

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-Seventh Session
May 31, 2013**

The Senate Committee on Finance was called to order by Chair Debbie Smith at 4:13 p.m. on Friday, May 31, 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

STAFF MEMBERS PRESENT:

Mark Krmpotic, Senate Fiscal Analyst
Kevin C. Powers, Chief Litigation Counsel
Alex Haartz, Principal Deputy Fiscal Analyst
RJ Keetch, Committee Secretary

OTHERS PRESENT:

Chris Nielsen, Executive Director, Department of Taxation
Dawn Lietz, Supervising Auditor, Audit Section, Motor Carrier Division,
Department of Motor Vehicles
Jeff Mohlenkamp, Director, Department of Administration

Chair Smith:

We will begin with the Work Session. Mr. Powers will present the updates on Senate Bill (S.B.) 400.

SENATE BILL 400 (1st Reprint): Revises provisions governing the taxation of mines and mining claims and provides for the taxation of certain items relating to mines, mining claims and extracted minerals. (BDR 32-620)

Kevin C. Powers (Chief Litigation Counsel, Legal Division, Legislative Counsel Bureau):

Before the Committee are three documents: Proposed Amendment 8751 to S.B. 400 First Reprint ([Exhibit C](#)), a document from the Department of Taxation entitled "Statement of Intent" ([Exhibit D](#)) and Proposed Amendment 9391 to S.B. 400 First Reprint ([Exhibit E](#)).

After the joint hearing yesterday, a meeting of the interested parties was held. Subsequently, the Department of Taxation produced their Statement of Intent. The group met later in the day to review the Statement of Intent and made additional revisions which resulted in Proposed Amendment 391 ([Exhibit E](#)).

Should the Committee decide to proceed, they would be adopting Proposed Amendment 8751 as further revised by Proposed Amendment 9391. The Statement of Intent is there to be included in the record. However, all of the Department of Taxation's provisions have been included in Proposed Amendment 9391. Proposed Amendment 9391 contains improvements to various objectives of the legislation, changes certain terms and refines some of the provisions in order to better carry out the objectives of the legislation. The objectives have not been changed.

Chris Nielsen (Executive Director, Department of Taxation):

The Department is neutral on this bill. We were asked to participate in a working group which met a couple of times yesterday. We came to a consensus which resulted in the proposed amendment before you.

Mr. Powers:

On page 2 of [Exhibit E](#) is a statement of legislative intent. Certain terminology was changed throughout the provisions of Proposed Amendment 8751 and these terms are changed throughout the statement of legislative intent. In particular, the changes clarify that the exemption from personal property applies to the extracted minerals which are measured by the gross yield in those proceeds. This refinement was requested by the Department of Taxation and this office is in agreement. On page 4 of [Exhibit E](#), section 2.5 clarifies that the personal property tax exemption goes to the extracted minerals as long as they

are subject to the excise tax upon mineral extraction and that the exemption from the personal property tax only applies when those extracted minerals are in the possession of the extractive operation.

Section 2.7, as originally drafted in the amendment, is the exemption for real property used in a geothermal operation. Existing law provides that the land used in a geothermal operation is exempt from the real property tax, but the improvements and structures on the land and the equipment used in the mining operation are subject to property tax. This revision states that the land would remain exempt from the real property tax, but all other material, facilities and improvements that are subject to *Nevada Revised Statutes* (NRS) 362.100 in the property tax would stay the same. This is to carry out the objective of how taxation will occur with geothermal operations if Senate Joint Resolution 15 of the 76th Session and this bill also become effective.

SENATE JOINT RESOLUTION 15 of the 76th Session: Proposes to amend the Nevada Constitution to remove the separate tax rate and manner of assessing and distributing the tax on mines and the proceeds on mines. (BDR C-1151)

Section 3.5, on page 6 of [Exhibit E](#), provides that unpatented mining claims on federal land continue to be exempt from taxation as they are now. The term “mine” was originally included in this provision. The Department of Taxation determined the term was over inclusive and unnecessary and did not want any unintended consequences, because the purpose was to continue the exemption for the unpatented mining claims. Therefore, this section will only refer to mining claims instead of mines.

