

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE
Seventy-fourth Session
May 22, 2007**

The Senate Committee on Finance was called to order by Chair William J. Raggio at 4:20 p.m. on Tuesday, May 22, 2007, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator William J. Raggio, Chair
Senator Bob Beers, Vice Chair
Senator Dean A. Rhoads
Senator Barbara K. Cegavske
Senator Bob Coffin
Senator Dina Titus
Senator Bernice Mathews

GUEST LEGISLATORS PRESENT:

Senator Joseph J. Heck, Clark County Senatorial District No. 5

STAFF MEMBERS PRESENT:

Gary L. Ghiggeri, Senate Fiscal Analyst
Michael Bohling, Committee Secretary

OTHERS PRESENT:

Mendy K. Elliot, Director, Department of Business and Industry
Alvin J. Hicks, Independent Gaming Operators Coalition
Richard H. Wells, President, Wells Gaming Research
Barbara Smith Campbell, Independent Gaming Operators
Dennis K. Neilander, Chair, State Gaming Control Board
James D. Earl, Executive Director, Chinese Workers' Museum of America
Khan Tung, Chinese Workers Museum of America
Rick Gimlin, Deputy Director, State Department of Agriculture
Donna Rise, Director, State Department of Agriculture
Michael Fischer, Director, Department of Cultural Affairs
Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of Education
Al Bellister, Nevada State Education Association
Daniel J. Klaich, Executive Vice Chancellor and Chief Operating Officer, System Administration Office, Nevada System of Higher Education

CHAIR RAGGIO:

We will open the hearing on Senate Bill (S.B.) 476.

SENATE BILL 476 (1st Reprint): Makes various changes concerning business practices. (BDR 54-1389)

SENATOR JOSEPH J. HECK (Clark County Senatorial District No. 5):

The amendment being brought forth ([Exhibit C](#)) does two things: it makes the program self supporting so the fiscal note is removed, and it removes provisions that would have given the Commissioner of the Division of Financial Institutions the ability to waive requirements regarding bonding and insurance.

CHAIR RAGGIO:

What does the amendment specifically do?

SENATOR HECK:

Section 21 amends S.B. 476 to make the program self sufficient by allowing for licensure fees and removing the fiscal note. Section 49 removes the ability for the Commissioner to waive the requirements.

CHAIR RAGGIO:

The amendment also deletes section 17. What is the significance of that change?

SENATOR HECK:

That relates to the Commissioner's ability to waive bonding and insurance requirements.

MENDY K. ELLIOT (Director, Department of Business and Industry):

With the amendments that have been added, I have created a pro forma statement ([Exhibit D](#)). I based the number on 100 qualified intermediaries that will be affected. This is a conservative number. We will be north of that number. We will be hiring two staff members to roll this program out. If we see there will be additional numbers higher than 100 or 150, we will hire an additional person. Based on the total estimated revenues, it is \$156,000 the first year. The total estimated expenditure is \$150,000. We have a surplus of approximately \$6,390. The pro forma statement was comprised of application fees, examination fees and fines for fiscal year (FY) 2007-2008 and FY 2008-2009.

CHAIR RAGGIO:

This is based on an estimate of 100 of the exchange facilitators applying for the licensure.

MS. ELLIOTT:

That is correct. If you look at the entities performing this type of transaction, we have not only the qualified intermediaries, but also attorneys, certified public accountants, title companies and trust companies. They would need to be licensed within Nevada for us to recognize them as qualified intermediaries.

SENATOR COFFIN:

This bill is a long time coming. Would we be able to increase the amount of fidelity bonds? How do we determine when the exchange facilitator would have to carry more than \$1 million?

SENATOR HECK:

This issue was discussed at length in the Senate Committee on Commerce and Labor. It was felt we had to strike a balance between when the product would become commercially unreasonable for the qualified intermediary to have to provide protection. What we were most concerned about were the individuals

who use qualified intermediaries on an infrequent basis. The minimum was to put in to safeguard the small person.

SENATOR COFFIN:

Would the consumer be able to tell how much bond a person has?

SENATOR HECK:

The bill states, that as part of disclosure in the binder, the individual who is coming to the 1031 Exchange must provide a copy of the bond and their insurance policy.

SENATOR COFFIN:

Would they have to tell them the amount of the exposure they have?

SENATOR HECK:

That is not specifically listed in the requirements. However, the bond is a per occurrence bond.

Ms. ELLIOTT:

Section 18 limits the type of investments that can participate. They need to be in a financial institution, and the individual making the investment needs to have access and understand what the investment is. We are putting those provisions in place. At Senator Heck's direction, we are putting together a Customer Bill of Rights with the industry to be given to each individual. This will be accomplished through workshops.

SENATOR COFFIN:

If the Senate Committee on Commerce and Labor is amenable to having name sponsors added to S.B. 476, I would like to be one.

SENATOR TITUS:

Is Governor Jim Gibbons all right with charging fees?

Ms. ELLIOTT:

Because it is a brand new entity and due to the \$83 million loss that happened in Las Vegas, the Governor and his staff understand this is necessary.

CHAIR RAGGIO:

[Exhibit D](#) shows license renewal fees for FY 2008-2009 at 100 for renewal for a fee of \$450. Is this in the amendment?

Ms. ELLIOTT:

The amendment says \$200 or more. This is at \$450. I looked at what I needed to do to make the bill fiscally sound. We have the ability to be flexible in our numbers. My hope is we will identify more people and be able to charge lower fees. On the other side, I am hoping we can run the program with two people to alleviate the need for us to charge a higher fee.

