

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

**Seventy-Third Session  
May 31, 2005**

The Committee on Ways and Means was called to order at 8:11 a.m., on Tuesday, May 31, 2005. Chairman Morse Arberry Jr. presided in Room 3137 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Mr. Morse Arberry Jr., Chairman  
Ms. Chris Giunchigliani, Vice Chairwoman  
Mr. Mo Denis  
Mrs. Heidi S. Gansert  
Mr. Lynn Hettrick  
Mr. Joseph M. Hogan  
Mrs. Ellen Koivisto  
Ms. Sheila Leslie  
Mr. John Marvel  
Ms. Kathy McClain  
Mr. Richard Perkins  
Mr. Bob Seale  
Mrs. Debbie Smith  
Ms. Valerie Weber

**COMMITTEE MEMBERS ABSENT:**

None

**STAFF MEMBERS PRESENT:**

Mark Stevens, Assembly Fiscal Analyst  
Lila Clark, Committee Attaché  
Anne Bowen, Committee Attaché

**Senate Bill 156 (1st Reprint): Encourages establishment of program of agronomy, horticulture, landscape ecology, and design and plant sciences within College of Agriculture of University of Nevada, Reno. (BDR S-823)**

Senator John Lee, District 1, introduced himself and said that for the preceding two years a group consisting of over 40 representatives of Nevada's grain industry, Department of Agriculture, students at the Community College and the University System had been meeting to determine requirements necessary to implement a four-year degree program in agronomy, horticulture, landscape ecology, design, and plant science. Senator Lee explained that the bill would provide a partnership between the existing two-year horticulture degree program at the Community College of Southern Nevada and the University of Nevada, Reno.

Senator Lee said that the green industry in Nevada, which included landscape services, golf courses, nurseries, and hotel properties, generated over \$750 million dollars in direct sales each year and approximately 15,000 jobs requiring the expertise and training that the degree program would offer. He said approximately 120 new jobs per year requiring the bachelor of science degree in horticulture and plant sciences were expected to become available in Nevada. Senator Lee said that the jobs were currently being filled by out-of-state graduates and they could be filled with in-state graduates with the establishment of the bachelor of science degree program. In addition, Nevada's crop industry generated \$250 million market value and the horticulture and commodity organizations had expressed a critical need for outreach services and research support in areas of plant disease, pests, plant breeding, and lower water use turf grass.

Senator Lee said the bill represented an effort to develop a degree program that the University of Nevada, Reno, and the Community College could work together on but in order to get into the University System one had to get on the list of areas that the University wanted to work on. Senator Lee said the industry came to him outside of the University because they could not get on the University's list for consideration of new programs. He said members of the industry asked him to propose the bill and let people know it was a program very badly needed in Nevada. Senator Lee said he knew he did not currently have the support and cooperation of the University System but in the next session of the Legislature he would like to have the program discussed. He said he was putting together a letter that would encourage the Board of Regents to establish the program, offer a bachelor's degree in the areas, and submit the letter to the 74th Session of the Legislature in 2007. He said he was asking for an opportunity to have the people who worked in the industries that used landscape ecology and plant science to have an opportunity to have the degree offered in southern Nevada.

Senator Lee said someone from the University of Nevada, Reno, a land grant college, could be located in an office in southern Nevada and students could attend the first two years at the Community College and two years at the University of Nevada, Reno, in southern Nevada. Senator Lee said that the biggest need for the program was in southern Nevada. He added that the Western Nevada Community College in Carson City was also researching a similar program.

Senator Lee said the bill would ask the University of Nevada to consider establishing a program of agronomy, horticulture, landscape ecology, design, and plant sciences within the College of Agriculture of the University of Nevada, Reno.

Dick Post, Professor Emeritus, University of Nevada, Reno, said he prepared the feasibility study for the project and he wanted to echo the words of Senator Lee saying the study was needed. He said one of the interesting things about the project was that it would do away with the duplication of facilities and that was often a problem when new programs and degrees were instituted where new labs and new classrooms would be needed. He said the program would utilize the facilities that were vacant during the daytime because most of the Community College classes were taught in the evening.

Mr. Marvel asked if xeriscape landscaping would be taught in the proposed program. Senator Lee said proper xeriscaping techniques would be taught.

Mr. Seale asked if the fiscal note had been removed from the bill. Senator Lee said the fiscal note had been removed and the bill was now a recommendation to establish the program. He said it was the intent to build the Cooperative Extension Service up to where it had been approximately ten years before.

Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation, said he supported S.B. 156 and had worked with Senator Lee on the bill. He said he would have liked to have had the original bill be considered by the Committee but he believed the bill, as it was before the Committee, was a good starting point in moving forward toward putting in place the infrastructure needed for the College of Agriculture at the University of Nevada, Reno.

Nick Pearson, retired State Director, State Department of Conservation and Natural Resources, said that prior to his retirement state agencies and federal agencies reviewed what types of employees were needed in the agencies and often looked but could not find the types of expertise the program would supply. He said his experience was that if employees were hired that had not grown up in Nevada they did not stay in Nevada. He said that by hiring Nevada residents they would stay on staff and benefit the state.

Mr. Pearson said that for the prior seven years he had been on the college advisory board at the University of Nevada, Reno, and had seen the need for a program such as what was being proposed. He said the College of Agriculture had indicated in 2002 and 2004 that the program was in its strategic plan. He added that presently there was no research being done in the area of plant sciences.

Mr. Pearson said the program would also provide some crossover benefits. By hiring professors in those areas there would be benefits to other areas of the agriculture industry such as the garlic, alfalfa, potato, and other industries.

There being no further testimony, Chairman Arberry closed the hearing on S.B. 156 and opened the hearing on S.B. 404.