One provision of Proposed Amendment 8751 moved the appeals from the State Board of Equalization to the Nevada Tax Commission and the changes in Section 9 beginning on page 6 of [Exhibit E](#) are to carry that out.

Section 10 on page 7 is a statement of legislative intent. Similar to the statement of legislative intent in section 1, it makes various terminology changes the parties felt more appropriately reflected the objectives of the legislation.

Section 11 on page 8 provides the definition of extractive operation. The Department of Taxation recommended a more specific definition that dealt with

the location of the operation. In addition, certain operations are required to file plans under NRS 519A. This defines the location of those operations as the location specified in those plans. I want to make it clear for the record that the mining operations that are required to file the plans under NRS 519A are not the only mining operations that are subject to the excise tax. All operations engaging in mineral extraction in the State are required to file. The excise tax on mineral extraction applies to all mining operations in the State as it does now and this legislation will not change its scope.

If the Committee wishes to proceed with both proposed amendments, the motion would be to amend S.B. 400 with Proposed Amendment 8751 as further modified by Proposed Amendment 9391.

Chair Smith:

I want to thank both of you for spending a lot of time yesterday working this out as well as all the parties who participated to arrive at what all the parties seem to think is a good product.

SENATOR KIECKHEFER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 400 WITH PROPOSED AMENDMENT 8751 AS PROPOSED BY THE LEGISLATIVE COUNSEL BUREAU AND FURTHER MODIFIED BY PROPOSED AMENDMENT 9391.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Smith:

I will now open the hearing on A.B. 464.

ASSEMBLY BILL 464 (1st Reprint): Revises provisions relating to the tax on special fuel. (BDR 32-1160)

Dawn Lietz (Supervising Auditor, Audit Section, Motor Carrier Division, Department of Motor Vehicles):

This bill is part of budget account 201-4744 and pertains to the new decision unit E-235. This allows us to collect a fee on the International Fuel Tax

Agreement decals that are issued to trucks. We will receive approximately \$44,000 to \$45,000 per year in revenue that will offset the Highway Fund appropriations that we need. The amendment to the bill brings us into compliance with a change in the international fuel tax laws regarding the interest rate to be charged. Currently we charge the State rate of 1 percent per month. We need to come into line with what the Internal Revenue Service is charging which is the Prime Rate plus 2 percent. This amendment will allow us to do that.

Chair Smith:

We have a bit of confusion here, because this was listed on the agenda and we have already heard this bill. Did you reference an amendment?

Ms. Lietz:

Yes, I did. It was adopted on May 25. We were also confused that this was not listed under the Work Session.

Chair Smith:

I think that is all that happened. Therefore, I will close the hearing on A.B. 464. I will now turn over the meeting to Mr. Krmpotic for our next budget item.

Mark Krmpotic (Senate Fiscal Analyst):

I will draw the Committee's attention to a document entitled "Nevada Legislative Counsel Bureau Budget Closings Senate Finance, Statewide Decision Units" ([Exhibit F](#)), that has been presented to each member regarding decision units E-670 and E-671 in the Executive Budget. Decision units E-670 and E-671 were originally heard by the Joint Committee on May 4 and deferred at that time. As originally recommended by Governor Brian Sandoval, decision unit E-670, the statewide decision unit that applies to all State agency budgets and the Nevada System of Higher Education (NSHE), includes a 2.5 percent salary reduction and 3 days of furlough reductions for each employee over the biennium.

