

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-Seventh Session
May 13, 2013**

The Senate Committee on Finance was called to order by Chair Debbie Smith at 8:13 a.m. on Monday, May 13, 2013, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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 Scott T. Hammond, Senatorial District No. 18
Senator Justin C. Jones, Senatorial District No. 9

STAFF MEMBERS PRESENT:

Mark Krmpotic, Senate Fiscal Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Catherine Crocket, Program Analyst
Leslie Sexton, Committee Secretary

OTHERS PRESENT:

Rick Combs, Director, Legislative Counsel Bureau
The Honorable Kristina Pickering, Chief Justice, Supreme Court
Francis Flaherty, President, State Bar of Nevada
Nicole Rourke, Clark County School District

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Julia Teska, Office of Fiscal Accountability, Department of Education
Dotty Merrill, Ed.D, Nevada Association of School Boards
Mary Pierczynski, Nevada Association of School Superintendents
Suzan Reed
Marla McDade Williams, B.A., M.P.A., Deputy Administrator, Health Division,
Department of Health and Human Services
Bruce Arkell, Nevada Senior Advocates
Barry Gold, AARP Nevada
Gerald Gardner, Chief of Staff, Office of the Governor
Rorie Fitzpatrick, Interim Superintendent, Department of Education
Chris Nielsen, Executive Director, Department of Taxation
Jeff Mohlenkamp, Director, Department of Administration
Craig Hulse, StudentsFirst
Craig Stevens, Nevada State Education Association
Janine Hansen, Nevada Families Association
Lynn Chapman, Nevada Families Association
Elissa Wahl, Vice Chair, Nevada Homeschool Network
Nicole Patty
Jonelle Hughes
Brooke Keeler
Bryan Wachter, Retail Association of Nevada
Steven Canavero, Ph.D., Director, State Public Charter School Authority
Lindsay Anderson, Washoe County School District
Nicole Willis-Grimes, Nathan Adelson Hospice
Joan Hall, Nevada Rural Hospital Partners Foundation
Wendy Simons
Kristen McNeill, Washoe County School District
Joyce Haldeman, Clark County School District
Stephen Augspurger, Executive Director, Clark County Association of School
Administrators
Peter G. Morros, President, P.G. Morros, Inc.
Jason King, P.E., State Engineer, Division of Water Resources, Department of
Conservation and Natural Resources

Chair Smith:

We will begin our budget closings today with the Office of the State Treasurer.

ELECTED OFFICIALS

TREASURER'S OFFICE

Treasurer - State Treasurer — Budget Page ELECTED-179 (Volume I)
Budget Account 101-1080

Catherine Crocket (Program Analyst):

Senate Committee on Finance Closing List No. 7 ([Exhibit C](#)) has been distributed. There is one major closing issue in this budget account (B/A), the cost allocation revision. The Executive Budget recommends a change to the Treasurer's Office cost allocation methodology that was approved by the 76th Legislative Session. The Treasurer's Office indicates the revised methodology would streamline the cost allocation process and reduce staff time spent calculating costs to be allocated to each Treasurer's Office budget account.

The Executive Budget, as submitted, contained technical errors relating to implementation of the cost allocation. The Fiscal Analysis Division received Budget Amendment No. A130011080 and Budget Amendment No. A130021080 to correct the errors.

The Committee should note that the percentage of salary costs allocated to other budget accounts under the revised cost allocation methodology were determined by the Treasurer's Office prior to the addition of a new Management Analyst III position that was approved by the Interim Finance Committee (IFC) in December, 2012. Information provided to the Fiscal Analysis Division indicates that the new position would dedicate 30 percent of its time to arbitrage compliance oversight. The arbitrage compliance oversight contract will be funded in the Bond Interest and Redemption account, B/A 395-1082. It appears reasonable to increase the percentage of staff time dedicated to activities related to the Bond Interest and Redemption account to be consistent with the revised methodology. Fiscal Staff calculates that increasing the percentage of salary costs allocated to the Bond Interest and Redemption account would generate approximately \$10,000 in General Fund savings over the 2013-2015 biennium.

Treasurer - Bond Interest & Redemption — Budget Page ELECTED-185
(Volume I)
Budget Account 395-1082

SENATOR WOODHOUSE MOVED TO APPROVE ALLOCATING SALARY COSTS RELATED TO ARBITRAGE COMPLIANCE OVERSIGHT TO THE BOND INTEREST AND REDEMPTION ACCOUNT, B/A 395-1082, FOR GENERAL FUND SAVINGS OF APPROXIMATELY \$10,000 OVER THE 2013-2015 BIENNIUM; AND TO AUTHORIZE STAFF TO MAKE TECHNICAL ADJUSTMENTS TO IMPLEMENT THE REVISED COST ALLOCATION METHODOLOGY IN B/A 101-1080.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS DENIS AND ROBERSON WERE ABSENT FOR THE VOTE.)

* * * * *

Ms. Crocket:

Under Other Closing Items No. 1, Senate Bill (S.B.) No. 450 of the 76th Session and S.B. No. 481 of the 76th Session appropriated \$100,000 to the IFC for allocation to the Treasurer's Office. The purpose of the allocation is to fund the cost of a consultant to assist in the development of a request for proposal (RFP) to rebid the State's e-payment merchant services contract. Both S.B. No. 450 and S.B. No. 481 of the 76th Session contain language which states that funding cannot be committed for expenditure after June 30, 2013. Due to staffing time constraints, the Treasurer's Office has not submitted a request to utilize any of this funding to develop an RFP to rebid the contract.

On May 3, the Fiscal Analysis Division received a memo from the Department of Administration's Budget Division requesting to extend to June 30, 2015, the date which funding appropriated in S.B. No. 450 and S.B. No. 481 of the 76th Session could be committed for expenditure.

SENATOR PARKS MOVED TO EXTEND ACCESS TO THESE FUNDS, AND TO REQUEST BILL DRAFT REQUESTS TO REVISE THE DATE BY WHICH FUNDING APPROPRIATED IN S.B. NO. 450 AND S.B. NO. 481 OF THE

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76TH SESSION, CANNOT BE COMMITTED FOR EXPENDITURE, FROM
JUNE 30, 2013, TO JUNE 30, 2015.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR ROBERSON WAS ABSENT FOR THE
VOTE.)

* * * * *

Chair Smith:

I would like the Committee to consider Other Closing Item Nos. 3 through 5 for
B/A 101-1080 together. These are listed on pages 5 and 6 of [Exhibit C](#).

E-226 Efficient and Responsive State Government — Page ELECTED-181

E-710 Equipment Replacement — Page ELECTED-183

E-225 Efficient and Responsive State Government — Page ELECTED-181

SENATOR PARKS MOVED TO APPROVE THE GOVERNOR'S
RECOMMENDATIONS FOR B/A 101-1080 IN DECISION UNITS E-225,
E-226 AND E-710, AS AMENDED BY BUDGET AMENDMENT
NO. A130021080; DECISION UNIT E-225 AS TECHNICALLY ADJUSTED
BY STAFF TO REFLECT BUDGET AMENDMENT NO. A130021080; AND
THE ADDITIONAL TRAVEL COSTS IN BUDGET AMENDMENT
NO. A130011080.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR ROBERSON WAS ABSENT FOR THE
VOTE.)

BUDGET CLOSED.

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Ms. Crocket:

The next budget account is for the Nevada College Savings Trust account,
B/A 101-1092.

Treasurer - Nevada College Savings Trust — Budget Page ELECTED-196
(Volume I)
Budget Account 101-1092

In decision unit E-125, the Executive Budget recommends increasing funding transferred from the Endowment Account, B/A 101-1094, by \$322,069 in each year of the 2013-2015 biennium to support additional outreach and awareness activities and Website enhancements for the Nevada College Savings program. In each year of the 2013-2015 biennium, \$300,000 of the additional recommended funding would be used to increase outreach and awareness efforts, and the remaining \$22,069 would support enhancements to the College Savings Plan Website.

E-125 Sustainable and Growing Economy — Page ELECTED-198

Treasurer - Endowment Account — Budget Page ELECTED-201 (Volume I)
Budget Account 101-1094

E-125 Sustainable and Growing Economy — Page ELECTED-202

The \$300,000 increase in funding that supports outreach efforts is a 120 percent increase from the annual funding of \$250,000 approved by the 2011 Session within this account for the same purpose. The Treasurer's Office indicates that the College Savings Board has not yet determined specific uses for the \$300,000 annual increase in outreach and awareness activities. According to the Treasurer's Office, the funding could be used to fund radio and television promotional commercials, direct mail advertising, organizational sponsorships and contests. It should be noted that, in addition to funding included in this budget account, Upromise, one of the College Savings Board's approved 529 plan providers, is contracted to provide \$200,000 in in-kind marketing services for the College Savings program annually.

The Treasurer's Office indicates that the additional outreach and awareness efforts, including the Website redesign, are intended to increase the participation of Nevada residents in the College Savings program.

