

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

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

The Senate Committee on Finance was called to order by Chair Steven A. Horsford at 8:30 a.m. on Thursday, June 2, 2011, 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 Steven A. Horsford, Chair
Senator Sheila Leslie, Vice Chair
Senator David R. Parks
Senator Moises (Mo) Denis
Senator Dean A. Rhoads
Senator Barbara K. Cegavske
Senator Ben Kieckhefer

GUEST LEGISLATORS PRESENT:

Senator Joe. Hardy, Clark County Senatorial District No. 12
Assemblywoman April Mastroluca, Assembly District No. 29

STAFF MEMBERS PRESENT:

Rex Goodman, Principal Deputy Fiscal Analyst
Mark Krmpotic, Senate Fiscal Analyst
Patricia O'Flinn, Committee Secretary

OTHERS PRESENT:

Kevin Schiller, Director, Department of Social Services, Washoe County
Amber Howell, Deputy Administrator, Family Programs, Division of Child and
Family Services
Alex Ortiz, Clark County
Craig Hulse, Washoe County School District

Senate Committee on Finance
June 2, 2011
Page 2

Scott Rawlins, P.E., C.P.M., Deputy Director, Nevada Department of Transportation
Wayne Sidell, Administrator, Motor Carrier Division, Department of Motor Vehicles
Lisa Foster, City of Boulder City
Chris Ferrari, Nevada Contractors Association
Danny Thompson, Nevada State AFL-CIO
Anthony Rogers, Southern Nevada Building and Construction Trades Council
Jack Mallory, Director of Government Affairs, International Union of Painters and Allied Trades, District Council 15
Ted Olivas, City of Las Vegas
Scott Adams, Chief Redevelopment Officer, Redevelopment Agency, City of Las Vegas
Ricky Barlow, Councilman, City of Las Vegas
Bill Welch, Nevada Hospital Association
Wes Henderson, Deputy Director, Nevada Association of Counties
Bob Ostrovsky
Jodi Tyson, Advocacy and Research Manager, Three Square Food Bank
Paula Berkley, Food Bank of Northern Nevada
Nicole Rourke, Clark County School District

CHAIR HORSFORD:

We will open the hearing on Senate Bill (S.B.) 371.

SENATE BILL 371: Makes various changes concerning the protection of children. (BDR 38-3)

KEVIN SCHILLER (Director, Department of Social Services, Washoe County):

The fiscal impact of S.B. 371 is creating concern. There are three main areas we focused on in the bill: psychiatric treatment and psychotropic medication; mental health treatment; and the overall health care of the child. The area of most concern is psychiatric treatment and psychotropic medication and our accountability as an agency as children enter the system. Children in foster care often require more critical psychiatric care. I suggest that we leave the requirement to appoint a person responsible for the mental health care decisions in the bill. However, it would be better to appoint a person who is a member of a governmental agency, such as the clinicians we have on staff. Specify that the agency which has responsibility for the child is responsible for the oversight of all other health care. This oversight for both general health and mental health

care is required by federal and State statute already. As children come into the system, they may start out in general outpatient therapy, but their needs may escalate due to the circumstances that brought them in. The appointment of a responsible individual will allow for better medication and treatment management and reduce duplicative efforts and dosing, as well as increasing accountability. Finally, language specifying the consent process if a parent is unavailable should be added to the bill. There is a statewide policy that can be used as a model for the statute. These changes should address issues of accountability and some of the concerns about psychotropic medications. These are the most difficult children in custody and management of them is an ongoing difficulty.

SENATOR CEGAVSKE:

Tom Morton, the Director of Family Services in Clark County, initially requested liability language, but it has been determined that language can be deleted, thus removing the fiscal note.

MR. SCHILLER:

We did work with Clark County Social Services to make the changes I just outlined conceptually. We all concur the liability section could be changed per amendment.

AMBER HOWELL (Deputy Administrator, Family Programs, Division of Child and Family Services):

Based on Assembly Bill No. 364 of the Seventy-fifth Legislative Session, a policy has been implemented to track treatment and medication so there is more accountability and monitoring that the caseworkers can do.

ALEX ORTIZ (Clark County):

We are in agreement with the proposed amendment that will be coming for S.B. 371. According to our understanding of the changes, our fiscal note will be removed.

SENATOR LESLIE:

Is there an amendment in writing? Can we get an amendment before the Session ends in a few days?

Senate Committee on Finance
June 2, 2011
Page 4

MARK KRMPOTIC (Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

I would ask that Mr. Schiller meet with the Legislative Counsel Bureau's Legal and Fiscal Division representatives to get an amendment drafted.

CHAIR HORSFORD:

We will wait for an amendment. We will close the hearing on S.B. 371 and open the hearing on S.B. 347.

