

**MINUTES OF THE  
SENATE COMMITTEE ON FINANCE**

**Seventy-fifth Session  
May 19, 2009**

The Senate Committee on Finance was called to order by Cochair Bernice Mathews at 08:52 a.m. on Tuesday, May 19, 2009, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, 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 Bernice Mathews, Cochair  
Senator Steven A. Horsford, Cochair  
Senator Bob Coffin  
Senator Joyce Woodhouse  
Senator William J. Raggio  
Senator Dean A. Rhoads

**COMMITTEE MEMBERS ABSENT:**

Senator Warren B. Hardy II (Excused)

**GUEST LEGISLATORS PRESENT:**

Michael A. Schneider, Clark County Senatorial District No. 11  
Assemblywoman Bonnie Parnell, Assembly District No. 40  
Assemblyman David Bobzien, Washoe County Assembly District No. 24  
Assemblywoman Barbara E. Buckley, Clark County Assembly District No. 8

**STAFF MEMBERS PRESENT:**

Gary L. Ghiggeri, Senate Fiscal Analyst  
Russell J. Guindon, Senior Deputy Fiscal Analyst  
Cynthia Clampitt, Committee Secretary

**OTHERS PRESENT:**

Scott J. Kipper, Commissioner of Insurance, Division of Insurance, Department of Business and Industry  
Bill Uffelman, President and CEO, Nevada Bankers Association  
George E. Burns, Commissioner, Financial Institutions Division, Department of Business and Industry  
Jack H. Kim, Nevada Association of Health Plans  
Jesse A. Wadhams, American Insurance Association and Nevada Independent Insurance Association  
Charles M. Benjamin, Ph.D., J.D., Director, Nevada Office, Western Resource Advocates  
Joe Johnson, Sierra Club  
Nicholas Vanderpoel, Deputy Director, Office of Energy, Governor's Office  
Dana K. Bilyeu, Executive Officer, Public Employees' Retirement System

Senate Committee on Finance  
May 19, 2009  
Page 2

Joyce Haldeman, Executive Director, Community and Government Relations,  
Clark County School District  
Dotty Merrill, Ph.D., Nevada Association of School Boards  
Keith W. Rheault, Ph.D., Superintendent of Public Instruction, Department of  
Education  
Ann Loring, Washoe County School District  
Francisco V. Aguilar, the Andre Agassi Charitable Foundation  
Daniel J. Klaich, Executive Vice Chancellor and Chief Operating Officer, Nevada  
System of Higher Education  
Andrew Clinger, Director, Department of Administration  
Sabra Smith-Newby, Director, Department of Administrative Services, Clark  
County  
Lisa A. Gianoli, Washoe County  
Stacy Shaffer, Service Employees International Union  
Robert F. Joiner, City of Sparks  
Robert Cashell, Mayor, City of Reno  
Jeff Fontaine, Executive Director, Nevada Association of Counties  
Carole Vilardo, Nevada Taxpayers' Association  
Craig Stevens, Nevada State Education Association  
Dino DiCianno, Executive Director, Department of Taxation  
Lonnie Shields, Nevada Association of School Administrators and the Clark  
County Association of School Administrators and Professional Employees  
Marvin Levitt, City of Las Vegas and City of Henderson

COCHAIR MATHEWS:

We will open the hearing on Senate Bill (S.B.) 426.

**SENATE BILL 426**: Revises provisions relating to insurance. (BDR 57-1203)

SCOTT J. KIPPER (Commissioner of Insurance, Division of Insurance, Department  
of Business and Industry):

I appear in support of S.B. 426. This bill provides an opportunity for the  
Insurance Division to move from support through the General Fund to become a  
self-funded agency. The funding would be derived from additional fees charged  
by the Division to the regulated insurance carriers, risk retention groups, captive  
insurers and insurance producers or agents.

The self-funded concept was developed in cooperation with the insurance  
industry. It is almost universally supported by the industry as an opportunity for  
them to be better regulated.

Other provisions of the bill include three federal mandates. They concern genetic  
information disclosure, Michelle's Law and mental health parity. A provision is  
included addressing counter signatures, as determined by the United States  
Court of Appeals for the Ninth Circuit.

Senate Bill 426 also includes a piece on the Federal Deposit Insurance  
Corporation (FDIC) and the Financial Institutions Division (FID) of the  
Department of Business and Industry (B&I).

SENATOR COFFIN:

Why is the language suggested by the Senate Committee not a part of this  
legislation?

MR. KIPPER:

There were a number of policy provisions withdrawn when the language of S.B. 426 was incorporated from S.B. 388. I am not sufficiently familiar with the withdrawn language to explain. There were controversial issues surrounding the area of the life settlement industry and its provisions.

One piece addresses employee leasing arrangements and the provision of health insurance under that provision. Those items were withdrawn to allow S.B. 426 to proceed.

[SENATE BILL 388 \(First Reprint\)](#): Revises provisions relating to insurance.  
(BDR 57-1131)

SENATOR COFFIN:

Were those provisions in your original bill?

MR. KIPPER:

Yes, they were.

BILL UFFELMAN (President and CEO, Nevada Bankers' Association):

We support sections 102 and 103 of S.B. 426 which the Commissioner of the FID also favors.

The provisions the Commissioner requested in S.B. 426 implement the emergency regulations established in the fall of 2008 relative to "banks that are in imminent danger of becoming otherwise insolvent." This would allow the Commissioner to intervene prior to total insolvency.

COCHAIR MATHEWS:

Will that end some of the foreclosure issues?

MR. UFFELMAN:

The reason banks are becoming insolvent is relative to the failure of residential real estate, commercial real estate and development markets. Sections 102 and 103 of the bill concern the aftermath, not the cause of these conditions.

GEORGE E. BURNS (Commissioner, Financial Institutions Division, Department of Business and Industry):

I am present to testify in support of sections 102 and 103 of S.B. 426. These sections make Emergency Regulation E001-09 relating to bank closures permanent under the *Nevada Revised Statutes* (NRS) Chapter 667. It clarifies the ability of the FID Commissioner to appoint the FDIC as receiver in all cases, and for all reasons, where the FID takes possession of, and closes, a bank. The current statute does not permit us to appoint the FDIC as receiver, except in one instance. In our current environment, the other 12 instances that have caused a bank to become insolvent are also applicable. This corrects the antiquated provisions in current statutes.

The emergency regulation which has allowed us to close five banks during the last year in an orderly and managed way is due to expire on June 23, 2009. Therefore, we requested sections 102 and 103 of S.B. 426 be included in section 106, making them effective upon passage and approval, to manage the financial crisis in an orderly public-protected manner.

JACK H. KIM (Nevada Association of Health Plans):

We have proposed an amendment for S.B. 426 ([Exhibit C](#)). There are a number of provisions in the bill related to formularies that would limit copays, deductibles and the ability to make changes in the formularies. I conferred with the proponents of the formulary sections of the bill and we have agreed to the amendment proposed in [Exhibit C](#).

If any changes are forthcoming, the amendment requires health plans to notify individuals and the prescribing physicians who have prescribed drugs related to transplants. It will allow them to make a decision of whether to remain on the brand name drug or change to a generic variety.

I talked to the parties in opposition to these provisions and all parties are in agreement with this amendment.

COCHAIR MATHEWS:

Is the intent of the amendment in [Exhibit C](#) that the drug choice outside the formulary would be left to the decision of the physician?

MR. KIM:

The formulary may change but, the specific drug prescribed is left to the discretion of the physician. Currently, under State law, the physician has the ability to specify the drug he wishes the patient to utilize and the patient would pay whatever copay and deductibles that apply.

COCHAIR MATHEWS:

Is it the intent the patient would not be removed from a specific drug without the physician's approval?

MR. KIM:

The drug choice is a decision between the physician and the patient.

JESSE A. WADHAMS (American Insurance Association and Nevada Independent Insurance Association):

We have proposed add-back amendments ([Exhibit D](#)) that were in S.B. 388 but that were not controversial. They address certain cleanup language regarding licensure in terms of a brick and mortar establishment requirement. They contain write-up issues for small-group health plans. I have previously spoken with the Insurance Commissioner regarding the amendment.

COCHAIR MATHEWS:

What is being proposed for inclusion in S.B. 426 that was previously in S.B. 388?

MR. WADHAMS:

The first addition is in NRS 683A.261 regarding a resident agent producer of insurance. The individual would be allowed to operate from locations other than a brick and mortar storefront, through use of technology such as cell phones and wireless Internet service. That is especially true for a non-resident producer of insurance who does not need the same qualifications. It does not reduce recordkeeping requirements. It removes the disparate treatment in favor of resident producers of insurance.

The changes were vetted under NRS 689C.355 by the Senate Committee on Commerce and Labor. Life insurance and other financial products offered by insurance and financial advisors would no longer be subject to an attachment by creditors.

The change under No. 3 on pages 3 and 4 of [Exhibit D](#) was proposed by the health underwriters. Senator Coffin can assist in this portion of the proposed amendments. It contains language for small group health benefit plans providing that the compensation paid to the broker must be reflective of the totality of the risk being written.

SENATOR COFFIN:

Does this amendment concern an agent who might try to adjust the premiums by changing his commissions and using desperate measures to make a sale?

MR. WADHAMS:

No, this is the reverse of what you described. The amendment specifies the compensation must be based on the total risk factors ensuring no one is excluded from the risk pool to change compensation rates.

SENATOR COFFIN:

This provision is intended to keep the consumer fully informed as to the actual cost of that particular part of the insurance product.

MR. WADHAMS:

That completes my summary of the proposed amendments in [Exhibit D](#). They have all been vetted by the policy committee. To the best of my knowledge these provisions were deemed noncontroversial.

COCHAIR MATHEWS:

Please provide amendments prior to the meeting to allow time for the Legislators to review the material.

I have provided a clarifying statement concerning transplant prescription drugs under the terms to show medical appropriateness ([Exhibit E](#)) and an amendment proposed by the Western Insurance Company ([Exhibit F](#)).

We will close the hearing on S.B. 426 at this time.

SENATOR COFFIN:

I request the Insurance Commissioner to provide me with the language removed in this legislation.

COCHAIR MATHEWS:

That language is in S.B. 388. We will open the hearing on S.B. 188.

