

**MINUTES OF THE
SENATE SELECT COMMITTEE ON ECONOMIC GROWTH AND EMPLOYMENT**

**Seventy-sixth Session
March 2, 2011**

The Senate Select Committee on Economic Growth and Employment was called to order by Chair Ruben J. Kihuen at 1:04 p.m. on Wednesday, March 2, 2011, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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 Ruben J. Kihuen, Chair
Senator Valerie Wiener
Senator Mark A. Manendo
Senator Don Gustavson
Senator Ben Kieckhefer
Senator Greg Brower

COMMITTEE MEMBERS ABSENT:

Senator John J. Lee, Vice Chair (Excused)

STAFF MEMBERS PRESENT:

Kelly Gregory, Policy Analyst
Bryan Fernley-Gonzalez, Counsel
Leslie Sexton, Committee Secretary

OTHERS PRESENT:

Kate Marshall, State Treasurer
Steve G. George, Chief of Staff, Office of the State Treasurer
Russell Rowe, Nevada Development Authority
Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance of Nevada
Terry Savage

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Walt Borland, Executive-in-Residence, Nevada Institute for Renewable Energy
Commercialization
Bill Uffelman, President and CEO, Nevada Bankers Association
Chuck Alvey, CECd, President and CEO, Economic Development Authority of
Western Nevada
Janine Hansen, Nevada Eagle Forum
Lynn Chapman, Nevada Families
John Wagner, Independent American Party
Mark Mathers, Senior Deputy Treasurer, Office of the State Treasurer
Mark Winebarger, Chief Deputy Treasurer, Office of the State Treasurer

CHAIR KIHUEN:

We will start this meeting with Senate Bill (S.B.) 64.

SENATE BILL 64: Establishes a program for the investment of state money in certificates of deposit at a reduced rate of interest to provide lending institutions with money for loans at a reduced rate of interest to certain eligible entities. (BDR 31-522)

KATE MARSHALL (State Treasurer):

Senate Bill 64 would provide the Office of State Treasurer (OST) the ability to make available to Nevada financial institutions a certificate of deposit (CD) Linked Deposit Program. As we move out of this economic downturn, this program will facilitate small businesses in this State. This program is not a State loan program, nor will State money be at risk. The OST has the statutory ability to purchase CDs. Under this bill, OST would take less interest on a CD from a bank, with the caveat that the bank must then lend money to a qualified business at a lower interest rate. The State could take up to two percent less interest, and the bank would lend out at up to two percent less interest. The risks associated with this loan belong to the bank. Many states in the country have implemented this program.

STEVE GEORGE (Chief of Staff, Office of the State Treasurer):

In the last Legislative Session, A.B. No. 451 of the 75th Session was introduced. This bill passed in both Houses and was then vetoed by the Governor. Leadership made the determination that rather than bringing A.B. No. 451 of the 75th Session back for a vote, S.B. 64 would instead be introduced. Most of the language in S.B. 64 is a carryover from this earlier bill. I would like to go over this bill with the Committee.

Section 9 of S.B. 64 requires the State Treasurer to establish the Linked Deposit Program whereby the State Treasurer may, in an aggregate amount not to exceed \$20 million, invest in certificates of deposit with lending institutions, including commercial banks, insured credit unions or insured savings and loan associations, at a reduced rate of interest, on the condition that the lending institution link the value of each such certificate of deposit to a loan at a reduced rate of interest to an eligible entity.

Section 9 also provides that the rate of interest paid to the State on the deposit is not to be more than two percentage points below the market rate for such a deposit and that the loan rate of interest is to be equal to the rate of interest paid to the State on the deposit.

Section 9 further requires the lending institution to sign an agreement with the State Treasurer specifying the terms of such a deposit and its linked loan.

Section 11 of the bill requires a lending institution that participates in the Linked Deposit Program to apply the institution's standard lending criteria to determine the creditworthiness of an eligible applicant seeking the loan. Section 11 also limits such loans to an amount not to exceed \$500,000 and to a term of not more than five years.

