

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-Eighth Session
May 22, 2015**

The Senate Committee on Finance was called to order by Chair Ben Kieckhefer at 9:08 a.m. on Friday, May 22, 2015, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E 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 Ben Kieckhefer, Chair
Senator Michael Roberson, Vice Chair
Senator Pete Goicoechea
Senator Mark A. Lipparelli
Senator David R. Parks
Senator Joyce Woodhouse
Senator Debbie Smith

STAFF MEMBERS PRESENT:

Mark Krmpotic, Senate Fiscal Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Jeff A. Ferguson, Senior Program Analyst
Lona Domenici, Committee Manager
Emily Cervi, Committee Assistant
Jason Gortari, Committee Secretary

OTHERS PRESENT:

Mark A. Hutchison, Lieutenant Governor
Scott K. Sisco, Deputy Director, Support Services, Department of Corrections
Greg Smith, Administrator, Purchasing Division, Department of Administration
Jim R. Wells, C.P.A., Interim Director, Department of Administration
Kimberlee Tarter, Deputy Administrator, Purchasing Division, Department of Administration

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The Honorable James W. Hardesty, Chief Justice, Supreme Court of Nevada;
State Board of Pardons Commissioners
Mike Patterson, Lutheran Episcopal Advocacy in Nevada
Ben Graham, Administrative Office of the Courts
Jude Hurin, Services Manager, Division of Management Services and
Programs, Department of Motor Vehicles
Dale Erquiaga, Superintendent of Public Instruction, Department of Education

Chair Kieckhefer:

I will open today's hearing with Senate Bill (S.B.) 325.

SENATE BILL 325 (1st Reprint): Revises provisions relating to state purchasing.
(BDR 27-1024)

Mark A. Hutchison (Lieutenant Governor):

I have submitted a proposed amendment entitled "Mock Up Proposed Amendment 7561 To Senate Bill No 325 First Reprint" ([Exhibit C](#)).

I am here to present Senator Greg Brower's bill, S.B. 325. Under existing law, the bill requires the State to purchase all materials, supplies and equipment of services that cost more than \$50,000. The purchase is required to be done by formal contract from a qualified bidder with the lowest costs and after advertising for a submission of bids. When the State is considering contracts, certain factors must be considered when evaluating the bids.

This proposed amendment to the bill adds one additional factor for contract services. The original bill required an evaluation for both goods and services. Proposed Amendment 7561 reflects only the evaluation of services.

The proposed amendment adds an evaluation factor to measure the connection between the bidder and the State using the elements that must be considered when evaluating a bid for services. Elements that may be considered include, without limitation, the amount of State or local taxes paid by the bidder to the State, the number of offices maintained in the State by the bidder, the number of persons employed by or contracted with the bidder and the amount of services, commodity or goods used by the bidder in the State.

This section further requires evaluation of determining whether a proposal is in the best interest of the State. That factor must be given a weight that is greater

than or equal to the weights provided to the other factors being considered under existing law.

The bill is effective upon passage and approval for purposes of adopting regulations and other preparatory administrative tasks. On January 1, 2016, we would begin to use the bidders relationship factor with the State and evaluate the decisions for contracts with the State.

Senator Goicoechea:

We heard this bill and Proposed Amendment 7561 in the Senate Committee on Government Affairs. We adopted that amendment in the Committee. The changes made by Proposed Amendment 7561 only pertained to services. In the redraft of the bill, changes were made to supplies rather than services. They caught that error in the past few days but the Committee did vote on it pertaining to services.

Chair Kieckhefer:

Is [Exhibit C](#) in conformance with the intention of the Senate Committee on Government Affairs?

Senator Goicoechea:

Yes.

Chair Kieckhefer:

Please discuss the weight factor that should be given and how that factor might be applied in section 1, subsection 5 of [Exhibit C](#).

Lieutenant Governor Hutchison:

Under existing law, a purchasing agency must consider various factors such as the financial stability and experience of a bidder. Section 1, subsection 5 of [Exhibit C](#) was designed so that those factors would be taken into consideration, assigned a weight and scored.

The purchasing agency or government agency may consider factors beyond the mere connection to the State but that score must be greater than or equal to other factors being scored. We did not want the connection to the State to be the lowest scored factor. We want it to be on par with the other factors being considered when a purchasing decision is being made.

Chair Kieckhefer:

Please address the fiscal notes attached to this bill.

Scott K. Sisco (Deputy Director, Support Services, Department of Corrections):

The Nevada Department of Corrections' (NDOC) fiscal note is still necessary, even with the removal of the commodities requests. Enormous amounts of services were purchased and we will need someone to check and verify all the requirements this bill entails. We are not staffed to handle all the requirements this bill requests. My experience from working in the Nevada Department of Transportation is that bidders love to confront their competitors' proposals. Sometimes it is months if not years after the bid process that the enactment of the proposal is started.