SENATOR WOODHOUSE MOVED TO INCREASE FUNDING
TRANSFERRED FROM THE ENDOWMENT ACCOUNT, B/A 101-1094, TO
B/A 101-1092 BY \$322,069 IN EACH YEAR OF THE

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2013-2015 BIENNIUM TO SUPPORT ADDITIONAL OUTREACH AND AWARENESS ACTIVITIES AND WEBSITE ENHANCEMENTS FOR THE NEVADA COLLEGE SAVINGS PROGRAM.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR ROBERSON WAS ABSENT FOR THE VOTE.)

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Ms. Crocket:

Two other closing items in B/A 101-1092, decision units E-710, E-800 and E-801, are described on page 9 of [Exhibit C](#). Fiscal Staff requests authority to make technical adjustments related to internal cost allocations.

E-710 Equipment Replacement — Page ELECTED-199

E-800 Cost Allocation — Page ELECTED-199

E-801 Cost Allocation — Page ELECTED-199

SENATOR PARKS MOVED TO APPROVE THE GOVERNOR'S RECOMMENDATIONS IN DECISION UNITS E-710, E-800 AND E-801 IN B/A 101-1092; AND TO AUTHORIZE STAFF TO MAKE TECHNICAL ADJUSTMENTS INCLUDING THOSE RELATED TO THE TREASURER'S OFFICE INTERNAL COST ALLOCATION.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR ROBERSON WAS ABSENT FOR THE VOTE.)

BUDGET CLOSED.

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Rick Combs (Director, Legislative Counsel Bureau):

I have provided you with my proposed adjustments ([Exhibit D](#)) to B/A 327-2631 as presented in the Executive Budget.

LEGISLATIVE-JUDICIAL

LEGISLATIVE BRANCH

LEG - Legislative Counsel Bureau — Budget Page LEGISLATIVE-9 (Volume I)
Budget Account 327-2631

In the Administrative Services Division of the Legislative Counsel Bureau, some replacement equipment costs were included in the Executive Budget. In the current fiscal year (FY), we have had to replace equipment with existing funds that were freed up in other ways. As a result, those funds can be used for other purposes. The Executive Budget was deficient in the allocations for in-state travel. I am proposing to move \$1,200 in FY 2013-2014 and \$800 in FY 2014-2015 from the equipment replacement allocations for those fiscal years into increased travel funds for Legislative Commission meetings. I am proposing to move \$2,100 in FY 2013-2014 from the equipment replacement allocation into increased travel funds to attend the Council of State Governments West Annual Meeting in July to avoid having to take this amount from the Division budget. We are hosting the meeting in Las Vegas and will need to send staff from Carson City. These changes will have no effect on the General Fund.

The Audit Division has enough funding for one person to travel to an out-of-state meeting to obtain required certification. There are no funds for the State Auditor to travel. I understand that the State Auditor has been going to the meetings at his own expense. I am requesting \$2,000 in each fiscal year for out-of-state travel for the Audit Division to attend national and regional meetings.

The amount of fee revenues paid by admitted health insurers pursuant to *Nevada Revised Statute* (NRS) 449.470 was reduced by about \$10,000 during FY 2012-2013 as a result of a revised interpretation of the definition of "admitted health insurer." I am requesting authority to use unspent revenues from this source in previous biennia to make up the shortfall in revenue projected for the 2013-2015 biennium. This amount will be used to pay part of a position in the Research Division that handles health care issues. We usually budget \$35,000 for those fees. Based on what we received in FY 2012-2013, we need to reduce the revenue projection to \$25,000 and use the reserves to make up the difference.

On page 2 of [Exhibit D](#) is a description of other technical adjustments that will be needed. I ask that these technical adjustments be applied to all three budgets of the Legislative Branch, which includes the Nevada Legislative Interim budget and the Printing Office.

LEG - Nevada Legislature Interim — Budget Page LEGISLATIVE-13 (Volume I)
Budget Account 327-2626

LEG - Printing Office — Budget Page LEGISLATIVE-20 (Volume I)
Budget Account 741-1330

I request authority to make the technical adjustments necessary based on the Legislature's decisions on the statewide decision units, including the E-670 decision units regarding employee compensation.

E-670 Reduce Salary for 2013-2015 Biennium — Page LEGISLATIVE-10
E-670 Reduce Salary for 2013-2015 Biennium — Page LEGISLATIVE-14
E-670 Reduce Salary for 2013-2015 Biennium — Page LEGISLATIVE-21

There is currently \$39,600 budgeted for the costs of interim studies for the 2013-2015 biennium. This is sufficient funding for five interim study groups meeting four times, if attendance by teleconferencing is encouraged or required. If the Legislature decides to increase the interim workload, I request authority to make the necessary adjustments in B/A 327-2626.

A number of bills require the creation of new statutory committees and require existing statutory committees to study issues or create subcommittees during the 2013-2015 biennium. I request authority to make the adjustments approved by Legislative Leadership to accommodate the workload that is generated by the bills that are ultimately approved by the Legislature.

Typically, additional duties and responsibilities are placed on the Legislative Counsel Bureau near the end of the Legislative Session. I request authority to add to this budget any additional funds approved by the Legislature after budget closings.

Senator Kieckhefer:

A bill was introduced on the Floor of the Senate last week addressing how business will be conducted during the interim in terms of standing committees.

Mr. Combs:

A certain amount of money is budgeted for interim studies. If there is a change in the structure, and that money is not needed for interim studies, I would need to use that money for whatever new structure is developed. There will be travel costs, printing costs and typical meeting costs incurred in the interim, regardless of the format in which the meeting is held. If the workload exceeds the five studies conducted in the last interim, we will need additional funding as the enabling legislation is processed.

Senator Kieckhefer:

Are you tracking how many interim study bills are in process?

Mr. Combs:

We have a running list of proposed interim studies, statutory committees, subcommittees and task forces. It will be up to leadership and the Legislative Operations committees to decide which proposals receive approval. Those decisions have not yet been made.

Senator Kieckhefer:

If we approve five interim studies, have you estimated the cost to implement them?

Mr. Combs:

The accounting staff is working on developing a fiscal note on that bill.

Senator Kieckhefer:

I have no problem authorizing you to transfer necessary funds. I am concerned with the direction that bill might be taking us.

Chair Smith:

The bill to which you refer is similar to a bill that was passed by the 2011 Session. A fiscal analysis was done on that bill.

Mr. Combs:

Whether you meet as a statutory committee that extends beyond the Session and into the interim, or you meet as an interim study committee, there is no difference in cost. The number of members on the committee and the number of meetings change the cost. Over the next weeks, you will have to determine the structure of the committees and their workload and perform the computations necessary to create a budget.

SENATOR KIECKHEFER MOVED TO APPROVE THE GOVERNOR'S RECOMMENDATIONS IN B/A 327-2631, B/A 327-2626 AND B/A 741-1330 TO AUTHORIZE THE DIRECTOR TO MAKE PROPOSED ADJUSTMENTS AND TECHNICAL ADJUSTMENTS AS OUTLINED IN [EXHIBIT D](#).

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR ROBERSON WAS ABSENT FOR THE VOTE.)

BUDGET CLOSED.

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Chair Smith:

Our next budget closing is for B/A 101-4821, the Public Employees' Retirement System (PERS).

SPECIAL PURPOSE AGENCIES

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

PERS - Public Employees' Retirement System — Budget Page PERS-2
(Volume III)

Budget Account 101-4821

Mark Krmpotic (Senate Fiscal Analyst):

This is not related to funding the benefits paid by the Public Employees' Retirement System (PERS). This budget account relates to the operation of PERS.

The first item before the Committee is the addition of three new positions, which were approved by the PERS Board. The total funding for the new positions is \$312,742. The funding comes from the per capita fee set by the Board for each member and benefit recipient. The positions are one auditor II, one retirement examiner I and one retirement technician. According to PERS staff, justification for the new positions is related to changes to the retirement rules enacted by the 2009 Session, including retirement eligibility dates and early retirement penalties.

E-225 Efficient and Responsive State Government — Page PERS-3

According to PERS, the auditor position is needed to ensure that PERS employers have a full understanding of statute, policies and procedures that apply to all areas of the System. According to PERS staff, changes to retirement rules enacted by the 2009 Session, including call-back pay and retirement benefits, are contributing factors for this request. This position would audit employer payroll records and check the accuracy of information reported to PERS.

The Agency cites an increase in benefit requests and retirement applications to support the need for the retirement examiner I position. Justification provided with the budget request indicates that this position will allow for better work flow and provide a higher level of accuracy in benefit calculations and retirement application processing. The PERS staff indicates that 14,000 employees fall under the new retirement rules enacted in the 2009 Session and that the need for the retirement examiner I has increased, as employees reaching the five-year employment mark become vested. This results in increased calls to PERS to determine retirement benefits.

The retirement technician position would provide counseling and services via telephone to PERS employees who call to request a calculation of their benefits or to determine their accumulated service credits. The PERS staff ties this request to employees that were hired subsequent to enactment of the new retirement rules by the 2009 Session.

SENATOR WOODHOUSE MOVED TO APPROVE THE REQUEST FOR THREE NEW POSITIONS IN DECISION UNIT E-225 OF B/A 101-4821; AND TO AUTHORIZE FISCAL STAFF TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR ROBERSON WAS ABSENT FOR THE VOTE.)

