

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Third Session
April 13, 2005**

The Committee on Government Affairs was called to order at 7:43 a.m., on Wednesday, April 13, 2005. Chairman David Parks presided in Room 3143 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4412 of the Grant Sawyer State Office Building, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. David Parks, Chairman
Ms. Peggy Pierce, Vice Chairwoman
Mr. Chad Christensen
Mr. Jerry D. Claborn
Mr. Pete Goicoechea
Mr. Tom Grady
Mr. Joe Hardy
Mrs. Marilyn Kirkpatrick
Mr. Bob McCleary
Mr. Harvey J. Munford
Ms. Bonnie Parnell
Mr. Scott Sibley

COMMITTEE MEMBERS ABSENT:

Mr. Kelvin Atkinson (excused)

GUEST LEGISLATORS PRESENT:

Assemblyman John Carpenter, Assembly District No. 33, Elko and Humboldt (part)
Assemblyman Richard Perkins, Assembly District No. 23, Clark County
Assemblyman John Marvel, Assembly District No. 32, Humboldt (part), Lander (part), and Washoe (part)
Assemblywoman Chris Giunchigliani, Assembly District No. 9, Clark County

Assemblyman Rod Sherer, Assembly District No. 36, Nye, Esmeralda,
Mineral, Lincoln, and Churchill (part)

Assemblyman Mark Manendo, Assembly District No. 18, Clark County

Assemblyman Joe Hogan, Assembly District No. 10, Clark County

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst

Eileen O'Grady, Committee Counsel

Michael Shafer, Committee Attaché

OTHERS PRESENT:

Steve Robinson, Natural Resource and Rural Advisor, Office of the
Governor, State of Nevada

Dan O'Brien, Manager, Public Works Board, Department of
Administration, State of Nevada

Rose McKinney-James, Legislative Advocate, representing the
Clark County School District

Brian Sandoval, Attorney General, Department of Justice, State of
Nevada

Stacy Jennings, Executive Director, Nevada Commission on Ethics

Jim McAndrews, Private Citizen, Reno, Nevada

Madelyn Shipman, Legislative Advocate, representing Nevada District
Attorneys Association

Arlan Melendez, Tribal Council, Chairman, Reno-Sparks Indian Colony

Ernie Adler, Legal Counsel, Reno-Sparks Indian Colony

Jackie Crawford, Director, Department of Corrections, State of Nevada

Pam Wilcox, Administrator, Division of State Lands, Department of
Conservation and Natural Resources, State of Nevada

Anne Loring, Legislative Advocate, representing the Washoe County
School District

John Slaughter, Management Services Director, Office of the County
Manager, Washoe County, Nevada

Nicole Lamboley, Legislative Relations Manager, Office of the City
Manager, Reno, Nevada

Eric Raecke, Principal, FYSO, Inc., Reno, Nevada

Danny Thompson, Executive Secretary-Treasurer, Nevada State AFL-CIO

Robin Reedy, Deputy Treasurer-Debt Management, Office of the State
Treasurer, State of Nevada

Paul McKenzie, Organizer, Operating Engineers Local Union No. 3, Reno,
Nevada

Ken Lange, Executive Director, Nevada State Education Association

Terry Van Noy, Principal, Van Noy Consulting Group, Las Vegas, Nevada

James Penrose, Legal Counsel, Nevada State Education Association

Fred Hillerby, Legislative Advocate, representing Hometown Health

Ty Windfeldt, Marketing Director, Hometown Health, Reno, Nevada

Janice Pine, Director of Government Relations, St. Mary's Regional Medical Center, Reno, Nevada

Randy Robison, Executive Director, Nevada Association of School Boards

Sergeant Phil Gervasi, President, Police Officers Association of the Clark County School District

Mitch Maciszak, Trustee, Police Officers Association of the Clark County School District

Gary Wolff, Business Agent, International Brotherhood of Teamsters Local No. 14, Las Vegas, Nevada

Lieutenant Stan Olsen, Executive Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department, Las Vegas, Nevada

Joe Bifano, Legislative Advocate, representing the Fraternal Order of Police, Las Vegas Lodge # 1

Keith Lyons, Legislative Advocate, representing Nevada Trial Lawyers Association

Thelma Clark, President, Nevada Silver Haired Legislative Forum

Ben Graham, Legislative Advocate, representing the Clark County District Attorney's Office

Mary Walker, Legislative Advocate, representing Carson City, Douglas County, and Lyon County, Nevada

Dan Musgrove, Director of Intergovernmental Relations, Office of the County Manager, Clark County, Nevada

Kent Lauer, Executive Director, Nevada Press Association

Chairman Parks:

[Called meeting to order and roll called.] We'll start with A.B. 275.

Assembly Bill 275: Prohibits involvement of State Public Works Board in certain activities of local governments. (BDR 28-614)

Assemblyman John Carpenter, Assembly District No. 33, Elko and Humboldt (part):

[Assemblyman Carpenter read from prepared testimony, Exhibit B, which is incorporated herein.]

Chairman Parks:

Did you have other persons that wanted to testify on this bill?

Assemblyman Carpenter:

I believe that I am the only one to testify on Assembly Bill 275. However, as you know, we do have an amendment ([Exhibit C](#)), and I don't know if that will be presented now or later.

Steve Robinson, Natural Resource and Rural Advisor, Office of the Governor, State of Nevada:

I just briefly want to add our support and urge your support for A.B. 275, which, as you know, reconstitutes the State Public Works Board.

[Chairman Parks yielded the gavel to Vice Chairwoman Pierce.]

Assemblyman David Parks, Assembly District No. 41, Clark County:

The proposed amendment to the bill ([Exhibit C](#)) was one I requested. It realigns the organization of the Public Works Board to bring it more in line with the organization and functioning of the State Transportation Board. As fast as Nevada is growing, and since the State is in the process of handling multimillion dollar projects, we think the State Public Works Board should take on a more active role as far as overseeing projects that the State is working on. The Public Works Board would consist of the Governor, the Lieutenant Governor, the State Treasurer, and two members appointed by the Governor who would have expertise in the field of public works. The Governor would be chairman of the Board, and the members of the Board would be elected annually. What you see on the first page and the very top of the second page would be the reconfiguration of the State Public Works Board.

Assemblywoman Parnell:

What's the reasoning behind decreasing the Board by one? It looks to me like it would go from six members to five.

Assemblyman Parks:

What we have at the present time is a public works board whose members are from the general public. They meet on a monthly basis. What this would do would be to bring it more closely in line with the direction of the administration of the state.

Steve Robinson:

The Public Works Board, and the agency within it, is really no different from any other executive agency which the Governor is in charge of and ultimately responsible for. This places it in the same character as other State agencies.

That's why we think not just the responsibility, but the wherewithal to control the agency ought to be with the Executive in this case, with some public input to make sure the elected officials keep that outside input.

Assemblywoman Kirkpatrick:

What are the current terms of the Board members, and what would the terms be for this reconfigured board? Is it for as long as the Governor allows you to be on the board?

Assemblyman Parks:

It's a four-year term.

Assemblyman Carpenter:

There's another gentleman here who has an amendment to A.B. 275 ([Exhibit D](#)). I just received it and have not had a chance to really study it, but I believe it fits right in with the idea that I had with A.B. 275. So, I don't have a problem with the amendment, but I'd really have to study it before giving it my wholehearted approval. I'd be interested in his comments.

Dan O'Brien, Manager, Public Works Board, Department of Administration, State of Nevada:

I am speaking today in favor of this bill. There is a Senate bill currently being worked on, S.B. 292, which basically does the same thing Mr. Carpenter's bill does. It addresses NRS [*Nevada Revised Statutes*] 393 and basically takes the State Public Works Board out of the process for school districts. The primary mission of the State Public Works Board is to complete the state's capital improvement program. Currently, NRS 393 has the State Public Works Board review plans of school districts, but we do not inspect. If you're a building official, that really doesn't work. What this proposal is doing is putting the responsibility down to the local level. We're just a middleman in the process. We send everything out to be plan-checked, and then we go back to them.

I do have a proposed amendment I can give to you ([Exhibit D](#)). It basically mirrors exactly what's in S.B. 292. The provisions that are in this amendment basically outline what the process is for school districts. A school district is the governing body. They would go to the local jurisdictions, submit their plans, and pay their fees. They would not come to the Public Works Board. There is a provision in there—it's Section 4 of my amendment—that addresses Clark County, but it does allow a school district that is in a county of over 400,000 to create their own building department. In this case, Clark County School District does have their own building department. They are in support of these amendments also. It will ultimately give the governing body, the local government entity, the full authority to process there and not have to come

through the State's Public Works Board. This is a friendly amendment. I believe that it is very complementary to Assemblyman Carpenter's bill.

Assemblyman Carpenter:

What happens now is the school board—in most counties other than Elko, where we have pay-as-you-go—asks for a bond issue to be approved by the voters. Then the local school board, with input from the citizens, decides where a school needs to be built. They hire an architect to design the building, and then it's submitted to the Public Works Board. That is where the hangup comes, because the Public Works Board then has to submit these plans to an outside engineer or architect for approval. I believe it would be much more convenient, cost saving, and would speed things up if the local entities just submitted the plans for approval to an outside architect or an engineering firm, to make sure that things like ADA [Americans with Disabilities Act of 1990] compliance and other life-saving systems were indeed the way they should be. If it's a project that's too large for the local building officials to handle or if they are too busy to do this particular project, then the local building department would hire a building inspector to make sure that these buildings were done right. In Elko, they have a staff person who oversees all of the construction anyway. They have the staff on board to do it.

The counties that may not have that staff could hire a qualified building inspector to make sure that the day-to-day operation of the project goes along smoothly and that everything is done according to plan. I just wanted to give a recitation to what happens in these projects.

Dan O'Brien:

I just want to bring one point out. The way the bill is written now, or with the amendments, it will take the responsibility away from the State Public Works Board. It will also take the planned review for nonstructural life safety away from the State Fire Marshal's Office. When that occurs, there'll be a significant financial reduction in the amount of revenue that the State Fire Marshal receives, because A.B. 275, as written or as amended, would take the Clark County School District away from the State Public Works Board's purview. Many years ago, there was an informal agreement of some sort that gave the nonstructural life safety review to the State Fire Marshal's Office. Because they are building so many schools, revenues for plan reviews coming from the Clark County School District are a significant part of their budget.

I do have to point out that there is a significant financial impact upon a State agency for this. We've been in discussions on this regarding the Senate bill also. The Governor's office is aware of that financial reduction and is hoping to resolve that in some manner.

Vice Chairwoman Pierce:

Ms. McKinney-James, would you like to speak on this?

Rose McKinney-James, Legislative Advocate, representing the Clark County School District:

I would like to follow the testimony of Mr. O'Brien with respect to our position. As currently written, A.B. 275 presents some challenges for the District. We have been monitoring the Senate bill, and between the two bills as they are written, S.B. 292 would be our preference. I'm here this morning, though, to support the amendment that Mr. O'Brien has submitted ([Exhibit D](#)) for a number of reasons. I think he has indicated to you that the District has a substantial construction program. We have an aggressive need to build schools, given the growth that we've experienced over the last decade. As a result, it's very important for us to have some efficiencies when we move forward. We believe that the amendment will correct some inefficiencies and eliminate the payment of substantial fees that we have undertaken.

In the last three years, we estimate that we've paid \$1.2 million in fees. We are close to \$500,000 in fees this year alone. These fees are duplicative. We provide these fees to the State Fire Marshal, but in point of fact, we are working with the local fire departments. The fire departments at the local level do the work and are not compensated for that work. We think that the amendment would end that conflict between determinations of the local fire departments and the State Fire Marshal. We also believe it will provide us with the ability to respond more timely to the local fire departments. We think it will streamline the economies of the government process by eliminating the middle person, and we think it will also help create a less frustrating environment for the design professionals, the architects, the engineers, and the contractors. There's no cost to the school district because we already have a building department. I would simply like to emphasize that, with the amendment that Mr. O'Brien has brought to you this morning, we are happy to support A.B. 275. Absent the amendment, we would have to enter our opposition.