**Senate Bill 404 (1st Reprint): Creates Commission on Educational Excellence.**  
**(BDR 34-1365)**

Ken Lange, Executive Director, Nevada State Education Association (NSEA), said he signed in on the sign-up sheet as being neutral on the bill but he was not neutral on his feelings about the amount of funds proposed in the bill. He said the funding was an appropriate amount and was necessary to provide for mediation and innovative programs. He said he had some concerns, however, about the implementation.

Mr. Lange said he was very concerned that no provisions had been made to address directing resources to grades 7 through 12. He said he understood the Governor's position that intervention should begin early to achieve a higher degree of success but there were programs and students in those grades who needed additional support. Mr. Lange said he was aware that the \$14 million in the budget for remediation was "still alive and active" and there had been some discussion about directing that funding specifically to grades 7 through 12 as a potential compromise.

Mr. Lange said he believed that using the school improvement planning process was absolutely one of the best ways to identify elements of the school environment that would lead to increased academic achievement. He offered the caveat that the planning process must be inclusive and comprehensive. It

should not only include the instructional personnel of the school but the education support professionals who helped to support the instructional process. He said the goal setting in the process must be high enough to make a difference but not so high as to be unattainable. Mr. Lange said a characteristic of the teaching population was that teachers set high goals for themselves and high goals for their students. He said some effort would need to be made to identify what was appropriate and attainable.

Mr. Lange said he also believed that further discussion was warranted about the role of a separate commission with fiscal authority to direct money to individual schools. He said he liked the idea but recognized that the commission would be taking fiscal authority to direct funds beyond what the State Board of Education and local school board trustees would do. Mr. Lange said NSEA had long supported specific direction of resources to those schools and students most in need and believed that S.B. 404 represented a good start to the discussion of how much and through what means the funds would be directed.

Mr. Seale asked what the fiscal note on the bill was. Mr. Lange said the cost would be \$50 million each year of the biennium, for a total of \$100 million.

John Gwaltney, President, Nevada State Board of Education, submitted [Exhibit B](#), "Resolution of the Nevada State Board of Education, Nevada State Board for Occupational Education." He said the resolution had been passed by the State Board of Education and it requested that the Committee seriously look at the issue of the creation of the Commission on Educational Excellence. He said it was clear through the resolution that at previous times the Legislature had given the responsibility for improving public education to the State Board of Education. Mr. Gwaltney said the State Board believed very strongly in passing the resolution in order to convey their concerns to the Committee directly concerning an activity that had taken place.

Mr. Gwaltney said he had spent a great deal of time thinking about how to share the concerns of the State Board with the Committee. Mr. Gwaltney said that the Superintendent of Instruction position had been "carved up in a rather demotic fashion" over the preceding few years by being put into or supervising a number of commissions and organizations across the state. Mr. Gwaltney said the resolution clearly stated that at that time public education had been dissected to the point of providing danger in management of the resources that were being allocated by the Legislature. He said that with that in mind he wanted to suggest that currently there were at least 11 organizations that were involved in the management of public education in the state from academic standards to the technology commission to even his distinguished colleagues at the University who were in charge of training public school teachers. Mr. Gwaltney said that all those different organizations were, in his opinion, functioning for the best of public education. However, they were not well coordinated. He said the subdivision of those organizations, in his opinion and the opinion of his colleagues, was lessening the effect that the Legislature had through the expenditure of funding.

Mr. Gwaltney said he wanted to make it clear, without question, that he was indicating to the Committee that the State Board of Education was not in favor of the creation of an additional commission to be added to those that already existed that were managing some portion of public education and the expenditures. He said the state public education system currently consumed one-third of all the dollars the Legislature spent.

Mr. Gwaltney next made the point that the staff of the Department of Education and the members of the State Board of Education currently understood and worked with the school improvement programs and the superintendents' school improvement programs and believed that their expertise and institutional knowledge was available to do the best job possible.

Mr. Gwaltney closed his comments to the Committee by saying that the State Board believed that the monies were necessary because there were currently approximately 120 schools on the "need to improve" list. He said that in the next year 60 to 90 schools would probably be added to the list. Mr. Gwaltney said in the year after that there would probably be between 50 to 80 schools added to the list. Mr. Gwaltney said "There was a train wreck already in the tunnel. This train wreck needs to be addressed and seriously thought about." He said he applauded the Governor and the Legislature for taking steps and he personally believed very strongly and his colleagues believed that the funds could be better utilized by not further splintering the impact to public education in Nevada. Mr. Gwaltney asked the Committee to consider amending S.B. 404 to exclude the creation of a Commission on Excellence. He said he believed in excellence but he believed it could be better done by the organization that currently existed.

Mr. Marvel asked if Mr. Gwaltney had brought his concerns to the attention of the Senate and Mr. Gwaltney said the concerns and the resolution had been presented to the Senate although he had not testified personally. Mr. Gwaltney said there had been a fairly strong feeling among several Senators on the Senate Finance Committee against the establishment of the committee and the vote was 14 to 5 on the bill. He said that in the Senate there was a strong feeling that creating another commission was a mistake.

Lisa Foster, Deputy Chief of Staff, Office of the Governor, said she believed everyone wanted the same end result, whether that was Mr. Gwaltney talking about the school board, Senators that might not have wanted the commission as it had been proposed, or members of the Assembly who wanted innovative programs. Ms. Foster said that when the Governor made his State of the State speech, he referred to a school that had created a Saturday reading program and that creative program was what had made the difference in that school. She said the Governor wanted to fund a program that would give schools a way to be creative and to look at their particular issues and receive funding to resolve those issues so they could move forward.

