

**MINUTES OF THE
JOINT MEETING OF THE ASSEMBLY COMMITTEE ON TRANSPORTATION
AND THE
SENATE COMMITTEE ON ENERGY, INFRASTRUCTURE AND
TRANSPORTATION**

**Seventy-Fifth Session
February 17, 2009**

The Joint Assembly Committee on Transportation and the Senate Committee on Energy, Infrastructure and Transportation was called to order by Chairman Kelvin Atkinson at 4:09 p.m. on Tuesday, February 17, 2009, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada, and to Suite 515 at North Capitol Street, N.W., Washington, D.C. Additionally, it was telephonically conferenced to Suite 700 at 1560 Broadway, Denver, Colorado. 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/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Assemblyman Kelvin Atkinson, Chairman
Assemblyman Mark A. Manendo, Vice Chair
Assemblyman John C. Carpenter
Assemblyman Chad Christensen
Assemblyman Jerry D. Claborn
Assemblywoman Marilyn Dondero Loop
Assemblyman Pete Goicoechea
Assemblyman Joseph M. Hogan
Assemblyman Ruben J. Kihuen
Assemblywoman Ellen B. Spiegel
Assemblywoman Melissa Woodbury

SENATE COMMITTEE MEMBERS PRESENT:

Senator Michael A. Schneider, Chair
Senator Maggie Carlton, Vice Chair



Senator John J. Lee
Senator Shirley A. Breeden
Senator Barbara K. Cegavske
Senator Dennis Nolan

COMMITTEE MEMBERS ABSENT:

Senator Randolph Townsend (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Barbara E. Buckley, Clark County District No. 8,
Speaker of the Nevada State Assembly

STAFF MEMBERS PRESENT:

Marjorie Paslov Thomas, Committee Policy Analyst
Scott Young, Senate Committee Policy Analyst
Mark Krmpotic Committee Fiscal Analyst
Darcy Johnson, Committee Counsel
Matt Nichols, Senate Committee Counsel
Lona Domenici, Committee Manager
Marlen Schultz, Committee Secretary
Lynn Hendricks, Senate Committee Secretary
Nichole Bailey, Committee Assistant
Sherwood Howard, Committee Assistant
Sally Stoner, Committee Assistant

OTHERS PRESENT:

Michael Bird, Federal Affairs Counsel, National Conference of State
Legislatures, Washington, D.C.
Jim Reed, Representative from the National Conference of State
Legislatures, Denver, Colorado
Susan Martinovich, P.E., Director, Department of Transportation
Richard J. Nelson, P.E., Assistant Director, Operations, Department of
Transportation
Dr. Fred Ohene, Assistant General Manager, Regional Transportation
Commission of Southern Nevada, Las Vegas, Nevada
Derek Morse, P.E., Interim Executive Director, Regional Transportation
Commission of Washoe County, Reno, Nevada

Kent Cooper, Assistant Director, Engineering, Department of
Transportation
Patrick Pittenger, AICP, Transportation Manager, Public Works
Development Services Department, Carson City, Nevada

Chairman Atkinson:

[Roll taken.] I will give my remarks followed by Senator Schneider who will provide his comments for the record. After which, we will invite our Speaker of the Assembly to convey an overview of the Federal Stimulus Legislation before we entertain comments from those in attendance this afternoon.

We will receive testimony on the American Recovery and Reinvestment Act of 2009, which is commonly known as the Federal Economic Stimulus Package. To quote President Obama, "The United States is facing its deepest economic crisis since the Great Depression, one that calls for swift, bold action." Congress took immediate action and passed this bill on February 13, and President Obama signed the measure today in Denver, Colorado. The legislation will, among other things, create and save jobs in Nevada, and help our state and local governments with the budget shortfall. Chairman Schneider and I would like to focus on the provisions of the federal bill which will enhance our transportation infrastructure and ultimately create new jobs for our constituents. There is a limited period of time to use a unified approach to prioritize future transportation projects, which should be funded through the federal stimulus legislation.

As Chairman of the Assembly Committee on Transportation, I have first-hand knowledge of the direct impact transportation has on each and every one of us. Traffic congestion and delays cost us individually and as a state. Our economy and quality of life are dependent on the soundness of our transportation system. Given the importance of this issue to our state as a whole, and specifically to my district, the Las Vegas Valley, I have made transportation a priority this session. The federal stimulus package contains a large transportation funding component, approximately \$27 billion for highways, which is extremely critical to the benefits it will bring to our state.

Further, Nevada's unemployment rate was at a disturbing 9.1 percent in December, which is the highest unemployment rate in decades. During this same period, construction jobs continued to head the list of jobs lost. An estimated 117,000 jobs are filled, which is a 10.5 percent decrease from last year. This equates to 11,700 people in the construction industry out of work. We have an opportunity to use these resources to stimulate our economy by creating a substantial number of new construction jobs by June of this year.

These funds also provide an opportunity to invest in new transportation projects, maintain our existing infrastructure, and plan for our future. The background has been laid, the foundation is set, and the work will begin soon. I believe the State Legislature must take this opportunity to shape the future of our economy and our transportation system by providing innovative ideas with an eye towards the future. Once these ideas are implemented, they must contain a strong element of accountability. The Transportation Committee will have an opportunity to consider how the state will use these federal monies to fund shovel-ready transportation projects. By definition, shovel-ready projects have been fully vetted, approved by the state and at the local level as well. However, it is important the Legislature understand how these projects were prioritized by the responsible agencies, since we will be accountable for the selected transportation projects and their completion. We must ensure each project benefits the Nevada citizenry it is intended to help. We must, and we will, put our citizens back to work. This concludes my remarks, and I will call upon Senator Schneider to address this body.