**[SENATE BILL 188 \(1st Reprint\)](#)**: Provides for the establishment of the Solar Thermal Systems Demonstration Program. (BDR 58-379)

MICHAEL A. SCHNEIDER (Clark County Senatorial District No. 11):

The Public Utilities Commission of Nevada (PUCN) is funded by mill assessments paid by ratepayers; therefore, S.B. 188 has no General Fund impact. I have provided background materials concerning this bill ([Exhibit G](#), original is on file in the Research Library).

The PUCN can levy up to 3.5 mills, but is currently levying at 1.95 mills. It can absorb the additional expenses even with the new funding arrangements in S.B. 358.

[SENATE BILL 358 \(First Reprint\)](#): Revises provisions related to energy. (BDR 58-1146)

The fiscal note on S.B. 188 is minimal at \$24,888 for the regulation hearings. Some of those costs can be avoided by combining regulation hearings on the same day with the PUCN's other regulation hearings for other bills. The bulk of the fiscal note is to hire a part-time economist to develop hot water heater regulations. The regulations are a one-time proceeding. The PUCN can hire a consultant for this purpose and will not need to indefinitely employ a staff economist. The PUCN has hired consultants on other projects.

Funds otherwise spent on fuel for hot water heaters will be avoided by enactment of S.B. 188. It saves ratepayers money over the lifetime of the hot water units.

Senate Bill 188 will help create more green installation jobs in Nevada's new energy economy and may foster the growth of a local manufacturing component as well. The less natural gas burned to heat hot water, the less emissions will be in the air. Clark County had an ozone alert last summer and is preparing for a similar announcement this summer. These emissions pose health hazards to the young and elderly. Everything we can do to utilize cleaner energy will help protect the health of our citizens.

In my Senate Committee on Energy, Infrastructure and Transportation (EIT) meetings each morning we relate news concerning the world of energy. Today, President Barack Obama is announcing that all vehicles need to reach 35 miles per gallon (MPG) and reduce emissions by 30 percent by the year 2016. Senate Bill 188 is another part of those overall efforts.

COCHAIR MATHEWS:

As part of those efforts cars need to be large enough for all Americans.

SENATOR SCHNEIDER:

I heard a radio story this morning concerning car batteries and how they will be a large component in achieving 35 MPG. There is a battery manufacturer who is applying for a federal grant because his batteries will be the primary component for this effort. Cars will be hybrids powered by both batteries and gasoline.

CHARLES M. BENJAMIN PH.D., J.D. (Director, Nevada Office, Western Resource Advocates):

The Western Resource Advocates (WRA) is a not-for-profit environmental advocacy group that operates in the intermountain west promoting sustainable energy, land and water issues. My particular specialty is energy issues.

I am appearing in strong support of S.B. 188, which is a visionary measure. Nevada has a large sun resource while it does not produce any natural gas. It makes sense to use the power of the sun to heat our water and protect our air. This is a demonstration program that will be cost-effective as a way to prove these kinds of systems can be used in Nevada in the future.

SENATOR COFFIN:

I hope this is a bill to use solar energy in Nevada and to ensure what is produced here stays in Nevada. I oppose energy created in Nevada and then shipped out to the highest bidder, leaving nothing for Nevada residents. Are we seeing a change with S.B. 188?

DR. BENJAMIN:

These would be systems that could be placed on the roof of a home or business. It would be used to heat the home and the hot water. It makes sense.

SENATOR COFFIN:

This is the only bill I have seen so far that can accomplish that.

DR. BENJAMIN:

There are other bills proposed that will incentivize more renewable energy in Nevada. That is one of the goals of the WRA. Nevada has unparalleled renewable energy sources. There are several challenges with regard to transmission, existing facilities, wind and solar energy. Those can be overcome. The other question concerns California and the prices they are willing to pay for energy. Over time, these challenges will be overcome. The kinds of legislation being considered in this Legislative Session will be the key to making that happen in the future.

JOE JOHNSON (Sierra Club):

We support S.B. 188. This is a helpful bill in establishment of customer use of solar energy. We have, for a long time, had statutes and regulations that allow solar thermal hot water heating which gave a partial enactment of incentives for renewable energy credits. Unfortunately, in the present economic environment, there is not a ready market for renewable energy credit, particularly at the small scale earned by individual customers. This bill will incentivize placement of solar thermal hot water heating in homes and businesses.

COCHAIR MATHEWS:

In the late 1970s and early 1980s, the community college was researching use of solar energy. How is this different from what was being done then?

MR. JOHNSON:

The technology is similar. Much testing and certification is being accomplished. In the 1980s, small residential project credits were based on tax incentives. Many of the units installed were not functional. Within my neighborhood, built in the 1970s, there are four homes with operating solar thermal hot water heaters from that era. Some of the testifiers in the policy committee were active in installation of those units. This bill is a way to jump-start that industry with a near net-present value.

COCHAIR MATHEWS:

Considering five-year increments, how long would it take to pay for a solar system?

MR. JOHNSON:

The payback period is close to five years. I have not run the numbers recently with the new federal tax incentives. I estimate payback would occur between four and six years. The systems are now being discounted as well.

SENATOR COFFIN:

I installed a simple solar direct-transfer water unit for my swimming pool approximately five years ago. This year is the payback year for me. The increases in natural gas prices reduced the time needed for me to achieve the break-even point.

DR. BENJAMIN:

The solar units should improve the value of homes because of the longevity of the units.

SENATOR HORSFORD MOVED TO DO PASS S.B. 188 RECOGNIZING THE FISCAL NOTE IS COVERED BY THE MILL ASSESSMENT FEE IN PLACE; THEREFORE THERE IS NO IMPACT TO THE GENERAL FUND.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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COCHAIR MATHEWS:

We will open the hearing on S.B. 242.

**[SENATE BILL 242 \(1st Reprint\)](#)**: Enacts provisions relating to energy efficiency, renewable energy and building construction. (BDR 58-378)

SENATOR SCHNEIDER:

I have provided the Committee with proposed Amendment No. 5056 to S.B. 242 dated May 15, 2009, ([Exhibit H](#)). The EIT Committee has emphasized the importance of energy conservation since the beginning of the 2009 Session, for both economic and environmental impacts. This concentration is a carry-forward from past Sessions under Senator Townsend's leadership. Energy conservation and efficiency cannot be stressed enough. The cheapest and cleanest wattage of energy is one that is never produced.

Senate Bill 242 contains several important energy efficient elements. Section 1 authorizes the Office of Energy to adopt minimum efficiency standards for appliances that have not already been rated under federal statutes. That provision has been deleted from the bill to prevent a fiscal note.

Buildings in the United States account for approximately 40 percent of energy usage. According to the U.S. Energy Information Agency, homes and commercial buildings utilize 71 percent of the electricity provided in the U.S. and that percentage is expected to increase to 75 percent by 2025. Most carbon emissions from the electricity occur during electricity production. Electric generation produces bioproducts such as nitrogen oxide, oxides of sulfur and mercury that pollute the environment, in addition to consuming large amounts of water. Water is a particularly scarce and important resource in Nevada. With threats of global warming, and continuing drought in the West, it is obvious why energy efficiency in buildings matters. Nevada has one of the highest per capita energy-consumption rates in the West.

I have provided a chart in the background materials for this bill ([Exhibit I](#)) that indicates this information. It is coupled with another chart showing the average retail price of electricity in the same selection of western states. These higher consumption rates are not completely our fault. Unlike California, which has a milder climate due to its proximity to the Pacific Ocean, Nevada has a desert climate. It takes more energy to heat and cool our buildings than it does in California. Nevada has a large tourist population which contributes significantly to the electricity consumption.

Nevertheless, whatever the cause of our high consumption rate, there are things that can be done to reduce consumption and reap all the economic and environmental benefits from lower consumption.

Section 2 of S.B. 242 was originally designed to provide much-needed funding for the Office of Energy. We have great expectations from Dr. Hatice Geçol and her staff. However, because of the existence of S.B. 358, I recommend deletion of section 2 of S.B. 242 due to the restructuring of the Office of Energy outlined in that legislation. Those amendments make section 2 of S.B. 242 unnecessary. [Exhibit H](#) reflects this deleted language.

Section 4 requires residential builders, who have projects of 25 homes or more, to offer renewable energy and energy-efficiency upgrades. The requirement is only a requirement to offer the upgrades as an option, not a mandate to include them in the buildings.

Perhaps some would say, "Just leave the market alone and it will take care of itself." I will read a short portion from a report concerning Nevada by the Geothermal Energy Association.

Most agree that it takes more than a geothermal resource to successfully develop a direct-use project. First, you need public awareness of geothermal as an energy alternative. Most agree that a lack of awareness of how to utilize the resource prevents the public from clamoring for more development.

This same sentiment is applicable to energy efficiency and conservation products in a residence. If the public is not aware of what is available, they will not clamor for more.

Mr. Les Lazareck, representing the Home Energy Connection, who has testified before the EIT Committee, shared a PowerPoint presentation from a recent seminar he attended. A slide from that presentation is included on page 4 of [Exhibit I](#) showing 86 percent of Americans would choose one home over another based on energy efficiency. Also, 78 percent of Americans who recently purchased property say nobody talked to them about energy efficiency. That is a huge number to whom energy efficiency was not mentioned.

We recognize how powerful a stimulus these energy features can be when we see that new homes selling today are those with solar systems. We need to broaden that appeal to all types of renewable energy and energy efficiency products. To do so, individuals need to be aware of the options available.

The mock-up amendment in [Exhibit H](#) reflects the deletion of section 4, subsection 3, of S.B. 242. This subsection required the Office of Energy to

adopt regulations to establish minimum standards for these energy-efficiency options. It is not necessary to have separate regulations. We will monitor the building industry during the interim and if they, as expected, will offer good-faith options, there is no need for regulations.

Section 5 of S.B. 242 requires builders who finance homes to use mortgage lending programs, often called "green mortgage options." This is not a mandate that orders developers to use green mortgages, they must simply offer it. It is hoped that this will cause the public to clamor for more. As the Legislature works to heal the mortgage industry in Nevada, we want to emerge stronger and better and as a force for "greening" our buildings. Energy efficiency mortgages are available in Nevada through the U.S. Department of Housing and Urban Development, the Federal Housing Administration, Fannie Mae and Freddie Mac. Companies like Countrywide, Wachovia and Citibank also offer them.