SENATOR COFFIN MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 476.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

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CHAIR RAGGIO:

We will open the hearing on S.B. 381. This bill was referred to this Committee because of the fiscal impact, primarily with loss of revenue.

SENATE BILL 381 (1st Reprint): Authorizes the Chairman of the State Gaming Control Board to allow abatements of certain license fees paid by certain gaming licensees. (BDR 41-1130)

ALVIN J. HICKS (Independent Gaming Operators Coalition):

I have submitted written testimony ([Exhibit E](#)). The Independent Gaming Operators Coalition's president, Ryan Sheltra, and a number of its members are in attendance at this hearing. To understand the impacts and benefits of S.B. 381, we must understand the impacts on Nevada's gaming industry that gave rise to this bill. Nevada's non-resort gaming properties are different than the high-profile gaming resorts known around the world. On a statewide basis, 208 of the 273 licensed casinos fall into the non-resort subset of the gaming community. These non-resort gaming properties are found in every county. They are as important to their local communities as the major resort properties are to Clark County. These non-resort casinos employ more than 63,000 Nevadans.

Since the current gaming tax structure was created, Nevada has lost its monopoly on gaming and is now surrounded by states and Native-American gaming operations that compete with Nevada's gaming industry. As many as ten new Native-American gaming establishments are expected to be developed north of California's Central Valley in the next five to ten years. The incentives provided by this bill will create positive economic benefits for the State that more than compensate for the temporary fiscal impacts it will create.

RICHARD H. WELLS (President, Wells Gaming Research):

Page 3 of the handout ([Exhibit F](#), original is on file in the Research Library) illustrates the growth in the gaming industry in the United States from the time Nevada adopted the current tax structure in 1963. At that time, Nevada was the only legal gaming operation in the United States. The State generated only \$250 million in total gaming revenues. Since that time, the industry has grown to a \$58 billion industry. Nevada only represents 20 percent of the total industry. Tribal casinos are located in 28 states and represent 38 percent of the total market. There are 200 Nevada-type casinos in contiguous or nearby western states. The competition has increased significantly.

CHAIR RAGGIO:

A racino is a racetrack?

MR. WELLS:

That is a dog or horse track that also has a casino. Many of the casinos only have slot machines, but they are significant. Page 4 of [Exhibit F](#) shows what has happened in California recently. That is not all that is coming from California. California can have 100,000 to 110,000 slot machines when all the new casinos are built.

Pages 5 through 9 in [Exhibit F](#) illustrate the fiscal and economic impacts the proposed amendment will have. We did a three-case analysis. The mid-case analysis shows an abatement of \$22 million per year when it begins. That abatement translates to monies the casinos will spend for capital improvements and enhancing their operations and local communities. It will result in \$36 million in economic benefits to the private sector. It will also directly contribute to creating or supporting 245 statewide jobs. One of the proposed elements is that there is a delay in the abatements so the investments have to be made two years prior to being claimed. The economic benefits start and continue for two years before any abatement can be collected by the casinos. Page 6 of [Exhibit F](#) shows for FY 2007-2008 and FY 2008-2009, there will be a \$36 million economic benefit to the local community where the investments are made yet there will be no fiscal impact until the third FY 2009-2010.

CHAIR RAGGIO:

From where did the revenue loss figure of \$21.9 million per year come?

MR. WELLS:

I estimated that in great detail by casino size and range of casinos that might participate in the program.

CHAIR RAGGIO:

Does that envision all of the casinos taking part in this?

MR. WELLS:

No, it does not. If all of the eligible casinos took part in the program, the maximum impact would be \$27.8 million. It is unlikely that would happen. The low case is \$16 million. The best range estimate for loss of revenue would be \$16 million to \$28 million. If there were a \$28 million impact, the economic benefits would be \$45 million to the local communities.

CHAIR RAGGIO:

Does S.B. 381 authorize only the abatements that are payable to the State?

MR. WELLS:

It is just the gross gaming revenue tax. It could not be used to reclaim other taxes or fees.

BARBARA SMITH CAMPBELL (Independent Gaming Operators):

The abatement proposed in S.B. 381 has a positive impact for local governments. The tax philosophy in the State of Nevada dictates most taxes, fees and revenues for local governments are controlled by legislative actions. Our smaller counties are dependent upon growth in property tax and guaranteed sales tax distributions to grow their revenues. Short of coming to the Legislature every session, local governments have to live within their means.

Page 7 in [Exhibit F](#) illustrates the change in taxable sales in the counties from FY 2004-2005 to FY 2005-2006. Over half of the counties have reflected a decline in taxable sales year after year in the area of gaming. If non-resort gaming is one of the major revenue producers for state and local governments, this graph does not bode well for smaller local governments dependent upon non-resort gaming as one of their primary economic drivers. If these declines continue, many counties are still guaranteed a minimum in sales tax distributions.

The chart on page 8 of [Exhibit F](#) illustrates a comparison of non-resort casinos employment to resort employment on the Las Vegas Strip. Look at the El Capitan in Hawthorne, Mineral County. This casino has 150 employees. If the El Capitan closed, it would have the same impact as laying off 66,000 employees on the Las Vegas Strip. These properties are significant employers in their respective counties. If we look at these trends and then mentally superimpose the "boom and bust" cycles of the Net Proceeds of Mines (NPM), it is not difficult to visualize dramatic swings from the two largest industry groups in the State upon the most sensitive of the county economies. In FY 2005-2006, the State saw declines for over half of the counties who receive NPM.