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Mr. Krmpotic:

Three other closing items for this account are described on pages 11 and 12 of [Exhibit C](#).

Decision unit E-710 includes \$30,774, over the biennium, to replace a 12-year-old vehicle. According to PERS it is no longer reliable to drive in rural areas for retirement counseling and educational seminars.

E-710 Equipment Replacement — Page PERS-5

Decision unit E-711 includes \$3 million over the biennium to replace the telephone system, which is no longer supported by the developer, and to upgrade software. Software upgrades total \$2.65 million over the biennium and would allow PERS to acquire newer versions, which are supported by the developer. Lastly, over the biennium, PERS seeks to replace 30 of 60 workstations and 10 of 81 servers totaling approximately \$200,000.

E-711 Equipment Replacement — Page PERS-5

The executive officer, operations officer, investment officer, assistant investment officer, information technology manager, administrative analyst and administrative services coordinator positions are included as nonclassified positions within PERS. However, these positions are compensated on a 10-step salary schedule, similar to classified positions, as approved by the Board. It is the intent of PERS to remain consistent with the changes in employee compensation as recommended for Executive Branch employees. For the Committee's information, the Executive Budget includes the same 2.5 percent salary reduction, 1.15 percent furlough reduction and suspended merit and longevity pay provisions for PERS employees that are recommended for State employees generally. Fiscal Staff would note that merit salary increases were not included in the budget for the nonclassified positions beginning in

FY 2014-2015, consistent with Governor Brian Sandoval's recommendation to restore merit pay for all classified positions. Fiscal Staff has included a technical adjustment to include merit pay for the nonclassified positions in FY 2014-2015 consistent with the Governor's recommendation and Board policy.

SENATOR KIECKHEFER MOVED TO APPROVE THE GOVERNOR'S RECOMMENDATIONS IN DECISION UNITS E-710 AND E-711 OF B/A 101-4821; THE TECHNICAL ADJUSTMENT MADE BY FISCAL STAFF TO INCLUDE MERIT PAY FOR THE NONCLASSIFIED POSITIONS IN FY 2014-2015 CONSISTENT WITH THE RECOMMENDATION OF THE GOVERNOR AND BOARD POLICY; AND TO AUTHORIZE FISCAL STAFF TO ADJUST MERIT PAY BASED ON THE FINAL DECISION OF THE MONEY COMMITTEES.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR ROBERSON WAS ABSENT FOR THE VOTE.)

BUDGET CLOSED.

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Chair Smith:

I will open the hearing on S.B. 463.

SENATE BILL 463 (1st Reprint): Provides for the implementation of the Court of Appeals. (BDR 1-1197)

The Honorable Kristina Pickering (Chief Justice, Nevada Supreme Court):

The bill is self-explanatory. It implements Senate Joint Resolution 14 of the 76th Session, contingent upon second approval of that resolution by the 2013 Session. It replaces "Supreme Court" with "Court of Appeals." Now it appears in tandem. The Supreme Court, by rule, would prescribe the jurisdiction of the Court of Appeals. That rule could be passed following approval by the voters in 2014 of the creation of the Court of Appeals.

Chair Smith:

Does this bill provide for salaries for the Court of Appeals?

Chief Justice Pickering:

That is correct.

Senator Kieckhefer:

Is the salary for the Court of Appeals judges in the range between the salaries for a Supreme Court justice and District Court judge?

Chief Justice Pickering:

Yes.

Francis Flaherty (President, State Bar of Nevada):

We are in favor of this bill and support the language regarding its implementation and the salary structure contained in it.

Chair Smith:

Seeing no others wishing to speak on S.B. 463, the hearing is closed. The hearing on S.B. 58 is open.

SENATE BILL 58 (1st Reprint): Revises provisions relating to distance education.
(BDR 34-396)

Nicole Rourke (Clark County School District):

The changes in section 2 remove restraining qualifications or criteria for a distance education student. These changes will allow any student to enroll in a distance learning program as long as they are already eligible to be a student of a public school.

Section 3 removes barriers for part-time students wishing to participate in a program of distance education. Currently, each student wishing to take an online class in a school district, other than his own, needs to obtain approval from the board of trustees of his home district each time he wants to take a class. We are proposing to remove that requirement for part-time students.

Section 5 allows us to operate in a more efficient manner, using technology. Previously, schools had to make decisions on which courses to offer based on a minimum enrollment. If a school wanted to offer advanced-placement biology, but only had 12 students who wanted to enroll, the school could not offer the course. With distance-education courses, we can group students in a computer lab and teach as many courses as we wish. Each student has a highly qualified

teacher assigned to him. A second licensed teacher is present in the classroom. We are requesting that unlicensed employees be able to supervise students in a computer lab setting to support that licensed teacher.

Julia Teska (Office of Fiscal Accountability, Department of Education):

The Nevada Department of Education (NDE) placed an unsolicited fiscal note on this bill stating that a fiscal impact cannot be determined at this time. This year, the focus of our enrollment audits was on distance education programs. We found issues of concern that we intend to address by improving regulations. We found that these programs have more risk associated with them and their audits are more labor-intensive than traditional programs. Our concern is that if we were to see a significant increase in the distance education program enrollments over the 2013-2015 biennium, we would not have sufficient staff to perform the audits. We do not know how rapidly these programs will increase. We submitted the fiscal note because we do not want to surprise anyone if a problem arises in this regard.

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

We support this bill. Section 5 of the bill provides an opportunity for students to take courses that might not be available in the areas of the State where they live regardless of the number of students enrolled. It also provides the ability to use human resources in an effective manner.

Mary Pierczynski (Nevada Association of School Superintendents):

We support this bill. It provides new opportunities to students and more flexibility to school districts.

Suzan Reed:

As a taxpayer, I support this this bill. It is money well spent.

Chair Smith:

Seeing no others wishing to speak on S.B. 58, the hearing is closed. The hearing on S.B. 113 is open.

SENATE BILL 113 (1st Reprint): Makes various changes to provisions governing the termination of parental rights. (BDR 11-434)

Senator Scott T. Hammond (Senatorial District No. 18):

You have received Proposed Amendment 8713 to the first reprint of this bill ([Exhibit E](#)).

This bill establishes a Registry of Putative Fathers. It would enable anyone who may have reason to believe himself to be a father, who is not married and/or had sexual relations with a woman and who believes he may have fathered a child, to place his name on the Registry. The intent is to assist such individuals to assert or relinquish parental rights in possible future adoption proceedings. The putative father must register before, or within 30 days after, the birth of the child to be eligible to receive official notices of future adoption proceedings. The Registry will replace the legal advertising notice now required by statute.

A major component of this program is the need to educate the public about the Registry. We will need to create regulations to implement the Registry. We will have to create the actual Registry to be located within the Health Division of the Department of Health and Human Services (DHHS).

A fiscal note has been addressed by amendments.

Senator Denis:

Would this bill replace the need to place newspaper advertisements and require a father to be aware of the need to place his name in the Registry?

Senator Hammond:

The bill allows a birth father to place his name on the Registry before a birth. This will alleviate delays in the adoption process. It will also allow birth fathers to claim their parental rights. The intent is eventually to eliminate the old system requiring advertising in newspapers. The Registry will be more effective. The registry system has been instituted in other states.

Senator Denis:

If a person is unaware that he may be a potential father, how would he know to register? Is there a process available to him when he becomes aware?

Senator Hammond:

He can register within 30 days of the birth of the child. Aside from that, upon engaging in sexual relations with a woman, he is put on notice that he could

become a father and should register if he may want to assert rights at a later date.

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

Under the bill, the act of having sexual relations is deemed proper notice of the requirement to register to receive notice of any future adoption proceedings. The Registry will accept entries before and within 30 days after the birth.

Chair Smith:

As newspaper circulations have been decreasing and other means of communications have been increasing, I have been wondering about the viability of using newspapers of general circulation for official public notices for many other purposes.

Senator Hammond:

Legally, newspaper notices are still sufficient. The adoption process has changed over the recent past. More of the process is done online.

Marla McDade Williams, B.A., M.P.A. (Deputy Administrator, Health Division, Department of Health and Human Services):

We submitted an unsolicited fiscal note identifying the cost of a 0.50 full-time equivalent (FTE) administrative assistant position to manage the Registry, operating costs of about \$70,000 for a database that would connect to other states that are managing a registry, and about \$78,000 for promotion of the Registry. Fees will support these costs. Governmental agencies will not pay for any searches. The adoptive parents would pay for searches.

Chair Smith:

Are you aware of amended language that will change your fiscal note?

Ms. McDade Williams:

There will be no ongoing cost. The bill will allow us to proceed with the development of regulations and to establish a fee structure. Subsequently, we would need to receive authorization from the IFC to implement them and begin implementation of the program.

Chair Smith:

The bill must have a two-thirds majority vote to pass because there is a fee structure to be implemented.

Ms. McDade Williams:

That is correct.