The energy-efficiency mortgages benefit the borrowers in several ways. First, the estimated energy savings are added to the borrower's income to allow the homebuyer to qualify for a larger total-mortgage amount. Second, by increasing the borrowing power, the energy-efficient mortgage allows the borrowers to include the cost of energy improvements into the total mortgage amount. Typically, one hundred percent of the energy improvements can be financed up to 15 percent of the value of the home. It can be paid over the life of the mortgage, preserving the borrowers' cash for additional upgrades as they move into their new home. Third, the value of the home is adjusted by the value of the energy-efficient improvements. In 1998, an Environmental Protection Agency study indicated the value of an energy-efficient home increases by approximately \$20 for every dollar in annual savings on utility bills. A house that saves \$10 monthly on utility bills increases in home value by \$2,400. A \$50-monthly savings results in a home value increase of \$12,000. Studies indicate that energy-efficient mortgages allow for an average of 6.8 percent more families to qualify for a mortgage.

[Exhibit I](#) contains a short article from the Alliance to Save Energy indicating how energy efficient mortgages work.

[Exhibit H](#) would delete a portion of section 5, subsection 2, concerning the Office of Energy. This portion of the section is deleted to remove the fiscal note on S.B. 242 because it is not essential to implementation of the section.

Section 8 requires real estate licensees to provide prospective buyers with publically available information to help them identify, evaluate and select energy-efficient and conservation features for residential properties. The brochures are offered to realtors by the power and natural gas companies.

Sections 11 through 13 of S.B. 242 require the Real Estate Commission, the Commissioner of Mortgage Lending and the Commissioner of Real Estate Appraisers to adopt regulations for continuing education covering their prospective licensees. These regulations will require completion of a course in energy efficiency, conservation, or green mortgages, and financing as appropriate to each profession. We would not let teachers instruct students if they could not read and write themselves. Likewise, we do not want real estate professionals advising clients unless they are adequately prepared to assist them in these crucial areas. Remember, 78 percent of Americans who recently

purchased property indicated no one talked to them about energy efficiency. That is why sections 11 through 13 are included in this bill.

Recently, an appraiser for Pulte Homes, who apparently did not know anything about energy efficiency, appraised the houses much lower than they should have been. He appraised the houses like a foreclosed home in Las Vegas. The Pulte Homes are energy efficient new homes, and appraisers have been appraising them at the bottom of the market. That has to be stopped. Senate Bill 242 will help Nevada remain a leader in energy efficiency and conservation and help reduce that line on the per capita energy consumption graph.

In conclusion, an article appeared on February 9, 2009, entitled, "Efficiency Alone Could Cut 30 Percent of U.S. Electric Use and Avoid Need for 60 percent of Coal-fired Generation." The article and a map from that study are a part of [Exhibit I](#).

SENATOR COFFIN:

In a home that is totally wrapped for energy efficiency, how do you ensure there is sufficient exchange of air flow to allow the out-gassing from the materials in the home so they do not cause problems for the owner?

SENATOR SCHNEIDER:

The new products breathe and allow exchange through the walls permitting the inside air to remain clean. The new energy-efficient air conditioning and heating systems also help clean the air.

In the early 1990s, homes were being wrapped too tightly and the air was tainted through emissions from the painted walls, carpet and furniture which created poor air quality.

COCHAIR HORSFORD:

With the proposed amendments to S.B. 242, there is no impact to the General Fund. There are several good provisions in this legislation. This applies to everyday living for individuals. The provisions for the energy-efficient mortgage are phenomenal and allow energy efficiency to become practical. I compare this with putting a pool in your backyard. If it is an important enough investment, and there are options for financing, you will do it. The other part is the focus on providing the homeowner with information concerning options to upgrade toward energy efficiency. The bill will help spur this industry to a level we will all be proud of in the years to come.

SENATOR SCHNEIDER:

There are homes, including foreclosed homes, selling in Las Vegas. We are at the bottom of the value scale. As individuals buy these foreclosed homes, if the realtors are educated in energy efficiency, buyers can make energy-efficient upgrades and use a green mortgage to finance those efforts. The power bill may decrease from \$300 monthly to \$100 monthly. It can be financed over 30 years and be at the break-even point in approximately 5 years.

Mr. Scott Young, my Policy Analyst, has worked diligently on this legislation.

Senate Committee on Finance  
May 19, 2009  
Page 12

NICHOLAS VANDERPOEL (Deputy Director, Office of Energy, Governor's Office):  
We can remove our fiscal note on S.B. 242 with an the amendment deleting the requirement for development of regulations by our Office.

We want to acknowledge Senator Schneider and the EIT Committee for their work with our Office and our limited resources and the Legislative Counsel Bureau staff.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS A.B. 242 WITH PROPOSED AMENDMENT NO. 5056, INDICATING THERE IS NO IMPACT TO THE GENERAL FUND.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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COCHAIR MATHEWS:

We will open the hearing on Assembly Bill (A.B.) 488.

ASSEMBLY BILL 488 (1st Reprint): Revises provisions governing the employment of retired public employees. (BDR23-782)

ASSEMBLYWOMAN BONNIE PARNELL (Assembly District No. 40):  
Most of the Committee members will recall the issue of filling critical labor shortages with retirees. Assembly Bill 488 extends the sunset on the reemployment of a retired public employee and with additional provisions.

When the provision was first passed, controversy occurred on how it was being implemented. People were being rehired in circumstances that may not have been the best option. This bill provides that any employer seeking to employ a retired public employee for a position in which there is a critical labor shortage must make the determination based on the appropriate and necessary services to the public. The decision must be determined in an open public meeting by the designating authority. The designating authority shall make written findings in support of the designation.

Most importantly, A.B. 488 requires that to be redesignated as a critical labor shortage position, new findings must be made in an open public meeting. No longer can we, as elected officials, allow a well-meaning piece of legislation to be abused. This process is more transparent, more accountable and it extends the sunset through June 30, 2015.

Section 4, the last few words, "... necessary delivery of services to the public," is of incredible importance.

Another important section is section 4, subsection 4 which requires the determination to be held in an open public meeting. Also, instead of a large governing board, separate from the issue, it is much more intimate. The State Board of Education will not be making determinations for all school districts. School districts will have the ability to make its own determinations based upon the needs of that particular school district.

We took something that has worked well and, through the legislation, perfected the process and made it more accountable and transparent.

COCHAIR MATHEWS:

Does A.B. 488 provide a "cooling off period;" a time the employee must be retired before they can return to work?

ASSEMBLYWOMAN PARNELL:

It would follow the same requirements already in place for restriction from employment for 90 days after retirement. If the determination is made following the new regulations in this legislation, a critical labor shortage can be filled. One of the most common critical shortages we have all used is the area of special education. It could be for the Nevada Department of Transportation (NDOT) for an engineer. Perhaps the NDOT cannot find a new engineer with the skill and expertise of someone who recently retired.

COCHAIR MATHEWS:

Would the rehired employees' new salary be counted into their Public Employees Retirement System (PERS) benefits?

ASSEMBLYWOMAN PARNELL:

No, it would not be.

COCHAIR MATHEWS:

You noted the provisions extend beyond teachers; perhaps an employee of the Airport Authority?

ASSEMBLYWOMAN PARNELL:

It would apply to any public employee. The bill is cost neutral.

SENATOR RAGGIO:

I am trying to reconcile A.B. 488 with other actions that have been taken in other measures. We recently processed legislation concerning the rehire of former State employees and certain exceptions were made. For example, we provided a four-month period in which an agency could contract with someone on a temporary basis until a rehire request was processed by the Interim Finance Committee (IFC). Is this legislation similar? We also excluded certain employees of the NDOT in that measure. This bill applies to all sectors of public employment similar to what was done for State retirees. There are some differences. The criterion was somewhat different, allowing a finding to be made by the IFC that would be exemptions for this purpose.

If A.B. 488 is passed, it should be reconciled with the bill addressing State employees and the provisions for other local governments.

COCHAIR MATHEWS:

That bill may have been heard in another committee, but I remember the conversation also.

SENATOR RAGGIO:

We amended the other bill on the Floor of the Senate.

ASSEMBLYWOMAN PARNELL:

I believe the bill that Senator Raggio is speaking to concerned public employees who leave public employment and form a limited liability company (LLC), and are hired back as consultants, which is every bit as important to have in place as A.B. 488. It captures a completely different population.

The individuals addressed under A.B. 488 do not form their own corporations. They would be returned to work as a public employee, not in a consultant capacity having formed an LLC.

SENATOR RAGGIO:

I do not believe the bill I was referring to required an LLC. It seems the same principles and exemptions should apply in this bill.

SENATOR WOODHOUSE:

The other bill was brought by Assemblywoman Debbie Smith on behalf of, and working with, the director of the Department of Personnel.

SENATOR COFFIN:

At the beginning of the 2009 Legislative Session, the dollar amount pulled from the PERS by individuals returning to State employment after retirement was approximately \$55 million. The director of PERS can confirm or deny that figure. It is sad that employees retire, only to return to employment. It argues for a slightly later retirement age.

Does this bill help trim the ability of individuals to return to employment that should have been succeeded to by someone in their agency? When a person is rehired because of their institutional memory, it speaks to poor management skills of an agency that does not have another employee ready to assume the vacated position.

The original intent of the critical labor shortage legislation was primarily toward education. This issue has been discussed in Session after Session, because it seems so many supervisor categories were brought in. It is an indication to me of bad management training. Will A.B. 488 help us break out of that mold?

ASSEMBLYWOMAN PARNELL:

The important provision of A.B. 488 is that, for the first time, we reviewed how the critical labor shortage rehire provisions were abused. For instance, how were those things you just described allowed to happen? The original legislation did not provide a systematic way to make the determination, in public, and require justification of the reason for the shortage.

The decision is three-fold; if we think it still serves a purpose, if we think the bill brings language to tighten the provisions to prevent abuses and if it can be accomplished without cost to the State.

SENATOR COFFIN:

I hope that this process offers a vehicle for corrective action for any agency that rehires a supervisor. That means the agency needs corrective action in its training process.

ASSEMBLYWOMAN PARNELL:

It is similar to review of the colleges of education in Nevada. Are we able to capture enough special education teachers, school psychologists or

school counselors? It is those positions that seem to have continual shortages of qualified applicants.