Chair Kieckhefer:

Please discuss how you calculated your fiscal note. Is there a cost for a full-time equivalent (FTE) position?

Mr. Sisco:

Yes. One FTE would be added to our purchasing staff to enable the NDOC to respond to the requirements of this bill.

Chair Kieckhefer:

Mr. Smith, please discuss the background information and the fiscal note.

Greg Smith (Administrator, Purchasing Division, Department of Administration):

In general, the purchasing profession is opposed to preference legislation of any type. Legislation that the Committee passes and Governor Brian Sandoval signs will be faithfully implemented and executed by the Department of Administration's Purchasing Division.

This preferential legislation seeks to address how we define a Nevada business. We have always struggled with that in the past and the proposed amendment in this bill makes it much more palatable. Removing the goods section out of this bill makes it a lot easier for the Department of Administration to deal with it and is the reason why we have modified and lowered our fiscal note.

Solicitation projects are becoming contentious, competitive and in many cases litigious. If the Administrator of the Purchasing Division and an appointed committee are expected to evaluate the criteria in a request for proposal (RFP)

solicitation project, having a bidder simply check off a box is not good enough to determine if they have a Nevada connection or not. The bidder's information should be more thoroughly vetted.

The Administrator and appointed committee are also expected to vet the information on the amount of taxes paid to the State including taxes paid from the proceeding 5 years. Specific types of taxes to be vetted are property taxes, sales taxes, use taxes, governmental services taxes and excise taxes. Additional information that needs to be vetted are the number of buildings owned or leased in the State, the number of persons employed or engaged by that bidder in the State and the amount of goods or commodities used in the proposal that are planned to be manufactured in the State. Every solicitation we do will take a lot of time and legwork.

The Purchasing Division closes approximately 70 solicitations a year. That is over \$100,000 of expected contract value generated by the Division. Several other agencies are aware of this legislation and their concerns likely mirror the concerns of the NDOC because RFPs run typically between \$25,000 and \$100,000. I do not have the actual figures for NDOC's RFPs because that is not something our Division tracks but the amounts are similar to the 80-20 rule in comparison to the complex RFPs that reside in the Purchasing Division. This State has more low-dollar amount RFPs than high-dollar amount RFPs.

With those factors being considered, we are willing to implement the requests from the bill but cannot do it using existing staff. We have requested a couple of management analysts (MA) positions which are the predominant costs of our fiscal note.

I want to note the Office of the Attorney General (AG) submitted a fiscal note of just under \$30,000.

The Purchasing Division averages one protest per year. In a bona fide protest, we go through the protest process and then a bond is posted. It is predicted that the implementation of this bill might bump up our average protest numbers to four or five protests a year. The cost associated with the additional protests would be around \$30,000. Another consideration we anticipate is the AG's Office will need to prepare for the amount of time needed to handle the additional protests.

Lastly, the implementation of this bill will be complex. All State employees will need to be educated on the requirements of this bill and several forms will need to be changed if it is passed.

If this bill passes, I ask for the Committee's indulgence in giving us time to prepare for the changes and time to set up the new processes so they are airtight when the first RFP is released. That should reduce the chance of having to defend a protest early on.

Kimberlee Tarter (Deputy Administrator, Purchasing Division, Department of Administration):

We anticipate individuals in the Purchasing Division to undergo training because we serve as a resource to all State agencies who have questions and concerns regarding the RFP process. We also anticipate an increased workload, not just in vetting the RFPs at our level, but also in assisting the agencies as they go through the RFP process and helping them become aware of the provisions of this new bill.

Chair Kieckhefer:

In your Department's structure, do you have a relationship with the Department of Taxation to verify taxes paid by bidders?

Ms. Tarter:

No.

Mr. Smith:

We do not have that knowledge at this point and are unsure if another governmental entity is capable of sharing that type of information with us. The intent of this legislation is to have multiple Nevada committed bidders propose RFPs.

Our Division had concerns about certain language in the bill that relates to awarding contracts. Will a vendor who owns two buildings in this State be awarded a contract over a vendor who leases three buildings? Does a vendor who employs 40 people but has multiple buildings be awarded a contract over one whom employs 400 people but only has one building? These are the types of questions people ask when \$1 million contracts are awarded and bidders get left out.

Chair Kieckhefer:

I understand your Department's national role, responsibility not to provide preference to the State and obligation to have a policy of procurement professionals. We are not the only State who has dealt with a controversy like this. How many other states have some sort of state preference put in place?