Ms. Foster said when the list of schools on the failing or watch lists, approximately 221, was reviewed, it was obvious that Nevada should do something to address those failing schools. She said current programs were not working. She said the state should address the problem of school performance not just because of the No Child Left Behind law and its potential to drain dollars from the public schools but because of the children who were suffering as a result. She said there were children who needed innovative, creative programs that would move performance ahead.

Ms. Foster said the basic tenets of S.B. 404 were:

- Each school had a unique set of issues related to performance and each knew best how to fix its own problems.
- Principals needed a source of funding to create a program they knew would work or to copy a successful existing program.

- Educators experienced in moving schools off of failing and watch lists must be empowered to help the state put the \$100 million to best use.

Ms. Foster said that to avoid being “stuck” with only prescribed programs and to allow schools the power and flexibility to be innovative, someone needed to be in charge of making those funding decisions. She said the Governor had created the commission described in S.B. 404 which would be successful in bringing schools off failure and watch lists. Ms. Foster said that none of the current commissions, in the opinion of the Governor, had the ability to do that.

Ms. Foster said she believed the Legislature had a great idea when it began requiring schools to analyze their unique performance issues and report them on the school improvement plan. She said that had been a remarkable change in how education was handled in Nevada. She said S.B. 404 would bring the plans to life by funding them. Ms. Foster said that as discussions continued on full-day kindergarten, innovation, and remediation, it was important to remember that everyone wanted to accomplish the same goal and that was to move schools forward by providing a source of funding that allowed for a way to be creative and a way to fund the school improvement plans. She said the exciting thing about S.B. 404 was that it recognized that all schools and not all school populations were created equal. What improved performance in one school might be a waste of money in another school. She said there was a great opportunity to effect the performance of the schools and she hoped that everyone could continue to work together in the final hours of the Legislature to make the best use of the dollars.

Mr. Marvel asked Ms. Foster to explain how the funds would be spent. Ms. Foster said the plan was to empower a commission to look at school improvement plans and the commission would review the plans if the school wanted the plan funded and determine which plans were truly viable. Ms. Foster said the plans were all in place for how the money would be spent. That could include all-day kindergarten, remedial reading programs, math tutors, or English language learner programs. She reiterated that the existing school improvement plans would be used to determine how the funds would be spent.

Mr. Marvel asked if the Department of Education would need additional positions if the bill was passed. Ms. Foster replied that the Department had requested one staff position to deal with implementation of the school improvement plans.

Mr. Marvel asked if the funding for the position at the Department of Education would come from the \$100 million. Ms. Foster answered that the source of funding for the position had not been discussed although it would be an option to take the funding from the \$100 million. She said the Governor believed it would be wise to have a person dedicated to implementing the program.

Mr. Denis asked why S.B. 404 did not deal with grades 7 through 12. Ms. Foster said that initially \$100 million was discussed for grades kindergarten through 6 and then as the staff of the Governor’s Office met with representatives from the Legislative Counsel Bureau, the Nevada State Education Association, and school district officials, it was decided that it would be a good idea to keep the \$100 million for grades kindergarten through 6 and take the current remediation program, \$13.5 million, and dedicate that to grades 7 through 12. She said those grades would be addressed through the budget as it already existed.

Mr. Hogan asked if the commission would have the authority to overrule or disapprove the plan of any school submitted to it for review. Ms. Foster responded that the commission would be able to review the plan and determine if it was a viable way to improve school performance. The commission could determine which programs to fund.

Dr. Keith Rheault, Superintendent of Public Instruction, Department of Education, said that when the Governor first looked at improving the remediation programs in the state he asked the Department of Education for some input on the old remediation plans. The Department gave the Governor the following recommendations:

- Reduce the bureaucracy. He said the Legislature had been providing approximately \$13 million per year for school remediation but part of the problem was that the money was not distributed to schools until January of the school year. The reason was that previous legislation required that the Department of Education meet with the Budget Office and staff of the Legislative Counsel Bureau to review each application and all three had to come to an agreement. Once an agreement was reached on the funding the plan went to the Board of Examiners for approval and then to the Committee on Interim Finance. He said that after it was approved by Interim Finance the sub-grants were issued in January. Dr. Rheault said the proposed bill would make the process much easier.
- Make the program more flexible. He said previous remediation money could only be used for specific programs on a list of programs that were proven successful. He said the list would continue to be maintained but it did not provide for flexibility. The old program allowed for the purchase of a math or English program but did not allow for the hiring of tutors or spend extra days on the weekend or offer full-day kindergarten.
- Add additional funding. He said the bill called for \$50 million per year.

Dr. Rheault said whether S.B. 404 or A.B. 525 was enacted the Department of Education staff, who worked with School Improvement Title I, No Child Left Behind, would be doing the bulk of the work putting together the information for whoever had the final say in approving the school district plans. Dr. Rheault said that the concepts put forward by the Department of Education were all included in S.B. 404.

Mr. Denis asked if no commission was created and instead the funds were administered by the State Board of Education, he wondered if the State Board would be able to accomplish the same things as a commission would. Dr. Rheault said it had not yet been spelled out how that would work but he believed additional meetings of the State Board of Education would be required. He said the Board currently met approximately ten times per year and he believed that in early summer 2005 through September 2005 someone would need to spend a great deal of time preparing, mailing, and reviewing the 200 to 300 applications. Then decisions would have to be made on the applications based on the criteria set. Dr. Rheault said that once the program was established and in place it would become routine grant approval. He pointed out that the Department of Education staff approved \$400 million in federal grants each year and the Department had an effective process in place.

Craig Kadlub, Clark County School District, said the District supported S.B. 404 and believed the need was evident and the bill provided resources and presented a structure for allocation that considered the unique needs of each school. He

said the bill would provide a program to get at the heart of academic improvement.