Senator Hammond:

On page 1 of [Exhibit E](#), in section 23.5 of the bill, we propose an amendment to allow the Health Division to adopt regulations, to the extent that money is available to do so, and to mandate the Division to implement sections 1 through 9 as soon as practicable, after receiving sufficient funds to do so.

In section 25 of the bill, we propose to change the effective date of the bill to the date on which the Health Division determines the Registry is operational and the Division has established a statewide campaign to ensure that the public is aware of the existence and purpose of the Registry.

Chair Smith:

This bill appears to be enabling. It requires the Health Division to adopt regulations and do work in advance of receiving funds. Is there any other fiscal impact that has not been addressed?

Ms. McDade Williams:

We plan to administer the Registry from the Vital Records account. We would combine the adoption regulations with the vital records regulations to gain efficiencies. No other fiscal note is necessary for the build-up phase of the program.

Mr. Krmpotic:

Based on the fiscal note and the unsolicited fiscal note, it would appear that the fee would be an offset of the costs of administering the Registry, therefore it does not appear to have a negative impact on the Health Division. As stated, the Division would be able to come before the IFC to receive authorization to implement the fiscal portions of the bill, the fee and the operational costs.

Chair Smith:

Seeing no others wishing to speak on [S.B. 113](#), the hearing is closed. The hearing on [S.B. 149](#) is open.

[SENATE BILL 149 \(1st Reprint\)](#): Revises provisions relating to inspections of certain medical facilities and offices. (BDR 40-841)

Senator Ben Kieckhefer (Senatorial District No. 16):

This bill tries to incentivize good behavior and punish bad behavior on the part of health facilities regulated by the Health Division of the DHHS. It seeks to reduce the punitive nature of the Division by increasing the rewards for good behavior. It would allow the Bureau of Health Care Quality and Compliance to extend the period between required inspections by 50 percent for those facilities that pass a periodic inspection by the Division. It would also allow a 25 percent reduction in regulatory fees for those facilities.

There is a substantial fiscal note of approximately \$471,000 attached to this bill in future biennia and slightly less in the 2013-2015 biennium. This is due to the fee reductions. The extended periods between inspections that would accompany the fee reductions will result in lower labor costs to the Division.

Ms. McDade Williams:

We agree, in concept, that the longer intervals between inspections will reduce labor costs because our fees are developed based on workload.

Chair Smith:

Was your fiscal note change reflective of that?

Ms. McDade Williams:

Our fiscal note attempts to reflect what we estimated the reduced fee would be because of reduced workload. We cannot say that we can immediately reduce 2 FTE positions because we cannot anticipate a set number of facilities qualifying for the extended intervals and reduced fees. Only over time can we estimate how many positions we could eliminate based on a reduced workload. We have tried to build into our budget some contract labor to help with an unpredictable workload. We would need temporary staff in cases of complaints and unlicensed activities.

Chair Smith:

You are reaching the point where your staffing is based on fluctuating needs for inspections. You will not have the contract staff available to do what is not required.

Ms. McDade Williams:

That is correct.

Bruce Arkell (Nevada Senior Advocates):

This bill is good policy but the fiscal note is overstated. We understand why that was done. This is a program that needs to be tried. The alternative is to continue overregulating. Perhaps you can mandate that the Division return to the IFC for needed funding. The exact amount needed cannot be estimated at this time. That is not a valid reason for not implementing the program, which would be a benefit to the State, the residents of the facilities and the providers.

Barry Gold (AARP Nevada):

We oppose S.B. 149. I have submitted a personal statement ([Exhibit F](#)) outlining the reasons for our opposition to the policies in the bill.

The fiscal note reflects loss of actual revenue to the State. Rather than incentivizing good behavior for following the law, perhaps punitive fees for not following the law should be increased. With reference to recent events in a restaurant in Las Vegas, an investigation probably would have revealed clean inspection reports, yet something bad still happened to endanger the public.

The public is not going to accept fewer inspections in facilities that take care of our family members.

There would be too many problems resulting from this bill.

Chair Smith:

Is your opposition more in policy than in fiscal impact?

Mr. Gold:

The fiscal impact cannot be calculated in advance. It may be more than what is stated in the fiscal note.

Ms. Reed:

I do not support this bill. I would not want any of my relatives to be treated by a facility that is not due for an inspection for 18 months. I would worry that code enforcement would become lax. Taxpayers pay for these inspections and we expect government to perform. It is not fair to the inspection staff to have to work intermittently.

Chair Smith:

Seeing no others wishing to speak on S.B. 149, the hearing is closed. The hearing on S.B. 445 is open.

SENATE BILL 445: Establishes the Nevada Educational Choice Scholarship Program. (BDR 34-907)

Gerald Gardner (Chief of Staff, Office of the Governor):

This bill, which establishes the Nevada Educational Choice Scholarship Program, is a high priority for the Governor. It seeks to offer scholarship opportunities to Nevada students by encouraging taxpayers to donate to scholarship organizations and to receive tax credits on their modified business tax (MBT) computation in an amount no greater than the donation itself.

This bill will provide benefits to students and their families who believe that private school opportunities are the best options for them regardless of household income or residence in a zip code entitling them to their own choice of a public school. This program is good for the schools in states where it has been implemented. It has allowed them to keep up with growing enrollments, to reduce overcrowding and to see improved test scores and graduation rates.

This bill is not an abandonment of the State's commitment to strengthen and improve our public school system. Public schools, charter schools and private schools all contribute to the overall health of our education system. It is proper that all of these institutions be available to all students and families.

Rorie Fitzpatrick (Interim Superintendent, Department of Education):

The NDE is collaborating with school districts, the community, business leaders, policy makers and others to improve educational outcomes for Nevada students. While we are making progress, it is slower than we would like. This leaves children behind. Those students living in conditions of poverty are especially at risk. While parents with higher socioeconomic status have the opportunity to make choices for their children, this opportunity does not exist for our economically poorest students. This bill is intended to change that dynamic.

There is a cap on the total amount of contributions that can be spent on this endeavor. The scope of this program is reasonably configured to provide opportunities for vulnerable students. We have high-poverty, high-risk schools in Nevada that are performing well. While poverty is critically relevant, it does not

prevent school success. If schools are successful, it is likely that parents will want to keep their children in their home schools in their own neighborhoods. To some degree, school success can be controlled through decision-making at the district level, which may impact the number of parents who wish to access this program.

Emerging research shows that in those states and districts where such programs exist, competition is driving improvement in the public schools and in those schools who will implement the program contemplated in this bill. This has been documented in Florida, Ontario, Canada and the city of Milwaukee, Wisconsin.

We should create opportunities for all students in Nevada to succeed. Poverty should not be a sentence for educational failure. This program is composed of a comprehensive set of strategies to support college and career readiness for all students. It is not the be-all and end-all answer. It is a complex part of the answer to a complex problem, especially for those children made most vulnerable by the conditions in which they have been born.

Chris Nielsen (Executive Director, Department of Taxation):

The Department of Taxation placed a fiscal note of about \$140,000 for the 2013-2015 biennium. In FY 2013-2014, the Department will need onetime information technology changes. In FY 2015-2016, we will need an additional tax examiner position to process the applications that this program contemplates.

Chair Smith:

How will the bill be implemented?

Mr. Nielsen:

There are three entities involved in the operation of this program: Nevada businesses that are subject to the MBT, the scholarship organization, which must be exempt from taxation under 501(c)(3) of the Internal Revenue Code, 26, U.S.C. §501(c)(3); and the school, which must be a private school as defined by NRS 394.103, or an accredited program of home study.

The tax-paying entity would notify the scholarship organization of its intent to make a donation and file for a credit. The scholarship organization would then apply to the Department Taxation for approval of a credit. The Department

either approves or denies the credit and issues a notice of its decision. Within 10 days of receiving a notice of approval, the scholarship organization must make the grant to a school. The amount of the grant may not exceed the tuition charged for enrollment or for actual expenses incurred by a parent for home study.

Sections 7 and 8 of the bill allow the taxpayer to take a dollar-for-dollar tax reduction, or credit in its MBT liability, for donations to qualified scholarship organizations.

Section 6 of the bill provides for reporting requirements of the scholarship organization.

The Department of Taxation may, for each fiscal year, approve applications for the credit authorized by section 4 of the bill, until the total amount of the credits is equal to \$5 million.

Chair Smith:

Will you use federal tax information to verify the income of the family whose child is applying for a scholarship?

Mr. Nielsen:

At some point in the process, we will have to provide for that.

Chair Smith:

How will the costs associated with homeschool study be identified and how will they be reimbursed? I do not see any information in the fiscal note regarding the impact of this bill on State government.

Jeff Mohlenkamp (Director, Department of Administration):

We cannot determine the fiscal impact on the State because there is a large number of components to take into consideration. A credit to MBT will result in loss of revenue to the State. It is likely that there will be a reduction in Distributive School Account (DSA) expenditures the State would incur. We can use a variety of scenarios to determine a dollar figure and whether the two would offset each other.

Chair Smith:

Is there a sunset date for use of the credits?

Mr. Nielsen:

There is a 5-year window for MBT credit carryovers.

