

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

**Seventy-sixth Session
March 25, 2011**

The Senate Select Committee on Economic Growth and Employment was called to order by Chair Ruben J. Kihuen at 1:24 p.m. on Friday, March 25, 2011, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Ruben J. Kihuen, Chair
Senator John J. Lee, Vice Chair
Senator Valerie Wiener
Senator Mark A. Manendo
Senator Don Gustavson
Senator Ben Kieckhefer
Senator Greg Brower

STAFF MEMBERS PRESENT:

Kelly Gregory, Policy Analyst
Bryan Fernley-Gonzalez, Counsel
Debra Carmichael, Committee Secretary

OTHERS PRESENT:

Steve G. George, Chief of Staff, Office of the State Treasurer
Bill Uffelman, President and CEO, Nevada Bankers Association
Patrick Sanderson, American Federation of State, County and Municipal Employees Local 4041; Labors Local 169 Retiree Council; Laborers' International Union Local 872, AFL-CIO; Nevada Alliance for Retired Americans

CHAIR KIHUEN:

We will open the hearing with a work session on 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)

KELLY GREGORY (Policy Analyst):

This bill is presented by the State Treasurer. We heard this bill on March 2 and March 9 ([Exhibit C](#)). Senate Bill 64 establishes a Linked Deposit Program to increase the availability of reduced-rate loans to qualified small businesses owned and operated in the State. Special consideration will be provided to businesses that are at least 51 percent owned and operated by a minority, a woman, a United States military veteran or businesses engaged in the production and sale of fuel or power from a renewable energy source.

CHAIR KIHUEN:

We have several proposed amendments to the bill.

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

We met with the Nevada Bankers Association members and members of the small business community, and we decided the State Treasurer should not be in the position to approve loans. Our proposed amendment deletes lines 23 and 24 shown on page 5, [Exhibit C](#). On page 6, we deleted information regarding the State Treasurer compiling and maintaining a list of eligible entities that have received loans on the Website, as it works better for the banks to maintain and publish the list. We did add that the State Treasurer would prepare a report highlighting the benefits of the program that will be available on its Website and reported to the Legislature. The information about banks making the Linked Deposit Program available to the public on their Websites has been deleted, as it will be the State Treasurer's responsibility. On page 7, section 11, lines 1 through 14 have been deleted as the bank makes those determinations, not the State Treasurer, and modifications have been made to lines 15 through 18. Instead of the Program ending in 2013, we have moved the date to 2015.

SENATOR KIECKHEFER:

Should the language change on page 5, section 9, line 26 from the State Treasurer to the lending institution?

Senate Select Committee on Economic Growth and Employment
March 25, 2011
Page 3

MR. GEORGE:

Yes. The bank accepts the loan package and provides it to the Office of the State Treasurer. Changing the word "acceptance" to "submission" on line 25 might work, as the bank accepts the loan package and submits it to the State Treasurer.

SENATOR LEE MOVED TO ADOPT THE AMENDMENT TO S.B. 64
PROPOSED BY THE OFFICE OF THE STATE TREASURER.

SENATOR MANENDO SECONDED THE MOTION.

SENATOR WIENER:

What verbiage will be included in section 9, line 25?

MR. GEORGE:

Using the word "receipt" is better than "submission."

SENATOR WIENER:

If that is changed, I am ready to vote.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

MISS GREGORY:

The second proposed amendment was submitted by Bill Uffelman, President and CEO of the Nevada Bankers Association, and changes the definition related to persons discharged from the military, [Exhibit C](#), page 12.

SENATOR BROWER:

Do we have new language?

MISS GREGORY:

We could use the language in quotes on page 12. However, this is conceptual only as it was not prepared by the Legislative Counsel Bureau (LCB) Legal Division. The LCB Legal Division could revise the statement to be consistent with statutes.

Senate Select Committee on Economic Growth and Employment
March 25, 2011
Page 4

SENATOR BROWER:

The discharge definitions might be more complicated than the conceptual amendment suggests.

MR. GEORGE:

We are grateful Mr. Uffelman added the language as we did not think about it.

SENATOR BROWER:

The types of discharges that enable a person to get the U.S. Department of Veterans Affairs (VA) benefits may apply to this bill. This bill should include the VA criteria.

SENATOR LEE:

Would we address Senator Brower's issues if we accept the proposed amendment as stated?

MISS GREGORY:

You can make a motion to move forward with the intent. The intent is not to penalize a person who was discharged from the military under a circumstance other than dishonorable. If the person qualifies for VA benefits, he would qualify for this program.

BRYAN FERNLEY-GONZALEZ (Counsel):

We could draft the amendment to read in that fashion.

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

A person who has received a general discharge or honorable discharge is eligible for VA benefits.

SENATOR BROWER:

Is the bad conduct discharge still a form of discharge?