There being no further testimony on S.B. 404, Chairman Arberry closed the hearing and opened the hearing on S.B. 479.

**Senate Bill 479 (1st Reprint): Makes various changes to provisions governing health insurance coverage for public personnel. (BDR 23-609)**

P. Forrest Thorne, Executive Officer, Public Employees' Benefits Program (PEBP), said PEBP supported S.B. 479, however, it had been amended in the Assembly Committee on Government Affairs with amendment number 912. He said PEBP opposed the amendment for the following reasons:

- In Section 1 the creation of a special account in the Fund to Stabilize the Operation of State Government would utilize only non-federal funds for future shortfalls. The federal fund portion of any monies in excess of required reserves was returned to the federal government. In addition, the required reserves were not defined and the excess must be deposited at least quarterly. During the normal pattern of claims payments that procedure would cause unnecessary deposits and corresponding refunds to the federal government in the first half of a plan year and funding shortfalls in the last half of a plan year.
- Section 2 required local governments to use partial commingling of claims experience for Medicare retirees by a formula that might or might not be actuarially sound. That requirement would have an unknown fiscal impact on the local governments.
- Section 4 would require the PEBP to use partial commingling of claims experience for Medicare retirees by that same formula. That requirement would be contrary to the full commingling used in closing the PEBP budget and it would have a fiscal impact considerably more than the \$7.5 million cost that had been presented for segregating the Medicare retirees. Mr. Thorne said that would increase the cost to the state and to active and non-Medicare retirees. It would also require recalculating the PEBP budget and developing new active and retiree subsidy rates. That recalculation would have an impact on all budgets with personnel.
- Section 5 would make the PEBP subject to the provisions of Title 57, the insurance statutes, with the exception of the premium tax, which would require the PEBP to provide full coordination of benefits for Medicare retirees at an annual cost of \$12 to \$18 million. That would increase the cost to the state and to active employees and non-Medicare retirees while providing better benefits only to Medicare retirees. Mr. Thorne said that would also require recalculating the PEBP budget and developing new active and retiree subsidy rates which would also impact all budgets with personnel. In addition to the fiscal impact it would place the PEBP, a self-funded benefit plan, under a statutory scheme that was designed to regulate private insurance carriers. He said that self-funded benefit plans, whether public or private, were governed by federal law and concern had been expressed by some local governments that the action would create a precedent that might bring their self-funded benefit plans under the same regulatory scheme.
- Section 8 would eliminate the Board's discretion in approving the departure of a group of 300 people. Mr. Thorne said the Board was



adamantly opposed to the remaining participants having to pay more contributions so a group of 300 could leave the program. In addition, the amendment subjected the Board's decisions on groups of 300 applications to judicial review. That would be contrary to the PEBP's exemption from judicial review of contested decisions as provided in NRS 233B.039, subsection 2.

Mr. Thorne stated that the PEBP was "ok" with the language in the amendment on page 9, lines 14 through 16, and on page 10, lines 7 through 16.

Chairman Arberry asked what the effect would be on the PEBP if the bill did not pass. Mr. Thorne said there would be a minimal effect. He said there were two clarifications of statute that the PEBP was trying to put into place although a "work around" had been developed by regulation.

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said that it was obvious that if the bill passed in its present form it would undo what had been input into the budget system for rates for the next biennium. He said if it was the Committee's desire to process the bill it could take "a couple of weeks" to recalculate the group insurance rates for state employees if those sections of the bill were not amended.

Ms. McClain said she personally liked the provisions of S.B. 479 and wondered if the effective date could be amended so that it would not affect the budget for the upcoming biennium. Ms. McClain said the Medicare retirees needed to be un-commingled and that argument would come up again in the 2007 Session of the Legislature if it was not handled in the current session.

Martin Bibb, Retired Public Employees of Nevada (RPEN), said RPEN had some concerns with the status of the program as well as what the future held for the program. He said that on the issue of commingling, which had been addressed by Mr. Thorne, it was not as clear-cut as it could be. Mr. Bibb said that in his most recent appearances before the Committee on Ways and Means as well as the Senate Finance Committee, there was not full understanding of exactly how the commingling was to be done. Mr. Bibb said that RPEN recognized that the budget could not be undone and recalculated at the end of the legislative session but also believed that the matter needed a great deal of attention. He said the simple fact was that in the previous four or five months there had been meetings of the PEBP Board as well as legislative meetings that had created some concern. Mr. Bibb said some of those meetings involved dramatic changes in proposed funding for the plan from one month to the next. He said a "huge" amount of instability had plagued the plan for a long period of time. He said it was a plan that had gone from being millions of dollars "in the hole" to a point where there was an additional \$47 million of proposed funding that had been directed to other budgetary areas and concerns of the Committee and state. Mr. Bibb said RPEN believed that type of volatility was something that needed to be addressed.

Mr. Bibb said that in 2001 the Committee on Ways and Means issued a Letter of Intent that dealt with the question of Medicare carve out. He said at that time the Committee made its views clear but the issue was back again and termed a maintenance of benefits but had been described by the plan's representatives as a Medicare carve out. Mr. Bibb said if the maintenance of benefits was a Medicare carve out it should be called a Medicare carve out. He said he did not believe the plan's actions were consistent with the Letter of Intent that had been issued by the Committee. Mr. Bibb told the Committee that RPEN believed a clarifying Letter of Intent with specific direction would be

highly appropriate in trying to address the issues of the plan over the immediate issue of closing the upcoming biennium budget.