The largest potential growth area in revenue for any county is in the area of property tax. Under the new property tax cap, the fastest area for potential growth is in commercial properties that may escalate as much as 8 percent a year. Reinvestment in the commercial sector not only invigorates the industry, but it also has the potential of enhancing the property-tax payments to the counties. Investment in new machines increases the personal property tax; investment into improvements of the realty increases the taxable value of a property and has the potential to increase property-tax payments that fall under the 8-percent cap.

The abatement program proposed in S.B. 381 has the potential of stimulating a sector of the industry that is large in number but none of which are resort destinations in nature. They are major drivers of the communities in which they reside. They are good employers who provide health-insurance programs for their employees and they suffer from increased and growing competition from our neighboring states. The abatement has a triple effect. It enables small operators to reinvest in themselves, it gives revenue growth to local governments in the highest-capped segment and it may help relieve county subsidies that may grow larger if commercial properties are not kept healthy.

SENATOR COFFIN:

What is a reinvestment licensee? Does it exist anywhere else in statute?

MR. HICKS:

It is defined in the bill. The term is not defined elsewhere in statute. It is set forth in section 1, paragraph 2 of S.B. 381. It requires that the licensee must hold a non-restricted license for 16 or more slot machines and/or table games and have a gross-gaming revenue of less than \$50 million dollars in the fiscal year preceding the year for which abatements are proposed to be taken. The licensee must also provide health benefits and have 15 or more full-time employees who are paid at least an average hourly wage of 150 percent of the minimum wage.

SENATOR COFFIN:

It is a statewide bill. If a person became a reinvestment licensee, their cost of doing business would be slightly less. Is it possible to have a reinvestment licensee across the street from a non-reinvestment licensee?

MR. HICKS:

It is possible. Some of the licensees would be located in Washoe and Clark Counties. In the larger counties, the need is not as strong. The rural counties are almost all non-resort casinos.

SENATOR COFFIN:

I am troubled by that because we might have neighbors being treated differently for tax purposes.

SENATOR TITUS:

Why did you not look at readjusting the tiers that have not been changed in a long time which do not reflect the current economic situation?

MR. HICKS:

We presented the idea of changing the tiers before the last Legislative Session, and there was opposition to that idea from the resort groups. There were also concerns that it was simply a tax giveback. There were no limitations that required the beneficiary to reapply that money to the gaming industry or have any other qualifications. This bill is better than our last proposal because of those provisions.

SENATOR MATHEWS:

Will we have a public outcry because they only see that we are giving back to the gaming industry? My constituents see the casinos, listed on page 8 of [Exhibit F](#), the same as the resort casinos. In a year when we are trying to find transportation dollars and the Governor will not approve any new taxes, it is going to be hard to give the small gaming industry an abatement.

MR. HICKS:

That is the public perception of gaming. What happened to the Sundowner and the Golden Phoenix in Reno? There are many other properties that have not made it over the years. We have a contracting industry in Washoe County and in the rural counties. Clark County is a wonderful business engine, but the rest of the State is suffering.

SENATOR MATHEWS:

I regret it when a business has to close. I do not know that this is not a good program. I have no knowledge of the industry. I only know the perception of my constituents.

CHAIR RAGGIO:

I would like to hear from the Gaming Control Board concerning the fiscal impact.

DENNIS K. NEILANDER (Chair, State Gaming Control Board):

We did not prepare an official fiscal note because of the way the bill has been extended into the next biennium. We believe the total fiscal impact will be around \$22 million a year. Approximately 259 licensees will be able to take advantage of the abatement to some extent. We have not requested staff because S.B. 381 would not impact us during this biennium. If it were to become law, we would need to ensure the applicants for becoming a reinsurance licensee are qualified under the criteria of the bill, and we would need to audit against the numbers to make sure they applied the abatement. That may require us to increase staff so as not to reduce our current audit cycle.

CHAIR RAGGIO:

Section 1, subsection 7 of the bill makes the bill effective July 1. This would expire in four years. When do they get the credit?

MR. NEILANDER:

There are three triggering dates. On July 1, 2007, reinvestment licensees can begin to accumulate the credit. They could not take the credit until July 1, 2009. It would sunset on July 1, 2011.

CHAIR RAGGIO:

Is there any requirement on your part during the next biennium?

MR. NEILANDER:

I do not believe so. We may get a few applications, but there would be nothing for us to audit against because there would be no abatements being taken. If this bill were to be enacted, I would include that in the 2009 budget submission.

CHAIR RAGGIO:

When would they be making application for certification?

MR. HICKS:

The Gaming Commission will have to pass implementing regulations. Once those are done, applications would start going into the State Gaming Control Board.

CHAIR RAGGIO:

They would have to act on those at some point.

MR. NEILANDER:

When the initial applications come in, we would investigate whether they are qualified. I would use our Tax and License Division to conduct the investigation. We would charge investigative hourly fees. The investigations would not take long, but there would be some impact. Mr. Hicks indicated that to qualify, an applicant had to have less than \$50 million in gross-gaming revenue. The actual term used in the statute is gross revenue. I assume that is the total revenue.

MR. HICKS:

It is the gross revenue upon which they pay the license fee pursuant to *Nevada Revised Statutes* 463.370.

CHAIR RAGGIO:

That may need clarification.

SENATOR MATHEWS:

The bottom of the bill states there is no fiscal effect on the State. Is that true?

CHAIR RAGGIO:

How do you explain no fiscal note if there is a loss of revenue? Is that because it does not take effect until the next biennium?

MR. NEILANDER:

That is correct. There would be no effect on the General Fund until the abatements were actually taken on July 1, 2009.

SENATOR MATHEWS:

That does not mean no. There will be an effect on the State regardless of when it is.

CHAIR RAGGIO:

He is saying there is no effect in this biennium. We will close the hearing on S.B. 381 and open the hearing on S.B. 446.