Mr. Smith:

I would estimate 60 percent to 70 percent of other states have some form of preference legislation. Oregon keeps close documentation for us to refer to on this subject matter. About 37 other states have an inverse preference law. Nevada had an inverse preference law but we eliminated it a few Sessions ago. This legislation is important to secure Nevada-based companies attempting to do business in different states. If a state has an inverse law, that means they would give preference to contractors with a state certificate of eligibility over a contractor without one.

For example, Creel Printing, a printing company based in Las Vegas, was subject to Utah's inverse preference law for printing. Utah gives a 5 percent preference to state-certified printing companies and penalizes out-of-state companies attempting to do business in regard to printing with the state government of Utah.

It is yet to be determined whether this bill provides a bidding preference, given that it is not truly a 5 percent bidding preference and is a weighted factor. This discussion is probably going on in every legislature in the Country.

Chair Kieckhefer:

Yes, and for very clear reasons.

Mr. Smith:

Yes, for reasons you know better than I do.

Lieutenant Governor Hutchison:

This whole situation surfaced when Senator Greg Brower and I started getting calls from multiple constituents in Nevada with public relations firms, advertising firms, law firms and certified public accountant firms trying to get contract work with the State. In one particular situation, a professional firm in Nevada was close to securing a contract with the State but did not get it. This contract was

worth millions of dollars and was awarded to a firm from Ohio. Senate Bill 325 provides a solution to this problem.

We heard the same concerns expressed in the Senate Committee on Government Affairs. I have great respect for those who search and rely on contract-based work in their everyday jobs.

I do not understand how the proposed amendment is different from what we already have in statute. In section 1, subsection 3 of [Exhibit C](#) it provides the same language that is in the original bill. Section 1, subsection 3 outlines what the State should consider when selecting a proposal. Section 1, subsection 3, paragraph (a) of the proposed amendment still asks that we vet the experience and financial stability of the person submitting the proposal. With the proposed amendments, all the statements and arguments against the bill could still be made based on how we would verify the experience of the person submitting the proposal.

It is hard to compare the strength and financial stability of a bidder who has liquid assets versus a bidder that has illiquid assets. Those measures are subjective. Bidders must work with the existing resources they have. Requirements for RFPs and determining if one bidder's proposal is better than their competitors will both be subjective measures.

Section 1, subsection 3, paragraph (c) requires the evaluation of the price of the proposal. That section requests an actual number and does not rely on the evaluation of a subjective measure. Vetting quantitative measures is something that this legislation should focus on. Bidders should be considered based on quantitative measures such as the amount of taxes being paid, the number of buildings that they either lease or own and the number of employees or independent contractors they employ who are Nevadans.

It is illegal and fraudulent to submit information that is not accurate when submitting a bid for a State contract. Bringing in more people to vet the information that this proposed amendment requires is difficult for me to understand given what they already have to do in terms of evaluating subjective elements. Bidders left out could contest several subjective measures of their competitors' experience, financial stability and RFP.

Please understand the concerns of the constituents and of Nevadans who are looking for work and opportunities with the State. We gave several beneficial opportunities to Tesla Motors in this State if they agreed to hire Nevadans and contract the work of Nevadans. That scenario is a further example of what we are hoping to accomplish with this legislation.

Chair Kieckhefer:

I will close the hearing on S.B. 325 and open the hearing on Assembly Bill (A.B.) 437.

ASSEMBLY BILL 437: Makes an appropriation to restore the balance in the Reserve for Statutory Contingency Account. (BDR S-1217)

Jim R. Wells, C.P.A. (Interim Director, Department of Administration):

Assembly Bill 437 is a request for \$1 million to replenish the Statutory Contingency Account for expenditures projected for the current fiscal year. Last week, there was about \$727,000 in that account with \$200,000 in pending claims, totaling a balance of approximately \$527,000. We are projecting about \$1.4 million in additional claims to be incurred between now and the end of the fiscal year, resulting in a negative balance of about \$900,000 for the fiscal year. The \$1 million request would balance out the \$900,000 deficit for the fiscal year.

Chair Kieckhefer:

How much money are we appropriating for the next biennium?

Mr. Wells:

That amount has not completely been determined yet. I believe the statutory contingency request for the next biennium was \$5 million.

Chair Kieckhefer:

The amount is irrelevant to this discussion but I am curious.

Mr. Wells:

We have been in discussion with your staff as to whether we can reduce that number, given what we know today.

Chair Kieckhefer:

I will close the hearing on A.B. 437 and will move it into our work session today to process it. I will open the hearing on S.B. 454. Ben Graham has submitted a proposed amendment for S.B. 454 entitled "SB454 Proposed Amendment Submitted By Ben Graham" ([Exhibit D](#)).