Section 12 requires that for loans made to eligible entities, a preference be given to certain in-state businesses that are owned by a member of a racial or ethnic minority, a woman, an honorably discharged veteran of the Armed Forces of the United States, or engaged in the production or sale of fuel or power derived from renewable energy sources.

Section 13 authorizes certain out-of-state businesses to apply for this loan if they provide proof of their intent to open a facility or office in this State. Sections 12 and 13 also limit the types of businesses eligible to participate in the program and require eligible businesses to use the proceeds from the loan for certain purposes.

Sections 14 and 15 of this bill authorize political subdivisions of this State and institutions of higher education to obtain a loan under the program and to use the proceeds for certain purposes.

Section 17 prohibits the State Treasurer from making any new investments to the Linked Deposit Program after June 30, 2013.

MS. MARSHALL:

I would like to talk about this program as an investment tool for the State. I have a PowerPoint presentation ([Exhibit C](#)) outlining the program. Any interest income the State earns on CDs is just one piece of revenue. There are other revenues, such as sales tax, property tax, business modified tax and entertainment tax. When reviewing the revenues of the State, all sources of revenues are taken into account. Slide 4 of the presentation explains the structure of this bill. The State invests in CDs with banking institutions. The bill specifies that the State could invest up to \$20 million with a lending institution. The State and the lending institution would agree on the structure of the CD, such as the length of time invested and the amount of interest earned. If the lending institution agreed to loan money to a qualified business at up to two percent less interest, the State would agree to receive up to two percent less interest on the CD. This would decrease the amount of interest income received by the State; however, the money loaned to a Nevada business would generate income to the State with increased sales and use taxes. I want to make it clear to you that the State would not be liable if the business defaulted on the loan.

I have provided you with a handout ([Exhibit D](#)) titled, "SB 64: Additional Information." The current interest rate on CDs is approximately 2.5 percent. Based on current interest rates, the maximum amount of interest the State could lose if the entire \$20 million was invested would be \$61,667 in fiscal year (FY) 2012 and \$300,000 in FY 2013. The amount the State could gain, solely through the extra tax collections from those loans, would be \$381,000 over the biennium. If county sales and use taxes are included, the amount would increase to \$577,000 over the biennium. The State would lose \$300,000 in unearned interest, but it would gain \$577,000 in generated sales and use taxes.

In addition, the requirements of this bill state that the money must be lent to a Nevada business, and that business must hire Nevadans. We are now giving unemployed Nevadans jobs. Once employees obtain a job, the State would no longer be responsible for unemployment insurance on those employees. This bill would increase the revenue to the State and decrease the expenses of the State.

We have modeled this program after similar ones instituted in Missouri and Washington. Missouri invested \$1.1 billion in their program and 5,900 jobs were created. Washington invested \$61 million and 1,478 jobs were created. Washington estimates the tax revenues received were increased by \$87.2 million. The amount invested is not money that states lose—that is money on which states are earning returns.

The “nuts & bolts” of this program are that OST agrees to purchase a CD at a reduced interest rate from a Nevada lending institution. The qualified lending institution agrees to provide a similarly reduced rate of interest loan to an eligible entity. The borrower must meet the lending institution’s criteria. The business must also meet the State’s criteria—the business must be a small business in Nevada which hires Nevada employees. The State does not tell the bank to whom to lend. Lending institutions do not have to participate in this program.

Slide 10 outlines the lending criteria for this program. Please note that these are preferences, not requirements. A Nevada business is eligible for this program if it does not have more than 100 employees and is headquartered in this State. It must maintain offices or operating facilities in this State, transact business in this State and be organized for profit. An out-of-state business can qualify for this program by providing proof it is relocating to Nevada and it intends to employ at least ten full-time Nevada employees. These preferences were originally drafted and included in A.B. No. 451 of the 75th Session.

