also improved water quality and quantity because erosion of the banks increased sediment that decreased water quality, which was another multifaceted benefit to managing the debris in the rivers.

J. B. Lekumberry, private citizen, Genoa, Nevada, said he appreciated the efforts of Assemblywoman Titus and all those who had worked diligently to bring A.B. 430 forward. He believed the reasons for caring for the river channels had been covered by previous testimony, and he added that the river affected all citizens. The Carson River watershed affected many counties, and what affected the river also affected others who used the waterways.

Steve Walker stated that he represented the Truckee Meadows Water Authority, Lyon and Douglas Counties, and Carson City on behalf of the Truckee River, the Walker River, and the Carson River. Mr. Walker noted that the counties and the Truckee Meadows Water Authority were very much in support of the bill, had used state funds to help maintain the rivers, and would like to have the funding restored.

Patrick Sanderson representing Nevada Alliance for Retired Americans (NARA), stated that maintenance was maintenance, whether it was on the state's highways, its bridges, or its rivers. He opined that if \$1 was spent today, it would save \$100 in the future. Everyone was aware of the status of the budget, but he could remember when there was a wet winter and flooding had occurred.

Mr. Sanderson opined that working on the rivers now when there was low water would save money, and he hoped the Committee approved the bill.

Vice Chair Hambrick asked whether there was further testimony in support of, in opposition to, or neutral regarding A.B. 430, and there being no further testimony, Vice Chair Hambrick closed the hearing on A.B. 430. The Vice Chair opened the hearing on Senate Bill 428 (R1).

Senate Bill 428 (1st Reprint): Makes appropriations to the State Department of Conservation and Natural Resources for the replacement of emergency response, firefighting and other critical equipment and vehicles. (BDR S-1223)

David Prather, Deputy Administrator, Division of Forestry, State Department of Conservation and Natural Resources, stated that he was present to testify in support of Senate Bill (S.B.) 428 (1st Reprint). The Division was in critical need of vehicles and equipment to meet its statutory requirements to generate revenue, respond to emergency incidents, and provide a safe work environment for all employees. Mr. Prather said the request in S.B. 428 (R1) covered two separate budget accounts. The request for budget account (BA) 4195, Forestry, was for \$1,140,613 for four specialty vehicles as shown in the PowerPoint presentation, Exhibit H entitled, "Division of Forestry, Senate Bill 428, Assembly Ways and Means Committee, May 21, 2015." The second request was for BA 4198, Forestry Conservation Camps, in the amount of \$1,795,518 for the replacement of nine crew carriers. He noted that all vehicles met or exceeded *State Administrative Manual* guidelines for vehicle replacement, and all were more than 20 years old with mileage ranging from 87,000 to 204,000 miles.

Mr. Prather said in many cases, replacement parts were unavailable for the vehicles, even at wrecking yards, and several vehicles were parked and red-tagged as unsafe or unrepairable. Without the replacement vehicles, the ability of the Division of Forestry (NDF) to continue even foundational operations, including meeting revenue targets and safely responding to wildfires, was unlikely.

In BA 4195, said Mr. Prather, NDF requested replacement of two International Model 14, Type 3 fire trucks, which ranged from 31 to 35 years of age, with mileage ranging from 96,272 to 141,258 miles, as shown on page 3, Exhibit H. The vehicles operated under extreme conditions during firefighting assignments with excessive off-road use. The total cost of replacement of the two engines was \$632,050.

Mr. Prather stated that BA 4195 also requested replacement of a water tender that was needed for emergency response, as shown on page 4, [Exhibit H](#). The water tender responded to emergencies statewide and was also used in support of firefighting staff during prescription burns. The current vehicle was a 1980 Autocar with 87,305 miles, and the cost of replacement was \$333,150.

Page 5 of [Exhibit H](#) addressed the request to replace one aviation fuel truck that was needed for statewide emergency response. Mr. Prather indicated that the fuel truck followed and/or chased its assigned helicopter and provided much-needed fuel during firefighting operations. The current aviation fuel truck was a 1988 International dump truck repurposed into an aviation fuel truck. The vehicle had 193,000 miles of heavy use from being used as a dump truck plus extensive off-road use in extreme conditions as an aviation fuel truck. The replacement cost was \$175,413.