The table on page 1 of [Exhibit F](#) reflects the dollar impact of these two decision units. The Governor has submitted an amendment to eliminate the proposed implementation of 3 days of furlough in fiscal year (FY) 2014-2015 and continue 3 days of furlough in FY 2013-2014 only. Fiscal Staff estimates the General Fund impact of eliminating 3 days of furlough in FY 2014-2015 to be approximately \$10.1 million. If the furlough requirement were eliminated in

FY 2013-2014, Fiscal Staff estimates the total cost to the State to be \$9.9 million. The decision before the Committee is whether to approve the 2.5 percent salary reduction as recommended by the Governor for State and NSHE employees and 3 days of furlough in FY 2013-2014, as amended; or does the Committee wish to restore all or a portion of the reduction and to accept the budget amendment to further reduce furlough days in FY 2014-2015 by 3 days?

I would note that the Assembly Committee on Ways and Means acted on this item approximately 1 hour ago and restored the 2.5 percent pay reduction and maintained 6 days of furlough each year. I would remind the Committee that 6 days of furlough is currently what is in place for State employees for the 2011-2013 biennium.

Chair Smith:

As a reminder, merit increases are restored in the second year in the budget. That is reflected in this document.

Mr. Krmpotic:

Decision unit E-671 is the suspension of the merit payment the Governor originally recommended in the budget. There are 10 steps in the compensation schedule for State and NSHE classified employees. They receive a merit increase each year based on satisfactory work performance until their maximum salary is reached. The NSHE professional employees are eligible for a merit increase each year for a total of 2.5 percent of total professional salaries not including professional positions above the level of assistant dean. The amount reduced in the 2013-2015 budget for the suspension of merit salary increase is outlined in the table on page 2 of [Exhibit F](#). I would note for the Committee's information that the Governor recommends restoring merit pay in the second year of the biennium. Does the Committee wish to approve the Governor's recommendation to suspend merit pay for State and NSHE employees for FY 2013-2014?

Senator Kieckhefer:

I spoke to a State worker who proposed the concept of potentially utilizing the \$23.6 million in FY 2014-2015 to carve away at the furloughs in that year because the furloughs affect everyone and those who have reached their maximum salary do not receive merit increases. The idea of bringing everyone back to whole before we start showing preference for some individuals over

others is a worthy discussion. If I may refer back to decision unit E-670, how much does one furlough day cost on a statewide basis?

Mr. Krmpotic:

One furlough day is approximately \$3.3 million in General Funds.

Senator Kieckhefer:

I am looking at it as \$23.6 million in FY 2014-2015 statewide being allocated to decision unit E-671.

Mr. Krmpotic:

The table on page 2 of [Exhibit F](#) displays the General Fund impact of E-671. That would be what was pulled out of the budget. The statement below the table reads, "if the money committees do not approve the Governor's recommendation to reduce the funding for merit salary increases, General Funds of approximately \$18.13 million in FY 2013-2014 and \$23.6 million in FY 2014-2015 would need to be added to the budget." Those would be reductions from the Executive Budget. If merit pay were to be restored beginning in FY 2013-2014, those amounts would need to be added back to the budget in the way of General Funds.

Senator Kieckhefer:

Under the Governor's Executive Budget, merit pay is not restored in the first year, but is restored in the second year of the biennium, is that correct?

Mr. Krmpotic:

That is correct.

Senator Kieckhefer:

Are the \$18.3 million in savings and the \$23.6 million added back in the budget?

Mr. Krmpotic:

There are savings in each year. Merit pay is cumulative, and in the second year of the biennium it compounds. There are still savings in the budget in the second year even though merit pay is being restored because it starts in the second year. The way the Governor's original recommendation and continuing recommendation would work is that merit pay is frozen in FY 2013-2014 and restored in FY 2014-2015. However, even though merit pay is restored in the

second year there are still savings because it is compounded and you would only reduce the second year's worth of increase.

Senator Kieckhefer:

The question would be, if each day of furlough costs \$3.3 million and I wanted to carve down the number of furlough days, which apply to everyone statewide, we could reduce 6 or almost 7 days of furlough over the biennium instead of using the \$23.6 million for merit pay in the second year of the biennium. Is that correct?

