

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-Seventh Session
May 4, 2013**

The Senate Committee on Finance was called to order by Chair Debbie Smith at 11:30 a.m. on Saturday, May 4, 2013, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 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 Debbie Smith, Chair
Senator Joyce Woodhouse, Vice Chair
Senator Moises (Mo) Denis
Senator David R. Parks
Senator Pete Goicoechea
Senator Ben Kieckhefer
Senator Michael Roberson

GUEST LEGISLATORS PRESENT:

Senator Justin C. Jones, Senatorial District No. 9
Assemblyman Skip Daly, Assembly District No. 31

STAFF MEMBERS PRESENT:

Mark Krmpotic, Senate Fiscal Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Julie Waller, Senior Program Analyst
Annette Teixeira, Committee Secretary

OTHERS PRESENT:

Stacey Crowley, Director, Office of Energy, Office of the Governor
Lindsay Anderson, Washoe County School District
Joyce Haldeman, Clark County School District
Paul McKenzie, Building and Construction Trades of Northern Nevada

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Danny L. Thompson, Nevada State AFL-CIO
Craig Stevens, Nevada State Education Association
Patrick Sanderson, Laborers' International Union Local 872, AFL-CIO
John Madole, Nevada Chapter of Associated General Contractors, Friends of
ACE Charter High School
Ron Dreher, Peace Officers Research Association of Nevada
Jeanette Belz, Friends of ACE Charter High School
John Wagner, Independent American Party
Warren B. Hardy II, Humane Society of the United States
Quentin Byrne, Acting Administrator, Offender Management Division,
Department of Corrections
Crystal Abba, Vice Chancellor, Academic and Student Affairs, Nevada System
of Higher Education
Rorie Fitzpatrick, Interim Superintendent of Public Instruction, Department of
Education
Marlene Lockard, Nevada Women's Lobby
Dotty Merrill, Ed.D., Nevada Association of School Boards
Mary Pierczynski, Nevada Association of School Superintendents
Steve Canavero, Ph.D., Director, State Public Charter School Authority

Chair Smith:

I will now open the hearing on Senate Bill (S.B.) 142.

SENATE BILL 142 (1st Reprint): Makes various changes to provisions governing
local government contracting. (BDR 27-676)

Senator Justin C. Jones (Senatorial District No. 9):

Senate Bill 142 relates to energy performance contracting. Legislation was passed creating a framework for energy performance contracting as an option for State and local governments. It allows State and local government entities to have an approved energy-services contractor perform an energy audit of its facilities and make recommendations for energy saving measures. The purpose of this legislation is to identify the school districts who are not taking advantage of performance contracting. This would require reporting at the school-district level when a qualifying construction contract is considered and energy performance contracting is not elected.

Senate Bill 142 also asks the Nevada State Office of Energy (NSOE) to provide resources to school districts in assisting them in their pursuit of energy

performance contracts. As originally drafted, S.B. 142 included a requirement that the NSOE would provide support to school districts. Although the NSOE currently has grant funding that will allow them to provide limited manpower support to school districts, they placed a fiscal note on the bill because the grants are set to expire. In consultation with the Director of the NSOE, I have agreed to remove the support requirement to avoid the need for the fiscal note. The NSOE will continue to provide available resources to school districts who pursue energy performance contracts. The Director also asked to include additional language that will allow the NSOE to charge school districts a fee for support provided by their Office.

Chair Smith:

Has the support language already been taken out of the bill, or is that what you are proposing?

Senator Jones:

I am proposing to take out the language. An amendment has been drafted entitled "Proposed Conceptual Amendment to S.B. 142," ([Exhibit C](#)).

Chair Smith:

Please provide copies to the Committee.

Senator Jones:

Yes, I will.

Senator Goicoechea:

Will the NSOE have the ability to impose a fee on the school district for the work they perform?

Senator Jones:

They are not imposing a fee on the school district. If a school district intends to go forward with an energy services contract, then the NSOE has the ability to recoup the cost of the assistance provided to the school district, if they go forward with an energy performance contract. This cost would be included in the performance contract.

Senator Goicoechea:

I understand wanting to recover the costs, but the bill states that if the project is over \$100,000, they would have to involve the NSOE.

Stacey Crowley (Director, Office of Energy, Office of the Governor):

The \$100,000 amount does not trigger work to be done by our Office. The local governments may request assistance from the NSOE to perform these functions. If they have the capabilities and the expertise within their school districts, they can certainly do it themselves. This is only if the school district, or other local government, requests assistance from the NSOE.

The original bill and the fiscal note were tied to whether local governments or school districts requested assistance from us under a grant. This would give us the right to use grant funds to create Websites, technical resources, etc., which is how we can help them. If we need to walk a school district through the energy performance contracting process from beginning to end, that could take time and resources from our Office that we just cannot determine. We determined a potential amount of hours that a school district might ask for and put that figure in the fiscal note. With the funding provided through a U.S. Department of Energy grant in the American Recovery and Reinvestment Act of 2009, we have been learning about other states and how they handle this type of situation. We have provided information from the other states to Senator Jones and the Legislative Counsel Bureau (LCB) Legal Division Staff to consider developing similar language for the fee structure. Louisiana, Kansas and Washington state have added language in their statutes to collect fees. We tried to provide a mechanism that would only be utilized if the local school district, or local government, asked for assistance.

Lindsay Anderson (Washoe County School District):

We are here in support of S.B. 142. We have not been able to see the amendment. This is the first we are hearing about a potential fee structure on school districts. We currently do performance-based contracting. We appreciate the incentive in light of our current capital situation within the Washoe County School District (WCSD). We are looking for ways to be creative. However, there are some concerns that there may be some up-front costs for school districts to pay for some of the auditing that has to be done in order to determine whether this is a viable option for replacement of energy efficient systems. We are concerned if there is to be a fee structure to use the NSOE for technical assistance. We are here in support and we have been working with the sponsors of the bill.