Senate Bill 64 was expanded after discussion with a number of stakeholders. Municipalities or public entities that have received approval from the voters to make certain purchases or make capital improvements would be eligible to participate in the program, as would institutions of higher education.

SENATOR MANENDO:

The bill, as drafted, states that to be eligible for the program, the out-of-state business must have no more than 100 employees, and it must have 10 full-time employees. I do not see in the bill those employees are required to be Nevada residents.

MS. MARSHALL:

That is the intent of the bill. If you think it should be amended, that is fine.

SENATOR MANENDO:

We need to be very specific that the employees must be Nevada residents.

SENATOR BROWER:

As I understand the concept, the State would voluntarily reduce its rate of return with the chance that other economic activity, as controlled by lending institutions, would produce a larger return. There is obviously no guarantee that would happen.

MS. MARSHALL:

The State does not agree to take a reduction in interest on any specific amount, unless the lending institution guarantees it will lend the same amount to a Nevada business at the reduced loan rate.

SENATOR BROWER:

There is still the possibility of a business receiving the loan and then defaulting on the loan. For the State to give up a part of its interest earned in exchange for the possibility of a trickle-down effect does not fundamentally fit with the mission of OST. That mission is to invest the State's money conservatively to ensure a return, and to not incur a loss. This program intentionally reduces the return in the hope that business activity, which we can not even control, will make up for the lost interest.

MS. MARSHALL:

The business must satisfy the lending institution's lending criteria. The lending institution must perform its due diligence and make sure it loans to entities that will not default on their loans. You do not want the State connected to a potential default. That is how we will try to ensure that what the State gives up in interest will be gained in other revenues. Other states have instituted this program, and it has been successful. They accomplished small business growth and increased revenues to those states.

SENATOR BROWER:

It seems that there may be a constitutionality issue with this bill. Do you have an Attorney General's opinion (AGO) on the bill?

MS. MARSHALL:

We do not have an AGO. The Legislative Counsel Bureau did not identify any legal issues while we were drafting this bill.

SENATOR BROWER:

We should check on the constitutionality with our Legal Division, Legislative Counsel Bureau. You mentioned that some states have successfully embarked upon this type of program. Are you aware of any states that have instituted the program and were not successful?

MS. MARSHALL:

There are none of which I am aware.

SENATOR BROWER:

How does this bill differ from A.B. No. 451 of the 75th Session?

MR. GEORGE:

One difference is the addition of the ability of political subdivisions and institutions of higher education to apply for these loans. The other change increased the maximum number of employees a small business must employ from 50 to 100 employees.

SENATOR BROWER:

I have not seen the Governor's veto message on A.B. No. 451 of the 75th Session. Can you tell me why he vetoed the bill?

MR. GEORGE:

I do not have that information in front of me. Essentially, he did not agree with the preferences listed and the fiduciary responsibility portion of the bill.

SENATOR BROWER:

There is no guarantee these businesses will not default on the loans. The State would involuntarily lose the interest revenue when the businesses defaulted. This is something the Committee should carefully review.

SENATOR KIECKHEFER:

I understand the lending institutions have the money to lend; the problem is in locating qualified entities that could be loaned that money. If there are no qualified entities, how will that get money out on the street?

MS. MARSHALL:

In structuring this bill, we worked with the U.S. Small Business Administration (SBA). The SBA's loan program guarantees 75 percent of the

loan, backed by the federal government. The lending institution is able to make a loan to small businesses with that federal guarantee. The CD loan meets the criteria of SBA loans. When a lending institution lends to a small business using the SBA loan program, that loan is generally at a rate higher than market rates. Under this program, those rates would become market rates. That would facilitate the ability of businesses to qualify for the loans.

SENATOR WIENER:

You have mentioned that other states have had great success with this program. Can you tell me what their returns have been?