Senator Kieckhefer:

In drafting the bill, was any consideration given to using a cost-allocation method for administrative expenses in the Department of Taxation from the scholarship program?

Mr. Nielsen:

No.

Mr. Mohlenkamp:

It would be reasonable to consider using a cost-allocation method.

Chair Smith:

Even if that method were to be enacted, the State would have to provide the bridge funding to start up the program.

Mr. Mohlenkamp:

That could be done through an advance or bridge funding and would mitigate the need for a fiscal note.

Mr. Nielsen:

For your information, similar programs in other states have resulted in net savings to state governments. I can provide the committee with source documentation about those results.

Senator Denis:

Do you have any projections about the number of children who will be helped by this program if the \$5 million cap is reached?

Mr. Mohlenkamp:

The bill has no limitation on the number of children or families that can benefit from the program. There is no projection on the number of people who will take advantage of the program.

Mr. Nielsen:

Other states have reached their caps within a fiscal year. Florida has a higher cap than does Nevada.

Craig Hulse (StudentsFirst):

I have provided you with two proposed amendments to S.B. 445 ([Exhibit G](#)). We are supportive of S.B. 445 and these proposals will make it better. The first puts an emphasis on the public school system and requires any recipient of the scholarship to come from an underperforming school as designated by the NDE. The second requires accountability measures from the nonpublic school that received the Nevada Educational Choice Scholarship funds.

Senator Kieckhefer:

Is the State currently using a star system of ranking public schools?

Mr. Hulse:

The State will begin doing so soon.

Senator Kieckhefer:

Clark and Washoe Counties have a star system for ranking their schools.

Mr. Hulse:

Our proposal is based on the State's ranking system.

Senator Kieckhefer:

When the State's ranking system comes into effect, will it be incorporated into the rankings provided by local school districts?

Mr. Hulse:

No. The systems will be separate.

Senator Kieckhefer:

Will the districts continue to rank their own schools?

Mr. Hulse:

I do not know, as that is not my area of expertise.

Ms. Fitzpatrick:

The Department has configured a statewide performance system that takes into account multiple measures. The first set of data on that system will be rolled out in early June. The Clark County School District (CCSD) will no longer rate their schools using stars or publish those ratings. They will use the data to drive decision making but will not compete with the State system because to do so

would confuse the public. The Washoe County School District (WCSD) intends to continue with their star rating system. We are engaging in conversations with them about how to align their system with the State system to minimize public confusion over the rankings.

Senator Denis:

How will scholarships be awarded?

Ms. Fitzpatrick:

They will be awarded on a first-come, first-served opportunity based on specific criteria. The Department appreciates that StudentsFirst raised the idea that the scholarships should only be awarded to students in 1-star and 2-star schools. That is the right approach. As long as the application meets the criteria of the law and the regulations, awards will be bestowed based on the date of the application.

Senator Denis:

Will the scholarship organization use test scores to choose the students with better scores for the scholarship awards?

Ms. Fitzpatrick:

There are no restrictive criteria at the student level. We should not be targeting specific students based on any criteria other than need. We certainly do not want to award the scholarship based on academic ranking or athletic abilities. We do not want schools to use this as a recruiting tool.

Chair Smith:

Could this scholarship be used for private full-day kindergarten?

Ms. Fitzpatrick:

Yes. This is a kindergarten through Grade 12 scholarship.

Chair Smith:

Could it be used for tuition-based, full-day kindergarten in the public schools?

Ms. Fitzpatrick:

No. In its current form, this bill prescribes the use for private schools. Private schools have a different status under the NRS than do public schools.

Chair Smith:

I would like to suggest we consider that idea if we are trying to provide more opportunities for Nevada children in our public schools. It seems we have created our own private school system within our public school system by establishing tuition-based, full-day kindergartens. Why would we not want to help parents in that situation be able to send their child to full-day kindergarten?

The Senate Revenue and Economic Development Committee heard this bill but did not approve it. It was rereferred to this Committee. Therefore, we will be considering policy implications along with the fiscal note.

Craig Stevens (Nevada State Education Association):

We oppose this bill. We oppose the policy behind the bill. Our biggest concern is the hole in the budget that this bill will create by taking dollars from the General Fund that otherwise would go to public education to provide valuable programs.

Janine Hansen (Nevada Families Association):

We supported this bill when it was heard by the Senate Committee on Revenue and Economic Development. We support the concept of choice behind the bill. It will save money and improve education in Nevada. We do not support the negative impact the bill will have on home schools.

We support the amendments proposed by the Nevada Homeschool Network (NHN) ([Exhibit H](#)). They want to have either their amendment adopted or have all references to home schools be eliminated from the bill. The bill, if enacted, would negate 30 years' worth of progress we have made in home schooling.

The bill contains an undefined term, "programs of home study." The NHN proposes to replace that term with "school or program" because, in Nevada, there is no such thing as a "program of home school study."

If a homeschool child "enrolls" in a school or program, that child can lose his or her legal status under NRS as a homeschool child. For that reason, the NHN proposes that the word "enroll" be changed to "participate." For example, a homeschool child may "participate" in a foreign-language class at a traditional school without being "enrolled" at that school and still be considered a homeschool child under the law.

The bill allows parents of a homeschool child to be granted funds for programs accredited by the local school district. Local school districts are not responsible for accreditation. That responsibility lies with the State Board of Education (SBE). For that reason, the NHN proposes to change the language to reflect that fact.

The Nevada Families Association supports the NHN's proposals to improve this bill. This bill will serve the populations that the public school system does not, or cannot serve—those who have special needs for individualized help.

Lynn Chapman (Nevada Families Association):

I have worked on the Home School Advisory Board with the NDE for several years to get homeschool laws in Nevada changed to fit homeschooling families. I do not support this bill in its current form. References to home schools should be removed.

Schools in Washington, D.C., spent over \$28,000 per pupil. The costs for scholarships in the school-choice program were less than 25 percent of that amount. An additional 18 states now offer school-choice programs. Nevada should consider such a program.

Elissa Wahl (Vice Chair, Nevada Homeschool Network):

I advocate for educational options. I agree with the remarks made by Janine Hansen. We completely support the concept of a scholarship to help low-income students escape failing public schools. We cannot support this bill in its current form. As written, the bill would allow the local school district to determine what an accredited home school is for families wishing to accept scholarship money. The wording in lines 11 through 14 probably came from NRS 392.033, which gives authority to the board of trustees of a school district to recognize an accredited program of homeschool study. The authors of the bill neglected to follow the dots to *Nevada Administrative Code* (NAC) 389.445, which defines for the local school district exactly what an accredited program is. A school district should not individually be responsible for deciding what an accredited program is, or which ones they will accept. They should only recognize their use as comparable for issuance of credit, according to NAC 389.445. If the current form of the bill is passed, it will invite fraud in the name of home schooling. It will encourage the public school system to set up programs of home study. It will encourage homeschool students to enroll in private schools, causing them to lose their homeschool legal status.

Each school will need to assess and determine which accredited programs they would accept. That would require time and the use of a consultant which would have an economic impact.

We have met with representatives of Governor Brian Sandoval three times. The Office of the Governor has not responded satisfactorily to our attempts to correct the language problems in the bill. Each time we have been assured that our concerns would be considered. We do not believe that has been done. At this point, I would consider our proposed amendments unfriendly.

The other amendment that has been brought forward would tie homeschool students who accept scholarship money to the public school system's standardized testing and to the Statewide Longitudinal Data System (SLDS). We oppose this amendment, if the homeschool portion remains in the bill.

Nicole Patty:

I appreciate the concept of a scholarship to help children to attend private schools or other opportunities for low-income students. However, I home school my child and I cannot support this bill in its current form. I ask you to either remove language relating to home schooling or adopt the amendment from the NHN. I also oppose the amendment proposed by StudentsFirst.

Jonelle Hughes:

I am a homeschooling mother. I oppose this bill as written. I oppose the amendment proposed by StudentsFirst. I request that you remove any language relating to home schooling from the bill, or adopt the bill with the amendments proposed by the NHN.

Dr. Merrill:

We oppose this bill because it will reduce tax funds coming into the General Fund for public education and because a fiscal impact cannot be determined.

We have concerns about the use of taxpayer dollars that would be directed to a scholarship fund and further directed to private schools without any form of accountability. Although the proposed amendment from StudentsFirst refers to tracking student progress, there is no mention of a private school's requirement to be accountable for student learning and achievement.

Brooke Keeler:

I am a homeschooling parent. While we appreciate the kindness and generosity of this bill, we oppose the bill's applicability to homeschooling families and the amendment from StudentsFirst. I agree with those who have testified before me that either all references to home schooling should be removed, or the NHN amendment should be adopted.

Ms. Reed:

I oppose this bill for the reasons stated by other witnesses.

Bryan Wachter (Retail Association of Nevada):

We oppose this bill because of our concerns about creating any more exemptions to the MBT.

Chair Smith:

What is the Governor's position on the amendments from StudentsFirst and the NHN?

Mr. Gardner:

The Governor supports the failing school limiter language in the amendment referring to households that are "currently zoned and enrolled in a 1- or 2-star school as determined by the Nevada performance framework from the Department of Education." This is a good idea.