Chair Smith:

Do you have experienced energy personnel in areas such as construction and maintenance?

Ms. Anderson:

Yes. We have one person in our Capital Projects department who is responsible for all energy efficiency type projects. He is knowledgeable about energy efficiency and performance contracting.

Chair Smith:

So you may not have to rely on the NSOE?

Ms. Anderson:

We have not completed an energy audit for the entire district. I am not sure if our district's technical assistance would go to that level.

Joyce Haldeman (Clark County School District):

We are in support of S.B. 142. We are concerned about the amendment coming at the last minute and the impact it might have on the district. As a large school district, we have an individual who is a specialist in energy efficiency. We have some concerns about the bill even in its original form. We are worried about the complex level of evaluation that we will be required to do on every project, because virtually all of our projects will meet the threshold that this bill requires. Nevertheless, we are strong supporters of all of the efficiencies that come from this bill.

Chair Smith:

Would you have to use the NSOE, or do you have technical assistance?

Ms. Haldeman:

We have technical assistance. However, if every project needs to be evaluated then just the scope of work, compared to the number of people that we have, might cause us to ask for technical assistance. These are complex issues and that is why I am concerned about the amendment to the bill.

Chair Smith:

We have copies of the amendment now and you will be able to work with the sponsors of the bill after the hearing.

Paul McKenzie (Building and Construction Trades of Northern Nevada):

We support this legislation. The energy efficiency work that has been done through other agencies has created cost savings for those agencies. We appreciate that we are looking at creating that same cost savings and efficiency especially, given the performance-based nature of this work.

Senator Jones:

Since I am testifying from Las Vegas today, I would like to ask Ms. Crowley to talk to Ms. Haldeman and Ms. Anderson and give them clarification on the additional language.

Chair Smith:

I will close the hearing on S.B. 142, and open the hearing on Assembly Bill (A.B.) 403.

ASSEMBLY BILL 403 (1st Reprint): Authorizes the board of trustees of a county school district to impose certain fees. (BDR 34-275)

Assemblyman Skip Daly (Assembly District No. 31):

I am here today to discuss A.B. 403. The bill was brought forth to assist in vocational education in the State. We are 50th in the Nation in education, depending on which rankings you are looking at. This makes us less competitive with other states. We are trying to diversify our economy and bring in new businesses. If we do not have the work force educated to the degrees that are in demand, we will be less successful in our efforts.

Washoe County and the rural areas are in need of vocational education. They are not as far advanced as Clark County. Clark County, and several of their high schools, offer comprehensive programs. This is a statewide bill, but we would like to duplicate some of Clark County's success in Washoe County and the rural areas. There is a funding deficit in education. I was looking for a mechanism that would be able to provide the funding for vocational education. The bill allows any school district to impose a \$2 per acre, per month fee by ordinance on taxable parcels of land. The district would be able to enact this one-time only fee for this purpose.

When the bill was introduced as statewide, I asked the Legal Division Staff to put a time limit on the usage of this tax. They suggested the districts will have to enact this fee on or before, January 1, 2014. The fee can only be applied for

10 years. The school board will have the flexibility to set a minimum or maximum fee based on the land use. If you went to the maximum level in the bill for Washoe County, it raises about \$10 million a year. Currently, it costs \$100 million to build a high school.

We have set up a committee within A.B. 403 to oversee funds being used for the building of schools, if the fee is imposed. The committee will be comprised of the superintendent of schools of the county school district, who shall serve as chair, the president of the board of trustees and three members as follows: one State Senator who represents the county in which the school district is located, one Assemblyman or Assemblywoman who represents the county in which the school district is located and one member of the public who resides in the county school district. The role of the committee is to give advice to the school district on curriculum, interfacing and reaching out to the colleges for their recommendations. The school board will still have the final say, but the committee will enforce the use of the funds for vocational purposes only.

Chair Smith:

This bill is being heard in this Committee because it is in the jurisdiction of the Committee, not because of a particular fiscal note as is generally the case with our bills.

Senator Goicoechea:

How much would this generate in Clark County?

Assemblyman Daly:

I do not know. It might not fit for them and they already have a program in place. That is why there is the flexibility in the bill.

Senator Goicoechea:

This is a big step when we allow taxation by ordinance from a school district.

Assemblyman Daly:

I understand that it is new, but it is only a one-time assessment for this sole purpose.

Senator Goicoechea:

I am still concerned that we are trying to establish a taxation by ordinance policy.

Senator Roberson:

We have many educational needs. Not to minimize vocational programs, they are important, but so is the English Language Learner (ELL) programs. Should we start funding them with a type of tax also? Once you open up this door, you are going to have Legislators wanting the school districts to levy taxes.

Ms. Anderson:

We are here in support of A.B. 403. Part of the WCSD Board of Trustees' platform has been to address the major capital issues we have in our District. We are obviously addressing that through other pieces of legislation also. We are a strong proponent of vocational training. Assemblyman Daly was referring to our signature academies, which basically are part of a disaggregated approach to vocational technical training. Each of our comprehensive high schools has a specific type of specialty that children can enroll in to provide additional training.

Senator Kieckhefer:

Does the WCSD Board support this because they plan on utilizing it?

Ms. Anderson:

They have not taken a position on whether they will enact this. They are waiting to see if they have the ability to do so.

Senator Kieckhefer:

Do any of the signature academies function within the trades, or are they more arts, science, technology, engineering, and mathematics?

Ms. Anderson:

Edward C. Reed High School has classes geared toward vocational technical trades. The Academy of Arts, Careers and Technology, which is our magnet high school, only serves 500 children. They do not have any specific curriculum on the trades, but they have culinary training programs.

