

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-sixth Session
April 15, 2011**

The Senate Committee on Finance was called to order by Chair Steven A. Horsford at 7:59 a.m. on Friday, April 15, 2011, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. The Attendance Roster was not signed, and has not been included. 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

STAFF MEMBERS PRESENT:

Rex Goodman, Principal Deputy Fiscal Analyst
Mark Krmpotic, Senate Fiscal Analyst
Wade Beavers, Committee Secretary

OTHERS PRESENT:

Andrew Clinger, Director, Department of Administration

CHAIR HORSFORD:

We will open with a hearing of Senate Bill (S.B.) 305.

[SENATE BILL 305](#): Creates the P-20 Leadership Council. (BDR 34-365)

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

The first of the two suggested amendments for S.B. 305 proposes to add a four-year sunset provision to the bill.

Senate Committee on Finance
April 15, 2011
Page 2

The second amendment relates to page 2, section 5 of the bill. This section lists the Chancellor of the System of Higher Education and the Superintendent of Public Instruction as nonvoting members of the Leadership Council. The second suggested amendment would include those two positions as voting members.

CHAIR HORSFORD:
I will entertain a motion on this bill.

SENATOR DENIS MOVED TO AMEND AND DO PASS S.B. 305.

SENATOR LESLIE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HORSFORD:
We will now open a hearing on S.B. 324, from Senator Kieckhefer. I will bring S.B. 73 before the Committee as well, as the two are related.

SENATE BILL 324: Makes various changes concerning state financial administration. (BDR 31-748)

SENATE BILL 73: Makes various changes concerning state financial administration. (BDR 31-427)

Senator Kieckhefer, what have you worked out with the Budget Division regarding S.B. 324?

SENATOR KIECKHEFER:
I recognize that the Committee wants to ensure that there is still some oversight from the Legislative Branch over the acceptance of these grants and gifts. I would propose striking the reference to subsection 6 in section 1, subsection 1, line 3, and replacing it with a reference to subsections 6 and 7. In subsection 5, paragraph (b) of section 1, I would propose revising the existing threshold to \$1 million, but I am flexible on that issue.

I want to provide some flexibility to ensure that we can utilize money when we receive it. If there is an appetite for another number, I would be willing to hear it.

CHAIR HORSFORD:

I would like Andrew Clinger to provide us with the summary that was requested on the breakdown for each threshold. We discussed the following categories:

- Amounts under \$100,000
- Amounts between \$100,000 and \$250,000
- Amounts between \$250,000 and \$500,000
- Amounts between \$500,000 and \$1 million
- Amounts over \$1 million

ANDREW CLINGER (Director, Department of Administration):

A summary of this information has been submitted for the Committee ([Exhibit C](#)). The numbers provided are not necessarily tied to grants. This data was pulled through what we call revenue general ledger codes. It will roughly reflect the number of grants.

The different tiers are listed on the second page of [Exhibit C](#). In FY 2010-2011, we processed 129 work program changes under \$100,000. We processed 77 work program changes between \$100,000 and \$250,000. We have processed 100 different transactions over \$1 million. We have processed a total of 442 transactions this year.

I wanted to provide the Committee with different tiers to examine in deciding which threshold they want to set for this section.

CHAIR HORSFORD:

The statute currently provides for a threshold of \$100,000.

MR. CLINGER:

That is correct. The grants under \$100,000 still have to be approved by the Chief of the Budget Division, so they come through our office and then are sent over to your Staff as information.

SENATOR KIECKHEFER:

In looking at the data that has been provided by Mr. Clinger, it should be noted that those under \$100,000 are already being captured. Another 150 would be captured if you were to raise that level to \$500,000. It would make sense to raise the level to \$500,000. We would still be catching about one-half of what is coming to the Interim Finance Committee (IFC) at this point. The other one-half would be at the discretion of the Executive Branch.

I would continue to maintain the requirement that, if employee hiring is associated with an item, it would have to come back to IFC.

CHAIR HORSFORD:

How would the language in the bill dictate coordination between Fiscal Staff and the Budget Division?