Vice Chairwoman Pierce:

Is there anyone else who would like to speak on A.B. 275? Seeing none, I will close the hearing on A.B. 275 and open the hearing on A.B. 419.

Assembly Bill 419: Makes various changes relating to public officers and employees. (BDR 23-1020)

Assemblyman Richard Perkins, Assembly District No. 23, Clark County:

It's my pleasure to be sitting next to the Attorney General, Brian Sandoval, this morning and presenting this bill. Last week, I presented A.J.R. 9 to another committee, which addresses the first step in this ethics reform package. That resolution amends the *Constitution* to state that an elected official who admits to three willful violations of ethics laws must forfeit their office. I'm here today to talk to you about the next necessary step in our attempt to ensure the public's trust of their elected officials. In light of the most recent scandal, as well as other instances about impropriety among State officials, the Attorney General and I have been working together to draft a plan that will hold Nevada officials to a higher standard. Assembly Bill 419, as it was drafted, missed a few of the points I wanted to cover, so I'm working primarily off an amendment ([Exhibit E](#)) that I think has been distributed.

Between the bill and the amendment, this is what I intend to accomplish: a ban on local campaign officials being allowed to collect campaign contributions in the years that they're not running for reelection. Currently, I believe the wrong message is being sent to the public, that a candidate may be collecting campaign contributions one day and voting on a project from those same contributors the next day. While this probably is not going on, the appearance is not appropriate. Page 10 of the amendment would read:

It is unlawful for a person who is elected to a public office of a local government to solicit or accept any monetary contribution, or to solicit or accept a commitment to make such a contribution, for any political purpose during the period beginning 30 days after the person has been issued a certificate of election to the public office and ending 30 days before the last day to file as a candidate for that office...

That actually may be a little too tight of a timeframe, because in local government, the proximity of the filing period to the election is only about 60 or 90 days. That may need to be a lengthened period of time. As well, the amendment provides for better protection for whistleblowers who uncover corruption or abuse by elected officials. Nevada employees need better protection when coming forward with what they see is happening, without the fear that they may lose their job or have their credibility ruined. I think we have a fairly recent example of that.

The amendment would further strengthen the Open Meeting Law and provide stricter penalties for those who violate it. It's no secret to this Committee that violations of the Open Meeting Law have occurred over the past year or two, have been fairly high profile, and seem to not necessarily have been corrected.

Although we're not trying to make criminals out of folks who make minor mistakes, there's some ambiguity in the law about whether or not criminal penalties can be sought for the most egregious violations of other ethics laws. Our current ethics laws are often lacking effectiveness because there are no serious consequences. I believe that the Attorney General's Office needs to have the tools to enforce penalties for elected officials who violate the most egregious of Nevada's ethics laws. Assembly Bill 419, as amended, was designed to look at the problems that can be avoided in the future. I think it's time to hold every elected official accountable for their actions. This preventative measure is a necessary step we, as elected officials, must take to restore the public's confidence. Restoring the public's trust is a nonpartisan issue.

[Assemblyman Perkins, continued.] A summary of the proposed amendment ([Exhibit E](#)) sits before you. Section 2 of the bill, on pages 2 and 3, amends NRS 281.481, the Code of Ethical Standards. Subsections 7 and 8 are currently contained in the bill to provide that a public officer or employee, including a legislator, is prohibited from using government time, property, or equipment from any other State facility to benefit his or her personal or financial interest. On page 3 of the proposed amendment, it also prohibits a public officer's employees from conducting a meeting in violation of the Open Meeting Law. The change to subsection 12 confirms in this section the changes made in Section 2, subsection 7. Section 6 of the bill amends NRS 281.645. Currently, that statute requires that a local government adopt an ordinance for hearing an appeal on the taking of a reprisal or a retaliatory action against an officer or an employee of the local government. Similar to the existing provisions in NRS 281.645, if a hearing officer of the local government determines that a reprisal or retaliatory action was taken, the hearing officer may issue an order to desist and refrain from taking such action. Additionally, NRS 286.041 is amended to say that taking a reprisal or a retaliatory action is grounds for disciplinary action against the person who took such action.

NRS 241.037 currently provides that the Attorney General may sue in the appropriate court to void the action of a public body taken in violation of the Open Meeting Law. Section 7 would amend that statute to provide that, in addition to voiding such action, the public body or person who violates the provision of the Open Meeting Law two or more times within five years is subject to a civil penalty of not more than \$5,000 for the second violation and not more than \$10,000 for each subsequent offense. Lastly, Section 8 of the bill amends NRS 241.040 and provides that the Attorney General shall investigate and prosecute violations of the Open Meeting Law.

[Assemblyman Perkins, continued.] In the original bill, there was a provision that if someone was mid-term—for instance, in the middle of a four-year term—they would have to resign that position and run for the next office. While I think that’s good public policy, the amendment actually removes that provision from the bill so as not to defer focus from what I think is good public policy and not add fodder for the political debates that have gone on inside this building.

Brian Sandoval, Attorney General, Department of Justice, State of Nevada:

I’m pleased to offer my support for A.B. 419, a bill that will provide a number of necessary tools to the Attorney General’s Office and the Nevada Commission on Ethics in our ongoing efforts to strengthen the public’s trust in government. We know that in Nevada’s history—even recent history—there have been incidents where that public trust has been violated, instances involving elected officials who appear to be more interested in their own personal gain than in serving the public who elected them, and incidents where government officials have abused their power to benefit themselves or others close to them. In Nevada’s history, these abuses have taken place at every level of government, involving state, county, and local government officials, both elected and nonelected. The end result has been a severe deterioration in the public’s trust in government, and we need to do something about that. Assembly Bill 419 does something about it. The bill increases fines for violations of the Code of Ethical Standards, holding wrongdoers to a higher standard of conduct with greater penalties for wrongdoing.

This bill creates additional civil penalties for Open Meeting Law violations. Assembly Bill 419 specifically prohibits public officials who are running for office from using State property or resources for personal campaign purposes. This bill provides important protections to government officers or employees who report improper government actions so that employees are not deterred from speaking out and doing right when something is wrong. We’ve had the pleasure of working with Speaker Perkins in addressing these issues and trying to put teeth into our ethics laws. Restoring the public trust in our elected officials, as he said, is a nonpartisan issue. Those of us who have chosen public service need to make it clear that we don’t benefit from a double standard, but hold ourselves to a higher standard. Assembly Bill 419 is an important step to that goal.

Assemblyman Goicoechea:

If a public body is found guilty of a violation of the Open Meeting Law twice in a five-year period, I would hope that you would have to be convicted of one before the clock started running for the second one. I know you get inundated with Open Meeting Law violations, or at least alleged Open Meeting Law violations. I’m concerned that you may have a public body that had been

functioning this way forever, not realizing they were in violation of the Open Meeting Law. You could come up with a string of violations over a five-year period—maybe there have been 20 or 30 infractions—but the public body wouldn't have realized there was an infraction. Would you have to be found guilty of one before the clock started on the five years?

Attorney General Sandoval:

The short answer to your question is yes. Certainly, we wouldn't try to use something where there hadn't been due process. We forward it and then try to consider the second one. We would not be able to go four years back and use an alleged violation that long ago. We have some pretty stringent time periods within which we have to process a complaint and act upon it.

Assemblyman Goicoechea:

I just need clarification from Speaker Perkins. On page 3, when it talks about "Except for the activity relating to a political campaign, a member of the Legislature shall not..." Does that mean the legislators can and nobody else can?

Assemblyman Perkins:

I had to read that phrase myself about four times before I understood it and had some clarification. As it's been described to me, it would exclude a legislator from that. It's just a bill drafting phrase, as it's been explained to me. It certainly is not my intention for that to be so.

I believe Stacy Jennings would like to testify from Las Vegas. We've worked with the Nevada Commission on Ethics and the Attorney General's Office, and I want to thank the Attorney General and his staff, particularly Joe Gardner and Conrad Nathan, who have been instrumental in providing suggestions and closing some loopholes that we think existed in the law. Ms. Jennings from the Ethics Commission has been very, very helpful.

Let me just finish, if I might, by telling you that I think you'll probably find some resistance to a couple of these provisions, particularly those areas in which we tried to strengthen the Open Meeting Law. There are folks who are well-intentioned, but don't necessarily want to take those extra steps to open up our government to the people. It's my belief that we exist on behalf of the people. If we don't have a fully open government, and people don't have access to that government, then we're doing ourselves a disservice. At the end of the day, we'll never have the confidence of the public to do the public's will or have the public's trust in us to do what we need to do as public servants. It's for those reasons and others that I bring this forward. I think that the Open Meeting

Law portions of this bill are some of the most crucial, and I would urge the Committee to proceed with additional testimony.

Stacy Jennings, Executive Director, Nevada Commission on Ethics:

I don't think that I could put things more eloquently than Speaker Perkins or Attorney General Sandoval has, but I just wanted to say that we support the Legislature giving both the Attorney General's Office and the Commission more tools to accomplish the lofty purposes that you have given to our agencies. I hear very often from public employees who are very much afraid of their jobs for reporting what they think to be wrongdoing or public corruption. I think it's important that you give these public employees the ability to have some protection so that they can report the things that they see are wrong.

Assemblyman Hardy:

When I look at Section 10, subsection 1 of the mockup, "It is unlawful for a person who is elected to a public office of a local government to solicit or accept any monetary contributions" within a timeframe. Do we have the language as it applies to State offices and State officers that impair that?

Stacy Jennings:

That's not something that is within our jurisdiction.

Assemblywoman Parnell:

It's a great question, because Section 10 in the mockup refers to only local governments, and the State Ethics Commission does not have jurisdiction over that. We'd want to see if there was something that mirrored this that addressed State officers, and I don't see that in the mockup either.

Eileen O'Grady, Committee Counsel, Legislative Counsel Bureau:

There is a provision that addresses when the members of the Legislature or the Governor can solicit or accept monetary contributions. I think you're all familiar with that one. That is under the Secretary of State's jurisdiction and is in NRS 294A.300. This is similar language.

Assemblyman Hardy:

Can I have a clarification on what the difference or similarity is between Section 10, subsection 1, and state officers versus local? Can I take the word "local" in line 9 of the mockup, circle it, and substitute "state" and still have the thing read the same, or is it different?

Eileen O'Grady:

No. It covers a different period for the legislators, the Lieutenant Governor, and the Governor. It's three days before regular session and three days after ending

the session, and also similar during a special session. This covers the period after a person's been elected to 30 days before the next election for that office, so it's a different period.

Assemblyman Hardy:

Are we going to make these similar, or do we want to keep them dissimilar? Do we want one standard for one and one standard for the other? Is there anyone else on the Committee who wants to weigh in on that? I get a little uncomfortable when we start singling out one group and not the other, requiring one, and not the other.

Vice Chairwoman Pierce:

The Speaker, in his presentation, made a comment about possibly adjusting these time periods, so that's a possible amendment.

Assemblywoman Kirkpatrick:

Is it not true that currently the states actually opt for when they can and cannot take on traditions?

Eileen O'Grady:

I'm going to have to check on that. This is new in the amendment, and I might need a little time to look into this further.

Vice Chairwoman Pierce:

I think we will let Ms. O'Grady get these questions answered for us.

