

**MINUTES OF THE JOINT MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS
AND THE
SENATE COMMITTEE ON FINANCE**

**Eighty-First Session
May 24, 2021**

The joint meeting of the Assembly Committee on Ways and Means and the Senate Committee on Finance was called to order by Chair Maggie Carlton at 8:17 a.m. on Monday, May 24, 2021, Online and in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/81st2021.

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Assemblywoman Maggie Carlton, Chair
Assemblywoman Daniele Monroe-Moreno, Vice Chair
Assemblywoman Teresa Benitez-Thompson
Assemblyman Jason Frierson
Assemblywoman Michelle Gorelow
Assemblyman Gregory T. Hafen II
Assemblywoman Sandra Jauregui
Assemblyman Glen Leavitt
Assemblywoman Brittney Miller
Assemblywoman Sarah Peters
Assemblyman Tom Roberts
Assemblywoman Robin L. Titus
Assemblywoman Jill Tolles
Assemblyman Howard Watts

SENATE COMMITTEE MEMBERS PRESENT:

Senator Chris Brooks, Chair
Senator Moises (Mo) Denis, Vice Chair
Senator Nicole J. Cannizzaro
Senator Marilyn Dondero Loop
Senator Pete Goicoechea
Senator Scott Hammond
Senator Ben Kieckhefer
Senator Julia Ratti
Senator Heidi Seevers Gansert



COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Steve Yeager, Assembly District No. 9

STAFF MEMBERS PRESENT:

Sarah Coffman, Assembly Fiscal Analyst
Wayne Thorley, Senate Fiscal Analyst
Brody Leiser, Principal Deputy Fiscal Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Adam Drost, Senior Program Analyst
Julie Waller, Senior Program Analyst
Jaimarie Mangoba, Program Analyst
Mary O'Hair, Committee Manager
Adam Cates, Committee Secretary
Bet Torres, Committee Assistant

OTHERS PRESENT:

Elisa Cafferata, Director, Department of Employment, Training and Rehabilitation
Marilyn Delmont, Administrator, Information Development and Processing Division,
Department of Employment, Training and Rehabilitation
Annette Magnus, Executive Director, Battle Born Progress
David Dazlich, Director, Government Affairs, Vegas Chamber
Doralee Martinez, Private Citizen, Reno, Nevada
Michael Brown, Executive Director, Governor's Office of Economic Development,
Office of the Governor
Zach Conine, State Treasurer, Office of the Treasurer
Barbara Buckley, Executive Director, Legal Aid Center of Southern Nevada
Jim Berchtold, Directing Attorney, Consumer Rights Project, Legal Aid Center of
Southern Nevada
Bailey Bortolin, representing Nevada Coalition of Legal Service Providers
Kevin Schiller, Assistant County Manager, Clark County
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada
Holly Welborn, Policy Director, American Civil Liberties Union of Nevada
Benjamin Challinor, Policy Director, Faith Action in Nevada
Tessyn Opferman, representing Nevada Women's Lobby
Joanna Jacob, representing Clark County
Chris Daly, Private Citizen, Las Vegas, Nevada, and representing the Nevada State
Education Association

Emily Paulsen, Executive Director, Nevada Homeless Alliance
Quentin Savvoir, Deputy Director, Make It Work Nevada
LaLo Montoya, Political Director, Make the Road Nevada
Shane Piccinini, Government Relations, Food Bank of Northern Nevada
Maria Nieto Orta, representing Mi Familia Vota
James Sullivan, representing the Culinary Workers Union, Local 226
Audra Hamernik, President and Chief Executive Officer, Nevada HAND
Erika Castro, representing the Nevada Immigrant Coalition
Rocky Finseth, representing Nevada REALTORS
Tiffany Banks, General Counsel, Nevada REALTORS
Brad Spires, President, Nevada REALTORS
Vandana Bhalla, Private Citizen, Las Vegas, Nevada
Molly Hamrick, Private Citizen, Las Vegas, Nevada
Susy Vasquez, Executive Director, Nevada State Apartment Association
Roberta Ohlinger-Johnson, Legislative Chair, Creditor's Rights Attorney Association of Nevada
Joshua Campa, Chapter President, Southern Nevada Chapter, National Association of Residential Property Managers
Kent Ervin, representing Nevada Faculty Alliance
Sarah Adler, representing Charter School Association of Nevada
Douglas Unger, representing Nevada Faculty Alliance

Chair Carlton:

[Roll was taken, and protocol was discussed.] We have two bills today. The first is Assembly Bill 484.

Assembly Bill 484: Requires the disbursement of certain federal money in certain circumstances to the Employment Security Division of the Department of Employment, Training and Rehabilitation for the upgrade of its unemployment compensation information system. (BDR S-1162)

Assemblyman Jason Frierson, Assembly District No. 8:

I am here to present Assembly Bill 484 which, in its simplest terms, will earmark \$54 million in federal relief from the American Rescue Plan to update the information systems of the Department of Employment, Training and Rehabilitation (DETR). I know many of us are no strangers to the countless phone calls and emails we received from constituents begging for help with their unemployment insurance claims. We all assisted the best we could, but the volume of need overwhelmed our antiquated unemployment system. Nevada was not alone in these struggles. Across the country, states' unemployment systems were crashing with the vast uptick of new claims.

Before COVID-19, Nevada's economy was thriving. According to data from DETR, at the end of 2019, Nevada saw an average of 10,000 unemployment insurance claims per year.

That is the smallest yearly average since 1999. In February 2020, Nevada's unemployment rate was just 3.7 percent; however, by April the COVID-19 pandemic forced us all to stay inside to save the lives of our fellow Nevadans. Unemployment across the country peaked at 14.8 percent. Unfortunately, in Nevada we were hit disproportionately hard, and our unemployment rate reached 29.5 percent. We went from an average of 10,000 yearly unemployment insurance claims to more than 271,000 unemployment insurance claims by April 2020.

We are all aware that our technology is significantly outdated. With limited budgets and many needs, it sometimes comes down to updating technology or providing more critical services to Nevadans in need. We hired additional staff, called upon our retirees, and used every available resource to help Nevadans through this crisis; however, the reality is that despite the extra help, our outdated technology systems left us fighting a fight without equipment that could keep up with our needs.

While A.B. 484 cannot rewrite the past, it can put our state on a path forward to a much needed 21st Century technology upgrade that will help Nevada weather a future tragedy. I am confident that allocating this future federal aid to DETR will be a worthwhile investment. That concludes my remarks, and I am happy to take any questions.

Chair Carlton:

Committee members, are there any questions at this time? [There were none.] We will now go to Ms. Cafferata and the team from DETR.

Elisa Cafferata, Director, Department of Employment, Training and Rehabilitation:

I am joined by the DETR team of Christopher Sewell [Assistant to the Director, Administrative Services Division], Jennifer Casselman [Deputy Director, Administrative Services Division], Jeff Frischmann [consultant], Troy Jordan [Senior Attorney, Employment Security Division], Nancy St. Clair [Deputy Administrator, Employment Security Division], Marilyn Delmont [Administrator, Administrative Services Division], and Lynda Parven [Administrator, Employment Security Division].

We are grateful to the Governor and the Legislature for their leadership and for prioritizing support and assistance for DETR, particularly modernizing this system. As Speaker Frierson eloquently summarized, you are well aware of the needs that brought us to this point. I want to provide some information about the collaborations and work we have been doing that brought us to this point, and what we anticipate moving forward. We want to give a shout out to former Speaker, Barbara Buckley, and the members of the Governor's Rapid Response Strike Force. They volunteered their time and energy, mapping out the challenges that we faced as well as some of the strategies for moving forward. They certainly jumped into the deep end on the technical aspects of our work, and their report provides a compelling case for why we need to modernize this system.

Assembly Bill 484 would provide use of eligible federal dollars to modernize our system in the future so that we can serve Nevadans during good times, which we hope to see soon, and bad—even the very bad that we saw during the pandemic and that no one could have anticipated. We want to stress that the Department would utilize these funds on both immediate system stabilization projects that are high-impact, and also those that would feed into the larger modernization project. I want to reassure you that we are doing our due diligence on the analysis of what is needed.

Early on in the pandemic, DETR signed a contract with the National Association of State Workforce Agencies (NASWA). They have an information technology (IT) support center that did an assessment of our computer system to determine the best path forward. They addressed whether it would make more sense to keep the existing system that we have and provide fixes, or to develop an entirely new system. The NASWA is in a unique position to evaluate this because they are made up of the workforce agencies from all of the states. They have insight into all of the systems that are active in the country and all of the challenges that were faced.

Their analysis of our current system is that even though it is a fairly modernized system, it is burdened with costly and underutilized third-party products. It is very difficult to fix or update because the software is complex and inflexible due to being so dated. The DETR team has had to put in hundreds of programming hours building workarounds to keep the system working. The early 2000s vintage code will further decay over time, increasing our challenges.

The NASWA report included several recommendations that we will be able to implement with the passage of this bill, the first being that we make immediate improvements that will have a high return on investment. The Department has steadily been making progress on several of these recommendations, with more that would be implemented with the passage of A.B. 484. We also will continue to develop the highly skilled programming developers and database administrators that we will need for a modernized unemployment insurance (UI) system, and work to make sure sufficient funding and project management are in place to see these projects through to completion.

Ultimately, NASWA recommended that DETR implement a brand-new system. The estimate they provided has been circulating during this session. To refresh your memory, the range we are seeing in the market today for the vendor development costs is between \$20 million and \$30 million. Support for staffing and consultants to do the needed programming are in the range of \$10 million to \$12.5 million. The annual operating costs are between \$3 million to \$5 million, and it is fairly typical to include a 10 to 15 percent project management fee which will be \$3.3 million to \$7.125 million. This brings the estimated total for a modernized system to a range of \$36.3 million to \$54.6 million.

The benefits that Nevada can expect to see from a new UI system are quite apparent, specifically when realizing the significant benefits from leveraging modernized technology.

Cloud technology provides significant scale, security, and cost advantages. We will not be in the situation we are now where third-party products are no longer updated or supported through technology support. The future of the cloud system would also mean that DETR could run and update these systems with lower costs and will less often have a need for outside contract resources. The cloud would also allow for much more rapid implantation of emergency programs, such as the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the federal Lost Wages Assistance program. A modernized system could be designed, taking advantage of the lessons that we have learned during the pandemic, to improve compliance with Department of Labor requirements and provide a better service to our claimants. Specifically, we can improve the user experience, which certainly has a long way to go. We can automate processes in the decision-making chain where possible, use chatbot or virtual assistants to answer frequently asked questions, and incorporate fraud prevention and detection tools as we go along.

To immediately improve the system, the Department is in the process of using technology tools to speed up our processing. We have been working to do that, and this bill will allow us to continue to make significant improvements that have a high impact for Nevadans who need these systems. An example includes using code review tools that provide improvements in software efficiency. These tools allow us to find and eliminate performance bottlenecks, fix code inefficiencies, and automate testing. Another example is the virtual attendant, or chatbot, that would give claimants access to information and answer the most frequently asked questions around the clock. This is an adaptable tool that DETR could update in real time as changes are made to programs and policies. We also see a need to continue to invest in immediate fraud solutions so that we can pay eligible claimants more quickly.

We want to let you know what we are doing now to ensure that we can successfully modernize our system as rapidly as possible. The Department's IT governance team, which includes our IT team as well as our business and program staff, have been working to create and develop strategic, phased project plans in anticipation of funding availability. These plans will rely on the expertise of both our team and NASWA so that we can move the project forward as expeditiously as possible. We are also coordinating with the Department of Enterprise Information Technology Services (EITS) to complete the appropriate technology investment notification form. This is the form you need to fill out and the review you need to have when you are moving forward with new technology. We are relying on their expertise to help us with this system.

We understand that the Governor and the Legislature have an interest in ensuring that this modernization project, and all these recommendations that we have in the interim, remain on schedule and on budget. We will schedule regular updates for the Office of the Governor and the Legislature as we go along. We want to thank Governor Sisolak, Barbara Buckley, and the Rapid Response Strike Force for making sure we are well equipped to begin this project as soon as funding is available. The Department's modernization proposal is a result of a comprehensive analysis of our current system and options for moving forward. We have

already taken steps to stabilize and speed up the system in the short term, and we are working to move quickly through the state's purchasing process, with expert support, to award the contract and begin the work. We are happy to answer any questions that you have.

Chair Carlton:

That was very helpful, and you have probably answered a half dozen of my questions just in your testimony. You broke down the components of where you are going including vendor development for \$20 million to \$30 million, support staff for \$10 million to \$12 million, and annual operating costs of \$3 million to \$5 million. I would like to ask about the 10 to 15 percent for project management. I am not familiar with how that term applies, so could you walk through it to give us a better understanding of what project management really means?

Elisa Cafferata:

I can speak to this a little more putting on my welfare hat, and I can also throw it to our IT people. When I was at the Division of Welfare and Supportive Services, we were working on the NVKIDS Project. We had a project management firm that worked with the agency, as well as the computer development team. The project management firm kept everything on track in terms of schedule and budget. They held regular meetings and made sure all decisions were elevated to the right level in the organization. As you move through the cycle of the project, this can look a little bit different in each phase, but really this is an outside team that has expertise in running the implementation of large technology projects, which might not be an expertise we have on our DETR team, to help keep us on track. You bring in these resources as consultants to fill the need in the immediate moment, but they are not on the DETR staff. Dr. Delmont, do you have anything else you would like to add to that explanation?

**Marilyn Delmont, Administrator, Information Development and Processing Division,
Department of Employment, Training and Rehabilitation:**

When you embark upon these large, complex implementations, there is a lot of coordination and communication, and there are many moving parts. Using a structured project management methodology becomes critical in moving a project forward and making sure the right people are at the table to ensure the implementation moves forward. There are so many different moving parts when implementing a system, such as a new UI system, so it becomes crucial that a project management group is available and ushering us through the entire process, from beginning to end, to ensure the project moves along successfully and is delivered within budget and on time.

Chair Carlton:

Committee members, are there other questions at this time?

Assemblywoman Gorelow:

Could you elaborate on what the timeline is for the project and when you feel it will be complete, and then, also elaborate on what the immediate and long-term changes will be that you are targeting?

Elisa Cafferata:

The timeline is fluid because we need to develop a request for proposals (RFP) for the modernization. The timeline would be flushed out based on the business requirements. We will work with our IT governance team to add some details around the phased implementation. As I said before, where we do have the funds, we have been implementing and working to stabilize the system and increase the security and speed of the system. That work will continue because there are certain tools that we have not yet had the funding for. We are also in the process of adding new tools to address fraud, and there are more that could be added with this funding. It has been an ongoing process. It will continue with high-impact projects in the short term, and then, we will develop the business requirements and the RFP with the assistance of our IT governance team and NASWA. That will give us a lot more detail on the timeline based on the business requirements we need to put in place for the modernization.

Senator Denis:

You have created a wish list at this point. Where did all of those requirements come from? Were they developed in-house or did you use a consultant to help you?

Elisa Cafferata:

Those requirements came from a combination of recommendations, first from our team—tools that would help with stabilization, security, improved speeds, and fraud prevention—and then, we did have the analysis done by NASWA. They helped us add more detail and intermediate steps we can take to improve those items, as well as the recommendation that we modernize the system.

Senator Denis:

As you develop the actual RFP, you are going to have additional things that you run into, things that you do not realize you need now, but as you go through the process you will need additional things. Is that accurate?

Elisa Cafferata:

Yes, the RFP building process is designed to identify all of the business requirements that are needed for the system. That flushes out what is needed in quite a bit of detail.

Senator Denis:

You talked about the system being cloud-based. Do you anticipate that it will be an off-the-shelf type of system that has already been developed and that other states are using, or will this be a custom set-up?

Elisa Cafferata:

The recommendation from NASWA is that we go through a competitive process. We will develop the RFP with the business requirements, and then go out to bid. I could envision a couple scenarios. One is that there are proposals that are off-the-shelf, and another is that they are customized. The advantage of working with NASWA is that they are involved with all of the states in the country. They have been involved in modernization projects in all the states, so they are up-to-date on all the projects that are currently underway. They can give us incredible insights into the most successful strategies for moving forward. Dr. Delmont, do you have any specific additions to that?

Marilyn Delmont:

The NASWA has been involved in the modernization of 20 states, and most recently with 13 states in the cloud-based technology, where they have seen huge benefits and returns on investment. During the pandemic, the states that they were involved in with cloud-based systems fared much better than hybrid states and states that are fairly modernized as far as rolling out new programs for the CARES Act—faster processing, and those types of things.

Senator Denis:

Do you anticipate that you will need to do a system upgrade in addition to the software upgrades, and will you need to add staff or change their expertise to be able to support the new system?

Marilyn Delmont:

The benefit of a cloud-based system is that it is hosted by a vendor, and the vendor does the programming. Of course, they would coordinate with DETR and IT staff. They also maintain the system as far as making sure the system has the packs needed on a regular basis and system maintenance. They also provide the highly skilled development staff that is needed for programming. There will probably be some staff duties; however, there are certain auxiliary-type systems that we have to take into account as well that may not be available through the cloud-based vendor.

Assemblywoman Tolles:

This question may be as much for our Committee as DETR, but through the RFP process and the phased implementation process, what kind of reporting will there be to the Legislative body and to the Interim Finance Committee (IFC)? I know we are making a decision on just an initial allocation of the \$54 million out of federal funds that are anticipated, but those numbers could change depending upon the RFP process; less, if we find a more competitive bid, or possibly more. Could you walk us through that?

Elisa Cafferata:

I believe the simple answer is that this is an appropriation. Just as we would with any other money that is not in our budget, we will be developing work programs and coming to the IFC to bring the money into our budget and attach a work program to it, so you will be seeing the details of exactly how the money will be spent as we go along. Then, for most of the

contracts that we anticipate under this modernization project, we would go to the Board of Examiners to get them approved, if not also the IFC, so there are all of those regular steps of approval. Certainly, we would be happy to provide updates to any relevant interim committees because we understand the interest in this project, and we want to keep you all informed and in the loop.

Chair Carlton:

The only caveat I would add to that is this is not an appropriation. It is an authorization. It goes into the Authorizations Act, so you will not find it in the Appropriations Act. We are authorizing them to use federal dollars, but it will still come back to the IFC for work program approval. At any time, the IFC can also ask for reports and updates in between those time periods to find out where they actually are in the process, and moving forward, can ask them which components they will be addressing first and what they will be doing second. There will definitely be oversight.

Assemblywoman Tolles:

That was my question—if we allocate it, what happens if we do not use it all and it has to come back, or will we have to come back and allocate more? The authorization makes sense, so I appreciate the clarification.

Chair Carlton:

The technicality is that these are federal dollars and are not going to run through the State General Fund system. We are authorizing DETR to pull these funds down and use them while reporting back to us. It is a small difference there, but a big difference in how you address it.

Assemblywoman Miller:

The presentation gave us a great legislative overview of the process and the next steps; however, my question comes down to the direct impact on Nevadans. What I am not hearing in this discussion are actual benchmarks and dates that we can measure success on. We all know what Nevadans—our people—are going through right now, so how is this going to impact them? When will this project be finished? Once it is finished, what can Nevadans expect at that point? From the time that a person first applies for benefits until they receive their benefits, what will that window look like? At this point, we are still in very desperate times, and we are still getting phone calls every day while we are here in Carson City from our constituents who are struggling and not receiving their benefits. What does this actually look like for the everyday person in our state? When can they expect to see the benefits of this project and how it will impact them directly?

Elisa Cafferata:

The DETR team has been working diligently, along with the support of the Governor, the Legislature, and the Rapid Response Strike Force, to provide these answers to Nevadans during the pandemic. When I started, the backlog for claims that needed to be processed was in the hundreds of thousands. Because of all the measures we have implemented thus far, the

backlog of unemployment insurance claims is now in the tens of thousands. Those are the more complicated cases that, for due process reasons, require us to get in touch with both the employer and the former employee.