Mr. Prather stated that budget account (BA) 4198, Forestry Conservation Camps, requested replacement of worn-out crew carriers, which was a priority need for the NDF Conservation Camp program. The camp program responded to emergencies statewide, and the vehicles were needed for quick response to fires and other emergencies and were also used to reach project sites.

The nine crew carriers that would be replaced were at least 20 years old with mileage ranging from 166,183 to 204,682 miles. Carriers were operated under extreme conditions during firefighting assignments and received extensive off-road use. The cost for replacing the nine crew carriers was \$1,795,518.

Assemblywoman Carlton believed that the 2013 Legislature also approved replacement of crew carriers.

Mr. Prather indicated that the Legislature had approved replacing 10 crew carriers over the last biennium. He explained that NDF had approximately 90 crew carriers in its fleet, and it was attempting to replace 10 carriers each legislative session.

Assemblyman Oscarson said he appreciated the importance of replacement equipment for NDF, mainly because his district had suffered a significant fire event that occurred on Mount Charleston in the past. After having been at the scene during that event, Assemblyman Oscarson said he understood the need for dependable equipment. He believed that crew carriers were critical because fire crews quite often had to move quickly, and it was a life-safety issue for the men and women that put their lives on the line fighting fires to protect Nevada's lands and citizens.

Assemblyman Kirner asked whether the cost for the requested equipment had been included in The Executive Budget. Mr. Prather replied that it was included.

Vice Chair Hambrick asked whether there was further testimony in favor of, in opposition to, or neutral regarding S.B. 428 (R1), and there being no further testimony, Vice Chair Hambrick closed the hearing. The Vice Chair opened the hearing on Senate Bill 471.

Senate Bill 471: Revises provisions governing payments from the State Retirees' Health and Welfare Benefits Fund made on behalf of certain retired persons. (BDR 23-1178)

Celestena A. Glover, Chief Financial Officer, Public Employees' Benefits Program, stated that Senate Bill (S.B.) 471 would make a revision to Chapter 287 of the *Nevada Revised Statutes* to allow for an exception for those Medicare retirees who were currently enrolled in the TRICARE program. The bill would allow those retirees to receive a contribution to their health reimbursement arrangement (HRA) without enrolling in a plan through the Public Employees' Benefits Program (PEBP) in the state's individual market Medicare exchange.

Assemblyman Kirner presumed that the Board of the Public Employees' Benefits Program had already voted on the contribution. Ms. Glover replied that was correct.

After returning to the meeting, Chair Anderson asked whether there was testimony in support of, in opposition to, or neutral regarding S.B. 471, and there being no further testimony, the Chair closed the hearing and opened the hearing on Senate Bill 472 (R1).

Senate Bill 472 (1st Reprint): Revises provisions governing the eligibility of state officers and employees for health benefits. (BDR 23-1193)

Celestena A. Glover, Chief Financial Officer, Public Employees' Benefits Program, stated that Senate Bill (S.B.) 472 (R1) would make various changes to Chapter 287 of the *Nevada Revised Statutes* (NRS) and would change the eligibility waiting period for new employees. Currently, said Ms. Glover, the Affordable Care Act (ACA) required that a waiting period not exceed 90 days for an employee to become eligible for health plan benefits. The Board of the Public Employees' Benefits Program (PEBP) made a change to Chapter 287 of the *Nevada Administrative Code* (NAC) that made the waiting period 60 days effective May 1, 2014, to comply with the ACA.

Ms. Glover explained that the changes to NRS 287.045 requested in S.B. 472 (R1) would change the waiting period to the first of the month for employees hired on the first of the month, or the first of the month immediately following the date of hire, should that hire date be other than the first of the month.

Similar changes were included for participating local governments and members of the Senate and Assembly who decided to join PEBP. Ms. Glover stated the bill further defined the requirement for agencies to notify PEBP when new employees were hired. The final change in the bill provided for a timeline for those new employees to either enroll in a plan or decline coverage with PEBP.

Assemblywoman Carlton said her only concern, and the apparent concern of the employees, was the default plan used by PEBP if new employees failed to select or decline coverage. Apparently, when employees did not respond, they were automatically enrolled in the consumer-driven, high-deductible health plan (HDHP), which was expensive. Assemblywoman Carlton asked why the HDHP was selected by the PEBP Board as the default plan. She noted that the deductible for that plan was significant, and some employees could not meet that requirement, particularly in southern Nevada. The more reasonable plan was the health maintenance organization (HMO) plans that employees could opt out of during the next open enrollment period.