MS. MARSHALL:

We have previously shown you the returns for Missouri and Washington. We will get you the information on the other states' rates of return.

SENATOR GUSTAVSON:

Can you also provide the information on the number of jobs created and the amounts of taxes raised?

MS. MARSHALL:

Yes, we will try to get that information for you.

RUSSELL ROWE (Nevada Development Authority):

I am here on behalf of the Nevada Development Authority. We strongly endorse S.B. 64. Development authorities compete with other states in attracting new business to their state. Other states have the ability to make loans directly to businesses for the relocation or expansion of their businesses. Nevada may have some constitutional limitations on making those loans, which has kept the State at an unfair advantage. This legislation provides a unique way to balance the playing field. It is important to bring companies to Nevada from out of state and to promote business expansion. We should focus on the expansion of businesses. We have smaller businesses in Nevada that want to expand, and this bill would provide them the mechanism to accomplish that. We encourage your support of S.B. 64.

SENATOR GUSTAVSON:

You mentioned that Nevada may have constitutional issues involved with loaning directly to businesses. Can you explain what those constitutional issues are and how will this bill overcome them?

MR. ROWE:

I cannot cite the specific constitutional provision to you.

SENATOR GUSTAVSON:

If there are constitutional issues, one may be that the State cannot make direct loans. This bill would circumvent the State so the lending institutions would be making those loans. If there are any other constitutional issues, I would like to know about them.

JAN GILBERT (Northern Nevada Coordinator, Progressive Leadership Alliance of Nevada):

In the last Legislative Session, the Progressive Leadership Alliance of Nevada (PLAN) issued a racial equity report card bill. We will be submitting another report during this Session. It is difficult for members of racial and ethnic minorities to obtain loans. This bill would make a pool of money available for those groups. This is the ideal economic development plan. We are not losing a great deal of money. Actual experiences in other states demonstrate that we will gain money. Less money will be required for social services, and more people will be paying taxes. I hope you will use this tool to assist smaller businesses to relocate to this State.

SENATOR GUSTAVSON:

We do want to assist minorities. If these groups have to meet the same criteria as everyone else, how will this bill improve their ability to qualify for a loan?

MS. GILBERT:

I am not sure of the answer to that question. There is a banker here who will be testifying on this bill, and he may be able to explain.

TERRY SAVAGE:

I am in support of S.B. 64, with one reservation. Slide 2 of the presentation by the State Treasurer lists the entities who would qualify for the loan. I would restrict this list only to out-of-state businesses that are relocating to Nevada. I would focus on target entities most likely to increase employment at a minimum cost to the State. I do not see a problem with the order of lending preference listed in the bill. The preference order is simply a tiebreaker. If the businesses are otherwise equally qualified, the preferences are applied in the order listed in the bill.

SENATOR BROWER:

In the context of this bill, the key is categorizing people by the need for the loan and perhaps their historical inability to receive a loan. As a Committee, we should be wary of preferences without logic attached to them.

WALT BORLAND (Executive-in-Residence, Nevada Institute for Renewable Energy Commercialization):

Nevada is at a competitive disadvantage in economic development. This bill is an important tool as a package of incentives that may be offered to companies to encourage them to relocate their business operations to Nevada. The ability for a business to borrow \$500,000 to purchase a large piece of equipment would translate to a savings to that business of \$10,000 annually. That money could be used to hire additional employees. A business would have the opportunity to save money while making capital business investments. It is a great incentive for those companies to come to Nevada.

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

The Nevada Bankers Association (NBA) supports S.B. 64. At this stage in the economy, you probably will not see loans funded under this program, simply because the cost of funds is so low. When interest rates move up, I envision that borrowers will take advantage of the program. In response to the preferences outlined in the bill, lending institutions are equal opportunity lenders. We do not discriminate in our lending practices.