SENATE BILL 446: Makes an appropriation to the Chinese Workers' Museum in Carson City for costs associated with the planning and design, and the construction and operation, of the proposed Chinese Workers' Museum of America. (BDR S-752)

JAMES D. EARL (Executive Director, Chinese Workers' Museum of America):

While researching how best to integrate the reconstruction of the historic Virginia & Truckee Railroad (V&T) into future development planning for Carson City, we learned several 40-foot shipping containers were stored at federal facilities. The containers are packed with artifacts of early Chinese life throughout Nevada recovered from archeological sites that could not be preserved in place. Unless use is made of these remnants from railroad construction crews, mining encampments, farming communities, medicine shops and community centers, they will disappear into the vast storage facilities of the Smithsonian Institution. The Chinese Workers' Museum was incorporated as a Nevada nonprofit corporation after research turned up only several small museums that focused on their local Chinese experience; none was national in scope.

According to 1870 and 1880 national census figures, one out of every four inhabitants of Carson City was Chinese. Chinese labor got the Central Pacific Railroad through the Sierra Nevada and on to Promontory Point, Utah. Chinese labor built the original V&T. Dayton's first name was Chinatown, and a Chinese-built aqueduct supplied Dayton with water through the 1970s.

The mission of the Museum is four-fold: to depict how Chinese immigrants overcame the challenges of the rugged environment of the western United States; to present artifacts and articles of cultural significance in historical perspective; to provide for and encourage the continuing study of 19th and 20th century Chinese-American domestic and international relations; and to showcase international educational and cultural events to contribute to greater American-Chinese understanding.

The Museum first came to the attention of the public on March 23, 2006, when it assisted the Virginia and Truckee Railroad Commission in a presentation to honor the Chinese construction workers who built the original V&T. The Museum arranged for the participation of Ambassador Peng Keyu, San Francisco Consul General of the People's Republic of China, and received its first cash donation from Citibank at a dinner hosted by the V&T Railroad Association.

We entered a quiet period to draft a multiyear strategic plan, obtain 501c3 status from the Internal Revenue Service, draft and translate interim bylaws describing the expectations of future museum trustees and discuss our project plans with Chinese government officials on both sides of the Pacific.

The People's Republic of China has announced its support for the Museum in formal presentations in China. We know Chinese diplomats are briefed on its significance, and we believe discussions have been held at the highest political levels. The Ministry of Culture has invited the Museum to enter into a substantive sharing agreement with it, and through it, with all museums in China. Communications with the American Association of Museums leads us to

conclude such an arrangement would be without precedent. Our initial, informal thoughts on the scope of agreement have been provided to you in a packet ([Exhibit G](#)).

The central government designated the City of Taishan as an appropriate sister city for Carson City. The underlying exchange of letters is provided in [Exhibit G](#). Taishan city officials have made it clear they look forward to mutually beneficial economic and commercial exchanges. Carson City officials are organizing an effort we believe will involve not only northern Nevada but the entire state.

Taishan is a city just southwest of Hong Kong with a population of about three million people – evenly matched with Nevada. The vast majority of early Chinese immigrants came from Taishan and the eight surrounding counties. The sons of Taishan hewed the tunnels and laid the track between here and Virginia City.

The small but respectful ceremony at the Nevada State Railroad Museum to honor Chinese railroad workers last year, and subsequent discussions with State and regional officials, may have effectively conveyed the sincerity, recognition and appreciation of many Nevadans to an extent we did not fully understand at the time.

On May 3, 2007, the Carson City Board of Supervisors unanimously adopted a resolution enabling the U.S. Department of Interior, Bureau of Land Management to make available a parcel of land within Carson City to be used for the construction of the Chinese Workers' Museum. At current prices, the 70-acre parcel has a commercial value of at least \$20 million in its present unimproved state.

The Chinese government has been looking for tangible indications of support from institutions in the United States and feels that the city's action is sufficient to support our next public event. We are planning a land-dedication ceremony in late August during the federal congressional recess.

The amount of money envisioned is modest for S.B. 446, particularly as compared with comparable one-shot appropriations proposed by the Governor. However, the funds will be put to a use critical to future fund-raising. The Museum is feasible and is moving forward. The feasibility study that will be funded by this bill is a type of document that is regarded by major corporate donors as an important outside validation.

In the past, we have estimated about \$50 million would be necessary to begin construction. Our current estimate for completion of the buildings, as depicted in [Exhibit G](#), provisioning the buildings with accurate interactive multimedia dioramas and providing a sufficient endowment, is on the order of \$350 million.

The size of the appropriation in S.B. 446 is less important than the symbol of statewide support. There is an attached draft joint resolution, on page 7 of [Exhibit G](#), that would call on Nevada companies and companies doing business in Nevada to provide financial support to the Chinese Workers' Museum and consider how their continuing support of the Museum might enhance their opportunities for trade and commerce in China.

We anticipate Museum fund-raising will begin in earnest in late fall when we lead a delegation composed of corporate sponsors to China. The purpose of the trip will be two-fold: to formalize the sister-city relationship with Taishan and to

present the Museum's plans to potential Chinese corporate donors while accompanied by our initial American corporate donors. We may also be able to formalize the Museum agreement of cooperation with China's Ministry of Culture. This project deals with a formative period in Nevada. Its dramatization of our heritage and its economic benefits will justify your continuing support.

KHAN TUNG (Chinese Workers Museum of America):
I ask for your support of S.B. 446.

SENATOR COFFIN:
What is the 19th century name for Taishan? I doubt we could find it on a 19th century map.

MR. TUNG:
We can provide you with a map.