Jim McAndrews, Private Citizen, Reno, Nevada:

I am a whistleblower currently involved in a case here in Nevada. I'd like to speak for just a moment from a whistleblower's standpoint and urge you all to make this bill as strong as possible. In reading this legislation, my only question was why there was a two-year limit in regard to retaliatory action on a State employee. In state government—and I was a former State employee—I know that people last a long time. Memories are long; tenures are long. I'm a little bit uncomfortable with only a two-year time limit before something happens.

Assemblyman McCleary:

If we don't set a timeline, how do we prove that ten years down the road, the action a person took was in retaliation to whistleblowing?

Jim McAndrews:

I understand your point. My counter is, how do you know that in 18 months the action was retaliatory? The nature of the retaliatory action will be obvious and apparent within a one-year to ten-year time period. At some point in time,

within all of this legislation, there comes a point of common sense. I can tell you that after it became public knowledge, my attorney only received four phone calls regarding whistleblowing cases in our entire state. Of those four phone calls, none of them were real, valid cases. If someone is discriminated against because of something they have done—one year, five years, ten years down the road—to prove that will be obvious and the burden of proof will be the same at year one or year ten.

Assemblyman McCleary:

That makes sense. It's a difficult situation, because I can see if you're a whistleblower and a few weeks later, you're dismissed or you're demoted, that's kind of obvious. As it gets longer and longer down the road, it gets harder to prove, but your point's made. The burden of proof would still have to be on you that it was in retaliation.

Jim McAndrews:

Especially in State tenure. I was a former Department of Taxation employee. Once you get to those upper levels, the turnover takes forever.

Madelyn Shipman, Legislative Advocate, representing Nevada District Attorneys Association:

The Open Meeting Law piece is on page 7. It provides for enhanced penalties for two violations in five years of a public body or a person. We've discussed this because there was similar language in a bill in the Senate that was heard on April 4 and again at workshop on April 11. The issue here is, what's a public body? What's a person? What's a violation? You could have a violation of the Open Meeting Law as simple as not being quite specific enough on an agenda to deal with the potential action that may be taken by a public body. Who's the person who's responsible for that? Is that violation one of the body? It is one of the secretary who put it together? Is it one of the attorneys who may have or may not have reviewed the agenda? We don't know quite how to read that. The words are similar to those used throughout the statute, but because this is such limited litigation by the Attorney General's Office, the issue has never been raised in a court process.

There's a big difference between that and the elected official who knowingly participates in a meeting that wasn't noticed. They're two violations, but one is an oversight or usually unintentional, and the other is a knowing violation. If it's a true knowing violation, obviously the Attorney General can bring a criminal action. Under the section that this is in, within 60 days, the Attorney General has the right to bring an action to void the action of the entity if there was a violation in the conduct of the meeting that resulted in an action being taken.

They also have the right within 120 days to bring an injunctive action to prevent that public entity from doing that same thing in the future.

[Madelyn Shipman, continued.] The concern we have is that most local governments have numerous citizens' groups. They're all public bodies. Now, we're assuming that intent here is that the public body is the main body, not the citizen advisory board, the subcommittee of a planning commission, or whatever. Those are all public bodies subject to the Open Meeting Law. It may sound egregious to have two violations within five years, but an unintentional violation by a citizen group not staffed is a violation. This doesn't say that they must have actually brought an action pursuant to NRS 241.037 and been successful in getting a violation determined. It just says two violations. Who is the arbiter of those violations?

There are two concerns. One is that we have a limited amount of actual case law giving guidance to local governments. We have voluminous opinions from the Attorney General's Office, some of which are not necessarily consistent with one another. So, who makes the determination that there's been a violation in this language? I didn't prepare any different language, but I wanted to just point out some issues to you. This particular language was dealt with in the Senate during those hearings, and they did IP [indefinitely postpone] the bill that had this language in it. I'm not suggesting you IP it. I'm just pointing out to you some of the same issues that came forward.

At that time, there was an amendment proposed by the Attorney General's Office to try to define the term "person" as being an employee or management of the public agency, the public entity, or the public body. I'm not sure that does it either. It probably would have removed the citizen member of the advisory committee, but it would not have dealt with that in an intentional person who may end up paying a penalty. Is it two of the same violation as much as the egregiousness that they're trying to get at? That would make more sense. Or, is it any violation? I think the bill still needs a lot of work to tie that down, because I think there would be unintended consequences to that.

Vice Chairwoman Pierce:

Is there anyone else who would like to speak on A.B. 419? Ms. O'Grady has clarification on an earlier comment.

Eileen O'Grady:

I just verified that there's currently no prohibition in state law for local or public officers as to when they can campaign. That might be because the local governments meet all year, but we're not sure if there might be something in a

local ordinance about contributions. We can't verify that, but there's nothing in state law.

Assemblyman Hardy:

Let's say I am a local person running for election in 2005. I file February 7, my election was June 2, and my Certificate of Election would only come three weeks or so after the vote has actually been counted and accepted. I would not be able to have campaign contributions until January 9, 2006, as I read this statute. My nonincumbent opponent would have no such requirement. Am I interpreting that right?

Eileen O'Grady:

I'm not sure of your dates. That seems somewhat short, but it would be 30 days before the last day to file. That sounds better; I believe that's accurate.

Assemblyman Hardy:

If that's correct, the dates actually go from July 22, 2002 to January 9, 2009. I get my certificate July 22 and for four years, basically, there is no campaign contribution allowed, but someone else running for the same office is allowed to give campaign contributions?

Eileen O'Grady:

This prohibition only applies to a person who's been elected to office.

Assemblyman Hardy:

I hope I illustrated my point.

Vice Chairwoman Pierce:

I will close the hearing on A.B. 419.

Chairman Parks:

At this point, we're going to take A.B. 299.

Assembly Bill 299: Authorizes exchange of land with Reno-Sparks Indian Colony and construction of new restitution center for Department of Corrections. (BDR S-820)

Assemblyman John Marvel, Assembly District No. 32, Humboldt (part), Lander (part), and Washoe (part):

I am the sponsor of A.B. 299, which I think really is a win-win situation for the State of Nevada, the Department of Corrections, the Washoe Tribe, the Washoe

County School District, the City of Reno, and Washoe County. We have a number of people here who will be testifying today.

Arlan Melendez, Tribal Council Chairman, Reno-Sparks Indian Colony:

We have a short PowerPoint ([Exhibit F](#)) that we'd like to display. We're a federally recognized Indian tribe since the Indian Reorganization Act of 1935. We're located in east Reno and Hungry Valley. We have 28 acres of our original land base in Reno and about 1,960 acres in Hungry Valley. We have approximately 1,100 Paiute, Washoe, and Shoshone residents who live on the Reno-Sparks Indian Colony. The Colony is a full-service government. The Reno-Sparks Indian Colony has a federal mandate to provide health services to nearly 9,000 Native Americans living in Washoe County. On our map ([Exhibit F](#)), you can see our land bases. Basically, the original colony is 28 acres right in the middle. Up to the right side would be the proposed Wal-Mart site. That would be up in the right corner. On the very left corner at the top is our proposed clinic site. Right in the middle is the proposed new restitution site.

Tribal governments have expenditures that are supported by sales taxes from tenants and from our smoke shops. There's a federal policy pushing tribes to be more self-sufficient, and it falls in line with the federal policy of the Indian Self-Determination and Education Assistance Act of 1975. Federal grants are drying up as far as the appropriations from Congress. Revenues based on our 1991 intergovernmental tax agreement with the State of Nevada have worked well for us. The Colony has fee-for-service agreements with Reno, Sparks, and Washoe County; fire agreements; and agreements with law enforcement.

The proposal ([Exhibit G](#)), and we look at this as a win-win opportunity for both the state and the Reno-Sparks Indian Colony, is the result of a major economic opportunity for the tribe. The Colony wishes to obtain the adjacent restitution center, and that's approximately four acres, in a land exchange with the State Department of Corrections. The Colony would build an \$8 million facility for the Corrections Department on a nearby floodproof site. This would be at the Kietzke Lane site. It would double the capacity to 200 men and women. The new facility would be a lease-purchase to the state of Nevada. A share of the store sales tax—this is the proposed Wal-Mart—would cover the State's cost. The project is modeled on the new Las Vegas facility—a similar, larger facility. A private developer will build with Corrections' oversight.

The Colony plans for the State to construct a levee to protect the entire 26 acres from floods. As you can see, this site was actually under the flood that we had in Reno in the 1990s. We want to remove the guard towers and raze the wire and old buildings. We also want to construct a Native American culture center on this site, which is the four acres. We also are going to reserve

a park strip along the river for the general public, which would be for bike paths and river access for the general community. The new site is Indian Trust Lands, so the question is, "How do we take those lands out of trust status?" The Bureau of Indian Affairs has assured us that we can process the land exchange in-house, so they're going to be working on this exchange. The appraised value of the State parcel is approximately \$942,000. The Colony parcel up on Kietzke Lane is valued at approximately \$1,335,000. Wal-Mart plans a superstore on the Tribal lands along the river north of the Hilton. As you can see, it's an improved design from the Wal-Mart stores that you normally see, which are basically more warehouse-looking gray buildings. They are going to basically come up with a new-frontier-style design that's going to hopefully look better for the general community in the heart of Reno.

[Arlan Melendez, continued.] The project sales tax proposals are a remnant of the sharing agreement. I think it's the first time a Native American tribe has recognized that the State has the same needs. We live in the same community of Reno-Sparks; we're a great supporter of education, as we have 228 children that attend Washoe County schools. We thought it would be appropriate to have some of that money going into the school district there. The Colony would share one-third of the sales tax with the state of Nevada and the Washoe County School District, based on the \$60 million in taxable sales, and the tax rate being 7 3/8 percent of the Wal-Mart project.

Basically, what it comes down to is that 1.5 percent of the tax rate would support the mix of the State's expense on the lease, and I think that amounts to \$900,000 per year for 20 years. The Washoe County School District would get 1 percent of the tax rate for support. That equates to approximately \$600,000 per year for 20 years. Basically, what we're saying is that the combined total of 2.5 percent of the 7 3/8 percent equates to a third of the revenue sharing in this proposal. As long as Wal-Mart is there, the revenue-sharing agreement would go on. Upon the State taking title to the building, the School District's share would increase. The Colony intends to use its share towards our new health center, which is basically an \$18.5 million project that will service the Native Americans in Washoe County and in our own tribe. Washoe County will collect and distribute property taxes on the 203,000 square-foot store. That equates to about \$150,000 per year that the State will get.

We have community support, as indicated by a letter from Mayor [Robert] Cashell and the Reno City Council and one from the Washoe County Board of County Commissioners, who we talked with just the other day. Last night, the Washoe County School Board gave their support to this proposal. The local newspaper has supported it in one of their editorials. The Reno-Sparks Indian

Colony also supports A.B. 299. The project will lift the tribe into the mainstream of modern-day America and help us participate in the American Dream.

Assemblyman Marvel:

One of the amendments would change that from the School District to the District School Renewals Program. I think this would deal with the problem we're having in maintaining our schools and building schools. This would be going to the capital improvement fund. We have amendments that Mr. Adler will pass out ([Exhibit H](#)). I think they've consolidated all of the amendments into one.

Ernie Adler, Legal Counsel, Reno-Sparks Indian Colony:

What I was going to do was just cover the amendment quickly ([Exhibit H](#)). It was drafted by the Legislative Counsel Bureau and reflects comments by the Governor's Office, as well as the Division of State Lands. I think that this has been agreed to by everyone so far. We amend Section 1, page 2 by deleting "District" and putting "District School Renewals Program." This was at the request of the Washoe County School District. The account with the greatest shortfall is used for such things as updating technology equipment in schools, carpeting, and those types of things. That's why this money was devoted to that. Some of the other sections are pretty easy to summarize. Where you see numbers inserted and a deletion of the acreage, that is because the APNs [assessor's parcel numbers] on these parcels are accurate. If you get away from the APNs, there is a dispute as to the exact acreage; so A.B. 299 references the APNs so we know what parcels we're talking about.