SENATOR COFFIN:

Does A.B. 488 limit the professions considered for a critical labor shortage need?

ASSEMBLYWOMAN PARNELL:

No, all positions representing a critical need can be considered.

DANA K. BILYEU (Executive Officer, Public Employees' Retirement System):

Assembly Bill 488 has been substantially amended from the original version. The original version only extended the critical labor provision for educational employees. The amendment carries that provision in addition to the ones already mentioned. They include the policy statement that this legislation be made only for the delivery of necessary services to the public. The decision must be made in an open public meeting by the governing body; for the State it would be the Board of Examiners, for the Nevada System of Higher Education (NSHE) it would be the Board of Regents. For local governments it would be school boards, county commissions or city councils. They would have to hold a hearing and make findings on the record as to why it is necessary to hire a retiree back into a position.

In addition, once those findings are made on the record, they are to be transmitted to the PERS on a form created by the PERS. We will compile a report to the Interim Retirement and Benefits Committee (IRBC) of the Legislature. If there is a concern about too much use of the bill provisions, we can make recommendations to the interim committee.

I spoke to the PERS' actuary because of the limiting language of the amendments by the Assembly; they are comfortable placing a new experience period in place. Thus, the bill is not at no cost; the cost cannot be measured until we see how the new provisions affect the experience of the PERS itself. That is why the bill extends the sunset period until 2015 with a new experience review period that will extend through 2014. We will be delivering that experience review to the Legislature through the IRBC. It would be the decision of the Legislature whether or not to extend the provisions beyond 2015.

With the amendments, the PERS has agreed to remove its fiscal note to A.B. 488. I have provided written testimony for the Committee ([Exhibit J](#)).

COCHAIR MATHEWS:

Could the employer experience rating change?

MS. BILYEU:

It could, after the experience review period. If it is to be extended, the cost would be absorbed into the contribution rate at that time.

COCHAIR MATHEWS:

The cost would not increase until after 2015?

MS. BILYEU:

That is correct. It remains on sunset until 2015; thus, it is not a permanent feature of the retirement system.

COCHAIR MATHEWS:

Would the experience rating be considered from the date of hire, regardless of the sunset?

MS. BILYEU:

From the perspective of costing the benefit out, since it is not currently part of the contribution rate. The actuary will consider the experience review period for the critical labor shortage addressed in A.B. 488 based upon the time it is in place. We will apply that experience to the contribution rate in 2015. If the cost is sufficient, it will require a change in the contribution rate.

SENATOR RAGGIO:

Why is this considered a benefit to the System?

MS. BILYEU:

An individual returning to work in a critical labor shortage exempts them from reemployment restrictions. Reemployment for public sector employees is prohibited by the Retirement Act. Allowing an individual to return to work removes one of the cost restrictions in the Plan. From 2001 until 2008, during the original experience review period, there was a significant amount of usage of the critical labor shortage provisions. The System paid benefits that it would not otherwise have paid. That was the nature of the original fiscal note to A.B. 488. Because of the fiscal note, we reviewed a method in which to extend the critical labor shortage provisions in such a way that is severely restricted.

Approximately 800 positions were determined as critical labor shortages under the original legislation. The amendments will greatly reduce the number of positions that qualify as a critical labor shortage.

SENATOR RAGGIO:

I do not understand how that is considered a benefit. It seems it would be a decrease rather than an increase of a benefit.

MS. BILYEU:

The System is comfortable with extension of the experience period to review the experience that will be generated by the various employers with this legislation.

For purposes of reemployment restriction with the PERS, if an individual returns to work as either an independent contractor or as an employee, the provision of benefits would be halted during their employment. It is different if an individual works for a private sector corporation such as Kelly Services. In that instance they are working in the private sector, but may be contracted to the State.

SENATOR WOODHOUSE:

I have provided a copy of the Floor Statement to A.B. 463 for the record ([Exhibit K](#)). This is the legislation that Senator Raggio referred to earlier.

**ASSEMBLY BILL 463 (2nd Reprint)**: Restricts a department, division or other agency of this State from employing a person as a consultant.  
(BDR 23-1057)

COCHAIR HORSFORD:

Can you explain how this works in the NSHE, based on the fact they have a choice of retirement plans in which to enroll?

MS. BILYEU:

That provision is for the professional education staff at the NSHE. Professors who have had any service, even one day, covered by the PERS, are required to participate in the PERS. They do not have access to the alternate program for the NSHE because they are already enrolled in the PERS at the time of reemployment. For them, the reemployment restrictions would apply. The Board of Regents would have to make a determination based on the statutory requirements. If the individual has not had any service under the PERS the reemployment restrictions do not apply.

JOYCE HALDEMAN (Executive Director, Community and Government Relations, Clark County School District):

Assembly Bill 488 is very important to the Clark County School District and we urge your passage of the bill. We currently have 268 teachers who have been rehired as critical labor shortage teachers. They are hired into positions in which we experience continual vacancies. Despite the 268 teachers hired under the provisions, we currently have 65 vacant mathematic positions, 78 vacant science positions and 196 classroom vacancies for special education. If this legislation were to expire, and we could not rehire the teachers with those critical endorsements, we would be forced to utilize long-term substitutes in their place.

DOTTY MERRILL, PH.D. (Nevada Association of School Boards):

On behalf of school board members around the State, we want to communicate our appreciation of the opportunities that bills such as A.B. 488 have provided to school districts since 2001 with the adoption of A.B. No. 555 of the 71st Session. Since that time, in 2003 and 2005, Senate bills have further clarified the critical labor shortage process to make it more transparent.

Approximately 91.5 percent of all the critical labor shortage positions since 2001 have been related to education. Sixteen of the seventeen school districts have used these positions through approval of the Superintendent of Public Instruction. Eighty-eight kinds of positions have been filled as a result of this opportunity. In some of the rural school districts, where it is difficult to attract teachers, positions could not be filled.

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

The Department of Education (NDE) strongly supports passage of A.B. 488.

The School districts and charter schools in Nevada employ 28,000 licensed staff. This is a small, but critical, element of meeting the needs for filling difficult-to-fill positions.

I have provided a suggested amendment ([Exhibit L](#)). The amendment would help streamline the approval at the charter schools, but if the amendment will slow down the approval of the bill, remove it from consideration.

Page 2, lines 42 through 44, subsection 2(e) of section 4 requires the designating sponsor of a charter school to approve the critical labor shortage

positions in lieu of the governing board. The proposed amendment in [Exhibit L](#) requests the governing board of a charter school be allowed to approve the request.

Subsection 1 of section 4 specifies the employer must make the determination to fill a position as a critical labor shortage position. In the case of charter schools, it is not the sponsor of the charter schools it is the governing board that is the employer. All actions taken by a charter school are held in open meetings.

*Nevada Revised Statutes* 386.549 specifically identifies the governing board of a charter school as a public body.

The State Board of Education sponsors seven charter schools. If one of those State-sponsored charter schools wanted to fill a position, they would be required to submit it to the State Board of Education which only meets every six weeks and a decision could be delayed several months.

The amendment in [Exhibit L](#) changes the wording from "each entity that is authorized to sponsor the charter school," to specifically listing the governing board of a charter school as being able to designate the position as a critical labor shortage, and to submit it to the PERS.

ANN LORING (Washoe County School District):

We strongly support A.B. 488. We support the additional amendment in [Exhibit L](#) provided by Dr. Rheault with the same stipulation, that it should not slow the legislative process. In the current school year, we are using approximately 29 critical labor shortage teachers with special education, math and biology endorsements. It does not sound like many, but it is critical for the students in those classrooms to have a well-qualified teacher to support them.

FRANCISCO V. AGUILAR (the Andre Agassi Charitable Foundation):

We are in support of A.B. 488 and the amendment in [Exhibit L](#).

COCHAIR MATHEWS:

We will close the hearing on A.B. 488 and open the hearing on A.B. 401.

**[ASSEMBLY BILL 401](#)**: Extends the bonding capacity of the Nevada System of Higher Education. (BDR S-884)

ASSEMBLYMAN DAVID BOBZIEN (Washoe County Assembly District No. 24):

Assembly Bill 401 extends the NSHE's bonding authority for an additional 20 years and includes clean-up language concerning the new names of the Western Nevada College and the College of Southern Nevada.

COCHAIR MATHEWS:

Why does it cost so much to change the names of these schools?

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

A bonding bill is typically brought to each Legislative Session, to the extent that we have revenue projects supported by State bonds. In this year, we are bringing forward no new projects, but are requesting extension of bond authorization to meet market conditions.

The other provisions are statutory clean-up items.

COCHAIR MATHEWS:  
Are the other provisions simply incidental?

MR. KLAICH:  
That is correct.

SENATOR COFFIN:  
I do not approve of these name changes. Every institution wants to be a college, not a community college. They want to perform the services, receive the funding and creep their institution to a four-year level. It is a mistake and is a costly item in the long run because it dilutes the prestige of the two universities.

MR. KLAICH:  
I personally agree. There is a critical position within the NSHE for comprehensive community colleges. This was discussed when the names were changed. The Board of Regents took the action and the colleges indicated they were not changing its missions. I will be following the changes carefully and holding the institutions to their word. The comprehensive community colleges were created by the Legislature for a reason.

ASSEMBLYMAN BOBZIEN:  
I share concerns about mission creep and differentiation. That is something I have lost sleep over through the years.

COCHAIR MATHEWS:  
Be it known that changing the mission to a college from a community college was a mistake.

SENATOR HORSFORD MOVED TO DO PASS A.B. 401.

SENATOR WOODHOUSE SECONDED THE MOTION.

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

\* \* \* \* \*

COCHAIR MATHEWS:  
We will consider S.B. 426. This measure needs to move from Committee with the amendments presented by Mr. Kim, who testified earlier this morning.

SENATOR COFFIN:  
I see three amendments proposed.

COCHAIR MATHEWS:  
If the Commissioner of Insurance wishes further amendments, they can be presented when the bill is heard in the Assembly.

SENATOR COFFIN:  
I am proposing we adopt the three amendments heard today.

COCHAIR MATHEWS:

The amendment from Mr. Wadhams does not cover all the situations for this measure. It can be further addressed in the Assembly.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS S.B. 426 WITH THE AMENDMENT SUBMITTED BY MR. KIM IN [EXHIBIT C](#).

SENATOR WOODHOUSE SECONDED THE MOTION.