[SENATE BILL 347 \(1st Reprint\)](#): Confers the powers of a peace officer upon certain employees of the Aging and Disability Services Division of the Department of Health and Human Services for certain purposes. (BDR 23-1075)

SENATOR MOISES (Mo) DENIS (Clark County Senatorial District No. 2):

I submitted a proposed amendment to S.B. 347 this morning ([Exhibit C](#)). The intent of the bill is to obtain sufficient information to prosecute elder abuse cases. The amendment removes section 4, subsection 2, of the bill which references category II peace officer positions within the Aging and Disability Services Division (ADSD) and section 5 which adds ADSD to a list of agencies containing category II peace officer positions. We also propose new language to amend *Nevada Revised Statutes* (NRS) 427A as follows:

The Administrator or a designated representative may administer oaths and take testimony thereunder and issue subpoenas requiring the attendance of witnesses before the Division at a designated time and place and the production of books, papers and records.

1. In conjunction with the investigation of elder abuse, neglect, exploitation and isolation as defined in NRS 200.5091 et. seq.

2. If a witness fails to appear or refuses to give testimony or to produce books, papers and records as required by the subpoena, the district court of the county in which the investigation is being conducted may compel the attendance of the witness, the giving of testimony and the production of books, papers and records as required by the subpoena.

Currently, they have the ability to do this, but placing it in statute gives it more force. While it is not a perfect solution, it will help ADSD as they are trying to get these records.

Senate Committee on Finance
June 2, 2011
Page 5

SENATOR CEGAVSKE:
What does the bill correct?

SENATOR DENIS:
The ADSD has to have probable cause to prosecute for abuse, neglect, exploitation or isolation. When they approach the bank for records, they are often denied access to the records. When they ask the police to request the records, the police do not want to become involved because there is no probable cause. The ADSD already has administrative subpoena power; S.B. 347 gives them the ability to go to court if they must.

SENATOR CEGAVSKE:
Does it speed up the process?

SENATOR DENIS:
It not only speeds up the process, it facilitates it. Often they cannot even prosecute because they cannot get the information.

SENATOR CEGAVSKE:
What kind of information do they want from the bank?

SENATOR DENIS:
They are looking for bank records to determine if someone is stealing money from elders in their care.

MR. KRMPOTIC:
Based on the proposed amendment to remove the sections as outlined above, there will no longer be a fiscal impact from the bill since ADSD would no longer need funding to train staff so they attain category II peace officer status.

SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS S.B. 347.

SENATOR LESLIE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Senate Committee on Finance
June 2, 2011
Page 6

MR. KRMPOTIC:

The next item is the mock-up amendment to S.B. 370 that was presented at the Senate Committee on Finance on May 31, 2011.

SENATE BILL 370: Makes various changes to provisions governing children who are placed with someone other than a parent. (BDR 38-909)

Concerns were expressed there had not been enough time to review the amendment to determine whether the fiscal impact has been removed. One of the significant fiscal notes submitted to this bill was from the Department of Corrections. Deputy Director Jeffrey Mohlenkamp testified their fiscal note would be removed based on the amendment. We have received communication from the Clark County School District (CCSD) indicating that they would remove their \$350,000 a year fiscal note based on the amendment. We have not received communication from any other school district.

CHAIR HORSFORD:

Are there any school district representatives who want to testify?

CRAIG HULSE (Washoe County School District):

With the amendment to S.B. 370, there would be no fiscal note for us either.

SENATOR KIECKHEFER MOVED TO AMEND AND DO PASS S.B. 370.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HORSFORD:

We will open the hearing on S.B. 83.

SENATE BILL 83 (1st Reprint): Revises provisions relating to transportation. (BDR 35-484)

SCOTT RAWLINS, P.E., C.P.M. (Deputy Director, Nevada Department of Transportation):

Senate Bill 83 will put into place full public-private partnership (P3) legislation in the State of Nevada. The shortfalls in transportation funding are being debated across the nation. What continues to be discussed is the role private-sector funding can play in meeting the transportation needs of this Country. Over one-half the states in the country have P3 legislation in place. With passage of S.B. 83, Nevada would have the opportunity to capitalize on what is estimated to be over \$150 billion in private capital looking for long-term infrastructure investment. Some of the many benefits of S.B. 83 are job creation, an economic boost and congestion relief. Having another funding tool will allow the State of Nevada to leverage other funds for our transportation needs. I would like to emphasize that S.B. 83 is only for new lanes and new roads. Tolls could not be charged on existing lanes or roads.

SENATOR JOE HARDY (Clark County Senatorial District No. 12):

I spoke with U.S. Senator Harry Reid yesterday. He continues to support traffic amelioration efforts. The \$400 million project represented by S.B. 83 will be a boost to Nevada's economy. This project would create approximately 14,000 jobs. It is probably the biggest jobs bill we will hear this Session. We recognize there will be a user fee associated with this road, but it will be a choice the driver can make. The State of Nevada will continue its commitment to State Route 93 so there will always be a free, public road. There is money in the private sector to invest. There are also federal funds involved which will require some work with the U.S. Department of Transportation. This will also be an integral part of the new Interstate 11 concept recognizing the port in Mexico.

SENATOR CEGAVSKE:

I am concerned about the use of eminent domain for private purposes as outlined in section 12. Can you explain that?

MR. RAWLINS:

The eminent domain would rest with the State. Anything purchased by the State for the project would remain a State-owned facility.