Chair Schneider:

This stimulus package, as you mentioned, will put thousands of people back to work in our economy and help invigorate the local marketplace, which will revitalize retail and small businesses. Each job we lose in the service or hotel sector can be tripled throughout the rest of the economy. If you hear about one company cutting a hundred jobs, it has an effect of three hundred jobs as the loss trickles down through the economy. This is a critical concept when we talk about how the overall stimulus package is expected to employ 34,000 Nevadans within a two-year period. Ninety percent of those jobs will go to the private sector, so this is not inflating government in any way. Also, the stimulus package has \$50 million earmarked for mass transit projects. Again, this is helping us develop and improve our transportation logistics in the state. The Senate Committee on Energy, Infrastructure and Transportation will have a mass transit, light rail system project moved through our House, and sent to the Assembly Committee on Transportation for their scrutiny and support. I have asked the Senate Committee to convey new project concepts in their districts for presentation to the Regional Transportation Commission and the Department of Transportation. I know Senator Lee discussed a possible project for his district.

We are eager to learn more about this package, exactly what will be made available, and under what time constraints. The figure of \$200 million to \$210 million has been mentioned. Also, we believe we have from 7 to 45 days to enter into contracts. Therefore, we are prepared to go to work.

Chairman Atkinson:

Next, we will ask Madam Speaker to come forward and address the audience.

Assemblywoman Barbara Buckley, Clark County District No. 8, Speaker of the Nevada State Assembly:

Thank you, Mr. Chairman. I am pleased to share a few comments with you regarding the stimulus package. I have a handout entitled, *Federal Stimulus Legislation* ([Exhibit C](#)). I would like to begin by commending our staff who worked through the weekend to read the over 600-page stimulus bill, and strove to learn and inform us how it will affect Nevada. This document contains a couple of the highlights for your Committee's consideration. Nevada is expected to receive \$1.45 billion of funding from the federal stimulus legislation. However, these moneys will not be eligible for purposes like satisfying our budget shortfall.

The stimulus is divided into categories. The first two categories describe the areas affecting our state General Fund, which are education and health care through Medicaid. While this Committee will not be considering these budgets directly, I mention it for informational purposes. The total amount we will receive for education is \$387 million, and those monies would go into the State Fiscal Stabilization Fund. The areas where the money could be utilized are listed together with the corresponding allocations. There is a maintenance of effort requirement in the final bill, which has been routinely discussed. Approximately \$130 million would have to be added back into the budget for higher education in the first year in order to receive the funds, and \$135 million the second year. Therefore, receiving \$387 million worth of stimulus money is contingent upon adding approximately \$265 million into the budget. Although there is a waiver process, we have to keep in mind we have a compressed session of 120 days. It remains unclear whether any waiver process could be utilized expeditiously, and still meet our obligations in a timely manner. If we do not adhere to deadlines when processing the budget, it will not be produced on schedule. Therefore, our timeline is actually shorter than the 120 days.

In the Federal Financial Participation (FMAP), the bill has three provisions to increase the federal matching rate for our Medicaid programs. Fortunately, we qualify for each one of the additional percentage indicators. All states are increased by 2.64 percent, each state also receives an additional 6.2 percent, and states with a substantial increase in the unemployment rate receive another increase, so Nevada received an extra 5.09 percent as a result. Basically, it elevates our federal fund contribution from 50 percent to 63.93 percent for the period of October 2008 through December 2010. The Assembly Ways and

Means Committee and Senate Finance Committee are going to wade through these numbers.

We do have to put some things back into the health care budgets in order to receive the increased rate. So far, it includes the earned-income disregards implemented by the Governor. It is still unclear about the Indigent Accident Fund; there are many items as yet unresolved.

Nevada is receiving \$201.4 million in highway construction monies. Fifty percent of the funding is available for projects allocated at the state's discretion, and has to be obligated within the 120 days as indicated by you, Mr. Chairman. The funds are obligated when the environmental, right of way, planning and engineering certifications are approved by the Federal government. There is a provision in the bill for allocations based on geographic areas such as Clark County, Washoe County, and the rural counties. Further details are contained in the material handed out earlier.

It is essential to act quickly on these transportation projects, which is why you were asked by the Assembly Ways and Means Committee and the Senate Finance Committee to meet jointly to deal with this project first. We are trying to labor through budgets, ascertain how the education and Medicaid funding is going to affect us, and it seemed a perfect project for all of you to dive into. What projects should receive priority? How do we make sure we are putting as many people to work as possible? This funding was not meant to meet our regular transportation needs. It is supposed to stimulate the economy. How can we do everything within our power and within legal means, to give Nevadans the jobs they so desperately need and make sure Nevada companies are returned to work? How should we prioritize the allocations for the counties?

We hope you will make recommendations to the entire body that make sense, and will assist us in achieving the goals we want, such as boosting our economy, restoring jobs to people, and launching us on the road to economic recovery in a completely transparent and highly accountable manner. Senator Horsford, Assemblywoman Gansert, Senator Raggio, and I suggested an interim committee to continue oversight, and ensure our priorities include transparent, accountable projects. I think every Nevadan deserves that; and every taxpayer deserves that. Let us make sure we do the most with this money, use it efficiently, effectively, and for the purposes which it was appropriated. I would like to thank these Committees for agreeing to handle this special assignment, ask the hard questions, and make constructive recommendations for our state.

Chairman Atkinson:

Are there any questions from the Committee members for Speaker Buckley?

Assemblyman Goicoechea:

The bill addresses highway construction in areas of population less than 5,000. Is this number a mistake, should it be 50,000?

Assemblywoman Buckley:

We will have our staff double check the bill, but I have confidence in their initial figures.

Chairman Atkinson:

Are there any other questions from the members for Speaker Buckley?

Assemblywoman Buckley:

A significant reason the Committee has been asked to creatively interpret this package is to ensure some of the rural areas, which have been deprived of maintenance money for roads due to budget shortfalls, can participate in the funding stimulus.

Chairman Atkinson:

Next we are going to turn our attention to the videoconference room in Washington, D.C., and listen to a presentation from staff of the National Conference of State Legislatures.

**Michael Bird, Federal Affairs Counsel, National Conference of State Legislatures,
Washington, D.C.:**

I am joined by Amanda Naughton, our Policy Associate. She deals with energy issues, should you delve into any of those topics tonight. Also, Paul Snow, who backs us up on transportation, joins us. The only way to understand this hefty piece of legislation which was signed into law today is to consider it as a supplemental appropriations bill containing a variety of infrastructure initiatives, and a tax component. We have been updating our website, www.ncsl.org, almost hourly, with information we have been able to discern within each of the funding silos, and on the tax provisions to inform you and your staff of the different components of this legislation. The devil, obviously, is almost always in the details. The details are confusing, and tend to differ among the jurisdictional issues dealt with in this initiative.