CHUCK ALVEY (CEcD, President and CEO, Economic Development Authority of Western Nevada):

The Economic Development Authority of Western Nevada is in support of this bill. We would like to note that this is a pilot program; there are parts of it that we believe are too small. This is a beginning, and it is important to get started somewhere. There is a degree of risk, but this State has built its economy on businesses taking risks in relocating to Nevada. We work with innovative growth companies and start-ups. There are a number of these companies we have not been able to help because they have not had access to working capital. While the timing may not be perfect now, it is good timing for the future. Senator Manendo mentioned that the bill should be amended to add that all workers hired should be Nevada residents. You may want to be cautious with that wording. Some companies we work with have difficulty finding certain skilled workers and may need to recruit their employees from outside the State.

You may want to specify that the employees must become residents within a year of employment with that business.

SENATOR MANENDO:

I see there may be a need for employees to be recruited from outside of the State. We can work on that language.

JANINE HANSEN (Nevada Eagle Forum):

I do have questions and concerns about this bill. In reviewing the bill and viewing the presentation, I noticed that the Legislative Counsel's Digest identified certain businesses, specifically members of a racial or ethnic minority, a woman, a veteran and businesses associated with renewable energy. I find this portion of the bill discriminatory. If you have a program like this, it should not discriminate against any group. Any qualified business should be able to apply for the loan.

My other concern is loans to public municipalities. Does this circumvent the bonding process? Public municipalities that want a loan for a capital improvement project must go to the public for approval of bonds. If this program circumvents that process, the taxpayers would be responsible for the repayment of the loan but would have no input as to what the money was borrowed for.

I also have a concern with Section 16 of the bill. It states that the Treasurer shall adopt the regulations necessary to carry out the provisions of the bill. Those regulations may be fine, but I will not know that until I can review those proposed regulations.

I wanted to mention to Senator Brower that Governor Gibbons' comments, when he vetoed A.B. No. 451 of the 75th Session, were that it was "social investing at the expense of ignoring fiduciary obligations."

LYNN CHAPMAN (Nevada Families):

I am not an expert on the State budget. However, as a taxpayer I usually end up paying if something goes wrong. I also question the preference provisions of the bill. My husband is a white male who is not a veteran, and his business is not related to renewable energy. Therefore, he would be excluded from this program. I think that is wrong. We are all Nevadans and we should be treated equally.

JOHN WAGNER (Independent American Party):

I believe that when the State invests money, they should receive the maximum return on that money. I also have concerns on the preference provisions. We are trying to unite as one country, one race, one people. No entity should have preference over another.

I also have a question. What happens if the lending institution that lends this money goes bankrupt?

MARK Mathers (Senior Deputy Treasurer, Office of the State Treasurer):

In response to Ms. Hansen's question on the ability of public municipalities to circumvent the bond process, this bill does not have anything to do with bonds. The local public agency taking advantage of this program would need the required authorization and approval to obtain the loan from the lending institution.

MR. GEORGE:

Also in response to Ms. Hansen's question, OST does not write regulations and then adopt them. There are public meetings on the regulations, and there is a process we must follow. It is not something OST could do on its own.

When this bill was put forth in the last Session, it was requested that the preference language be included in the bill. It is up to this Committee to keep or delete the preference language.

MARK WINEBARGER (Chief Deputy Treasurer, Office of the State Treasurer):

I would like to respond to the comment Mr. Wagner made about what would happen if a lending institution declared bankruptcy. Certificates of deposit purchased by the State are insured or fully collateralized. There is no risk to the State.

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CHAIR KIHUEN:

We will now close the hearing on S.B. 64 and hold this bill for a future work session. This hearing is adjourned at 2:13 p.m.

RESPECTFULLY SUBMITTED:

Jodene Poley,
Committee Secretary

APPROVED BY:

Senator Ruben J. Kihuen, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 64	C	Kate Marshall, Office of the Treasurer	PowerPoint Presentation
S.B. 64	D	Kate Marshall, Office of the Treasurer	Additional Information