When you get down towards the lower part of the amendment, there's some language inserting the word "local." That's so we have more local input into the process of locating these facilities. Then, down towards the very bottom, you have, "The Reno-Sparks Indian Colony must obtain letters of support or resolutions from the City of Reno and Washoe County that approve the exchange of land...." That's just to make certain that the Colony and the State have the support of all the local entities involved going forward with this project. I believe Chairman Melendez has already met with all the Reno and Sparks City Council members and the mayor. The County Commissioners have been informed of this and supported the bill draft, although we haven't received a letter of support yet. We have received one from the City of Reno.

The final amendment is, again, a technical amendment. NRS 323.100 states that if you have a land exchange, it has to go through the Board of Examiners in Interim Finance. Since this is going through the Legislature, it will have to be approved by the Governor, so that language was unnecessary.

Chairman Parks:

Has Ms. Wilcox has seen the amendment?

Ernie Adler:

She had substantial input and actually drafted portions of the amendment.

Assemblywoman Kirkpatrick:

Thinking long term, I just have a question. Whose building codes would we have to go by? I see your building, but there's no landscaping. Are there any building codes? I could see in the future that the building could potentially look as terrible as it does now. I was wondering where that comes in.

Ernie Adler:

You mean the new Restitution Center? The new Restitution Center is going to be designed by Eric Raecke, who used to be Executive Director of the Public Works Board for the State of Nevada. The building is going to be built to Department of Corrections' specifications, so it's absolutely going to be up to code. If you look at the amendment, it is going to be a turnkey operation. When the building is handed over to the State of Nevada, it will have appliances and furniture. The only thing it won't have is maybe sheets for the beds and computers for the rooms, but it's going to be a complete operation. It's going to be completely up to code and also in accordance with the desires of the Department of Corrections. They're going to have to sign off on the whole project.

Jackie Crawford, Director, Department of Corrections, State of Nevada:

[Distributed [Exhibit I.](#)] First, I would like to commend the Reno-Sparks Indian Colony and also thank Assemblyman Marvel. I would like to take credit for this innovative concept, but they brought it to us. I think it's a win-win situation. It's an opportunity for us to upgrade our facility, to provide working conditions that are very good for our staff, and expand the number of beds. This is in keeping with the Governor's master plan for transition centers. The facility we currently house all our residents in has been there a long time. We have housed up to 120 inmates and never had any major problems. The real issue is to have facilities for women. Please note that this will not be co-ed. It may be co-located, but it will not be co-ed. This will be the very first transition center in Reno for women. We're extremely pleased and very gratified and hope that you will consider this legislation.

I didn't realize until I read the newspaper that we were such an eyesore for the Reno Hilton. We thought we were hidden behind the trees and grass, but it is quite old and it is in disrepair. We believe that it's a very sound way for public safety. As you know, our recidivism rate is 15 percent. That's even lower than

our statewide recidivism rate, so I'm very pleased, and this Department is very supportive of this concept.

Pam Wilcox, Administrator, Division of State Lands, Department of Conservation and Natural Resources, State of Nevada:

We have been working with the Tribe and the Department of Corrections, making sure we get all of the details correct. We have reviewed part of the amendment and have written part of the amendment. It should work. What we are doing is an exchange with the Tribe. This is one of those many opportunities public entities have to promote the public benefit through exchanges. The Tribe will be building on land that they now own, but the State will eventually own this corrections center through a lease/purchase contract. At the conclusion of that lease/purchase contract, the State will own the building and the land. The lease payments will be paid by a portion of the sales taxes that the Tribe will collect. There will be no cost to the State for the improvements, and the only cost to the State will be for the land that we will give to the Tribe.

This has been a fairly complicated package to put together, and there still is a lot of work to do. Assembly Bill 299 is basically enabling legislation. You are approving us to go forward, finalize this contract, and enter into it. It should be, as everyone has stated, a win-win situation for everyone. We will continue to work through the details to make this happen.

Anne Loring, Legislative Advocate, representing the Washoe County School District:

We strongly support this innovative idea and program. Our Board of Trustees met last week and voted in support. At a time when the School District is facing some severe problems with funding new school construction and renovation of older schools, this concept will contribute significantly to the renovation of schools and will be most appreciated by the District and by the children in our community. We thank all of those who have put together this terrific idea.

John Slaughter, Management Services Director, Office of the County Manager, Washoe County, Nevada:

The Washoe County Commission had a chance to look at this on Monday, and it is fully supportive. It was mentioned that the letter had not been received yet, but that letter is on the way, and again, the Washoe County Commission looks forward to this project moving on.

Nicole Lamboley, Legislative Relations Manager, Office of the City Manager, City of Reno, Nevada:

The Council wishes me to convey their enthusiasm for this project. We feel the location is ideal and this would have a positive impact on the community. You do have a letter from the Mayor on behalf of the City Council.

Eric Raecke, Principal, FYSO, Inc., Reno, Nevada:

Regarding Mrs. Kirkpatrick's question as to whether it will be built to code, Jackie Crawford always says it's going to be built with concrete and blocks, so it's going to last us a long time. I was a member of the State's Public Works Board and I do understand the codes. We spoke to Dan O'Brien this morning and asked if he would give us a complimentary review so that he would be comfortable with it. He said, "I may charge you, so we'll argue about that later." We definitely are going to build it to code, and we're looking forward to it.

After passage of A.B. 299, it will probably be 18 months before the Department of Corrections can move in. We have a local architecture team, local engineering people, and we will probably use Washoe County-based contractors to build it. I had the chance to speak with the Washoe County School District last night, and they were extremely appreciative. You could see nodding heads. They realize it is an offer from the Tribe. There was no solicitation; the Colony is making the offer to the State. Win-win seems to be an overused word today, but I would say that it is a win-win situation.

Danny Thompson, Executive Secretary-Treasurer, Nevada State AFL-CIO:

This does sound like a wonderful project and a win-win situation, but we do have a question. It's been our experience that these types of lease-back agreements have been used by local governments to skirt the prevailing wage law. That's our only issue. If prevailing wage is paid on this job, we would view it as a win-win-win. If not, then with all due respect to Mr. Marvel, would have to oppose this bill.

Ernie Adler:

We do intend to pay prevailing wage.

Robin Reedy, Deputy Treasurer-Debt Management, Office of the State Treasurer, State of Nevada:

NRS 353, which includes the lease/purchase legislation, specifically states the statute that has prevailing wage, and it does require purchases through the State to pay prevailing wage. The only thing it exempts it from is competitive bidding and the competitive bidding process. However, there was a form of competitive building done on the conservation building.

Danny Thompson:

If the proponents have no problem including something in the amendment that says all of those laws apply, I would feel more comfortable.

Chairman Parks:

Ms. O'Grady has made a notation on that.

Paul McKenzie, Organizer, Operating Engineers Local Union No. 3, Reno, Nevada:

We, too, would support this project as long as the prevailing wage provisions are observed in the project. The reason some people say they're exempt from the prevailing wage provisions is because NRS 338.010 through 338.090 is outlined as being the provision that they'll follow. Written into those laws is an exemption on anything that converts back to private. That's where the confusion has come in as to whether this law applies or not. That's the reason we're stressing that prevailing wages be paid on this project and not that NRS 338.010 through 338.090 apply, because someone's going to sneak in there and say that it's not going to apply because it's going to convert back to private.

Ernie Adler:

If you want to put that in the bill, we don't have a problem with it. The intent of the Tribe is to have, in all its construction contracts, that they all be paid at prevailing wage.

Chairman Parks:

Mr. Marvel, any final comments? Is there anyone else who would like to speak on A.B. 299? Not seeing any, we'll take the amendment under advisement and close the hearing on A.B. 299. The next bill that I'd like to hear is A.B. 480.

Assembly Bill 480: Authorizes establishment of plans of group insurance for officers and employees of certain school districts and their dependents. (BDR 23-950)

Ken Lange, Executive Director, Nevada State Education Association (NSEA):

We have distributed copies of a proposed substitute amendment to this bill ([Exhibit J](#)), which has some significant changes to the bill as printed. The original bill authorized the creation of health insurance plans in rural counties. We already have those plans, so we needed to rework it and take care of things that were missed in the original drafting. As part of the presentation, Mr. [James] Penrose will go over those changes for us.

[Ken Lange, continued.] When I visited our members from the 15 rural counties, one of their chief complaints for years has been the availability and high cost of health care and the difficulty with insurance programs provided as part of the collective bargaining agreement with school districts. As a result, about three years ago, NSEA invited its local affiliate leaders and representatives from the school districts to meet and see how we could address the unique problems for the rural counties. Through those conversations emerged the possibility of a joint management/labor trust involving multiple counties, which would provide more buying power and leverage a broader range of services at a lower cost.

NSEA, the local affiliates, and some of the school districts agreed to underwrite the cost to do the research for the project. The process was long and tedious. Eventually, some of the districts, their outside vendors, administrators, and local brokers balked at providing the necessary information once they got back to their home base. Some did have the information in usable form to report, and ultimately, some of the districts decided that they didn't want to cede control of their local plan to multiemployer trusts.

What's important here is that the plan that was advanced would have created a combined savings of \$2.6 million in administrative fees alone for just seven counties: Carson City, Douglas, Elko, Humboldt, Lyon, Nye, and Pershing. Despite these savings, that opportunity was ultimately declined. While the project didn't culminate as we had wished, we discovered that no real mechanism exists for the accountability of local school districts relative to their health insurance plans. Administrative costs and payments to agents vary widely. In some districts, there is the appearance of close relationships with providers that may eschew the decisions of managers and boards. It's difficult to get the proper information, and some of the plans are dangerously close to bankruptcy. It's important for the approximately 4,000 public school employees in our rural school districts to be covered by plans that are solvent and trustworthy. We believe that A.B. 480 will do just that.

I'd like to introduce Terry Van Noy, a consultant who worked with us on the project, and Jim Penrose, NSEA counsel, who drafted the proposal, to continue with their testimony.

Terry Van Noy, Principal, Van Noy Consulting Group, Las Vegas, Nevada:

I have 35 years of experience in the industry, most of that time working for insurance companies where I ran large divisions for companies. I currently provide consulting services for insurance companies in the areas of operation management and product development. I was retained by the Nevada State Education Association and a number of the rural school districts to perform a feasibility study to investigate the possibility of these districts coming together

in order to have greater leverage and purchasing power with their insurance. In the course of that feasibility study, I was surprised to learn that a number of the districts did not have the necessary data to make the evaluation. They were not receiving information on a regular basis and didn't understand some of the basic liabilities associated with not knowing what their financial status was.

[Terry Van Noy, continued.] I have reviewed the amended version of A.B. 480, and I find that it does some very basic things, the most important of which is that it really brings to school teachers in the rural counties the same protections that employees who work in the private sector currently enjoy. These same protections have been in place for private sector employees since 1974, with the passage of the Employee Retirement Income Security Act (ERISA). The bill lets employees know what insurance protection they have; how to file a claim; and, of particular importance for those plans that are self-insured or self-funded, that the coverage is truly properly funded; that there is adequate reserves; and the coverage will be there when the employee needs it.

The bill also requires that the individuals who administer these programs act for the exclusive benefit of the employees. This also is an ERISA requirement for private sector employees, so it's very common in the industry. This would also help prevent the types of abuses we've recently seen in the states of New York and California with the prosecution of the AIG [American International Group] Insurance Company.