Jim Richardson, Nevada Faculty Alliance, made the suggestion that the Committee consider dealing with parts of the bill that would affect the budget. He said he understood the Committee's dilemma but there were important considerations in the bill. Mr. Richardson said there had been much deliberation in the Assembly Government Affairs Committee on the issue and it was obvious that the issue would not go away and the 2007 Legislature would face the issues again.

Mr. Richardson said there had been a pledge made on the record by Michael D. Hillerby, Chief of Staff, Office of the Governor, that a serious Executive Branch study of the PEBP would be completed in the interim and the A.C.R. 10 Committee could also address some of the issues.

Mr. Richardson said he wanted to register a strong concern regarding the commingling issue. He said there were some housekeeping items in the bill; it started out as the PEBP Board bill and it "now looks like a very large Christmas tree" because many things had been added to the bill. Mr. Richardson said one of the items added to the bill had to do with commingling and he reminded the Committee that it had spoken to that issue four years prior in a Letter of Intent. He said the Committee could speak to the issue again although the budget had been built in a certain way but as Ms. McClain had suggested, if the Committee desired it could issue a policy statement about whether or not Medicare retirees should be commingled with everyone else and make the effective date two years hence and serve as policy guidance for any study that would take place in the interim. Mr. Richardson urged the Committee to consider that issue as a policy matter. He said the bill could be stripped to things that directly impacted the budget for the 2005-07 biennium and the bill could be used to make a policy statement on that very important issue.

Roger K. Maillard, State of Nevada Employees Association, AFSCME/Retirees Chapter, spoke in support of the amendment to provide oversight of the program by the Insurance Division. He said he had been attending PEBP Board meetings for three years and he described the PEBP as "Mr. Toad's wild ride" because it was constantly changing and there were things that had occurred over the years and recently that would not have been allowed by the *Nevada Revised Statutes* if the program was regulated by the Insurance Division, like any other insurance program. Mr. Maillard said the program needed to be "fixed" and it had been discussed for years. He said one of the problems was that there was very little regulation such as the regulation that was provided to others in the insurance industry.

Nancy Howard, Nevada League of Cities and Municipalities, said she understood the intent of the section of the bill that would allow commingling or partial commingling of the retirees insurance premiums but she had some concern with the language that had been drafted. She said many local government insurance plans were fully funded, especially smaller funds, and putting restrictions into the bill on how the rates were to be established might harm local governments' ability to get an insurer to write a policy. She said she did not know if that would be the case but she wanted to raise the concern. Ms. Howard said self-insured plans would have more flexibility in how rates were to be established than a fully-funded plan.

Ms. Howard said that over the prior legislative interim she had served as the Advisory Chair to the A.C.R. 10 Committee and she suggested that some of the items should continue to be studied as part of the focus of the study group.

There being no further testimony on S.B. 479, Chairman Arberry closed the hearing on S.B. 479 and opened the hearing on S.B. 510.

**Senate Bill 510: Makes appropriation for expenses relating to arbitration associated with design and construction of Southern Nevada Veterans' Home. (BDR S-1461)**

Evan R. Dale, Deputy Manager, Administration and Finance, State Public Works Board, said S.B. 510 was a request for a one-time appropriation to support arbitration costs associated with the design and construction of the Southern Nevada Veterans' Home. He said the case had gone to mediation and that failed so now the Board was required to go to arbitration and the funding would support expert witness and arbitrator costs associated with that process.

Mr. Marvel asked if the state would win the case. Mr. Dale said the Board would do the best that it could and believed it had a very strong case. He said mediation had broken down because the Board did not want to "cave in" to what the other side asked for and the Board's counsel believed it had a very strong case and the staff at the Public Works Board felt the same.

Mr. Marvel asked how the amount of funds needed had been calculated. Mr. Dale explained how he had calculated the amount of funds requested in the bill. He said he anticipated the arbitration to last five weeks and that the state's share of the arbitration cost would be \$36,000. Mr. Dale said the expert witness in the case provided an estimate that to support the arbitration and go through the process would require approximately \$550,000. Mr. Dale said he added a 15 percent contingency which amounted to \$87,900 in case the arbitration ran longer than expected. He said the total added up to \$673,900.

Mr. Marvel asked if any reversion was anticipated. Mr. Dale said that when the arbitration was over any money not used would be reverted and the bill would sunset after one year.

Mr. Marvel asked if additional funding would be needed and Mr. Dale said that was a very speculative question but he hoped not.

Mr. Hettrick said that five weeks arbitration at \$500,000 equaled \$100,000 per week and Mr. Hettrick commented that for that amount of money the state "better win." He said that was a great deal of money for a consultant and he wondered about the state's chances of winning the case. Mr. Hettrick commented that it might be "cheaper" to lose the case.

Mr. Dale responded that the state was being sued for \$15 million and if the state chose not to fight the case that would be the amount the state could lose. He said that when the Lied Library went to arbitration the cost to support that was between \$700,000 and \$800,000.

Mr. Hogan asked how the Public Works Board would have acquired funding for the costs of the case if the Legislature had not been in session. Mr. Dale said that if the Legislature was not in session the Board would have gone before the Interim Finance Committee and asked for an allocation from the Contingency Fund.

Mr. Marvel asked if the state was counter-suing in the case and what did the state stand to gain if it prevailed. Mr. Dale said the Board was counter-suing for the amount of costs to finish the Southern Nevada Veterans' Home. He said the Board terminated the contractor for failure to complete the project. In doing so, the Board held the retention on their contract plus a little bit more. That money was used to complete the project and that was the basis for the counter-claim of approximately \$1.8 million.

There being no further testimony on S.B. 510, Chairman Arberry closed the hearing on S.B. 510 and opened the hearing on S.B. 310.