Mr. Krmpotic:

If you wish to restore or eliminate furlough days in both years, it will come to approximately \$10 million each year in additional General Funds. The merit pay is a General Fund savings which is pulled out of the budget. I think what you are asking is that if merit pay were frozen the second year, how much furlough savings would be restored. Is that your question?

Senator Kieckhefer:

Yes.

Mr. Krmpotic:

I do not know the answer to that question. I have the numbers back at the office, but I would say that it is probably going to be close to double the \$18.3 million in the second year. That would be approximately \$34 million to \$36 million. Based on rough calculations, it would appear that if you kept merit pay frozen in the second year, that would probably generate enough savings to offset the 3 furlough days in the second year.

Senator Kieckhefer:

My concern with the merit pay is that we are giving step increases to some people and not everyone, while everyone is still being hit by the furlough days.

Chair Smith:

I appreciate that discussion. The discussions that I have had on the other side are with supervisors who are concerned that if we do not do something for some of the people on the other end of the salary schedule, our retention rates are going to get worse because we have people who have been held *status quo* for quite a while.

Senator Denis:

While it is important to help our employees, I know that they have not had a salary increase in 5 or 6 years. There are some State employees that reach the tenth step, but there are several in the step process that will receive the merit pay. At least with the furlough days you get the day off. I know if it were me, the salary would be the bigger issue because they are taking such big reductions and health insurance costs have increased. State employees are looking for some relief and the merit pay will help us to keep some employees. It is difficult for us to retain them if we do not have an incentive.

Senator Goicoechea:

Are you proposing that we take only 3 days of furlough leave away and not the 6 days?

Mr. Krmpotic:

State employees are currently required to take 6 days of furlough leave. The Governor's original proposal was to reduce that to 3 days each year. He subsequently amended that proposal to eliminate furlough leave altogether in the second year of the biennium.

Senator Goicoechea:

If we leave the 6 furlough days for both years of the biennium, how much money will that generate?

Mr. Krmpotic:

If you increase it to 6 furlough days, you will generate approximately \$10 million in savings in each year of the biennium over and above what the Governor recommends.

Senator Goicoechea:

I just want to make sure that we are on the same page. If we do not reduce any furlough days, we will leave State employees with 6 furlough days for each year of the biennium. Would that give us \$20 million of freed up money?

Mr. Krmpotic:

Yes, over the biennium.

Senator Kieckhefer:

If we were to adopt what the Ways and Means Committee adopted, which was to maintain 6 furlough days per year, restore the 2.5 percent pay reduction effective in FY 2013-2014 and adopt the Governor's recommendation on the merit payments for restoration in the second year of the biennium, what is the dollar figure of that combination?

Mr. Krmpotic:

Just to restate, mirroring the Ways and Means action which would be to eliminate the 2.5 percent pay reduction, maintain furlough days at 6 furlough days each year across the biennium and to go with the Governor's recommendation for merit pay, you are looking at \$15 million to \$16 million added to the budget each year.

Senator Goicoechea:

You are saying roughly \$32 million for the biennium or is it going to compound which would be \$45 million?

Mr. Krmpotic:

The impact of approving that action on the 2013-2015 biennium would be approximately \$30 million to \$32 million over the biennium. The merit pay in the second year is already in the Governor's budget, so the amounts that I am quoting are only what you would have to add over and above what the Governor has recommended in the budget. With respect to the merit portion, the removal of the frozen merit in the second year is already in the Governor's recommended budget.

Senator Goicoechea:

To follow up, would it not be enhanced because employees would receive a 2.5 percent pay raise in the first year of the biennium which would increase their merit?

Mr. Krmpotic:

The amounts that I quoted, the \$15 million to \$16 million each year, would incorporate the impact on the merit pay.