Today, the backlog in pandemic unemployment assistance (PUA) has been completely cleared out, and we are current on PUA cases. The guidance from the federal Department of Labor is that from application to benefits, we need to process about 95 percent of the cases within 21 days. We are current on those. The people who are in the process are getting processed within that recommended timeline. We have been getting these results for Nevadans all along, and they do not have to wait until the end of the modernization. There certainly are places where we still have backlog and where we are redeploying our staff. This gives me chance to give a shout out to those in the Division of Welfare and Supportive Services who are working overtime with us and have processed over 100,000 PUA claims. We have been digging in and getting through the backlog. We eliminated that in several places, but there is more to go.

There are a couple of important things that Nevadans will get out of a modernized system when we ultimately get there. First, we know that every ten years or so there is an economic disaster or crisis. Before this crisis, we were at our lowest staffing levels and with the fewest updates to our technology. The idea of a modernized system is that you are not behind when you need to staff up, change your system, and implement new programs in response to an emergency. A modernized system will allow us to scale up quickly in a disaster. As you have seen, we have had several new programs created by Congress that we had to implement in very short order, such as the PUA program, the extended benefits, the lost wages program, and the additional \$300 or \$600 per week. Those programs not only were created, but they were updated several times. We have had to implement, in short order, a lot of new programs. As Dr. Delmont said, a modernized system will allow us to do that more quickly. The states with systems in the cloud were able to update their systems more quickly. We think that what Nevadans get in the future is a more future-proof disaster response program—one that is able to handle the ups and downs of unemployment, given the constraints of the way our administration is funded and the way unemployment is a counter-cyclical program.

Assemblywoman Miller:

I appreciate hearing the recommendation from the federal government that it should be 21 days from application to benefit. That gives the state a standard to shoot for. Again, when can we expect the modernization of this system to be complete?

Elisa Cafferata:

I know it sounds like I am not giving a straightforward answer. The reason is that we have to do the RFP and create the business requirements for what is needed in the system. Then we can tell you how long it will take to implement it. As Chair Carlton has explained, this is an authorization. We cannot draw this money down until we tell you how we are going to spend it. At that point, we will be able to give you a timeline.

Chair Carlton:

To add the extra caveat, we do not have the money yet. It is hard to tell how long it is going to take, but we do know there is an end date on the money, so we know where the backend is going to be. We just do not know when the money is going to be made available, so it is difficult to come up with the plan. Everyone is working hard to ensure that as soon as those funds arrive, we can start moving them through the system, but we do not know when they will actually come across the state borders for us to be able to spend them. It is a difficult question to ask, but we do know the end date for when we need to finish our work. Those funds are only good for a period of time.

Assemblywoman Titus:

I appreciate the conversation and what we are attempting to do, which, as Assemblywoman Miller brought forward, is to help our constituents and those who are suffering from this pandemic. I understand all of that, but I am not hearing answers to the questions that have been asked. The first line of this bill says "if." We are assured that this is going to be a given, but we do not know when, so we are looking to the future so that if we get this money, it can be placed. This is where my question lies. It is an authorization, so when we get these funds, will they be placed in an account in the DETR system? Then, can they not spend any of it until they come to us? Can you explain the process there?

Chair Carlton:

I will ask staff to weigh in.

Sarah Coffman, Assembly Fiscal Analyst:

The \$2.7 billion will be reported in the Authorizations Act. When the money comes as a result, that will be directly deposited into budget account 1327, which is what was formerly the CARES Act budget but will now be considered the Federal Recovery Account. When DETR submits a work program to request an allocation of this money, there will be a work program that transfers money from budget account 1327 to DETR's account. There could be stepping stones. For example, DETR wishes to do the RFP which may cost a certain amount of the \$54 million. They can present a work program, and there could be various iterations of spending up to this \$54 million.

Assemblywoman Titus:

For clarification, in our General Fund we have restricted funds and unrestricted funds. Is that going to be the same in budget account 1327? Will there be restricted funds? If we pass this bill, are we restricting \$54 million of that fund?

Sarah Coffman:

That is correct. This action says that of the \$2.7 billion amount, \$54 million will be allocated for this bill. Moving forward, if the system is completed and it does not need the total \$54 million, the leftover funds can be used for other purposes up to the December 31, 2024 deadline for when the American Recovery Act funds must be spent.

Assemblywoman Titus:

In your testimony, you mentioned a grand view of the breakdown of these funds, including \$20 million going to the development of this system, and \$10 million to \$12 million that would be allocated to support staff. At this point in time, these are federal funds that are coming in, but I always worry about how we are spending the federal funds and then falling off the cliff when suddenly the federal funds are done by 2024. After we have spent \$10 million to \$12 million in federal funds on support staff, are you anticipating that then the state will have to pick up the \$10 million to \$12 million per year for continued support staff?

Elisa Cafferata:

This high-level budget is from the National Association of State Workforce Agencies (NASWA). This is the approach and a ballpark set of figures that they are giving us based on what other states have done. It is my understanding that there are staff needed at DETR and consulting staff that will be brought in to help with the costs that are specifically related to developing and implementing the system. There is a need for additional computer programmers to work to integrate the data systems that we have with other data systems. When we talk about support and staffing, this is specifically for the one-time costs that are needed to support the system. The annual ongoing maintenance costs of \$3 million to \$5 million is in the ballpark of what we are spending now on an annual basis, and possibly a little lower. We do recommend going to a cloud-based system because there are certain things the cloud providers do that our staff would not need to do any longer, so we think the ongoing staffing costs would be consistent or less than what we are currently spending.

Senator Dondero Loop:

I know we have had a ton of fraud through the system. How does this compare to other states? If we have this new system, will it reduce fraud to zero percent, or 10 percent, or do we even have an idea?

Elisa Cafferata:

Historically, the rates of fraud in unemployment systems have been between 3 percent and 10 percent. We all know that the fraud we have seen in some of the created pandemic responses has been much higher than that, but the standard we have seen around the country historically is 3 to 10 percent. We have implemented several fraud-protection measures thus far. The ID.me requirement that Congress put in place is going to be in place for both of our systems. That has significantly reduced applications so far. Every time we implement a security or fraud update, the imposters figure out a way around it, so that is something we will continually need to update. The advantage of being in a cloud system is that it is easier to update the system and respond to ongoing issues, but I do believe the fraud level we saw before the pandemic will continue.

Senator Dondero Loop:

I know that inhibited your ability to respond to people, but I certainly see all that you and your team have done.

Senator Ratti:

I want to express my gratitude to the team at DETR for taking those numbers from the hundreds of thousands down to the tens of thousands. Most importantly, I want to acknowledge the Speaker and Majority Leader for bringing us here today and making sure that we do not shut down this session without making a very clear statement about our number one priority. I want the clearest thing to come from this hearing to be that working to fix the DETR system is at the top of the list, our number one priority as a Legislature, and that fix is not going to be with band-aids and baling wire. It is going to be a full, deep-dive implementation of a modern system that will serve this state for years moving forward. While I appreciate all the questions and frustrations with where we have been, I see this as a bright day moving forward so that Nevadans get the support they need in the best of times and the worst of times. To the Speaker, Majority Leader, and Governor, whom I am sure is going to sign this one, thank you.

Chair Carlton:

We went through the last economic downturn and saw what DETR had to go through by taking out the loans, spreading it across the payer base, and everything else that was involved. We finally got ourselves out of that downturn right as this one hit. We have always had conversations about updating the system, but when the state had such huge needs—education, mental health, public safety—and the unemployment rate was at 3 percent, we had to weigh all those factors when making those decisions. The best way to fix DETR is to put people back to work. Once people get back to work, it will make it easier to solve some of these problems. I think there is a bill out there somewhere about that. Getting everyone back to work would be a really good thing to do.

Assemblyman Roberts:

You came up with a decent breakdown on what the money will be allocated for, and I understand you are about to go into an RFP process. I know you cannot pin down a time frame, but what is your goal for the RFP? Are we just going to build a system and it will take as long as it takes, or do you have a wishful time frame or range for implementation?

Elisa Cafferata:

Because this money is time limited, we are aware of the pressing need to move expeditiously. We have asked NASWA, whose estimate was 2.5 to 3.5 years, but there have been recent implementations of cloud systems that were in the 18 months to 2.5-year range. We understand the limitations. There are ways to build the system in modules, so we are going to take all of that information and put it together to give you once we do the RFP and come up with the best plan to put together the most robust system within the time that the money is available.

Assemblyman Roberts:

That brings into focus what you are aiming for. Obviously, we do need to upgrade the system, and we need it for the future. Whatever we can do to help, we are here.

Senator Hammond:

I want to echo the sentiments from my colleague, Senator Ratti. This is definitely one of those issues that crosses party lines, and we understand the need for getting this done. Many of our constituents have been calling, even during session. I know we are fielding two to five phone calls per week, and your office has been great when it comes to sending over requests and getting things done. It is definitely one of those issues we think is priority number one, which is why we put Senate Bill 419 together with some of the same requests that are in here.

The report from the Special Master, as well as former Assemblywoman Barbara Buckley, pointed out that there were some things that needed to be addressed, and that I noticed are not in Assembly Bill 484. Fraud is one of those that should be talked about, and so far, we have talked about the high-level fraud during the pandemic. Although we have a good system now when it comes to ensuring people are getting their money, one of the things that could have been done, and that we added into Senate Bill 419, was the first payment being processed through a check. That way you have the state looking at and verifying the recipient, but also a financial institution looking at and verifying that the person is who they say they are. Is there still the ability to do that? There are things we put in S.B. 419 that we thought you needed to have legislation for, but perhaps there is another method of doing that. Can you implement some of those suggestions we put in there without a bill?

Elisa Cafferata:

We have reported to various legislative committees that we have reviewed the recommendations of the Special Master, as well as the recommendations from the Rapid Response Strike Force report, and we are moving forward with implementing those that we can implement now. Several have been completely put in place. Others require either funding or are waiting on Senate Bill 75, which has small technical corrections that we need in our statute.

Elisa Cafferata:

To the question about paying by check, as you may or may not know, at the beginning of the pandemic we had as many as 500,000 initial applications for claims within the first couple months. Early on in the pandemic, we did talk to the Office of the Treasurer and the Office of the Controller about issuing checks. They let us know that they would need to buy as many as five new check printing machines because these benefits come out every week. Also, we would have to buy check stock, literally the paper to print the checks on, and hire an additional dozen people to work in the mail rooms. It was not a practical solution for the initial claims.

We are required by law to have more than one payment methodology, so checks are available in special cases for people who do not have bank accounts, but it is very labor intensive. It is the exception and not the rule, but as a part of the ongoing work, we certainly are looking at other ways we can pay claimants going forward. The world of banking and nonbanking individuals is changing. Part of our intermediate and long-term solutions will be alternative payment methods, but those are methodologies we will get to as we can develop them moving forward.

Senator Hammond:

If I understood correctly, what you are saying is that during the beginning of the pandemic, just ramping up to service and getting checks out would have required the purchasing of equipment and additional man hours at a substantial cost. I would love to know if you have broken that down and how much that would have cost. Over the time that we were issuing these payments and sending out money through DETR during the Special Session, we were talking about 50 percent of the money going out to fraudulent claims. It was somewhere between \$3 billion to \$5 billion. Would we have saved money by having an alternative form of payment through issuing checks?

Elisa Cafferata:

I do not know that we have done an analysis of what the ongoing costs of doing checks would be versus the fraud that went out. We can go back and look at the information we have, but I think overall, Nevada was like all the other states—completely overwhelmed by the volume of claims, and on top of that, the volume of fraud. We were all working as quickly as we could to implement fraud protection measures.

I am proud of the work DETR did. I alluded to this in the opening comments, but we were able to keep our system up and online. Several states took their systems down for weeks at a time to try to get a handle on the challenges they were facing. We certainly can provide you with what we know about this fraud and the costs when we debrief the whole pandemic, but I think we did the best we could with the tools at hand. The team did an excellent job. The fraud work will be ongoing for several years. We know the Secret Service and the Office of the Inspector General, U.S. Department of Labor, have ongoing investigations. I think you will continue to hear about those investigations and prosecutions for many years to come.

Senator Hammond:

Your staff is to be complimented for the work they did, especially under dire circumstances. I think we are all looking forward to seeing a system much improved in the next couple years, and one we can rely on in case something like this happens again. I am just looking at some of the solutions and making sure that we learn lessons by looking back, and that is why I want to go back and look at the fraud that happened. To Nevadans that was a lot of money going out, so I think we need to look at what we can learn from that and move forward. That is why I wanted to ask that question. I appreciate the answer and look forward to working with you in the future.

Chair Carlton:

In my experience, and I have encountered this a number of times in this building, you can have a \$5 million problem that you need to solve, but it is going to cost you over \$8 million to implement the solution by doing it through a refund or by check. We have seen instances where money has gone back out, but they have never ended up where they needed to be. Certain groups benefitted more than other groups did, and it actually costs more money in the long run by issuing checks. I have had to deal with sending out checks to people, having them be washed and used multiple times, and then had to work with law enforcement to ensure that particular fraud does not happen. I think we need to weigh all those components as we move forward.

Senator Seevers Gansert:

I want to thank DETR, former Speaker Buckley, and Ms. Cafferata for the work they have done to clear the backlog and the fraud. I also want to put a little perspective on the timeline. The state was shut down on March 17, 2020. Around April 9th, we added people to the call center, so we started the band-aid process as we went along to deal with the people. In July 2020, we recognized that we had at least \$2 billion, some of which was already spent, so we had a lot of federal money come in. We made choices with the federal dollars. In August 2020, we passed Senate Bill 3 of the 32nd Special Session which led to getting all of this turned around. In the ten months since, we have had choices to make on whether we want to get a new system using State General Fund or federal dollars, which we had a lot of. Now, the way this bill is written, we are going to be waiting to make sure we have these federal dollars to work on this system. I think we need to have a backup plan.

Whether or not we have the federal funds, this needs to be done. It needed to be done sooner, and we have asked for a timeline repeatedly. We do not have a timeline, in part, because we are waiting for federal funds. In my mind, we have General Funds available and we have had both General Funds and federal funds available. We need to have an alternative and not wait to secure these federal dollars. We should be acting now and assuming that we will need to use the State General Fund if we cannot use the federal dollars. We can switch sources as needed because this is a lengthy process.

Now it is May 2021, we are in an RFP process to put this together, and we have seen other states do it rapidly. I appreciate the band-aids along the way and the work you have done on getting the fraud under control. We have many Nevadans back to work now which has taken some pressure off the system. We should have ways to cover the \$54 million sooner rather than later to get this done and get us on track. Do you have an alternative funding plan just in case, and can you start now instead of waiting?

Elisa Cafferata:

I would reiterate that we have been implementing a variety of both staffing and technology measures as we have gone along. As you say, there have been infusions of funds from the federal government, so we have put in place several technology improvements to address the fraud, and to improve the processing speed and security of our system which allow it to

handle the larger scale of applications we have been processing. We do have several intermediate steps that can be funded if and when the money becomes available. We have been working with the Office of the Governor and the Legislature to identify those steps and prioritize them. We can pull that plan of intermediate steps out so that you can see it.

As far as the backup plan, the first step in the process is to develop the RFP, which outlines the business and program requirements of a modernized system. At that point, I believe we can have the conversation with the Governor's Office and the Legislature about the best funding sources and the most expeditious timeline. As Chair Carlton pointed out, this is an authorization, but once we have that RFP and the requirements, we can come to you with a work program and discuss the funding sources that would make the most sense to move this as quickly as possible. These RFPs are fairly complex, with 400 to 1,000 business requirements that have to be identified. Building the RFP itself will take a couple months. We will be in communication with you as we go along. We can discuss alternative options for moving forward where it makes sense and when we have a clear idea about where we are going with the modernization. I would reiterate that we have been making improvements and have several other intermediate steps we can take, so we will be looking forward to working with you to implement all of these ideas as we go.

Senator Seevers Gansert:

Since we have known that we have an issue for at least a year, I am hopeful that you can get that RFP turned around by recognizing the issues that we have had, the work of a variety of people, and even the information from the courts. The state has waited a long time, and we need to get it done. There are a lot of people who have not been able to get their checks, and with all the fraud, looking at the new system needs to be done immediately. We have waited many months to get here.

Chair Carlton:

It is important to reiterate that we had a crisis in this state. People needed money to be able to feed their families and stay housed in the midst of a pandemic. I congratulate DETR for not bringing the system down and for keeping it running. I would not call their work band-aids. I think they worked hard to find solutions to every problem in front of them to smooth the system out. I do not believe any system could have withstood the stress that this system took in a matter of 15 days. When you shut down the economic engine of a state on one street and you are literally putting ten manufacturing plants out of work in one day, I do not think any system could have withstood that. I am very pleased and glad that Ms. Cafferata and those who were there decided not to bring the system down. I think a lot more harm could have been done. Just trying to survive through those two to three months to make sure people were taken care of was very important.

With that, I think we have had our questions asked and answered. Speaker Frierson, do you have any closing comments?

Assemblyman Frierson:

I will reiterate that had we done this ten years ago, we would be seeing results now. When talking about deliverables, these deliverables are for the next crisis. I hope that DETR can work through the backlog before modernization takes place, but we would have been in a much better place had we had the foresight to modernize our system ten years ago.

I went into my closet and opened a computer that I had in law school. It was actually making sounds trying to turn on—that is our system. I am not remotely hesitant in investing funds to modernize our system, and I wish we would have had the vision to see that this could happen and done this a long time ago. I appreciate the work DETR did, and I agree with you, Madam Chair, about DETR not shutting down. I would be remiss not to mention my predecessor, former Speaker Barbara Buckley, whose efforts helped us weather this storm.

Imagine if we had not updated our computer operating systems for ten years. This is an effort to make sure we are in a better place moving forward and equipped as a state to take care of our citizens in the next crisis. This is a wonderful first step.

Chair Carlton:

This is the hearing for A.B. 484. I will open it to those in support of A.B. 484, and with our time constraints, if you could keep your comments to two minutes, it would be appreciated.

Annette Magnus, Executive Director, Battle Born Progress:

Assembly Bill 484 is one of the bills that we and Nevadans have been waiting for all session long. We thank Speaker Frierson for his leadership in bringing this forward. For the past year, members of our team and myself have personally experienced all of the obstacles you heard about when it comes to DETR's antiquated system. Part of the work our organization started to do during the pandemic was trying to help people navigate the system. People we know had to wait months and months for their cases to move forward. Some are still waiting. This caused many people we know to become unable to pay their rent or mortgage and afford food and medical bills. Many are still struggling to crawl their way out of the hole of missed payments, fees and fines, and more all due to an antiquated system. These upgrades are desperately needed, and this is exactly the way we should be using these resources from the federal government. This sets us up to be better off in the future. Nevadans are desperate. Please support A.B. 484.

David Dazlich, Director, Government Affairs, Vegas Chamber:

We too are here in support of A.B. 484. We believe that the modernization of the unemployment system within this state is desperately needed. We support using this opportunity to provide a much better system for any future difficulties we may encounter.

Doralee Martinez, Private Citizen, Reno, Nevada:

I represent the Nevada Disability Peer Action Coalition. We support this bill, with a reminder for DETR. Please, when you get the website fixed, keep people with disabilities in mind and do not purchase excessive overlay software for your website. It will not make it

accessible for people like myself who are blind. We are the first to go and the last to be considered when these kinds of things happen, especially during the pandemic. A lot of people with disabilities who are in my coalition were not able to independently fill out the application. During the pandemic it was difficult to find a person they could trust to do it for them.

Chair Carlton:

Is there anyone else in support of A.B. 484? [There was no one.] Is there anyone in opposition? [There was no one.] Is there anyone to testify as neutral? [There was no one.] Speaker Frierson has already made his closing comments. I will close the hearing on A.B. 484 and open the hearing on Assembly Bill 486.