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

\* \* \* \* \*

SENATOR COFFIN:

I will introduce further amendments on the Floor of the Senate.

COCHAIR MATHEWS:

We have a Bill Draft Request (BDR) 23-1290 to consider for Committee introduction ([Exhibit M](#), original is on file in the Research Library).

**BILL DRAFT REQUEST 23-1290:** Revises provisions governing the Public Employees' Retirement System (Later introduced as S.B. 427).

SENATOR WOODHOUSE:

This BDR revises various provisions of the PERS. Most importantly, new hires of all public employers, beginning on July 1, 2010, would have a number of changes. The multiplier for their retirement, which is currently at 2.67 percent, would be decreased to 2.5 percent. If a public employee takes early retirement, the current penalty is 4 percent and would increase to 6 percent under this legislation.

There is no change in the governance process. Language is included to address the issue of spiking. There are some changes in retirement ages and the number of years of service. All changes are effective on July 1, 2010. It makes no changes for current employees or retirees within the PERS. There is an increase to the retirement age of five years for police and fire employees and two years for other public employees.

There are a number of smaller provisions within this measure.

SENATOR WOODHOUSE MOVED TO INTRODUCE BDR 23-1290.

SENATOR HORSFORD SECONDED THE MOTION.

COCHAIR HORSFORD:

There has been much said recently about the reform package needed this Session to move our State forward. This BDR is a major shift from where we are presently, and in the future for new hires only. There will be much change as a result of this legislation. The introduction of this BDR indicates we are all serious about the reforms that are necessary during these critical times. I want to thank Senator Woodhouse and the others who have worked to find a common ground for the PERS reform bill.

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

\* \* \* \* \*

COCHAIR MATHEWS:  
We will now consider A.B. 488.

SENATOR COFFIN MOVED TO AMEND AND DO PASS A.B. 488 WITH THE AMENDMENT PRESENTED BY DR. RHEALT ([EXHIBIT L](#)).

SENATOR HORSFORD SECONDED THE MOTION.

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

\* \* \* \* \*

COCHAIR MATHEWS:  
We are in recess at 10:28 a.m. until the Call of the Chair.

We are reconvened at 2:23 p.m. We will open the hearing on A.B. 543.

**ASSEMBLY BILL 543 (1st Reprint)**: Temporarily redirects a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund and authorizes the imposition of a supplemental governmental services tax in certain counties. (BDR 31-1187)

ANDREW CLINGER (Director, Department of Administration):  
This bill was the bill to implement the Governor's budget and redirect four cents of ad valorem revenue from Clark and Washoe Counties. Section 8 of the bill is what remains from the Governor's recommended budget. There were other amendments in the Assembly. I have presented a spreadsheet ([Exhibit N](#)) with the revenue projections. Section 8 of A.B. 543 is projected to generate \$68,457,504 in revenue over the biennium for the General Fund.

SABRA SMITH-NEWBY (Director, Department of Administrative Services, Clark County):  
I have provided a copy of a PowerPoint presentation ([Exhibit O](#), original is on file in the Research Library) to the Committee. The PowerPoint presentation was prepared for the initial hearing on A.B. 543. Page 2 of [Exhibit O](#) currently reflects a \$120 million operating deficit. That is \$30 million higher than the projections in January 2009. It is mostly due to an operating deficit for the University Medical Center (UMC) which has grown from \$41 million in 2008 to \$94 million in 2010.

We have identified cost savings in the amount of \$64 million leaving a gap of approximately \$56 million. We plan to fund the difference with County General Fund reserves and reallocation of capital fund projects. Clark County is struggling to fill its own budget deficit.

The adoption of A.B. 543 in its original form would have increased the deficit by \$30 million to approximately \$87 million. In the amended form, reallocating the

two tax revenue sources, the deficit balloons to approximately \$60 million annually, bringing the total deficit to over \$115 million annually.

Page 3 of [Exhibit O](#) is a spreadsheet of the projected budget. It incorporates vacancy savings through 450 open positions. An additional 200 positions have been left open at the UMC to achieve vacancy savings. We postponed the low-level offender facility, which many of you have heard about, saving approximately \$16 million. The employee management concessions from the Service Employees International Union (SEIU), in Nevada, save an additional \$13.5 million. There is approximately \$500,000 saved through the University of Nevada, School of Medicine. These totals are all based on the original form of the bill. The impact of A.B. 543 in fiscal year (FY) 2009-2010 appears to be approximately \$60 million, bringing the projected deficit to more than \$115 million for the one year.

The SEIU reductions include reductions in the Cost of Living Allowance (COLA) and merit pay; the elimination of holiday pay in certain circumstances and eliminations of overtime for more highly paid employees. This was extended to the employees of the UMC and management employees who have had no increases in the previous year and project none in the coming year.

Discretionary travel, dues, external training, purchase of operating supplies and subscriptions have all been reduced. We have extended replacement schedules for vehicles, heavy equipment, computers, office equipment and furniture. We have implemented voluntary furloughs and separation programs that have been fairly successful.

In FY 2010-2011 the situation appears to only get worse. There is a \$56-million deficit before any impacts from the 2009 Legislature. We expect further deterioration in property tax collections in FY 2009-2010. That could be as much as 10 percent, or \$36 million in FY 2010-2011. The combined deficit from the FY 2009-2010 deficit carryforward, the decline in FY 2010-2011 and the adoption of A.B. 543 brings us in excess of a \$120 million deficit. That deficit was as a result of the original version of the bill. The amended bill will likely add another \$30 million deficit in each year of the upcoming biennium.

Page 8 of [Exhibit O](#) addresses the many fiscal impacts of the Governor's recommended budget. These include:

- The four-cent reallocation being discussed in A.B. 543 of \$30.4 million annually;
- The indigent accident and supplemental fund redirection for \$19 million annually;
- The increase in the Sales and Use Tax allowance of approximately \$4.2 million annually;
- The reductions in the child welfare integration and salary and vacancy reductions of \$2.4 million annually;
- The reductions to the Temporary Assistance for Needy Families, funding a number of child abuse investigators, at \$2.3 annually;

- The emergency shelter fund reductions which paid the sibling rate to keep siblings together in foster care, of \$1 million annually and;
- The reduction in the graduate medical education of \$410,000 annually.

That does not address the other reductions proposed in the Medicaid budget that have been restored. These reductions represent approximately \$59.7 million annually or \$119.4 million over the biennium.

The four-cent tax diversion originally proposed would divert nearly 10 percent received by the County General Fund to support many of the services on which individuals rely. Those services are courts, child welfare, social service programs, juvenile justice programs and indigent health care.

Our operating rate is approximately 47 cents. Four cents of that is approximately 10 percent. These amounts represent the proposals of the original bill. As amended, the bill includes both the four-cent diversion and the capital tax.

Page 11 of [Exhibit O](#) is a chart applying the four-cent reduction proportionately to the various County services.

The 4-cent diversion is aimed at Clark and Washoe Counties and not the other 15 counties in Nevada. It would be borne directly by those residents. This is unfair targeting of Clark County. If the proposed four-cent tax shift were prorated over all of incorporated Clark County and the cities, the County burden would be reduced by one-half. Nevertheless, A.B. 543, in the original version, did not envision the shifting of property taxes from the incorporated cities. The cities, through the redevelopment agencies, divert funds from the County, the State and the schools.

Page 13 of [Exhibit O](#) reflects using the same four cents apportioned across all the incorporated cities. We do not advocate that proposal.

Page 14 of [Exhibit O](#) reflects the impact of the redevelopment agencies (RDA) in southern Nevada. Clark County mothballed its own RDA and suggested movement of the funds from the RDA back to the State in proportion to the amount taken from education.

COCHAIR MATHEWS:  
What is that amount?

MS. SMITH-NEWBY:  
That is reflected on page 15 of [Exhibit O](#) as the Clark County RDA FY 2009-2010 Tax Increment at approximately \$6 million in each year of the biennium. It would be an ongoing diversion because the Clark County RDA would be closed.

The various RDAs divert approximately 4.46 cents from the Clark County School District. That is larger than the 4 cents proposed by the bill.

SENATOR RAGGIO:  
What is the four-cent redirection reflected on page 14 of [Exhibit O](#) and the city? I understood the four-cent redirection was to be taken from the counties?

MS. SMITH-NEWBY:

The current bill targets only unincorporated Clark and Washoe Counties for the four-cent redirection. If the Legislature were to spread that across all the incorporated cities within Clark County based on assessed valuation, these percentages would apply, utilizing the same amount of "take" at \$30.4 million in one year, spread among many jurisdictions based on assessed valuation.

SENATOR RAGGIO:

Does that mean if A.B. 543 is passed, a portion of the allocation would be taken from the cities?

MS. SMITH-NEWBY:

The purpose of page 14 of [Exhibit O](#) is to illustrate that the bill, as it is written, targets only unincorporated Clark County. If the \$30.4 million, or the value of a 4-cent annual diversion, were spread equally among jurisdictions, the page reflects those impacts.

SENATOR RAGGIO:

Does A.B. 543 specify unincorporated Clark County?

MS. SMITH-NEWBY:

No, it states Clark County.

SENATOR RAGGIO:

Clark County includes the residents who live in the city as well. It does not target only those in the unincorporated areas.

MS. SMITH-NEWBY:

The bill does not specify which services would be reduced. Clark County provides municipal services similar to those of the cities, as well as regional services. The reductions that would ensue from passage of A.B. 543 would need to be presented to the Board of County Commissioners. In consultation with management and the taxpayers, a determination would need to be made of what services would need to be cut. Some may be regional services and others may be municipal services enjoyed only by unincorporated Clark County residents.

Clark County was approached by several individuals to provide ideas on how to lessen the effect of funding needs of the State. In doing so, our staff proposed mothballing the Clark County RDA and inclusion of diverting the capital tax. The capital tax total was 5 cents. Page 15 of [Exhibit O](#) indicates in FY 2009-2010 the amount diverted would be \$28.8 million and in FY 2010-2011 it would be \$24.3 million. That total would equal \$65 million, more than the projected take from the 4-cent diversion. We had offered this as a good faith effort to help fund the State's needs. We understand the State is in an unprecedented situation.