**Senate Bill 310 (2nd Reprint): Establishes provisions relating to promotion of safety of pedestrians. (BDR 43-290)**

Senator Dennis Nolan, District 9, said there was a fiscal note still attached to S.B. 310 although there had been a number of amendments made to the bill to remove the fiscal note. He said the bill would address the issue of traffic safety and the number of pedestrian-related deaths. Senator Nolan said that the *Review Journal* reported in December 2004 that a national study had reported that southern Nevada had 2.74 walking deaths per 100,000 residents and the national average was 1.68. He said the Las Vegas pedestrian accident rate was topped only by the rate in Tampa, Florida. Senator Nolan said that meant that Las Vegas was the worst place to be a pedestrian and had the highest pedestrian fatality rates in the nation and not all of them were tourist related. He said most of the deaths were occurring in the growth areas of the city. Senator Nolan said a large part of that was because the city was growing so fast that infrastructure systems were not being developed effectively enough to protect pedestrians. He said a week did not go by without reports in the press regarding a pedestrian accident.

Senator Nolan stated that the bill addressed what had been an increasingly growing complaint among citizens and that was a lack of responsiveness by local government when they complained about dangerous intersections and street or road conditions. Senator Nolan said he had been contacted by a school principal who said that youngsters were being run over in front of a new high school because of a terrible road design and three youngsters had been hit by cars in the two months the school had been open. Senator Nolan said he went to look at the problem and saw a student bolt across the street where there was no crosswalk and the student got hit by a car. He said the cars were moving at approximately 50 miles per hour but the student rolled across the hood of a car and kept running. Senator Nolan said the principal told him that the incident was typical of what happened daily and other students had been hit since then. He said he contacted the Department of Public Works who said the problem would be added to their study list and the study would take six months. Senator Nolan said temporary crosswalks and flashing lights were needed immediately.

Senator Nolan discussed a terrible accident that had occurred in southern Nevada where people had complained about the intersection at Hualapai and Desert Inn for months and nothing was done. He said it was an enormous intersection, the stop signs were insufficient, and a woman and her children entered the intersection legally and another woman in a sport utility vehicle broadsided the car and killed the woman's daughter and permanently damaged her son. Almost immediately after the accident, four-way, large stop signs were placed at the intersection. He said that was something that should have been done a long time prior to the accident based on the number of complaints that had been registered.

Senator Nolan said the bill would establish some certain time deadlines so that if a high frequency of accidents or complaints took place the problem would be studied and if it was determined that the intersection did have hazardous conditions there would be a certain time in which to take action to remediate the problem in a temporary and later on a permanent capacity. There was also a provision that dealt with persons who had multiple accidents. Senator Nolan said there were inattentive drivers who had hit more than one pedestrian and the bill would put a law into effect that dealt with that issue. The bill would provide for persons with multiple citations to perform public service.

Mr. Marvel asked who would pay for such items as flashing lights and crosswalks. Senator Nolan said the Public Works Departments of the various municipalities would complete the work. He said they would have to perform the work anyway but the bill would provide for the necessary work to be done in a more timely fashion.

Mr. Marvel asked if the bill was an unfunded mandate. Senator Nolan said it might be construed as an unfunded mandate but the point was really to correct situations before accidents occurred. Senator Nolan said that if there were several accidents at a certain intersection there should be a study done in a reasonable amount of time and timely action taken.

Ms. Weber asked if Senator Nolan knew about how pedestrian patterns flowed around brand-new schools. She said that the intersections around Spring Valley High School had problems and there had been a proposal to install a signal but there were two or three occasions where there was no bid to install the signal so the students were still at risk.

Senator Nolan responded that Spring Valley High School was the school he had referred to earlier. He said the principal had been urging that remediation be done to prevent accidents. He said that there were clearly some errors made in the design of ingress and egress at the school. He reiterated that he had seen a student hit in front of Spring Valley High School.

Ms. Weber asked if traffic pattern planning was part of the design of schools. She said that after a school was open the traffic patterns would be changed from what they were before a school was built.

Senator Nolan said that municipalities tried to anticipate those situations and "sometimes they got it right and sometimes they missed it by a mile." He said that in the case of Spring Valley High School they had really missed it and he believed the remediation should be done before a student was killed. Senator Nolan said there had been "a half-dozen" students hit and the county had yet to erect any type of temporary or permanent lights even after they had been prompted to do so. He said the problem was not just about one school but was a significant traffic safety issue.

Mr. Denis asked if a "reasonable amount of time" was specified in the bill. Senator Nolan said the bill required municipalities to gather statistics on accidents. He said many municipalities were keeping statistics but not communicating with different response agencies. He said the bill defined response agencies as the emergency responders. He said the Departments of Public Works also kept some statistics but the information was not shared. He said the bill required that the accident information be reviewed at least quarterly and if, based on the data, there was an unusual number of accidents it would have to be determined if there was an engineering error or other problem.

Senator Nolan said the bill also required that an investigation would have to be completed if there were an unusual number of complaints from citizens and he described the time frames set in the bill to remediate problem areas. He said the bill would specify that the problem would have to be corrected in the six months it had previously taken to study the problem.

Mr. Denis commented that the bill called for the establishment of a website. Senator Nolan pointed out that the bill provided for work to be done within the limits of available time, money, and staff. He said Clark County would have a difficult time proving it did not have available time, money, and staff.

There being no further testimony on S.B. 310, Chairman Arberry closed the hearing and opened the hearing on S.B. 511.