MR. UFFELMAN:

Yes.

Senate Select Committee on Economic Growth and Employment
March 25, 2011
Page 5

SENATOR BROWER:

If we were to adopt the federal VA standard, what would be the proposed language?

MR. UFFELMAN:

Discharge under dishonorable conditions would disqualify a person from the program.

MR. FERNLEY-GONZALEZ:

We have used production of an honorable discharge or certificate of satisfactory service in the past. I am not certain if that captures the intent.

MR. UFFELMAN:

I was in the military for 20 years and have not seen a certificate of service. If the VA's definition is used, former service members will understand if they qualify for the program.

SENATOR WIENER MOVED TO ADOPT THE AMENDMENT TO S.B. 64
PROPOSED BY MR. UFFELMAN.

SENATOR LEE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR KIHUEN:

We will now discuss the conceptual amendment in [Exhibit C](#), page 19. There was a minority preference in section 12, subsection 2(a) that was deemed unconstitutional by the LCB Legal Division.

MR. FERNLEY-GONZALEZ:

The conceptual amendment will remove the preferences and require the lending institutions to submit information on the race, ethnicity and gender of the loan recipients. The lending institutions will report the information to the Office of

Senate Select Committee on Economic Growth and Employment
March 25, 2011
Page 6

the State Treasurer who in turn submits the information to the Attorney General (AG). If the AG finds the information indicates that the preference will satisfy the constitutional standard, the AG will certify it to the Governor. Upon proclamation from the Governor, the preference will be in effect.

SENATOR BROWER:

Is there any precedence for doing that with other State laws?

MR. FERNLEY-GONZALEZ:

Yes.

SENATOR BROWER:

What is the precedence?

MR. FERNLEY-GONZALEZ:

I have heard from other people, who have been here longer, that it has been done. I do not know anything specific.

CHAIR KIHUEN:

Mr. Fernley-Gonzalez worked with Legislative Counsel Brenda Erdoes, and she is the one who cited the other precedents.

MR. FERNLEY-GONZALEZ:

Yes, that is correct.

SENATOR KIECKHEFER:

Does this only apply to the racial preference or to all preferences?

MR. FERNLEY-GONZALEZ:

That would be up to the Committee. It could apply to all or only to race and gender.

SENATOR KIECKHEFER:

This is complicated for me, as I find it strange for the Governor to suddenly have law take effect by proclamation rather than signing a bill. The AG is

stating we are complying with rules of the Nevada Supreme Court regarding constitutionality which is determined by the courts. It is too complicated for me to support.

SENATOR BROWER:

I have bigger problems with the bill. I agree with Senator Kieckhefer and cannot believe there is a precedence that makes this amendment workable. I do not think it is workable.

SENATOR KIECKHEFER:

I share Senator Brower's concerns about the bill as a whole. I would prefer to strike the preferences in their entirety rather than put something this complicated in our statutes.

SENATOR LEE:

I would like to see something in the bill that allows disadvantaged businesses to build a relationship with a lending institution. But I do agree with Senators Brower and Kieckhefer regarding the preferences. If we vote on this bill and it goes to the Assembly, it will probably come back to a conference committee. I reserve the right to make more amendments or pull it.

SENATOR LEE MOVED TO ADOPT THE AMENDMENT TO S.B. 64
PROPOSED BY LCB LEGAL DIVISION.

SENATOR WIENER SECONDED THE MOTION.

SENATOR GUSTAVSON:

I have a problem giving special treatment to any group of people. I think this bill should be available to everybody.

MR. FERNLEY-GONZALEZ:

I just did a search on the Internet of past statutes and found examples, A.B. No. 554 of the 75th Session and S.B. No. 29 of the 71st Session.

SENATOR LEE:

I agree with Senator Gustavson. The lending institutions are not going to loan

money to businesses that cannot pay it back. I doubt this will have any influence on the lending institutions decision to grant a loan. I want to see more contractors afford to stay in business.

THE MOTION CARRIED. (SENATORS BROWER, GUSTAVSON AND KIECKHEFER VOTED NO.)

* * * * *

MISS GREGORY:

This amendment, [Exhibit C](#), beginning on page 13, as proposed by Senator Manendo was heard in the March 9 meeting. The intent of the amendment is to change the percent of Nevada residents from 50 percent to 60 percent of the employees to be hired by an out-of-state business in order to qualify for the loan.

SENATOR WIENER:

Is 60 percent acceptable to the LCB Legal Division?

MR. FERNLEY-GONZALEZ:

Yes, it is fine.

SENATOR KIECKHEFER:

It is good to have an out-of-state business relocate, in its entirety, to our State, bringing in out-of-state employees, making them Nevadans where they pay taxes and become a part of our community. Would this amendment prevent them from doing that?