SENATE BILL 454: Revises provisions relating to criminal justice. (BDR 14-559)

The Honorable James W. Hardesty (Chief Justice, Supreme Court of Nevada; State Board of Pardons Commissioners):

Senate Bill 454 was originally presented to the Senate Committee on Judiciary. A number of improvements were reflected in statutory amendments rising out of the work of the Advisory Commission on the Administration of Justice. The proposed amendment, [Exhibit D](#), reflects the changes made.

Unfortunately, the bill complicated several elements and resulted in a large number of fiscal notes to be provided by the NDOC, the Nevada Department of Public Safety's Division of Parole and Probation (P&P) and a few other entities.

Currently, all fiscal notes have been removed because all the issues that made them necessary have been deleted from the bill. However, the Commission has made four recommendations to Committee.

Section 1 of the bill provides for a uniform pretrial risk assessment tool to be developed by the State pursuant to rules adopted by the Supreme Court of Nevada. The purpose of this measure is to use evidence-based practices in making pretrial assessments about who should be retained in custody and who should be released from custody with supervision. This measure was unanimously recommended by the Commission during the past period of study. A few pretrial risk assessment tools are being used by the justice courts in Nevada but very few of those courts are consistent with each other.

Last summer, the Conference of Chief Justices (CCJ) urged all states to develop uniform pretrial risk assessment tools to better inform the judiciary about criminal history background, the nature of criminal behavior, mental health issues of criminals and similar assessed categories before making pretrial releases. Since the CCJ meeting, I have reached out to all of the justice courts in the State. Over 26 justice court judges wish to participate on a commission, in which I would appoint, to study revisions and the adoption of pretrial risk

assessment tools to aid judges in making more informed decisions in pretrial release issues. There is a huge benefit associated with this bill that directly benefits county commissions throughout the State. One benefit would be improvements to the release rates in county jails.

This is particularly important in Clark County. Clark County jails are suffering from serious overcrowding. I have discussed this measure and the efforts to initiate this plan with the Clark County Commissioner Steve Sisolak. Mr. Sisolak is supportive of any efforts that can be done to effect pretrial releases of inmates pending their adjudication.

We need to keep in mind that we are talking about defendants who have been accused of a crime and who have not been convicted. The accused have a presumption of innocence under the U.S. Constitution. Our current bail system oftentimes allows for inmates who are serious criminal risks to put up money for bail to get out of jail, while a single mother who is arrested on a check fraud charge has to remain in jail because she cannot afford to post bail.

The purpose of release assessment tools is to give the judge a better assessment of the individual before deciding if they should be released with appropriate court services supervision. The assessment of release is being done to some degree in Clark County, to a greater degree in Washoe County and to a lesser degree in the rural counties. This effort is to improve the entire system statewide.

The second measure this bill attempts to secure is the ability for inmates released from prison to obtain an identification card. Section 9, subsection 1, subparagraph (f) contains that language. I am appreciative of the efforts made by the religious and faith-based organizations in this State to help bring that measure to the attention of the State. These religious organizations have raised money for this initiative and have urged the Legislature since 2009 to compel the Department of Motor Vehicles (DMV) to issue photo identification cards to released inmates.

In 2009, we created a fund that would allow faith-based organizations, parishioners and the like to make contributions to the State to help fund DMV photo identification cards to inmates who were released. Typically, many of the inmates released who do not have identification cards to work will oftentimes

resort back to criminal activity. This statute would amend and help fund that problem.

The third change is in section 10A of the proposed amendment. This section creates protection for victims of crime. There has always been a problem with victims being concerned about their offenders knowing of their whereabouts. This initiative creates an identification method for victims of a hearing and informs them if their offender has a parole hearing or similar type of litigation. This change also protects the identity of the victim from the offender. This notification process occurs through the AG's Office under this proposal.

The fourth provision is on page 5 of [Exhibit D](#). The primary provisions reside in section 19 subparagraphs (d) and (e) of [Exhibit D](#). Those subparagraphs allow a district court judge to handle the supervision requirement for gross misdemeanors and misdemeanors when sentencing is occurring. District court judges generally provide supervision requirements when sentencing for felony and gross misdemeanors offenses. The proposed amendment gives authority to the judge to impose supervision conditions even if they are not ordered by P&P. Oftentimes gross misdemeanants or misdemeanors do not have to be supervised by a parole and probation officer and only require a daily report.

That statute accomplishes a more efficient way to supervise gross misdemeanors and misdemeanants sentenced by a district court judge who will not be supervised by a probation officer.

That concludes my description of the amended provisions of this bill. All of the fiscal notes previously attached have been deleted. I would urge the Committee's consideration and support of these measures that were unanimously adopted by the Commission this last meeting.