SENATOR COFFIN:
We treated the Chinese people shamefully. We value their labor in retrospect with great horror in how they were treated.

MR. TUNG:
That is what makes humans unique. We can build on the future. We learn from the past. The importance of this Museum is that is our Nevada history. It is the makeup of our State.

SENATOR COFFIN:
There would have to be a retrospective about how the Chinese people were treated.

MR. EARL:
There will be one. I alluded to the motivation that led the Chinese people to immigrate to the United States. We will begin the Museum by telling about the opium wars and rebellions that took place. When we asked for support for this Museum from Chinese officials, a senior Chinese official responded with, "You are asking for my support to pay homage to my ancestors. How could I not give that support?"

CHAIR RAGGIO:
We will close the hearing on S.B. 446 and open the hearing on S.B. 566. I will temporarily turn the meeting over to Vice Chair Beers.

SENATE BILL 566: Makes an appropriation to the Area Health Education Center of Southern Nevada. (BDR S-1470)

SENATOR CEGAVSKE:
The Area Health Education Center of Southern Nevada is a group that sponsors the First Lady's Conference on Women's Health Issues and works through the community for child-abuse prevention. They are looking for money to help them with books, reports, vouchers and other tools that will help facilitate what they do in the community. The Area Health Education Center is statewide and has been instrumental in health-care situations for women and child-advocacy groups. They are asking for \$25,000 to help fund a program to promote and support child-abuse prevention in Nevada. It is a worthy cause.

SENATOR BEERS:

Do they have a written document to explain what they will do with the money?

SENATOR CEGAVSKE:

That was submitted to the Fiscal Analysis Division of the Legislative Counsel Bureau (LCB).

VICE CHAIR BEERS:

We will get that document from the Fiscal Analysis Division. We will close the hearing on S.B. 566 and open the hearing on Assembly Bill (A.B.) 539.

ASSEMBLY BILL 539 (1st Reprint): Makes appropriations to the State Department of Agriculture. (BDR S-1223)

RICK GIMLIN (Deputy Director, State Department of Agriculture):

This bill is a one-shot appropriation to replace equipment within the State Department of Agriculture. There are three sections to A.B. 539. Section 1, subsection 1 replaces computer equipment, two vehicles and a telephone system within the Reno and Las Vegas Administration Divisions. Section 1, subsection 2 replaces 14 odd vehicles in our Plant Industry Program. Section 1, subsection 3 replaces a truck in our Elko Animal Industry office and specialized lab equipment in our Reno and Elko laboratories within our Veterinary Medical Services Division.

There is an adjustment for final pricing of computer equipment and removal of a veterinary medical unit that was requested. We have managed to get that equipment purchased with federal funds. We were able to reduce the use of State funds by \$9,000.

DONNA RISE (Director, State Department of Agriculture):

I support A.B. 539.

VICE CHAIR BEERS:

Has staff been able to crunch the numbers?

GARY L. GHIGGERI (Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

We have looked at A.B. 539, but like other one-shot appropriations, it will reside in the Senate Committee on Finance until the education budget has been decided.

VICE CHAIR BEERS:

How much of this was approved in the budget?

MR. GIMLIN:

All of it was approved in the budget.

SENATOR BEERS:

We will close the hearing on A.B. 539, and I will turn the meeting over to Chair Raggio.

CHAIR RAGGIO:

We will open the hearing on A.B. 551.

ASSEMBLY BILL 551 (1st Reprint): Makes appropriations to the Department of Cultural Affairs. (BDR S-1211)

MICHAEL FISCHER (Director, Department of Cultural Affairs):

Section 1, subsection 1 of A.B. 551 has reduced the appropriation from \$265,678 to \$250,124 according to the LCB's new analysis from purchasing. That is a correct reflection of what computers and equipment would cost. Section 1, subsection 2 allows a new box-retrieval system. We have been using an older box-retrieval system that does not work well. This will make our Department more efficient. Section 1, subsection 3 reflects a number of purchases in the Division of Museums and History. The \$506,000 appropriation has been reduced to \$505,092 because of a donation of a slot machine to the Nevada Historical Society. Section 1, subsection 4 puts an appropriation of \$1.2 million as a line item in the budget for library collection development which reduced the appropriation in this bill to \$68,115 for remote microfilm access readers. Section 1, subsection 5 appropriates \$120,000 for the McKeen Motor Car, which is progressing extremely well.

SENATOR BEERS:

What is a box retrieval system?

MR. FISCHER:

It is located in the basement of the State Division of Library and Archives. They have a records retention schedule that allows them to get rid of some documents. However, finding documents can be somewhat difficult. When they have a request from a State agency for records, it uses a scanning system much like scanning something in a grocery store. It would note in the computer that the record was at the department, as well as when it was returned.

SENATOR BEERS:

This would serve all State agencies.

MR. FISCHER:

All agencies in the records retention business with us would be served. The State Gaming Control Board has their own system of records retention.

SENATOR BEERS:

When we do a one-shot appropriation for a group that serves General Fund and non-General Fund agencies throughout the State, is there any way to recover non-General Fund monies?

MR. GHIGGERI:

That is planned for reimbursement to the General Fund through the statewide cost allocation. They pick up some non-General Fund agencies on construction projects. This is in the budget.

MR. FISCHER:

This is all included in the *Executive Budget*.

CHAIR RAGGIO:

We will close the hearing on A.B. 551 and open the hearing on S.B. 158. There was a fiscal note when we first heard this bill from the Department of Education.

SENATE BILL 158: Establishes the Special Needs Scholarship Program.
(BDR 34-10)

MR. GHIGGERI:

I received an e-mail that indicated the fiscal note amendment eliminated the expenditures identified. That would remove the fiscal note.