Senator Kieckhefer:

Are there public schools within the WCSD that have vocational training?

Ms. Anderson:

Yes.

Senator Goicoechea:

Will funding for charter schools be included in this fee?

Ms. Anderson:

Charter schools cannot use district facilities, but the funding from this fee would be available to existing charter schools.

Danny L. Thompson (Nevada State AFL-CIO):

This is a new approach. Given the disarray of our educational system in Nevada, we would like to support this measure. Because it is limited to a one-time only assessment, it is worth a test case.

Mr. McKenzie:

We support this legislation knowing that it is a new type of funding mechanism that to many may be scary. When I was going to high school, vocational education was a big part of education. It was recognized that about 30 percent of children graduating from high school would go to college. The rest of the children were going to get jobs using their hands and backs instead of using their minds. Through the years, those individuals got jobs and moved on and have been successful. Vocational education was the backbone that got them started. One of the first areas cut has been vocational education; areas where students find motivation to complete school. We need to help children that are not going on to college.

Craig Stevens (Nevada State Education Association):

We support this bill. In the education community we talk a lot about being college- and career-ready. We focus a lot on the college, yet this is one of the ways we can begin focusing on being career ready. We have a lot of great career- and technology-schools in Las Vegas and these programs should be statewide. This is one of the ways we can get funding behind the programs and really increase our career readiness in the State.

Patrick Sanderson (Laborers' International Union Local 872, AFL-CIO):

I have worked with my hands all of my life. I did not go to college. I am proud of what I have done, and it has been a good life. Currently, children are dropping out of school because they do not have any place to go and their families cannot afford college. It is a tax that can only be utilized by the individual school districts that need it, or state that their community needs it.

John Madole (Nevada Chapter of Associated General Contractors, Friends of the ACE Charter High School):

We will support this bill if funding becomes available for a vocational charter, such as the Academy for Career Education (ACE) Charter High School which is in Washoe County.

Chair Smith:

Are you referring to another school in addition to the ACE Charter High School such as a school for vocational programs, not just building trades?

Mr. Madole:

I was specifically referring to the ACE Charter High School.

Ron Dreher (Peace Officers Research Association of Nevada):

We are in support of A.B. 403. The vocational training, and what this bill offers, is a small price to pay for the benefit. As a taxpayer also from Washoe County and owner of several properties, it is a small price to pay. This will fit well for the students that do not choose to go to college in our community.

Jeanette Belz (Friends of ACE Charter High School):

We are in support of A.B. 403 with the clarification that the bill would apply to charter schools. Several years ago, I worked with ACE Charter High School on some language now in statute that would allow facility funding for charter schools that met certain criteria, if that funding were ever available. This is in the background as well. There was concern that charter schools might have to meet certain requirements in order to access that funding.

Chair Smith:

We will have Assemblyman Daly clarify this as well.

John Wagner (Independent American Party):

Vocational training is important because not everyone should go to universities or colleges. However, I would like to see existing resources used for vocational training, not new taxes. The bill calls it a fee, but it is a tax. It all comes out of the pockets of the people. How does it help the children if you tax the parents? The voters have no say in this. The supporters of this bill should be talking to their school boards, and their Legislators about having a tax to bring on the ballot for the people to decide. This is a one-time only fee, but there will be

another one-time only fee for something else. This allows the school boards to do what they want.

Ms. Haldeman:

We are neutral on this bill. We recognize that Assemblyman Daly is trying to come up with a unique way to help districts meet some of their needs. I do not know if the Clark County School District (CCSD) Board of Trustees would take advantage of this opportunity. We had a brief discussion about it at a recent open meeting and they did not express an opinion. I did get some feedback. A couple of them immediately thought this was a great idea because we do have a robust career technical program in Clark County. However, even with the seven high schools devoted exclusively to career technical training, we have long waiting lists for each of the programs in those schools. We would like to build more of these schools. They cost about \$100 million each to build, but when you look at them in terms of return on investment, they are fantastic. They have the highest graduation rate and they also have the highest rate of students passing the high school proficiency exams at all levels, the first time that they take it.

Contrary to some of the things that I have heard here today, almost all of the students that attend these schools go on to some further type of training or schooling such as a 4-year college. These programs are not just intended for children who might otherwise drop out of school.

A concern that my Board members expressed was that voters elected them to make policy decisions, not to raise taxes. They were concerned about the backlash some of them might face, or if it might change the type of people who would run for the School Board. They also had a concern that if this were enacted and they took advantage of it, that it might actually hamper the long-term benefits if we tried to pass another bond issue. People in the community would say you have already enacted this other fee and so we do not need to support a future bond issue. There is a narrow scope of how the money can be spent. It would be counterproductive because it could not be used to address all of the other needs that are out there.

Chair Smith:

There is also a statement ([Exhibit D](#)) from Carole Vilardo, of the Nevada Taxpayers Association, expressing concerns about the bill. I would like to address these concerns with Assemblyman Daly at this time.

Senator Kieckhefer:

The bill allows the use of the funds for existing schools. Assemblyman Daly, please clarify the intent of this funding.

Assemblyman Daly:

This program will be different than what they have done in Clark County. Clark County has specific high schools that are devoted completely to vocational training. Under this program, they can plan, design or enhance their schools. There are some elements of vocational training that are spread out in the WCSD, but there is no way to enhance it or expand it. Clark County has experienced higher graduation rates by keeping their students engaged. We are also trying to give people job-ready skills. The schools throughout the area have lost many of the classes that offer this type of training. This bill was intended to be flexible enough to do planning, design and enhancement of existing schools or build new facilities.

Senator Kieckhefer:

Will ACE Charter High School be able to access this funding for their operating budget?

Assemblyman Daly:

Yes. The operational portion of ACE Charter High School would be eligible.