Chair Kieckhefer:

In section 19 of [Exhibit D](#), it states that the supervision of the accused of gross misdemeanants are to be handled by the Chief Parole and Probation Officer. Did you vet this additional language through P&P for this potential fiscal impact?

Chief Justice Hardesty:

Yes.

Chair Kieckhefer:

Is the risk assessment process done upon arraignment after a decision is made to determine whether to release someone or hold them on bail?

Chief Justice Hardesty:

We are in the dark ages when it comes to evidence-based practices in handling inmates. The risk assessment process should begin when someone is arrested. Risk assessments should be made, followed and used all the way through an offender's contact with the criminal justice system. That method would result in a more efficient process.

The current risk assessment process is scattered and is different in some townships versus others. Many townships do not even have risk assessment tools or instruments available to them. Oftentimes the defendant's release decisions are based strictly off a bail schedule that cannot be explained. The risk assessment process for many defendants does not occur until they are convicted either by plea or verdict. If this bill is adopted, for the first time, a decision to send a convicted individual to prison or place them on probation will be made based off a risk assessment. Those assessments are being developed by P&P.

The Commission found that the State is using a risk assessment tool that has not been updated since 1991. The reason for the insertion of a provision in section 18, subsection 2 on page 5 of [Exhibit D](#) was that the Commission had requested P&P to study their risk assessment tool and update it. Most criminal justice systems in the United States regularly update their risk assessment instruments to assure they are accurate and are providing the best assessments of defendants possible to deliver effective sentencing practices. The provision in section 18, subsection 2 requests P&P to complete that study by July 1, 2017.

The risk assessment process is intended to give judges involved in early pretrial release or ultimate sentencing the best information possible to determine who goes to prison and who gets probation and if probation is awarded, under what conditions. The Commission has vetted and demonstrated that our State is not in a position to effectively do that right now. This bill is intended to accomplish those objectives.

Chair Kieckhefer:

Is the risk assessment a work sheet that checks off various risk factors, prior offenses and other similar assessment items? If so, is there a national best practice risk assessment product that we could implement and integrate into our system?

Chief Justice Hardesty:

It is a worksheet with components that are generally tailored to the specific needs of the court involved. Certain information will be common from the time that individual is arrested to the time they are sentenced. The individual's name, birthdate, marital status and social security number will all be constant components on the worksheet. However, we do not track all the components of the risk assessment information all the way through the system. Instead, it depends on when and what court defendants appear before. The inconsistency of information is one of our current problems.

A national best practice risk assessment template does not exist. We tailor-make the risk assessment process because it is the reason for the provisions in this bill and for the study requested by the Commission.

I have reached out to national experts on pretrial release and assessments and they have expressed their support of this effort. If this bill is passed, I am hoping to secure grant money from the John D. and Catherine T. MacArthur Foundation to aid the Commission in formulating the best assessment tools for Nevada in regards to pretrial release.

Mike Patterson (Lutheran Episcopal Advocacy in Nevada):

I am speaking in support of S.B. 454 on behalf of Lutheran Episcopal Advocacy in Nevada. When the initiative to give identification cards to released inmates was initially implemented into this bill, it provided a way for released inmates to get a job and do what they need to do to get back on their feet. In January of last year, the DMV stopped issuing replacement cards for inmates released from prison. The DMV would only provide a duplicated identification card to released inmates if they still had an existing card. If you are in prison for 10 or 12 years, your identification card has expired.

The DMV's actions came as a surprise to everyone. I notified the NDOC of the issue that was occurring and they had to change their entire release procedures because they were unaware that the DMV had started doing this. I urge you to

include this provision in the bill. We are committed to continuing to fund the account that supports this initiative and this initiative should not cost the State anything.

Chair Kieckhefer:

The account has a zero balance.

Mr. Patterson:

I was unaware of that but I will make sure we get money into that account.

Chair Kieckhefer:

Please address the fiscal notes attached to the original draft of this bill.

Mr. Sisco:

Everything the NDOC had concerns about that would cost the State money has been eliminated with the provisions in this bill. As a result, our fiscal note has been removed.

Ben Graham (Administrative Office of the Courts):

This morning the DMV indicated their concerns about the drivers' license provisions. I have asked that we go ahead and process this bill as soon as possible. If the DMV's concerns cannot be completely resolved, we will make the appropriate amendments to take care of them.

Jude Hurin (Services Manager, Division of Management Services and Programs, Department of Motor Vehicles):

I have submitted proposed amendment "SB454 DMV Amendment Proposal" ([Exhibit E](#)).

The DMV is willing to work with the sponsor of the bill to resolve our concerns. The DMV's amendments were submitted on May 1. There were some difficulties with getting this uploaded into the Nevada Electronic Legislative Information System application (NELIS).