Also, it is time to embrace the accountability and transparency components which will become critical factors per the President's declaration, and can be found on www.recovery.gov. This page provides information and guidelines,

especially regarding the timing Nevada and the other states must comply with to utilize the funds. I sent a 5-page summary the National Conference of State Legislatures (NCSL) developed on the transportation components ([Exhibit D](#)), and I will guide you through the elements. At the same time, I will direct you to other provisions found in the legislation, not necessarily factors in the transportation component, but they do apply to it.

I think there are certain criteria pertinent to each of the funding streams, and I am encouraged everyone is using the same numbers. The money made available to you through the transportation silo does not require a match. Most of the funds are available through September 2010. Approximately half of the funds need to be obligated within the first 120 days, and the rest within the first year, depending upon which source of monies is being utilized. There is a general maintenance of effort requirement in virtually every area the legislation addresses.

The Governor must identify the amount of money the state plans to expend from the date of enactment through September 30, 2010. Also, if the State of Nevada and other states do not continue to meet the required level of funding, then they will not qualify for any federal aid highway money or highway safety money after August 1, 2011. What is unclear is the actual number, and how it is computed. We do not know whether it is taken from a document which already exists, or whether the Governor, in collaboration with the Legislature, has to decide on the appropriate number? These are the hidden pieces of information which are unknown or unavailable at this time.

As can be seen, this is an opportunity for Nevada and all the other states to address identified public needs as they relate to highways, mass transit, bridges, and a variety of rail projects. Half of the allotted money will be based on the existing surface transportation formula, which means it goes to programs dealing with interstate maintenance, the National Highway System, Surface Transportation Programs, the bridge program, the Congestion Mitigation and Air Quality Improvement Program (CMAQ), and the Highway Safety Improvement Program. The second half is allocated based upon total lane miles, total vehicle miles travelled, and estimated tax payments (paid into the Highway Trust Fund) by the state. These two sources of funding represent a compromise between the House and the Senate. Thirty percent of the total sum has to be suballocated to local jurisdictions. Those are the primary points for the highway side.

There is also a competitive grant program totaling \$1.5 billion with the maximum grant being \$300 million and a minimum of \$20 million to any single

state. There is no match and the money is available through September 30, 2011.

The money for high-speed rail and intercity passenger rail was unexpected. Nevada has received a considerable amount of attention regarding this, at least from the press in our area. This is an \$8 billion allocation involving the Secretary of Transportation in Washington, D. C., who must submit a plan containing the method used to distribute the monies to those who apply, and then help us follow through within 120 days. This is a program requiring further research to obtain more information before I can talk conclusively about it.

There is money allocated for mass transit programs. Approximately \$5.5 billion will be distributed nationwide with not more than 20 percent of the funds awarded within any one state. Of this amount, 80 percent would be distributed to urbanized areas and the remainder to rural areas, based on growing states and the high-density formula factors. Nevada's portion for urbanized areas is \$49.5 million, and 20 percent of an estimated \$1.38 million could be apportioned to the rural areas. The apportionment must be made within the first 21 days, and is available through September 2010.

There is money for airports, for Amtrak, and for mass transit. All of the money for Amtrak and mass transit is on the capital side. None of it is for operating—that is all I intend to cover tonight on transportation issues.

However, I do want to spend a few minutes discussing the general governing provisions, and the accountability and transparency recommendations. Every decision a state or local government is going to make will be posted on a state-based website as well as on www.recovery.gov. This would include everything from identification of a project, those being served by it, the number of jobs it creates and maintains, the contractor awarded the bid, and the subcontractors. You will also be subject to oversight by the Federal Department of Transportation's Inspector General. Any complaints from the public involving waste, fraud, abuse, or favoritism and if "whistle-blowers" are involved will be made public. This sets it apart from the normal course of operation, but certain governing principals, found primarily in Title XVI of Division A of the American Recovery and Reinvestment Act, still apply. First of all, preference is given to those projects starting and finishing expeditiously. President Obama has reiterated this shovel-ready discussion, as well as having 50 percent or more of the funds for projects started not later than 120 days after enactment.

There is a provision for an infrastructure project involving construction, alteration, or maintenance and repair. There is a "buy America" provision which states if a project uses steel, iron, or manufactured goods, the material must be produced in the United States. There is an exception, which can be granted from the U.S. Department of Transportation (USDOT), based upon certain criteria. You must pay the prevailing wage to laborers and mechanics who are employed by your contractors and subcontractors. Finally, the environmental reviews required under the National Environmental Policy Act (NEPA) must be followed. There is one other provision stating the shortest applicable process must be utilized. This is another area where we have to obtain additional information because it deviates from the mainstream version of the legislation.

I have worked for five state legislatures for 23 years, and if ever there was a time for the executive branch and the legislative branch to cooperate, this is it. The stakes are high, there are significant monies involved, and the responsibilities which need to be carried out are incredible. The National Conference of State Legislatures stands ready to serve you as much as we possibly can. We have conducted weekly conference calls with staff and legislators, and we intend to continue with these. We are available to provide testimony before your committees, and with those final words I am prepared to answer your questions.

Chairman Atkinson:

I do have a couple questions, but I am going to ask the Committee members before I begin. Does anyone on the Committee have a question?

Chair Schneider:

I was wondering on this total funding. Are the tax cuts in the \$780 billion, or is this all hard cash?

Michael Bird:

Depending upon who you talk to, the tax cuts total approximately \$280 billion of the \$789 billion in the bill.

Assemblywoman Spiegel:

On page 2 of your handout, Mr. Bird, the first row across shows supplemental discretionary grants for surface transportation. Then in the second column over it shows the funding level of \$1.5 billion. I was wondering if this is in addition to the funds already allocated, or are these supplementary funds for which we could be submitting grant requests?