Assemblywoman Carlton said her constituents told her they had not received the notice to select a PEBP plan in the mail and did not realize they were even eligible for health insurance. By the time her constituents figured out they had to select a plan, the deadline had passed and they were enrolled in the HDHP, which they could not afford.

Ms. Glover stated that the PEBP Board designated the consumer-driven HDHP as the default plan, and if a response was not received from the employee about selecting a plan, the PEBP enrolled the employee in the HDHP, which was the default plan. However, she indicated the PEBP Board could discuss and vote on a change to the default plan.

Assemblywoman Carlton said because of the changes in S.B. 472 (R1), which would reduce the waiting period, perhaps the PEBP Board and the human resource representatives from state agencies should consider making the paperwork regarding selection of a PEBP plan part of the hiring process. That would take care of questions and the selection of a plan for employees and would be more efficient.

Ms. Glover said the PEBP Board was working toward ensuring that agency representatives either had the appropriate documentation available or could help employees enroll in a plan online through the PEBP website. She said PEBP wanted, (1) to ensure that it was notified of new hires so it could send packets to new employees, (2) to ensure that the information was available at each state agency, and (3) to ensure that the paperwork or online enrollment process was completed by new employees in a timely fashion.

Assemblywoman Carlton said a number of her constituents had also asked that membership cards be available in a digital format so that participants could download that information to their cellphones and other devices. She had heard many complaints about the dependent's card not being at the right place with the right parent; one constituent had photographed the card and presented it to the doctor, but that was not accepted.

Ms. Glover said she would present that idea to the PEBP Board for consideration.

Assemblyman Armstrong noted that section 1 of the bill added language that specified a state employee who was employed in a full-time position was eligible to participate in the program. He asked whether current state employees who worked less than full-time would no longer be eligible for the program.

Ms. Glover said there were some part-time employees who might not be eligible for the program, but PEBP defined eligibility as working over 20 hours per week, which covered most part-time employees.

Assemblyman Armstrong asked whether the language in the bill would make those part-time employees not eligible for the program.

Ms. Glover replied that the language in the bill would not change the PEBP's definition of eligibility at 20 hours per week.

Assemblyman Armstrong asked whether there was a definition of full-time employment in the bill, because there was not a definition in Chapter 287 of the *Nevada Revised Statutes* (NRS). He asked whether the bill was tied to a different definition of full-time employee.

Ms. Glover stated that the PEBP Board defined full-time eligibility in Chapter 287 of the *Nevada Administrative Code* (NAC).

Assemblyman Kirner asked about the overall effect of reducing the waiting period for plan eligibility and whether the funding would be from the PEBP's excess reserve.

Ms. Glover said the funding required to reduce the waiting period had been included in PEBP's budget request for the upcoming biennium. The PEBP Board's projection was for approximately \$222,000 in the first year of the biennium, with the costs normalizing during the second year of the biennium and beyond. Ms. Glover said the costs would be covered by contributions, both the premiums and the subsidy paid by employers.

Assemblywoman Titus believed Assemblywoman Carlton had a good point about the digital PEBP cards, and as a provider, she noted that many times patients did not know whether they were on their spouse's plan or on their own plan. Assemblywoman Titus said the PEBP participant cards were critical for providers to aid with billing.

Chair Anderson asked whether there was testimony in support of, in opposition to, or neutral regarding S.B. 472 (R1), and there being no further testimony, the Chair closed the hearing.

Chair Anderson opened the work session and stated there were three bills listed on the agenda (Exhibit A) for the work session, and Assembly Bill 221 (R1) would be added.

**Assembly Bill 436: Eliminates longevity payments for state employees.
(BDR 23-1157)**

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Assembly Bill (A.B.) 436 was heard by the Committee on April 14, 2015. The bill would eliminate longevity pay, also known as a plan to encourage continuity of service for state employees, whereby each employee with eight years or more of continuous state service was entitled to a semiannual payment, which began at \$75 per year and increased annually after that for each year of service up to a maximum semiannual payment of \$1,175.