SENATOR CEGAVSKE:

Does this bill require the prevailing wage?

Senate Committee on Finance
June 2, 2011
Page 8

MR. RAWLINS:
Yes, it does.

SENATOR CEGAVSKE:
Is this project specific? Or would this legislation enable other projects statewide?

MR. RAWLINS:
This is broad P3 legislation. It is not restricted to the Boulder City Bypass project. It includes a provision that would not allow any user fees or tolls on Interstate 15. Nor could any existing capacity be tolled.

SENATOR CEGAVSKE:
Are the taxpayers on the hook for any of this?

MR. RAWLINS:
That is not the case. In fact, P3 agreements across the country do not have any impact on the taxpayer. Private equity is on the hook.

SENATOR HARDY:
Taxpayers already have an obligation for roads in existence. We will not be changing that obligation.

CHAIR HORSFORD:
Where did the language in section 13 detailing the authority delegated to the Nevada Department of Transportation (NDOT) originate?

SENATOR HARDY:
On page 6, line 29, the term "hedge agreement" is a term that has caused problems in other legislation. I suggest we strike that language.

MR. RAWLINS:
The NDOT hired experts who have worked with P3 agreements around the Country and the world and these are the types of financial agreements typically used for these projects. I agree with the Senator that "hedge agreement" should be stricken.

CHAIR HORSFORD:
Section 13, subsection 2 states that the Department may:

Apply for, accept and expend money from any lawful source, including, without limitation, any public or private funding, loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, credit assistance from the Federal Government or other type of assistance that is available to carry out the eligible transportation facility.

It seems all-inclusive. I am concerned about the bonds. Who ultimately has to pay the bill if the financing that secures the bond does not materialize? I know this is not the policy Committee and these issues have been discussed, but I need to understand where the State's interest lies and what liability the State may have.

MR. RAWLINS:

Typically, these deals look for multiple resources: loans through the federal government, private activity bonds through the federal government. There is discussion about a federal infrastructure bank and private equity. Some of the deals are true private-public partnerships. There could be a traffic management center or a truck parking lot which public dollars are used to help finance and the State then shares any additional revenues generated. However, the bonding would not be a liability for the public.

CHAIR HORSFORD:

Is there any other explanation, such as a section analysis of S.B. 83? There are a lot of provisions and I cannot go through them all.

MR. RAWLINS:

I can give you a quick summary of some of the sections. Section 12 applies to transportation facilities developed and operated under the effective date of this act. Section 15 allows both a one-step and a two-step procurement process which is a best-value process. The private partner is selected on a best-value basis.

CHAIR HORSFORD:

What does that mean?

MR. RAWLINS:

It is not only the lowest bid, it can also be that the partner provides more scope, more details to the overall package. One private investor needs a 30-year term, while another would only need a 20-year term.

CHAIR HORSFORD:

Who determines that?

MR. RAWLINS:

The NDOT would take the details to the State Transportation Board along with its recommendation.

Section 12 also details what can be included in the project and what the maximum term could be and ensures the transportation facility would be owned by NDOT. Section 12 allows any of the following delivery methods: project development agreements, design-build agreements, design-build maintained, design-build finance-operate, design-build finance-operate maintain, or concession agreements. Section 14 sets out requirements to be met by a private partner for entering into a P3 agreement. Section 18 details the standards and requirements that must be in the contract language regarding returning the facility back to the State. Section 16 allows for stipends to be paid for unsuccessful bids, similar to what is already in place for design-build contracts.

CHAIR HORSFORD:

Do we pay people who submit proposals but are not awarded the contract?

MR. RAWLINS:

For those who make the short list, yes. It is in the best interests of the State to encourage competition. There is a nominal stipend which also allows the State to use any of the intellectual property contained in a proposal that was not the best value.

CHAIR HORSFORD:

How do you define nominal?

MR. RAWLINS:

On a design-build contract of \$250 million, we have paid stipends from \$50,000 to \$300,000. The short list contained three companies, therefore two stipends were paid. It is a standard of practice.

CHAIR HORSFORD:

I might be able to understand it in different economic times. I do not want to belabor the point, please continue.

MR. RAWLINS:

Sections 21 through 24 prescribe the methods for the enforcement of tolls and the collection of administrative penalties, including use of technology to identify violators. Sections 23 and 24 also provide the process whereby the Department of Motor Vehicles (DMV) will assist in the collection of tolls and penalties. We have been working with the DMV on that process.

CHAIR HORSFORD:

Regarding sections 22 and 23, what is the fiscal impact of those sections?

WAYNE SIDELL (Administrator, Motor Carrier Division, Department of Motor Vehicles):

We have been working with NDOT. Currently the software is not in place, but we have similar software we use with the courts where DMV interfaces records for driver's licenses that have been revoked and suspended. We are also working to develop software to interface with the insurance companies. A similar application would be developed with NDOT and the private partner for them to query our data and bill the user. The DMV could withhold vehicle registration renewal until tolls are paid.

CHAIR HORSFORD:

Do you know how much it would cost?

MR. SIDELL:

We have not developed those numbers.