Michael Bird:

Yes, this is in addition to the highway funding component. This is a new, competitive grant program. The grant amounts are between \$20 million and \$300 million with no state permitted more than 20 percent of the total available funds. The next column is one where they will have to set up the criteria. Unlike most of the funding streams, both in transportation or through existing programs; this one is brand new. As a result, the funds are available through September 30, 2011. If you continue over to the far right of the handout, note the Secretary must ensure there is equity in the geographic distribution of these monies. This is going to be a balancing act nationwide where urban and rural areas will be treated as uniformly as possible. This new program will necessitate agencies start from the beginning. If I can expand on this, there was a memorandum from Rahm Emanuel, the White House Chief of Staff, and from Peter Orszag, the Director of the Office of Management and Budget, stating within the first 21 days, there must be an initial guidance on all of these programs, including this new one. Following that, a more detailed guidance is required within 30 to 60 days after enactment. By early April more information will be required. We will track this for you and gather all the information on our webpage. I fully understand the fact you meet biennially, but other states have equally difficult time constraints. I am liaison to the Virginia General Assembly, and they adjourn February 28 of this year. Therefore, you might say their challenge is even greater.

Senator Cegavske:

First, I would like to thank NCSL for the Thursday briefings. I sincerely appreciate the ones in which I have participated. Next, there have been rumblings from some states indicating they will not take any of the stimulus money. I do not know if this is true, but I wanted to ask you if there are some states rejecting these funds, are they going to reallocate any of the monies?

Michael Bird:

When states make a decision not to use this funding, or they do not meet the guidelines, then the monies do become eligible for reallocation. I have heard from three jurisdictions in particular, where the executive branch has expressed a desire not to take any of these funds. The general governing provisions of the American Recovery and Reinvestment Act contained in Section 16.07 of Title XVI, says when the governor refuses to exercise his certification power, the state legislature can step in and exercise its certification powers to override the governor and accept the funding.

Senator Cegavske:

A few of the programs our Speaker outlined for us require monies to match, or existing budgetary allocations at a certain threshold, to receive proposed funds contained in the bill. Could we submit information showing our current budget deficits and inform the agency we will be unable to accept this portion of the stimulus package due to the state's hardship? Is this being done, or are there issues with that as well?

Michael Bird:

There are numerous issues, and depending upon what funding stream, my response would be different. The nice thing about the transportation, environmental and most of the energy component is there are no matches required. I do suggest you take a look at the overall picture for the \$1.45 billion for Nevada. These monies are available essentially through September 30, 2010. A couple of areas like Medicaid funding are extended for an additional quarter and some of the new programs continue to 2011. Once the state has received its allocation, it would be prudent to go over the entire budget to determine how this portion fits in to the total amount. It is easy to examine one funding stream, but sometimes it makes sense to step back and look at the big picture to determine how the available monies can be deployed for the highest level of flexibility to maximize their use.

Chairman Atkinson:

Are there any other questions from the Committee? I do have a few questions for Mr. Bird, but I would also like to recognize our affiliates representing NCSL in Denver. Jim Reed, Nicholas Farber, and Jamie Wall are listening on the telephone to these proceedings.

**Jim Reed, Representative from the National Conference of State Legislatures,
Denver, Colorado:**

Yes, we are listening, and we are happy to respond to any questions which might be in our field of expertise.

Chairman Atkinson:

Can you explain the formula used to allocate funds for the entire program, and specifically for transportation, Mr. Bird?

Michael Bird:

The art of compromise was employed. Most of the monies on the appropriations side go through existing grants; whether formula, competitive, or mandatory entitlement programs like Medicaid, Child Support Enforcement Program, or Child Welfare. The formula in most cases was already set. In the

transportation area they made some adjustments, especially with the suballocations by choosing two different mechanisms for the allocations of the obligation limit within the highway program. It became a confrontational issue between the House and the Senate, and ended up as a total compromise between the two chambers. You do not see this in most of the funding sources. The educational area also experienced some give and take, which has become known as the Stabilization Fund. Within the Stabilization Fund, the primary part is for Education; however, there is an \$8 billion discretionary element which can be distributed to other areas of your budget.

Chairman Atkinson:

I have two other questions. On page 1, it says funds become available so many days after enactment. We have been hearing we would have 7 days after enactment of the bill to obligate the monies; or is it the 21 days shown on the handout provided to us?

Michael Bird:

Half of the apportionment must be obligated within 120 days on the highway side. You will be apprised of your apportionment number within 21 days, but a decision must be made to obligate 50 percent within 120 days, and 100 percent of the funding within a year.

Chairman Atkinson:

Actually, you answered my second question as well.

Jim Reed:

I cannot add anything to what Mike said. He hit on the main points very well.

Chairman Atkinson:

Are there any additional questions from the Committee members?

Chair Schneider:

Does the 120-day time frame start after the initial 21 days?

Michael Bird:

No, it starts from the date of enactment and goes forward. I will double-check this information for you.

Jim Reed:

Mr. Chairman, we have the information in front of us, and Michael is right. It starts on the date of enactment.

Senator Nolan:

We reviewed the proposed bill yesterday, and there was a line-item with the acronym of HOME. We were not clear on what that stood for and exactly how it was to be used. Could you shed some light on this for us?

Michael Bird:

It refers to a housing program. Is this the one you are talking about?

Senator Nolan:

It was one of a litany of different projects or entitlements, and we are not sure if it was an acronym or simply the word, "home."

Michael Bird:

The HOME project is a block grant program for state and local governments, which is used to create affordable housing for low-income households.

Chairman Atkinson:

Are there any questions from the members? Then, I have one more. It was my understanding there was going to be \$21 million put aside for Disadvantaged Business Enterprise (DBE) organizations so they could participate in the funding. Is this a provision in the bill?

Michael Bird:

You may have exceeded my pay grade with your question. Maybe you have someone on your staff able to respond. I am not qualified to answer.

Chairman Atkinson:

Yes, we do have someone on staff, but I was trying to save him from testifying. Mr. Reed, did you have anything on the DBE funding?