James Penrose, Legal Counsel, Nevada State Education Association:

I was asked to review A.B. 480 as drafted, and it immediately became apparent that there were two significant problems with the bill. The amendment that's circulating as an exhibit among you is designed to correct those problems ([Exhibit J](#)). The first and most fundamental problem is that Section 6 of the bill as drafted defines the term "plan," which is used throughout the bill in terms of a "plan established as pursuant to Section 7" of the bill. The problem that creates, as you'll see when you go through the rest of the bill, is that it makes the provisions applicable to a plan established pursuant to Section 7 of the bill. The substantive provisions that are added in the new language of the bill, likewise, are made applicable only to a plan established pursuant to the bill. The problem that creates is this: there are currently six or seven statutes I can think of that authorize the creation of these plans. So, the plans that exist today have been created pursuant to existing law.

The problem that the bill—as drafted—presents is that it effectively exempts every existing plan from the requirements of the bill because none of those plans have been created pursuant to Section 7 of the bill. Obviously, to the

extent we're trying to affect the way existing plans are run, that's a fundamental problem with the bill. It affects basically every section of the bill.

[James Penrose, continued.] The other problem with A.B. 480 as drafted is it makes the fiduciary standard that we're seeking to clarify applicable only to plan administrators and not to the various other fiduciaries who are involved in running the plan. For those reasons, we've proposed the amendment that's been circulated ([Exhibit J](#)). This is essentially the language that's been given to the Legislative Counsel Bureau with a few minor changes that have been made since then. We added the definition of "an employee organization" in the draft, because that seemed to be necessary. We have made a couple of changes relating to the stop-loss provision that appears in Section 18 and the rating requirements that appear in Section 20, to try to address some of the concerns we heard expressed about the bill.

Fundamentally, what the bill, as amended, would do is codify the fiduciary standards for people who are involved in running these plans that exist already but haven't been set forth anywhere in statute. Equally important, it would impose reporting requirements both for people who are participating in the plan and for the Commissioner of Insurance, to make sure that the plan is run in a fiscally prudent way and that any problems with the solvency of the plan are identified before they become critical. There are other provisions in the draft, and if there are any questions about those, I would be more than happy to try to answer those.

Assemblywoman Parnell:

I think it sounds like a great idea; however, I'm just a little confused, because local bargaining agreements would come into play. I would assume that your membership supported such a proposition—even though they would lose particular bargaining rights—in regard to health insurance at the local district. Does this bill set up a plan for them to investigate it further, or does this bill actually demand that they begin to do this?

Ken Lange:

I believe the Legislature passed permissive language during the last session to allow this kind of vehicle to be put into place. This particular piece of legislation takes us back, if you will, so that we would have access to that information and the ability to revisit it if we need to.

Assemblyman Munford:

Does this plan of this bill have anything to do with teachers that have retired? They seem to experience a tremendous increase in what they are required to pay once they are retired. While they were teaching, it was much more

affordable, and then all of a sudden, after retirement, the escalation in the increase has been unbelievable. Does this have anything to do with that? Does A.B. 480 address that in any way?

Ken Lange:

It does in the sense that if we can create savings, then we can create plans that are tighter and more transparent. We have more options in making sure the retiree premiums are lower and that coverage can be extended. As long as we're running at high levels, the decisions become more difficult.

Assemblyman Munford:

I've received quite a few emails from my former colleagues who retired before I did. Now I'm retired, and I think I can speak on their behalf. I have been looking into the situation. That's why I just wanted to see if this in any way applied to that situation.

Ken Lange:

Not directly, no.

Assemblyman Munford:

Where would I go? Do you know where I would go for that? Who would I speak with?

Ken Lange:

There are a number of bills moving through the Assembly at this point in time that cover retiree subsidies. That may be a good starting point for that conversation.

Assemblywoman Parnell:

Again, I think it sounds like a great idea. When I went to an Interim Health Care Committee hearing during this last interim, I was really surprised, because in a presentation, I heard them talking about the costs to businesses and local governments just in the time human resources directors spend talking to the providers and negotiating health care agreements. I would hope that was discussed with the districts as well. If you got more people in the program, that should cut down the cost to the employees and, therefore, to the district.

Mr. Munford, Mrs. Koivisto has a bill regarding that for retired teachers.

Fred Hillerby, Legislative Advocate, representing Hometown Health:

I signed up in opposition to A.B. 480. I'm not really opposed to the bill; I'm opposed to a section in it. I'll explain why. I think the concept of these people

banding together to try to get a handle on their health care costs is laudable. However, inadvertently or not, they have excluded my clients and others.

[Fred Hillerby, continued.] Hometown Health is in the business of working with public employees, both at the local government level and with the State Public Employees' Benefits Program. However, Section 20 of the bill, by putting in the need for a plan to meet one of these investor rating company standards, has basically excluded us because we're a nonprofit HMO [health maintenance organization], and we have our PPO [preferred provider organization] organized under Chapter 695B. We're affiliated with Washoe Health System, one of the largest fully integrated health systems in this state. Backed by them, we are licensed by the Insurance Division and allowed to do business with the State public employees as a third-party administrator for the self-funded insurance programs, as well as the fully insured programs.

Section 20, subsection 2, in our opinion, needs to be amended to allow for domestic insurance companies in Nevada—who are licensed by the Division—to be able to play in this new game being created by this bill.

Ty Windfeldt, Marketing Director, Hometown Health, Reno, Nevada:

Just to reiterate Mr. Hillerby's comments, the bill, as it's written and as it's amended, would preclude Hometown Health from providing benefits to individuals who would be covered under this bill. Hometown Health provides health care coverage for many public entities, including school districts all throughout northern Nevada—even outside Washoe County. As it's currently written, we would be precluded from providing those health care benefits to individuals in northern Nevada. We are the largest and oldest HMO in northern Nevada, and we feel, as a nonprofit company, it's very difficult for us to put the resources up front to go through the ratings process and get these ratings. Because we don't provide these resources to these individual agencies, we get ratings that are below these marks.

We are a nonprofit company. We do not have shareholders. We do not return profits back to individuals. We return profits back to the community. So, we would strongly ask that you reconsider this bill specifically in this section.

Janice Pine, Director of Government Relations, St. Mary's Regional Medical Center, Reno, Nevada:

I echo what Mr. Hillerby and Mr. Windfeldt have both said. However, I do need to say that Saint Mary's Health Plan is a for-profit division of our nonprofit health system, so we differ slightly from Washoe in that regard. However, our concerns are the same. We would be precluded from bidding on any of these contracts the way this amended version, and the original version, are written. I

would suggest that subsection 2 and subsection 3 would best be deleted, because we are licensed by the Insurance Division. We prove yearly our financial capabilities, and I would see no reason why the local insurers should be precluded from participating in this.

Fred Hillerby:

I would just like to build a little bit on some of the statements. One of the reasons Hometown Health does not seek these ratings from A.M. Best, Moody's, or Standard and Poor's is because we don't have stockholders. You need those kinds of ratings when you have stockholders or investors in your business. The fact that we're domestic means we, along with St. Mary's, are very accessible to the Insurance Division. I understand that the need to have fiduciary responsibility is not an option.

Not to argue with my friend, Ms. Pine, but I think instead of deleting subsections 2 and 3 of Section 20, if you just include language saying "a domestic health insurer licensed by the Nevada Insurance Division" as subsection (e), that would cover both of us. We're not talking about nonprofit versus profit, just that the domestic is licensed by the Nevada Insurance Division, who has a responsibility to guarantee their solvency.

Randy Robison, Executive Director, Nevada Association of School Boards:

We are in opposition to A.B. 480. To the extent that I've had the opportunity to review the amendments, that opposition still stands for a couple of reasons. As I reviewed the history of our organization, my predecessor in this position visited this issue a number of times, trying to do exactly the same thing. In other words, is there a way we could pool our resources and all of our employees together in group health insurance that would lower our rates and increase our bargaining power? We were always unsuccessful doing that because of a variety of factors. We're aware of other groups who have tried similar things in the past and have been unsuccessful. We were also aware of the survey that was being done by the proponents of this bill, and I think it's important to note that several of the districts that are implicated by this bill chose not to move forward and participate in that survey for some very important reasons.

Health insurance costs, as we all know, are rising. In smaller, rural areas in states like Nevada and across the country, it is very difficult to find willing providers at an acceptable cost, both to the employees and to the district. As such, over the years, contracts and plans have developed that allow them to manage those costs and those variables. This bill, as you've heard the proponents say, would have the effect of ceding some control to a group plan like this. You also heard them say that this plan contemplates a group plan for

teachers. There are other employees of school districts, and if those are not included—for the employees that are left—their rates will increase for their insurance plan because they're not part of the plan. You decrease the size of the pool for those folks.

[Randy Robison, continued.] There was a comment made that under this kind of a plan, local employee bargaining units may lose some of their power at the local table. That may indeed be the case. However, we feel that the group they would join would have even more power than they would at the local level. Again, in rural counties in Nevada, we don't have the resources to go out and hire actuaries, CPAs, consultants, and attorneys to bargain for us. So, we feel that tipping that kind of power would be inappropriate. For those reasons, we still stand in opposition to this bill, including the proposed amendments.

Chairman Parks:

What I'd like to do is ask Mr. Lange to come forward, with Mr. Van Noy and Mr. Penrose, and comment on the proposal to add an item (e) to Section 20, subsection 2, as well as to address Mr. Robison's concerns.

Ken Lange:

We are agreeable to that amendment as an item (e). I would be happy to include that. With regard to Mr. Robison's comments, I really would like to clarify two things. This does cover all employees. The other thing that I would like to focus on is that this does not take us to the kind of joint plan that we had envisioned. This is pure and simple disclosure, fiduciary responsibility, and an articulation of a certain level or standard of plan provision. If we had this before we went down the road to this joint planning, we might have been able to pull it off. This just takes us back to the information that we know we have to have to do good insurance planning, whether it's a joint plan, individual plans, or something else that we can get to and envision.

Chairman Parks:

We're going to go ahead and close the hearing on A.B. 480 and open the hearing on A.B. 408.

Assembly Bill 408: Revises various provisions related to school police officers.
(BDR 23-632)

Assemblyman Jerry Claborn, Assembly District No. 19, Clark County:

Today, I bring you a bill that comes by request from the Police Officers' Association and the Clark County School District.

Danny Thompson, Executive Secretary-Treasurer, Nevada State AFL-CIO:

Before I start talking about the bill, I would like to propose an amendment. After talking to different parties that would be affected by this bill, we would like to suggest that you delete Section 3 in its entirety, which would have dealt with traffic citations. In addition, on page 6, subsection 8, we would also strike the change there so the language "controlled by the superintendent of the schools of each school district" would remain. In addition, Section 5, subsection 2 would have to be reworded, because it speaks of Section 3, which we propose be deleted.

During my time as a legislator, I chaired this Committee. As a result of that, I was called one day by the Superintendent of Schools of Clark County and asked to sit on a committee that dealt with violence in the schools. In the mid-to-late-1980s, there were problems with violence in the Clark County School District. Teachers were afraid to enter some schools. Students were being victimized, and gangs were starting to become a real problem. At that time, the Clark County School District employed security officers that weren't officers; they were security guards. Actually, the kids referred to them as "rent-a-cops." These rent-a-cops would legally have the same authority as you or I. If we were placed in a situation at a school and a fight broke out, you would be acting as a private citizen. This committee, which was made up of community activists, listened to these problems on more than one occasion. It just so happens I was the guy who said, "Why don't we make them police officers, because then they would have legal protection of the law and they could deal with the problems?"

At that time, much like today, the Las Vegas Metropolitan Police Department [Metro] was experiencing overloads in their calls. They didn't have adequate officers to put on the streets to answer all these calls. When they would respond to a school, by the time they got there, it was always after the fact. We passed a "more cops" initiative in Clark County that would increase the sales tax. It passed by a vote of the people in order to put more police officers on the street. The exact same circumstances that were in effect in 1985 are there today.