The four-cent diversion would be derived from operating expenses. That means there will be reductions in both staff and services. The suggestion we made to include the capital tax. Mothballing the RDA was intended to provide the State with an equal or greater amount of revenue from the same region, to spread the burden wider than just to Clark County and not to effect particular services.

As growth has slowed, there was a thought that not as much infrastructure would be needed. For two years, while assisting the State with additional funding, we could not negatively impact the employees and services on which our citizens rely.

SENATOR COFFIN:

I have been opposed to the provisions of A.B. 543 since its proposal in January 2009. I voted against the spending that was directly attributable to theft of funding from Clark and Washoe Counties. The proposal was made without thought to the citizens and services that will not be received in Clark and Washoe Counties. This is a shame. If we are going to steal this money from Clark County, we should take it from everyone. Do it in the open through taxes paid by all citizens.

MR. CLINGER:

We presented this concept to both the Senate and Assembly Committees on Taxation. We reviewed the local government revenues since 1982 and compared them to State revenues of the same period of time. We found that over that period of time, local revenues have grown 38 percent faster than State revenues.

We compared salaries of local employees to those of State employees and found similar results. Local employees, on average, make approximately 38 percent more than State employees.

Regarding the choice of directing the reductions to the two larger counties, it was felt the two larger counties were better equipped to survive the redirection of property taxes than the smaller counties.

LISA A. GIANOLI (Washoe County):

Washoe County understands the State's difficult situation. It also has serious challenges of its own. Yesterday, the Board of County Commissioners adopted a budget that incorporates the largest layoffs in decades. To balance the budget required 300 positions to be eliminated and 92 of those positions require layoffs. An additional 144 employees are taking voluntary separations. Another 65 positions will be frozen. This will result in approximately 500 out of 3,000 vacant positions countywide.

Washoe County employees agreed to no COLA increases in the current fiscal year and in FY 2009-2010. Our largest labor group also took a 2.5 percent pay reduction from that point as well. Washoe County has made numerous service reductions and, by virtue of the loss of manpower, total reductions range from 26 percent in County Parks to smaller percentages in the Sheriff's Office and the Office of the District Attorney operations.

The taxpayers and employees of Washoe County have undergone reductions of \$64 million over the last three years and have reduced an additional \$47 million in the FY 2009-2010 budget, before taking into consideration what is being proposed by A.B. 543.

This bill, as amended, includes tax diversions of four cents from our County operating budget equaling approximately \$5.7 million in FY 2009-2010 and an additional \$5.3 million in FY 2010-2011. As amended, an additional two cents of the property tax set aside for capital facilities and acceleration of the

diversion from the source taken in the 2007 Legislative Session that was to spread over a five-year phased-in process. This equates to a \$5.4 million impact to Washoe County and to the cities of Reno and Sparks in the first year of the biennium.

In addition to these impacts will be 2.5 cents of property tax for indigent medical care at approximately \$3.7 million annually and an additional 1-percent collection fee on sales tax from 0.75 to 1.75 percent at \$1 million.

The total of these reductions is an impact of \$17 million in each year of the biennium to Washoe County. Beyond this, Washoe County has pending issues that could impact its revenues as well. There is a possibility of roll-back of property taxes in the Incline Village area as a result of a lawsuit. An arbitrator's decision is expected within the next few weeks regarding our share of deputy sheriffs' salaries. If the arbitrator finds in their favor, the additional cost for salary and benefits to the County will be approximately \$2 million each year. We were originally targeted in the Governor's recommended budget because our salaries appeared too high, thus someone does not agree with the increase for the sheriffs' deputies.

There is a potential ruling from the Nevada Supreme Court that may cost the County approximately \$5 million in legal defense of indigents.

We appreciate that A.B. 543 as amended, has a make-up government services tax (GST) of one cent for the County. Our preference would be that the State impose the GST and utilize that revenue rather than diverting the property taxes.

We are at the \$3.64 property tax cap, thus we cannot raise taxes in our County. Our ad valorem taxes will decrease similarly to Clark County from \$17 billion to \$15 billion. In the first year of the biennium, 70 percent of the funds sitting in the abatements from the property tax cap instituted in 2005 will be utilized. The second year of the biennium will reflect larger decline in the property taxes received by the State.

STACY SHAFFER (Service Employees International Union):

The SEIU in Nevada represents nearly 18,000 health care and public sector workers statewide. Thousands of those members are the employees of Clark County. We oppose A.B. 543. The revenue transfer from Clark County would have catastrophic effects on vital services provided by the County. Workers are already forced to do more with less due to the 400 vacant positions that have been frozen. Late last week, the SEIU leadership met with the Clark County Child and Family Services Office regarding potential layoffs. We are talking about the ability to deliver vital services.

COCHAIR MATHEWS:

Were you and others given an opportunity to testify when this measure was in the Assembly?

Ms. SHAFFER:

I did testify briefly.

ROBERT F. JOINER (City of Sparks):

We oppose A.B. 543. We support the efforts of Washoe County regarding the GST proposal. Our position is that we have worked with both Houses of the Legislature and the interim studies regarding the restructure of the tax systems. We look forward to those future studies.

We deal with the system we are dealt. We were told to deal with property taxes in the 1980s and with sales taxes as we have. Sparks was a bedroom community of Reno. An analysis was completed that stated if we continued in that format we would be unable to provide services to our community within 15 to 20 years. We added one million square feet of retail services and built up the Sparks Marina area. From that, very little is received in return because of the tax structure from State to county to local government requirements. We have held long, hard discussions concerning that matter. We anticipated this Legislative Session to address the tax restructuring. We understand now, that it will not occur during this Session.

We support the proposed discussions in the interim concerning local authority. Our citizens can decide, on some levels, what is best for them. For example, in 2006, the citizens of Reno and Sparks voted to tax themselves with an eight-cent tax to put more men and women police officers or firepersons on the street for public safety. That initiative needed Legislative approval. We were told not to propose it, and the Governor would not sign it, if it passed. That is an example of how we would like to help ourselves and remove some of the burden from the Legislature.

On Monday, the counties were asked what could be done to help replace revenue. As was mentioned, Washoe County is at the cap. We could consider raising the cap, or taxing certain services. We would like to consider individual solutions city by city. We pay the taxes in the County. The citizens of Reno and Sparks pay more than three-quarters of the taxes in Washoe County. The pain is at our doorstep, more so than, perhaps, the unincorporated residents. We do not want to draw that line in the sand. We are County residents.

ROBERT CASHELL (Mayor, City of Reno):

I agree with my sister City of Sparks. We are residents of the County and already pay these taxes. To spread it further would be double taxation. If A.B. 543 is passed, the support we receive for the homeless and the mentally ill will need to be reduced. Washoe County has already reduced support because of its dire needs and unavailable revenue. If the provisions of the bill are spread to the cities, that is double taxation. We oppose A.B. 543.

JEFF FONTAINE (Executive Director, Nevada Association of Counties):

We oppose A.B. 543 and support Clark and Washoe Counties. We have always questioned the validity of the Governor's budget, including this proposal, as a method to solve the State budget shortfall. You have heard the concerns of Clark and Washoe Counties. Washoe County is in an extremely difficult position without this legislation. In Clark County, the cumulative effect of various cuts, and the impacts to the UMC, the only County hospital in the State, are significant. We urge the Legislature to consider the concerns expressed by the Counties and the suggestions they have offered to try to lessen the impacts to those Counties.

CAROLE VILARDO (Nevada Taxpayers' Association):

This is one of three tax issues I was able to put before the Association very early in the Session and get responses returned. They oppose A.B. 543. You have created an additional problem at the local government level. The Legislature has the ability to levy a property tax rate outside the cap. All that is happening with this legislation is the proverbial robbing-Peter-to-pay-Paul scenario. It will come back to haunt us in the 2011 Legislative Session given all the one-time revenues being included from the American Recovery and Reinvestment Act of 2009 (ARRA) funds. At the very least, the collection allowance is excessive relative to what it costs for the Department of Taxation to collect sales tax. At the very least, sunset the provisions and allow the sales tax collection allowance to revert to 0.75 percent. It should probably be the 0.67-percent rate identified approximately eight years ago.

This is no longer operating cost for collection allowances; it is an indirect method of raising revenues. There should be a point where, instead of the burden being placed on the local governments, the Legislature should raise the fees and taxes needed to provide services. As an Association, we could oppose what is being done to raise taxes, but at least that makes more sense.

COCHAIR MATHEWS:

Did all those who presented testimony today, have an opportunity to present their views when the bill was heard in the Assembly? All testifiers responded affirmatively.

MS. GIANOLI:

I have provided copies of a proposed amendment to A.B. 543 ([Exhibit P](#)). After this language was proposed in the Assembly, we noticed one necessary correction to the amended language. The new language of section 1 of the amendment can be removed down to subsection 3. The language that should remain is the portion that states, "The county shall use the proceeds of the tax to pay the cost of public safety, health and welfare." It will allow us to broaden the usage of the revenue so that it can be utilized to offset other funding losses. Currently, the legislation provides the funds may be used only for transportation purposes.

I have worked with the LCB Legal staff on this proposal.

SENATOR COFFIN:

The amendment still appears to be restrictive as it only lists the uses for public safety, health and welfare. Are you seeing parks and the arts under the term welfare?

MS. GIANOLI:

After discussions with the LCB Legal staff, they indicated a general purpose use statement would be preferred to the current language of the amendment. I am willing to concur.

SENATOR COFFIN:

Would you support an amendment to [Exhibit P](#) that would change the language to "all counties that are more than 100,000 in population and for those counties who are at the statutory cap, the cap would be increased for a period of two years?" That would allow taxes necessary to support the public safety, health and welfare of the people to continue to be supported.

MS. GIANOLI:

I would need to digest that proposal. Based on discussions with the LCB Legal and Fiscal staffs, my understanding is we can get the needed correction by stating "for general purposes." I do not know if we would complicate the situation by bringing in the tax cap. The one-cent GST option is currently available to all counties. It has been utilized in some counties, but not in others.

SENATOR COFFIN:

I will ask our Staff to create an additional paragraph with language in the bill to make the adjustments I have stated. That particular county, which is not using the supplemental GST, would be permitted to increase its property tax to cover the revenue being taken by the State.

MS. GIANOLI:

I believe what you are requesting is beyond what we are requesting.

SENATOR COFFIN:

It is.

MS. GIANOLI:

I have presented, on behalf of Washoe County, what is necessary for our County.