MR. KRMPOTIC:

Currently, as Mr. Clinger indicated, any work program changes or grant receipts received by the Executive Branch are provided to the Fiscal Analysis Division. If an item falls below the threshold, we would receive that information after it has been executed by the Budget Division. There are times when Staff has follow-up questions to the relevant agency or the Budget Division regarding the proposed action or regarding details on what was proposed.

There have been times when we may have contested these items. This does not happen often, but it has happened. In those instances, the Budget Division has agreed to withdraw the work program and resubmit it for IFC consideration. That is not something that happens very frequently.

Any items that exceed the threshold would be submitted for consideration by IFC as well. The Committee is familiar with that process. The Staff receives those items about four weeks prior to the meeting, reviews them and frequently poses questions to the relevant agency or the Budget Division in preparation for the IFC meeting. Issues that require further consideration or discussion are then brought to the Committee's attention.

CHAIR HORSFORD:

Will a work program that ties expenditures to grant allowances continue to be required for items that fall below the threshold?

Senate Committee on Finance
April 15, 2011
Page 5

MR. CLINGER:

That is correct. There will still be a work program document. It is approved by my office and then sent directly to the Controller's Office. Your Fiscal Staff receives a copy of that.

CHAIR HORSFORD:

If indirect cost allocations could be recovered from a federal grant, for example, that might adjust other State accounts, would they also be brought forward for adjustment?

MR. CLINGER:

That is correct. In those cases where there are nongrant-related costs, those would fall below the regular IFC threshold. In S.B. 73, this is described in a different section.

Those would be subject to a different threshold which would then come to IFC. In the relevant section of S.B. 73, I suggest that the Senate Fiscal Analyst, Assembly Fiscal Analyst and my office get together to set the criteria for those work programs so the criteria can be approved by IFC.

Cases involving nongrant funds would be subject to a different set of thresholds as approved by IFC.

CHAIR HORSFORD:

Why are we striking the language from section 2.5 dealing with the Nevada System of Higher Education (NSHE)?

MR. KRMPOTIC:

I would direct the Committee's attention to the mock-up of the proposed amendment to S.B. 73 that has been provided ([Exhibit D](#)).

The item in question was drafted based on Fiscal Staff's instructions to Legal Counsel. Section 2.5 is on page 3 of [Exhibit D](#). In the original bill, S.B. 73 struck *Nevada Revised Statutes* (NRS) 353.224 altogether. That statute requires the Budget Division to submit any position reclassifications that reclassify from one occupational group to another. The amendment was an attempt to continue the practice by which the Budget Division must submit position classifications which could result in an increased salary cost. That was

consistent with Mr. Clinger's testimony when this bill was originally heard in March.

There is stricken language in section 2.5. Fiscal Staff is suggesting that some portion of that be retained to include the exclusion for NSHE and vocational licensing boards, as is originally indicated in statute.

The strike-through was done by Legal Counsel at the direction of Fiscal Staff. However, as Fiscal Staff went through the mock-up last night and this morning and conferred with Mr. Clinger, we now feel that the exclusion should remain in statute. Otherwise, the mock-up would require a submission of position reclassifications that would result in an increase in salary costs.

I would like to walk the Committee through the remainder of [Exhibit D](#). I will explain the language that begins on page 4 and continues on into page 5 and 6.

The original version of S.B. 73 called for the thresholds for gifts and governmental grants to be set by the Senate Fiscal Analyst, the Assembly Fiscal Analyst and the Director of the Budget Division, with final approval by the State Board of Examiners and IFC. This amendment strikes that language from the bill and retains the existing language in statute, as Staff did not have any firm suggestions about what the revised thresholds might be. We have discussed that in relation to S.B. 324.

As the mock-up appears now, the language in statute dealing with grants and gifts simply reverts back to its original form.

On page 7 of [Exhibit D](#), there is a deletion of the repeal of NRS 353.224. In the amendment, this statute would be retained. It concerns the requirement to submit position reclassifications for consideration if they would result in increased salary costs.