MR. RAWLINS:

Those administrative costs could be included in the P3 agreement.

CHAIR HORSFORD:

We have to know one way or another, if it is an impact that is not covered, we cannot bear the expense. We just swept money from the Highway Fund yesterday that will impact DMV operations going forward.

MR. RAWLINS:

The monies collected must first be used to defray the project costs, and then they must be used for other projects within the county from which it is collected. That is in section 25. Section 18 permits the State to pay a private partner availability performance based payments if it is not a toll road or user fee project. Section 18 also authorizes the State to accept money from the private partner. Section 19 directs the Transportation Board to approve a schedule of user fees, a schedule for the administration of penalties, and provide exemptions for the payment of user fees in those agreements. Section 26 delineates the methods for financing transportation facilities. Section 29 applies the prevailing wage requirements as set out in NRS 338. Section 31 identifies requirements of reporting information to the Transportation Board and the Legislature. There will be annual audits of the agreement and performance measures the private partner will have to live up to.

CHAIR HORSFORD:

Section 12, subsection 3, states for a term not longer than 55 years. Why would the term be longer than that of a typical bond?

MR. RAWLINS:

There are several reasons. One of them is the financial make-up of some of these deals. They can get tax breaks the longer the facility could be part of it. It also helps the State make the projects more economically viable. That term is just a maximum. Typically, the development and construction of the project takes three to five years. There would then be a maximum 50 year term to the partnership after the beginning of operation. That could be part of the Request for Proposal (RFP) process. Minimizing that length of time would be one of the criterion of the best-value bid.

CHAIR HORSFORD:

How does this apply to A.B. 144?

ASSEMBLY BILL 144 (1st Reprint): Makes various changes relating to bidder preferences on state and local public works projects. (BDR 28-64)

Senate Committee on Finance
June 2, 2011
Page 13

MR. RAWLINS:

With federal money and federal facilities, we have to follow the federal guidelines. We cannot apply preferences for in-State contractors.

CHAIR HORSFORD:

Where is the federal money?

MR. RAWLINS:

Using the Boulder City Bypass as an example, almost \$40 million of federal money has been obligated; it will be a future Interstate 11. We must follow federal guidelines on that project. The reality is, there may be an out-of-state financier, but the contractors and laborers are local.

CHAIR HORSFORD:

I have seen current State highway projects that have out-of-state companies and workers, even without the P3 agreements. We are not getting the benefit for our workers. That is a big issue for us as policy makers. There are 86,000 unemployed construction workers in the State of Nevada. Your answer is that partial federal funding prohibits geographic preference requirements passed in A.B. 144.

MR. RAWLINS:

That is correct.

CHAIR HORSFORD:

Does the entire project become disqualified? Is there a way to do the project in parts to ensure the parts not federally funded receive those geographic preferences?

MR. RAWLINS:

Using the Boulder City Project as an example, that is a federal project. We would have to pay the money back to de-federalize it.

CHAIR HORSFORD:

The Boulder City Bypass is off limits to any local preferences.

MR. RAWLINS:

We could put local knowledge, local understanding in the RFP requirements. A local contractor is going to be necessary. The labor force is going to come from southern Nevada.

SENATOR HARDY:

In section 14 there is a performance bond that assures they will finish and maintain the project as awarded.

LISA FOSTER (City of Boulder City):

We support S.B. 83. The traffic problem in Boulder City is significant. Not only has this affected the quality of life in Boulder City, it has created a negative image for tourism in southern Nevada. This bill would provide a great opportunity for the development of the Boulder City Bypass. It would create thousands of jobs in southern Nevada at a time it is very much needed.

SENATOR CEGAVSKE:

What time of day are the traffic problems occurring?

MS. FOSTER:

Tourists coming up over the weekend are getting stuck. Friday afternoons are particularly bad. I do not know any more specific times.

CHRIS FERRARI (Nevada Contractors Association):

We are in strong support of S.B. 83. Our members are anxious for the opportunity to bid this type of work.

CHAIR HORSFORD:

Can a future project that does not include any federal money include the local preferences?

MR. RAWLINS:

That is correct.

CHAIR HORSFORD:

You would have to write that into the project. If NDOT used any federal money at any stage of the project, local preferences would not be applicable.

Senate Committee on Finance
June 2, 2011
Page 15

MR. RAWLINS:
Yes, that is true.

CHAIR HORSFORD:
Does NDOT have an internal process anticipating that? Since no project can implement the local preferences contained in A.B. 144 if there is federal money in place, NDOT has to ensure it does not use federal money even at the environmental phase if that is the approach for that project.

MR. RAWLINS:
There are opportunities with the smaller projects, but the big projects require a lot of funding sources to get that money together.

SENATOR CEGAVSKE:
Is there a fiscal note available?

MR. KRMPOTIC:
The original bill indicated no fiscal impact to the state, so there was no fiscal note submitted. Staff was concerned about the fiscal impact on DMV. They testified there would be one, but they do not know how much it would be.

