

**MINUTES OF THE  
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Seventh Session  
February 25, 2013**

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 1:37 p.m. on Monday, February 25, 2013, in Room 2135 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 David R. Parks, Chair  
Senator Mark A. Manendo  
Senator Pete Goicoechea

**COMMITTEE MEMBERS ABSENT:**

Senator Scott Hammond (Excused)  
Senator Pat Spearman (Excused)

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Heidi Chlarson, Counsel  
Gwen Barrett, Committee Secretary

**OTHERS PRESENT:**

Kim R. Wallin, CMA, CFM, CPA, State Controller  
Jennifer M. Chisel, Deputy Attorney General, Office of the Attorney General  
Constance Brooks, Ph.D., Nevada System of Higher Education  
Sheila Salehian, Senior Deputy Treasurer-South, Office of the State Treasurer  
Paul McKenzie, Executive Secretary-Treasurer, Building and Construction Trades  
Council of Northern Nevada, AFL-CIO

Jeannine Sherrick, Director, Western Interstate Commission for Higher Education

Ted J. Olivas, Director, Administrative Services, City of Las Vegas

Erin McMullen, Las Vegas Metro Chamber of Commerce

Janine Hansen, Nevada Families for Freedom

**Chair Parks:**

Kim R. Wallin, State Controller, will give a brief presentation.

**Kim R. Wallin, CMA, CFM, CPA (State Controller):**

I have with me today our *Comprehensive Annual Financial Report* ([Exhibit C](#)) and Popular Annual Financial Report ([Exhibit D](#)). Every year that Brenda Laird has managed my Financial Reporting Division, we have received the Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association.

The Office of the State Controller settles all claims made against the State, oversees debt collection, is responsible for the Integrated Financial System and sets up all State vendors.

We look for waste and inefficiency. We always ask, "Why are we doing it this way?" My staff is very good at coming up with new ways to save money. We estimate a savings last year of \$961,000 thanks to creative innovations and keeping the programming and information technology costs in house. Our debt collections were at 11 percent in 2009, increasing to 28 percent in 2011; they are now down to 14 percent. The decline can be attributed to staffing loss in the past 2 years, including our Assistant Controller.

Senate Bill (S.B.) 21 addresses debt collection issues. Agencies are responsible for turning their debts over to my office at 60 days past due unless they have an exemption from the State Controller's Office. We then send letters to the debtors giving them three options: pay the debt, arrange installment plans or be sent to collections. If the debt is over \$300, the debtor is required to pay the collection agency fee and a 2 percent handling fee for mailings and postage. Debt collected, if it is General Fund money, is put into the Debt Recovery Account. The Interim Finance Committee (IFC) determines when and where that money can be spent. If the debt is not General Fund money, it goes back to the agency.

Our mission is to advance accountability, continuity and efficiency in the State's financial operations. We are called the ACEs.

**Chair Parks:**

We will open the hearing on Senate Bill 56.

**SENATE BILL 56**: Revises provisions governing state financial administration.  
(BDR 18-378)

**Ms. Wallin:**

In Senate Bill 56, section 2 cleans up language for the resources classified as the Catalyst Fund or the Knowledge Fund and refers to them as Accounts as required by the U.S. Generally Accepted Accounting Principles, which I am required to follow when I prepare the *Comprehensive Annual Financial Report*. This will not affect the intended purpose or any other restrictions created by legislation. It does allow the State Controller's Office to correctly report the activity in the audited financial statements.

We are also changing the language in section 1, subsections 3 and 5 from biennium to fiscal year. Our accounting system does not run on a biennium basis. The remaining changes are the reclassifications from fund to account.

**Senator Goicoechea:**

Section 1, subsection 4, indicates each source of revenue totaling more than \$100 million for the biennium to the fiscal year.

**Ms. Wallin:**

It will remain at \$100 million. The term fiscal year should have been used originally.

**Senator Goicoechea:**

We are creating seven Accounts.

**Ms. Wallin:**

Correct.

**Chair Parks:**

There is some new language in section 5, subsection 3, at the top of page 6.