SENATOR WOODHOUSE MOVED TO APPROVE THE GOVERNOR'S
RECOMMENDATION TO SUSPEND MERIT PAY FOR STATE AND

UNIVERSITY EMPLOYEES IN FY 2013-2014 AND TO RESTORE MERIT
PAY IN FY 2014-2015.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Smith:

Let us go back to decision unit E-670 regarding the furlough days or salary reduction. We have heard from our employees about the impact that the salary reductions have had on them. I am concerned about our ability to recruit and retain employees and about their ability to meet their obligations. We have heard from countless employees that they would rather have furlough days than salary reductions.

Senator Kieckhefer:

I completely agree with that statement. Our State employees have made significant sacrifices over the past 4 or 5 years as we have been dealing with the recession. They should share in the gains as we climb out of it. This is a good proposal. However, I want to talk about where we are going to find the \$30 million to \$32 million that we are adding back. It is not included in [Exhibit F](#). I just want to make sure that everything reconciles in the end.

Chair Smith:

We definitely need to make sure that everything reconciles in the end. The money to fund this comes out of the overall available money as a result of the economic forum and the various other saving areas.

Senator Kieckhefer:

I would not vote against this right now but, for the record, I do want to see where all of the "puts and takes" are in the end. With certain actions that we have not approved over the course of the money committees, whether it be the incentive pay for teachers in high-risk schools and things such as that, I would be concerned if we were using money that has been already been spent for education in order to fund this. It is something that we need to keep an eye on as we go forward. If there is a motion to approve this, I will vote for it.

Senator Goicoechea:

How much have we appropriated at this time?

Mr. Krmpotic:

Fiscal Staff will be in a better position to answer that after we take up the education bill tomorrow.

Senator Goicoechea:

I want to make sure we are not carving away from some of those programs in order to make this work.

Chair Smith:

Everyone has their personal priorities regarding how we should spend the remaining money that we have. It is no secret that I want to find every dime I can for education. It has always been a priority and will continue to be a priority and that has to be balanced with other things. I will continue to say that in this budget we are left with extraordinarily difficult decisions. We continue to completely take out the Rainy Day Fund and take away the Highway Fund to balance the budget. We have had to make difficult decisions all the way through this budget. My preference is that we honor our State employees by doing this and we will find every dollar that we can for education.

With what I know that is left in this budget I believe we will be able to adequately address the needs that the Governor has expressed in the Education budget. No matter how you look at it, we are going to be left with a tight budget at the end of the day.

Senator Goicoechea:

I agree with you completely, it is going to be a very tight budget. But I want to make sure we do not end up with a \$10 million shortfall.

Chair Smith:

We are not going to end up \$10 million short, because it is our job to have a balanced budget. We all have to make decisions and vote on what we believe is the right thing to do to serve this State.

Senator Woodhouse:

As we grapple with these decisions, my heart and soul are devoted to two priorities: to find every single dollar that we can to fund the education

programs and at the same time to take care of our State employees. Just as with education, State employees over the last 4 or 5 years have taken the brunt of our budgets cuts. It is incumbent upon us to take care of both education and our State employees and at least bring them back with the 2.5 percent salary reduction that they have had to endure for the last few years. I think we need to forge ahead and keep searching for those dollars to address both of these issues because they are critical to the State moving forward.

Senator Roberson:

I will vote for the restoration of the 2.5 percent salary reduction today conditioned upon the final determination of where this money will come from. I want to be clear for the record, that I will not support this if one dime of money for education is reduced from what the Governor has proposed.

Chair Smith:

You certainly have the right to change your vote on the floor.

Senator Goicoechea:

I also am very supportive of State employees. I have a number of them in my district and I know what they have suffered, but it also has to fit and that is what is concerning me right now. I agree with you, State employees would prefer to have the days off than to have continued pay cuts.

Chair Smith:

I just want to say one final time my position will continue to be that as a priority I will be supporting this for our State employees and will continue to work to find every dollar for education that I can as we close this budget. We will work hard to make it all fit.

Senator Denis:

It is important to help our State employees. I agree with you that we also need to do everything that we can on the education budget. We have some great things planned. I am excited about the prospect of giving something back to our State employees. They have been suffering for a long time. This will be good and I will support it.