DANNY THOMPSON (Nevada State AFL-CIO):
I am adamantly opposed to toll roads. I know that S.B. 83 does not allow toll lanes on Interstate 15, but it would allow them on Interstate 95. It is interesting to me that you cannot fund education and cannot raise taxes, but you are willing to tax the people of the State of Nevada with toll roads and toll lanes. There is no guarantee that Nevada workers will be employed on these projects. Our recent experience is we do not get this work. It also opens up the entire State of Nevada to camera enforcement. I do not understand how DMV cannot have an estimate of the fiscal note on this bill. We oppose S.B. 83.

ANTHONY ROGERS (Southern Nevada Building and Construction Trades Council):
For the same reasons stated by Mr. Thompson, we also oppose S.B. 83.

JACK MALLORY (Director of Government Affairs, International Union of Painters and Allied Trades, District Council 15):
We realize the financial problems the State is facing. We are not unsympathetic to Boulder City. I know S.B. 83 is not about Boulder City. We are concerned that, without any experience with toll roads in the State of Nevada, this bill

proposes giving NDOT carte blanche authority to enter into P3 agreements to build toll roads anywhere they want in the State, including expanding highways to create express toll lanes. We are opposed to the concept of building public highways with a private partner. Boulder City is a perfect example of why the State should not do that. It is because of the proposal for Interstate 11 which will go through the same corridor in which this toll road will be built. If it is built as part of a P3 agreement, how much will it cost the State to facilitate it being incorporated into the Interstate 11 project? The entire project could be financed through public bonding. There would still be a potential fiscal impact. Regarding violations and enforcement, how will DMV hold up registration from Arizona residents who do not pay the tolls? There is also a broad assumption that work will be done by Nevada residents. Contractors from all over the country will bid on these projects. If they win the contract, they will bring their workforce with them. We experienced this on private projects as well as other public projects. It is our position that S.B. 83, though well-intended, is bad fiscal policy.

SENATOR HARDY:

Recognizing the issues being raised regarding getting Nevada citizens back to work, I look forward to working with the people who are for S.B. 83 and those who are temporarily against it.

CHAIR HORSFORD:

We will close the hearing on S.B. 83 and open the hearing on S.B. 360.

SENATE BILL 360 (1st Reprint): Revises provisions governing redevelopment agencies. (BDR 22-937)

TED OLIVAS (City of Las Vegas):

We support S.B. 360. I am working from a mock-up of Proposed Amendment 7348 to Senate Bill No. 360 First Reprint ([Exhibit D](#)). This bill relates to projects within a redevelopment area (RDA) that also are within the Southern Nevada Enterprise Community (SNEC). Approximately 50 percent of the Las Vegas RDA is within the SNEC boundaries. Senate Bill 360 states that if incentives are provided to a developer, the developer must meet enhanced employment provisions and additional reporting requirements.

I will discuss the changes proposed in [Exhibit D](#). Section 6, which starts on page 2 of [Exhibit D](#), is a clarification that states if RDA funds are used for a construction project built as a public work in accordance with NRS 338, the

contractor is required to submit an employment plan that is provided in NRS 279.482. Section 11 extends the sunset provision of the Las Vegas County redevelopment plan. There are currently 20 years left on the plan. Issuing bonds for a period of less than 20 years is not effective and the ability to begin and complete projects is diminished. The extension will allow us to build on the synergy that has started to grow in the development of downtown Las Vegas.

Section 13 allows a redevelopment agency to grant money for projects within RDA for construction and improvement of buildings. Currently, we can only grant money to those businesses within RDA. For example, we have a visual improvement program which grants money to businesses within RDA for enhancements to their buildings. We would like to create a revolving loan fund for low- or no-interest loans. The money would be paid back to the redevelopment agency and would give us a security interest in the improvement or the building. This is a common practice in RDAs throughout the country.

Finally, section 14 relates to NRS 279.685 which only applies to the City of Las Vegas and our RDA. We are required to set aside 18 percent of those revenues generated from the agency for affordable housing. We are proposing to break that in half. The first half, or 9 percent, will be used for projects and programs within SNEC and the other half will remain for affordable housing projects. The need for affordable housing development has diminished.

SENATOR CEGAVSKE:

Can you expand on the concept of the City of Las Vegas being a bank?

SCOTT ADAMS (Chief Redevelopment Officer, Redevelopment Agency, City of Las Vegas):

We have only been able to grant money on a project. There have been instances in which we would like to loan the money so it comes back into the agency to be reused, or hold a security interest in the project to ensure a developer honors an agreement. For example, sometimes RDA would provide land or funding. With the ability to loan rather than grant the land or funding, we have the ability to enforce the requirements and obligations through a lien or other process.

SENATOR CEGAVSKE:

I had been working on getting a bill for enterprise zones this Session. Can we amend this bill to encompass enterprise zones?

MR. ADAMS:

There was a federal program in the 1990s called the Empowerment Zone Program in which communities competed to get empowerment zone and enterprise community status. The City of Las Vegas was able to get enterprise community status by defining a distressed area in North Las Vegas and Las Vegas according to census tracts. Those census tracts have been carried forward and codified and defined as distressed parts of both communities through State legislation. This legislation keeps that boundary as an area that historically has been distressed, as the area under which we would concentrate a portion of these set-aside funds.