Chair Smith:

There needs to be a discussion and clarification on how the distribution of funds will take place.

Assemblyman Daly:

This will be the responsibility of the recommended five-person committee mentioned within the bill. We are not trying to duplicate what ACE Charter High School already has, we want to complement their curriculum. We want to work with the community colleges and offer parallel courses so that we can supplement their curriculum.

The school board would make the decision on what the curriculum is, and where to spend the money, as long as it is within the vocational trades.

Chair Smith:

It does have to be clarified that the intention is to include charter schools. Could you respond to Ms. Vilardo's concerns in [Exhibit D](#) about notification of the property owners and the ordinance setting?

Assemblyman Daly:

It is easy to provide notification through a notice or postcard. I will talk to the Legal Division Staff to see what the best way would be to do this. We need to identify how long this will take, making sure that we can do this within the 6-month window of implementation.

Chair Smith:

I will ask that you work with someone on the charter school language and the notification and ordinance issues, and get back to us with an amendment.

Assemblyman Daly:

Yes. I will look at the notification and ordinance issues and ask the school board about the charter school language.

Chair Smith:

I will now close the hearing on [A.B. 403](#) and open the hearing on [S.B. 83](#).

[SENATE BILL 83 \(1st Reprint\)](#): Revises provisions relating to animal fighting.
(BDR 50-148)

Warren B. Hardy II (Humane Society of the United States):

Senate Bill 83 increases the penalties on first offense cockfighting to felony charges. This legislation was introduced because Nevada, along with Utah, has the weakest laws in the Western United States regarding this activity. We have seen consistently that this activity follows the states with the weakest laws. When Arizona passed its law, there was a strong activity of cockfighting along the Arizona and California border. There were four major cockfighting pits when the law passed. Once the law was passed, the cockfighting pits disappeared without any law enforcement involvement.

The fiscal note on this bill is excessive. One of the things that perplexed us on the fiscal note was that in the 2009 Legislative Session, a fairly impressive law regarding dog fighting was passed and there was no fiscal note. The reason there was no fiscal note on that bill was similar to the same reason there should

not be a fiscal note on this bill. We have seen strong evidence that when states adopt this strict standard, the activity decreased on its own. The participants go from state to state looking for the weakest laws. Currently, Utah is considering a felony penalty as well. We have learned that this activity is historically accompanied by other illegal activities. We submitted documentation on other states ([Exhibit E](#)) that speak to this fact. The people committing this crime are usually going to prison. In our conversations with law enforcement throughout the State, they strongly supported this bill because it gives them one more felony charge to put on top of the other criminal charges. There is a large connection between cockfighting and drug trafficking. We have seen that when the arrest is simply for the cockfighting violation, those are generally pled down to a misdemeanor. This will not increase the prison population or activity. When these individuals go to prison, they are going for other reasons.

The 2003 outbreak of the Exotic Newcastle Disease was devastating in Nevada. The U.S. Department of Agriculture declared an emergency in Nevada, estimating that it cost taxpayers over \$200 million to deal with the Disease. This Disease is primarily carried by these types of animals used in cockfighting. Having this activity prohibited in the State, or being able to diminish this activity, will result in significant health benefits to the animals and will save the State money.

Chair Smith:

I have read the Associated Press article dated January 20, 2008, in [Exhibit E](#). The fact that 100 families were encouraged to move to a community because of cockfighting is a shocking situation.

Mr. Hardy:

These types of individuals will find their way to Nevada. They are already here.

Senator Kieckhefer:

I am trying to figure out how this is going to result in seven more people being in prison every year.

Chair Smith:

There is concern about the size of the fiscal note based on the testimony that we have heard, and what has happened in other states.

Quentin Byrne (Acting Administrator, Offender Management Division, Nevada Department of Corrections):

I have worked with the sponsors of the bill to find additional data that I could use to modify the note. I was not able to get any comparable data. We contacted the various agencies around the State and at the local level to figure out how many people were being prosecuted and how many people were actually getting convicted for cockfighting. That is how we came up with the incarceration number of 6.9 per year. If this has the intended effect of driving it away, then clearly this would not have this big of an impact on us. The Nevada Department of Corrections (NDOC) is neutral, but I also agree that the State will become a magnet for this kind of activity if we do not pass this bill.

Chair Smith:

Are you able to work with the bill sponsor to see if you can reduce the fiscal note estimate? It is going to be difficult for us to pass a bill with a fiscal note of almost \$300,000. Yet, we know if we do not pass the bill, we are probably going to cause more crime to take place. It would be incumbent upon the NDOC to want to do that.

Mr. Byrne:

I have received additional information, but I need to be able to get an example of what the rate was in other states prior to passing this type of bill. I can then apply this to our State population. So far, I have not been able to get that information.

Chair Smith:

It appears that we have some individuals here today that are willing to help provide that information as well, and work with you.

Mr. Byrne:

They have provided information, but not yet enough for me to be able to make any kind of change at this point.

Senator Kieckhefer:

I still do not know where you are getting this information for the fiscal note. People with a category E felony receive a sentence of 1 to 4 years in prison. Most of those crimes are probationable which means it is usually suspended. Are you really looking at people on a second offense?

Mr. Byrne:

We are looking at the worst-case scenario. I do not want to put the State in a position where we do not account for this. If we do have large increases in incarceration numbers, we would then have to come back to the Interim Finance Committee and ask for more money.

Senator Kieckhefer:

I would not want you to intentionally undersell it, but I am also just trying to understand where the data is coming from that shows why the cost would be so high.

Mr. Byrne:

All this information came from the various local agencies and departments around the State. We typically look at a 3-year period to do a statistical analysis.

Senator Kieckhefer:

Are these statistics off arrest reports from the local governments?

Mr. Byrne:

Yes.

Chair Smith:

What about the issue of the criminals being arrested for other crimes in association with cockfighting? How do you explain this?