CHAIR RAGGIO:

How is the scholarship program funded?

MR. GHIGGERI:

There would be no impact this biennium, but there may be an impact next biennium.

SENATOR BEERS MOVED TO DO PASS S.B. 158.

SENATOR CEGAVSKE SECONDED THE MOTION.

SENATOR TITUS:

There has to be a fiscal note. This has to have some impact on the Distributive School Account (DSA). I do not see how we can vote and close this bill when we are debating other aspects of the DSA.

MR. GHIGGERI:

The e-mail indicated if the bill were approved by the 2007 Legislature, the Department of Education will document the time spent by staff to implement the requirements of the bill during the 2008-2009 school year. Based on the amount of interest and participation in the scholarship program and the time needed by staff, the Department will consider the need for funding in the 2010-2011 budget process.

SENATOR TITUS:

That is the cost of the Department of Education to administer the program. Where is the money coming from for the scholarship?

SENATOR BEERS:

That is the DSA. The children have the same amount of money spent on them no matter where they were because they are built into the DSA.

MR. GHIGGERI:

The school does not receive funding from the DSA. If the parents elect to participate in the program, there is a possibility the students will be included in the per pupil account in the next budget

SENATOR TITUS:

This would work like a voucher. You would take the money from the DSA and give it to a private school.

MR. GHIGGERI:

I am not familiar with it.

SENATOR TITUS:

I cannot vote for it if we do not understand how it works.

KEITH RHEAULT, PH.D. (Superintendent of Public Instruction, Department of Education):

A public or private school would request to be a special needs scholarship school. The Department of Education would approve it. It would most likely be a private school. Once the school gets approved, they could accept special needs students. If a parent or guardian wants their child to attend the school, they would submit a request to the Department, and we would look at the child's Individualized Education Program (IEP) to see what needs they have. We would take the funding from the school district that would be used to pay the IEP and transfer it to the private school.

CHAIR RAGGIO:

This is similar to what is going on in the New Horizons Academy in Las Vegas.

SENATOR COFFIN:

I would be cautious about how many schools would be allowed to do this. It is possible for a school to exist that performs services the school districts do not perform. That used to be the mission of New Horizons. I want to be assured this would be the only unique situation so we do not have a sudden rush of private schools trying to qualify for this by rigging their curriculum to appear to be the unique school that New Horizon is.

DR. RHEAULT:

That is why I reexamined my original fiscal note. I had 14 schools possibly participating. After reviewing the possibility and the private schools, I have reduced the maximum to four schools that we would look at in 2009. With four schools, we could handle reviewing the applications with current staff. There are a limited number of schools that could meet the needs of special needs students.

SENATOR COFFIN:

Does this carve out a niche that is not being served by the school districts?

DR. RHEAULT:

Most of the parents of special needs students can be adequately served by the public schools. That is what the IEP does. They have carved a niche for the New Horizons Academy, but the cost is currently borne by the parent. To qualify for the scholarship, the parent would have to reenroll the child with the school district and ask for the scholarship.

SENATOR COFFIN:

What other schools might qualify?

DR. RHEAULT:

The only one I know of at this time is the New Horizons Academy. With the funding availability in this bill, new ones might be formed to meet the need.

SENATOR COFFIN:

I would not want this to transfer into the sectarian area where religious schools get involved in seeking State funds using this bill as a guise.

SENATOR BEERS:

That would violate the Constitution of the State of Nevada. It is very explicit about prohibiting public funding of religious schools.

DR. RHEAULT:

The bill says licensed private schools.

CHAIR RAGGIO:

The bill states a " ... private school that is certified by the Department pursuant to section 9 of this act."

SENATOR COFFIN:

That can be a sectarian school.

DR. RHEAULT:

It could be.

SENATOR TITUS:

Section 8 talks about schools becoming certified to be eligible to receive special needs students. The section does not say anything about the school having to have a special needs program. Another problem is that it states the program takes what it needs to educate the special needs child. It would not necessarily be the per pupil allotment, it could be open-ended.

DR. RHEAULT:

That is how I would interpret the bill. It says we are to determine a proportionate share of the cost. That could include an interpreter and special equipment. Our staff would have to look at the IEP and determine what the proportionate cost is, and whatever the IEP says is what we would have to allocate as part of the scholarship.

SENATOR TITUS:

What if the child gets a scholarship, goes to the special school, it does not work out and the child has to go back to the regular school? What happens to the money?

DR. RHEAULT:

I have not looked at that. I do not know if we would give them the full amount of the scholarship. It would probably be made in quarterly payments.

CHAIR RAGGIO:

Section 7, subsection 2, paragraph (c) of S.B. 158 states "The State Board shall adopt regulations prescribing the method for determining the proportionate cost of providing a special education to a child, based on the individualized education program of the child, who participates in the Scholarship Program for purposes of determining the amount of the scholarship for that child." Under the regulations, the program would have to be a special education program based on an IEP of the child.

SENATOR CEGAVSKE:

Section 7 states "There is hereby established the Special Needs Scholarship Program, to be administered by the Department." The State Board of Education puts in all of the questions you had. The New Horizons Academy is a unique school. It is licensed, and most private schools are not. The Education Commission of the States show on their Website, the U.S. Supreme Court ruled parents have the right to look at systems that will help their children with mental retardation, autism and other disabilities. This is an opportunity for parents to get individualized programs for their special needs child.

SENATOR TITUS:

The New Horizons Academy is a great school. If this bill were just about giving support to that school, I would be happy to support it. This bill does not say the New Horizons Academy. It opens the door. I do not think we should turn over an issue this important, going down the path of vouchers from the Legislature to a regulatory body when we are not involved in how all these decisions are going to be made.