Assembly Bill 486: Establishing provisions relating to property. (BDR S-1041)

Chair Carlton:

Assemblyman Yeager is presenting the bill. If you could give us a high-level overview of where you are trying to go. I know you have a proposed conceptual amendment [[Exhibit C](#)]. Since you are presenting the bill and your name is on the amendment, I am assuming it is a friendly amendment. If we can have a comprehensive conversation about how these two pieces of the puzzle fit together, we can move forward from there. Please proceed.

Assemblyman Steve Yeager, Assembly District No. 9:

Thank you for allowing me to present Assembly Bill 486. I am joined by Michael Brown, Executive Director, the Governor's Office for Economic Development; Zach Conine, Nevada State Treasurer; and former Speaker Barbara Buckley, Executive Director of the Legal Aid Center of Southern Nevada. They have been at the forefront of the state's pandemic response and the work that has gone into this plan on how best to navigate the accompanying housing and evictions crisis. With the Chair's permission, I would like to give some brief opening remarks, and then turn it over for quick remarks from Director Brown, Treasurer Conine, and former Speaker Buckley. After that, I will take you through the bill and amendment at a high level. Then, we will be available for questions. To help with questions, I have eviction legal expert Jim Berchtold, Judge Melissa Saragosa from the Las Vegas Justice Court, and representatives from Clark County.

The last 14 months have been extremely challenging for everyone. Navigating the housing and evictions has been a particularly arduous task. Like me, I am sure all of you have heard from and provided help to your constituents experiencing and fearing housing insecurity. Early on, Governor Sisolak recognized the need to keep Nevadans with roofs over their heads as a critical element of the Stay Home for Nevada plan. The Governor has announced an end date to the current state eviction moratorium of June 1, 2021. Months of thoughtful preparation and work have gone into what you have before you today, A.B. 486, a measured plan that balances the interests and pressing needs of all Nevadans to ensure tenants are able to maintain their housing, landlords are able to be made whole, and our courts and social services systems are not overwhelmed as we come out of this pandemic.

Assembly Bill 486 seeks to do three main things: first, integrate the rental assistance programs into our eviction and mediation process; second, ensure people have access to neutral third parties to remedy cases wherever possible; and third, provide greater assistance to small landlords who may not be able to access federally funded rental assistance.

With that and with the Chairs' permission, I would like to hand it over to Director Brown.

**Michael Brown, Executive Director, Governor's Office of Economic Development,
Office of the Governor:**

I am pleased to testify today on behalf of Governor Sisolak and his administration in support of A.B. 486 and the amendments brought forth by Assemblyman Yeager. Housing stability is critical to our economy and continues to be one of the most integral pieces of our recovery plan. Housing instability undermines key infection prevention measures that have been deployed during the pandemic. Policy strategies must be comprehensive and focus not only on the public health challenges, but also on supporting recovery and building resilience going forward. Evictions, in general, disproportionately affect low income people of color, and the health consequences of eviction widen both racial and social economic disparities in public health. This is a particularly acute challenge in Nevada where many of our households include parents who are working hourly in nonscheduled jobs.

The Governor prioritized keeping people in their homes, and now as we begin to move into a different phase of managing this pandemic, and we are seeing economic resurgence, we need to have that glide path to deal with the eviction issue going forward. When workers lose their homes, they are at risk of homelessness or they may move into a multifamily setting which further exacerbates public health risks. I will submit for the record an article I found, "Eviction and Health: A Vicious Cycle Exacerbated by the Pandemic," from *Health Affairs* out of Maryland in April 2021 that addresses this issue [[Exhibit D](#)]. Research shows that to reduce infection rates in these economic hardships, governments need to tackle eviction issues head on, and that is what this group has been doing. The next step is to move forward and avoid as many preventable evictions as possible as the moratoriums are lifted, and to ensure rental payments are paid to landlords to keep tenants housed. We have to address the vicious cycle where residents cannot pay rent and landlords still struggle to pay their bills.

With the assistance of this Legislature and the Interim Finance Committee (IFC), we have been aiding small businesses with the Pandemic Emergency Technical Support (PETS) grant program and the Commercial Rental Assistance Grant (CRAG) program that the Treasurer and I have been jointly managing. Assembly Bill 486 builds off of that by adding further support and assistance, specifically for small landlords, while continuing to assure that money prevents evictions. My office and his office stand ready to help other government agencies in rolling out that small part of this recovery plan. I will turn to my friend and colleague, Treasurer Conine, who has been integral in these assistance programs.

Zach Conine, State Treasurer, Office of the Treasurer:

Over the course of the pandemic, we have experienced tremendous effects on our economy and our workforce. When Governor Sisolak made the difficult decision in the early part of 2020 to keep people safely in their homes, it became clear that the state was going to need to do something to ensure that tenants could make their rent payments and landlords could be made whole.

As many other agencies did, the Treasury got straight to work and found ways that could be helpful to Nevadans who were struggling. We launched new programs overnight with virtually no support or resources, providing critical assistance to Nevadans in the midst of the crisis. We worked with banks, credit unions, and mortgage servicers to ensure that no one would have their homes foreclosed on them because of COVID-19 related hardships. We created the largest small business program in history, with my friend Director Brown, which has already approved more than \$98 million to over 9,000 businesses. Finally, we worked to coordinate the state's rental assistance efforts, otherwise known as the CARES Housing Assistance Program (CHAP).

To date, there has been a significant investment in rental assistance from the federal government, the state, and local communities. The idea behind these rental assistance programs is to allow for tenants to apply for the assistance directly and ensure that landlords are paid directly to avoid diversion of funds. When we look at Clark County alone, more than \$107 million in housing or utility assistance has been paid to more than 24,000 households in southern Nevada. With the additional funding recently provided by the American Rescue Plan, there is a little over \$160 million in additional funds that are available for rental assistance and an additional \$100 million beyond that which will go into the program. In total around the state, there are about \$360 million of unspent rental assistance dollars between the original Coronavirus Aid, Relief, and Economic Security (CARES) Act, the December consolidated appropriations bill, and the March American Rescue Plan bill. In administering these programs, the Nevada Housing Division, Clark County Social Services, the Reno Housing Authority, and the Nevada Rural Housing Authority have worked tirelessly to get funds out the door so landlords, who have been forced to miss out on income due to the eviction moratorium, can recoup those costs. I want to take a moment to thank them for their work.

Why do we need this bill? The amount of time and energy that has been put into administering these rental assistance programs throughout the state has been incredible. Assembly Bill 486 provides critical adjustments to these programs to ensure that they can continue to be effective in meeting the needs of Nevadans when the eviction protections are no longer in place.

In administering rental assistance up to this point, one of the more significant challenges we have seen is that we have two different processes in place for people to receive assistance. On one hand, we have the local governments running rental assistance programs that assess eligibility and issue funding. On the other hand, we have a mediation program run through

the courts with different processes, different timelines, and much quicker deadlines. Last year, when the moratoriums expired for a short period of time, we saw that mediations and court hearings were happening before a decision was made on the tenant's rental assistance application. That means even though the tenant was doing the right thing in trying to receive funds to make their landlord whole, barriers in the process may have negatively impacted their eviction status. Additionally, many small landlords have been willing participants in the CHAP and eviction mediation process yet have become increasingly frustrated at delays and uncertainty in that process.

Assembly Bill 486 will go a long way in helping to smooth out confusion and delays in connecting landlords with federal dollars that are currently available for rental assistance. To put it simply, this bill will ensure that we do not leave a single federal dollar on the table for rental assistance. It will also make sure that there are no tenants who gets evicted when there are funds available to keep them in their homes. The State of Nevada has a responsibility to expend the hundreds of millions of dollars that we have available to us for rental assistance. By working to connect the rental assistance process with the eviction mediation program, we can work to rebuild the livelihoods of the people who have lost so much during the pandemic.

Equally as important, we can help the smaller landlords with one or two properties who are losing everything through no fault of their own. The Office of the Treasurer, along with the Housing Division, continue to assess the Treasury guidance as they relate to these rental assistance dollars and how they can be used. Notably, landlords and tenants are only eligible for the funds prior to an eviction being effectuated. This is why we need to integrate the rental assistance process into the individual eviction mediation cases to make sure those landlords do not lose out on the opportunity to be made whole. Similarly, we need to ensure that tenants can avoid a worst-case scenario of having their wages garnished for years to come while money remains available at the state and local levels and goes unspent.

Thank you for giving us the opportunity to speak on the importance of this critical piece of legislation. I would like to pass it off to former Speaker Buckley who can go into more detail on why the eviction protections in A.B. 486 are absolutely necessary. If I could take a point of privilege, I want to thank former Speaker Buckley for her work. She keeps showing up when we need her, and it is deeply appreciated.

Barbara Buckley, Executive Director, Legal Aid Center of Southern Nevada:

I have been with the Legal Aid Center of Southern Nevada for 31 years, but I have never seen a year like the year we have just experienced—not after 9/11 when planes stopped flying to our tourist economy, and certainly not during the last foreclosure crisis. It is a year that has been marked by suffering like I have never seen. People who have worked every day of their lives suddenly found themselves out of work and their business shut down. Our unemployment system, as you well know, was not ready for 500,000 applications in the first days. We had 350,000 people on unemployment last year. The calls that our staff received at Legal Aid Center of Southern Nevada, and that I received too in my voicemail and email,

were about the uncertainty, the lack of hope, the unknown of what was going to happen, the inabilities to feed families, and people not knowing whether they were going to be staying in their homes. You all know—you have heard the same stories. You have lived the same stories.

Certainly, while we hear that people on unemployment have it so good, we saw the struggles they faced to get unemployment assistance, including the delays and the fees they incurred during the delays. As a sample, I compared the prepandemic income of one Legal Aid Center client who is a server. Even if you count every stimulus check, every dollar, and every bump, her income is still 25 percent less than it was prepandemic. How many of you can survive with your bills, car payment, house payment, kids, and medical expenses with a quarter less income on unemployment?

It cannot be overstated that the Governor's action on the eviction moratorium saved lives. If we would have had massive evictions of tens of thousands of people, the spread of COVID-19 would have been significant through our homeless shelters and through families doubling and tripling up. I thank him and his staff for their leadership. It is hard to make the tough decisions, and everybody's a critic, but his actions saved lives.

Now it is time to get ready for the postmoratorium world, the recovery world. Thanks to federal assistance, we are in a unique position of having \$360 million in rental assistance funding—money to pay the landlords who have suffered this past year, large and small, and to stop a mass wave of evictions from occurring right now. We have that opportunity. I think everyone who has been working in this space realized over the past month that it would be a disaster if we went forward and evicted people in our rocket-docket style without marrying programs using that \$360 million. How do we marry the programs? That is what this bill does. We will marry the rental assistance process to our mediation process and court process. How will we do that? We have been planning. This is not "we want you to pass this bill and then we will think about it." We have been meeting and planning. Here is how we are going to do it. Most of these comments are about Clark County, but they apply statewide.

First, we created a way for tenants to be able to file and answer from home without having to leave their homes. We have automated rental assistance now that the Treasury guidance is out. All of the programming has been done, and the backlogs are now being eliminated.

We are going to be setting up pop-ups for tenants who have not yet heard about rental assistance or how to respond to an eviction. The Las Vegas-Clark County Library District and Legal Aid Center of Southern Nevada will be announcing this today. We will be doing these pop-ups on Saturdays, and if anyone would like to do one in their district, let me know. We are going to do one in the West Las Vegas Library and one at Tropicana Avenue and Pecos Street. We are trying to spread them throughout the community. On site, tenants can get help responding to eviction notices and applying for rental assistance, so we can get the applications processed before the evictions.

We have recruited 40 volunteer law students from the William S. Boyd School of Law at the University of Nevada, Las Vegas. I would like to give a shout out to Christine Smith, Associate Dean for Public Service, Compliance, and Administration. We have hired law students to help people who, for example, do not understand how to upload their W2, navigate the process over the phone.

As a legal community, we are always wanting to expand mediation and alternative dispute resolution because they work. Thanks to the work done by this body last session and Shannon Chambers, Nevada Labor Commissioner, we have instituted an effective eviction mediation program that we can now expand and rely upon. Communications and relationships between some landlords and tenants have completely broken down—they do not trust each other—but with a skilled mediator, we can bring these parties together and get the landlord paid. The landlord can still ultimately evict if future payments are not made, but a smart landlord is going to want to get the amount they are owed. As Treasurer Conine said, this benefits the tenant because otherwise, after the eviction crisis, every one of them will be sued for the back rent, fees, interest, and attorney's fees. We have \$360 million to avoid that from happening.

Assembly Bill 486 has a large focus on the key role our legal system plays. The bill will ensure that our courts have the jurisdiction and ability to integrate all of the hard work that has been done by many people from the Supreme Court, the chiefs of our justice courts, the highest levels of Clark County, legal aid providers, and nonprofit organizations statewide. Our normal processes just simply will not work for this unique moment in time. We have an opportunity to come out of this crisis while achieving the least harm to the people who have been gravely affected by this crisis. I urge your support of A.B. 486.

Chair Carlton:

Thank you for all of the work you have done as one of those people who has helped others stay in their homes. We know how important this is. Assemblyman Yeager, if you would next walk us through the bill and conceptual amendment, and how they are married together, I will then open it to questions from the Committee.

Assemblyman Yeager:

Before I go over the bill, I want to say this has been a collaborative effort over the past few months. There are probably too many people to name, but I want to say thank you to everyone who pitched in on this. It has been a monumental effort.

I will take you through the bill, and as you noted, there is a conceptual amendment with my name on it, so it is friendly [[Exhibit C](#)]. Conversations are still ongoing about some concerns out there. We are trying to get this as right as we can, but I think it is in a good place for this morning. I will start with the bill itself.

Section 1 provides definitions. We have added some additional definitions for clarity in the amendment based on feedback we received from the Judiciary Committee to make sure we are not creating conflicting statutes [page 1, [Exhibit C](#)].

Section 2 allows a tenant who chooses to file an answer to an eviction notice to inform the court they have a pending rental assistance application. The court will then stay the eviction until the rental assistance application is either granted or denied, unless the landlord shows evidence that the case should be placed on the calendar. The problem is that tenants have been falling through the cracks and have been evicted while their applications for rental assistance were still pending. This section, per the amendment, does not apply in nuisance cases, commercial evictions, cases where the property has been sold, or for the removal of squatters [page 2]. The initial version of the bill applied to every eviction under the sun. That was not our intent, so you will see in the amendment that we are trying to limit these to make sure that we are getting at the heart of the issue, which is nonpayment of rent when there is rental assistance available.

Section 2 will allow a tenant to defend against an eviction by showing that a landlord has refused to accept a granted application for rental assistance. Please note that for section 2, subsection 3, the amendment cleans up the language as a wrongful eviction action is not appropriate where no eviction has actually occurred [page 2]. I want to note that the Legislative Counsel Bureau (LCB) did a heck of a job drafting this bill in a very quick time frame, so a lot of these amendments are needed because I did not provide the level of clarity that LCB needed to make sure the bill reflects the intent. We will make sure that happens going forward.

Section 3 of the bill adds an important remedy for a small number of bad actors who we have encountered. It allows a court to penalize a landlord or a tenant to file a wrongful eviction claim against a landlord who evicts them after accepting rental assistance and agreeing not to evict them. There is also a cleanup in the amendment for section 3, subsection 3, to ensure judges have broad discretion to look at the specific circumstance of each case that might appear in front of him or her [pages 2 and 3].

As you heard during the last special session, an eviction mediation program was created. Section 4 of this bill requires all evictions to go through mediation to ensure that rental assistance dollars are used, and to ensure that landlords and tenants can resolve cases outside of court whenever possible. This section does not apply to nuisance cases, commercial evictions, cases where the property has been sold, or the removal of squatters.

Section 5 requires a landlord to provide tenants with information about the availability of rental assistance, the mediation program, and these changes when filing eviction notices. This is a minor change to landlords' procedures that will have great value to tenants, informing them of what assistance is available, and helping them navigate this complex system. May I say, Madam Chair, I am delighted to hear former Speaker Buckley talk about what the law school is doing to help people. I think that is going to be a tremendous

opportunity and will fit nicely with the provisions of section 5. A similar requirement for this notification currently exists in the Governor's directive that is expiring on June 1, 2021.

Section 6 creates a small landlord assistance program to help connect landlords who have experienced delays directly with rental assistance funding. If a landlord is eligible for funding, the information will be sent to a social services agency for case management and assistance.

Section 7 requires the state to disperse \$5 million of additional rental assistance funding in situations where a small landlord is unable to access the existing rental assistance program due to the Treasury guidelines. This will not slow down the progress of the rental assistance programs; instead, it will complement those programs and compensate those small landlords who may not otherwise qualify for rental assistance. In the last part of the conceptual amendment, I note that we need to clarify the \$5 million we are discussing in the bill [page 3]. The way the bill is written suggests it would be federal funding, which has the same housing restrictions that have caused delays. That was not our intent. The intent is to find \$5 million of unrestricted money so that when landlords who cannot engage with the tenant, want to keep the tenant there, and want to be made whole will be able to access that money directly without having to go through the Treasury guidelines. I am working with the Office of the Governor to figure out the exact wording, but the idea is that it would be existing funding that is already out there and unrestricted in nature, so it would not have those same hurdles in appropriate circumstances.

Section 9 sunsets the provisions of the bill on June 1, 2023. Emergency rental assistance funds expire on September 30, 2025, so it makes sense for the sunset date to be right at the end of the next legislative session. That way those legislators can revisit these measures and evaluate where we are at and whether additional changes need to be made. If we are able to disperse and exhaust all rental assistance, which is the goal, there would be no available rental assistance to trigger the majority of these protections. So long as this money exists, it is our intent and goal to connect Nevadans with that help.

Lastly, the amendment changes the effective date of the bill to "upon passage and approval" with the goal of implementing this path forward and aligning with the lifting of the broader state eviction protections. A July 1, 2021 effective date, as listed in the bill, would fail to protect the most vulnerable because we would have a gap of 30 days between the expiration of the moratorium and these protections going into place.

I hope that was a quick and high enough overview, and I stand ready for questions. As noted, I have a number of experts with me who can answer more detailed questions on the eviction process and how we envision this working in the day-to-day world.

Chair Carlton:

You are talking about a \$5 million allocation and unrestricted dollars. Could you expand upon what you are actually looking for? We have heard former Assemblywoman Buckley

talk about \$360 million in rental assistance and you are talking \$5 million. Could you elaborate on that please?

Assemblyman Yeager:

I would like to invite Treasurer Conine forward. I have had extensive discussions with him, and I think he can explain some of the ongoing issues and what the \$5 million is intended to do. Again, this is with the caveat that I am still working with the Governor's Office to figure out exactly how we can structure that.

Chair Carlton:

Just to put something on the record, because this is the world I live in my private life, I know of a small nonprofit that went through \$2 million in less than a year. In this particular instance, \$5 million is not a whole lot of money when the six personnel who were at that nonprofit processed enough applications in less than a year to go through almost \$2 million.

Treasurer Conine:

I completely agree that \$5 million in this universe is not a lot of money, but it is a start to try to provide a safety net for small landlords who are falling into a doughnut hole of support.

The Emergency Rental Assistance Program (ERA) funds of \$360 million for outstanding rental assistance that came through the December consolidated bill from Congress as well as through the American Rescue Plan, have Treasury guidance around them. A big piece of that Treasury guidance is that funds are unavailable for tenants who make over 80 percent area median income (AMI). Another requirement is that tenants be involved in the process. If there is a tenant who is not being responsive and we cannot get them to be responsive through the eviction mediation process—for example, a tenant who has disappeared in that they are still in the house, but unresponsive when government reaches out—we want to create a safety net for small landlords starting at \$5 million so that if nothing else works, we can still try to make them whole. That is the purpose of that money. I believe in the bill there is language around coming back to the Interim Finance Committee (IFC) if more money is needed for this. I know the Governor's Office is working through some of the different buckets that could be available for it, but we know that ERA funds cannot be available for that specific purpose, and therein lies the need for other funding.