COCHAIR MATHEWS:

We will close the hearing on A.B. 543 and open the hearing on A.B. 458.

[ASSEMBLY BILL 458 \(1st Reprint\)](#): Revises various provisions relating to funding for public education. (BDR 31-685)

ASSEMBLYWOMAN BARBARA E. BUCKLEY (Clark County Assembly District No. 8):

I am pleased to be the sponsor of the Rainy Day Fund for Education bill. This bill stabilizes funding for Kindergarten through Grade 12 (K-12) education in Nevada. It does this by returning dollars to the K-12 budget in two ways.

Assembly Bill 458 creates a Rainy Day Fund specifically for K-12 education to cushion the education budget from the harshest effects of the economic downturn and stops the diversion of tax dollars away from education.

Funding education is a constitutional requirement of the Legislature. The chart on page 4 ([Exhibit Q](#), original is on file in the Research Library) reflects that in FY 2007-2008 we were \$164 over the cost of inflation. Most of our funding has been spent on growth, addressing new students coming into the school districts.

Education's progress is threatened by reductions. In 2007, per-pupil spending in Nevada ranked 47th. The Nevada teacher per-pupil ratio was 46th. The proficiency and dropout rates were also poor. We regularly create programs, only to cut them when times are bad.

It seems like yesterday when we were not arguing over cuts or the revenue package, but over how much we would fund in career and technical education, empowerment schools, or how much we would expand full-day kindergarten. We made those decisions to improve the quality of education only to find, since that time, we have slashed funding for all those programs as a result of the

economic downturns. This wastes taxpayers' dollars, harms our children, demoralizes our teachers and impedes the progress that is needed to improve education in our State.

Meanwhile, taxes earmarked for education are diverted. In approved RDAs, property taxes on the appreciated value of real property are redirected from schools to the RDAs.

The Nevada Commission on Economic Development (NCED) offers incentives for relocation or expansion of businesses in the form of abatements on modified business taxes, the sales and use taxes, and real and personal property taxes. These projects create value, but they take funds from education. The 2009 RDA reallocations are presented on page 8 of [Exhibit Q](#). In Clark County, \$20 million was diverted; in Carson City, \$3 million was diverted. The NCED abatements of the Local School Support Tax (LSST), real and personal property taxes are listed. These are significant amounts.

The funds directed to the Rainy Day Fund for Education created by A.B. 458 are derived from two sources: 50 percent come from the unspent funds in the Distributive School Account (DSA) that previously reverted to the General Fund; and the remainder from an escalating setoff of RDA reallocations of property taxes from schools. The Fund will accumulate until the balance equals 20 percent of the prior year total for statewide basic support, special education units and the class-size reductions. This bill would stop reverting funds allocated to education. School-related sales and property taxes collected in excess of amounts budgeted, and the excess of budgeted funds resulting when school enrollments are lower than projected, revert to the General Fund. Assembly Bill 458 will require that one-half of that amount be placed in a Rainy Day Fund for Education and the other one-half be placed in an account for innovation and prevention of remediation.

Tax dollars for education are diverted to RDAs. The RDAs were established in 1959 to remediate neighborhood blight. Blight was found to be injurious to public health and safety. It was found to be difficult to remediate because many times property is owned by individual property owners. Conditions of blight occurred when there was scattered ownership in older neighborhoods. Tax increment financing was one of the resources approved and made available to cities and counties for redevelopment of the blighted areas. Local governments were authorized to create RDAs. To do so, the assessed property valuation is frozen and the increment, over that assessed valuation, is redirected to the Agency.

All 50 states have laws authorizing redevelopment; however, a survey of other states find that many states have amended the original legislation when it was observed how much money RDAs siphoned from education.

South Carolina and Kansas now allow school districts to opt-out of participation in redevelopment. Texas school boards may elect to contribute its property tax revenue to an RDA. Florida, Alaska, Maryland and South Dakota shield the school district portion of the property tax base from RDAs. Georgia allows school districts to require that its portion of the increment only be used to maintain schools or for job-training programs. Other states impose size and other restrictions on the RDAs. There are a few other examples on page 14 of [Exhibit Q](#).

Eliminating neighborhood blight must include efforts to remediate blight in our schools. We should not only attempt to eradicate the physical signs of blight, but we should also ensure our children receive adequate education. Eradication of blight makes sense, but not at the expense of children living in blighted areas. These schools have fewer qualified teachers. Many students have lower incomes and lower English proficiency. Inadequate education funding that limits their access to programs that can improve their chances of success means that RDA remediation becomes merely cosmetic.

Pages 16 and 17 of [Exhibit Q](#) reflect test scores within redevelopment areas contrasted with schools outside redevelopment areas.

Assembly Bill 458 limits the diversion of education funds by RDAs. It does so by introducing an escalating set-off to RDA tax increments. Page 18 of [Exhibit Q](#) contains a chart of how the increments would be changed. There are two choices for the Committee if it agrees this is the correct policy goal. One would eliminate siphoning of any revenue directed to schools. If there is an existing RDA, that approach is difficult to start it in the middle. Page 19 of [Exhibit Q](#) reflects how this could be accomplished through a claw-back approach beginning at a 3 percent level of hold-back in the first year until it reaches a maximum of 15 percent in 2021. If the RDA set-offs cause the Fund to exceed the maximum allocation of 20 percent, the excess is deposited in the Innovation and Remediation Trust Fund.

The bill would also modify the affordable housing hold-back requested by the cities and the RDAs. Most opposition has been negotiated away from this legislation. The bill amends the hold-back to reduce the housing percentage from 18 percent to 15 percent and creates a graduated hold-back for those municipalities that newly meet the population threshold.

Currently, when a county meets a 300,000-population threshold, there is a requirement to set aside 18 percent of the funding for affordable housing. The concern in some larger communities is that they will meet the 18 percent threshold at the same time the education requirements will be implemented. This portion of the bill was modified to accommodate that concern.

The RDAs are held harmless for pre-existing obligations. If there is a pre-existing obligation and compliance with terms of the obligation is threatened by the set-off, the RDA is held harmless if there is an opinion of the bond council, through an amendment agreed to by the City of Reno ([Exhibit R](#)), allowing the Committee on Local Government Finance to be one of the arbiters of whether a bonding contract is impeded. Pre-existing obligations are defined in A.B. 458 as including memorandums of understanding if they were executed prior to April 1, 2009, if there has been reliance on payback where there have been expenditures of funds, in cases of abandoned mines or in the case of environmental contamination.

We attempted to hold harmless any projects that have already begun. We did not want to delay the effective date allowing anyone who chose to approach an RDA in an attempt to escape the provisions of the bill upon the effective date.

Assembly Bill 458 eliminates the abatement of the LSST. The NCED may no longer provide abatements of the LSST. The LSST was a tax approved by Nevada voters to fund education, not to promote economic development.

The NCED may continue to offer limited incentives. They may continue to offer a new employer in Nevada, or who expands his business, an abatement of local, non-education sales and use taxes and real and personal property taxes. It is limited to no more than 50 percent of the amount owed and limited in duration to no more than ten years.

It is easy to abate funds that do not belong to you. That is what we have here. The Legislature is making up shortfalls in abatements that have been given away without a calculation of the accumulated impact. This is no way to run a State.

Tax incentives at the expense of education do not work. Our tax and regulatory climate is more favorable to business than most states, yet surveys of the top business leaders nationwide seldom rank Nevada as a good place to do business because of our poor educational rankings.

We cannot fund education at the 20th-Century level and expect to attract 21st-Century businesses.

We must establish a Rainy Day Fund for Education through A.B. 458. I am passionate about these provisions. I have provided the Committee with other statistics in [Exhibit S](#).

SENATOR RAGGIO:

Does this bill apply to all existing RDAs as well as those newly created?

ASSEMBLYWOMAN BUCKLEY:

That is correct.

SENATOR RAGGIO:

Would the gradual abatement process eventually reach a 33-percent level of abatement?

ASSEMBLYWOMAN BUCKLEY:

There would be a 15-percent abatement for education by the year 2021. Also, under existing law, where the population is over 300,000, there is an affordable housing set-off of 18 percent.

SENATOR RAGGIO:

Does the affordable housing set off also abate on a graduated scale?

ASSEMBLYWOMAN BUCKLEY:

It modifies the affordable housing hold back.

SENATOR RAGGIO:

That is a total abatement of 30 percent.

ASSEMBLYWOMAN BUCKLEY:

That is correct for those jurisdictions that have reached a population greater than 300,000. The affordable housing provision has been in law since 1993 when I introduced the legislation supported by former Mayor Jan Jones of Las Vegas. The smaller RDAs have been prepared to include an affordable housing component in its planning.

SENATOR RAGGIO:

Currently, any reversion from the DSA is returned to the General Fund. Would all reversions from the DSA be captured up to the maximum for the Rainy Day Fund for Education? Would any further balance of reversions be directed to the Innovation and Remediation Trust Fund with no cap?

ASSEMBLYWOMAN BUCKLEY:

Fifty percent of the unspent funds in the DSA that formerly reverted to the General Fund would be directed to the Rainy Day Fund for Education and the other fifty percent would be directed to the Innovation and Remediation Trust Fund.

SENATOR RAGGIO:

Does that apply regardless of the amount of unspent funds from the DSA, recognizing there is a 20-percent cap on the Rainy Day Fund for Education? Would nothing be allocated to the General Fund? I am conscious of the fact that, in good years, funds revert and in lean years additional funding must be provided to the DSA.

ASSEMBLYWOMAN BUCKLEY:

If we see a gradual economic recovery and we have created a General Fund Stabilization Fund and added the provisions of A.B. 458, we should feel lucky to worry that too much funding was allocated to the Rainy Day Fund for Education.

COCHAIR MATHEWS:

The reversion provisions are in section 3 of A.B. 458.

ASSEMBLYWOMAN BUCKLEY:

After the Rainy Day Fund for Education reaches 20 percent of the prior year's education budget, the set-off funds are deposited in the Innovation and Remediation Trust Fund. That Fund was originally proposed at \$100 million, but it is currently at zero. A cap could be considered by future Legislators. Ms. Carole Vilardo, of the Nevada Taxpayers' Association, suggested if the Rainy Day Fund for Education works and contains a balance, during the 2011 Legislature we might want to consider a portion be directed to fund school retirement liabilities.