Jim Reed:

Could I clarify the previous question, first? I would like to comment on the apportionment versus date of enactment question you posed earlier. We are reviewing the law, and we found the passage stating the 120-day clock starts after the apportionment. So, in fact, it is not on the date of enactment, but on the date of apportionment by the federal agencies.

Let me speak briefly on your second question of \$21 million being set aside for DBE contractors. In one of the summaries, I did see the figure mentioned, but I do not have any additional information. Also, an amount of 10 percent must be expended via DBE, which is perhaps the \$21 million figure you just mentioned.

Michael Bird:

Mr. Chairman, there are a group of set-asides within the highway module which are taken off the top. The DBE provision is one of them, but I would like to research the matter to identify each one of the set-asides. Then, I would like to get back to you, and assure you the number is correct.

Chairman Atkinson:

I respect your answer and will wait for you to verify the information. Does Mr. Mark Krmptotic on our team have any information regarding this issue?

Mark Krmptotic, Committee Fiscal Analyst:

Mr. Chairman, I do not have any additional information other than to refer to the specific passage in the stimulus bill, which is on page 11 of Title XII of the stimulus bill and provides for a set-aside of \$20 million for DBE bonding assistance. Staff is probably in the same position as NCSL in terms of trying to figure out how this provision would apply.

Chairman Atkinson:

Are there any other questions from the Committee? Seeing none, we would like to thank you for your testimony. Hopefully, you will stay with us even though it is late in Washington, D. C., and Denver as well. We do not want to keep you up all night, so we will attempt to get through our next few presentations. I also wanted to mention I receive weekly emails from Paul Snow, and it is nice to finally have the opportunity to see him. At this time, I would like to call up the representatives from the Nevada Department of Transportation (NDOT).

Susan Martinovich, P.E., Director, Department of Transportation:

I would like to reiterate what was said, but one caveat on this is everything mentioned is still tentative. In fact our Federal Highway Administration (FHWA) representatives are here: Sue Klekar, the Division Administrator, and Greg Novak, the Major Projects Engineer. We have been asking many of the same questions, and the details are still being processed through the FHWA and the U.S. Department of Transportation (USDOT). There are a multitude of changes, even from the numbers originally presented. However, a couple of the high points include \$27.5 billion for highways, \$8.4 billion for transit (which will be distributed by formula), \$1.5 billion in Discretionary Funds, and \$8 billion for high-speed rail nationwide. All of this information is contained in the handout we provided to you ([Exhibit E](#)).

The moneys allocated for high-speed rail in Nevada will not come to NDOT through FHWA; instead it goes through the Federal Railroad Administration. We anticipate receiving slightly less than our yearly federal allocation. We have

heard the amount of \$201 million and \$49 million in transit, which would include both urban and rural areas. These funds are 100 percent federal. There is no state match, which is typically 5 percent.

The criteria for funding are based on the current transportation plans submitted locally and statewide. While there is talk about encouraging new projects, it is imperative they are incorporated into existing plans and subjected to a vetting process. The environmental clearance must be completed, which is time-consuming. The National Environmental Policy Act (NEPA) documents for the environmental assessment, or for the record of decisions, take anywhere from two to five years. Major projects eligible for this funding are those where we already have the environmental documents approved. It is also necessary to certify how the right of way is secured, and guarantee the ownership is in the public domain. There are some areas where a county road may exist over a portion of land acquired without a record of transfer, and in those cases, the project would not be eligible.

The routes must be normally eligible for federal funding, which means they need to be classified as minor arterials or above. Also, the design must be ready and agreements in place. Then we have to follow all of the usual federal contracting processes including wage rates, accounting, and reporting. Generally, we have to follow the same procedures as those used when we are issuing highway construction projects.

There is the suballocation of funds previously identified. It is our understanding 3 percent of the apportionment is dedicated to enhancements, which equates to \$6 million for Nevada. Also, 30 percent of the apportionment will be suballocated to Washoe and Clark Counties. There is a category of areas "less than 5,000" and there are some ways to help the smaller communities qualify under this criteria. We anticipate approximately \$40 million will be apportioned to Clark County, \$10 million to Washoe County, and \$3 to 5 million in those areas with populations less than 5,000. This leaves \$140 million for the Department to distribute statewide to stimulate the economy.

The timing has been discussed, and there are different interpretations offered as late as last night. We need to define the deadlines, and our staff will work to achieve a uniform decision. We had indicated the money would be available to the states through the FHWA offices 7 days after enactment, which has changed to the 21 days after enactment referenced this evening. Our local FHWA office will have the funding available for us to begin obligating projects against this money. As mentioned, 50 percent, or \$70 million of the state funds need to be obligated within the 120-day timeframe.

We have been coordinating with the Associated General Contractors (AGC) on the timing of bidding, so they can align their resources and suppliers to deliver the projects. We are hoping to spread this out for the bidding process, rather than releasing a host of projects in one day. Also, we are strategizing to set up the mobilization process. Our focus is on committing to the projects and releasing them in the appropriate time frame because the other caveat we heard about in this bill is at the end of the 120 days, the money not spent by the states will be reallocated to those states where they have met this commitment.

Once under construction, there are separate reporting requirements in addition to the standard requirements which are defined by project, amount, and employment created, and these will be ongoing.

There are other non-highway areas where funds were allocated and fall under NDOT's purview. One is the rural transit area where we estimate \$7 million is dedicated for projects which also must follow the normal program requirements. Another area is aviation for rural airports. Airports will apply separately to the Federal Aviation Administration, but they must be on NDOT's state Aviation Improvement Plan.

The railroads do not have specific allocations, and the details will be conveyed to us later. There is a great possibility for the Las Vegas to Los Angeles corridor becoming a recipient, as well as the Oakland to Salt Lake corridor.