In 1985, a full service police department within the school district was created, and they went to work. Since that time—and understand, the Clark County School District is the fifth largest school district in the United States—we have not had a Columbine, a Red Lake, or a Paducah, Kentucky incident. Since 1992, there have been more than 400 children murdered in our schools in America. Our solution to dealing with the problem has been this: they've hired hall monitors. They hire them for \$9.62 an hour and put them in the schools. They give them a four-hour class on how to break up a fight, and recently they were

upgraded to \$13 an hour. The whole intent of that program is to get rid of the school police. In fact, by attrition, that's what's happening. They're not bringing on sufficient numbers of school police to staff middle schools and high schools. In Red Lake, Minnesota, a boy entered the school, and the first person he encountered was an unarmed security guard, who didn't last long. Two years prior to that, the school had two uniformed police officers in that school. But because of funding, the grant ran out, so the police officers were removed from the school and replaced with security guards.

[Danny Thompson, continued.] When I heard of this problem, I wanted to do something about it. I joined with the School Police Association last year and hired Lieutenant Colonel David Grossman. He is the foremost authority in America on these killings. He studies every school killing. He trains special forces at West Point. He's written numerous books; *Killology* is one of them. He can tell you the psychology behind what happens with these kids. The School Police Association and I hired him. We rented Cashman Theatre and brought him to Las Vegas to do a four-hour seminar on violence in the schools and the effect violence in schools has on children and society in general. He came and made that presentation. The only legislator that showed up was Assemblyman Claborn. I invited all of the school district, and one administrator showed up. Some of the general public showed up, as well as about 200 cops, because they're very interested in the training that Mr. Grossman gave. Generally, they would have to pay for that training, but we offered this class for free. They got a certificate that actually counted as in-house training for them.

This class was the most phenomenal thing I've ever sat through. For four hours, you could have heard a pin drop in that room. At the end of all of it, we learned some things. One thing is that no one is exempt. We're not exempt in Clark County; we're not exempt in Nevada. The reason we haven't had a problem is because we've had police officers in the schools and they're armed. I know at the time there was a controversy about whether or not we should allow these officers to be armed, but we decided that was the best course of action.

Today, as I sit by and watch the school police being taken out of the picture by attrition and replaced by hall monitors, I want you to look through this report ([Exhibit K](#)): the seventh column over shows the number of victims. Do you know how many children have died in school fires since the turn of the century, in the past 100 years? None. Not a single child has burned up in a school. You know why they don't burn up in schools? They don't burn up in schools because we have fire alarms, we have fire drills, and we have fire extinguishers. They know what they do, and they have evacuation plans. If that fire extinguisher is out of date, it's a big crisis; and it should be.

[Danny Thompson, continued.] I can't say the same thing about violence in the schools. Look at this report. Look at the seventh column, where you have multiple victims. When you think of violence in the schools, you automatically think of Columbine, Paducah, and those places. Two days after the Red Lake incident, a man was shot and killed. A man came to a school, applied for a job, walked out of the office and encountered an officer. The officer noticed that he had a gun and told him to drop it. He obviously had come there for another reason, because he was shot and killed two days afterwards. You don't ever hear about those incidents. That's why A.B. 408 is before you, and I can tell you, as sure as I'm sitting here, that unless we do something about this, if you don't act, history is going to repeat itself. You're going to go right back to where you were in the 1980s— before Columbine, before Paducah, before Red Lake, and before 400 people were killed.

Mr. Chairman, that's why the bill is here. The bill, as amended, would mandate staffing by police officers in high schools and middle schools. I have with me Sergeant Phil Gervasi of the Clark County School Police, who would like to make a presentation as well. Clark County School District Police confiscates more than two guns a week. This comb right here was taken from a student in the Clark County School District. It looks like a comb, but it's not a comb. It's a very sharp knife, and it was taken from a child. This pen works as a pen, but it's not a pen; it's a weapon. This belt buckle is not a belt buckle; it's a knife. This is all about money, and we are right where we were before.

The More Cops Initiative, which we support, we believe is critical to Clark County. Right now, if you get your car stolen in Clark County, the police don't come. They can't. You have to go to them. There are not enough police officers on the street. The Clark County School District went to the Growth Task Force and said they wanted Metro to take over the functions of the school police. They wanted to keep the money, but they wanted Metro to take over the functions of the school police. The sheriff can't do that. The school police were created to alleviate that problem.

Assemblyman Goicoechea:

Danny, I'm just skimming through the bill. Is there a cutoff? What county population cap? A number of the rural school districts wouldn't apply, because they don't employ any security.

Danny Thompson:

No, sir. This would only apply to Clark County.

Assemblyman Goicoechea:

That's what the bill said, but I don't know if Washoe County or some of the other urban areas might have an issue if it should be expanded.

Assemblyman Munford:

I can definitely support what you're saying, because I taught in Clark County for a long time. I actually taught there five decades. I taught in the 1960s, the 1970s, the 1980s, the 1990s, and even into the new millennium. I just retired last year, but I have seen the transition. I really feel that the violence of the situation and the disrespect for supervisors and adults did not really begin to emerge until the 1990s. I have seen the progression of adding security to the district. In the 1960s, we had nothing. In the 1970s, I think they started with a few hall monitors. But then in the 1980s, the police gradually came on, but they weren't armed. They didn't have any weapons. In the 1990s, the security officer could have a weapon. You're right. We're fortunate we haven't experienced anything like the mass killings the other schools have experienced.

There was a teacher shot at Valley High School. I think that was 1981 or 1982, and I remember at Bonanza two students were shot near the parking lot in 1991 or 1992. You're right. We do need some type of real security. I think the officers should be in full capacity, which would give a sense of safety and security. I've talked to some of the hall monitors in Bonanza. They were going through that training last summer. They thought it was great because of their increase in salary, but I see what your point is. I would be in support of what you are proposing here.

Assemblyman Hardy:

My question goes to the smaller counties. Do we need to, or can we give, enabling language for other counties to access this kind of protection when and if they need to, or can they do it anyway without us interfering or suggesting?

Danny Thompson:

We don't have any problem with that. Clark County and Washoe County currently have school police. Those are the only counties that I'm aware of. Nye County just got them. We don't have any problem with allowing others to be affected by this.

Assemblyman Hardy:

So, if I could clarify, any county can do it now. We don't have to take any legislative position to enable or allow them?

Danny Thompson:

I believe that's correct, but I don't want to misstate to you. Let me check it out.

Chairman Parks:

It was recommended that on the bottom of page 7, subsection 2 of Section 5 might need to be reworded. It refers to subsection 3 of NRS [*Nevada Revised Statutes*] 289.190, which is on page 2. You indicated on page 6, lines 21 and 22, to put the wording back to what it was. We might also want to see that Section 5, subsection 2, does not also need to be revised since it references page 2. We'll check that and make sure.

Sergeant Phil Gervasi, President, Police Officers Association of the Clark County School District:

[Summarized from [Exhibit K](#).] I'm a uniformed sergeant. My area covers south of I-15 at Tropicana all the way out to the California border; all the way through Boulder City; through Searchlight; and out to Laughlin. I'm one sergeant, and I am in charge of 26 officers in approximately 92 schools. We want it to be mandatory that the school district put two officers at every high school and one at every middle school. When I came in 1992, we did have two officers at every high school. Up until a few weeks ago, they only had one officer at Rancho High School. In the period of time that there was a lone officer, there was a stabbing on campus, and the officer was in an altercation and was injured. I cannot see one officer at a high school controlling several thousand students in case something happens. Our department has 152 officers, and we have 24-hour-a-day, 7-day-a-week coverage. Approximately 50,000 calls for service a year go through our dispatch center, and about 10,000 of those calls are criminal complaints. Out of these complaints we make arrests and issue citations.

Last August, we opened up 14 new schools. Three of those schools were high schools: Del Sol, Canyon Springs, and Shadow Ridge. Usually, when a high school opened, we would have two officers for each of those schools to make sure those schools were properly staffed and that we had a safe learning environment. Last year, that changed. During the summer, campus monitors were given several hours of self-defense training, as well as instruction on how to stop an altercation, how to protect themselves, how to look for drugs, et cetera. The chief of the department at that time was told not to hire any officers for those high schools. We knew what the consequences would be if officers weren't at the high schools, so the chief took them out of the patrol vehicles and put them in those schools, so each high school would have two officers.

That lessened the availability of officers to patrol the elementary schools. In that year, at Twitchell Elementary School in Green Valley, a fourth grader brought a loaded gun to school to show to his friends. The patrol officer asked

administration at these schools whether they had any problems, so we're a proactive type of policing.

[Phil Gervasi, continued.] You're going to hear from the school district that they don't have any resources; they don't have any money. They have \$1.6 billion, but they don't have enough money to put officers in every high school and every middle school. They have the money to increase the hall monitors to campus security. For a normal work day, that costs the district \$1.3 million, but they don't have money to put officers on campus. That \$1.3 million doesn't include overtime. So, they try to save \$1.7 million on police overtime, yet they're going to spend over \$2 million. I don't know how they figured that math out. Money's the issue here, but I want to ask the school district, "What is the price you're putting on a child's head? What does a teacher cost for her safety or his safety?" It looks like we have a bounty. Are we going to treat these children and teachers like traffic control devices and say that we have to have X amount of injuries and X amount of deaths to justify a police officer in the school?

Derrick Brun was a campus monitor, and Neva Rogers was a teacher. Chanelle Rosebear was a female student; Dewayne Lewis, a fifteen-year-old male student; Chase Lussier, a fifteen-year-old male student; Alicia Spike, a fourteen-year-old female student; and Thurlene Stillday, a fifteen-year-old female student. They're all dead. The reason they're dead is because they didn't have the funding. There had been two police officers, but they didn't have the funding, so they used a campus monitor instead. He got killed, and then all those other people got killed.

Last year, we took 73 firearms and 207 knives out of the schools. By last week, we had already taken 79 firearms out of the schools, and we're not even at the end of the school year yet. The reason we have these firearms is because students want school police on property, and they want someone to talk to who they know will keep their name confidential. They let us know when there's a gun on the school grounds. We're not perfect. We catch everything we can, but to have a police officer on the school grounds gives children another avenue. We ask you to make it mandatory in Clark County that there be two police officers in every high school and one in every middle school, because what I'm seeing now is that campus security is replacing the officer on campus. We'll get a letter from human resources saying they don't have the budget for a police officer, but they can hire four campus security individuals. We're heading for disaster. It's not if it's going to happen; it's when it's going to happen in Clark County.

Assemblywoman Kirkpatrick:

I have four teenagers in middle school and high school. Their big concern about going to school is being safe, because Cheyenne High School is one of the rougher schools in our area. They polled a bunch of their friends, and in their opinion, the hall monitors are their friends. They see that the kids get to class on time and aren't goofing around. They don't see the hall monitors wearing a uniform, which they respect and which, in their opinion, has a little more authority. Do you know if current hall monitors are wearing uniforms? I would think that if a child doesn't have respect for a certain type of authority, it's really not going to help the effect. In your opinion, does the uniform make the difference?

Phil Gervasi:

Currently, school security does not have a uniform; they're in civilian clothes. They have a title change from "campus hall monitor" to "campus security," but they still do the same duties they were doing before. If something happened and you have campus security in a school, they still have to call school police. They don't have the power to arrest. They shouldn't be touching students in any violent manner, even to break up a fight, because there's a liability issue. So, they have to call us, and with us not being on campus, we're not 30 seconds away from the trouble. We're 15 or 20 minutes away from the trouble, and a lot could happen in that time.

Assemblywoman Kirkpatrick:

It's not the same as when I was a teenager. Teens are not just mouthing off anymore. They're bringing a gun, a knife, or a stick to school. For me personally, in speaking with teenagers, I truly think having the police there, the uniform there, makes the kids feel a little safer. It's hard enough to get kids to graduate, let alone have their first worry be about what's going to happen at school today.