Ms. Jones explained that A.B. 436 would permanently repeal the provision, but would not affect longevity of local governmental employees. A mock-up of the proposed amendment to the bill (Exhibit I) had been provided to the Committee, which clarified that the elimination of longevity pay would not apply to judges; the amendment was requested by the Department of Administration. Ms. Jones stated the bill would entitle certain pay events for judges, who

received increases based on their years of service similar to merit salary increases for classified state employees. However, said Ms. Jones, the Judicial Branch titled those increases as longevity pay, and the proposed amendment clarified that the increases for judges would not be affected by the bill.

Ms. Jones further explained that the Assembly Committee on Ways and Means and the Senate Committee on Finance approved the elimination of longevity pay at a joint meeting in one of the statewide decision units approved by those Committees; therefore, A.B. 436 should be processed to execute the budget as approved by the Committees.

Assemblywoman Titus stated that she would vote no on the bill because she believed it was the wrong approach and would have a negative effect on state employees who had worked very diligently over the years. She felt employees who had remained in state employment and dedicated their years of service should be acknowledged. Although the longevity pay would cost the state money, retraining and rehiring staff, including the loss of staff insight and history, would cost the state more in the long run.

Chair Anderson declared the Committee in recess at 9:19 a.m., and reconvened the meeting at 9:34 a.m.

Assemblywoman Dickman thanked Chair Anderson for explaining the bill because she was opposed to eliminating longevity pay, but a poll had been conducted by Michael J. Willden, Chief of Staff, Office of the Governor, and the results indicated that state employees would prefer a cost of living adjustment (COLA) rather than longevity pay. With the approval of a COLA for state employees, Assemblywoman Dickman said she would vote in favor of A.B. 436.

Assemblywoman Kirkpatrick said longevity pay had been in place for a long time and helped in recruitment of state employees. A COLA would not bring state workers back to the level of pay prior to 2009, but if the Committee could leverage that portion of revenue used for longevity, it could ensure a more significant and long-term increase. Assemblywoman Kirkpatrick believed that every state employee would be happy with a COLA, but the Legislature had not yet passed The Executive Budget, which would require a revenue source. Several bills hinged on the Legislature doing its job regarding revenues. Assemblywoman Kirkpatrick said she had spoken to many state employees, and most employees understood that the Legislature was attempting to make long-term increases. She would, therefore, support A.B. 436 knowing that all state employees would benefit from COLAs.

Assemblyman Armstrong commented that the budget for the upcoming biennium was tight, and he did not think the Legislature could fulfill the promise to state employees by eliminating the longevity pay. He believed it would be much easier to continue funding longevity pay rather than open the budget again. Assemblyman Armstrong said the request for state employees was somewhat disingenuous by presenting employees with a plan that required a budgeted revenue source of over \$50 million.

Assemblyman Edwards said that having learned the plight of state employees over the past several years and how employees had sacrificed for the state, he felt something should be done for those employees. Assemblyman Edwards believed that longevity pay was promised to employees, and they were told that longevity pay would eventually be reinstated; he felt the Legislature could locate a revenue source. He was not inclined to simply eliminate longevity pay before reviewing the budget for additional revenue; therefore, he would attempt to locate a revenue source for longevity pay and the COLAs for state employees. Even if revenue could not be found to continue longevity pay, Assemblyman Edwards felt an effort should be made to locate revenue to continue both longevity pay and COLAs for state employees.

Assemblywoman Carlton remembered that during the joint meeting of the Assembly Ways and Means and the Senate Finance Committees, the actual dollars for longevity pay were eliminated, and there was little concern voiced at that time. However, today it appeared that there were some concerns, even though the Committees voted to eliminate the funding from the budget, which was somewhat confusing.

Assemblywoman Carlton stated the Committee had already voted to eliminate the funding for longevity pay, and the discussions regarding cost of living adjustments (COLAs) for state employees were very serious, and she trusted the legislators who were involved in those discussions. The Committee should remember that a percentage of pay for a senior employee would be a larger amount because there were many employees at the top of their pay grade after several years on the job. Rather than longevity pay, Assemblywoman Carlton said the percentage increase on current pay grades would have a greater effect on the employees' monthly budgets.

Assemblywoman Carlton said she understood the policy behind eliminating an outdated method of compensating employees, and she had faith that the Legislature would stand behind its word in working toward percentage increases that she believed were more equitable.