The accountability language proposed by StudentsFirst is conceptually a good idea. We need further discussions about how that would be implemented and the practicality of the NDE being able to implement it at the onset of the program if it is approved.

The NHN has spoken clearly. In our meetings with their members, they spoke for about half of the homeschooling population. We do not want to exclude homeschooling families who might be interested in the program. We will not stand in their way if they wish to be excluded from the bill.

Senator Denis:

Please comment on the accountability issues that have been raised.

Ms. Fitzpatrick:

Most private schools have some degree of criteria against which they must be measured in order to maintain their status. While it is not contemplated in the current form of the bill, accountability is a good idea. We should see that the school receiving these grants meets the benchmarks which its own accrediting body has established. This idea should be pursued to ensure that schools are worthy of receipt of the students and the resources.

Senator Denis:

How would we know about the child's progress in the private school as compared to the public school if there is no common measurement?

Ms. Fitzpatrick:

This is the challenge we would have in the first biennium of this undertaking because the measures in place in the public school would be different than the measures used in the private school. We would seek permission to implement the program and learn about the measurements used in private schools to determine an acceptable way to equate and compare the two. This is uncharted territory for Nevada. That does not mean we should not do it. It means that innovation requires time to understand the nuances.

Senator Woodhouse:

Chair Smith had to leave the meeting temporarily to testify before another committee and has handed the gavel to me. Seeing no one else wishing to speak on S.B. 445, I will close the hearing. I will open the hearing on S.B. 471.

SENATE BILL 471 (1st Reprint): Revises provisions relating to the Account for Charter Schools. (BDR 34-1133)

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

I have provided you with a summary of S.B. 471 ([Exhibit I](#)).

Following the rigorous application process to create a public charter school, the governing body of that charter school faces significant challenges in the costs associated with securing a facility and obtaining required health and safety inspections, staffing and purchasing curriculum, furniture and supplies. To assist such start-up schools, the State created the Account for Charter Schools as a revolving loan account under the management of the SBE. Since the fund was established, it has not yet been funded. The Governor's recommendation to

fund the account in the 2013-2015 biennium will come before the Joint Meeting of the Senate Committee on Finance and Assembly Committee on Ways and Means this week.

This bill would transfer the administration of the fund to the State Public Charter Authority and make necessary changes for the loan fund to become operational and effective.

In sections 1 through 3 of the bill, there are eight changes to be made to transfer the responsibility of administering the Account for Charter Schools from the NDE to the State Public Charter School Authority.

Section 2 of the bill establishes a maximum loan amount increase from \$25,000 to the lesser of \$500 per pupil, or \$200,000.

We surveyed schools regarding the start-up costs they incurred to compute a per-pupil minimum cost. The results of our study are on page 2 of [Exhibit I](#).

The Legislature has addressed first-year charter school funding with the NRS and the NDE has established regulations in the NAC.

In response to questions we received regarding loan default rates, we have compiled information on page 4 of [Exhibit I](#).

Page 6 of [Exhibit I](#) shows the amortization schedule of a \$200,000 loan with a 36-month term at 3.25 percent. The total interest collected on \$200,000 would be \$10,178.91 over 3 years.

Regulations have established an application process and the criteria for approval of applications; loan term restriction to 36 months; loan approval priority given to new charter schools; and repayment of loan made by a deduction from their apportionment from the NDE.

Senator Woodhouse:

Seeing no questions from the Committee or public comment, the hearing on S.B. 471 is closed. The hearing on S.B. 481 is now open.

SENATE BILL 481: Extends the temporary waiver from certain minimum expenditure requirements for textbooks for school districts and the

temporary allowance for an increase in class sizes for grades 1 through 3.
(BDR S-1132)

Ms. Teska:

Since 2009, we have suspended the provision in the NRS related to the minimum textbook expenditure and penalties associated with not meeting it. The penalties include reduction in subsequent-year DSA payments. During the economic downturn, we waived the minimum class-size requirement of 16:1 in Grades 1 and 2, allowing for an 18:1 ratio, and the ratio of 18:1 in Grade 3, allowing for a ratio of 20:1. These waivers applied to districts that operated class-size reduction programs, without having to seek SBE variance.

In S.B. 481, we propose to continue that practice through the 2013-2015 biennium. We realize that the overall spending in the DSA is being increased. However, based on reports from the districts in the 2013 Session about class size, this extension is necessary to avoid requiring textbook expenditures at the expense of personnel. If we do not continue this waiver, the majority of districts have reported that it would result in class-size increases in Grades 4 through 12, which are already higher than most people would like to see.

Ms. Rourke:

We support this bill. We need it to balance our budget.

Lindsay Anderson (Washoe County School District):

We support this bill. We do not want to have to choose between materials and class sizes. We also need this legislation to balance our budget.

Dr. Merrill:

We support his bill. Many school districts will still have to cut their budgets. As long as this condition persists, we appreciate the Legislature's accommodations in this bill.

Ms. Pierczynski:

We support this bill for all the reasons previously stated.

Mr. Stevens:

We oppose this bill. We understand the need for relief in class-size reductions and the flexibility that has been afforded to the school districts. The economy is

recovering. We should, at a minimum, return to the class-size reductions we previously had, and improve upon them. We should ensure that school districts have adequate funding. Class size is an important issue to our members.

Senator Woodhouse:

Seeing no others who wish to speak on this bill, the hearing on S.B. 481 is closed. The hearing on S.B. 502 is open.

SENATE BILL 502 (1st Reprint): Makes various changes relating to certain required investigations of the background and personal history of certain persons as a condition of employment, licensure, certification and other privileges. (BDR 40-1137)

Ms. McDade Williams:

This bill implements a criminal background check Website for the Health Division. It will allow employers to access the system to determine the eligibility of any prospective employee to work in a health care facility. It will allow us to track the periodic requirements for verifying criminal background checks. It will impose a new annual fee on users of the system.

We have proposed an amendment to S.B. 502 ([Exhibit J](#)) which would make minor technical changes in addition to changes already made by the Senate Committee on Health and Human Services and the DHHS.

Nicole Willis-Grimes (Nathan Adelson Hospice):

We support this bill.

Joan Hall (Nevada Rural Hospital Partners Foundation):

We support this bill. It will assist facilities in avoiding duplication of effort and will reduce our costs.

Wendy Simons:

I have submitted a written statement, as an individual, in support of S.B. 502 ([Exhibit K](#)).

Ms. McDade Williams:

The Health Division proposes to amend sections 9 and 11, because the language, "a facility for long-term care where the average inpatient length of stay is more than 25 days" is redundant and should be deleted. We propose to

eliminate the need for a background check for any individual who has had one within the past 6 months. Such an individual would not be required to consent to the Website. We propose that a licensed health care professional have the option of giving a prospective employer the background check based on fingerprints on file with his or her professional license.

Senator Woodhouse:

Seeing no one else wishing to speak, the hearing on S.B. 502 is closed.

The hearing on S.B. 407 is open.

SENATE BILL 407 (1st Reprint): Revises provisions governing the statewide performance evaluation system for teachers and administrators. (BDR 34-143)

Senator Debbie Smith (Senatorial District No. 13):

This is a significant, instrumental and vital piece of legislation in our State's efforts to develop a new system of accountability and educator evaluation. We began our efforts in 2011. In the interim, members of the Teachers and Leaders Council (TLC) have contributed hundreds of hours in this process. It is a difficult and complex undertaking. This bill reflects that fact. The TLC has consulted with experts who have knowledge of what is working in other states. Other states have had to slow down their processes or stumbled if they tried to implement new evaluation systems too soon. Some of the emotional issues that arose in 2011 were the result of an incomplete understanding of the goal. The work that took place in the interim was imperative to reach the understanding necessary for progress.

The NDE is to be commended for finding the resources necessary for the TLC to begin to do its work, without placing a significant fiscal note on the enabling legislation in 2011. It was difficult to bring together the 15 appointed members of the TLC on an ongoing basis with little funding. This bill brings to you the results of the work of TLC and the funding for their future work.

We are entering the next phase of developing a four-tier evaluation system. Tough decisions will have to be made. We are in a position in which the new system will have to be tested for fairness. I know of no legislator who wants us to implement a system that is not fair to children, educators or to schools. If we do not put in the effort to achieve a reliable system, we should be ashamed.

The TLC is the only vehicle we have for that effort. It should be properly funded and allowed to take the time needed to do its job effectively.

Public media is replete with stories about flawed educator evaluation systems. We do not want similar problems in Nevada. We want to learn from the mistakes made in other states.

The bill delays pay-for-performance requirements for 1 year because the enabling legislation was not brought forward in the current Session. Local districts will need to develop their plans so that we can properly fund such a program. Clearly, the pay-for-performance system will not operate properly until we enact the new educator evaluation system to be developed by the TLC and the SLDS for student achievement.

The intent of this bill is not to reduce our resolve to develop effective performance evaluations or pay-for-performance standards. The bill defines the next steps. Some deadline dates have been extended for valid reasons and to be able to profit from information learned through the experiences in other areas.