At Swainston Middle School last year, there were two shootings within the neighborhood. As a parent, I wasn't even notified for security reasons. However, my daughter was on her cell phone saying, "Just pick me up, because I don't want to be here." I think the uniform makes the difference, so I support this bill.

Danny Thompson:

After Columbine, school police, along with regular police, train in what they call "active shooter." A SWAT [special weapons and tactics] team takes time to formulate and get to an incident. At Columbine, a teacher who was alive bled to death during the 40 minutes it took to put the team together and to figure out what had happened. In response to that, our school police, along with Metro,

Henderson, and North Las Vegas, train in our schools in active shooter. If there is gunfire in a school, they are trained not to wait for anybody. They are trained to go to the gunfire and respond to the gunfire themselves. If you go to gunfire and you don't have a gun, you're going to be a victim, just like the unarmed security guard at Red Lake was the first victim in that incident.

Assemblyman Goicoechea:

Will these officers be POST [Peace Officers Standards and Training] certified? The closing language in A.B. 408 talks about them having concurrent police powers to and from.

Phil Gervasi:

Our police officers are trained as Category 1 POST-certified police officers.

Assemblyman Goicoechea:

They have concurrent police powers to and from school, so I'm assuming they would also have police powers if they were going to and from their own home.

Phil Gervasi:

Right now in NRS, superintendents, administrators, and deans have similar authority to a peace officer—not a police officer—one hour before school and one hour after school. A lot of our activities happen before students get to school or after they leave because they know when an officer's on campus, handcuffs are only 30 seconds away. We do not have power at bus stops or anything to or from school. We aren't looking to expand our jurisdiction into Metro, Henderson, North Las Vegas, or any of the other local jurisdictions.

Assemblyman Goicoechea:

I know it's a jurisdiction issue, but if you're a Category 1 police officer, you should be able to work.

Mitch Maciszak, Trustee, Police Officers Association of the Clark County School District:

I'm a police officer with the Clark County School District, and I've been a police officer for nine years. I've been able to experience both sides. I've worked as a municipal police officer for six years working the streets, and now for the past three, I've been a school police officer. I can tell you that there's a difference between working the streets and working the schools. In the schools, we are more than just a police officer. We are role models, mentors, counselors, and even friends to the students. We build a relationship of trust with the children that makes them feel comfortable. They come to us regarding bullying. We know bullying has been a nuisance to children, schools, and families. It has been said by the American Medical Association that bullying is a public health

issue, with long-term mental health consequences for both bullies and their victims.

[Mitch Maciszak, continued.] As we see on those 43 pages you have before you in that packet ([Exhibit K](#)), those victims were either bullies or the victims of bullies. Today, they're dead. We give the children an avenue of escape at school when they're being picked on, because we conduct peer mediations with administration. We ask the children what their problems are and why they feel they need to fight back when kids are calling them names. During these mediations we give them an avenue of escape. They can say to the other kid, "I spoke with Officer Mitch and he said that if I fight, I will be in trouble, I'll get arrested, or I'll have consequences." Therefore, the children don't look like they're backing out of the fight and don't have to lose face in front of their peers.

We do a lot more. You've heard the statistics; you've heard the crimes. We're not just an armed person walking around the school. We try to be role models and mentors to these kids, along with being their friends. Also, they understand the authority and they respect a police officer.

Gary Wolff, Business Agent, International Brotherhood of Teamsters Local No. 14, Las Vegas, Nevada:

I'm up here to support this bill, not only as a retired police officer with the Highway Patrol, but also as a father of six children I've put through the Washoe County School District. I can tell you something that anyone in this room who's over 45 years old knows: we used to, in high school, make fun of hall monitors. They were just someone to pick on when I went to school. One of my daughters is a schoolteacher here in Carson, and she can tell you the same thing. The disrespect of children today is alarming. Our school police are absolutely doing a fantastic job. If you're a police officer, you should be able to do your job. I think it's deplorable when a school district spends money in other areas, rather than for the safety of the children that go to school. Your children have a right to go to school and feel safe. These people do a fabulous job, and I encourage you to support this bill.

Lieutenant Stan Olsen, Executive Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department, Las Vegas, Nevada:

We also are in support of A.B. 408 as amended. We believe this is an important aspect of the criminal justice system to maintain the safety of not just the students, but the teachers and administrators who work in those areas. We also believe that the move by the school district is just a camel's nose under the tent to eliminate the school police. We do not support that; they are a very critical component of the criminal justice system in southern Nevada.

[Stan Olsen, continued.] The Washoe County School District just recently armed their school police officers, yet our school district is moving to disarm the officers and the people sworn to protect our children. I'm proud to say that the Metropolitan Police Department developed active shooters training and now teaches it across the nation. The school police are critical to the success of an active shooter situation. When officers respond—whether they are Metropolitan Police, Henderson Police, North Las Vegas Police, or the school police—they are trained to run towards the shots being fired and to stop that threat while everyone else is running away. If you don't have school officers on campus, if and when such a situation happens, the response time is going to be even more critical, and more people will die.

Rose McKinney-James, Legislative Advocate, representing Clark County School District:

I appreciate the opportunity to speak on this measure. You've heard an awful lot of testimony on this bill. Let me be clear that the Clark County School District puts student safety at the top of our list. We have a responsibility for our curriculum and achievement, but student safety is a paramount concern. We agree with proponents of A.B. 408 that efforts undertaken to support and strengthen our efforts to support student safety are important.

Some of the amendments that have been made to the bill are addressing issues that I would have covered. I would like to move to the focus of this bill, which appears to be Section 11, and that is police assignments. The school district came to have a police force because it believed there was a void and a necessity to have trained individuals on our campuses to address those instances where a situation on the campus rose to the level of the need for an officer, someone who's trained. We have Category 2 peace officers as our police. There's been a lot of discussion about the campus monitors. Let me be very clear: these are not your traditional red-schoolhouse hall monitors, a friendly face to tell you go back to class, that you may pass through the hall, or that you may have a pass for the restroom. These are individuals we felt we needed to hire, not to supplant or substitute for our peace officers, but to complement and to enhance the presence of adults in the schools for the purpose of student safety. In fact, these individuals are well-trained and they do wear a jacket with a special designation on it. Not only are they trained in most of the areas many peace officers are trained in, but they're required to have that certification.

We needed to find a way to address the challenge we face, which is that we have not been able to fill the positions we had openings for. We try to recruitment, and, I repeat, we have not been able to fill the positions. I have the greatest respect for the officers who appeared here today. They work hard;

they do a good job, and they're obviously very dedicated to the work that they perform. It is not an easy position to have. The reality is, the Clark County School District has a responsibility to make sure we have the resources to address the needs of the schools.

[Rose McKinney-James, continued.] There's nothing in the bill that says the Legislature will find a way to fund what will ultimately become a mandate. This is the Committee in which I hear the phrase "unfunded mandate" more often than not. You recognize it. You have lived through it. What this bill does is create an unfunded mandate for the Clark County School District. When Sergeant Gervasi says, "At what point do we put student safety first, and are we talking about an unwillingness to invest in student safety," I have to take issue. We started at \$10 million, and now we're spending \$13 million on school police. This is money that would otherwise be devoted to curriculum and student achievement issues. We stepped up to the plate. Under other circumstances, some of these responsibilities might fall to Metro.

A mandate is not the way to go. It simply is not fair or reasonable. We have attempted to be innovative. We are accused so often of not being willing to step outside of the box, but we stepped outside of the box. We took a position that had traditionally been used for a limited purpose, and we tried to find a way to enhance and to complement student safety in school, not to get rid of our police officers. When Officer Olsen suggests this is "a camel's nose under the tent," he is wrong. This is an effort to solve a problem. Most of these students are more interested in getting their education than engaging in mischief. When we need to call one of our school police, who are well-trained and have a solid understanding of our campuses, we do so. If you mandate these assignments, then someone needs to send me to Ways and Means so that we can find a way to pay for it.

Assemblywoman Parnell:

In what percentage of your schools do you actually have a police officer on campus?

Rose McKinney-James:

I don't have a number. It is my understanding, though, that at the high school level, we have at least two officers assigned. If you give me the opportunity to check that, I would like to confirm that for you.

Assemblywoman Parnell:

If I may, I would like to see that information. I can't tell if it's most of your high schools that currently don't have an officer around campus or one or two that don't. That information would certainly help me with the deliberation.

Rose McKinney-James:

Maybe Sergeant Gervasi can answer that question since he's here.

Phil Gervasi:

Currently, in the metropolitan area, we now have two officers at every high school. As of two weeks ago, we had three schools that only had one campus officer each. That was due to a lack of manpower. We opened three new high schools, so we had to shift people out of patrol. We don't have enough officers. We're paid less than the local jurisdictions; however, that's not an issue here, because we know when we take the job what our pay is.

The school district does not have an open recruitment like every other police department does. They'll put a recruitment out for about three or four days and hide it in the classified ads of the *Las Vegas Review-Journal*. They limit the applications to 100 people, and then after the agility test and the written test, they're left with about six people that might qualify. After going through an academy, maybe two or three qualify. If we had an open enrollment and continuously went through that pool, we would have enough officers. Currently, we're 16 positions down through attrition. The high schools that are in the outlying areas do not have officers assigned to them.

Assemblyman Goicoechea:

Sergeant, I think I heard Ms. McKinney-James say that all of your officers are Category 2. Is that right?

Phil Gervasi:

All our officers are Category 1 certified and we pay that cost; however, our department is classified as Category 2.

Assemblyman Claborn:

I have a grandson going to high school, and personally, I want to see a police officer on campus where my grandson is. That's one of the reasons I was one of the persons that showed up at this meeting. He's about the most precious thing I have, and I want him protected.

Assemblyman Munford:

Do you have any statistics on how many new high schools are going to open up in the near future? And when they do open up, will they be hiring just one or two officers? As far as gender goes, do you have more males than females? What's the breakdown here?

Phil Gervasi:

I believe we have two new high schools opening. Last year we had three new high schools opening, and they did not provide any police officers for those high schools. We had to take officers off patrol. We have more male officers than we do female. With 152 officers, we have about 12 females, and they do an outstanding job.

Chairman Parks:

In another Committee, I believe we have A.B. 418, which is looking at the possibility of increasing the sales and use tax by one-quarter or one-half percent. Has the Clark County School District made an argument for being included in the distribution of some of that revenue? That's the Question 9 sales tax.

Rose McKinney-James:

I cannot speak to that question. There is another member of our team assigned to most of the fiscal issues, and I will be happy to check on that. I don't believe that we've made a pitch for any other dollars, but I will have to confirm that.

Chairman Parks:

Assuming the bill were to pass, if we were to slice that pie just a little thinner by putting a wedge in for the school district, I don't know that it would be a significant impact on any of the other local police departments.

Joe Bifano, Legislative Advocate, Fraternal Order of Police, Las Vegas Lodge #1:

After 9/11 [September 11, 2001], we had terrorists in Las Vegas, Nevada, plotting how to terrorize the great state of Nevada—the buildings on the Strip. But they were also looking at our schools. The Director of Homeland Security emphasized not long ago how much terrorists were zeroing in on schools. I work my off days in schools, and the officers have to go through additional training to be aware of any terrorist activity in the schools. I would ask you to consider this bill and pass it. Help the schools get police officers at every school, because they not only serve as mentors to the students, but they also serve as a lifeline to the people that work there and to the people who trust that education will take place in a safe environment.