Chair Anderson echoed the comments made by Assemblywoman Carlton; he noted that the staff and legislators had researched the background and history of state employee raises to determine the cost of reinstating the raises going forward. He indicated that COLA increases would restore state employee pay to the 2009 level prior to the many budget cuts.

ASSEMBLYMAN HAMBRICK MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 436 AS AMENDED.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION PASSED. (Assemblymen Armstrong, Edwards, and Titus voted no. Assemblywoman Benitez-Thompson was not present for the vote.)

Assembly Bill 438: Makes an appropriation to the Division of Forestry of the State Department of Conservation and Natural Resources for certain costs related to the Intergovernmental All-Risk Fire Management Program of the Division. (BDR S-1220)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Assembly Bill (A.B.) 438 was heard by the Committee on March 26, 2015. The bill provided an appropriation that was included The Executive Budget for \$259,928 to the Division of Forestry, State Department of Conservation and Natural Resources, for the Intergovernmental All-Risk Fire Management Program for the Public Employees' Retirement System (PERS) retirement buyouts of two employees. As part of the agreement in the dissolution of the all-risk fire districts, the Division was required to pay the PERS retirement buyouts for those employees who were close to retirement and were not subsequently employed by the counties.

Ms. Jones indicated the buyout had been completed for the Elko employee; however, at the time of the hearing, it was not yet certain that a buyout for a second state employee who was employed by the Clark County Fire Protection District would be needed. The Clark County Board of Commissioners approved the resolution at its March 17, 2015, meeting to dissolve the all-risk fire district, thereby assuming responsibility for that area. The dissolution of the Clark County Mount Charleston Fire District was expected to take effect on July 1, 2015, and the one eligible employee had elected to take the buyout.

Ms. Jones stated that Fiscal Analysis Division staff received an email on May 18, 2015, that included the final amount calculated for the buyout of that employee; therefore, the request in A.B. 438 could be reduced by \$4,113 to \$255,815. Ms. Jones said Fiscal Analysis Division staff would work with the Legal Division of the Legislative Counsel Bureau on the amendment to reduce the amount of the appropriation in the bill.

ASSEMBLYWOMAN DICKMAN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 438 AS AMENDED.

ASSEMBLYMAN EDWARDS SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Benitez-Thompson was not present for the vote.)

Assembly Bill 470: Revises provisions governing the base for allocating costs of the Division of Human Resource Management of the Department of Administration to state agencies. (BDR 23-1156)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Assembly Bill (A.B.) 470 was heard by the Committee on March 31, 2015. The bill revised the provisions governing the base for allocating costs of the Division of Human Resource Management, Department of Administration, to state agencies.

Ms. Jones said the Department of Administration indicated that the proposed change would allow the Department to evaluate the allocation of the costs to support the agencies on a position basis rather than on a gross salary basis. The Department indicated that might be a more equitable methodology because the current method required an assessment against salaries of higher-compensated employees to pay a larger portion of the costs to operate the agencies than the assessment against lower-compensated employees. However, said Ms. Jones, the costs associated with administering responsibilities associated with human resources management were generally consistent for all positions.

Ms. Jones reported that in response to questions from the Committee, the Department completed an analysis regarding the effect of the change in the methodology from gross salaries to position count, and had that change been in place for the current budget cycle, it would have resulted in a State General Fund savings of approximately \$32,000 per year, using current salary and position count numbers.

Information regarding the effect on the various agencies was provided to Committee members in April 2015, and Fiscal Analysis Division staff noted that the changes in methodology would not affect the budget as approved by the Assembly Committee on Ways and Means and the Senate Committee on Finance for the 2015-2017 biennium. If A.B. 470 was passed and approved, the Department indicated a revised assessment methodology might be presented to the 2017 Legislature for the 2017-2019 biennial budget.

ASSEMBLYMAN KIRNER MOVED TO DO PASS
ASSEMBLY BILL 470.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Benitez-Thompson was not present for the vote.)

Assembly Bill 221 (1st Reprint): Revises provisions relating to data concerning pupils. (BDR 34-147)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Assembly Bill (A.B.) 221 (1st Reprint) was heard by the Committee on May 19, 2015. The bill revised provisions governing the collection, maintenance, use, and security of data collection concerning public school pupils. The bill also added related reporting requirements.