Mr. Byrne:

I have not been able to find any statistics to confirm or deny that. I have not put that into our equation.

Senator Goicoechea:

At the point you are going to imprison people for cockfighting or possession of cockfighting instruments, you have a dozen other charges. They will be incarcerated for something else. We have to do our job.

Chair Smith:

Please work with the sponsors of this bill. This Committee is going to have a hard time allowing this to happen and then possibly making us the only State that is going to draw this type of activity.

Mr. Byrne:

I understand.

Chair Smith:

I will now close the hearing on S.B. 83 and open the hearing on S.B. 446.

SENATE BILL 446: Revises provisions governing education. (BDR 34-1077)

Crystal Abba (Vice Chancellor, Academic and Student Affairs, Nevada System of Higher Education):

I am here today to discuss S.B. 446. This bill impacts the institutions of higher education in this State, and all the states across the Country. The State Authorization Reciprocity Agreement (SARA) is necessary. In October 2010, the U.S. Department of Education (ED) issued program integrity rules. The rules stated that all institutions of postsecondary education must comply with the state authorization rules that govern distance educational programs. This means if the University of Nevada Reno, University of Nevada Las Vegas (UNLV) or Western Nevada College (WNC) are serving just one student in another state, they have to meet the state authorization requirements in that state. For institutions such as UNLV, where they may be serving students in over 25 other states, the fees and the requirements vary. That means for an institution the size of UNLV, the fees may be approximately \$150,000 a year to meet the requirements. That does not include the full-time position that they have hired to track the requirements in every state.

In October 2010, ED issued its program integrity rules. The federal government stated that if you do not meet these authorization rules at the federal level it may jeopardize your participation in the Title IV of the Higher Education Act of 1965 Federal Student Aid programs. The fact that we could no longer participate in programs like the Pell Grant got our attention. However, when ED issued the program integrity rules in 2010, they did not notify the schools correctly, so it went to court. When it went to court, the decision was that they could not do it. It then went to an appeals court that upheld the lower court's decision to overturn the rule. At that time, ED essentially backed off. In July 2012, they stated they would not issue the program integrity rules, but it does not change the fact every institution has to be authorized in the states where they are serving students. The ED is starting the entire process all over again. If we do not meet those authorization requirements, even if they do not

initiate enforcement, we will still be violating state law in other states where we are serving other students.

A reciprocity agreement allows institutions in the home state in which they are located to participate in SARA. Nevada would opt into SARA through the Western Interstate Commission for Higher Education (WICHE) compact. By opting in through the WICHE compact, the individual institutions will be able to opt into SARA. For an institution like UNLV, the cost is about \$150,000 in fees. To enter SARA, it is about \$6,000. For smaller institutions like WNC, where they may actually only be serving students in one or two other states, it then becomes a cost-benefit analysis because they are a smaller institution and they have a different fee structure. Therefore, their participation in SARA is not going to cost \$6,000, it will cost about \$2,000. They will have to look at the states where they are consistently serving students. The institutions have to be incredibly robust in making sure that they are aware of the authorization rules in every single state and that they are abiding by them.

In 2011, WICHE began drafting what is referred to as the WICHE SARA. It is the development of the Compact, but WICHE only involves 15 western states. The other compacts are the New England Board of Higher Education, the Midwestern Higher Education Compact and the Southern Regional Education Board. They are all in the process of drafting their own SARA and then the National Coordinating Board will bring all of the compacts together. Senate Bill 446 authorizes Nevada's WICHE Commissioners to opt into SARA.

One of the biggest thrusts of SARA is the issue of consumer protection. Each state has to meet certain standards for consumer protection. If I am a student in Utah and I am taking a class at UNLV and something goes wrong, I can file a complaint. That complaint would go to the institution, but there would be a level above the institution so an appeal could occur. As the State enters SARA, the Board of Regents of the Nevada System of Higher Education (NSHE) will be required to develop a complaint process. The private side of education has met the consumer protection provision under SARA, the NSHE has not.

If the bill passes, one of the first things we will do is to go through Board policy and establish the necessary appeals processes. As complaints come through the institution and, assuming they are not resolved at the institution level, they need to go to a higher level, we would then deal with them in the NSHE office of Administrative Services. There is a fiscal note on the bill. I assume it relates to

fees the continuing professional education programs may be foregoing for institutions that will not be authorized.

Chair Smith:

We will need to deal with the fiscal note. No one is present here for the fiscal note. I will close the hearing on S.B. 446 and open S.B. 164.

SENATE BILL 164 (1st Reprint): Revises provisions governing safe and respectful learning environments in public schools. (BDR 34-454)

Senator David R. Parks (Senatorial District No. 7):

I will discuss S.B. 164 today. I have provided 11 facts about bullying ([Exhibit F](#)). Over 3.2 million students are victimized by bullying every year. One in four teachers sees nothing wrong with bullying and will only intervene 4 percent of the time. Approximately 160,000 teens skip school every day because of bullying. One in seven students in Grades Kindergarten through Grade 12 (K-12) is either a bully or a victim of bullying. Fifty-six percent of students have personally witnessed some type of bullying at school. Over two-thirds of students complain that schools respond poorly to bullying with a high percentage of students believing that adult help is infrequent and ineffective. Seventy-one percent of students report incidents of bullying as a problem at their own schools. Ninety percent of students in Grades 4 through 8 report being victims of bullying. One out of ten students drops out of school because of repeated bullying. Harassment and bullying have been linked to 75 percent of school shooting incidents. Physical bullying increases in elementary school, peaks in middle school and declines in high school. Verbal abuse, on the other hand, remains constant throughout all grades.