CHAIR HORSFORD:

I do not know if this is germane. The SNEC is not the same as the enterprise provisions that had been in your bill.

SENATOR KIECKHEFER:

In section 14, which breaks out the additional mandatory allocation of certain percentage of the revenue, there appears to be an overlap. Section 14, subsection 1, paragraph (b) subparagraphs (1) and (2) both refer to affordable housing. Is there a redundancy?

RICKY BARLOW (Councilman, City of Las Vegas):

It is not redundant. The RDA is broader than the SNEC.

SENATOR KIECKHEFER:

Does subparagraph (1) refer to SNEC and subparagraph (2) refer to the broader RDA?

MR. BARLOW:

Yes, that is correct.

CHAIR HORSFORD:

The loan program would only apply for projects that are related to or within RDA, is that correct?

Senate Committee on Finance
June 2, 2011
Page 19

MR. ADAMS:

Yes. The irony is the City of Las Vegas is able to make loans using other mechanisms, but there is no authority to do so within RDA.

CHAIR HORSFORD:

Is the Technology Corridor outside of RDA?

MR. ADAMS:

Yes.

CHAIR HORSFORD:

You could loan money to a developer in the Technology Corridor, but you could not loan money for a project off Sixth Street for sign improvement.

MR. ADAMS:

We cannot loan RDA funds, or take back a mortgage.

CHAIR HORSFORD:

To clarify the other policy issue related to RDA financing, if a project you have invested in fails, neither the City nor RDA have the ability to recoup those losses, including the land or the facility that may have been granted by the City initially. If the project foreclosed, every other investor could be paid back.

MR. ADAMS:

In many instances, that would be true. We would not have any type of lien, mortgage or security interest in the project.

MR. OLIVAS:

Subsection 2 of section 13 sets out the process whereby a project may be chosen.

CHAIR HORSFORD:

There is another bill, S.B. 92, that applies to all RDAs. Section 14, subsection 1, paragraph (b), subparagraph (1) only applies to the City of Las Vegas RDA, is that correct?

[SENATE BILL 92 \(1st Reprint\)](#): Makes various changes relating to development.
(BDR 22-579)

Senate Committee on Finance
June 2, 2011
Page 20

MR. OLIVAS:

There is a conflict with S.B. 92.

CHAIR HORSFORD:

If the word education were added to that provision, it would eliminate the conflict.

MR. OLIVAS:

Yes, that is the answer.

CHAIR HORSFORD:

And this is not funding for education, but the rehabilitation of schools.

MR. OLIVAS:

Yes, and those provisions are clearly set out in S.B. 92.

CHAIR HORSFORD:

The extension of the life of the agency applies to Clark County and the City of Las Vegas because of the necessity for this to be broader than just one entity. The Clark County RDA is currently defunct.

MR. BARLOW:

That is correct. We believe S.B. 360 will enhance the synergy the City of Las Vegas has already begun to create with other development projects throughout the city.

SENATOR CEGAVSKE:

If this is working well in North Las Vegas, would it not also work well for some of the other older areas in Las Vegas or other parts of the State?

CHAIR HORSFORD:

The SNEC is a designation of nine census tracts. With the updated census information we have just received, we do not have the block-level data on the demographic information that supports the determination of these census tracts as established ten years ago. We will get them in August or September. Once that happens, we would be able to identify the top ZIP codes to determine which communities need that support.

Senate Committee on Finance
June 2, 2011
Page 21

SENATOR CEGAVSKE:

My old neighborhood is all dead. It could be useful if the tool could be expanded.

CHAIR HORSFORD:

Yes, this is a model to be looked at going forward.

SENATOR LESLIE MOVED TO AMEND AND DO PASS S.B. 360 WITH PROPOSED AMENDMENT 7348 WITH THE ADDITION OF THE WORD "EDUCATION" ON PAGE 6, LINE 18 TO BE CONSISTENT WITH S.B. 92.

SENATOR CEGAVSKE:

Does this bill require prevailing wage jobs?

MR. ADAMS:

The prevailing wage provision is elsewhere in NRS 279. The statute provides that any engagement of \$100,000 or more by an RDA requires a prevailing wage.

SENATOR PARKS SECONDED THE MOTION.

SENATOR DENIS:

I need to disclose I own property in the redevelopment area, but this bill does not impact me more than anyone else.

THE MOTION CARRIED. (SENATORS CEGAVSKE AND KIECKHEFER VOTED NO.)

CHAIR HORSFORD:

We will open the hearing on A.B. 529 and I will turn the gavel over to Vice Chair Leslie.

[ASSEMBLY BILL 529 \(1st Reprint\)](#): Revises provisions relating to the Fund for Hospital Care to Indigent Persons. (BDR 38-1194)

Senate Committee on Finance
June 2, 2011
Page 22

MR. KRMPOTIC:

Assembly Bill 529 is legislation that allows funds from the Fund for Hospital Care to Indigent Persons account to be transferred to the General Fund. Section 3 identifies the amounts to be transferred: \$19,112,621 in FY 2011-2012 and \$19,218,718 in FY 2012-2013. These amounts are consistent with the closing of the indigent account and the agreement reached with the Governor yesterday.