On page 8 of [Exhibit D](#), Staff directed Legal Counsel to change the implementation date to allow for additional time to develop the criteria and to work with the Director of the Budget Division. This was because, between now and the early part of June, we will not have an opportunity to do that.

Staff has one other suggestion. In referring back to pages 6 and 7 of [Exhibit D](#), the Committee will note that, under section 6, NRS 353.224 is stricken. That is

also the case in section 7. I would propose that it be kept in statute, as the mock-up retains NRS 353.224 in a different form.

CHAIR HORSFORD:

I am comfortable with increasing the threshold to \$500,000. I would entertain a motion to that effect.

We would be taking up S.B. 73 because that is the bill for which we have prepared an amendment. Is Senator Kieckhefer comfortable with that?

SENATOR KIECKHEFER:

I am.

CHAIR HORSFORD:

This would be a motion on Amendment No. 6275 to S.B. 73, and we would be establishing a new threshold of \$500,000.

MR. KRMPOTIC:

Senate Bill 324 would accomplish the same thing but in a different way. It addresses the same section of statute, but it strikes the language regarding gifts that do not exceed \$10,000. A State agency would be able to accept gifts, including grants from nongovernmental sources not exceeding \$10,000 in value. It also completely strikes the \$100,000 threshold for governmental grants.

In S.B. 73, the original language called for the Senate Fiscal Analyst, Assembly Fiscal Analyst and the Director of the Budget Division to decide upon the criteria. The amendment that the Committee is considering is to revise S.B. 73, strike the criteria establishment required of those three positions and to increase the governmental grant threshold to \$500,000.

CHAIR HORSFORD:

Would Legislative Staff and the Budget Division continue working together to review those grants below the \$500,000 threshold as well as any work plan adjustments that would need to be reviewed?

MR. KRMPOTIC:

The process, as Staff understands it, would be the same as what currently exists for grants of less than \$100,000. Staff would review them and ask any

necessary questions of the Executive Branch. If there were serious issues that needed to be addressed, we would speak with the Budget Division and possibly have the item rereferred to IFC. The process would be exactly the same, but the threshold would change.

MR. CLINGER:

The process for the grants that fall below the threshold would remain the same. The only other question that I would bring up on this bill concerns the nongovernmental grants which currently have a \$10,000 threshold. The Committee may want to include that in the criteria that would be established by Staff, or they may wish to set a different amount. That is a different threshold, by statute, from the governmental grants.

In S.B. 73, we originally struck out the current threshold of \$10,000 and left it to Staff to set a criteria approved by IFC. I do not know if the Committee would desire to allow Staff to set that criteria.

CHAIR HORSFORD:

I am comfortable with nongovernmental grants being acted upon with coordination from our Staff.

Currently, we would be approving the amendment as submitted, with an additional provision mirroring the language from S.B. 73 that would increase the threshold for governmental grants from \$100,000 to \$500,000 with the understanding of the process. For nongovernmental grants, we would continue the process by which the Budget Division and Fiscal Staff develop a policy for how those grants are accepted and handled.

MR. KRMPOTIC:

Currently, the Budget Division is abiding by the statute on a strict basis. Many years ago, there was a working relationship between the Budget Division and Fiscal Staff to develop a joint interpretation of statute. Based on an opinion from the office of the Attorney General that was issued several years ago, the Budget Division has since strictly adhered to statute. The interpretation that was developed jointly by the two staffs was discarded.

If the language in S.B. 73 that allows for the Senate Fiscal Analyst, Assembly Fiscal Analyst and the Director of the Budget Division to develop criteria remains

in statute, and applies to nongovernmental sources, we would develop criteria for those instances.

CHAIR HORSFORD:

I am talking about keeping the language from the amendment as shown on page 2, section 2, subsection 4 of [Exhibit D](#). Is there a reason we could not set the threshold for government and nongovernment sources at \$500,000? Anything over that amount would require that the preestablished process be followed. This would provide consistency.