Senate Bill 164 is a continuing effort to address the issue of bullying in the school setting. Early in the bill's process, a fiscal note dated March 5 was provided by the Nevada Department of Education (NDE). There have been changes made to S.B. 164 that address some of the concerns that are outlined in the initial bill. Many of the elements included in the fiscal note might require activity by the NDE; however, I do not see that it would require the extent of additional costs that is being stated by the NDE. There are many programs, so the ability for the State to replicate other programs is astounding. The majority of the fiscal note is totally unnecessary.

Senator Kieckhefer:

Do the amendments also elevate the fiscal note from the school districts themselves, or just at the State level?

Senator Parks:

They will be minimized somewhat. In the policy committee, everyone who had a concern came forward and we addressed those concerns. This is an issue that is not going to go away. Some degree of resources is required to address the issue.

Chair Smith:

I understand that the smaller school districts have different challenges, but there is a huge disparity. We also have districts that show zero effect for the fiscal note.

Rorie Fitzpatrick (Interim Superintendent of Public Instruction, Department of Education):

The NDE currently has no capacity to provide leadership in this area of challenge, nor to engage in the work that is required. There are a number of programs available in the State and nationally. When legislation was passed in the 76th Legislative Session requiring the NDE to recommend programs of study and create training opportunities for the State Board of Education and for the various school district board of trustees, we had no personnel to engage in this work. We have diverted Title I of the Elementary and Secondary Education Act of 1965 funds for education program professionals to help us with that work. At this point, there is a bigger push for action to establish a program of training and to provide leadership through professional development and technical support to move that forward. We do not dispute the need for this, but we currently do not have any staff who will have time to dedicate to this. We did have staff paid for through our federal Title IV funds, the safe and drug-free schools funding, but ED decided to eliminate those funds several years ago. We have no staff at the NDE who have the expertise or capacity to provide support for safe and respectful learning environments in school-bullying issues.

Chair Smith:

Does your fiscal note change from the original fiscal note of \$226,000 with the amended version of the bill?

Ms. Fitzpatrick:

It does not. The fiscal note contains the funding for creating one additional position at the NDE, an education program professional, to provide technical assistance and support to school districts. The requirement for the work remains the same.

Chair Smith:

Looking at section 7 of S.B. 164, have you talked to the Department of Health and Human Services (DHHS) about the issue of suicide? It is such a large component of bullying. We have another bill, A.B. 29, that I assume will pass which will create a suicide review task force. There is some opportunity for federal funding on this topic. We need to find the money to do this. This bullying issue is too big for us to ignore. Because of the suicide rates that we have seen, this is a DHHS issue and I would like to request that you get together with the Director of DHHS to see what we can do about this.

ASSEMBLY BILL 29 (1st Reprint): Creates the Committee to Review Suicide Fatalities. (BDR 40-307)

Ms. Fitzpatrick:

I will collaborate with the Director of DHHS to see if there is an opportunity for federal funds out of the suicide prevention work to pay for the support.

Chair Smith:

If you need assistance, please let me know.

Senator Kieckhefer:

Bullying is something that we need to find a way to stop with funding. Maybe tobacco funding is available, or federal grants. If not, we need to figure it out.

Marlene Lockard (Nevada Women's Lobby):

We support this bill. We are increasingly alarmed at what we see not just in this State, but across the Country in the suicide rates that are a result of bullying in schools.

Mr. Dreher:

We support S.B. 164. The fiscal note on this bill seems high, but when you look at the number of students in the State, it is probably less than 50 cents per child. We have heard the reasons why we need this bill. From a law

enforcement standpoint it creates a lot of work for us, and obviously funding training in these types of situations would help.

Dotty Merrill, Ed.D. (Nevada Association of School Boards):

I am here today to also represent Lonnie Shields from the Nevada Association of School Administrators and Stephen Augspurger, Clark County Association of School Administrators. Neither of them could attend. On pages 23 and 24 of S.B. 164, in sections 5 and 6, we find references to training for school board members. This is important so that they are aware of all the dimensions of bullying. Pages 24 and 26, in section 7 and 8 includes training for school-based administrators. Professional development is critical to improve the environments within our schools and the daily lives of the students who attend our schools. We are in support of this bill.

Mary Pierczynski (Nevada Association of School Superintendents):

We are in support of S.B. 164. We are aware of the fiscal issues, but to ignore the issue of bullying is expensive, and the impact on the children is great.

Ms. Haldeman:

We stand in support of this bill. If we had an implementation date that is later than what is in the bill, much of our fiscal note would disappear. We are migrating to a new student information system called Infinite Campus. It is expected to go live in August 2014, and then within a couple of months of that we will be able to accomplish the reporting requirements required by the bill without an additional fiscal note. That represents about \$50,000 of our fiscal note. Although we discussed changing the effective date for at least that portion of the bill, it did not make it into print.

Chair Smith:

We could have an effective date for the training and a different effective date for the implementation to accommodate the data system.

Ms. Haldeman:

We agree with the importance of taking care of this issue in our schools. The schools have to be a safe learning environment for students, or they cannot learn. There will be additional training required and there will be a cost to that. You simply have to find the funding.

Ms. Anderson:

We are in support of S.B. 164. We did not submit a fiscal note on this bill. This is due, in part, to the legislation passed in the 76th Legislative Session. We have made safe and respectful schools a big part of our school district. Our counselors have embraced it. We are already providing a lot of the training required in the bill. We are willing to absorb the small cost that would be required. We are already using the Infinite Campus data system. We do not anticipate a large fiscal impact.

Chair Smith:

So that your intent is clear, have your staff submit a zero fiscal note. I will close the hearing on S.B. 164 and open the hearing on S.B. 500.