For the record, we did submit this on May 1 so the Department is neutral on it but we do want to make sure that we are, and please forgive me if I back up, as well our administration has been in discussions with the deputy director of NDOC as well so this is a

friendly amendment. And I apologize for whatever errors have occurred but once again, we did submit this on May 1.

Chair Kieckhefer:

I have a letter in front of me issued to Senator Greg Brower dated April 8. Is that a different amendment?

Mr. Hurin:

No. That is the formal amendment that was emailed on May 1. The actual document is dated April 8 though. I had concerns because I did not see it uploaded in NELIS until today. I have provided a copy to the Committee.

Chair Kieckhefer:

We will make sure we get that copy.

Mr. Graham:

I was just told by Mr. Hurin that [Exhibit E](#), the amendment submitted by DMV, is the accurate document and is uploaded onto NELIS and will not create a fiscal impact.

Chair Kieckhefer:

I will close the hearing on S.B. 454 and open the work session hearing on A.B. 437, which makes a supplemental appropriation to restore the balance and the reserve for the statutory Contingency Account. Are there any issues with that amount, Mr. Krmpotic?

Mr. Krmpotic:

No. The amount is accounted for in the General Fund balance worksheets and the Legislative Counsel Bureau's (LCB) Fiscal Analysis Division staff has no further information to offer to the Committee.

SENATOR ROBERSON MOVED TO DO PASS A.B. 437.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Kieckhefer:

I will hear S.B. 163.

SENATE BILL 163 (1st Reprint): Creates the Council on Nevada Wildlife Conservation and Education within the Department of Wildlife. (BDR 45-616)

Jeff A. Ferguson (Senior Program Analyst):

Senate Bill 163 is sponsored by Senator Scott Hammond and Assemblywoman Amber Joiner. This bill was heard in the Senate Committee on Finance on May 15. It was initially amended and passed out of the Senate Committee on Natural Resources on March 26.

As amended, S.B. 163 creates the Council on Nevada Wildlife Conservation and Education within NDOW and prescribes a composition of seven members. It requires the Council, in coordination with NDOW, to develop and implement a public information program for the purpose of promoting and educating the general public on the history and benefits of wildlife and wildlife preservation in Nevada. The program also educates the public on the importance of hunting, fishing, trapping and taking of game.

Senate Bill 163 authorizes NDOW to fund the activities of the Council from the Wildlife Heritage Trust Account. Initially, the bill had a \$3 fee that would be added on to hunting licenses which resulted in the need for a fiscal note. However, the original amendment eliminated that fiscal note.

On May 15, Senator Scott Hammond testified before the Senate Committee on Finance and provided introductory remarks on the bill, provided testimony in support of the bill and indicated that there was a second amendment to address some of the Committee's concerns. Senator Hammond introduced Mike Bertoldi, with the Coalition for Nevada's Wildlife, who testified that Proposed Amendment 7102 makes the necessary changes to the bill.

Changes reflected in Proposed Amendment 7102 clarify that to fund the activities of the Council for the first 4 years of the program, from July 1, 2015, through June 30, 2019, NDOW may annually expend up to \$250,000 from the principal of the Wildlife Heritage Trust Account. In addition, the amount expended must not be greater than 25 percent of the amount deposited in the account during the previous year. Beyond 4 years, NDOW can annually expend

from the Wildlife Heritage Trust Account an amount no greater than 25 percent of the amount deposited into the Account during the previous year.

During the past hearing, Mr. Bertoldi submitted a document with the proposed amendment entitled "Mock up Proposed Amendment 7102 to Senate Bill No. 163 First Reprint" ([Exhibit F](#)).

The proposed amendment also clarified that the Council is an advisory council and that the members are to be appointed by the Director of NDOW instead of the Governor. In addition, the proposed amendment clarifies that the Director has final say in whatever programs the Council wishes to implement. The last two changes to the bill were required because the federal government requires that revenue generated for the Wildlife Heritage Trust Account must be under the control of a State fish and wildlife agency, which in Nevada would be NDOW rather than the Governor.

Additional testimony was presented by Patrick Cates, Deputy Director of NDOW, who indicated that the program would reside in the Conservation Education Division within NDOW. Mr. Cates also indicated that NDOW would be responsible for assisting the Council in procuring a contractor using their existing resources. This is not a budget implementation bill.

If the Committee wishes to pass S.B. 163, it should adopt Proposed Amendment 7102 as discussed at the hearing on May 15.

Senator Parks:

I supported this bill in the Senate Committee on Natural Resources hearing. However, I did have concern relative to the use of the funds. The bill states funds would be used, without limitation, to educate the public about hunting, fishing, trapping and taking of game. It seems that there is no prohibition in the bill to restrict funds specifically to those uses.