MR. KRMPOTIC:

There are not many nongovernmental sources of grants. With respect to gifts exceeding \$10,000 in value, I would submit that you do not have the same volume of those that you do with grants exceeding \$100,000. You may see two or three at each IFC meeting.

CHAIR HORSFORD:

To restate the motion that we are considering, it would be on Amendment No. 6275 to S.B. 73, including the language as written. It would add a conceptual provision that would be included in the bill, mirroring that language from S.B. 324, that would lift the cap threshold from \$100,000 to \$500,000 for governmental and nongovernmental grants and gifts.

MR. KRMPOTIC:

I would like to ask for some clarification on the motion. Does the Committee wish to adopt some of the suggestions made by Staff with respect to section 2.5 regarding whether the exclusion for NSHE and vocational licensing boards should remain in statute? Suggestions have also been made regarding the implementation date of the bill and the elimination of NRS 353.224 in sections 6 and 7. Staff is suggesting that those be retained in the bill.

CHAIR HORSFORD:

We will follow Staff's recommendations on those items as stated.

SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS S.B. 73, INCLUDING THE LANGUAGE AS WRITTEN IN AMENDMENT NO. 6275; TO ADD A CONCEPTUAL PROVISION, MIRRORING LANGUAGE FROM S.B. 324, LIFTING THE CAP THRESHOLD FROM \$100,000 TO \$500,000 FOR GOVERNMENTAL AND NONGOVERNMENTAL GRANTS

AND GIFTS; AND TO FOLLOW FISCAL STAFF'S RECOMMENDATIONS ON SPECIFIC ITEMS AS STATED.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HORSFORD:
We will now discuss S.B. 316.

[SENATE BILL 316](#): Requires school districts, charter schools and university schools for profoundly gifted pupils to expend a certain percentage of money on direct classroom expenditures. (BDR 34-823)

MR. KRMPOTIC:
Staff does not have a proposed amendment for S.B. 316 at this time. Staff has additional information that was provided at the request of the Committee on Monday when this bill was originally heard. Staff would be happy to go through that additional information for the Committee if it would assist in making a decision on this bill, but no amendments or proposed amendments have been submitted.

SENATOR CEGAVSKE:
This is Senator Michael Roberson's bill. Through my conversations with him, he has indicated that someone had talked to him concerning the percentages proposed in the bill and that they may need to be raised. I am curious as to whether Staff or the Committee has heard about any proposed changes along those lines.

CHAIR HORSFORD:
I have not heard anything to that effect. I asked Senator Roberson to work with the stakeholders on the adjustments. I know there were some issues concerning the source that we were using to determine the percentage. We wanted to ensure that we were using a verifiable independent source. There was also an issue concerning exemption of charter schools and extended learning schools.

Senate Committee on Finance
April 15, 2011
Page 11

I have not received any of those amendments. I am not comfortable processing the bill without those clarifications. I would like to hold the bill and go into recess. If we receive those amendments, we can consider it before the end of the day.

I will close the hearing on S.B. 316.

MR. KRMPOTIC:

Senate Bill 316 is not exempt, so it would need to be acted upon today.

CHAIR HORSFORD:

The Committee will take a recess at 8:28 a.m.

CHAIR HORSFORD:

The Committee will reconvene at 10:54 a.m. on the Floor of the Senate.

I will entertain a motion concerning S.B. 316.

SENATOR CEGAVSKE MOVED TO WAIVE THE FIRST COMMITTEE
PASSAGE DEADLINE RULE FOR S.B. 316.

SENATOR LESLIE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Senate Committee on Finance
April 15, 2011
Page 12

CHAIR HORSFORD:
This meeting is adjourned at 10:56 a.m.

RESPECTFULLY SUBMITTED:

Wade Beavers,
Committee Secretary

APPROVED BY:

Senator Steven A. Horsford, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		No Attendance Roster
	C	Andrew Clinger/ Department of Administration	Summary of grant values
	D	Mark Krmpotic/ Fiscal Analysis Division	Mock-up of proposed amendment to <u>S.B. 73</u>