**Senate Bill 511: Makes supplemental appropriation to Department of Education for signing bonuses for teachers. (BDR S-1464)**

Dr. Keith Rheault, Superintendent of Public Instruction, Department of Education, said that for the preceding four years the state had funded signing bonuses for new teachers at approximately \$5 million per year and was allowed to carry the funding forward from year to year. He said that for FY2005 the Department carried forward \$5.4 million and the final count of new teachers hired was recently completed and there were 218 teachers who could not be paid the \$2,000 signing bonus. Dr. Rheault said teachers were eligible for the funding after they had taught 30 days. He said new teachers were hired year-round in Clark County and other districts as new schools came online.

Dr. Rheault said school districts were not required to provide a bonus and it would treat all new teachers hired equally. He said the budget for the 2005-07 biennium was increased to \$6 million per year and he believed that would cover the new teachers for the future and the bill would cover the bonuses for the current year.

Chairman Arberry asked if the incentive program worked well. Dr. Rheault said it was the one incentive program that all the districts described as most effective. He said the Department had done a survey that asked if the teachers were staying in their jobs and of the 2,300 new teachers hired the preceding year 10 percent had left but normally within the first three years 50 percent of the teachers left. He said he believed those statistics showed the program worked and was helpful in recruiting, particularly for those teachers right out of college who might have moving or other expenses.

Chairman Arberry asked if exit polling was done when teachers left their positions. Dr. Rheault said the Department did not have exit polling but had been working with the school districts to finalize a standard exit poll that could be used in all districts. He said that had been spearheaded through a national Governor's Association grant that the Department had received. He said Clark County led the way and he hoped to have information from that soon.

Mr. Marvel asked if teachers had to stay employed for a specific length of time before qualifying to receive the signing bonus. Dr. Rheault said that when the incentive was funded in 2001 it did have a two-year requirement and that was dropped. Currently there was no requirement and once teachers had taught 30 days they were eligible for the \$2,000.

Mr. Marvel asked if a payback was required if the teacher left. Dr. Rheault said there was no payback required.

Mrs. Smith said that the recruiters for school districts believed the program was valuable and necessary to recruit when they were in fierce competition with other districts who might be offering very significant signing bonuses and other kinds of incentives to attract teachers.

There being no further testimony on S.B. 511, Chairman Arberry closed the hearing and opened the hearing on S.B. 512.

**Senate Bill 512: Makes supplemental appropriation to Department of Human Resources for support of Nevada Medicaid Health Care Financing and Policy and Nevada Check Up Program. (BDR S-1467)**

Charles Duarte, Administrator, Division of Health Care Financing and Policy, said that S.B. 512 requested a supplemental appropriation for the Medicaid and Nevada Check Up programs. He said the bill would provide additional funding for the programs through fiscal year 2005 in the amounts of \$22,771,000 for Medicaid and \$773,000 for Nevada Check Up. Some of the reasons for the funding need were quicker claims payment turnaround, claims catch-up from the 2004 system startup, and the increasing costs per eligible person particularly for the aged, blind, and disabled. Mr. Duarte said the program was currently in a cash deficit, approximately \$5.9 million deficit in cash, and while there were anticipated revenues projected he did not believe that would take the program through the end of the fiscal year and probably leave approximately 2 weeks of claims payment runs unpaid in the current fiscal year. He said many providers depended upon the weekly paychecks and the agency would like not to disrupt their revenue streams.

There being no further testimony on S.B. 512, Chairman Arberry closed the hearing and opened the hearing on S.B. 514.

**Senate Bill 514: Revises provisions governing annual assessment of hospitals for support of Bureau for Hospital Patients within Office for Consumer Health Assistance. (BDR 18-1463)**

Andrew Clinger, Deputy Director, Budget Division, Department of Administration, said S.B. 514 would adjust the assessment that the Office for Consumer Health Assistance was charging each hospital. He said that currently that assessment was a fixed amount and the bill would allow the amount to be reduced to reduce the reserves in the account.

There being no further testimony on S.B. 514, Chairman Arberry closed the hearing and after a break, opened the hearing on S.B. 311.

**Senate Bill 311: Revises provisions relating to reimbursement for legislators for travel and other expenses during legislative session. (BDR 17-742)**

Mr. Stevens said S.B. 311 had been passed out of Committee a few days before and there was a provision in the bill that he wanted to discuss with the Committee. Mr. Stevens provided the Committee with Exhibit C, Amendment No. 1115, and said Section 2, page 5, line 18, had been amended and that had not been specifically discussed when the bill was before the Committee and he did not want the amendment to be processed before the Committee had an opportunity to see the amendment and approve it. He said the amendment could be changed if the Committee wanted it changed.

Ms. Giunchigliani said the amendment would be effective in the current session of the Legislature and she did not feel comfortable with the amendment unless the Committee was comfortable with it as that was not the way the motion she had made was worded.

Mr. Stevens said that if the Committee believed the amendment was appropriate he would take it to the Assembly Floor for amendment. If the Committee was not comfortable with the amendment he would have the amendment rewritten.

Ms. McClain asked if there was another provision in the bill for a special session of the Legislature.

Ms. Giunchigliani stated there was a provision for a special session and she had not made an amendment on that.

Mrs. Gansert said the intent of the bill was to cover the current session and she thought the amendment was a good amendment.

Chairman Arberry asked Mr. Stevens to proceed with the amendment, closed the hearing on S.B. 311, and opened the hearing on S.B. 96.

**Senate Bill 96 (1st Reprint): Makes appropriation to Office of Governor for contractor to update State's Energy Assurance Plan. (BDR S-1206)**

Mr. Stevens said the Committee had heard testimony on S.B. 96 the prior day. He said there was a \$125,000 one-shot appropriation built into The Executive Budget to update the Energy Plan. He said that had been amended to \$31,250 and the Committee needed to determine if it wanted to approve the one-shot appropriation in the reduced amount.