Several nonprofit organizations might take political positions that would be in opposition to the views of this Council. The nonprofit organizations might have concerns that the funds would not be used to mount a campaign. The nonprofit organizations would then be in opposition to either an individual or the entire Council.

Chair Kieckhefer:

With the introduction of [Exhibit F](#), several nonprofit groups have come together that were further apart when this bill was initially introduced. I am comfortable with the amendment as proposed to move forward with the legislation.

SENATOR GOICOECHEA MOVED TO AMEND AND DO PASS AS AMENDED S.B. 163 WITH PROPOSED AMENDMENT 7102.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Kieckhefer:

I will close the hearing on S.B. 163 and open the hearing on S.B. 460.

SENATE BILL 460 (1st Reprint): Revises provisions related to the statewide system of accountability for public schools. (BDR 34-1108)

Mr. Krmpotic:

Senate Bill 460 was heard on May 14. The bill makes various changes concerning the statewide system accountability for public schools. Specifically the bill required the State Board of Education to adopt regulations that prescribe an alternative performance framework to evaluate schools surveying certain at-risk populations.

Some schools will be included in the statewide system of accountability, which prescribes the eligibility criteria and application process for a public school to be rated using an alternative performance framework. This measure changes the automatic closure provisions for persistently underperforming charter schools to include those schools receiving the lowest possible annual rating for any 3- to 5-year period.

The bill was presented by Senator Becky Harris on May 14. I would note for the Committee that with respect to the fiscal impact on the Nevada Department of Education (NDE), following the actions taken by both the Senate Committee on Finance and Assembly Committee on Ways and Means, with respect to the NDE budgets, there was a decision unit and appropriation included for performance

framework in budget account 101-2716. That funding was approved by the money committees, which allows the NDE to implement this bill.

EDUCATION

K-12 EDUCATION

NDE - Data Systems Management — Budget Page K-12 EDUCATION-175
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Budget Account 101-2716

Testimony was provided by both the Clark County School District (CCSD) and the Washoe County School District (WCSD) regarding the fiscal impact from this bill to those districts. The WCSD testified that based on removal of section 5 and revisions to section 4, subsection 3, which is reflected in the first reprint, the fiscal impact is removed from the WCSD. There was a note of fiscal impact on the CCSD due to potential testing, pretesting and posttesting in relation to the bill.

The NDE has proposed a minor amendment to the bill. This calls for wording to be included in the bill that allows the NDE to implement funding that was approved by the money committees last Saturday pertaining to turnaround schools. The NDE has submitted "Proposed Amendment to Senate Bill 460 by the Department of Education" ([Exhibit G](#)). I will remind the Committee that the funding level approved was at \$2.5 million in each year of the biennium.

The wording proposed by the NDE simply states that this is proposed to be included in *Nevada Revised Statute* 385.3594, which is included in S.B. 460, but it includes a method to provide grant and other financial support within the limits of legislative appropriations, public schools receiving the lowest two ratings based on the statewide system of accountability.

If the Committee is interested in processing this amendment, it would allow the NDE to implement the funding included in the budget. The general intent would be to have a method to provide financial support to schools at the lowest ratings. The Committee should consider approving the amendment on that basis. Staff would work with the LCB's Legal Division staff to come up with the proper wording to be included in the amendment to the bill.

Dale Erquiaga (Superintendent of Public Instruction, Department of Education):

Your staff has indicated that they see it fit to appropriate \$2.5 million in each year of the upcoming biennium, contingent upon legislation allowing the NDE to provide support to underperforming schools. I have recommended to your staff the language Mr. Krmpotic has read to you. That existing statute already allows the NDE to provide consequences, rewards and supports. This budget sees it fit to put money behind the support of low-rated schools into the General Fund. We want to be sure we have legislative authorization to fund this initiative to help the most underperforming schools and to help assist the districts internally more often.

SENATOR ROBERSON MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 460 IN ITS FIRST REPRINT WITH THE ADDITIONAL AMENDMENT
PROPOSED BY THE NDE.

SENATOR SMITH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Kieckhefer:

I will close the hearing on S.B. 460 and open the hearing on S.B. 509.

SENATE BILL 509 (1st Reprint): Makes various changes to provisions governing charter schools. (BDR 34-1090)

Alex Haartz (Principal Deputy Fiscal Analyst):

Senate Bill 509 was heard by the Committee on Thursday, May 14. This bill addresses a number of revisions proposed by the State Public Charter School Authority (SPCSA). The bill revises provisions relating to the governance and staffing structure of the SPCSA and makes various revisions with regard to the operation of charter management organizations (CMO).