Ms. Jones indicated that a conceptual mock-up had been presented earlier to the Committee that amended language to allow for the commercialized use of information in certain instances, such as school pictures and college recruitment. The privacy of the student's data would be protected by the contracts with those entities. Mr. Jones noted that the school districts supported A.B. 221 (R1), and there had been substantial testimony in support of the bill at the hearing on May 19, 2015.

Ms. Jones indicated that decision unit Enhancement (E) 229 in budget account (BA) 2716 for the Department of Education was requested prior to the bill being introduced, and that decision unit was approved at a joint meeting of Assembly Committee on Ways and Means and the Senate Committee on Finance on May 12, 2015, which included an allocation of \$250,000 per fiscal year for data privacy and security testing. Therefore, there was no additional fiscal effect noted in the bill beyond the amount that was already approved in the budget.

ASSEMBLYWOMAN DICKMAN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 221 (1ST REPRINT) AS AMENDED.

ASSEMBLYMAN EDWARDS SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Benitez-Thompson was
not present for the vote.)

Chair Anderson stated there were two bills heard today that that could be
considered for passage, Senate Bill 471 and Senate Bill 472 (R1). The Chair
called for a motion to suspend Rule No. 57.

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

ASSEMBLYMAN KIRNER SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Benitez-Thompson was
not present for the vote.)

**Senate Bill 471: Revises provisions governing payments from the State
Retirees' Health and Welfare Benefits Fund made on behalf of certain
retired persons. (BDR 23-1178)**

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division,
Legislative Counsel Bureau, stated that Senate Bill (S.B.) 471 was heard earlier
today by the Committee. The bill would require a subsidy payment to state
employees who might have other retirement medical benefits, such as the
TRICARE program. The amounts to initiate the subsidy were included in the
budget approved by the Assembly Committee on Ways and Means and the
Senate Committee on Finance in budget account (BA) 1338, decision unit
Enhancement (E) 276. The amount of the appropriation was \$1,013,693 in the
first year of the biennium and \$1,051,734 in the second year to provide life
insurance and health reimbursement arrangement (HRA) benefits to those
members who were retiring from state service and were also eligible for benefits
through the TRICARE program.

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS
SENATE BILL 471.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Benitez-Thompson was not present for the vote.)

Senate Bill 472 (1st Reprint): Revises provisions governing the eligibility of state officers and employees for health benefits. (BDR 23-1193)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Senate Bill (S.B.) 472 (1st Reprint) was heard earlier today. The bill revised the waiting period for new employees to enroll in health insurance to comply with the federal Affordable Care Act (ACA). The funding was included in the budget for the Public Employees' Benefits Program (PEPB). The costs associated with the revision of the waiting period were included in budget account (BA) 1338, decision unit Maintenance (M) 501. The amounts were revised during the budget process to \$222,590 in the first year of the biennium.

ASSEMBLYMAN KIRNER MOVED TO DO PASS SENATE BILL 472 (1ST REPRINT).

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Benitez-Thompson was not present for the vote.)

Chair Anderson opened public comment, and there was no public comment to come before the Committee. The Chair adjourned the meeting at 9:55 a.m.

RESPECTFULLY SUBMITTED:

Carol Thomsen
Committee Secretary

APPROVED BY:

Assemblyman Paul Anderson, Chair

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Ways and Means

Date: May 21, 2015

Time of Meeting: 8:18 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 430	C	Assemblywoman Titus	Background of NRS 532.220
A.B. 430	D	Edwin D. James, P.E., Carson Water Subconservancy	Letter dated April 24, 2015 in support of <u>A.B. 430</u>
A.B. 430	E	Ron Penrose, P.E., Carson- Truckee Water Conservancy District	Letter dated April 20, 2015, in support of <u>A.B. 430</u>
A.B. 430	F	Rob Holley, Dayton Valley Conservation District	Position Paper regarding <u>A.B. 430</u> and photographs, dated May 20, 2015.
A.B. 430	G	Mike Hayes, Coordinator, Carson Valley Conservancy District	Photographs of various materials in river channels.
S.B. 428(R1)	H	David Prather, Deputy Administrator, Division of Forestry	Power Point presentation in support of <u>S.B 428 (R1)</u>
A.B. 436	I	Cindy Jones, Assembly Fiscal Analyst, LCB	Proposed amendment