Ultimately, the success of our efforts will be reflected in success in our higher education system.

Ms. Fitzpatrick:

This bill makes technical changes that align with the work of the TLC to reduce the overlapping statutes. It shifts implementation dates to allow necessary validation efforts that will support the legal defensibility of the system. It allows the IFC to make decisions on implementation readiness. It allows the IFC to make policy decisions regarding implementation consequent to the validation study report due in August 2014. Our goal is to spend dollars in the classroom, not in the courtroom. We need to attend to the variables in the right order, with the right frequency and the right data collection methods.

The bill allows an individual school district to implement the system more rapidly. Only one district, WCSD, may wish to take advantage of that option. They began this process 3 years before the State did, utilizing grants and millions of federal dollars.

The bill expands the charge of the TLC to create an aligned system of evaluation for counselors, librarians and other related service personnel. To date, the TLC has been focused on local school administrators and teachers.

The bill enables expansion of a system for peer reviewers. We have not tried such a system in Nevada. Similar systems of peer review have been successful in other states in building personnel capacity to perform teacher reviews in specialized and technical areas of instruction.

The Department had originally put a fiscal note on the bill. That note is now null and void because there is an appropriation in the bill.

Senator Kieckhefer:

Is the expanded definition of "administrator" meant to create a school-level rather than a district-wide administrator?

Ms. Fitzpatrick:

In 2011, the original legislation stated that "administrator" meant "any administrator employed by the school district." That definition posed a challenge because it would have included the person in charge of nutrition or of transportation in a district. The intent of legislators was that the term would apply to school-level administrators. This bill will clarify that intent.

Senator Kieckhefer:

Is the proposed change in the evaluation process for postprobationary administrators intended to bring it in line with the process for postprobationary teachers?

Ms. Fitzpatrick:

Yes. It was important to the members of the TLC to achieve equity between teachers and administrators. The perspective is not intended to be punitive. It is intended to foster professional growth opportunities.

Senator Kieckhefer:

If everyone is treated the same, how do you identify who is excelling? Should we not hold administrators to a higher standard because they have been elevated to leadership positions?

Ms. Fitzpatrick:

I suggest we need a differentiated set of standards and expectations for probationary teachers versus nonprobationary teachers. The same holds true for administrators. We should have the highest standards, expectations and instructional practices for our teachers and administrators. The bill details the expectations for the number of observations and levels of support that should be put into place. The effect would be that fewer resources would be targeted by mandate to those teachers and administrators that the district has identified as highly effective. The bulk of our efforts should be directed to the areas of greatest need. Those areas would be probationary teachers and administrators and those postprobationary teachers and administrators who have not yet reached the highest level of effectiveness rating.

Senator Kieckhefer:

Is there an "off-the-shelf" program for peer evaluation that has been tested and proven effective that could be tailored to Nevada's needs?

Ms. Fitzpatrick:

There are such programs that we can consider. The TLC has realized that having a statewide system will take advantage of statewide personnel to grow capacity for peer-to-peer evaluations.

Senator Smith:

The TLC has reviewed the experience of peer-to-peer evaluation systems in other states. We intend to learn from them while creating a system that is unique to Nevada.

Senator Goicoechea:

What is the appropriation to which Ms. Fitzpatrick referred?

Ms. Fitzpatrick:

Section 16 of the bill appropriates \$50,000 in each fiscal year for costs associated with the work of the TLC.

Senator Smith:

The Senate Committee on Finance Joint Subcommittee on K-12 Education has recommended the budget closing that includes those amounts.

Kristen McNeill (Washoe County School District):

We support this bill as amended in the First Reprint.

Dr. Merrill:

We support this bill. This is a crucial policy proposal that will allow the TLC to proceed with the next steps. In section 2, the delay in implementing the pay-for-performance program until a validation study of the evaluation system can be completed is a wise decision. We support the appropriation to the IFC of \$986,250 in section 16.3, subsection 5, paragraph (b) for use by the regional training programs for professional development of teachers to implement the statewide performance evaluation system. The determination of the timing for implementation of the performance evaluation system will be determined by the IFC. We support the flexibility provided in section 16.5, which provides the option to an individual school district to opt out of the 1-year delay in the implementation of the performance evaluation system as provided in NRS.

Mr. Stevens:

We are in full support of S.B. 407 in its current form. The validation study is important because we do not want to create any disincentive for educators who might want to go into at-risk classrooms. The peer-to-peer review system, if done fairly by individuals who know how to perform the review, is important to relieve the burdens on principals. We do not support the amendment that will be heard shortly in this hearing.

Joyce Haldeman (Clark County School District):

The CCSD supports this bill. The TLC has done an outstanding job of addressing the details needed to implement the 2011 legislation. Although this has taken longer than anticipated, it is better to do it right than to have to do it over.

Ms. Pierczynski:

We support this bill for all of the reasons outlined by Senator Smith.

Stephen Augspurger (Executive Director, Clark County Association of School Administrators):

We support this bill. It is long overdue and we look forward to its full implementation.

Mr. Hulse:

I have submitted a policy amendment ([Exhibit L](#)) that would amend NRS 391. It would apply to school districts located in a county whose population is 100,000 or more. Currently, that is Washoe and Clark Counties. It is meant to clean up issues not addressed by legislation approved in 2011. The amendment provides for mutual consent of a teacher and a prospective principal in cases of an interdistrict transfer of an underperforming teacher

The amendment would clarify that seniority should be used in decisions of staff reduction, where performance evaluations are generally similar. Since 2011, we have seen that some school districts without evaluation systems in place use seniority as the prime consideration in layoff decisions.

Senator Woodhouse:

When this bill was heard by the Senate Committee on Education, a similar amendment was proposed and rejected.

Seeing no one else wishing to speak, the hearing on S.B. 407 is closed. I will return the gavel to Chair Smith.

Chair Smith:

The Work Session on S.B. 447 is now open.

SENATE BILL 447 (1st Reprint): Makes various changes relating to education.
(BDR 34-197)

Mr. Krmpotic:

This bill was heard by this Committee on April 29. It amends the statutory budget submission process to include the Statewide Council for the Coordination of the Regional Training Programs for the professional development of teachers and administrators. Once the budgets are approved by the Legislature, revisions are to be processed through the Statewide Council for the Coordination of the Regional Training Programs and the Regional Training Programs must follow the same statutory procedures that apply to State agencies. The measure also requires the Regional Training Programs to provide developmental training for those professionals who conduct teacher or administrator evaluations in consultation with the TLC. The bill requires an annual evaluation and report of the Regional Training Programs to include additional information concerning the number of teachers who receive training in

Parent Engagement, teachers or administrators who receive training in conducting evaluations and teachers or administrators who received target professional development based on their evaluation results. The bill increases from eight to nine the number of members of the Statewide Council for the Coordination of the Regional Training Programs and its composition. It provides for the expiration of the terms of office of its members. The bill is effective July 1.

Senator Kieckhefer:

I wish to disclose that I am an unpaid member of a committee overseen by the Office of Parental Involvement and Family Engagement.

SENATOR WOODHOUSE MOVED TO DO PASS AS AMENDED S.B. 447.

SENATOR KIECKHEFER SECONDED THE MOTION

THE MOTION CARRIED. (SENATOR DENIS WAS ABSENT FOR THE VOTE.)

* * * * *

Chair Smith:

The Work Session on S.B. 462 is now open.

SENATE BILL 462: Makes an appropriation to the Central Repository for Nevada Records of Criminal History within the Department of Public Safety for the initial phase of the project to modernize the Nevada Criminal Justice Information System. (BDR S-1184)

Mr. Krmpotic:

This bill funds the Criminal History Repository in the Department of Public Safety (DPS) with a one-shot appropriation of \$2,315,090 over the 2013-2015 biennium for the initial phase of a modernization project.

Fiscal Staff has reviewed information supplied by the DPS and reports that an improvement plan was developed by the DPS in conjunction with a contractor. The contractor looked at the system and the plan. The DPS has been operating on a USoft platform. That platform is no longer supported by the developer. The appropriation appears reasonable.

SENATOR KIECKHEFER MOVED TO DO PASS S.B. 462.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR DENIS WAS ABSENT FOR THE VOTE.)

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Chair Smith:

The Work Session on S.B. 467 is open.

SENATE BILL 467 (1st Reprint): Revises provisions relating to education.
(BDR 34-1130)

Mr. Krmpotic:

This bill originally implemented certain budget decisions. It has been amended to eliminate those decisions. The bill, as amended, requires the Superintendent of Public Instruction to establish the Education Advisory Council consisting of six voting members, and other nonvoting members, appointed at the discretion of the Superintendent. The bill specifies the manner of appointments, selection of the chair and vice chair and other details pertaining to the body. The bill removes the requirement that the Superintendent hold a master's degree in an education field; authorizes the appointment of deputy superintendents as required; and transfers certain duties from the Superintendent to the NDE. The bill revises the allowable uses of money in the Account for Programs for Innovation and the Prevention of Remediation. The bill abolishes the Commission on Educational Excellence. It deletes the requirement that any expenditure from the Education Gift Fund be approved by the Legislature or the IFC. The bill would become effective October 1.