SENATOR RAGGIO:

Would funding be available from any other source for the Rainy Day Fund for Education?

ASSEMBLYWOMAN BUCKLEY:

This is the only source of funding suggested for that purpose.

SENATOR RAGGIO:

Would funding only be derived from the RDAs?

ASSEMBLYWOMAN BUCKLEY:

Funding would be from the RDAs and the reversions from the DSA.

COCHAIR HORSFORD:

Page 21, section 24 of A.B. 458 applies to a city whose population for a fiscal year is 300,000 or more. Which cities does that include?

ASSEMBLYWOMAN BUCKLEY:

That includes Las Vegas, and Henderson is nearly there with a population of 265,000. That is the portion of the bill with the staggered approach because of the affordable housing set aside.

My assessment in working with the cities at the RDAs is they do not love the bill, but they also no longer hate it. If the by-words of the Session are "shared sacrifice," we may not be able to provide the large tax incentives as we have in the past; it is only fitting in that we cannot as richly fund education and other matters as we may wish.

SENATOR RAGGIO:

What is the limitation and how is it applied on page 28, line 16, of A.B. 458 concerning partial abatements?

ASSEMBLYWOMAN BUCKLEY:

Page 28 of A.B. 458 is the language making the bill consistent with another measure that is pending. It is intended to make A.B. 458 consistent with the ballot language of an advisory question regarding that abatements be of a limited duration. It is consistent with another Assembly bill concerning incentives.

RUSSELL J. GUINDON (Senior Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

This is consistent with the other property tax abatements either currently in statute or in other legislation currently under consideration.

CRAIG STEVENS (Nevada State Education Association):

The Nevada State Education Association is in favor of, and fully supports A.B. 458. Safeguarding State education funds is critical to ensure our schools receive the necessary and proper resources. In good economic times and in poor economic times, students must still attend school. We thank Assemblywoman Buckley for sponsoring this legislation.

DR. MERRILL:

The Nevada Association of School Boards supports A.B. 458 and wants to thank Assemblywoman Buckley for her vision and her grasp of the many complexities of this bill. The iNVEST 2009 contains one goal agreed to by all 17 superintendents of public education and all 17 school boards. That is the creation of the Rainy Day Fund for Education. We could begin to avoid the need to make reductions in education as we have seen during the recent economic downturn.

DINO DICIANNO (Executive Director, Department of Taxation):

The Department of Taxation filed a fiscal note with respect to A.B. 458. It concerns the effect to our system with respect to the removal of the LSST portion of the sales tax for abatements. It is approximately \$22,000. Otherwise, the Department of Taxation is neutral on the bill.

MS. HALDEMAN:

We are in strong support of A.B. 458. It is one of the key components of iNVEST 2009, as noted earlier. We are grateful the bill has advanced this far. Over the years, had this mechanism been in place, the pain we have all shared

through the last several months might have been avoided or at least greatly mitigated.

We recognize that in good economic times these funds are reverted to the General Fund for other worthwhile projects. At the same time, when revenues are reduced, the State must make up that revenue in the DSA. That is a hardship on the State.

LONNIE SHIELDS (Nevada Association of School Administrators and the Clark County Association of School Administrators and Professional Employees):  
We strongly support A.B. 458.

MS. LORING:  
We support A.B. 458.

MR. JOINER:  
We are neutral on A.B. 458. We opposed the bill when it was heard in the Assembly. The first version of the bill would have killed the City of Sparks Redevelopment District which is the oldest RDA in the State. We are proud of what has been accomplished by the RDA.

The first reprint version of A.B. 458 includes the downscaled claw back. We will get by. I would equate it to the original version being a death sentence and the first reprint version as being on life support with a morphine drip. The Sparks District 2, the new marina area that is growing a \$1 million project also supported by star bonds, subsidizes two sub areas including the Conductor Heights, the oldest neighborhood in Sparks. It was created at the turn of the century when homes were moved there from Wadsworth. That area has become an industrial area, but residents still live there. They need assistance. The other area is Oddie Boulevard, the oldest commercial area outside of downtown Sparks.

We support and appreciate the City of Reno for its proposed amendment to A.B. 458.

MAYOR CASHELL:  
I support Assemblywoman Buckley's idea to protect education. My wife and daughter are teachers. Over the past year in Reno, redevelopment has been the only source of job creation leaving us with 300 permanently-employed workers. The property values in the redevelopment district are down 20 to 30 percent. With the current 3- to 8-percent tax cap in place, property taxes will never increase to former levels if this bill is passed. The depreciation provisions recently passed into law further exacerbate the situation. However, we cannot afford to rank lowest in education and expect to diversify our economy. There is another way to accomplish that.

Two or three bills have been heard today that would remove various revenue sources for the cities. One proposal takes approximately \$500,000 to \$2 million from Reno. One proposal under the Capital Improvement Program will cost Reno approximately \$1.2 to \$1.7 million. The depreciation levels must be changed or the 3-percent tax must be adjusted.

Once those taxes are abated, all the commercial businesses will file for tax reductions. The last time it cost the Reno RDA approximately \$200,000 to \$300,000. Without those problems being addressed, redevelopment may die.

SENATOR RAGGIO:

I share those concerns. How will this bill impact the creation of any new RDAs? Will this be less of a reason to create an RDA since such a large amount of funding will be set off? How does it affect the ability of existing RDAs to serve their purpose? Mr. Joiner explained the phase-in part is helpful. Will this have such an impact that RDAs will no longer have the efficacy to develop an area or remove blight from an area?

MAYOR CASHELL:

It will. When property values drop, as is happening currently, the 3-percent cap and the provisions of A.B. 458 will hurt the RDAs deeply. There is no question a Rainy Day Fund for Education is necessary. Funding designated for education should not be reverted to the General Fund. The two RDAs in Reno will be severely harmed with the lowering of property values, the property tax cap and depreciation.

COCHAIR HORSFORD:

I appreciate Mayor Cashell's perspective on this legislation. Do you understand there are two separate concepts within A.B. 458? The Rainy Day Fund for Education is one. That is funded through the reversion of funds otherwise allocated for education. The other portion concerns the RDAs and the amount of money that cities divert by offering economic development incentives.

I understand the realities of economics today. What about when times are very good and property values appreciate 20 to 40 percent? Why do we offer tax incentives to businesses or developers that would otherwise fund education in the good times?

MAYOR CASHELL:

I agree completely. When I served as the Lieutenant Governor, we did not have the incentives to entice businesses, for redevelopment, or to entice people to move to Nevada. However, when property values drop as they are currently, cities will be held to those levels because of property taxes and depreciation.

In a new redevelopment area, when times are better, the provisions of the bill would not have such an effect. In the two RDAs we have, the funding will be locked down for several years.

COCHAIR HORSFORD:

Would that be true regardless of whether or not you are providing abatement for schools?

MAYOR CASHELL:

Not if the depreciation and property tax schedules are changed.

COCHAIR HORSFORD:

Those are other policy issues on which we have had previous discussions. I am referring to the redevelopment portion. Is it not true that regardless of whether or not funds are being diverted from schools, the decline in property values is a part of the current realities due to the economy?

MAYOR CASHELL:

That is correct, but because of the property tax cap, cities will be locked into the lower revenue amounts.

SENATOR COFFIN:

Could we hear testimony from the City of Las Vegas regarding the impacts of this bill after Assemblywoman Buckley closes her remarks?

ASSEMBLYWOMAN BUCKLEY:

Every RDA is different. What applies to the City of Las Vegas does not apply to the City of Sparks. The RDA in Las Vegas freezes the assessed valuation for the entire district. For example, if the Golden Nugget built a new tower, the entire tax increment for that addition would be directed to the RDA when it would otherwise be allocated to the school district. It redirects funding that would otherwise go to the school district.

Redirection, at a time when school funding is so inadequate, makes no sense. The escalation factor ensures that RDAs will not be eliminated. This bill does not contend that redevelopment efforts are bad. Economic development and blight remediation are needed. We must always be cognizant of job creation. However, at a time when education is being reduced and Nevada is 46th in per-pupil funding, not to ensure education gets its fair share of funds that would otherwise be allocated to the school districts is not the right policy decision.

MARVIN LEVITT (City of Las Vegas and City of Henderson):

We have worked with Assemblywoman Buckley and her representatives over the last several months. We had many concerns about the legislation at the beginning of the process. We were concerned with the current obligations of the RDA, including obligations of debt and prior agreements with developers. I am pleased to report those concerns have been eliminated. Assemblywoman Buckley has changed the formulas of the bill allowing us to accept the provisions.

Currently, the City of Las Vegas is required to allocate 18 percent of redevelopment funds for affordable housing. This bill would immediately reduce that allocation to 15 percent. The bill makes a 3-percent requirement for education in the first year. Those two requirements will offset each other. Essentially, the RDA is whole in the initial year.

The City of Henderson is not currently subject to the 18 percent affordable housing allocation. We anticipate they will be in the future. There are advantages inherent with reaching 300,000 in population. Under existing law they would have had to immediately allocate 18 percent to affordable housing. The provisions of A.B. 458 gradually increase the allocation from 3 percent to 15 percent. The City of Henderson, because of the 3-percent allocation to education, would lose approximately \$380,000 in its RDA in the initial year.

We agree to allow A.B. 458 to move forward.

SENATOR COFFIN:

Can the City of Las Vegas live with the bill because it has the ability to reduce allocations to affordable housing?

MR. LEAVITT:

That is correct in the initial year. Eventually, this will ramp up to 15 percent for a total of 30 percent diverted away from the RDAs. The advantage under the current bill, as opposed to the original bill, is that it will be 2021 before the 15-percent allocation is reached. It gives the RDAs time to adjust its schedules and plan for the future based upon a change from the current law. Future redevelopment is more affected by tax laws as they relate to the 3 percent and 8 percent. The basis of redevelopment is that an area receives an appraised assessed valuation and, as a result of new projects, the assessed valuation increases. When the assessed valuation is arbitrarily limited by some growth percentage, redevelopment is effected.

COCHAIR MATHEWS:

Seeing no further business to come before the Committee this meeting is adjourned at 3:59 p.m.

RESPECTFULLY SUBMITTED:

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Cynthia Clampitt,  
Committee Secretary

APPROVED BY:

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Senator Bernice Mathews, Cochair

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