VICE CHAIR LESLIE:

Does section 4 contain the sunset provision?

MR. KRMPOTIC:

Yes.

SENATOR KIECKHEFER:

Do we still need section 2, subsection 2, paragraph (a) which refers to the Health Insurance Flexibility and Accountability Holding Account (HIFAHA)?

MR. KRMPOTIC:

The HIFAHA transfer will occur through November of FY 2011-2012 and then the program ends.

BILL WELCH (Nevada Hospital Association):

We oppose A.B. 529. To date, \$72 million have been swept. This bill sweeps another \$40 million over the next two years. We understand these funds are part of the budget resolution. We are concerned that the legislation to authorize this is changed from how it has been worded in the past to allow for any purpose. We would request that anywhere the phrase "use for any purpose" appears in the bill it be replaced with the phrase "for health care purposes."

VICE CHAIR LESLIE:

Is the language you suggest what has been used previously when sweeping these funds?

MR. WELCH:

That language was not used in the past, but the language used previously was benign. We do not know what the legal connotations are with the change. Our concern is this will be a permanent sweep.

Senate Committee on Finance
June 2, 2011
Page 23

MR. KRMPOTIC:

Sections 1 and 2, which contain this new language, expire by limitation on June 30, 2013, as stated in Section 4, subsection 2. The Legal Division has looked at this language closely. If the Committee wanted to make any changes, Staff would request that we consult with the Legal Division first.

MR. WELCH:

I do have some draft language. To the extent the Committee would be willing to consider the change, we would appreciate it.

VICE CHAIR LESLIE:

Provide that language to the Committee and we will consider it.

WES HENDERSON (Deputy Director, Nevada Association of Counties):

We are opposed to A.B. 529 and we are also concerned about the addition of new language that the funds can be used for any purpose.

BOB OSTROVSKY:

I do not represent any county today. I am here as a private citizen because I was here when we started the Indigent Care Fund. I am disappointed that an action agreed to be temporary for the assistance of the State, has resulted in the taking of \$72 million. It is disappointing that an important function of county government has been relegated to a simple tax increase for the State of Nevada and a reduction of revenue for county government for a purpose which we all benefit from: paying bills to hospitals that deserve the money for the services they have given. I mean no disrespect. I understand the budget problems. I respectfully disagree with those who think this is a reasonable way to do business.

MR. ORTIZ:

We too oppose S.B. 529, but we support the amendment proposed by the Hospital Association.

MR. KRMPOTIC:

The language "use for any purpose" was also included in Assembly Bill No. 3 of the Twenty-sixth Special Session in various sections relating to sweeping funds into the General Fund.

VICE CHAIR LESLIE:

There is no nefarious purpose in the language. We will close the hearing on A.B. 529 and open the hearing on A.B. 137.

ASSEMBLY BILL 137 (1st Reprint): Revises provisions governing programs of nutrition in public schools. (BDR 34-191)

ASSEMBLYWOMAN APRIL MASTROLUCA (Assembly District No. 29):

This bill ensures children in areas of high poverty get breakfast every day. Our schools do a good job of providing breakfast, but they do not always have the opportunity to provide the time for children to eat it. Breakfast is mostly served before the bell. If a child is late, if the bus is late, they miss breakfast. Assembly Bill 137 provides that schools that qualify under what the federal government calls Provision 2 will be able to provide breakfast in the classroom. The school districts have said they want to feed as many children as possible, but there are always financial considerations. Proposed Amendment 7026 to Assembly Bill No. 137 (Exhibit E) outlines that those schools that qualify for Provision 2 serve breakfast in order of priority: within the classroom, in a transportable fashion, or in the cafeteria. Nevada ranks fifty-third, behind Guam and Puerto Rico, in the number of children who eat breakfast. There was a provision in the bill to collect data and that is what created the fiscal note. We have worked with the Department of Education and scaled that part back and the fiscal note has been eliminated.

The school districts also submitted fiscal notes. Washoe County absorbed the cost. We have given CCSD two years to implement the program. The legislature has been asking for four years to see an improvement in the breakfast and lunch programs in the schools. This legislation has been created because no progress has been made.

VICE CHAIR LESLIE:

Please address section 4 of the amendment in further detail.

ASSEMBLYWOMAN MASTROLUCA:

The school districts asked that the percentage increase in number of pupils participating in a school breakfast program be reduced from 15 to 10. They felt they were being set up to fail. The Superintendent of CCSD, Dwight Jones, came from Colorado where he implemented a number of nutrition programs, including breakfast in the classroom. The CCSD has made a commitment to

Senate Committee on Finance
June 2, 2011
Page 25

implement a broader school breakfast program. I agreed to reduce the number, but, if no progress has been made by the next Legislative Session, we can increase the requirements.

SENATOR KIECKHEFER:

What are the main changes the amendment makes to the bill?