SENATOR LEE:

I want local people who have the dream of owning their own businesses to have the opportunity to receive these loans. I do see Senator Kieckhefer's point of view, but I want the people who have grown up here to receive a loan and start a business.

SENATOR KIECKHEFER:

I agree with you, but section 13 of this bill specifically relates to out-of-state businesses that apply for the loan. Maybe out-of-state businesses should not be eligible for the loan.

SENATOR LEE MOVED TO ADOPT THE AMENDMENT TO S.B. 64
PROPOSED BY SENATOR MANENDO.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

SENATOR KIECKHEFER:

My proposed amendment, [Exhibit C](#), page 16, was generated from the variety of presentations given to the Committee on how we can target and invest our scant resources in economic development. I chose three industries that are areas of potential high growth. There are others, but I am trying to generate a discussion concerning the presentations, whether any lessons are to be learned and we want to apply them to bills like this one. I am not sold on these industries as the ones that may be applicable. I withdraw my amendment.

MR. GEORGE:

This amendment was triggered by the discussion in the last work session where we tried to find a good compromise in the language that would help everybody. In section 12, [Exhibit C](#), page 17, we added three considerations and seven qualifications with consideration given to the applicant if the request materially contributes to the economic revitalization of the State.

SENATOR WIENER:

Based on our earlier discussion concerning preferences, would we exclude the preference part of this amendment?

MR. FERNLEY-GONZALEZ:

Yes. It has been taken out and would go through the process discussed earlier.

CHAIR KIHUEN:

Do you want to continue with this amendment?

Senate Select Committee on Economic Growth and Employment
March 25, 2011
Page 10

MR. GEORGE:

I will leave that up to the Committee. This amendment was an effort to work with Senator Kieckhefer and target specific industries.

CHAIR KIHUEN:

Were these industries recommended by the Commission on Economic Development?

MR. GEORGE:

That is correct.

SENATOR WIENER:

Any other industry or business determined to be critical to the economic development of this State is still in the amendment. This captures everything that may come in the future.

MR. GEORGE:

I asked Bill Uffelman how many times those industries would want a \$500,000 loan. He said not very often because usually they are looking for millions of dollars. It may be these industries will not be affected as much as small businesses. Our original intent was to help small businesses in the State.

SENATOR WIENER:

It might be more appealing to have the broader statement of any other industry or business determined to be critical to the economic development of this State instead of spelling out the specific industries.

MR. FERNLEY-GONZALEZ:

Does the Committee want to include the same amendment language that is in section 12 in section 13?

SENATOR KIECKHEFER:

I appreciate the effort of Mr. George in accommodating my concerns with this amendment. I have been brought full circle by Senator Lee in his desire to help

local people and small businesses. These provisions would only take effect assuming all the qualifications of all the applicants are equal. I am comfortable in not proceeding with the amendment.

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 64.

SENATOR MANENDO SECONDED THE MOTION.

SENATOR KIECKHEFER:

I am going to vote against the bill because I am not sure this will help. I have heard from the banking industry that it has money to lend but is not finding qualified lenders. It is not good for the State to take a financial haircut if it does not have the desired effect, even if it is a small one. It circumvents the constitutional intent of prohibiting the State from loaning State resources to private industry even though there is an opinion from the AG stating it is constitutional.

SENATOR BROWER:

I echo Senator Kieckhefer's remarks. The bill's overall intent is misplaced and the details are not workable. I do appreciate the Chair's and the Committee's work on it, but I cannot vote for it.

SENATOR GUSTAVSON:

I agree with Senators Kieckhefer and Brower's comments and am not comfortable passing this bill.

SENATOR LEE:

I am voting for the bill and hoping for the best. However, if other things are added through the process, I will refuse to support the bill.

THE MOTION CARRIED. (SENATORS BROWER, GUSTAVSON AND
KIECKHEFER VOTED NO.)

* * * * *

Senate Select Committee on Economic Growth and Employment
March 25, 2011
Page 12

PATRICK SANDERSON (American Federation of State, County and Municipal Employees Local 4041; Labors Local 169 Retiree Council; Laborers' International Union Local 872, AFL-CIO; Nevada Alliance for Retired Americans):

I am a working man who has worked in this State all my life. This bill may not help a large number of people, but if it puts one person to work, it will help. It is a great bill because it helps, even in a small way, people start up businesses and existing businesses expand. I am asking the Committee to vote for any bill that creates jobs and puts Nevadans back to work. We have to do something for the men and women in this State to get them back to work. We need a little bit of hope. We are not asking for a handout, just a chance to make a living and support our families.

CHAIR KIHUEN:

The meeting is adjourned at 2:19 p.m.

RESPECTFULLY SUBMITTED:

Debra Carmichael,
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	Kelly Gregory	Work Session Documents