Chair Carlton:

Can you expand upon the 80 percent AMI? That is probably something that not everyone on this Committee is familiar with. I am, but please proceed.

Treasurer Conine:

In the first CHAP program, we used flexible Coronavirus Relief Fund (CRF) funds from the CARES Act that was passed on March 28, 2020. Both the state and the individual counties put that money into Clark County Social Services that managed it in Clark County, the Reno Housing Authority that managed it in Washoe County, and the Nevada Rural Housing

Authority that managed it in the other 15 counties. That money had no income levels, so we were able to provide funds to any applicant who had been impacted by the pandemic.

We were also able to use something called attestation, which meant the landlord and tenant could say that yes, we were impacted and here is the rent owed, and sign under the penalty of perjury. That made the process quicker because we did not need to do the deep record requests that I think we have all found create delays during the process. Those delays happen because the tenant may never have gone through something like this before and are unsure of what information to provide, or the landlord, specifically the smaller landlords who are "mom and pop," are not as familiar with having to provide that information. The government wants to make sure the information is good, of course. Under Treasury guidance, we have to be able to keep track and prove individuals fall into the covered population. This has led to changes in technology and some of the slowdown that we are all familiar with in getting the money out the door. To some extent, this has led to frustration and effectively an abandonment of the process by some of the people applying. This is too hard, I am never going to get there, I have lost my job—sort of a sense of despair.

Through the mediation process, one of the goals of this legislation is to make it clear who these individuals are so that we can reach out to them as a government and say we understand you have a bad relationship with your landlord, but we are here to help. We can find some middle ground here. The more recent money, ERA1 and ERA2, adds some complexity because the money coming from the December bill has different rules than the money that came in March. We are trying to work through that, make sure we can get all that money out the door, and have a safety net at the end of it.

Chair Carlton:

Could you expand upon the 80 percent average? Then—and I know it is in the bill, but there has been a lot of talk—I would like a specific definition of what a small landlord is.

Treasurer Conine:

I will take the first part and then turn over the second part to our legal experts. The 80 percent AMI is a threshold. Area median income (AMI) of 80 percent, which is different based on where you live in the state, is the threshold at which you can receive rental assistance under ERA1, the money that came in December 2020. In ERA2 there is a separate piece of language that refers to another chunk of statute that also constrains the income availability. Luckily from an administration process, that income availability is looked at in the month that you are applying for aid. If you are applying for aid in January, it is looking at your income in January compared to the AMI in January. That is obviously complex and hard for people to understand. I do not know of many Nevada residents who spend a lot of time saying gosh, I am at 82 percent this month. It extends the process and makes it a little bit difficult. Hopefully, that answers your question.

Chair Carlton:

So, it would eliminate that 80 percent. It would allow all people to apply. Did I understand you correctly?

Treasurer Conine:

For that \$5 million piece, yes.

Chair Carlton:

I will give the Committee just a brief example I encountered. We had a lot of people—and we have to be proud of this—who make very good money working in Las Vegas at some good jobs. A lot of our IATSE [International Alliance of Theatrical Stage Employees] and showroom people were way beyond that particular threshold, but they lost their jobs also. They were not allowed to access any funding because of where their income was, even though on March 18, 2020 it went to zero. I thank the Treasurer for addressing that, and ultimately it hurt the landlords because the landlords could not collect. This is a way that small group of people might be able to get assistance for their particular landlords because they did try to work together on this.

Jim Berchtold, Directing Attorney, Consumer Rights Project, Legal Aid Center of Southern Nevada:

I want to address your question about small landlords. Under section 6 of the bill, a small landlord is basically someone who owns a fourplex or smaller. It is someone who owns a single-family residence that could be up to four units who is seeking rental assistance for at least one dwelling unit, is domiciled in the state of Nevada—so it is someone who lives in Nevada and not someone from out-of-state who owns rental property—and someone who makes less than \$4 million per year from that rental property.

Chair Carlton:

Thank you for clarifying that. I will open it up for questions now.

Assemblywoman Benitez-Thompson:

I want to make sure we have clear intent on the record. Between sections 6 and 7, we have talked about the \$5 million. I think we have on the record that the goal of that \$5 million is to be more pliable and flexible than some of the federal rules around the Emergency Rental Assistance Program money. I do not see anything in the language about creating an assistance process, especially in section 6, that would prevent us from tailoring it in a way that would look different than the federal rules we might need and the ERA process. For example, if we have a person who is on other need-based programs that have worked to establish their financial need, such as Medicaid, there might be the option there, as opposed to establishing a new financial process within section 6. Since there would be more Nevada dollars unattached to the ERA guidelines, we could have our own process for that attestation regarding financial need which would be a shorthand to help get us to where we need to be in these situations where we are dealing with these kinds of time frames. I do not see anything

that precludes that, but I want to make sure I have agreement on the record that the process we are creating in section 6 can be tailored to be as flexible as we intend these dollars to be.

Assemblyman Yeager:

I agree with that 100 percent. The flexibility is there. One question you might have is why did we not just try to create a whole new program with this \$5 million? For those of you who have been dealing with this issue, we thought it best to use the existing programs already in place in the state and allow the ability to use this money as a supplemental subset of funds. Existing programs will be able to disperse that money in certain circumstances, but there is nothing in the bill that would preclude any sort of creativity or the ability to use our partners on the ground, who are already doing this work, to figure out how best to administer that money in the appropriate circumstances. Again, the goal is to always use that federal money first because if we do not use it, we have to give it back. That would be a shame when the need is here in the state. Obviously, there are people who fall outside of that circumstance, so in those cases we want to make sure we have the flexibility to make the landlord whole and to keep the tenant with a roof over his or her head.

Assemblyman Hafen:

We have seen some unprecedented times that I hope we never see again. I do have some questions regarding section 6, subsection 7. It says the landlord has to accept 75 percent but is then prohibited from commencing eviction for 90 days after that. My understanding is that evictions can take 60 to 90 days. If they agree to take the 75 percent and then continue to not receive rent after that, after the 90 days could the landlord come back for those additional months of nonpayment of rent? My math looks like it would be 50 cents on the dollar as opposed to 75 cents on the dollar. Could they come back in those kinds of circumstances?

Assemblyman Yeager:

Assuming there is still rental assistance available, I think they could come back. The tenant could come back. The landlord is not made whole, but 75 percent whole in the agreement means they will not evict for 90 days. Let us say as of the date that happens there is still no additional rental payment for those next 90 days. Assuming there is money available, the tenant would be able to come back and ask for rental assistance to try to satisfy that. If there is a situation where, for whatever reason, the tenant is not engaging, we would have that extra bucket of money that could be used. If that was not appropriate, then at the conclusion of those 90 days the landlord would be able to take any action as appropriate to evict. Essentially, the tradeoff here is the landlord will get 75 percent of the arrears, which could go all the way back to March 2020, but in exchange for that, they are going to give a reprieve of at least 90 days before they seek to evict. If they do not receive rental payments in that time, when that 90 days expires, they can go through the normal process of eviction.

Chair Carlton:

To expand upon Assemblyman Hafen's question, how did you arrive at the 75 percent number? The current programs pay 100 percent. Even when the landlords try to tack on fees, we take those fees off, so how did you arrive at 75 percent?

Assemblyman Yeager:

I cannot tell you there is a scientific basis there. In looking at this issue, we decided where we thought we could land that would be somewhat equitable, also with the realization that we want that money to extend as far as possible. I will tell you that number is open for discussion if members want to talk more about that 75 percent.

Senator Seevers Gansert:

In looking at this, there are two ways to begin the process. First, you have a notice of eviction and the tenant can start a process. Second, there is no notice of eviction, but the landlord can start a process on their end. The tenant side is means tested, so you have to be within a certain range, and if that tenant is not within that range then the landlord can apply. If someone starts the process of applying but they do not qualify, is it still alright for the landlord to start their process? There is some language in here about the tenant having not applied. Is it the tenant applied or is it the tenant successfully applied?

Jim Berchtold:

I want to make sure I understand your question. Are you asking if the tenant has already started to apply for rental assistance through the CHAP program, can the landlord also start the process of applying through that supplemental program?

Senator Seevers Gansert:

It is probably a little further in the process than that. I am asking about when someone starts the application as a tenant, but then they do not qualify. When I first read the language, it said that if the tenant was applying or had applied, that the landlord could not, but in some cases, the tenant is not going to meet the means testing. When I looked up the AMI from 50 to 80 percent, it is \$28,000 to \$44,600 for one person. If you have a family of four, you have to earn below \$63,700 per year. So, let us say somebody has applied but they are not successful because they make more income. Can the landlord still apply even though the tenant has applied and been unsuccessful?

Jim Berchtold:

Yes, I think that is correct. I think it is envisioning situations where the tenant has not started the process, or the tenant is not cooperating in starting the process. Certainly, if the tenant has applied and been denied, I see no reason why the landlord could not start the process and try to pick that up. If that is not clear in the language, that is something that could be revised.

Senator Seevers Gansert:

I am looking at the guidance to qualify. When you go back to the AMI, they are using an annual income. Is it locked down on the annual income? I think if you were to look back on someone for a 3-month period, that is going to be different than the last 12 months, especially if you have to use your federal tax return, which represents something completely different than the situation you are in. Is there a moving target on how you qualify for that income?

Assemblyman Yeager:

According to your Nevada State Treasurer, they look at it month-to-month.

Senator Seevers Gansert:

I know the definition of the AMI is month-to-month, but as far as when you are qualifying, is it the month you are in? In my mind, if people really are short, it is helpful that it is a moving target because you can get more people qualified based on their status at the time versus the prior year.

I think it makes sense that the \$5 million has some flexibility to it. If we have a big pot of \$360 million and there is no way that someone is going to qualify, we need to have some relief for landlords because I think that situation is going to happen. I do not know whether our funds are going to have a little more discretion to them or not. It sounds like the \$360 million is more related to earlier tranches of funding from the federal government. I think you wrote the bill to anticipate that you would be looking for other sources. Would it be \$5 million or greater, like a minimum of \$5 million? You may need more money on that side of it if people do not qualify on the tenant side.

Assemblyman Yeager:

The \$5 million, as envisioned in the bill, is what I will call the seed money to get the program started. I think we are all trying to look at that exact question. In an ideal world, maybe the \$360 million is able to be used, but if we do burn through that \$5 million, is there a way that money can be replenished with similar funds that would not have the restrictions? We are working through that, but when we envisioned it, this would be the initial funding. Based on how it rolls out and the demand, there could be some opportunity to use additional federal funding that is not restricted in that same sense to replenish the fund.

Senator Seevers Gansert:

My other question is related to the timeline. In my mind, this is sort of the last resort money. You have a tenant who has not been able to qualify and who received notices. You have the alternative dispute resolution all set up. The timeline of having to wait 60 days to try to find the tenant to say you want to apply is long. If you do start the eviction process, it is 60 to 90-day process, I think. Maybe we want to look at tightening that up because this is sort of the last resort for someone. If a landlord is applying, they are probably strapped for cash by this point in time.

Assemblyman Yeager:

We are certainly continuing to discuss that timeline to try to find the appropriate balance, realizing that the goal is use that federal money. If we need to help the tenant to get there because of some of the difficulties that were mentioned, we want to make sure we have adequate time to do that. Certainly, we are willing to look at the time frame.

Assemblywoman Jauregui:

Thank you for asking about the 75 percent for the landlord assistance. I had the same question, and I want to add to that. Do we know if any other states have used a similar model to provide assistance to landlords when tenants may not be eligible for federal aid and the existing programs? If so, did they use a similar 75 percent figure? It is hard when that landlord could be made 100 percent whole but unfortunately cannot because the tenant makes too much money to qualify for federal assistance. I understand trying to stretch the \$5 million as far as we can because I do not think \$5 million is going to go very far. We saw how quickly we went through some of the other rental assistance funds. Is 75 percent a number that other states have used?

Assemblyman Yeager:

Our Nevada State Treasurer, who is the expert on what other states are doing, indicates that both California and New York have instituted similar programs with a 75 percent number. To be candid, I do not know that they have paid anything out through those programs. Part of trying to set up this program was looking at the obstacles that they had in their programs. What we saw is that they set up programs, but they are not getting the money deployed. I believe some of that is because they tried to set up a new standalone program, which is why we chose the option of using the existing programs and supplementing the funds. Hopefully, that process is going to actually get money out the door because the last thing we want to do is set up this program, but then see nobody actually get any money and tenants get evicted. That would be the worst-case scenario for us.

Assemblywoman Jauregui:

I want to understand the process. I know you mentioned that this bill would help marry the assistance and eviction processes. If a tenant has applied for rental assistance and they do not qualify because maybe they make 90 percent AMI, and the landlord files an eviction through the courts, would it be the courts' responsibility to let the landlord know that there is assistance out there for them? Say the landlord does not apply, would the courts require the landlord to apply for that assistance to keep that tenant in their home?

Jim Berchtold:

Currently in the bill, there is no requirement that the landlord apply before the eviction moves forward. The application for that supplemental program is always available to the landlord. They can apply at any time. As far as the court notifying the landlord that the program exists, I do not think there is anything in the bill that would require that. There would hopefully be some mechanism to get that information out to the landlord, but that is not specifically built into the bill.

Assemblyman Yeager:

I can shed a little light on this too. Think of a scenario where a landlord seeks to summarily evict a tenant. First, the tenant has to answer. If the tenant does not do something affirmative, the eviction is going to go forward. The latest statistics show that three out of four tenants do not ever file anything. So, we are only talking about 25 percent of tenants

who are currently engaging in the court process to be able to open up an eviction proceeding. In those cases, this bill allows the tenant to say they have a pending application for rental assistance. That is not necessarily happening now. If that is the case, the court stays that proceeding.

To your question about what happens if the tenant does not qualify, I think this is where you see the nice marriage of the eviction mediation program in the bill as well. The idea is that kind of program can at least inform the landlord that even if the tenant does not qualify, there is this additional tranch of money that they may be eligible for. If the landlord says they do not want to do that, they do not have to. They can proceed with the eviction if the tenant does not qualify, but at least they would have the opportunity to make that analysis in their own mind and choose whether to evict or try to get money through this program so at least they recoup some of their money. Maybe it is a good tenant, and they want them to stay. I think we will hopefully see those two or three pieces working together in a way that they have not worked together so far. At least, that is the aspiration of the legislation.

Assemblywoman Jauregui:

Can you anticipate whether \$5 million will be enough based on how many people have applied but not qualified for the rental assistance? Have we tracked the figures on how many people have actually applied and not been awarded assistance?

Assemblyman Yeager:

I will hand that over to Treasurer Conine.

Treasurer Conine:

We have had this conversation with the Nevada State Apartment Association, the realtors, and a number of other stakeholders. One of the reasons why we want to start with \$5 million and a very open process is because we do not have a great idea. The first funds that came through the December bill, ERA1, started being dispersed relatively recently, just in the last couple of weeks. They have had some people fall out of the queue. The queue was in the 20,000 range, and now it is about 9,000. We do not know if this is because of income, the additional paperwork, or if they went back to work and do not need the help anymore. The reasons that tenants have fallen out of the queue are unknown. We want to do this program so that we can get that data and understand who is falling into what doughnut holes because in parallel with this effort is another effort.

We are in constant communication with the White House and our federal delegation to make changes to the existing ERA Program funding in order to match the needs of Nevadans. If the CARES Act is anything to speak of, we know that Treasury guidance is going to change and adjust. Not only do we want to get the funds to the people falling in the doughnut hole here in Nevada, but we want to get that data direct and specific at a statewide level so that we can use it to communicate and try to get those funding streams, and the guidance associated with them, adjusted.

Chair Carlton:

To the communications issue, over the last year I had numerous people calling me to say that their apartment managers or landlords had left letters taped to their front doors with my agency's phone number, and telling them to give us a call. Believe me, if there is money out there and the word gets out, it will get to the right people. I had landlords calling and asking if they could apply for this too. That was part of the conversation moving forward because they were in the same position. In trying to address that, I do not think communication on this issue will be a problem. The word of mouth will be like wildfire once they find out this is available.

Senator Kieckhefer:

I see the bill working with the multiple entities that will have to be firing on all cylinders. You have justice courts processing the actual evictions, the Nevada Supreme Court's Temporary Residential Summary Eviction Mediation Program, the local housing authorities processing the applications for assistance, and then the fixed timelines. My question is about bandwidth, capacity, and functionality. Are they all working together in a way right now that is going to make these deadlines actually feasible? Are the courts going to need more money to do this? Where are we on all of this?

Jim Berchtold:

Over the past couple of months, Legal Aid Center of Southern Nevada has been part of a working group that has included Clark County Social Services, representatives from the justice courts, and all of the stakeholder's parties that are working on this effort. It has been surprisingly successful how everyone has come together to make this happen. The unknown factor is that we just do not know how many evictions we are facing right now. Estimates have ranged up to 130,000 households. We do not know if that is accurate. We do not know if it is going to hit all at once or if it will be spread out. As far as capacity, the idea is that having this bill in place will regulate how fast everything will move forward. It will marry the processes together so that we do not have one process overwhelmed and one process doing nothing. Everything is together—that is the goal anyway.

Senator Kieckhefer:

That is how I read it as well. I appreciate that. How long is it taking right now for either the housing authorities or agencies to process applications for rental assistance? Is it within the 30-day time frame in the bill?

Bailey Bortolin, representing Nevada Coalition of Legal Service Providers:

I am going to pass that to Kevin Schiller [Assistant County Manager, Clark County], but part of what we are solving here is the variable that you just asked: how long is an application taking? There is a real equity piece that this bill brings us, and Clark County can speak to this.

Right now, we are putting out fires all of the time. We are not going in the order of who applied for rental assistance in a way that makes sense. We are going in the order of who is

at risk of eviction today and if we can put that fire out before the lockout is effectuated. This really means that our patient landlords, our affordable housing providers, and the people who do not want to serve mass evictions are losing. They are not getting to the front of the rental assistance pile because they have not filed the eviction cases that are setting off the burning house fires which we need to put out. By putting this bill in place, we are bringing some equity to that timeline so that somebody who has been patiently waiting for six months does not keep on getting bumped by the landlord who is trying to effectuate a lockout today.

Senator Kieckhefer:

Maybe I am misreading something. Section 2 says that if there is an application for rental assistance, the eviction process will be stayed indefinitely until there is a resolution to that. Maybe these are different timelines or different processes, but section 4 indicates that evictions must be stayed not more than 30 days to facilitate a program of alternative dispute resolution. Maybe I am misunderstanding as this is not my expertise. Which one is it?

Bailey Bortolin:

We are waiting until that application is processed, but those applications are going to be processed in a timelier fashion because we will not have the eviction fires occurring on a day-to-day basis. The mediation will occur within 30 days. That mediation process should be able to connect that case with rental assistance, but not every case is going to mediation, so we have a few different lanes occurring here. What I think Mr. Schiller can speak to is how this bill will allow the process for rental assistance to work better.

Kevin Schiller, Assistant County Manager, Clark County:

I want to highlight a couple pieces as we discuss the eviction prioritization and process. The intent of the capacity issue is to prioritize those in the social service realm. We have an internal team of 27 staff who will be prioritizing those evictions as they come through to the top of the line, based upon the referral process in the notice. That connection into the justice court, social services, and mediation is critical.

We really do not know the volume, as has been stated multiple times; however, with the second round of rental assistance funds, the Treasury guidance that was provided does require fairly extensive documentation. This is part of the reason why it is hard to answer the question in terms of capacities and time frames. In some instances, an application may come to the top of the line after sitting there for four weeks. If an application is complete, it goes out the door quickly. For others, we are chasing documentation. We are doing timelines tied to the requirements for that documentation, so if it is not received within a ten-day time frame while they are sitting in the queue, we move to the next applicant.