THE MOTION CARRIED. (SENATORS COFFIN, MATHEWS AND TITUS VOTED NO.)

* * * * *

SENATOR COFFIN:

Senator Cegavske might try to get amendments on the Senate Floor to satisfy the issues. It might ensure a better change for the success of S.B. 158 in the Assembly.

CHAIR RAGGIO:

We will go to S.B. 166.

SENATE BILL 166: Requires payment of increased salaries to certain school employees holding national certification. (BDR 34-1149)

AL BELLISTER (Nevada State Education Association):

There is an amendment to S.B. 166 ([Exhibit H](#)). Since the original hearing, we have met with the school districts to alleviate their concerns. They are in support of the bill as amended. The bill is designed to attract and retain highly qualified educators. It deals with a small group of educators who have passed national board certification.

The first change from the original bill in [Exhibit H](#) is on page 2. It is necessary to change the word "teachers" to "employees" because the term "teacher" has been narrowly interpreted over the years. There is a national board certificate for school librarians, but they are not considered teachers. We have six nationally board-certified librarians who are not eligible for the 5-percent increase under our current statute.

We are adding lines 9 through 17 on page 4 of [Exhibit H](#) to include librarians. Lines 18 through 26 on page 4 of [Exhibit H](#) add language to include counselors who have passed their national board certification. It is not in statute, but we have been paying them the 5-percent increase since 2001. We are proposing to phase out or sunset the National Certified School Counselor certificate on lines 37 through 39 on page 4 of [Exhibit H](#). If a counselor is currently online for that certificate, they would have to earn it on or before July 1, 2009. After that date, the certificate would no longer be available because there is a National Board for Professional Teaching Standards certificate. That certification is more rigorous.

School psychologists are getting the 5-percent increase but are not referenced in statute so we added language on page 5 of [Exhibit H](#). Lines 23 through 45 on page 5 of [Exhibit H](#) allow audiologists, school nurses, social workers, physical therapists and occupational therapists to earn a certificate if their occupation has a national certificate. The National Board for Professional Teaching

Standards only has 24 certificates. There are other national certificates, and this bill opens the door to those employees to earn the additional 5 percent. For them to do that, we propose they go to the Professional Standards Commission. The Commission would review the certificate to determine whether it is as stringent as the certificate offered by the National Board for Professional Teaching Standards. If it is, they would be eligible for the 5-percent increase.

The effective date of the bill is July 1, 2007. The nurses, social workers and the other occupations who earn the other certificates would not be eligible to receive the additional 5 percent until FY 2009-2010. The largest fiscal impact would not be until the next biennium, but we are giving the Professional Standards Commission time to develop regulations so they can review the certificates and determine whether they are as stringent.

CHAIR RAGGIO:

There would be an additional fiscal impact on the DSA or school districts for the employees added immediately.

MR. BELLISTER:

The counselors are already receiving the 5-percent increase. The librarians are not. In discussion with the Department of Education, six librarians have earned their certificates. Those six librarians would earn approximately \$3,000 each, for a total of \$18,000 in FY 2007-2008. They would earn a total of \$18,700 in FY 2008-2009. The estimated cost for the current biennium is \$36,876.

CHAIR RAGGIO:

We need a revised fiscal note as soon as possible.

SENATOR MATHEWS:

Dr. Rheault touched on including special education teachers in this amendment.

DR. RHEAULT:

The original bill talked about adding special education teachers. That is unnecessary because there is already a national board certificate for those teachers, and they are already included in the 5-percent increase.

MR. BELLISTER:

I have provided my best estimate of the fiscal impact to the Senate Fiscal Analyst.

SENATOR COFFIN:

I thought librarians were teachers. They are required to be licensed as teachers.

MR. BELLISTER:

They are required to be licensed and they offer instruction. However, in terms of the word "teacher" in statute, they are not considered teachers. We have excluded quite a few specialty areas from bonuses and benefits because of the narrow interpretation of the term "teacher."

SENATOR COFFIN:

How long has it been defined that way?

MR. BELLISTER:

It has been that way for several biennia.

CHAIR RAGGIO:

We will close the hearing on S.B. 166 and open the hearing on S.B. 192.

SENATE BILL 192: Makes an appropriation to the Nevada System of Higher Education to fund the integration of computing resources. (BDR S-1209)

DANIEL J. KLAICH (Executive Vice Chancellor and Chief Operating Officer, System Administration Office, Nevada System of Higher Education):

I would like to make clarifications of issues that have been raised.

CHAIR RAGGIO:

Was this the \$25 million first phase, and the Nevada System of Higher Education (NSHE) was coming up with \$15 million for its resources? This is the supplement required for the first phase.

MR. KLAICH:

That is correct. At the last hearing, the Committee asked if phase one was going to cover the student services module and a data warehouse. My testimony at the time was that it would. With the trimming down of the bill pursuant to our last discussion, the \$2 million data warehouse, included in the original budget, was a warehouse that would coordinate two modules that are not being implemented at this time. The student services module has built-in warehousing procedures in the software. No additional appropriation is needed for the warehousing. This bill will help the universities and colleges bring students in, better advise them, retain them and graduate them. It provides online, 24 hours a day services that students are not getting at the universities now. We have 20-year-old legacy systems that are on the verge of no longer being supported by their vendors. We are going to have to do something sooner or later, and we have conducted a significant amount of research. We are dealing with nationally-known vendors who have successful installations of products in other states, and the program has been subject to competitive bidding.