ASSEMBLYMAN HETTRICK MOVED TO DO PASS S.B. 96.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

MOTION CARRIED. (Ms. Leslie and Mr. Perkins were not present for the vote.)

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**Senate Bill 187: Revises provisions relating to payment of per diem and travel expenses for members of Advisory Committee on Traumatic Brain Injuries. (BDR 38-686)**

Mr. Stevens advised the Committee that it had heard testimony on the bill approximately ten days ago. It provided for payment of per diem and travel expenses for members of the Advisory Committee on Traumatic Brain Injuries. He said there was a fiscal note attached to the bill of approximately \$4,000 of General Funds. He said the agency reported that it had received some federal funds that would pay for the expenses so if the Committee was so inclined, it could pass the bill and have the expenses provided for with federal funds.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO DO PASS S.B. 187.

ASSEMBLYMAN DENIS SECONDED THE MOTION.



MOTION CARRIED. (Ms. Leslie and Mr. Perkins were not present for the vote.)

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**Senate Bill 510: Makes appropriation for expenses relating to arbitration associated with design and construction of Southern Nevada Veterans' Home. (BDR S-1461)**

Mr. Stevens said that S.B. 510 had been heard by the Committee earlier in the day. He said it was a \$673,900 one-shot appropriation to the Public Works Board for arbitration expenses related to the design and construction of the Southern Nevada Veterans' Home. He said the appropriation was not included in The Executive Budget.

Ms. Giunchigliani said she was not present for the earlier testimony on the bill and she asked if the state would have to pay for the arbitration. She asked what the \$673,900 would be used for.

Mr. Hettrick explained that the funds were for the consultant and costs and it was a \$15 million lawsuit that should be defended. Mr. Hettrick added that the Lied Library arbitration cost approximately \$800,000 for the consultant and the costs were "apparently in line" with what the state had paid before. He said if the state did not defend its position it could be found at fault and the arbitration process was necessary to get to the next step in the lawsuit. Mr. Hettrick stated that the state had counter-sued and that as much as he did not like it, he believed the arbitration should be funded.

Mr. Hogan said he believed that it was necessary to present a substantial legal case with all the costs that would be entailed or the case would be surrendered and the state could be forced to pay a \$15 million judgment.

Mr. Seale wondered why the state was in so many lawsuits on the construction of new buildings.

ASSEMBLYMAN HOGAN MOVED TO DO PASS S.B. 510.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

THE MOTION CARRIED. (Ms. Leslie and Mr. Perkins were not present for the vote.)

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**Senate Bill 511: Makes supplemental appropriation to Department of Education for signing bonuses for teachers. (BDR S-1464)**

Mr. Stevens said the bill was a supplemental appropriation for teachers' signing bonuses and was not included in The Executive Budget.

ASSEMBLYWOMAN SMITH MOVED TO DO PASS S.B. 511.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

MOTION CARRIED. (Ms. Leslie and Mr. Perkins were not present for the vote.)

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**Senate Bill 512: Makes supplemental appropriation to Department of Human Resources for support of Nevada Medicaid Health Care Financing and Policy and Nevada Check Up Program. (BDR S-1467)**

Mr. Stevens said testimony on S.B. 512 had been heard earlier in the meeting. It was a request for a supplemental appropriation for Medicaid and Nevada Check Up. He said staff of the Fiscal Division of the Legislative Counsel Bureau had reviewed the numbers and determined the funds were needed to fund the programs through the end of the fiscal year.

ASSEMBLYMAN MARVEL MOVED TO DO PASS S.B. 512.

There was no second to the motion and Chairman Arberry held the bill.

**Senate Bill 485 (1st Reprint): Temporarily extends prospective expiration of provisions governing allowances paid by Public Employees' Retirement System to certain re-employed retired public employees and continues experience study. (BDR S-1107)**

Mr. Stevens said the Committee had heard testimony on the bill the day before. He said the bill would extend the critical labor shortage issue so that someone who was retired and whose position was deemed by the hiring authority to be a critical labor shortage could also retain their retirement benefits as well as their salary. The bill would extend the program until 2009 and the Public Employees' Retirement System had indicated that at that time they would have had an opportunity to ascertain the costs of the program and a decision could be made on whether or not to make the program permanent.

ASSEMBLYMAN HETTRICK MOVED TO DO PASS S.B. 485.

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

MOTION CARRIED. (Ms. Leslie was not present for the vote.)

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**Assembly Bill 563: Establishes Commission to Review the Compensation of Legislators. (BDR 23-1433)**

Mr. Stevens said the bill would establish a Commission to Review the Compensation of Legislators.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO DO PASS A.B. 563.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

MOTION CARRIED. (Ms. Leslie was not present for the vote.)

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Ms. Giunchigliani informed the Committee she had been reading two bills at the same time and had made an error. She said she wanted to rescind the action just taken by the Committee.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO RESCIND THE ACTION JUST TAKEN ON A.B. 563.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

MOTION CARRIED. (Ms. Leslie not present for the vote.)

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Ms. Giunchigliani said a reference to the consumer price index should be added to the bill and then she realized she was thinking of another bill.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO DO PASS A.B. 563.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

MOTION CARRIED. (Ms. Leslie was not present for the vote.)

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There being no further business, Chairman Arberry adjourned the meeting at 10:34 a.m.

RESPECTFULLY SUBMITTED:

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Lila Clark  
Committee Attaché

APPROVED BY:

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Assemblyman Morse Arberry Jr., Chairman

DATE: \_\_\_\_\_

**EXHIBITS**

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

**Date: May 31, 2005**

**Time of Meeting: 8:00 a.m.**

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B	John Gwaltney	Resolution of the Nevada State Board of Education, Nevada State Board for Occupational Education
	C	Mark Stevens	Amendment No. 1115