There are two freeways happening. There is one tied specifically to processing under the traditional CHAP and application process. The second freeway is the one we are speaking about today, in terms of the eviction process and prioritizing those evictions through a connection. There is a piece that has not been spoken to, which I think is critical. Let us assume a case is prioritized, but they are ineligible. There is obviously money being set aside

and proposed in this bill to support that process; however, at the end of the day in the social service realm, we are responsible for rehousing those individuals so that they are not homeless. This is a secondary component to the prioritization and the connection with the court that has never existed which will allow us to be proactive in the rehousing of those individuals outside of just providing the rental assistance.

Senator Kieckhefer:

Does everyone have the resources necessary to get this done? I worry about the flood that may come in and whether there is adequate funding for the social service agencies, the housing authorities, and the courts. Maybe there are administrative expenses that can be taken off the top that I am not aware of. Also, specifically to Home Means Nevada Inc., I am not sure if they are being actively engaged in the homeowner assistance program, which is a part of the American Rescue Plan as well, but I am worried about the agency and Home Means Nevada's capacity to get the job done that we are asking them to do.

Kevin Schiller:

Your question is right on in terms of the capacity issue. To give some sense of context, in our social services division, we have 125 to 130 staff. In the second round of ERA funding, we used all of the administrative funds to update the information technology (IT) and processes. We now have 300 temporary staff to provide processing for this. I cannot speak for the housing authorities in other jurisdictions on the capacity side, but from our funding perspective, anywhere we can utilize administrative funds to support the additional temporary staffing, that is what we are going to prioritize. We started working on this eviction court process almost 12 weeks ago, specifically on how we can integrate and use our internal staff to maximize that capacity.

To answer your question directly, we will have about 300 total staff who will be processing. We will apply any additional administrative funds we get to that increase in order to keep managing the capacity based upon what we see.

Assemblywoman Benitez-Thompson:

I have a simple process question, and I apologize that I have to ask it on the record. When most of the processes were first set up during the first round of the programs, applications were all online and done just by the tenant. Are the new federal guidelines prescriptive as to the mechanism by which a person may apply?

I hope we will have the ability with this \$5 million and through Home Means Nevada for a paper application process option. If you are going to have others helping people, especially with this documentation process, I think that is important. Otherwise, my experience has been that most tenants with the lower AMI applying for this are literally taking pictures of the front and back of their financial statements on their phones. Uploading all of that documentation for the electronic process via a mobile phone can be daunting. You end up with 98 pages uploaded because you have to do the front and back.

By still having paper Medicaid applications, we have learned that when you have helpers—the students and all of the good people who go out there to help—it is easier to scoop all of those documents up and find a more effective way to get them scanned and uploaded. That gets the paper documentation in faster. I do not know if the federal guidelines are that prescriptive or if we would indeed have the flexibility to have two modes to get this process started.

Kevin Schiller:

The intent of the collaboration with the nonprofits for support is to address that specific issue. I will address this twofold. First, the documentation requirement and the uploading of those documents is probably the most significant and primary barrier we see for applicants who are being denied and/or dropping out of the system. For those who are most in need but lack the IT capability, the intent of this nonprofit site is so we can actually assign out through our pop-ups and assist people directly when they cannot download information or do not have the IT access. We are trying to eliminate that barrier across the whole spectrum. There was not a federal requirement tied to the paper or the IT side. Obviously, we upgraded and spent millions on our portal because of the thousands of applicants that we were experiencing and continue to experience, but we do recognize that. This is what we intend in terms of a grassroots effort to make sure we get everybody included.

Assemblywoman Tolles:

I appreciate the \$5 million, particularly recognizing that there are some smaller landlords who might fall through the cracks. We have had a lot of questions already about what happens if that money runs out, the amount as a base point, and so forth but I am curious how that funding interacts with sections 1 through 6. We have some assumptions of the affirmative defense that is tied to the availability of funds for both the tenants and the landlords. In the pocket of those smaller landlords, we are trying to address them with the \$5 million. What happens if that money does run out? As that small landlord, am I still tied to the restrictions in sections 1 through 6? The bill is based upon the assumptions that there is funding, but if there is not, I am still then tied to those presumptions of an affirmative defense, correct?

Jim Berchtold:

In short, yes that is right. The idea is to steer as many people as possible to the American Rescue Plan money. Hopefully, the \$5 million will not be utilized in most situations. You will see in the bill that there is a nonprofit element. This is where somebody contacts the tenant, tries to get them to apply for the rental assistance, and then assists them in applying in order to steer them to that other big pot of money. Hopefully, most of them will go over there.

Let us say that, for some reason, the tenant has been totally uncooperative and has not responded to the landlord's request, so the landlord has been forced to access the \$5 million pot of money. Whether or not they will go through those other chains in the eviction process is somewhat questionable because if the tenant has been that inactive, it is likely that they

will not respond to the summary eviction case. The summary eviction will be granted by default.

Assemblywoman Tolles:

I appreciate that. I think you hear my concern though, especially when I hear Chair Carlton talk about how quickly one nonprofit ran through \$2 million. There is a concern that we have put protections in place for that tenant, and even penalties, but the flip side of it for the small landlord in that pocket is that the money is not available and then they are left just holding that. What protection is there on the flip side of it?

Jim Berchtold:

Let us think of it this way. The tenant has been uncooperative and has not responded. The landlord has tried to dial into that \$5 million pot and has been unsuccessful for whatever reason. Maybe the money is gone. So, the landlord applies for the regular eviction process. If the landlord serves the tenant with an eviction notice, that tenant would be required to respond. In responding, the only way the tenant is going to get these protections is if the tenant has applied for rental assistance. That will then get the landlord from the \$5 million pot into the \$360 million pot.

Senator Hammond:

Several of us have received a lot of emails, but I got an email that struck me because I think there is a hole. When you create programs and you create solutions to them, you want them to be rock solid. You want to make sure nothing is out of the ordinary, but sometimes there are cracks. Sometimes in those cracks is where we see the light. In this case, you have a woman who had a home in southern Nevada. She found out she had stage three cancer. She decided that she needed to move in with her daughter, who lives in California, to receive treatment, so she is renting out her home. She hired a rental agent who then rented it out to a single man who makes \$80,000 per year. If you look down the list of qualifiers for landlords, she probably meets all of those requirements. When you go over to the renter's side, you find out that he makes \$80,000 per year, so he does not quite make the cut for being able to allow her to receive 75 percent of what he owes. He stopped making rental payments back in November. The way I read this, she will not be able to recoup, and even if she could, it would only be 75 percent of what she needs. Again, she has no job and is living with her daughter. She needs money to pay for her medical bills. Right now, she cannot evict him because he makes less than the \$99,000 required for that to happen. She would have to wait until June 1st, and then after June 1st, she could wait up to 90 days in order to evict, which means we are talking about almost a year in which she has not received a payment for the one home that she owns. What am I missing there? The problem I see is that you are pushing this off, and so for people who fall in these cracks where we finally see the light, we do not know what to do for them. Can you explain that to me?

Treasurer Conine:

I think you highlight one of the overarching challenges and opportunities of this entire process which is that we are dealing with something that is unprecedented using an

unprecedented response. Sometimes there are individuals who are more or less impacted by that response. In your example, is the gentleman making \$80,000 per year still working?

Senator Hammond:

That is correct. He is still working.

Treasurer Conine:

He is a bad actor. He is taking advantage of the situation. Post bill passage, he would not be able to apply for rental assistance because he does not meet the qualifications. She would be able to proceed with eviction, and at the same time proceed for funding that would go into that doughnut hole bucket. Our goal is to make her whole. We do not have control over the federal guidance because it was put out by the United States Treasury, not the Nevada State Treasury. What we do have control of is trying to come up with programs that can help individuals, like that woman, to be made whole, while at the same time, realizing that is a single scenario. We do not know how many of those scenarios there are. One of the reasons why we want to create this doughnut hole and collect this data is because we are dealing with a lot of anecdotes. The anecdotes are important, but we can do something with the data. This bill will give us the data to let us make decisions and allocate funds using the Every Nevadan Recovery Framework—the commitment from the Governor, myself, the legislative leadership, and everyone else has made to ensure that we spend these federal dollars as effectively as possible. This gives us the data to do that. It gives us the data to lobby the White House, the Treasury, and our federal delegation to change the rules to ensure that the woman in your anecdote, and other people who are harmed by this and have fallen through the cracks, can be helped.

Senator Hammond:

For this anecdote where we pass this bill, when in the timeline would she then be able to fill this doughnut hole that has been created since November, given the 90-day process? When does she start to be able to recover that?

Treasurer Conine:

I will turn it over to Jim Berchtold for the timeline perspective, but I do think it is important to recognize that in all of these programs, aid can go back to the beginning of the pandemic. If she has had this situation since March 2020, she would be able to go back and apply under the rules and restrictions of the program since the beginning of that time frame.

Senator Hammond:

But she would still only gain 75 percent of what is owed.

Treasurer Conine:

Yes, sir. I think it is important to mention that this is not a perfect solution. There is no perfect solution to an unprecedented problem. What this solution does is allow us to help as many landlords as possible, remembering, of course, that landlords in this case could have also applied for PETS grants and other programs along the way. Many of them did. This bill

allows us to help those individuals to the best of our ability, and to help more of them when we compare 75 percent to what their actual recovery would be. In most cases, when someone is sued for back rent—which is an expensive process and would not be in small claims court though your example is probably right on the line, but either way—it is an expensive process, and the chance of recovery is not great. We think that 75 percent is better than zero percent. Again, this is a discussion for the Legislature, and I think Assemblyman Yeager already expressed an interest in having conversation about that number if you would like to.

Jim Berchtold:

I do not have anything to add to that. On the 60- to 90-day period, as Assemblyman Yeager said, there is no real rationale for that, so maybe there is some room to talk. The goal is to have pots for everybody. The fact that she is able to access that pot at all is a huge advantage because otherwise, her option is to sue that tenant to try to recover that money. That is always a difficult option.

Senator Hammond:

I appreciate that. Like I stated before, I do not think she has access to that pot.

Treasurer Conine:

She would.

Senator Hammond:

Because of the income qualifier, got it. Thank you.

Senator Ratti:

To follow on that example, I have just two clarifying points. The reason the 75 percent is important is because in that particular example, with everything she is facing, she is probably not going to be the first one in line. The whole point of that 75 percent is to stretch the resources longer. My concern for her would be that if she is not the first one to apply and get that money quickly, it will be gone before it ever gets to her. Then she has zero. The 75 percent is to try to stretch that money as far as possible for her and everybody else who may not be the most sophisticated actors in the landlord/tenant system. Is that accurate?

Treasurer Conine:

Yes, ma'am.

Senator Ratti:

The other piece I would like clarification on is if this bill does not pass, then she is facing a backlogged eviction system. Even if she responds, her tenant does seem to be one of the more sophisticated players and he is likely to challenge it. Then she is facing an unknown period of time while our courts make their way through perhaps 130,000 evictions, and that could take much longer than 90 days. Is that correct?

Treasurer Conine:

Yes, ma'am.

Chair Carlton:

The questions are finished. Thank you all for working on this. This is the hearing for Assembly Bill 486. I will open it up. We are up against the clock. I would like to keep each comment to two minutes and will be strict with that at this time. I will open it to those in support of A.B. 486.

Annette Magnus, Executive Director, Battle Born Progress:

We are in strong support of A.B. 486. For the past year, our organization has had many of our own members who have suffered from the economic impacts of COVID-19 and were threatened with eviction for their inability to pay. I have personally stepped in on numerous occasions to try to assist Nevadans in need, one of whom almost committed suicide because of this. Nevada is once again facing a housing and eviction crisis. The situation is dire, and we must act now. Nevadans are counting on you to help them through this crisis. Of all the things you have worked on this session, to me, COVID-19 relief is the number one issue we must address. This funding will be well spent, and Nevadans are desperate for this aid. If there is no action, we will see this crisis grow in exponential ways. Please support A.B. 486.

Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada:

I am here in support of A.B. 486. At the Progressive Leadership Alliance of Nevada (PLAN), we focus on community organizing and policy advocacy; however, during the pandemic, we often did direct service to help people who reached out about the eviction moratorium. Throughout this process, we have printed the Centers for Disease Control (CDC) declaration for people, helped file answers to eviction notices, helped families apply for rental assistance, connected people to legal resources, and even helped some people move. While many landlords have been helpful, we have also heard countless stories of bad actors, including landlords refusing to complete the W-9 with the county to be able to accept rental assistance, even once someone has been approved, and landlords who accepted rental assistance but found ways to evict tenants anyway.

Assembly Bill 486 will ensure that families are given due process through eviction mediation and the rental assistance program. Evictions and economic displacement impact us all by putting more economic burden on our communities through increased demands on social services, shelters, and hospitals by families who become homeless, and other costs associated with the destruction caused by housing instability. By contrast, stable homes promote educational opportunity for children and economic opportunity for families, allowing Nevadans a safer house to pursue new employment options and open new businesses. With only days until the state's eviction moratorium ends, we must pass A.B. 486 swiftly to protect Nevada families.

Holly Welborn, Policy Director, American Civil Liberties Union of Nevada:

I am testifying in support of A.B. 486. We thank Assemblyman Yeager for his wisdom in bringing this bill forward in response to the impending eviction crisis. Nevada was hit particularly hard by the economic devastation of the COVID-19 pandemic. This crisis affects all Nevadans, but the history of toxic and discriminatory housing policies and the persistent, racial exclusionary practices cause this crisis to disproportionately impact people of color. Black women especially face housing disparities due not just to the history of housing inequity, but also due to the enormous wealth gaps that exist. This bill is necessary to ensure that vulnerable residents do not fall off the cliff of an eviction crisis, and we encourage your support.

Benjamin Challinor, Policy Director, Faith Action in Nevada:

We are a nonpartisan, multifaith organization that organizes and advocates for social, racial, and economic justice, as well as an inclusive democracy in both southern and northern Nevada. I am here to speak in strong support of A.B. 486 as presented with the proposed amendment from Assemblyman Yeager. First, we would like to extend extreme gratitude to Governor Sisolak, Speaker Frierson, and Senator Cannizzaro for bringing this critical bill and working to make sure that we are able to keep Nevada from facing a potential eviction crisis. As part of the Nevada Housing Justice Alliance, Faith in Action Nevada, along with our coalition partners, stressed the need for additional protections for tenants to stave off the potential eviction cliff. COVID-19 has exacerbated the extreme imbalance of power between landlords and tenants. One of those includes the expedited timeline of our eviction process. The timeline is far quicker than the available assistance is able to reach the tenant. With A.B. 486 we will be able to not only get this much needed assistance to those who need it the most, but make sure that Nevadans are not on the street. We urge you support for A.B. 486.

Tessyn Opferman, representing Nevada Women's Lobby:

Stable and affordable housing are a top priority of the Nevada Women's Lobby, especially after the last year where women and people of color disproportionately faced job loss and housing insecurity. This bill is a critical measure to use federal funds to ensure landlords are paid and tenants can continue to live with a roof over their heads. As we finally start to move out of the pandemic, this bill will put women and families back on their feet so they can secure stable employment and income, ultimately keeping their housing and avoiding an eviction on their credit report. We are in strong support of A.B. 486 and echo what all those before me have said.

Joanna Jacob, representing Clark County:

I want to register Clark County's support for A.B. 486 and the important goal of linking tenants and landlords as quickly as possible to the resources that we have to prevent evictions before they happen. You heard from Assistant County Manager Schiller that we have put the framework in place to collaborate with the state, the courts, as many stakeholders as we can, and with the Legal Aid Center of Southern Nevada, an important, critical partner. We talk about deploying our resources to support the people who are in evictions and getting

information as quickly as possible to them about our rental assistance programs. We have tripled our team, as Mr. Schiller mentioned, and added 100 people just in the last two weeks.

We also have supported landlords throughout this process. I want to put on the record that since March, Clark County has deployed about \$130 million, as of last week, to landlords. They are an important piece of this process, and we remain committed to doing as much as we can to help our community respond to this crisis.

Chris Daly, Private Citizen, Las Vegas, Nevada:

I am testifying in support of A.B. 486 today as the owner of a rental property in Las Vegas. Near the beginning of the pandemic, my tenant lost his job in construction and was uncomfortable in applying for unemployment benefits. He worked odd jobs over this past year, including in fast food, but fell further and further behind in rent each month. While he has finally been hired back to his previous job, he is now about \$10,000 behind in rent. Even with full-time work, he really has no way to make up that amount of money.

Last year, I did apply for landlord assistance through the CHAP program. Ultimately, the County stopped processing the application due to CARES money being exhausted. My tenant applied for rental assistance earlier this year, but his application has been pending for months. I am hopeful my tenant and his small daughter are able to stay in their home. Due to the circumstances, I am not interested in pursuing legal action against him to recover back rent. Assembly Bill 486 is an important bill to help keep Nevada renters in their homes, clean slates of back rent that could be hanging over tenants' heads for years, and provide relief to small landlords including those of us who are not pursuing evictions [[Exhibit E](#)].

Emily Paulsen, Executive Director, Nevada Homeless Alliance:

I am the Chair of the Policy Council on Homelessness. We urge you to support A.B. 486. A single eviction record can make it extremely difficult to secure new housing and puts households at risk of homelessness. Nevada has the fourth highest rate of unsheltered homelessness in the nation due to a variety of factors, and we simply do not have the social service infrastructure in place to respond to a wave of households becoming homeless in the coming months. If we do not take reasonable policy steps to help tenants and landlords get back on their feet, as proposed in this bill, there will be insurmountable human, social, and fiscal costs to our state. This bill is an opportunity for our state to stave off this historic housing crisis we are facing, and I thank you for your support of this bill.

Quentin Savvoir, Deputy Director, Make It Work Nevada:

We are a part of the Nevada Housing Justice Alliance. In the interest of time, I concur with many of the sentiments that my colleagues and comrades have suggested in supporting A.B. 486. This is long overdue protection for Nevada's renters, and we deeply appreciate and urge bipartisan support for this important piece of legislation.

LaLo Montoya, Political Director, Make the Road Nevada:

I am the housing justice organizer for Make the Road Nevada, and we are also a part of the Nevada Housing Justice Alliance. I am speaking in support of A.B. 486. With the state's eviction moratorium being lifted soon, I know that corporate greed will stop at nothing to take people's homes away. The passage of A.B. 486 is critical for tenants to obtain rental assistance and avoid becoming houseless. Despite having the eviction moratorium in place, corporate landlords have been evicting families. We do our best to assist tenants in obtaining rental assistance; however, the current power imbalance between tenants and landlords, in many instances, is too much to overcome. Tenants whom we have helped apply for rental assistance in Clark County over a month ago are still waiting to hear a response concerning their application. The current eviction process does not offer any time for tenants to continue waiting for a response. Assembly Bill 486 is critical to address the confusion and desperation that families are facing at this time. I urge you to pass A.B. 486 so that tenants have a fighting chance of staying in their homes [[Exhibit F](#)].

Shane Piccinini, Government Relations, Food Bank of Northern Nevada:

I am not sure there is a lot for me to add because the bill presentation explained exactly why we need this. The state's two food banks, Three Square in Las Vegas and the Food Bank of Northern Nevada, have been dealing with the financial crisis of the affordable housing issue in Nevada for a long time. The sooner we are able to help people get on their feet financially, the better it is going to be. The food banks have definitely been impacted by this, and I appreciate Assemblyman Yeager for bringing this bill forward.

Doralee Martinez, Private Citizen, Reno, Nevada:

I represent the Nevada Disability Peer Action Coalition. We ditto all of the support from the people who have spoken before. Now I am going to go get a doughnut because Treasurer Conine keeps mentioning doughnut holes.