We are planning to make application for the discretionary money. We have some large capacity projects ready to go. Our intent is to not only get our appropriation for the \$200 million, but to go above this amount and tap into the \$1.5 billion previously identified. We have been working and coordinating with our local and regional partners. We have met with the Nevada Association of Counties (NACO) and the Nevada League of Cities and Municipalities, and we are compiling the list of projects the individual counties are seeking to fund. We have met closely with the Regional Transportation Commission of Southern Nevada and the Regional Transportation Commission of Washoe County. They have gone through extensive open meeting presentations to identify projects and prioritize the recommendations. We also have been following our normal process through our Pavement Preservation Program and Evaluation, and with our benefit-cost evaluations. Our strategy is to use all of our regular money, all of the stimulus money, and then we want to position ourselves to apply for additional money. We will take our direction from the FHWA on their interpretation; but if it is not flexible enough we will argue to enhance our position, if possible.

It is early in evaluating the final bill, and we anticipate the tentative numbers fluctuating somewhat, as well as further process requirements being defined.

Chairman Atkinson:

Are there any questions from the Committee members?

Assemblyman Goicoechea:

How many dollars in shovel-ready projects have we got ready to spend?

Susan Martinovich:

We have \$1 billion in projects ready if funding were available today. We have pavement preservation projects, which will comprise the majority of those we can move forward with. We understand Clark County's allocation is entirely pavement preservation projects. Our biggest need is statewide, which is approximately \$500 to \$600 million.

Assemblyman Goicoechea:

Then we should be able to commit to the stimulus funding without any difficulty. I wanted clarification on those areas of population at less than 5,000. These areas would be eligible to receive a total of \$11 million according to the information distributed by the Speaker, yet I heard you cite \$3 million.

Susan Martinovich:

I had interpreted \$3 to \$5 million. If it is \$11 million, then this would be great. Actually, the final allocations have not yet been determined. We were not sure whether it was a percentage from the total number or a percentage of the suballocation. We will work with staff to verify the funding.

Assemblyman Hogan:

The NDOT will be a conduit for a tremendous amount of money flowing to contractors and subcontractors. Is there any requirement in the legislation or are there any plans being formulated to expedite the payments to contractors who will be involved? Do you envision any type of quick-pay system or ways to parallel the federal time table with an internal mechanism designed to avoid delays in transmitting the money directly to the working people?

Susan Martinovich:

As soon as we receive a bill, we pay for it. However, we do need the reporting and supporting documentation submitted as well in order to meet our requirements for the federal money. Therefore, we will be working with the contractors to ensure the appropriate reporting is provided so it can be expedited.

Assemblyman Carpenter:

My question is regarding the rural transit monies. Is this funding in addition to our usual allocation or is this extra?

Susan Martinovich:

Yes, it is in addition to what the state normally receives. So there are great opportunities to enhance the program. However, one of the challenges we have not determined yet is whether there is a match requirement on the transit money. We are assuming there is not because we are being told everything is federally funded so far. We will definitely research the matter thoroughly to see if this money can be used to supplement some of the existing rural transit agreements.

Assemblyman Carpenter:

Would this involve purchases of new vehicles?

Susan Martinovich:

If the intent is for stimulus, then purchases of vehicles will not provide that. However, it might be the operating expenses, or some other area, like capital for bus facilities. As mentioned, we really do not have the final information on this section, and we will obtain the details for you.

Senator Carlton:

My question concerns the comment about the stimulus funding creating new jobs for southern Nevada. It sounds like the contractors will be awarded pavement preservation contracts, which will employ their existing workers, but do we think there is going to be an actual need to hire more people? If so, how long does it take to train them to perform the work? In my opinion, we want Nevadans to work now, but we also want to ensure those unemployed individuals are waiting in the queue. Could you elaborate on this for me?

Susan Martinovich:

One of the provisions we have seen is a section regarding on-the-job training. We are working with the contractors to provide them with the informational resources needed as well as encouragements to meet DBE percentages. Although our federal contracting does not have a percentage requirement, we are talking to the AGC about implementing something. One other aspect is the types of projects which will be released include those from our existing funding as well as those from the anticipated funding from the stimulus package. There is a variety of work, not only pavement preservation.

Senator Carlton:

A lot of the work you are talking about involves skilled or semi-skilled laborers. We have many people who are unemployed who might not want to return to the industry they left, so I am looking at the whole support system for electricians, secretarial, administrative, and accounting. How far-reaching is this going to be for returning people to viable jobs?

Susan Martinovich:

We really have no idea at this time.

Chairman Atkinson:

Are there any other questions? Then I have a question or two. Ms. Martinovich, I do know there was a set of shovel-ready projects submitted by NDOT. Do we know how many jobs will be stimulated by these projects?

Susan Martinovich:

No, we do not know. We had the general number of approximately 35,000-40,000 people per \$1 billion. Therefore, if you prorate it down, we should be able to develop an estimate, and this figure is part of the reporting element required for our state.

Chairman Atkinson:

My next question is how soon will we be able to put people to work?

Susan Martinovich:

Once FHWA receives the funding source, which will be 21 days from now, we will be aligned to release projects immediately thereafter. We bid for 3 weeks, then reviewing the bids and contracting process requires another 4 to 6 weeks. Therefore, in approximately 12 weeks we can have the contractors mobilized and on the street. Therefore, our plan is to have people working in 3 to 4 months.

Chairman Atkinson:

Are you concerned about these monies remaining local? How can we avoid businesses in California, Arizona, and Utah coming in and taking these jobs away from Nevadans? I actually heard a contractor express his views about the number of unemployed workers he had in another state. My impression was he might bring some of those workers here, if he received a contract. It is my highest concern to ensure these monies remain in our state; they stimulate our economy, and return our workforce to full employment.

Susan Martinovich:

I totally appreciate your comments and feel the same way. Just one caveat, we are not the only state receiving the stimulus money. Therefore, I suspect the other states and their contractors will be making the same efforts we do. My concern is actually a shortage of contractors, which I believe will be a bigger challenge.

Chairman Atkinson:

I do have one additional question. What are the requirements for apprentices on these projects?

Susan Martinovich:

I do not know, but we will obtain the information for you.

Chairman Atkinson:

Do apprentice programs require state or federal approval?