ASSEMBLYWOMAN MASTROLUCA:

The information initially contained in section 1 has been moved to section 3.5 and allows for a two-year lag before it is mandatory.

SENATOR KIECKHEFER:

Since I do not know how it works, how do you serve breakfast in the cafeteria after the bell rings? That would seem to take children out of the classroom.

ASSEMBLYWOMAN MASTROLUCA:

That is an option the school districts requested. I do not think serving breakfast in the cafeteria is the best way to get children to eat.

SENATOR KIECKHEFER:

Subsection 2 of section 1 regarding counties whose population is below 55,000 refers to all counties but Clark, Washoe and Carson. Why are they given the option to request a waiver?

ASSEMBLYWOMAN MASTROLUCA:

Some of those school districts already have breakfast programs, but one does not serve breakfast at all. We did not want to unfairly penalize them.

SENATOR KIECKHEFER:

How many schools in Clark, Washoe and Carson Counties qualify under Provision 2?

ASSEMBLYWOMAN MASTROLUCA:

The school districts would be able to answer that. Clark and Washoe have each set their own levels for Provision 2. I believe Clark County is 95 percent and above free- and reduced-eligibility. It is the number of schools that would meet that criterion.

Senate Committee on Finance
June 2, 2011
Page 26

JODI TYSON (Advocacy and Research Manager, Three Square Food Bank):
We support A.B. 137 despite flaws inserted in the amendment. I will read my testimony ([Exhibit F](#)).

PAULA BERKLEY (Food Bank of Northern Nevada):
I want to stress the importance of the performance measures in A.B. 137. If the federal standard of 80 percent of student population at-risk was used in Nevada, Clark County would add 40 schools and Washoe County would add 7 schools. The reason the rural counties are left out of the program is the federal government does not give much money for reimbursement; you have to feed a lot of children to get enough reimbursement to keep the costs low. Children are the segment of the population that is least likely to get the food they need. If children are fed, they are more likely to be in school and there are fewer behavior problems and they learn more.

SENATOR KIECKHEFER:
Does this put an additional fiscal burden on the schools?

NICOLE ROURKE (Clark County School District):
We can remove the fiscal note with the amendment. There is an additional cost to CCSD to deliver breakfast to the classroom, but, as amended, we will remove our fiscal note. The CCSD plan includes 76 schools for the upcoming school year. Thirty-seven will be implemented in August 2011 and the other 39 in January 2012. We are looking at a number of options to improve both breakfast and lunch participation in our schools. There are 64 Title I of the Elementary and Secondary Education Act of 1965 elementary schools. We are trying to reach as many at-risk schools as is fiscally responsible at this point in time.

VICE CHAIR LESLIE:
I will return the gavel to Chair Horsford.

CHAIR HORSFORD:
I will entertain a motion on A.B. 137.

SENATOR LESLIE MOVED TO AMEND AND DO PASS A.B. 137 WITH PROPOSED AMENDMENT 7026.

SENATOR PARKS SECONDED THE MOTION.

Senate Committee on Finance
June 2, 2011
Page 27

SENATOR CEGAVSKE:
Has the amendment taken out all fiscal notes?

MR. KRMPOTIC:
Consistent with Assemblywoman Mastroluca's testimony, there was at first a significant fiscal note. The amendment represented in the first reprint of the bill reduced the fiscal impact. This amendment appears to take off the rest of the fiscal note.

SENATOR CEGAVSKE:
That concerns me. Did CCSD say they were neutral?

CHAIR HORSFORD:
No, CCSD said they are implementing this and they have a commitment from the Superintendent to meet the requirements.

SENATOR CEGAVSKE:
But there are costs CCSD will have to absorb.

CHAIR HORSFORD:
We had that discussion. The Superintendent has indicated his commitment to carry out the provisions of this bill and to meet or exceed the goals contained in it.

SENATOR CEGAVSKE:
Are you talking about the CCSD Superintendent?

CHAIR HORSFORD:
Yes.

SENATOR CEGAVSKE:
I thought you were talking about the State Superintendent. Thank you.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR HORSFORD:
We will reopen the hearing on A.B. 529.

SENATOR LESLIE:

There was an amendment suggested by the hospitals, and while I am sympathetic, I do not think the change would materially affect the bill, especially since it sunsets in two years.

SENATOR LESLIE MOVED TO DO PASS A.B. 529.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HORSFORD:

As there is no further business to come before the Committee, this meeting is adjourned at 11:08 a.m.

RESPECTFULLY SUBMITTED:

Patricia O'Flinn,
Committee Secretary

APPROVED BY:

Senator Steven A. Horsford, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
<u>S.B. 347</u>	C	Senator Denis	Proposed Amendment to <u>S.B. 347</u>
<u>S.B. 360</u>	D	Ted Olivas, City of Las Vegas	Proposed Amendment No. 7384 to <u>S.B. 360</u>
<u>A.B. 137</u>	E	Assemblywoman Mastroluca	Proposed Amendment No. 7026 to <u>A.B. 137</u>
<u>A.B. 137</u>	F	Jodi Tyson, Three Square Food Bank	Testimony