Maria Nieto Orta, representing Mi Familia Vota:

Mi Familia Vota is in full support of A.B. 486. Latinos have been disproportionately affected, both in health and economically, by the unprecedented COVID-19 pandemic. Assembly Bill 486 is needed because Nevada is not ready to face mass evictions. This bill will help all Nevadans to keep their homes, and ensure rental assistance is used to prevent evictions and repay landlords. As we know, these evictions have been and will continue to affect Latinos, people of color, and immigrants the most. Many Nevadans did not qualify for relief, and we need to make sure we are protecting them. During the pandemic, some landlords still evicted tenants, even after cashing rental assistance funds and signing a contract agreeing not to evict. Some even called U.S. Immigration and Customs Enforcement (ICE) on their undocumented tenants. Assembly Bill 486 allows the tenants to file a wrongful eviction claim against a landlord who has evicted them after accepting rental assistance. It also allows the courts to penalize a landlord who wrongfully evicts a tenant. We urge your support for this bill.

James Sullivan, representing the Culinary Workers Union, Local 226:

The COVID-19 pandemic has hit culinary union members and their families incredibly hard. While hospitality workers are slowly returning to work, tens of thousands of workers are still unemployed and struggling with housing insecurity. Since last March, the Culinary Workers Union has worked with our housing fund and other organizations to keep workers in their homes. Unfortunately, there are still too many Nevadans who have lost their homes during this pandemic. Assembly Bill 486 will help keep Nevadans in their homes, and ensure rental assistance is utilized to prevent evictions and repay landlords. In the middle of this pandemic, working families and people of color have been disproportionately impacted by housing insecurity, and A.B. 486 is a step in the right direction towards rectifying that. The Culinary Workers Union believes that every Nevadan deserves to be treated with dignity and that housing is a human right. Nevadans should not have to decide between having food on the table or a roof over their heads. The Culinary Workers Union urges the Nevada Legislature to pass and support A.B. 486.

Audra Hamernik, President and Chief Executive Officer, Nevada HAND:

We are the state's largest developer of affordable housing in southern Nevada for both working families and seniors. I am speaking in support of A.B. 486 and will keep my comments brief. Some of the federal money for rental assistance has requirements that make it difficult for affordable housing communities to assist their residents with the application process. Many of our residents are not technology savvy, and thereby, it makes it difficult for them to submit their applications. Despite having resident services coordinators to help them and computer labs in every one of our buildings, challenges still exist. Assembly Bill 486 marries the court process and the rental assistance process and provides greater flexibility to provide more direct assistance to our residents. It would be a tremendous benefit to our residents and also the affordable housing community. We encourage the passage of A.B. 486.

Chair Carlton:

We will only take a couple more in support, and then we have to flip to opposition. If more in support wish to speak and we do not get to you, please submit your comments in writing to the Committee. We are bumping up against the clock. Next testifier, please.

Erika Castro, representing the Nevada Immigrant Coalition:

I want to echo a lot of the sentiments expressed before me and encourage you to support this bill. Our partners across the state have been working tirelessly to help Nevadans recover from this unprecedented health and economic crisis. Assembly Bill 486 will help us avoid this disastrous eviction cliff and provide a smoother path to receive rental assistance.

Chair Carlton:

Is there anyone else in support? [There was no one.] I will go to those in opposition.

Rocky Finseth, representing Nevada REALTORS:

I am here with Career Nevada on behalf of Nevada REALTORS. Joining me are Tiffany Banks, Brad Spires, Vandana Bhalla, and Molly Hamrick. We have some technical issues that we would like to get on the record today. With that, I will turn it over to Ms. Banks.

Chair Carlton:

We will start with Ms. Banks. If you would like to point out your issues, we will move on from there.

Tiffany Banks, General Counsel, Nevada REALTORS:

I am testifying in opposition of A.B. 486 as drafted. We would like to thank Assemblyman Yeager for continuing to work with us on this bill and get us to a place where there is a fair and balanced approach for both landlords and tenants alike. You should have received a copy of our full comments submitted jointly with the Nevada State Apartment Association [[Exhibit G](#)].

First is section 2 [page 1, [Exhibit G](#)]. The policy issue as drafted creates an affirmative defense not just for nonpayment of rent but to all evictions and squatter cases. This section also contradicts current judicial procedure in that at the eviction hearing, if the court has determined that a legal defense has been raised, then they take no action. It is difficult to tell from this language when the affirmative defense will be raised and what the consequences at that time would be.

In section 3 [page 4], while Nevada REALTORS and the Nevada State Apartment Association do not condone fraudulent action by any party, the procedures set forth in this section are duplicative of and/or in conflict with the processes already afforded by the justice system. There are also many technical issues that need to be addressed, such as what "proceeds to evict a tenant" really means. Landlords and property managers can assume many things.

In section 4 [page 6], the technical issue is that the Nevada Supreme Court eviction mediation program and rules currently apply to some reeviction actions for nonpayment of rent under *Nevada Revised Statutes* 40.253; however, this bill covers many other types of evictions included in NRS 40.215 to 40.425. It is not clear if it applies to commercial premises, nuisance, or other criminal activity and formal unlawful detainer. This creates conflict and confusion for courts, landlords, and tenants. In addition, that eviction mediation program sets forth a procedure for requesting mediation. The language in this bill ignores the fact that the alternative dispute resolution process is only for those parties who request it and meet certain criteria, and only for nonpayment of rent cases. Those rules also trigger the 30 days they have to set that eviction hearing. We cannot tell from this if it is an additional 30 days.

In section 5 [page 7], the technical issue is that the Nevada Supreme Court summary eviction mediation rule number 4 already covers the information that needs to be included in the landlord notice. It only requires that notice be served in that same NRS 40.253 nonpayment of rent case I mentioned earlier. Our issue with the language here is that there is no guidance on what the notice should specifically say. As contemplated in that eviction mediation program, that rule sets forth specific language to be included so the landlord is not crossing the line of giving legal advice. Additionally, again, this should apply to nonpayment evictions only.

In section 6 [page 8], our technical issue is that there may be fiscal restraints on how those federal rental assistance dollars may be allocated and to whom. I know we have had a lot of that conversation today, but we want to be sure that if the bulk of the rental assistance dollars contemplated here have to be tenant initiated, then this entire process would not work. We want to make sure that is not the case. If the process can work as discussed today, there must be an expedited process for the landlord. There are weeks of delay built into this process, and a requirement of outreach to tenants, letting tenants know rental assistance is available. We want to skip that. There must be an expedited, streamlined process, and a forum in which a landlord can just apply.

Finally, in section 7, the \$5 million is not likely to last long. We want to make sure those funds are going directly to provide landlord relief and not specifically to rehouse tenants. We want to know that is earmarked, and also that the State Treasurer may replenish the funds for this program. We would like to propose a sunset of January 1, 2022, and an additional section to say that tenant fraud should not create liability to a landlord. We would suggest additional language to provide that landlords should be protected from any and all liability should rental assistance that was accepted by landlords later be found to be fraudulent.

As you can see, there are many difficult issues that need to be worked out, both from the legal and technical perspectives. A bill initially intended to address financial assistance to landlords has turned into a confusing bill filled with problems. This type of legislation will not keep tenants in their homes, rather encourage mom and pop landlords to sell, frustrated and exhausted, leaving tenants with fewer housing options. Please consider the consequences of this bill as drafted. I will now pass the time to Brad Spires. I appreciate you giving me the extra time to put our comments on the record, and I am happy to answer any questions you may have.

Chair Carlton:

I believe some of the issues you brought up have been addressed in the amendment. Thank you for putting your concerns on the record, but I do believe some of them are addressed. As you move forward working with the bill sponsor, the State Treasurer, and other parties, if you would incorporate the amendment into the bill so that you have a full picture, we can move forward from there.

Tiffany Banks:

Thank you, Chair. We did just begin reviewing them this morning. They do not appear to address a wide majority of the concerns outlined in our testimony; however, before formally putting that on the record, we need time to study.

Chair Carlton:

We would like you to take a look at the amendment and come back with a clean list of concerns so that we do not have to fit the pieces together.

Rocky Finseth:

We will do that.

Chair Carlton:

Thank you. It will make it much easier for us to be able to see where the problems really lie. Mr. Spires is next.

Brad Spires, President, Nevada REALTORS:

Chair Carlton, I think the last time I appeared before you for something this complex was on energy audits when we were talking about houses A through F. There are a lot of similarities here with that. The 20,000 members of our realtor association represent both tenants and landlords, and it has been difficult for all. The mom and pop landlords have most of the rentals in our state, and they have struggled. There will be more discussions about that struggle, and we can bring in more people to talk about tenants as bad actors as there has been discussion about landlords as bad actors. I do not think that is totally germane. I think the majority of people in this state are trying to do the right thing.

You have heard the technical things that Ms. Banks identified. I want to talk specifically on a couple things. The \$5 million sounds like a good number until you apply it in reality. As someone spoke about earlier in their testimony, they were \$10,000 in arrears. That number will get larger, so let us say that a base number that may be looked at under this program would be \$10,000. What that amounts to out of \$5 million is that it would bring relief to 500 landlords and tenants. That is not a lot. I appreciate the idea and like having the funds that are being discussed; however, I am not sure that amount will be impactful on reaching the outcomes that we need to arrive at.

During this session, we have supported Assemblyman Frierson's bill, Assembly Bill 308, and Assemblyman Watts' bill, Assembly Bill 141.

With Assembly Bill 486 coming on at the last minute, there are just several things that we want to look at to ensure that it is fair for both the landlords and the tenants. We are here to support that.

Chair Carlton:

I think you and I, and most people, are in agreement that there are some landlords out there who need assistance, and we are just trying to find the most effective way to be able to help them. The next person in opposition, please.

Vandana Bhalla, Private Citizen, Las Vegas, Nevada:

I have been a realtor and property manager in Nevada for almost 20 years. I am testifying today in opposition of A.B. 486. While we support a program designed to assist landlords who need financial assistance and are intent on keeping their tenants, this bill as drafted goes far beyond those goals. While proponents may frame this as a glide path for recovery, it is nothing more than a continuation of the moratorium for the remainder of 2021, bogged down in governmental bureaucracy.

Let me give you a taste of my experience as a property manager for many small mom and pop landlords during this pandemic. I recently had a tenant who did not pay a single dime for months, and \$20,000 later, that tenant appeared in court and stated that he could not pay rent, nor did he qualify for rental assistance. To date, this tenant has not paid the landlords a dime since August 2020. This is a tenant who has two children in a prestigious private school, personal golf carts, a Mercedes, and a membership at Red Rock Country Club all procured in the last nine months, yet he says he cannot pay his rent. The landlords continue to bear the costs of his delinquency.

Many tenants are being nonresponsive. Efforts to access the federal CARES dollars through various government entities have been long and drawn out, and that assumes that your tenant is cooperative in making the necessary reach out to apply for these funds. There are countless more tenants who view that the State of Nevada and the federal government have given them a free pass to not be responsive to me or the owners that I represent. Passage of A.B. 486 as drafted will only further create more confusion in the marketplace and create longer-term harm for tenants and landlords alike.

I urge you to consider the policy changes and technical changes outlined by Ms. Banks or not move this bill at all. All of the burden to date has been placed on the landlord with no assistance from the federal or state governments. Everything has been focused on the tenant, including any financial assistance directed to landlords. While a handful have been responsive, the vast majority are choosing to not engage. You are creating long-term harm to small landlords that I represent. Passage of A.B. 486 in its current form will be devastating, and I encourage you to please not adopt it. With that, I would like to pass the time to Molly Hamrick.

Molly Hamrick, Private Citizen, Las Vegas, Nevada:

I am a property manager in southern Nevada, and we manage about 425 properties. I am testifying today in opposition to A.B. 486. It has been a struggle to get many of our tenants to apply for rental assistance, much less respond to us. We know that both landlords and tenants alike have found it very difficult to navigate the Governor's directives, the

federal-based eviction moratoriums, and local ordinances to determine what applies to them and when it applies. The legislative changes this session will only confuse the matters worse. This bill and others like it are going to keep landlords from providing a product in the marketplace that tenants desperately need.

In my 30-plus years of experience working with tenants, many truly cannot afford to buy a home, so renting is their only option. This legislation is going to make it harder for us to provide our market with rental properties, which are essential to our thousands and thousands of tenants. Several of our landlords have had to take their retirement or savings to cover the costs associated with keeping their rental properties habitable and current on their taxes and insurance. Other landlords simply do not have the means; they are being forced to sell rentals, reducing the overall supply of rental properties in our marketplace. We have tenants who have not paid their rent for well over a year yet have brand new cars in their driveways and swear to us they have no means to make their rent. The landlords and tenants alike are very frustrated and confused.

When thinking about the impact of A.B. 486, as drafted, imagine the shortage in rental units that will drive the rental prices to increase at even faster rates. Think about the impact that Nevada families will face if there are even less rentals in the marketplace than there are right now, or the if the prices continue to go up. We are seeing landlords offer rentals for highest and best. We saw that in housing, but now we are also seeing it in rentals. This is forcing many families to not be able to rent properties. I urge you to consider the negative consequences of this piece of legislation. I would like to pass this to Susy Vasquez of the Nevada State Apartment Association.

Susy Vasquez, Executive Director, Nevada State Apartment Association:

The Nevada State Apartment Association represents 67 percent of multifamily landlords in Nevada. That consists of nearly 162,000 units and growing. While we appreciate the intent of A.B. 486 to help tenants and make landlords whole, we oppose A.B. 486 as drafted for several reasons.

This legislation contains many technical errors and stands to harm both landlords and tenants. The definition of pending rental application needs to be clearly defined, and the affirmative defense should only apply to cases as seven-day notice to fair quit or true nonpayment of rent, as the federal CDC order allows. Assembly Bill 486 will not create more housing stability because, while well-intended and aimed at keeping people in their homes, it may just prolong the inevitable by keeping that individual in a living situation they can no longer afford. *Nevada Revised Statutes* (NRS) 118A and NRS 40 are clear for both tenant and landlord protections and their abilities to resolve contract disputes. Simply put, A.B. 486 is an impairment of a landlord's right to contract and a violation of due process as a deprivation of property rights.

While we oppose the bill because we do not believe it will accomplish the goal of halting evictions without violating our rights, the \$5 million dedicated to fund this bill is a drop in

the bucket. The Nevada State Apartment Association is bleeding over \$17 million a month in rental arrears. The additional requirement for the landlords to accept 75 percent of rent owed and to waive our right to evict for 90 days is also concerning.

Finally, A.B. 486 references a new electronic form that no one has seen for mediation. This is concerning because we have seen many issues and delays with the current rental assistance process, especially with CHAP in Clark County which reportedly has only approved 400 applications, or \$3 million, in 2021. An expedited process must be a priority. Otherwise, all this bill has accomplished is a headline, and the struggling Nevada tenants and landlords are not better off or made whole. Please oppose A.B. 486. This legislation is too little, too late, and riddled with procedural and mechanical issues that will keep this body from reaching its goal.

Chair Carlton:

Is there anyone else in opposition?

Rocky Finseth:

We worked with Assemblyman Yeager over the weekend. We will continue to stay at the table working with him. We received the conceptual amendment at 11:30 p.m. last night. We were not able to move it over to the clients until early this morning. As soon as this hearing is over, we will have a conference call and get back to you.

Chair Carlton:

Thank you. The clock is ticking. We would appreciate everyone being as expeditious as possible because we are down to seven days. It is time to get it done and have those conversations. Do we have anyone else in opposition?

Roberta Ohlinger-Johnson, Legislative Chair, Creditor's Rights Attorney Association of Nevada:

The Creditor's Rights Attorney Association of Nevada represents creditors from Main Street to Wall Street, in all courts in the state of Nevada, to the Ninth Circuit, and beyond. We appreciate the conceptual amendment which has resolved most of our concerns with this bill; however, we remain in limited opposition to A.B. 486.

The Nevada Constitution states in Article 1, section 8, subsection 3 that "private property shall not be taken for public use without just compensation having been first made, or secured, except in cases of war, riot, fire, or great public peril, in which case compensation shall be afterward made." The state has exercised its emergency powers of eminent domain during the pandemic. Without a doubt, COVID-19 has been a time of great public peril, but the bill is coming due. While we applaud the intent to create a mechanism for landlords to apply for rental assistance, and we whole-heartedly support getting dollars into their pockets, we are nonetheless in limited opposition to A.B. 486. As amended, section 8, subsection 6 forces landlords to accept the settlement of a mere 75 percent. This runs contrary to the law of eminent domain, which specifies full payment. Under settled

Nevada law, they are entitled to the contract rate and no less. Consider that for the small landlord, for whom this is intending to assist, 75 percent can be far less of their break-even point when taking into account mortgage, insurance, taxes, and their duties of habitability which have been enforced against them. This settlement can force landlords to sell or abandon rental properties that they cannot afford to maintain for the benefit of the state. In other words, this may be too little, too late. Again, we support the overarching purpose of A.B. 486. We appreciate the craftsmanship of this bill and how quickly it has been amended. We support the overarching purpose but maintain our limited opposition.

Joshua Campa, Chapter President, Southern Nevada Chapter, National Association of Residential Property Managers:

I am a local property manager in southern Nevada, and also the President of the southern Nevada chapter of the National Association of Residential Property Managers (NARPM). I witnessed firsthand the effects of the national pandemic on our landlords here in southern Nevada being unable to take possession of their homes. Our landlords have been plagued with an avalanche of property expenses including insurance, property taxes, utility payments, HOA dues, mortgage payments, and maintenance costs among many others.

My landlords, like most NARPM member landlords, are mom and pop landlords who depend upon their rental income. John Wickland is 87 years old and retired. He depends on his rental income for retirement and has been faced with no retirement income for the last several months. Vincent Pellis moved from his property because he could not afford the property during the recession and wanted to do the right thing. Instead of foreclosing on the property, he rented it out to somebody who could afford it. That tenant has stopped paying. Jasmeet Kathuria opened a small business investment portfolio of five properties in Nevada ten years ago as his main source of income. His tenants have defaulted and trashed his homes during the pandemic. He has been faced with thousands of dollars in repairs and cannot sell his homes as his renters continue to occupy them and will not pay their rent. He has been left with little to no income during this dire time. Ann Sekhon is 67 years old. She has rented out her home in Las Vegas to be with her daughter, struggling with cancer in South Carolina. She is dependent upon this property as her main source of income. She has been faced with tenants who have circumvented our system by fraudulently taking advantage of the avenues the government has made available to the consumer to stop the eviction process.

These stories are not simply anecdotal. They are real life. They are Nevada, and they cannot continue to be overlooked. They cannot continue to shoulder the burden of this housing crisis alone. Story after story, I can continue to exemplify how the pandemic has affected landlords. Implementing ambiguous legislation that is susceptible to fraud offers no future rental assistance, and is dependent upon a rental assistance program that has been plagued with endless delays, nearly no communication to homeowners, and no communication at all to property managers, is a mistake. I ask our Legislature today to please consider the landlords who are fighting to stay afloat, the landlords who depend upon this income for their

livelihood. Have mercy on them as they have carried the burden of this pandemic to try to keep tenants in their homes with no help.

Chair Carlton:

Is there anyone else in opposition? [There was no one.] Is there anyone to speak in neutral? [There was no one.] I will close the hearing on A.B. 486.

[A recess was taken until 6:57 p.m. when Chair Carlton called the meeting back to order.]

We have the K-12 budget that we have been waiting for. Staff will pass out the documents, and I will give everyone a moment to take a look. We are viewing this as a draft so that if there are any concerns, they can be addressed because these are not the types of bills that you want to amend. We will do a walkthrough of the bill, a question and answer period, and then after the joint meeting adjourns, the Senate will take this to the floor to process it in a timely fashion. With that, Mr. Drost, will you be leading us off this evening?

Adam Drost, Senior Program Analyst:

Yes, Madam Chair. Tonight, my colleagues and I will walk through bill draft request (BDR) 34-1169 [[Exhibit H](#)] that will become the K-12 Education Funding bill for the 2021-2023 biennium. We will cover each section and then answer any questions at the end of covering those sections.

BDR (34-1169)—Ensures sufficient funding for K-12 public education for the 2021-2023 biennium. (Later introduced as Senate Bill 458).