Richard J. Nelson, P.E., Assistant Director, Operations, Department of Transportation:

In each of these contracts, we establish a certain number of training hours which are built into the project. It provides a subsidy to the contractors to account for the lack of production due to the apprentice training. We are analyzing the feasibility of increasing those on-the-job training hours to encourage more apprentices to come to work on the project.

Chairman Atkinson:

Are there any other questions from the Committee members? Seeing none, we will move to southern Nevada and receive a presentation from the RTC.

Dr. Fred Ohene, Assistant General Manager, Regional Transportation Commission of Southern Nevada, Las Vegas, Nevada:

[Spoke from prepared testimony marked ([Exhibit F](#)). Also, submitted is a spreadsheet, ([Exhibit G](#)), containing a list of proposed projects for stimulus funding from Clark County, and the cities of Las Vegas, North Las Vegas, Henderson, Boulder City, and Mesquite.]

Chairman Atkinson:

Are there any questions from the Committee members for the Regional Transportation Commission of Southern Nevada? Seeing none, we thank you for your presentation. I would like to have the Regional Transportation Commission of Washoe County come forward and give us your presentation.

**Derek Morse, P.E., Interim Executive Director, Regional Transportation
Commission of Washoe County, Reno, Nevada:**

As you can tell from the testimony of others, we have not approached this new legislation lightly. We have been working for many months to develop and prioritize projects. Over the last few months, we met with the representatives of Clark County, NDOT, and particularly the Washington advisors to get a preliminary idea of amounts we might receive. In establishing the priorities, there were assumptions we made which have subsequently proven true. Several months ago, we assumed any projects would be required to meet the federal processing guidelines including the NEPA review. As Director Martinovich testified, for a major project the NEPA review is anywhere from two to five years, and sometimes can take a decade to complete. In addition to the federal process, we were informed all or a portion of the monies must be expended within 90 to 120 days of signing the bill. An issue previously mentioned, but one our agency deemed important, was the public perception towards these projects. We did not want them viewing these new programs as "pork", or government largesse. We wanted projects everyone could recognize had been community priorities for quite some time and were consistent with existing community preferences today.

It is virtually impossible to have projects ready to go to construction given this time frame and the federal process, unless they are already in the pipeline. As we identified priorities in Washoe County, we selected those ventures consistent with these objectives. On the highway side, we identified two projects. [Submitted ([Exhibit H](#)), document entitled *Federal Transportation Stimulus Projects* which lists the projects discussed in this testimony.] The first one is the Meadowood Interchange Complex, which is in the premiere commercial district for the Washoe County/Northern Nevada area. This has been the No. 1 priority of our Board for federal appropriations for over seven years. We have the final design, environmental clearances, and everything needed to move this forward in the next 120 days, as well as obligate the necessary funds.

The second project we have selected is one we have been working on in cooperation with NDOT. It involves capacity restoration on northbound US-395 between Moana Lane and the Spaghetti Bowl. This plan is an early action program on our core freeway system and has been targeted for more than seven years. Between those two projects we could absorb well over half of the state's entire allocation of federal transportation dollars. Therefore, we have more project work identified to handle any amount which might be distributed our way. In addition, there are numerous surface restoration projects on the interstate system which could be implemented.

On the transit side of this bill, the biggest misfortune is the lack of flexibility to use these funds for operations. Many of you have seen the news stories, and we are in the midst of executing deep cuts to our transit service. There is no doubt we can use this money, despite this shortcoming. We have continuous fleet replacement requirements, and refurbishing and renewal prerequisites for our transit facilities. These have been and continue to be high urgency issues year after year. The second project we have identified, in the hopes there would be additional funding or special funding set aside, is for our Virginia Street Bus Rapid Transit (BRT) project. There has been significant discussion and questions about the creation of jobs, and we have made our own estimates and expect hundreds of jobs preserved or added through these programs.

The last item I would like to point out in closing is the benefit goes well beyond the immediate jobs. National studies indicate for every dollar invested in surface transportation, we experience \$4 of other direct economic benefits. To me, this is a good indication the businesses directly involved, as well as other businesses within the community will benefit. If we examine the long-term, and start from the premise of transportation being the fundamental bedrock to build our economy, we will see enduring assistance from these stimulus programs.

Chairman Atkinson:

Are there any questions from the Committee members?

Assemblyman Hogan:

I was intrigued by the brief discussion of the high-speed rail. Most of us have some ideas where this project came from. I was wondering if we have a body of expertise available to us to ensure those funds are devoted to rushing tourists from Los Angeles to Las Vegas. Do we have a source of information and support for high-speed rail projects?

Kent Cooper, Assistant Director, Engineering, Department of Transportation:

In the State of Nevada we are looking at the Amtrak service. It originally consisted of two services; the California Zephyr running along the Interstate 80 corridor and the Desert Express, which used to run along the Los Angeles to Salt Lake City corridor. The service is no longer in existence. The Regional Transportation Commission of Southern Nevada has scheduled resumption of some form of this earlier service. Whether it would be through Amtrak or some other means is optional, but they are eager to move forward with its implementation. Unfortunately, this project would basically require starting from the very beginning. Usually the issues involved in such a project include track usage rights, and the ability to get on the existing system, the ability to provide high-speed performance because typically the freight railroads have priority on

those corridors. I believe we have some of the pieces needed; but whether it would fit with the stimulus or not, I am not able to say, and perhaps RTC could respond.

Chairman Atkinson:

Thank you, Mr. Cooper, and RTC of Southern Nevada is coming forward to help out.

Dr. Fred Ohene:

I need to clarify a statement made by Mr. Cooper. Last year a study was performed to explore different options to restore the former service. Even though we have stimulus money, it is going to take much longer to initiate this particular project because of the environmental requirements. It is a very good project if we had the available funding and the extended time period needed to complete all the processes.

Chairman Atkinson:

Thank you, Dr. Ohene. I believe Senator Nolan has a question.

Senator Nolan:

We have had a commission working on this concept for the past ten years. I believe everything they have is in place, and only the funding element is the final roadblock for this project. I understand there is a great deal of opposition, and Michael Bird might be able to provide information on the reaction of Congress. I-15 south is the major corridor between the Long Beach and the San Diego ports, and the rest of the southwest. It has been increasingly choked with truck traffic. We are doing the best we can to free up traffic and capacity, but in some instances, we do not have the ability to create additional asphalt. What is the perception regarding the alignment of a high-speed train between Las Vegas and Los Angeles?