SENATE BILL 500: Creates the Task Force on K-12 Public Education Funding.
(BDR S-1100)

Senator Joyce Woodhouse (Senatorial District No. 5):

I am here to present S.B. 500 for your consideration. This bill is the result of deliberations during the last interim by the Committee to Study A New Method For Funding Public Schools. The Committee conducted a series of five meetings and, with the help of a consultant and the American Institutes for Research (AIR), developed several recommendations. As the Legislative Digest for the bill points out, the Nevada Plan for school finance has served as the primary mechanism for calculating and allocating funds for the Nevada System of Public Instruction. It is generally recognized that this funding system has served us well in the past. However, it is apparent that our current needs, and the shifting demographics of our State, have made it necessary for us to take a different approach.

The Committee and the consultant reviewed approaches used in other states. At the Committee's final meeting on August 28, 2012, the Committee adopted a total of eight recommendations including the bill which is before you now. The consultant and AIR reported that Nevada's current funding system does not include funding adjustments for the additional costs associated with individual student needs. Based on the best practice, AIR recommended that funding adjustments be incorporated into the State's current finance model to account for individual student needs and cost factors. In turn, the Committee approved a recommendation in its final report that the State consider moving toward a weighted funding formula that considers unique student populations, needs

and characteristics. Section 1 on page 2 sets forth a Legislative declaration that it is the goal of the Legislature to equitably fund public education, basing its funding formula on the individual educational needs and demographic characteristics of its pupils.

I am proposing an amendment ([Exhibit G](#)) to section 2 for needed technical changes. Section 2 creates the Task Force on K-12 Public Education Funding. The language in lines 16 through 41 sets out the composition of the Task Force, including the Superintendent of Public Instruction, representatives from the Nevada Association of School Boards, the Nevada Association of School Superintendents, the Nevada Association of School Administrators, members appointed by Governor Brian Sandoval, teachers, parents and Legislators. The Task Force will be staffed by the LCB.

Section 3 sets forth the duties of the Task Force to review last year's report by the Committee to Study A New Method For Funding Public Schools. The Task Force will survey weighted-funding formulas used by other states, develop a plan to implement a weighted formula in Nevada, and provide recommendations to the next Session of the Legislature. The Task Force must complete its work and provide sufficient detail to ensure the weighted formula will be used to prepare the school funding portion of the Executive Budget for the 2015-2017 biennium.

Section 4 provides for the appointment of the Task Force members prior to July 1, and section 5 establishes a sunset provision for the Task Force of June 30, 2015. In conclusion, the interim study laid out all of the ground work and gave us the necessary direction to make the change. What the Task Force created in this bill will provide the details needed to actually implement a new system.

The proposed amendment to S.B. 500, section 2, specifies the members must be representative of the geographic and ethnic diversity of this State. The appointment by the majority leader of the Senate would be from a list of public school teachers submitted by the Nevada State Education Association. The parent would come from a list provided by the Nevada Parent Teachers Association. The three members appointed by the Governor will be current, or former, educational personnel who have expertise in public education policy making and/or school finance. The Director of the State Public Charter School Authority, or his or her designee, will also be on the Task Force.

Chair Smith:

There are two amendments. The first was described in [Exhibit G](#) and the second includes the charter school recommendation to which Senator Woodhouse has just referred ([Exhibit H](#)).

Senator Roberson:

I notice no Republican representation on the Task Force. I am personally offended by this. We have ten Republicans in the State Senate. I would like to see this change, so that we have Republican representation on this Task Force.

Senator Denis:

We can figure out a way for the minority leaders from both the Senate and Assembly to have an appointment on this Task Force. It was clear from the study that we need a weighted formula. We are one of three states in the Country that does not utilize a formula with economic factors included. The study showed that in those areas it costs more to train and educate a child.

Chair Smith:

When this bill was developed and passed in the interim study committee, it did not have a partisan approach to it. I have noticed with different bills that we have representation from all four areas and sometimes we do not. We need to develop consistency.

Senator Roberson:

I would suggest that Republicans are stakeholders in education also. I care about education as a southern Nevadan and about the funding formula.

Senator Kieckhefer:

I have the same concerns as my Republican colleague on this Committee. In looking at the original composition, I was struck that there are six representatives and teachers, but only one parent. We should strengthen the language. Who is responsible for ensuring that the Task Force is representative of the geographic and ethnic diversity in this State?

Chair Smith:

The LCB will assemble the Task Force. I have been involved in past interims where the LCB Director would determine if there is a gap somewhere and go back to one group or another and make sure that we have the right representation for geographic diversity.

A couple of the parent groups were involved in discussions during the interim. They also made suggestions regarding the composition of the Task Force. There are possibilities for up to two parents to be appointed.

Senator Kieckhefer:

You could be a parent and a representative. But are they actually designated as a parent?

Chair Smith:

We refer to them as “peer parents,” parents that do not have another vested interest. We will revise the wording to make sure that the parent designees are increased to two members and that they do not have another interest, such as a teacher that is also a parent.

Julie Waller (Senior Program Analyst):

The interim study was not funded with a State appropriation, so there was a delay in raising the funding to contract with a consultant to assist the Committee in studying the Distributive School Account and the potential for a new funding formula. From that perspective, not only was the funding limited, the time frame in which the consultant was available to conduct the study was limited. Subsequently, the Committee approved a reduced scope of this study. The Consultant conducted a 50-state survey looking at other state finance formula models and provided the Committee with the information regarding what other states were doing and how they were doing it. This included a finding that many states differentiated their funding formulas for individual student characteristics and needs. The Committee narrowed the scope of the study to look specifically at low-income, at-risk students, ELL, special education and remote and small schools. However, there are other populations, and other formulas, that account for career and technical education, or gifted and talented students.

It was recommended that we establish a panel of educators and experts from across the State to assess the data to determine what the weights would be. The consultant did not have the financial resources, nor the time available, to determine what the weights should be.