Adam Drost, Senior Program Analyst:

Section 1 provides the total public support for school districts, charter schools, and university schools for profoundly gifted pupils that is calculated at \$10,204 on a per-pupil basis in fiscal year (FY) 2022 [page 1, [Exhibit H](#)]. This reflects total funding of \$4.95 billion, and these amounts include all state K-12 funding, including pupil-centered funding for both the base and weights, and any remaining categorical programs. It also includes federal funding provided through the Department of Education; however, it does not include federal funding provided directly to school districts. I would also note this does not include any one-time federal funding provided to address the COVID-19 pandemic.

Section 2 [page 2] provides the total public support on a per-pupil basis of \$10,290 in FY 2023. This reflects total funding of \$5 billion, calculated in the same manner as the FY 2022 amount.

In section 3, subsection 1 [page 2], State General Fund appropriations for the Pupil-Centered Funding Plan Account total \$1.4 billion in FY 2022 and \$1.2 billion in FY 2023. I would note there is no requirement regarding how the Governor initially implemented the Pupil-Centered Funding Plan, and this reduction reflects the Governor and the Money Committees approving the use of the Nevada Plan funding formula to determine initial

funding to implement the Pupil-Centered Funding Plan in the 2021-2023 biennium. As a reminder, under the Nevada Plan funding formula, the State General Fund provides the last dollar amount of funding based upon other revenue provided through the plan. Therefore, General Fund appropriations were reduced based on increases to other non-General Fund revenue. This is a one-time decision to implement the Pupil-Centered Funding Plan.

Section 3, subsection 2 [page 3] provides the legislative declaration that the amount appropriated is sufficient to fund the operation of K-12 education. Subsections 3 and 4 are standard language requiring the General Fund appropriations to be subject to the requirements of the State Budget Act.

Section 4, subsection 1 provides authorizations of \$3 billion in FY 2022 [page 3]. Subsection 2 provides authorizations of \$3.2 billion in FY 2023. These amounts reflect the funding provided by non-General Fund sources including property tax, local school support tax, governmental services tax, and room tax revenue. Subsection 3 is standard language requiring the authorizations to be subject to the requirements of the State Budget Act. The total amount of funding provided in sections 3 and 4 is \$4.4 billion in FY 2022 and \$4.5 billion in FY 2023 in the Pupil-Centered Funding Plan Account.

Section 5 [page 4] begins funding the Pupil-Centered Funding Plan in FY 2022 based on the funding waterfall, or tiers, established in NRS 387.1214. Subsection 1 provides a transfer of funding for food services totaling \$2.2 million and transportation costs of \$199.1 million for each school district. Subsection 2 [page 5] provides the transfers of local funding for special education costs for each school district and all charter schools, totaling \$442.1 million in FY 2022. Subsection 3 provides the statewide base per-pupil funding of \$6,980 per-pupil in FY 2022, which reflects the proportional reduction between base and weights needed to balance the funding model [page 6]. Subsection 4 provides the adjusted base per-pupil funding amount in FY 2022 for each school district. Those amounts include the base per-pupil funding as well as the Nevada cost of education index and attendance area adjustments for each school district on the Pupil-Centered Funding Plan, or the calculated per-pupil amount for those school districts on hold harmless.

Section 5, subsection 5 [page 7] provides the statewide base per-pupil funding amount of \$6,980 that is provided to pupils enrolled full-time in a program of distance education in FY 2022. It also provides the individual adjusted base per-pupil amounts that would be provided to charter schools and university schools for profoundly gifted pupils operating in each county. These amounts exclude the attendance area adjustments. Subsection 6 [page 8] provides the final adjusted base per-pupil funding that would be provided to each charter school currently operating in the six counties that have charter schools, inclusive of the attendance area adjustments for those charter schools. As illustrated on pages 8 and 9 [[Exhibit H](#)], these amounts vary based upon the adjusted base amount as well as the attendance area adjustments calculated for each area.

Section 5, subsection 7 provides the calculated weights for English learners of 0.24, at-risk pupils of 0.03, and gifted and talented pupils at 0.12. As a reminder, these amounts are largely calculated based on the Money Committees' decision to restore and utilize funding for English learners and at-risk pupils at the FY 2020 funding levels.

Section 5, subsection 8 provides the weighted funding that would be provided to individual school districts, charter schools combined, and the university school for profoundly gifted pupils in FY 2022. These amounts include the calculated amounts for those districts that would be on the Pupil-Centered Funding Plan for the amounts awarded in FY 2020 for those school districts on hold harmless. Subsection 9 details the school districts that would be on hold harmless under the Pupil-Centered Funding Plan in FY 2022 [page 10]. This includes Carson City, Douglas, Elko, Esmeralda, Eureka, Humboldt, Lincoln, Pershing, and Storey Counties. This further clarifies that these school districts may reapportion base and weight funding to provide a reasonably equal educational opportunity for its pupils, which is consistent with legislative intent specified in NRS 387.121.

Section 6 [page 11] is similar to section 5 and begins the funding for the Pupil-Centered Funding Plan in FY 2023, again based upon the funding waterfall, or tiers, established in NRS 387. Subsection 1 provides the transfer of funding for food services totaling \$2.2 million and transportation costs totaling \$199.3 million for each school district. Subsection 2 [page 12] provides the local funding for special education costs for each school district and all charter schools, totaling \$442.4 million in FY 2023. Subsection 3 provides the statewide base per-pupil funding of \$7,074 in FY 2023, which again reflects the proportional reduction between base and weights needed to balance the model [page 13]. Subsection 4 provides the adjusted base per-pupil funding amount in FY 2023 for each school district. These amounts include the base per-pupil funding as well as the Nevada cost of education index and attendance area adjustments for each school district on the Pupil-Centered Funding Plan or the calculated per-pupil amount for those school districts on hold harmless.

Section 6, subsection 5 [page 14] provides the statewide base per-pupil funding amount of \$7,074 that is provided to pupils enrolled full-time in a program of distance education in FY 2023. As a reminder, virtual charter schools only receive the statewide base per-pupil funding amount per NRS 387.1214. Subsection 5 also provides the individual adjusted base-per-pupil amounts that would be provided to charter schools and university schools operating in each county, excluding the attendance area adjustments.

Section 6, subsection 6 provides the final adjusted base per-pupil funding that would be provided for each charter school currently operating in the six counties that have charter schools, inclusive of the attendance area adjustments for those charter schools. As illustrated on pages 15 and 16 [[Exhibit H](#)], these amounts vary based on the adjusted base amount as well as the attendance area adjustments calculated for each area.

Section 6, subsection 7 [page 16] provides the calculated weights for English learners of 0.23, at-risk pupils of 0.03, and gifted and talented pupils of 0.12. Again, that calculation is based upon the Money Committees' decision to base funding on the English learners and at-risk funding that was provided at the FY 2020 amount. Subsection 8 provides the weighted funding that would be provided in FY 2023 to individual school districts, charter schools combined, and university schools for profoundly gifted pupils. These amounts include the calculated amounts for those school districts that would be on the Pupil-Centered Funding Plan for the amounts awarded in FY 2020 for those school districts on hold harmless.

Section 6, subsection 9 details the school districts that would be on hold harmless under the Pupil-Centered Funding Plan in FY 2023 [page 17]. This includes Carson City, Douglas, Elko, Esmeralda, Eureka, Humboldt, Lincoln, Pershing, and Storey Counties. It further clarifies that these school districts may reapportion base and weight funding to provide a reasonably equal education opportunity for its pupils.

Section 7, subsection 1 [page 18] provides State General Fund appropriations of \$224.7 million in FY 2022 and \$230.3 million in FY 2023 for the Account for State Special Education Services. This reflects the state funding provided to school districts and charter schools that includes the state maintenance of effort related to special education funding. Subsection 2 provides authorizations of \$2 million in each year of the 2021-2023 biennium in the Account for State Special Education Services. This is a balance forward amount utilized to fund the extraordinary special education expenditures. Subsections 3 and 4 provide the transfer of \$223.2 million in FY 2022 and \$228.8 million in FY 2023 for state special education funding provided to school districts and charter schools largely based on their special education enrollment as a multiplier. As a reminder, state special education funding is limited to no more than 13 percent of total enrollment for each school district and charter school. Subsections 5 and 6 provide the transfer of \$1.5 million in each year of the 2021-2023 biennium for state special education funding provided to school districts and charter schools with special education enrollment that exceeds the 13 percent funding cap. Subsections 7 and 8 [page 19] provide the transfer of \$2 million per year that is utilized to fund extraordinary special education expenditures that are not ordinarily present in the typical special education service and delivery system at a public school. Subsection 9 provides the reversion of funding at the end of each fiscal year.

Julie Waller, Senior Program Analyst:

Section 8 [page 19, [Exhibit H](#)] is an appropriation to the Other State Education Programs Account of \$37.4 million in both FY 2022 and FY 2023. Subsection 3 [page 20] authorizes \$252,098 in FY 2023 from money not appropriated from the State General Fund related to the one-time match requirement for the Jobs for America's Graduates (JAG) program. Subsection 4 transfers \$19.3 million in both FY 2022 and FY 2023 from the Other State Education Programs Account for the Adult High School Diploma program. Subsection 5 includes an annual reporting requirement for this program.

Section 8, subsection 7 [page 21] provides that the money appropriated as outlined in this section is available for both FY 2022 and FY 2023 and may be transferred from year to year with Interim Finance Committee (IFC) approval. Paragraph (a) transfers a total of \$3.9 million in FY 2022 and FY 2023 for the JAG program, as well as authorizes expenditures of an amount up to \$252,098 in each fiscal year contingent upon matching money being provided from sources other than the appropriation in subsection 1. Paragraph (b) transfers a total of \$300,000 in both FY 2022 and FY 2023 to the Department of Education for transfer to the Clark County Public Education Foundation for the implementation and operation of educational leadership training programs. Expenditures of these amounts are contingent upon a one-to-one match from sources other than the state appropriation.

Section 8, subsection 8 [page 22] includes an annual reporting requirement to the IFC for the educational leadership training program. Subsection 10 [page 23] transfers \$13.5 million in both FY 2022 and FY 2023 from the Other State Education Programs Account for the awarding of grants for career and technical education programs. Subsection 12 transfers \$462,725 in both FY 2022 and FY 2023, from the Other State Education Programs Account for the award of grants to support public broadcasting in the state.

Jaimarie Mangoba, Program Analyst:

Starting on page 23 [[Exhibit H](#)], section 9 provides General Fund appropriations of \$7.3 million in each year of the 2021-2023 biennium to the Professional Development Programs Account to support the three regional professional training programs and the Teacher of the Year program. Section 10 provides the breakdown of the funding that will be provided to each of these original professional development programs [page 24].

Section 11 [page 25] provides funding of \$100,000 in each year to the Statewide Council for the Coordination of the Regional Training Programs for additional training opportunities for educational administrators in Nevada. Section 12 [page 26] is parallel language that transfers the responsibilities of the Statewide Council for the Coordination of the Regional Training Programs to the Department of Education if Senate Bill 76 (2nd Reprint), which abolishes this council, is enacted by the Legislature and approved by the Governor.

Jaimarie Mangoba:

Section 13, as indicated earlier, provides funding of \$8,095 in each year of the biennium for the Teacher of the Year program [page 27, [Exhibit H](#)]. Section 14 provides General Fund appropriations of \$459,849 in each year of the biennium for the One-Fifth Retirement Credit Purchase Program Account to purchase one-fifth of a year of retirement service credit.

Section 15 provides General Fund appropriations of \$2.4 million in each year of the biennium for the Teach Nevada Scholarship Program Account [page 28]. Subsection 3 provides the authorization of \$4 million in FY 2022 and \$4.1 million in FY 2023 for the Teach Nevada Scholarship Program.

Section 16 has transitory language to clarify that net proceeds of minerals are a revenue source in the State Education Fund, and recognizes that net proceeds of minerals collected by local counties in FY 2021 are included as a revenue source in the State Education Fund in FY 2022.

Section 17 [page 29] requires any balance in the Account for Programs for Innovation and the Prevention of Remediation, the Teachers' School Supplies Assistance Account, and the Account for the New Nevada Education Funding Plan at the end of FY 2021 to be reverted to the State Education Fund.

Section 18 revises the hold harmless provision related to student enrollment. Since FY 2021 may be skewed due to the pandemic, this section allows the Department to use the enrollment count from FY 2020 or FY 2021, whichever is higher, for the purposes of making the monthly apportionments from the State Education Fund to school districts and charter schools if the average enrollment of pupils during that quarter is less than or equal to 95 percent of the enrollment of pupils in the same school or charter schools. This provision does not apply to any decrease in enrollment of pupils in a charter school that is caused by an action of a sponsor of that charter school. For example, if a sponsor closes an elementary school for poor performance, this will not apply to them.

Section 19 appropriates \$50 million from the State General Fund to the State Education Stabilization Account as a loan to the account to provide seed money to fund any future transfers from the State Education Fund to school districts and charter schools.

Adam Drost:

Section 20, on page 30 [[Exhibit H](#)], modifies NRS 387.121 to reflect legislative intent that charter schools and university schools should be included in a calculation of hold harmless under the Pupil-Centered Funding Plan. It also clarifies that hold harmless is calculated on a per-pupil basis based upon a reasonably similar level of funding provided in FY 2020. It also clarifies that all charter schools should be considered as a whole rather than individually when determining if charter schools would be eligible for the hold harmless provisions under the Pupil-Centered Funding Plan.

Section 21 modifies NRS 387.122 by eliminating the references to the Distributive School Account [page 32, [Exhibit H](#)]. Subsection 1 also clarifies the additional support for special education that would be provided as a multiplier under the Pupil-Centered Funding Plan, while also considering the federal maintenance of effort requirements when distributing this funding. Subsection 2 [page 33] clarifies the additional support for special education that would be provided as a multiplier under the Pupil-Centered Funding Plan for those school districts and charter schools that have special education enrollment that exceeds the 13 percent cap of their total enrollment. Subsection 2 also eliminates the references to the former equity allocation model that was used by the former Nevada Plan formula funding.

Section 22, subsection 10 [page 37] clarifies the Commission on School Funding may meet between July 1st of odd numbered years and September 30th of the subsequent even numbered years. This is consistent with the closing action of the Money Committees and the travel funding approved for the Commission.

Section 23 allows transportation funding for Native American students who attend school outside of their school district to be provided to the school district of residence by the school district where the student is enrolled. This funding is provided in the Pupil-Centered Funding Plan through the transportation tier funding.

Section 24 [page 38] restores NRS 387.122, which was discussed in section 21, and clarifies the additional support for special education that would be provided as a multiplier under the Pupil-Centered Funding Plan, but also considering the federal maintenance of effort requirements when distributing this funding.

Section 25 revises NRS 387.1214 which was amended this session by Senate Bill 439.

Adam Drost:

This revision reflects additional tier funding for local special education funding in section 25, subsection 2, paragraph (b) [page 40]. Subsections 3 and 4 [page 41] also clarify the attendance area adjustment and provides this adjustment for charter schools and university schools as applicable.

Section 26 provides an attendance area adjustment for charter schools [page 44]. It also clarifies that a charter school receives the same attendance area adjustment on a per-pupil basis that a public school within a school district at the same location would receive.

Julie Waller:

Sections 27 through 30 [pages 45 through 51, [Exhibit H](#)], and section 33 [page 59], amend S.B. 439 (R2) to make conforming changes for the addition of local money for special education as a separate tier. On page 52 [[Exhibit H](#)], section 31 also requires local funding for students with disabilities provided through the separate tier to be accounted for separately. On page 57 [[Exhibit H](#)], section 32 revises NRS 387.12463, which was amended in S.B. 439 (R2), to replace the district equity adjustment with the attendance area cost adjustment.

The last section of the bill is section 34 [page 60, [Exhibit H](#)]. Subsections 1 through 3 provide the effective dates of various sections of the bill, particularly sections 34 and 19 become effective upon passage and approval. This is to create the State Education Fund and the Education Stabilization Account in order to receive the State General Fund appropriation of \$50 million that will be loaned as seed money for the Education Stabilization Account. Subsections 4 and 5 provide the parallel language related to funding for the Statewide Council for Coordination of Regional Training Programs if S.B. 76 were to be approved and signed by the Governor. We are happy to address any questions the Committee may have.

Chair Carlton:

That was an excellent walk through of a very complicated bill with all the changes that have been worked on over the last year or so. This is a huge sea change for us. With that, I will open it up for questions and comments. There is a lot of information in there. Assemblywoman Tolles is interested in the charter school language that she wanted to make sure was incorporated with all of the conversations that we have had.

Assemblywoman Tolles:

I think you did a good job summarizing for me, but we had a lengthy discussion about what happens to charter schools since they operate a little differently than the school districts by county. We had talked about lumping all the money together by the county, as opposed to by the whole state, since they do not move money around the same way. I believe I see this covered and see it referenced numerous times in here. Let us look at section 20, on page 31 [[Exhibit H](#)], where it talks about the regional factor with the reasonably similar level of funding that the district, charter school, or university school for profoundly gifted pupils will receive. Can we confirm and walk through that in reference to the discussion we had last week?

Adam Drost:

Yes, section 20 clarifies that it includes charter schools and university schools for the profoundly gifted in the calculation of hold harmless for the Pupil-Centered Funding Plan. Also, section 26 [page 44, [Exhibit H](#)] provides for attendance area adjustment for charter schools and stipulates that charter schools will receive the same attendance area adjustment on a per-pupil basis that a public school within a school district at the same location would receive.

Assemblywoman Tolles:

I think we are speaking the same language in that we are not lumping them all together for the whole state. We are doing it similarly within the same county. That is what I heard, and I see you nodding, so that is wonderful.

If we were ever in a situation where, even within that district, we have a school that might be losing more than 10 percent of what they are currently budgeted at, would this keep that from happening? Would there ever be a situation where we would see a school losing more than 10 percent from where they are, even within that regional calculation today?

Adam Drost:

Just to clarify, the lumping of charter schools together is an initial calculation to determine if they would be placed on hold harmless or the Pupil-Centered Funding Plan. I think your question is if their funding would be reduced by 10 percent. Is that correct?

Assemblywoman Tolles:

Yes, I am throwing out a hypothetical number. Do we have any situations where we see any charters—they are going to be held harmless at the same level—that are going to drop lower?

Adam Drost:

All charters would be under the Pupil-Centered Funding Plan in the 2021-2023 biennium. They would not be under hold harmless. They would all be included in the Pupil-Centered Funding Plan, absent any kind of enrollment drop and the protections provided in NRS, or the two-year look back period that Ms. Mangoba mentioned earlier to address any decreases in enrollment beyond the 5 percent.

Assemblywoman Tolles:

I appreciate that clarity. I have one more overarching question as a follow-up from last week. As we look overall at this new estimated average of our base per-pupil funding, do we have an estimate of where that would put us in our national rankings today?

Adam Drost:

We have not had time to make any sort of calculation or determination. I apologize.

Assemblywoman Tolles:

I think we would also love to see that when you do, but I understand how busy you have been. We appreciate all of the work you have put into this, truly.

Adam Drost:

I would note too that is often based upon actual revenue and expenditures, so it may take time to have those analyses done on a national level.

Assemblywoman Titus:

To all the staff involved in the yeoman's work, I thank you for all of your long hours and the work that you have put in. I have some specific questions regarding this BDR. Beginning on page 18 [[Exhibit H](#)], section 7, subsection 5, in regard to the Department of Education shall transfer from the Account for State Special Education Services, based on the NRS 388.5243, the \$1.5 million in both fiscal years. Is that to be distributed equally among the schools? Do the school districts have to apply for that? Can you explain how that transfer works?

Adam Drost:

The \$1.5 million is provided as additional funding for those school districts that exceed the 13 percent funding cap based on their enrollment and count of special education pupils. The Department has a calculation they go through to determine that amount. It generally provides one half of the multiplier, or a reasonably similar amount. There is no application process. It is a formulaic process done by the Department.

Assemblywoman Titus:

Do we know how many school districts would fall into that category, or is it yet to be determined?

Adam Drost:

It appears there are only three districts that are below the 13 percent, as well as the charter schools.