Jim Reed:

Our Washington, D.C., staff left the videoconferencing facility to go home.

Chairman Atkinson:

Actually, Mr. Reed, we are watching them now and they are still there.

Jim Reed:

I apologize. They had called me earlier, and indicated they wanted to leave because of the late hour. I thought they had already left.

Michael Bird:

In a bill of this magnitude there has been every attempt made to eliminate any preferential funding with a predetermined outcome. The rail issue started with an amount, which has changed more dramatically than many others. There have been reports carried by the news media indicating this was designed to give biased treatment to the project being discussed, but it is in the hands of the Transportation Secretary to devise a plan for utilization of these funds. Then it is released competitively to a variety of applicants for them to respond, and finally the decision is made as to who will be awarded these monies. This is one of the components not receiving much attention, and it requires a little more analysis.

Chairman Atkinson:

Does this answer your questions Senator Nolan?

Senator Nolan:

We are relying on our staff and agency heads to wade through this legislation and then provide a plan for us to review before the end of the session. I still have many questions, but I do not believe anyone has the answers for them at this point.

Chairman Atkinson:

Are there any other questions from the Committee members? I would like to thank NCSL for staying on with us this evening. I would like to reiterate what has been voiced earlier, but in a more direct manner. If some states do not want this money, then we will take it. As more information unfolds, I hope you will contact us so we can maximize our opportunities.

I am going to make some final comments, and then I will offer Senator Schneider the opportunity to provide closing remarks. I want to do everything possible under the federal mandates to ensure the jobs from these projects draw local bidders and create employment for Nevadans. We want accountability for this funding, and from our agencies to verify we are stimulating our workforce. I wanted to remind you to be mindful the \$200 million will not solve our transportation needs. We have needs well beyond this, and it is a drop in the bucket. However, we are grateful for every bit of it, and we will use this money to stimulate jobs in our state.

Chair Schneider:

Our Committee in the Senate is more than transportation. We also make decisions regarding energy and infrastructure, but we do have some overlap. There is other money in the stimulus bill, beyond transportation, and we will be

working hard to develop workable programs for all applicable funding. Amanda Naughton is an advisor at the Washington, D.C., location dealing with energy issues. However, she is in the process of acquainting herself with the provisions, and we did not want to ask her any questions until she gets up to speed. We in the Senate look forward to working with you. We will be submitting bills for your scrutiny once they have been voted on by our Committee.

Chairman Atkinson:

Thank you, Senator, and you can expect the same cooperation from our side. We will do everything we can to work together on this effort, and our door is always open.

I did want to move on to public comment before we finish.

Patrick Pittenger, AICP, Transportation Manager, Public Works Development Services Department, Carson City, Nevada:

I represent one of four metropolitan planning organizations (MPOs) in the state. Carson City continues to devote its attention to putting significant projects out on the road. We have recently completed a \$5 million project on Fairview Drive. We have another \$5 million under construction on north Stewart Street. Later this spring, we will invest another \$5 million of local money to improve Curry Street. However, like many entities in the state, our revenue streams are deteriorating, and we hope to obtain a portion of the funds from this new stimulus package to promote employment in this area. We were disappointed the smaller MPOs were excluded from the allocations. It is up to the State of Nevada to determine the amount of funds spent statewide from the earmarked sum of \$140 million. Carson City is not large enough to qualify for funding in communities over 200,000, but we are too big for funding consideration with communities below 5,000 persons. I have submitted a list of 10 priority projects to the NDOT ([Exhibit I](#)) for their consideration, and I have included a copy for the Committee's review as well. We believe the \$9.3 million requested, which is under 5 percent of the state's allocation, is a reasonable sum for the Carson City area to spend for these improvements. These are all federal-aid roads, and all of the right of way has been acquired. We are eager to implement these programs. In closing, we strive to be part of the solution, maintain people's employment, and offer additional job opportunities.

Chairman Atkinson:

Are there any questions from our Committee members for this witness? Seeing none, thank you for your time, and you are free to return to your seat. Is there anyone else wishing to be heard under public comment?

I would like to thank everyone for bearing with us throughout the evening, including staff in assisting with this important effort. We are adjourned [5:49 p.m.].

RESPECTFULLY SUBMITTED:

Marlen Schultz
Committee Secretary

APPROVED BY:

Assemblyman Kelvin Atkinson, Chairman

DATE: _____

Senator Michael A. Schneider, Chair

DATE: _____

EXHIBITS

**Committee Name: Assembly Committee on Transportation/Senate
Committee on Energy, Infrastructure and Transportation**

Date: February 17, 2009

Time of Meeting: 4:09 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Assemblywoman Barbara Buckley, Clark County, District No. 8, Speaker, Nevada State Assembly	Handout, <i>Federal Stimulus Legislation</i> presentation with attachment on Preliminary Comparison of Stimulus Package
	D	Michael Bird, Federal Affairs Counsel, National Conference of State Legislatures	Handout, <i>Transportation Provisions – American Recovery and Reinvestment Act of 2009</i>
	E	Susan Martinovich, Director, Nevada Department of Transportation	Stimulus Testimony dated February 17, 2009
	F	Dr. Fred Ohene, Assistant General Manager, Regional Transportation Commission of Southern Nevada	Two-sided page presented as testimony dated February 17, 2009
	G	Dr. Fred Ohene, Assistant General Manager, RTC of Southern Nevada	Spreadsheet containing prioritized projects for Henderson, Cities of North Las Vegas, Mesquite, Las Vegas, and Boulder City, and Clark County
	H	Derek Morse, Interim Executive Director, Regional Transportation Commission of Washoe County	Handout, entitled <i>Federal Transportation Stimulus Projects</i> , dated February 2009
	I	Patrick Pittenger, AICP, Transportation Manager, Public Works Development Services Department, Carson City, Nevada	Handout, 10 projects for Stimulus Package (2/17/09)