The bill authorizes the SPCSA to adopt regulations in several sections related to the application approval of former charter schools to enter into new agreements with school districts and higher education institutions related to charter school sponsorships. The bill revises procedures related to the application to form a charter school and authorizes applications to be submitted by a nonprofit CMO.

The bill also revises actions that may be taken when a charter school persistently underperforms. The provisions revised by this bill are in regards to the revocation or termination of a charter school's charter or written contract by a sponsor. This bill amends the provisions relating to the constitution of a charter school's board and the retention and/or termination of employees. Finally, the bill provides for the consolidation of charter schools and includes other provisions related to the authority, sponsorship and operation of charter schools.

Staff has one issue to bring to the Committee's attention. On page 12 of the bill's first reprint in section 15, subsection 3, line 31 there is language, which if approved, would make the employees of the SPCSA all unclassified. Staff would note for the Committee that the money committees closed the SPCSA budgets with just two positions unclassified. The two positions are the existing director and the new deputy director position that the Governor recommended. All the other positions are typically classified service positions such as accounting assistants, administrative assistants and a few MA-type positions.

Fiscal staff would also note, based upon the money committee's actions in approving the budgets, the draft pay bill has been prepared with the director and new deputy director positions and should be included in the Unclassified Pay Bill. For consistency purposes, Fiscal staff would recommend that this bill be amended to strike subsection 3 of section 15.

Chair Kieckhefer:

We noted during the hearing that the SPCSA had a fiscal note on the bill for implementation in an amount that can be covered through their reserves if need be through the IFC process. Is that accurate, Mr. Haartz?

Mr. Haartz:

Yes.

SENATOR ROBERSON MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 509 BY STRIKING SUBSECTION 3 OF SECTION 15.

SENATOR SMITH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Kieckhefer:

I will close the hearing on S.B. 509 and open the hearing on A.B. 467.

ASSEMBLY BILL 467 (1st Reprint): Makes a supplemental appropriation to the Department of Corrections for a shortfall resulting from a reduction in certain transfers for prison medical care. (BDR S-1235)

Mr. Krmpotic:

Assembly Bill 467 was heard yesterday. This is a supplemental appropriation to NDOC for the \$1,193,577 shortfall in the prison medical care budget due to unanticipated transfers from the Inmate Welfare Account and for medical expenses.

The Department presented information to the Committee yesterday regarding their concerns about payment of outside medical expenses and reimbursement under its preferred provider agreement. They also presented a change to the preferred provider agreement that may result in higher outside medical costs to be paid for inmates who are hospitalized. At this time, Fiscal staff would recommend that the supplemental appropriation be processed in its current form for \$1,193,577. Fiscal staff believes that the NDOC will require time to sort out the issues that were presented yesterday.

The Department suggested the possibility of coming back to the IFC at a later date, if needed, to address any additional shortfalls. That is not something that is looked kindly upon by the IFC, especially in the month of August when the fiscal year is closed and those expenses have already been incurred. In this particular case, we will allow time for the Department to sort out this issue and address its current situation. The supplemental amount is being provided to address cost incurred in FY 2015.

SENATOR ROBERSON MOVED TO DO PASS AS AMENDED A.B. 467.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Kieckhefer:

I also had a request by Senator Moises (Mo) Denis and Senator James A. Settlemeyer to rerefer S.B. 122 back to the Senate Committee on Commerce, Labor and Energy.

SENATE BILL 122: Revises provisions relating to recycling. (BDR 54-893)

SENATOR ROBERSON MOVED TO REREFER S.B. 122 BACK TO THE SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY WITHOUT RECOMMENDATION.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Kieckhefer:

Seeing no further business before this Committee, this meeting is adjourned at 10:17 a.m.

RESPECTFULLY SUBMITTED:

Jason Gortari,
Committee Secretary

APPROVED BY:

Senator Ben Kieckhefer, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	3		Attendance Roster
S.B. 325	C	3	Mark A. Hutchison, Lieutenant Governor	Mock Up Proposed Amendment 7561 To Senate Bill No. 325 First Reprint
S.B. 454	D	7	Ben Graham/Administrative Office of the Courts	SB 454 Proposed Amendment Submitted By Ben Graham
S.B. 454	E	3	Jude Hurin/Department of Motor Vehicles	SB 454 DMV Amendment Proposal
S.B. 163	F	8	Jeff A. Ferguson/Legislative Counsel Bureau, Fiscal Analysis Division	Mock up Proposed Amendment 7102 to Senate Bill No 163 First Reprint
S.B. 460	G	1	Mark Krmpotic/Legislative Counsel Bureau, Fiscal Analysis Division	Proposed Amendment to Senate Bill 460 by the Department of Education