Assemblywoman Titus:

Three districts would be able to get it, and without asking, they would automatically get it, correct?

Adam Drost:

Those three districts would not because they would be under the 13 percent.

Assemblywoman Titus:

They would not, okay. For clarity, it says "it shall," so that means they must transfer that money to those districts. Can you clarify then in section 7, subsection 7 where it says they "may" transfer that money for special education purposes [page 19, [Exhibit H](#)]? It seems like it is the same use, but one is a mandate saying "shall" and the other says "may." Do we know what the trigger is for that "may?"

Adam Drost:

Assemblywoman Titus, I would note that subsection 7 is related to extraordinary expenditures associated with special education delivery. These would be some high-cost, extraordinary expenditures that districts would have. This one is through an application process that districts apply for, so I believe that is why the language includes "may."

Assemblywoman Titus:

For clarity, that would cover those special situations for special needs children. If school districts had that unique child, or several of them, could they then apply for this additional resource?

Adam Drost:

That is correct. That is one example. There may be a small rural district that has a deaf student, and they want to transport that student to a neighboring district. This would provide funding for those transportation costs.

Assemblywoman Titus:

My last question is also about funding for students with disabilities. On page 53 [[Exhibit H](#)], in section 31, subsection 4, it says, "Each public school shall account separately for the local funding for pupils with disabilities . . ." Could you clarify that? Each school, not just the district, would then be able to apply? How does that work? It talks about funds being received by the public school pursuant to the same *Nevada Revised Statutes* chapter. Is that a different set of funding or the same set of funding?

Adam Drost:

This is the local funding provided as tier funding in the Pupil-Centered Funding Plan. This just requires the schools to record that separately. I believe the school language may be because there are charter schools included in that.

Assemblywoman Titus:

But it is still for children with disabilities.

Adam Drost:

Yes, it may be used to satisfy the needs of local students with disabilities.

Senator Goicoechea:

On page 15 [[Exhibit H](#)], I am trying to understand why in section 6, subsection 6, there seems to be a significant difference between Churchill and White Pine Counties, we are talking about \$2,500. I am trying to figure out why that would be so big. The rest of them seem to be pretty well grouped, and all of a sudden, we go from \$8,000 to over \$10,000. Is there a distance factor? What is weighting that?

Adam Drost:

That includes the adjustment factor for the attendance area. It is calculated using the same per-pupil amount that is provided for the public school in that school district which operates in the same location as the charter school. White Pine County is rather high because White Pine School District operating in Ely has a higher per-pupil adjustment. That is reflected for the charter school that also operates in that same location.

Senator Goicoechea:

Again, we have a \$2,000 difference between White Pine County and Elko County. I am sure it is just the way the numbers fell out, but it is intriguing. Thank you.

Senator Kieckhefer:

In section 18 [page 29, [Exhibit H](#)], does this refer back to the old hold harmless provision to protect against student population drops? There was a COVID-19 reference in there when Ms. Mangoba was presenting it.

Jaimarie Mangoba:

You are correct, Senator. This is the hold harmless provision if their enrollment drops to 95 percent or less. The change here is that instead of just using the previous fiscal year, which is FY 2021, this section would allow them to use FY 2020 or FY 2021, whichever is higher. I hope that answers your question.

Senator Kieckhefer:

I am trying to remember if we had that discussion.

Chair Carlton:

We did have a couple of discussions in the Subcommittee on K-12/Higher Education/CIP about making sure there were no unintended consequences because of the way the school districts operated and kids went to school during the pandemic year. We wanted to give them the opportunity to be able to work with the year that would get them to the level where they need to be. Remember, we are starting a base here. We did not want to artificially penalize them because of the way the pandemic impacted the school year and enrollment in some cases. That was a topic of discussion we had in a couple of the meetings.

Senator Kieckhefer:

I remember the topic coming up. I do not remember a decision point on it. I will have to go back and check.

My second question is related to section 22 and the Commission on School Funding on page 37 [[Exhibit H](#)]. I also recall our conversations on this front circling around an appropriation sufficient to support a number of meetings. I do not recall us discussing whether we were going to prohibit them from meeting after September 30th in an even-numbered year. If there was a need for them to meet to clarify something before the Legislature comes into session, I would hate to preclude them from throwing together a quick Zoom meeting by the language we see here in section 22, subsection 10.

Chair Carlton:

That topic was a part of the budget closing differences that we discussed in a Saturday morning meeting. Ms. Coffman, Assemblywoman Benitez-Thompson, or members from the Subcommittee, does anyone want to provide some clarification for the Senator?

Sarah Coffman, Assembly Fiscal Analyst:

I believe the discussion was around having this Commission also act similarly to the other interim commissions. I believe that was the discussion point.

Senator Kieckhefer:

I remember some framing in that point, so I appreciate that, Ms. Coffman. I would hate that if we wanted the input of the experts, they would be precluded from meeting by the language that we put in the bill. Our discussion was really around how many meetings we were going to fund, but if they are able to have additional meetings with the funding that is provided because they decide to do a couple virtual meetings versus in-person, or something to that effect, I think this restriction may be more than we asked for. Or maybe this is totally comfortable for the body.

Chair Carlton:

It is my recollection that it was all part of the budget closing differences, but I stand to be corrected by staff. There were so many different conversations about this, but the indication was that they are going to operate along the same lines as the other committees. This was so

they can get their work to the Legislature so that we can start working on things. That was part of that conversation, to my recollection.

Sarah Coffman:

Madam Chair, yes, I believe that is correct.

Senator Seevers Gansert:

I want to circle back to the charter schools again because we talked about hold harmless. My understanding was they were grouped together to decide whether they were going to have hold harmless or not, and then they were basically broken apart for the small area adjustment. However, it is my understanding that for some of the charters in the rural counties, when you put them all together and made that decision, individually as schools they still are not held harmless. The units are held harmless, but not in certain school district areas where they fall. I am not quite sure if we ever talked about that, or how that happened exactly. If we had a school that was getting \$8,000 per student per year originally and were going to be held harmless, we thought they were starting at that point and not a lower point. It sounds like some of them are now starting at a lower point because of the way that they were grouped for that decision. I am not sure if there was a decision.

Adam Drost:

In response, I would note that, yes, they are grouped together to make that initial determination about hold harmless and whether they would be under the Pupil-Centered Funding Plan or the hold harmless provisions; however, the Money Committees did determine that the size adjustment would be provided for those districts. That largely did benefit those rural charter schools, as indicated on page 8 and noted earlier by Senator Goicoechea. It increased the funding for those rural charter schools based on their size adjustment factor.

Senator Seevers Gansert:

That is what I thought—that they were all going to go up a little bit because of the size adjustment factor—but I am being told that they are not. Some of them are below what they used to be, even with that size adjustment factor. I am not quite sure how that happened. I want to make sure that they are at least at the level they were before, even with the size adjustment factor, and that they are at least held harmless individually in those counties. Maybe we can take that offline and get an explanation of how that happened or if the calculation is off somehow. I am not sure.

Adam Drost:

Yes, they are considered as a group for the hold harmless provision. Regarding the size adjustment factor, it does consider the size adjustment factor that is provided for public schools in that same area that operate within a school district. In the Greater Reno-Sparks Area and the Greater Las Vegas Area, there is no size adjustment applied for those public schools within the school district, therefore, there is no size adjustment applied for those charter schools in that same area.

Senator Seevers Gansert:

That part makes sense to me, but there is a charter school in Elko that is potentially getting less than they received before. I thought that, no matter what, they were either going to stay even or get a plus up situation.

Adam Drost:

Not necessarily since as a group they are being considered for hold harmless and at an individual level under the Pupil-Centered Funding Plan. As I mentioned earlier, all charter schools moved under the Pupil-Centered Funding Plan and off of hold harmless.

Chair Carlton:

I think I need to clarify a couple of things. I am going to go back to Senator Kieckhefer's point with the time frames. Ms. Coffman, there seems to be some confusion on the Commission and the ending date. We discussed it so many different times that it is hard to remember each iteration of how it changed. In the final budget closing differences, when we had the two separate differences, the Senate went with the Assembly on this one. The date that is listed here, ending in September, trued up with all the other committees and how they work. Is that how it was specifically laid out, or is this an iteration of that?

Sarah Coffman:

That is correct. The travel expenditures that were provided allow for the Commission to have travel available for all of FY 2022; however, there was a combination of both virtual meetings and in-person meetings that were provided for in FY 2022. There are also travel expenditures that were provided for in the first three months of 2023. Fiscal staff indicated in our documentation that it would be through September 30, 2022. The discussion was related to the ability to make this similar to how other interim committees operate. That is why this language is provided in here. I believe it may have been an assumption on the part of staff, but it was our assumption that because the travel was limited to September 30th, and there was the discussion to make this similar to how other commissions are handled, that this would then provide a limit.

Chair Carlton:

Senator Brooks pulled up the final budget closing differences document, and it does announce that date. Senator, if you would, please clarify this because I want to make sure I am also remembering the right thing. There was a lot going on at that time.

Senator Brooks:

Going back to our report on budget closing differences, and this particular difference that we discussed, I will read it word for word. It says, "The Assembly Committee on Ways and Means approved General Fund appropriations of \$15,000 in fiscal year 2022 and \$5,000 in fiscal year 2023, which would provide two-day, monthly, in-person meetings every other month, or 6 in-person meetings and 6 virtual meetings in fiscal year 2022, and 2 two-day in-person meetings and 1 virtual meeting through September 30, 2022 in fiscal year 2023 for the Commission on School Funding. The Assembly Committee on Ways and Means further

approved General Fund appropriations of \$7,745 in fiscal year 2022 and \$5,595 in fiscal year 2023." That was the motion that we ended up taking collectively.

Chair Carlton:

Thank you, Senator. I want to be sure we have a clear record because Senator Kieckhefer brought up a good question. I want to make sure that we all remember it and are all on the same page. That is the motion that we did vote on, and that is why it is in the bill.

Senator Kieckhefer:

We appropriate them X number of dollars, and we say we are funding it based on X, which is these numbers of meetings that we came up with. If they do not spend all of those funds, I would not have interpreted or motioned in that meeting to say that they would then not be able to meet. I would say we are funding them to this level. If they are more efficient, perhaps they can throw another meeting in. If they decide to have more virtual meetings than in-person meetings, they could continue to meet. Generally, when we appropriate money into categories, the agency then manages those funds throughout the course of the year to the level that they deem appropriate. I guess I never interpreted that we would say you are shut off after September 30th. I think we may find value in having them at our disposal if we ask them for an expert opinion on something as we move into the next Legislative session. Maybe I am harping on something that is not a big deal, but it was language that was surprising to me.

Chair Carlton:

I appreciate your concern, Senator Kieckhefer, but we are on the clock, and this needs to get done tonight so that we can stay on track. I believe if it was a more significant issue, we could have further conversations, but at this moment in time, I do not believe this is the issue that should cause the train to jump the track. This is a future conversation for future legislators.

Senator Denis:

If we do need them to meet, what would be the process for that? For example, if during session we need them to review something for us, is there a process for that? I am not saying we need to set something up, but I want to know if there is anything for that.

Sarah Coffman:

I believe section 22, subsection 10 [page 37, [Exhibit H](#)] indicates that the Commission may only meet between July 1st of odd-numbered years and September 30th of subsequent even-numbered years.

Senator Denis:

I think you should definitely look at that because when we designed this, we did not design it to be treated like an interim commission. It was something that would meet all the time to be able to look at the trends and what is happening with the changes in funding for education. That is something you may want to look at in the future.

Chair Carlton:

Are there any other questions or comments from Committee members at this time? [There were none.] This is not a bill hearing, so we will not be bringing up support, opposition, and neutral. This is the review of a draft of a bill draft request (BDR) which will be introduced in the Senate after this Committee adjourns [[Exhibit H](#)]. It will make its way through the process that way. Ms. Coffman, what is the next step?

Sarah Coffman:

The next step would be to adjourn the full Joint Committee. At that point, the Senate Committee on Finance will come together, and they will introduce the BDR. It will then be reassigned back to them in order for that Committee to have a hearing.

Chair Carlton:

If there is moment in time where someone has something that they need to discuss, this is it. Once this BDR gets introduced and moved, we typically do not amend the K-12 education bill. What you see before you is what will become the Pupil-Centered Funding Plan and education funding for the next two years in the state of Nevada.

Assemblywoman Miller:

That being said, I heard during the presentation a mention of a certain section being contingent upon certain bills passing. What happens to those allocated funds if those bills were to not pass?

Sarah Coffman:

I believe you are referring to sections 11 and 12 [pages 25 through 27, [Exhibit H](#)].

Assemblywoman Miller:

Yes.

Sarah Coffman:

There is parallel language for sections 11 and 12. If one instance occurs, then section 11 would take its place; if it does not happen, then section 12 takes over. They have parallel language in the event that either situation occurs.

Chair Carlton:

I am not seeing any other questions from Committee members at this time. You have been walked through the K-12 education Pupil-Centered Funding Plan model. I know that Senator Woodhouse is watching this right now, and I thank you for all of your hard work. This is what you have been working towards for a very long time. Congratulations on everything you have done in your passion for pupil-centered funding. I want to congratulate you on the record as these Committees complete this work.

Committee members, I do not think there is anything else before us, but we will take public comment. Is there public comment to come before the Committee this evening?

Chris Daly, representing the Nevada State Education Association:

You have heard me, and the Nevada State Education Association, talk a good bit about Zoom and Victory schools over the course of this session and the last two years. Although there is a whole lot of good in this budget, what we have seen is that there is also a particular problem, which is the reason why we have been talking about this, in the weight for at-risk pupils for both the next two fiscal years being at 0.03 [page 37, [Exhibit H](#)]. That is one-tenth of the targeted weight.

If you multiply 0.03 out by the base funding, it is about \$209 per-pupil. If you harken back to passing Senate Bill 543 of the 80th Session two years ago and moving Victory schools—which are a model program of education equity, necessarily located in Nevada's poorest zip codes, and serving the highest needs students—those programs are basically watered down. The funding that went to Victory and Zoom schools gets distributed through the weights. There is a menu of Victory service options that the schools are to provide in lieu of the Victory schools. Senator Denis knows this. That menu includes a pre-K program, a summer academy, additional instruction for other learning opportunities, professional development for teachers and other education personnel, incentives for hiring and retaining teachers or other licensed education personnel, employment of additional paraprofessionals or other education personnel, a reading skills center, integrated student supports, wrap-around services, and evidence-based programs designed to meet the needs of at-risk pupils.

Victory schools provide that menu of services. When taken together, they transform that school's climate, culture, and community. Out of this menu, what are we going to be able to provide at-risk students with \$209 in incremental funding per-pupil per year? That, I think, is the tough pill to swallow. There are a lot of other things in here that are very good, but in terms of moving towards greater equity, this needs to be a focus moving forward and maybe a place where additional funds can go as we work to find them.

Kent Ervin, representing Nevada Faculty Alliance:

Thank you for your hard work on the K-12 budget. I have two other end-of-session issues to bring to your attention.

First, as we have previously testified, it is too late to restore the Nevada Public Employees' Benefits Program (PEBP) benefits for state employees for FY 2022. You can still restore PEBP benefits for FY 2023 by appropriating state funds, or by authorizing federal funds, to raise the employer contribution in Senate Bill 451, the PEBP funding bill, back to prepandemic levels.

Second, the Executive Department has agreed to cost-of-living adjustments (COLA) of up to 3 percent in FY 2023 for state classified collective bargaining units. We request that you extend COLAs to all state employees, including classified employees in the bargaining units under NRS 288 that have not yet organized, and the Nevada System of Higher Education (NSHE) professional employees who do not yet have collective bargaining in statute pending passage of Senate Bill 373.

The last state COLA was in July 2019. Since then, the consumer price index has increased by 4.6 percent. State employees are currently taking 4.6 percent in pay cuts and furloughs, housing costs are skyrocketing, and over the past ten years, state COLAs have trailed inflation by 22 percent to 12 percent for a 10 percent net loss in purchasing power.

State employees have worked through the pandemic under difficult circumstances. We are grateful there were no mass layoffs, but positions held vacant and furloughs have increased workloads. We have suffered through the furlough pay cuts, 45 percent higher PEBP health care premiums, and greatly reduced benefits. There was \$25 million saved from PEBP in FY 2021 through the employer premium holiday during one of the special sessions, and another \$25 million to \$30 million was saved through furloughs. Now that additional state and federal funds are available, it is time to pay back your state employees by fully restoring compensation and benefits. Thank you for your consideration.

Sarah Adler, representing Charter School Association of Nevada:

We greatly appreciate your collective work in recognizing charter schools in the formula of section 5 in Senate Bill 439 and the work on hold harmless. Nonetheless, we are concerned that there are still individual schools that may not be held harmless when this formula is applied. We appreciate the work to lump and then disaggregate, but we want to register that concern. It was always the understanding that no pupil, no student would be harmed as this transition occurred. We want to put that concern on the record.

In addition, when looking at the numbers on page 13 versus the numbers on page 15 [[Exhibit H](#)], I understand one is district and one is the exact attendance area that charter schools sit in, but in some cases, those are \$3,000 differences within the same county. We are appreciative, and we still have a few questions, particularly about rural schools.

Douglas Unger, representing Nevada Faculty Alliance:

Thank you to Chair Carlton, Chair Brooks, and members of the Committees for this work on K-12 funding. I would like to echo the thanks to Senator Woodhouse for the per-pupil funding formula that she worked on for most of her career.

I would also like to echo what Kent Ervin testified to in public comment that Nevada state employees are very concerned with PEBP benefits and possible COLA for this session, if it is at all possible to do. We think the full restoration of PEBP benefits is warranted. We have worked very hard through the pandemic. We are in open enrollment right now, and my email has lit up with state employees and faculty members who are looking at their health benefits and only now realizing the tremendous cuts that are being inflicted on them in the plan for 2021-2023. There are 44 percent higher premiums, 17 percent higher deductibles, 28 percent higher out-of-pocket maximums, and 45 percent lower Health Savings Account contributions. Those members with families are particularly feeling this, and also the plan designs shift costs to the sickest and most vulnerable. It would only cost \$30 million to restore PEBP plans back to 2019 levels for FY 2023. We hope that you will do this, and hope that you will consider other measures to help our state employees catch up and recover

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from the pandemic. Thank you for your work during this most unusual and very rushed legislative session.

Chair Carlton:

Is there anyone else for public comment? [There was no one.] This meeting of the Joint Committee is adjourned [at 8:10 p.m.].

RESPECTFULLY SUBMITTED:

Adam Cates
Committee Secretary

APPROVED BY:

Assemblywoman Maggie Carlton, Chair

DATE: _____

Senator Chris Brooks, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a document titled "Proposed Conceptual Amendment for Assembly Bill 486," dated May 24, 2021, and submitted by Assemblyman Steve Yeager, Assembly District No. 9.

[Exhibit D](#) is an article titled "Eviction and Health: A Vicious Cycle Exacerbated By a Pandemic" from *Health Affairs*, dated April 2021, submitted by Michael Brown, Executive Director, Governor's Office for Economic Development, Office of the Governor.

[Exhibit E](#) is a statement in support of Assembly Bill 486, submitted and presented by Chris Daly, Private Citizen, Las Vegas, Nevada.

[Exhibit F](#) is a statement in support of Assembly Bill 486, dated May 24, 2021, and submitted and presented by LaLo Montoya, Political Director, Make the Road Nevada.

[Exhibit G](#) is a document titled "Nevada REALTORS, Nevada State Apartment Association, AB 486," submitted by Tiffany Banks, General Counsel, Nevada REALTORS.

[Exhibit H](#) is a copy of Bill Draft Request (BDR) 34-1169 (later introduced as Senate Bill 458), that was presented by Adam Drost, Senior Program Analyst; Julie Waller, Senior Program Analyst; and Jaimarie Mangoba, Program Analyst; Fiscal Analysis Division, Legislative Counsel Bureau.