**Ms. Wallin:**

When we were calling it the Knowledge Fund, this is what the Fund did. Now that we call it Account, we are clarifying that any money remaining in the Knowledge Account at the end of the fiscal year does not revert to the State General Fund but will be carried forward to the next fiscal year. There are a few other places in the bill where that will be found.

**Chair Parks:**

We will close the hearing on S.B. 56 and open the hearing on Senate Bill 21.

**SENATE BILL 21**: Revises provisions governing state financial administration.  
(BDR 31-379)

**Ms. Wallin:**

I will review several proposed amendments to Senate Bill 21.

Section 2 of S.B. 21 provides that a standard rate of interest be applied to debt turned over to the State Controller for collection. There are several agencies with statutory authority to charge interest on debts owed to those agencies. Those agency rates vary, as does the method for calculation. We propose that a debt turned over to our office will be charged 2 percent over prime, per *Nevada Revised Statute* (NRS) 99.040.

Section 3 provides that the State Controller is not required to refund an overpayment made by a debtor if the overpayment is less than \$5. I am proposing an amendment ([Exhibit E](#)) raising the amount to \$10; this will make the overpayment threshold consistent with NRS 680B.120. The amendment would save some of the cost of processing those refunds, estimated at \$25 to \$35 per refund.

Section 4 requires licensing agencies to ensure an applicant does not owe a debt to the State prior to issuing or renewing a license. As drafted, this section

imposed a large financial burden on licensing agencies. The State Controller is offering an amendment ([Exhibit F](#)) to eliminate the fiscal notes for this bill. All of section 4, as written, is being replaced by this amendment. The amendment will require the State Controller to check a list of licensees provided by the licensing agencies against our database to determine if there is a match.

To minimize the burden on the licensing agencies, we propose they submit a list to the State Controller once a year. The State Controller's Office will notify the licensee and request payment or provide for a hearing if the licensee contests the debt. This is an established hearing process in the *Nevada Administrative Code* (NAC) 353C.150 through NAC 353C.340 regarding debt offset for licensees who owe a debt to the State. This gives due process, allowing the licensee an opportunity to have a hearing to determine validity of the debt before the license comes up for renewal. A licensing agency will not deny renewal before due process. The State Controller will work with the licensee to obtain payment in advance of the next license renewal if the debt is deemed valid or enter into a payment plan. An offer and compromise, settling the debt for less than what is owed, can be made if it appears to be in the best interest of the State.

Once the licensee has satisfied the debt, entered a payment plan or the debt is determined invalid, the State Controller will notify the licensing agency and there will be no impact on licensing upon the next renewal period. We are asking the licensing agency to request a State Business License number or indicate exemption upon renewal. The list will be compared against that of the Secretary of State's Office.

The amendment [Exhibit F](#), page 4, clarifies what is meant by license and licensing agency. License is any license certification, registration, permit or other authorization that grants a person the authority to engage in a profession or occupation in this State. Licensing agency is any State Executive and Judicial Branch agency that issues or renews a license. It does not include the Department of Motor Vehicles (DMV) or the Division of Insurance.

The entire amendment is a result of conversations with various State agencies, boards and constituents.

**Senator Goicoechea:**

The licensee is sent a letter indicating that it has an outstanding debt and may be subject to nonrenewal. I have concern that a licensee might end up without a license.

**Ms. Wallin:**

The bill states that the licensing agency may refuse to renew the license, which allows for flexibility. Any communication from the State Controller's Office should not be ignored, as it is clearly written that the licensee will not be eligible for license renewal until the debt is resolved. The licensing agency can call the State Controller's Office, request a hearing and work something out. The licensing agency continues to have the authority to renew or not renew the license.

**Senator Goicoechea:**

The closure of a business is of no advantage to the State or the licensee.

**Ms. Wallin:**

We have some people who have not repaid their debts owed to the State. This bill might get their attention.

The intent is to receive payment on the debt. We can have a provision that if the debtor has ignored the State Controller's Office, the licensing agency can call us and we can get a few months' waiver to help the person get his or her affairs in order.

**Senator Goicoechea:**

That would be good.