SENATOR WOODHOUSE MOVED TO DO PASS AS AMENDED S.B. 467.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR DENIS WAS ABSENT FOR THE VOTE.)

* * * * *

Chair Smith:

The Work Session on S.B. 468 is now open.

SENATE BILL 468: Revises certain fees collected by the State Engineer.
(BDR 48-1155)

Mr. Krmpotic:

This is a budget implementation bill. It revises various fees collected by the State Water Engineer. It directs those fees to the Water Distribution Revolving Account that is created by this bill, rather than the General Fund. An amendment ([Exhibit M](#)) proposes to add a new fee for issuing and recording each new permit for an additional increased diversion rate where no increase in volume or total annual duty is granted. This refers to a backup well.

The Water Resources budget has gone through the Subcommittee approval process. Passage of S.B. 468 would be consistent with the Subcommittee's actions to date. The full Senate Committee on Finance will hear the Water Resources account later this week.

Peter G. Morros (President, P.G. Morros, Inc.):

I have submitted the proposed amendment in [Exhibit M](#). I am a consultant on water rights and water resource management. I have been consulting on a project with the Circle Bar N Ranch in Yerington. The ranch is owned by the Reviglio family. It appears that farms and ranches in this region will experience irrigation water shortages in the coming year. The surface water streams are in poor condition. Tom Reviglio will be lucky if his ranch receives 20 percent to 25 percent of his annual water allocation. This amendment seeks to combine his surface water rights with water they will receive with the ground water rights they hold on the ranch. Some of those ground water rights are supplemental to the surface water, and some are independent of the surface water rights. In either case, to operate in this drought condition, Mr. Reviglio must devise a different water management plan. Without adjustments to the water supply, this unusually large ranch will have difficulty operating. Without increasing the volume of water that must be pumped from the ground to cover his water

deficiency in surface water from the Walker River, he can manage his use of water more efficiently with this legislation.

Senator Goicoechea:

Would this amendment allow a backup well to a supplemental well?

Mr. Morros:

It would not do so in Mr. Reviglio's case. It would only increase the diversions on existing wells. It would not increase the annual acre-foot duty, just the diversion rate, the amount of water that can be taken out of the ground at one time. When the owner of the water rights reaches his full duty of water, the wells are shut down.

Senator Goicoechea:

Are all of his wells metered?

Mr. Morros:

Yes.

Senator Goicoechea:

This bill would be a benefit to agriculture. If one were to make a change in the point of diversion, one would pay \$3.00 per acre foot. The proposed \$1,000 fee would be more cost effective. The diversion point would be changed and the volume would increase without increasing the annual duty.

Mr. Morros:

We would not be increasing the volume, only the diversion rate.

Senator Goicoechea:

When you say volume, it does not increase the amount to which you are entitled. With one well, you might pump 2,000 gallons per minute. With a second well, you might pump 3,000 gallons per minute and you would reach your annual duty faster.

Mr. Morros:

We could also go to a rotation schedule, which would be helpful.

Senator Goicoechea:

I want to ensure that there is nothing in this amendment to prohibit the holder of the water rights from going through the whole process. The State Water Engineer makes the final decision based on the best interest of the public. We do not want to end up with a bunch of wells stacked against the river, because the water is there, and really do damage. A backup well must be where the appropriation is. If we were talking about the area of Truckee Meadows, we would not want the Truckee River Water Authority to shift everything to the Mt. Rose alluvial fan just because the water is there. That would cause negative consequences.

Chair Smith:

Are you proposing a new fee?

Mr. Morros:

Yes.

Jason King, P.E. (State Engineer, Division of Water Resources, Department of Conservation and Natural Resources):

The Division has a neutral position on this bill. Senate Bill 468 is very important. It is very integral to our budget proposal for the next biennia. I have not had the opportunity to determine the effect of the proposed amendment on our revenue projections.

In the case of a farmer who has a full section pivot of 500 acres, that farmer makes an application to appropriate enough water to irrigate that 500 acres. The appropriation might be 2,000 acre feet. Under our current fee structure, the permit fee for that application would be \$6,300 for the first time that farmer had to appropriate that water. It is an expensive permit fee. If he drills that well and it does not produce enough water to do what he wanted to do, and he wants to drill another well, without S.B. 468, he would apply for a backup well, pay another \$6,300 and we would grant another 2,000 acre feet of water. That seems heavy-handed. A flat fee of \$1,000 for the second application seems reasonable. I would not want to see this used as a vehicle to circumvent our appropriation fees. For example, I would not want someone to come in and say, "I need a backup well because my well is not producing and I need it three miles away," and that location happens to be adjacent to several domestic well owners and other water right holders. I would want to retain the discretion to determine that it is not a backup well qualifying for the \$1,000 fee, it is a new

well and subject to the \$6,300 fee that requires a full analysis. Nothing in this bill takes away any jurisdiction from our Division. A backup well qualifying for the \$1,000 fee still goes to publication, is still subject to protest and the Division must still comply with NRS 533.370. The proposed \$1,000 fee would not be a rubber stamp based on the applicant already owning water rights. In certain instances, it would help small farmers and small municipalities by not requiring them to pay such a high fee for backup wells.

Senator Kieckhefer:

Would it be accurate to say that this bill recognizes the need for backup wells during the current extended drought and the need to scale the fees appropriately, considering the need that may exist?

Mr. King:

Yes. I want it known now that I do not want anybody who wants to claim a need for a backup well in a location other than his own property to think he can do so with the payment of \$1,000.

Senator Kieckhefer:

Is there a specific application for a backup well? What is the process?

Mr. King:

To use a previous example, the farmer who paid the original \$6,300 and whose well did not produce what was expected, has two choices. He can file a Change Application of Existing Right to move his rights to another well location. When the change application is filed to change "permit A" to "permit B," "permit B" takes some of the appropriation from "permit A." The result is that the farmer cannot pump as much from "permit A."

The farmer's second option would be to keep everything he has under "permit A" and file for a new appropriation for a "permit B" that is equal to "permit A." The farmer then has the flexibility to pump his total allocation split between two wells. In those instances, our Division can abide by the \$1,000 permit fee for a backup well. A permit holder should not be able to use the rights in "permit B" from a well located across the valley, or six miles away. Under existing law, the Division has the discretion to approve or deny that application.

Senator Goicoechea:

Typically, there may be four wells on a section of land, each one doing a quarter of the section. If they are cross filed, you should be able to drill a backup well anywhere on that section to supplement any of those cross filed water applications. I can understand that. That is the purpose of this bill. I want to ensure that the State Water Engineer has the ability, regardless of this proposed amendment, to determine whether a well is a legitimate backup well and not a new appropriation, or a new point of diversion requiring the full fees.

Chair Smith:

It is late in the legislative process to enact an amendment on such a complex issue. We are discussing a budget implementation bill that needs to be delivered to the Assembly. I suggest that we pass this bill in its current form and encourage Mr. Morros to work with Mr. King and Senator Goicoechea to find common ground, with respect to the proposed amendment, that can then be presented to the Assembly.

Senator Goicoechea:

There is additional language that can be used to clarify the intent and enact the fee that has been proposed.

Mr. Morros:

We agree. It must be done correctly to ensure that it is not abused.

Chair Smith:

We do not want to do something in a hurry and discover unintended consequences later that would persist until 2015.

Senator Kieckhefer:

Would it be feasible or advisable to bring an amendment to the Senate Floor?

Chair Smith:

If a resolution can be reached in 24 hours, we can do so tomorrow.

Senator Goicoechea:

We can introduce an amendment when the bill is heard in committee in the Assembly.

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Chair Smith:

If it is amended in the Assembly and returns to the Senate for reconciliation, the Senate could easily concur.

Mr. Morros:

I agree with the State Water Engineer that he has the authority now to make the determination of a valid backup well versus a well requiring an independent new well application.

SENATOR GOICOECHEA MOVED TO DO PASS S.B. 468.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS DENIS AND ROBERSON WERE ABSENT FOR THE VOTE.)

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Chair Smith:

Seeing no public comment, this meeting is adjourned at 11:55 a.m.

RESPECTFULLY SUBMITTED:

Leslie Sexton,
Committee Secretary

APPROVED BY:

Senator Debbie Smith, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	2		Agenda
	B	9		Attendance Roster
	C	12	Fiscal Division	Budget Closing List #7, May 13, 2013
	D	2	Rick Combs	Proposed Budget Amendments
S.B. 113	E	2	Senator Scott T. Hammond	Proposed Amendment 8713
S.B. 149	F	1	Barry Gold	Statement in Opposition
S.B. 445	G	1	Craig Hulse	Proposed Amendments
S.B. 445	H	8	Janine Hansen	Proposed Amendments
S.B. 471	I	6	Steven Canavero	Summary
S.B. 502	J	1	Marla McDade Williams	Proposed Technical Amendments
S.B. 502	K	1	Wendy Simons	Statement of Support
S.B. 407	L	1	Craig Hulse	Proposed Amendment
S.B. 468	M	1	Peter G. Morros	Proposed Amendment