Senator Kieckhefer:

Senator Denis stated he was a former State employee, as am I. They work incredibly hard and have been asked to do significantly more with significantly

less. This is a good step and a statement that we value them. As I said during the joint hearing, I would hope that we are proud of how we treat our employees. That may not have been the case over the last few years, but hopefully we are getting there.

Chair Smith:

I agree. As we have been going through these cuts for the last 5 years, State employees have not only taken the brunt of the cuts, but they have been a partner with us. They have come to the table and offered what they could, and they have helped us solve our budget problems. As a reminder, they are the rank and file individuals out there doing the work every day that also helps us find money. In addition to taking those cuts, they are always out there helping us solve our budget problems and trying to make things work. I am happy to hear all the positive comments on behalf of our State employees.

SENATOR WOODHOUSE MOVED TO RESTORE THE 2.5 PERCENT SALARY REDUCTIONS FOR STATE EMPLOYEES IN DECISION UNIT E-671 AND TO CONTINUE THE FURLOUGH DAYS FOR THE NEXT BIENNIUM AS SPECIFIED IN DECISION UNIT E-670.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Smith:

I will now open the hearing on A.B. 491.

ASSEMBLY BILL 491 (1st Reprint): Temporarily revises various provisions relating to state financial administration. (BDR S-1162)

Jeff Mohlenkamp (Director, Department of Administration):

I will attempt to speak to this bill, but I cannot answer questions relating to the Department of Motor Vehicles (DMV). I believe this bill does two things. It provides for the commissions and penalties collected to be transferred to the General Fund in the second year of the biennium. That would allow us to balance our budget. I believe there is an amended dollar amount on the Nevada Electronic Legislative Information System containing the correct dollar

amounts for both the commissions and penalties. The second part of this bill allows for a temporary increase from 22 percent to 32 percent of the amount that the DMV can utilize out of the fund balance during FY 2014-2015. If you need more detail from DMV, questions should be posed to them.

Chair Smith:

I think you are making the point that needs to be made in this bill. The Committee probably understands this issue as most of us have considered it before.

Mr. Krmpotic:

This bill is necessary to close a balanced budget for the biennium.

Chair Smith:

We will return to A.B. 464 which was shown as a bill hearing instead of a Work Session. We heard this bill yesterday.

Mr. Krmpotic:

This is the bill we just heard that allows the DMV to collect for the International Fuel Tax Agreement decals. It is necessary to close the budget. The revenue that was anticipated from that fee is built into the DMV budget. Fiscal Staff would recommend approval of the bill.

SENATOR GOICOECHEA MOVED TO DO PASS A.B. 464.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Smith:

I will now open the hearing on Bill Draft Request (BDR) S-1242.

BILL DRAFT REQUEST S-1242: Authorizes expenditures by agencies of the State Government. (Later introduced as [Senate Bill 521](#).)

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Mr. Krmpotic:

This is the Authorization Act ([Exhibit G](#)) that Fiscal Staff walked the Committee through last night. It has been presented to the Ways and Means Committee without any concerns or changes. It requires introduction by the Committee.

SENATOR KIECKHEFER MOVED TO INTRODUCE BDR S-1242.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Smith:

With no further business to come before the Committee, the meeting is adjourned at 5:02 p.m.

RESPECTFULLY SUBMITTED:

Annette Teixeira for RJ Keetch,
Committee Secretary

APPROVED BY:

Senator Debbie Smith, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	2		Attendance Roster
S.B. 400	C	49	Mark Krmpotic	Proposed Amendment 8751
S.B. 400	D	4	Nevada Department of Taxation	Statement of Intent
S.B. 400	E	9	Mark Krmpotic	Proposed Amendment 9391
	F	2	Mark Krmpotic	Nevada Legislative Counsel Bureau Budget Closings Senate Finance Statewide Decision Units
S.B. 521	G	34	Mark Krmpotic	Bill Draft Request S-1242