**Ms. Wallin:**

Section 5 of the amendment ([Exhibit G](#)) establishes a collection fee the State Controller can recover from a debtor when the debt is handled and collected by the State Controller rather than a private collection agency. The intent of this

section is to minimize the burden on the debtors. Since the State Controller entered into new contracts with private debt collection agencies in September 2012, debts that would be transferred from the previous collection agencies to the new collection agencies would be considered a secondary placement, making the collection fee much higher, anywhere from 11 percent to over 22 percent. The State Controller has opted to keep those debts in house. This fee will offset additional burdens and resources that are needed while keeping the collection fees low. This bill proposes a fee that is 5 percentage points less than the lowest collection agency fee. The lowest collection agency fee is currently 8.5 percent; it would be 3.5 percent for the State Controller.

Section 6, NRS 353C.222 in S.B. 21 authorizes the State Controller, in an attempt to collect for the State, to sell debts that are more than 4 years past due and beyond the statute of limitations. The intent of section 6, subsection 2, is to clarify that if the State Controller collects anything from the sale of debts, the money will be deposited into the Debt Recovery Account.

**Senator Goicoechea:**

Where does the money go once it is put into the Debt Recovery Account?

**Ms. Wallin:**

The Debt Recovery Account was established during the 2009 Legislative Session. Prior to that, we would return the money collected to the agencies, even the General Fund money. It was money that the agencies did not actually have to account for.

Now the debt collected goes to the Debt Recovery Account for expenditures to assist with debt collection. The IFC authorizes how the money is spent. This session we are asking for \$200,000 to update the current debt collection system.

**Senator Goicoechea:**

Is there a cap on that account?

**Ms. Wallin:**

No.

**Senator Goicoechea:**

We could sweep it at some point?

**Ms. Wallin:**

Yes.

Section 7 establishes that an agency must request money collected within 60 days from when the State Controller received it, providing it is not General Fund money. It is not always clear whether the debt collected is General Fund money or not. The 60-day limit allows the State Controller's Office and the Legislature to know what is in the account so we do not sweep something we do not have.

The time restriction is necessary because we have agencies coming to us years later requesting the money. Collecting for DMV clearly relates to General Fund money; agencies such as Medicaid are part State and part federal. We collected \$1.5 million on a Medicaid issue. The IFC was unable to determine if it was General Fund money, so it went back to Medicaid.

Section 9 in our amendment ([Exhibit H](#)) authorizes the State Controller to establish a fee that may be charged to any vendor that refuses to accept payment electronically. Electronic payments are estimated to save the State \$551,000 per year. The fee charged would be based on the costs to print each check, which is about \$4.19. If the vendor is a one-time payee or is unbankable, a waiver can be requested.

We received authorization last Session to pay vendors electronically. This provision is on vendor contracts, but vendors continue to request payment by check. We are looking at agreeing to give a paper check, but the vendor will be assessed a fee.

The proposed amendment, [Exhibit H](#), requires all paychecks be paid electronically, applying to all State and Nevada System of Higher Education employees. Our share alone will save about \$144,000 per year.

**Senator Manendo:**

How many are receiving payment electronically?



**Ms. Wallin:**

There are 65,000 vendors, and approximately 40 percent are paid electronically. All new vendors are required to become electronic. Previously established vendors are provided electronic payment information when accounts are updated every 3 to 5 years or when they request an account change.

**Senator Manendo:**

Are the new vendors complaining?

**Ms. Wallin:**

We have made waivers for some vendors; in other cases, we refuse to make waivers. We know they receive other electronic payments, and electronic payments do not incur any costs. The federal government, starting March 1, is requiring social security benefit payments be made electronically or by a card.

**Senator Manendo:**

Are the employees complaining?

**Ms. Wallin:**

State employees are at 92 percent for electronic payment.

**Senator Manendo:**

You are only going to grab 8 percent more.

**Ms. Wallin:**

We are in the electronic age. If you are an employee of the federal government, there is no option of being paid by paper.