SENATOR COFFIN:

This is our second hearing on this bill. The testimony you gave in April was that this would be the last time this was asked for. We all agreed this would be one more time because it has been done every ten years and will continue to do this every ten years. It should be built in.

MR. KLAICH:

So many things come under the category of appropriate maintenance that has not been done because of budget realities. This is one of them.

SENATOR COFFIN:

Why do you not try to do it for the next biennium?

MR. KLAICH:

I will take that under consideration.

SENATOR BEERS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 192 AND REQUIRE THE NSHE TO SPEND THE \$15 MILLION IN INSTITUTIONAL FUNDS PRIOR TO USING THE \$10 MILLION.

SENATOR RHOADS SECONDED THE MOTION.

CHAIR RAGGIO:

Mr. Klaich indicated earlier that the NSHE would utilize funding from its own sources. The motion would be that those dollars be used before the State appropriation.

MR. KLAICH:

That is not a problem. Would the Committee entertain the idea of giving us the ability to make those expenditures over a four-year period because the implementation and expenditure of the State funds could go beyond the next biennium?

SENATOR BEERS:

I will amend my motion to include that and note that is legislative intent that the NSHE can come back for an extension at the end of the four years if they need more time.

SENATOR BEERS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 192; TO REQUIRE THE NSHE TO SPEND THE \$15 MILLION IN
INSTITUTIONAL FUNDS PRIOR TO USING THE \$10 MILLION; AND TO
BE ABLE TO MAKE THOSE EXPENDITURES OVER FOUR YEARS.

SENATOR CEGAVSKE:

If there is money left over, does it revert to the General Fund or do they keep it?

SENATOR BEERS:

If the project comes in under \$25 million, we would have a reversion to the General Fund.

SENATOR CEGAVSKE:

This is something that is statewide. Will we get a report back on how this program is being implemented and how it is going?

MR. KLAICH:

Yes, you will.

SENATOR BEERS:

The Department of Corrections has pulled off a complete software system that is huge in scope and functionality and did it under budget.

SENATOR CEGAVSKE:

Are we able to pass this out without the Education First going out?

CHAIR RAGGIO:

This has to be passed over to the Assembly. It cannot be passed out of the Legislature until we have passed an education budget.

SENATOR BEERS:

It is already in the budget.

SENATOR TITUS:

I appreciate the need for this, but I will abstain from voting because we cannot decide on the education budget.

THE MOTION CARRIED. (SENATOR TITUS ABSTAINED FROM THE VOTE.)

* * * * *

SENATOR COFFIN:

Can we communicate to the NSHE that we want them to develop a cycle of renewal?

CHAIR RAGGIO:

This is the first phase of the program.

MR. KLAICH:

When we met with the Executive Vice Chancellor and the Chief Technology Officer of the California State University System, which has implemented a similar system, they advised us to do what you have been saying. If you issue a letter of intent, the message will be received.

CHAIR RAGGIO:

We will look at S.B. 437.

SENATE BILL 437 (1st Reprint): Revises provisions concerning generation and consumption of energy. (BDR 58-232)

CHAIR RAGGIO:

This bill was heard in the Senate Committee on Commerce and Labor and rereferred to this Committee because of the fiscal note.

SENATOR BEERS:

There was amendment to this bill that removed the tax incentives and relied on the green credit incentives. Is that included in this?

CHAIR RAGGIO:

I would want to make sure we are not doing the same thing we have done previously.

SENATOR BEERS:

We are not. The fiscal note summary that was distributed ([Exhibit I](#)) outlines the fiscal impact has been eliminated in the Department of Taxation. That is the area with the greatest risk. The Public Utilities Commission and the Energy Office have also had their fiscal notes eliminated by the amendment.

MR. GHIGGERI:

Following the hearing on May 15, 2007, the Fiscal Analysis Division sent out requests for revised fiscal notes. [Exhibit I](#) is a summary of the fiscal notes that were received under the original bill and the revised fiscal notes under the amendment.

CHAIR RAGGIO:

What is the significance of section 58? Is that removed in the amendment?

MR. GHIGGERI:

Section 58 is removed entirely. Sections 57 through 59 are removed entirely.

CHAIR RAGGIO:

If you removed all of those sections from the bill, what does it do?

SENATOR BEERS:

It creates a credit for electricity generated through alternative means that has market value the Legislature has created by requiring certain utilities to have the green credits. It charges each family in Nevada \$4.50 a year to encourage solar alternative energy development.

SENATOR TITUS:

That is existing prose in the bill. The bill also included provisions of my net-metering bill that were rolled into this bill. There was an amendment from the school district for a pilot project to do net metering that I would like put into this bill.

SENATOR BEERS:

In addition to the green credit concept, there was a tax abatement. That was the fiscal impact removed by the amendment.

CHAIR RAGGIO:

Where does the amendment come from?

MR. GHIGGERI:

The amendment was presented by Senator Randolph J. Townsend. Section 30 of the amended S.B. 437 provides for the renewable energy school pilot program.

CHAIR RAGGIO:

Is that still in the bill?

MR. GHIGGERI:

That is part of amendment 3934.

SENATOR BEERS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 437.

SENATOR TITUS SECONDED THE MOTION.

CHAIR RAGGIO:

Is the Committee familiar with the amendment being proposed?

SENATOR BEERS:

I am familiar enough to have made the motion.

Senate Committee on Finance
May 22, 2007
Page 23

CHAIR RAGGIO:
We will act on this tomorrow after we all have received copies of the amendment. The meeting is adjourned at 6:19 p.m.

RESPECTFULLY SUBMITTED:

Erin Miller,
Committee Secretary

APPROVED BY:

Senator William J. Raggio, Chair

DATE: _____