Senator Woodhouse:

I have taken notes on all of the comments made today regarding the composition of the Task Force. I will work with all of you to ensure that we

have a Task Force that represents this State. We will bring these changes back in another amendment.

Chair Smith:

If we need to add another parent, I suggest that we look to the Statewide Parent Involvement Council, a natural connection to this association.

Ms. Haldeman:

I am here in support of S.B. 500. Senate Bill No. 11 of the 76th Session was brought forth by the CCSD asking for a reconsideration of the Nevada Plan. For many years we have had the sense that the Plan, in place for 46 years, was no longer adequately based on the needs of the State. The existing plan is no longer equitable in terms of a large district such as the CCSD. We have conveyed to the other counties that this Task Force was essential to the process. We must have a period of time to analyze the different factors that influence funding education, so that we can make sure it is fair and equitable for everyone.

The Nevada Plan seeks to recognize the diverse realities of the State's school districts. If the formula is adopted, future experience may dictate necessary changes not indicated by today's conditions. The Nevada Plan was adopted knowing that it would probably have to be adjusted in the future. When the Nevada Plan was put into place in 1967, we were ranked fourth in the Nation for educational funding. In 1967, student enrollment for the entire State was around 100,000. Ninety-five percent of those students were white. The census figures from that era did not keep track of demographics the way we do now. The racial and ethnic categories that were used to describe the student population categorized them as white, black or other. Now our demographics are completely different.

Chair Smith:

You do not envision the Nevada Plan being reworked?

Ms. Haldeman:

The existing plan needs to be reevaluated to ensure it meets the needs of the diverse State that we now have.

Chair Smith:

Is the perception that the existing plan needs to be completely rewritten? Can the Nevada Plan and the equitable funding distribution that has received good rankings be sustained with revisions, allowing for the new considerations of ELL, poverty, transition and special education?

Ms. Haldeman:

Whether the Nevada Plan is revised or completely revamped, it really is the work of the Task Force. I do not understand school finance well enough to know whether we have to start over or if we can use the existing foundation. One of the comments that was made by the study is that over the past decade, the equity of the State funding allocation appears to have eroded. The parts that are working should be kept. We need to take into consideration the other parts of the State and diversity that we have now so that students are not sold short.

Chair Smith:

What has sustained is the wealth provisions within the funding formula, but all of the other things need to be addressed due to the inequity.

Ms. Haldeman:

Yes, I agree.

Senator Denis:

What we currently have is equitable in the way funds are distributed. The only difference was that we realized it costs more to do. That is where the Task Force would be able to determine what those costs are, and how we get to a formula that works. We need to compensate districts for the extra costs they are incurring.

Senator Kieckhefer:

I understand that we need to adequately fund education through a formula which is part of the Nevada Plan. There is funding inside and outside of the Plan, but I do not envision this Task Force dealing with this issue.

Ms. Haldeman:

Yes, that is correct.

Dr. Merrill:

From the school-board-member perspective this is perhaps one of the most significant bills of this Session. Many factors can evolve by providing instruction and programs responsive to the needs and demographic characteristics of our students. This is an important role for the Task Force.

Steve Canavero, Ph.D. (Director, State Public Charter School Authority):

I am here to speak in support of S.B. 500. We appreciate Senator Woodhouse providing a voice on the Task Force for charter schools. Her amendment encompasses the conceptual amendment that we provided and, therefore, we will now withdraw that amendment, [Exhibit H](#).

Ms. Fitzpatrick:

The concept of S.B. 500 is correct, and we support the bill. Our funding structure is currently antiquated. It was the right thing for the previous era but, as we move forward into this next generation, it needs to change.

Ms. Pierczynski:

The Task Force is going in the right direction. We are in support of this bill.

Ms. Anderson:

We participated in the interim study and are willing participants in this discussion. We support this bill.

Chair Smith:

I will now close the hearing on S.B. 500 and go on to the Work Session on S.B. 92.

SENATE BILL 92 (2nd Reprint): Makes certain changes related to the health of infants. (BDR 40-529)

Mark Krmpotic (Senate Fiscal Analyst):

Senate Bill 92 was heard in our Committee on April 29. This bill includes a fiscal note from the Health Division of the DHHS totaling \$8,500 to pay for the regulation expenditures. The Division listed screening fees as a revenue source, but I would ask the Committee to recall the testimony on this bill. It was indicated that the cost of the regulation process would be incorporated into their regular annual regulation draft in process and they did not have a problem in absorbing that responsibility within the Agency.

SENATOR DENIS MOVED TO DO PASS AS AMENDED S.B. 92.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Senate Bill 498 was also heard in our Committee on April 29. Staff indicated that the bill was originally referred to this Committee based on the proposed amendment that was drafted for this bill which called for the DHHS to create and maintain a database. That amendment was not adopted in this bill, nor does the existing language contain a fiscal impact. Therefore, Staff would suggest that it be passed out of Committee.

SENATE BILL 498 (1st Reprint): Revises provisions relating to telecommunications. (BDR 58-1097)

SENATOR KIECKHEFER MOVED TO DO PASS AS AMENDED S.B. 498.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Smith:

With no further business before the Committee, this meeting is adjourned at 2:06 p.m.

RESPECTFULLY SUBMITTED:

Annette Teixeira,
Committee Secretary

APPROVED BY:

Senator Debbie Smith, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	2		Agenda
	B	6		Attendance Roster
S.B. 142	C	1	Senator Justin C. Jones	Proposed Conceptual Amendment
A.B. 403	D	1	Carole Vilaro	Written Testimony
S.B. 83	E	6	Warren B. Hardy II	Humane Society of the U.S.
S.B. 164	F	1	Senator David R. Parks	11 Facts About Bullying
S.B. 500	G	1	Senator Joyce Woodhouse	Proposed Amendment
S.B. 500	H	1	Steve Canavero	Proposed Conceptual Amendment