**Senator Manendo:**

I like paper. I go to the bank, I get a receipt and I know everything is good. Some of my constituents say they have to call the bank every week to verify their deposits were made, and 65 percent of the time the deposit was a day or two late. They had bills to pay and the money was not there on time. We are capturing a small amount of people who may have a legitimate reason for not wanting electronic payment.

**Ms. Wallin:**

To address some of your concerns, in the 6 years that I have been here, neither I nor any employee that I am aware of has had a problem getting electronic payment. Perhaps some of your constituents work for employers that are not transmitting the checks on time.

The other consideration is a potential disaster. We print checks in Las Vegas and distribute to Carson City. A paper check payee may not get paid in a timely manner. The electronic payee will be paid in a timely manner.

**Senator Goicoechea:**

If the computer is not down.

**Ms. Wallin:**

The computer will be up because we have a disaster recovery system in Las Vegas, and it is tested on a bimonthly basis.

**Senator Manendo:**

Of the 8 percent of employees who choose a paper check, what percentage live in the south compared to the north?

**Ms. Wallin:**

I do not have that number, but I will get it for you.

**Chair Parks:**

Has there been any experience in which an employee is unable to establish an account at a financial institution that accepts electronic transfers of money?

**Ms. Wallin:**

In a 1-year period we have had approximately 20 vendors requesting a paper check. None has indicated it is due to lack of a bank account.

In amendment [Exhibit F](#), page 4 deletes sections 10, 11 and 12, and that will eliminate a large fiscal note. We can ensure that third-party providers, such as physicians for the Public Employees' Benefits Program (PEBP) and Medicaid, have State Business Licenses by requesting their State Business License numbers upon license renewal.

**Chair Parks:**

A two-thirds majority vote was required on sections 2, 3, 5 and 9 when initially drafted; on sections 10, 11 and 12, it was not. Is that correct?

**Jennifer M. Chisel (Deputy Attorney General, Office of the Attorney General):**

I am not positive as to whether that applied to sections 10, 11 and 12.

**Chair Parks:**

Can you give us a mock-up of this bill?

**Ms. Wallin:**

Yes.

**Constance Brooks, Ph.D. (Nevada System of Higher Education):**

The amendment, [Exhibit H](#), in section 9 of S.B. 21 requires that all State employees and all Nevada System of Higher Education employees be paid by direct deposit unless it would cause the employee undue hardship or the employee is unable to establish a bank account. This language does mirror the law that requires all State vendors be paid electronically. This would give us an approximate savings of \$150,000. We manually write about 65,000 checks a year for nonbenefit employees, including student workers and temporary workers. In addition, there are about 2,000 benefit employees receiving manual payroll checks.

**Senator Manendo:**

Do all student workers have bank accounts?

**Ms. Brooks:**

Because of direct deposit requirements for financial aid, a good portion of our students do have access to bank accounts.

**Senator Manendo:**

What if they are not on financial aid?

**Ms. Brooks:**

This is anecdotal evidence. I will get exact numbers after the hearing.

**Sheila Salehian (Senior Deputy Treasurer-South, Office of the State Treasurer):**

The Treasurer's Office is testifying neutral on S.B. 21 with respect to section 9, subsection 3. We issue check payments to out-of-state colleges for the Nevada Higher Education Prepaid Tuition Program. Our office will need to do some research to determine the impact of section 9.

**Paul McKenzie (Executive Secretary-Treasurer, Building and Construction Trades Council of Northern Nevada, AFL-CIO):**

Part of my duty is to serve on the Advisory Council to the Division of Industrial Relations (DIR). We review debt owed to the State under the umbrella of DIR. A large amount of debt is excused on an annual basis; over \$2 million was excused my first year on the board. Since the State Controller's Office has taken over debt collection, the amount excused has gone down—the economy has probably had some effect—and \$875,000 was excused during our most recent meeting.

Over one-half of the people excused from their debts to the State have been unaffected because they continue to conduct business. One debtor originally owed over \$1 million; the debt was reduced a total of four times, lowering it to \$475,000. The debt was never paid back and eventually excused. The company shut its doors and the same officers opened another company doing the same type of business under a different name.

We need to provide the State Controller with the tools to help collect debt. Most of these people know they owe it. They are running from the debt; they have done business like this for a long time. Some are even vendors of the State. These people are not responsible, and they are not the type of people we want to have doing business in this State.

**Senator Goicoechea:**

I am concerned about closing more businesses down because of a small debt. I would like to see some flexibility here.

**Mr. McKenzie:**

The bill offers options to work out a licensee's debt. In most cases, the excused debtor is well aware of the debt—they have simply avoided paying it.

Agencies currently attempt to collect the debt through their own collection process. Time is of the essence by the time it gets to the State Controller. The

State Controller is in need of a process to make debt collection work more quickly.

**Senator Goicoechea:**

I want to be sure that we do not purposely throw up a barrier on someone.

**Jeannine Sherrick (Director, Western Interstate Commission for Higher Education):**

We are neutral on the bill, as we have not had the opportunity to formally discuss and take a position. We formally supported a similar bill pertaining to licensure restriction last Session. As mentioned by the State Controller's Office, we do have a handful of individuals with debt to the State who currently hold active licenses. They have a potential to be impacted by this bill. This agency is potentially affected, both fiscally and procedurally.

**Senator Goicoechea:**

That scenario is more in the million-dollar range that Mr. McKenzie was talking about.

**Ted J. Olivas (Director, Administrative Services, City of Las Vegas):**

The fiscal notes provided from the local governments were due to the uncertainty of some of the provisions. Ms. Wallin went through the amendments, and we are in support of the bill as amended.

**Senator Manendo:**

Are you in support of all the amendments?

**Mr. Olivas:**

I am—specifically section 4, the definition of the licensing agency, which has been clarified.

**Erin McMullen (Las Vegas Metro Chamber of Commerce):**

I signed in as opposed, but the clarification in section 4, the definition change, has addressed those concerns.

**Janine Hansen (Nevada Families for Freedom):**

Improvements have been made to the bill in section 4, specifically providing for a hearing process. I am not familiar with the NAC that provides for a hearing process; however, it is very important to maintain some due process with opportunity for a review and appeal.

The *Constitution of the State of Nevada* requires, even in civil cases, that we have a right to trial by jury, but administrative courts have taken that opportunity and appeal away.

An appeals process can be very expensive. I am familiar with an individual who was fined \$800 by the Occupational Safety and Health Administration (OSHA). He went through OSHA's administrative court and ended up paying over \$50,000 in attorney fees.

I reviewed part of a list of debtors today. I discovered one deceased person whose name should not be on the list. I also discovered one person who owes only \$18.50. Are we going to deny a license because someone owes \$18.50?

There needs to be some process for additional review or appeal.

**Chair Parks:**

We would like to see the mock-up to get a fresh look at the bill. The fiscal notes tend to be fairly substantial, but most of them must have been written prior to the proposed amendments.

**Ms. Wallin:**

The PEBP and Medicaid had substantial fiscal notes on sections 10, 11 and 12. The DMV had a fiscal note on section 4, but the DMV is not included as a licensee.

Senate Committee on Government Affairs  
February 25, 2013  
Page 15

**Chair Parks:**

The hearing on S.B. 21 is closed. The meeting is adjourned at 2:37 p.m.

RESPECTFULLY SUBMITTED:

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Gwen Barrett,  
Committee Secretary

APPROVED BY:

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Senator David R. Parks, Chair

DATE: \_\_\_\_\_

<b><u>EXHIBITS</u></b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness / Agency</b>	<b>Description</b>
	A	1		Agenda
	B	5		Attendance Roster
	C	186	State Controller Kim R. Wallin	Comprehensive Annual Financial Report
	D	4	State Controller Kim R. Wallin	A Report to Our Citizens, Popular Annual Financial Report
S.B. 21	E	1	State Controller Kim R. Wallin	Proposed Amendment to Section 3
S.B. 21	F	4	State Controller Kim R. Wallin	Proposed amendment to Sections 4, 10, 11 and 12
S.B. 21	G	1	State Controller Kim R. Wallin	Proposed Amendment to Section 5
S.B. 21	H	1	State Controller Kim R. Wallin	Proposed Amendment to Section 9