Chairman Parks:

On page 7 of A.B. 408, at the closing of line 37, there is a reference that says, "... and on the way to and from school." To the author of the bill, I would like to have a clarification on that. I'm a half a mile from UNLV [University of Nevada, Las Vegas] and I can sit and look out my front window. From time to time, I see a UNLV police car pulling somebody over in my neighborhood. I'm

trying to get a handle on whether or not this is an expansion of powers and authority, and if I could get a quick comment on that, I'd appreciate that.

Phil Gervasi:

We are a Category 2 agency, so we're limited jurisdiction. If something happens a block away from the school, we respond. We're open to a liability, but the local jurisdictions don't have enough manpower to cover that. We're looking to and from school, one hour before and one hour after, to cover the situations. The children know that if they have a fight at school—with school police officers there—they're going to get in trouble, so they move it to a park or around the block. We want to be able to respond off that curb, go around the corner to the bus stop, and prevent another child from being hurt.

Chairman Parks:

We'll close the hearing on A.B. 408 and open the hearing on A.B. 476.

Assembly Bill 476: Provides for imposition of certain penalties against public officer who fails to carry out or enforce statute or regulation as required by law. (BDR 23-183)

Assemblywoman Chris Giunchigliani, Assembly District No. 9, Clark County:

Assembly Bill 476 is an idea I worked on last session. We pass many laws, but then managers and bureaucrats say, "I don't agree with them, I'm not going to do it." The intent of this bill is to get a mechanism. I may need to flesh out the language because I've had a couple of people in the hall say, "Does this mean a county commissioner or a city councilperson?" Public officers would be included under NRS [*Nevada Revised Statutes*] 281.4365. A public officer means a person elected or appointed to a position established by the *Nevada Constitution*.

The intent is to have an opportunity to go beyond their manager or administrator and say, "Hey, this law is not being implemented correctly. Will you help me do something about it?" If they choose not to, then you work your way up through that system. I think that anybody in an elected position should make sure that the laws we write are being enforced. For instance, Metro [Las Vegas Metropolitan Police Department] is still making ex-felons register their changes of address. That was changed by law, and it's very frustrating to me that those charged with enforcing the law still aren't even enforcing the law.

When I was back at school several years ago, my administrator didn't like one of the laws we passed regarding some issues on education and said to me,

"Well, I'm not going to do that. I don't agree with that." So, that's the intent. It's not to be punitive, but it's to put something in place. I've had emails from individuals who said I should have made it broader and allowed any citizen; however, if we were going to move in this direction, let's start small and see what happens.

Assemblyman Hardy:

Two years ago, a bill was passed that defined "financial institution," but it did not do what we legislatively intended to do. Going to the Tax Commissioner and asking that the definition be changed to the intended definition, the Tax Commissioner said, "So, you want us to break the law that you wrote?" I told him, "I want you to keep the law that the Legislature intended." I concur with your intent, but I think there are some challenges in trying to figure the little things out.

Assemblywoman Giunchigliani:

I agree. I remember that you and Senator Townsend both went to the Commission, but you were quite right in trying to argue what our intent was.

Keith Lyons, Legislative Advocate, representing the Nevada Trial Lawyers Association:

We have reviewed A.B. 476, and we think it's a good law. The only thing that concerns us is that it doesn't seem to have protection built into the law for the public employee or public officer who comes forward and says, "These laws aren't being followed," and they then go through this hearing procedure. I believe it would fall under the whistleblower statute, but it's not clear. We would like to have language added on to it just to say that an employee who comes forward and raises these issues is protected under the whistleblowing statute, so that they can't be fired or terminated for bringing this issue to the attention of the appropriate person, whether it's the Attorney General or the head of the Budget Division. Other than that, we think it is a good law, and we support it.

Thelma Clark, President, Nevada Silver Haired Legislative Forum:

We heard so many complaints about the law not being followed by the public and private guardians. Can Ms. Giunchigliani tell us whether public or private guardians are included?

Assemblywoman Giunchigliani:

No, not according to the definition under NRS 281.4365. I thought we should tread carefully at first to see the potential positives or negatives. I don't want to pass something that becomes so restrictive or inadvertently hurts someone.

[Assemblywoman Giunchigliani, continued.] I have a guardianship bill in the Health and Human Services Committee. It concerns training and fingerprinting of public or private guardians.

Thelma Clark:

Has that been heard?

Assemblywoman Giunchigliani:

It's been heard, and it will be in work session this afternoon.

Ben Graham, Legislative Advocate, representing the Clark County District Attorney's Office:

Ms. Giunchigliani understood that there were some concerns, and I don't need to go into great detail. Under A.B. 476, a deputy district attorney could file a report against his district attorney on a decision not to prosecute a case, which might be based upon prosecutorial discretion or allocation of resources. As indicated, there doesn't appear to be any safeguards for procedural due process in here. It's interesting that apparently, we're going to appoint some type of hearing officer who is going to investigate and have a hearing. There really doesn't seem to be much independence here. We're concerned that this is really too broad and overreaching. We're all concerned about laws not being carried out. I saw some testimony the other day where judges were trying to get authority back that was taken away from them in 1993, but they didn't know that, so they'd been issuing orders based upon a statute that was repealed in 1993. They've been doing it for the last 12 years. It isn't unusual sometimes for people to not even know what the law really is.

We're afraid that this opens up much broader concerns for our Civil Division about due process and some separation of power issues. Every time we give the Attorney General's Office something to do or to look at, they're immediately here with a fiscal impact. They're not here today with a fiscal impact, but that might be something to explore. We would like to work with Ms. Giunchigliani and if she has some specific issues or problems to be addressed. Maybe we can work out some language.

Assemblyman McCleary:

Based on what you were talking about regarding a district attorney's office, would this interfere at all with the current plea bargaining procedures?

Ben Graham:

It could have that side effect with regard to everything from domestic violence to DUI [driving under the influence], or even other prosecutorial decisions. To

me, it just is so broad and so inclusive that I think it puts a target on all of your backs.

Assemblyman McCleary:

Sometimes you'll only have circumstantial evidence against somebody. You know they did it, but you'll work out a deal for them to go ahead and plead guilty, saving the investigation and saving money. They'll take a lesser crime, a lesser sentence, and then you can be rid of it. If we don't make some changes to A.B. 476, this very well could possibly limit your ability to do that.

Ben Graham:

I think Assemblywoman Giunchigliani indicated that there may need to be some narrowing with this legislation.

Mary Walker, Legislative Advocate, representing Carson City, Douglas County, and Lyon County, Nevada:

I have just a couple concerns, which I spoke to Ms. Giunchigliani about. NRS 354 relates to local government finance. I sit on a committee that oversees local government finance, and there are times when somebody misses a deadline by a day. Under A.B. 476, they could be charged with a fine. I don't think we need to clog up the system with those types of things, but go after the parties that are really causing some problems.

Assemblyman McCleary:

If somebody reports to the Attorney General that somebody is in violation of enforcing the law, could the Attorney General then give notice to that agency or person and say, "You are in violation of the law; comply within a reasonable amount of time"? If they do not comply, then you slap them.

Mary Walker:

The only thing I would add to that suggestion is to just make sure it is a material infraction, because you don't want the Attorney General's Office clogged up with a lot of little things that are just human error. You want to make sure that you have a system that can handle the larger things.

Assemblywoman Giunchigliani:

I'd be happy to work with the groups because they're very correct. There must be intent. I don't want frivolous issues, such as employer/employee management issues. I'm really looking at, "Hey, I've asked my boss; I've told him three times. They're still not doing it. This is the law." You have elected officials who get very frustrated when their own laws don't get implemented. I'm trying to find a mechanism. A suggestion was made that maybe I segregate monetary issues and have them looked at by the local finance boards. So, if it's

an audit issue, maybe there would be a different process than having to go through the Attorney General. Mr. McCleary's idea about having an opportunity to fix it is a good one.

Assemblyman McCleary:

There might be a disagreement as to what's compliant to the law. That's why it might be a good idea to get some type of official notice from the Attorney General where there might be some disagreements on whether or not they are in violation of the law.

Chairman Parks:

We'll close the hearing on A.B. 476 and open the hearing on A.B. 456.

Assembly Bill 456: Revises provisions governing planning, design and construction of facility for vocational training for culinary skills in southern Nevada and transfer of responsibility for operation of performing arts center in certain larger counties. (BDR 20-1063)

Assemblywoman Chris Giunchigliani, Assembly District No. 9, Clark County:

Assembly Bill 456 is a result of a great deal of hard work on the part of your Chairman, myself, and many community members in southern Nevada. I had been working for four years on trying to help find a revenue source for a performing arts center in southern Nevada. We were successful in getting \$250,000 in feasibility study money, which allowed the organization to put together a true impact: what it would look like, what the costs would be, and so forth.

In addition to that, we were trying to get a culinary training center. Senator Raggio had a bill at the end of the last session that would build a baseball stadium with the rental car tax. I said, "You want a baseball stadium; I want a performing arts center." So, that's basically the genesis of where the legislation came about. That legislation allowed the Culinary Union to get the first \$3 million to put towards the culinary training center. They already were given that money by the county commission, but in my drafting, I had not changed the wording from "design" to "construction." There's no fiscal impact here. They will then get the first \$3 million that's collected from the car rental tax and just pay the county commission back for that portion of it. That was an arrangement they did in the interim because of the language problem.

The second piece of the bill concerns the Reynolds Foundation's \$50 million contribution towards construction of the performing arts center. It will be

located on 61 acres in downtown Las Vegas that the City of Las Vegas has committed. The county did not want to become owner of the facility. We want to strengthen the bonding language, and I will turn it over to Chairman Parks to finish up on this.

Assemblyman David Parks, Assembly District No. 41, Clark County:

The \$50 million grant by the Donald W. Reynolds Foundation is a phenomenal milestone for the Foundation, as well as for Las Vegas. Assembly Bill 456 in front of you is essentially cleanup language. I'd like to also indicate that there was a companion bill that was unanimously passed out of the Committee on Transportation yesterday, which deals with straightening up some of the issues related to the collection of rental car tax. What we're trying to do here is smoothly transition to the development of this facility. An ordinance was adopted by the county to levy the tax, and it will go into effect July 1. The facility will be built on 61 acres that the City of Las Vegas owns in Las Vegas, and there have been interlocal agreements between the City of Las Vegas and Clark County for the transition of the funds to the city, solely for the purpose of building and operating a performing arts center.

Finally, there is a draft in the agreement between the Las Vegas Performing Arts Foundation and the City of Las Vegas for the operation of such a facility. What we need to do is put in place the enabling legislation that is necessary for the construction of this facility. Assembly Bill 456 does most of that. However, there are two other small elements, and we've asked for an amendment to go along with A.B. 456. I don't believe you have it at this point, but if I might just quickly reference what it will do, it will allow the Las Vegas Performing Arts Foundation to utilize a turnkey procurement process to select a person or persons to design and build any combination of a performing arts center through a design/build process. It will also address the prevailing wage aspect of the construction process.

Assemblyman McCleary:

I'm 100 percent in support of this bill. I like this. I do have one question, though. I remember that this is a tax that we imposed last session, so this will not be a new tax. I just wanted to make sure that there are no pitfalls here.

Assemblyman Parks:

As indicated, the County Commission has already adopted the ordinance that would put this in place effective July 3.

Assemblyman Grady:

Do you have any idea what the 2 percent tax may generate in a year?

Assemblyman Parks:

I did two projections. One was a low-end and the other a high-end. In the first year, the low end was \$5.1 million; the upper end would be \$6.3 million. The problem is that we have to extrapolate the numbers in order to come to an estimate. I based those estimates on two quarters of the revenue generated for Washoe County for its baseball stadium. As indicated, the first \$3 million would probably be generated in this calendar year and would probably go to a Las Vegas culinary academy.

Assemblyman Munford:

You said something about a \$50 million grant from Don Reynolds. What was that supposed to be proposed for? Where was that money supposed to go, and how was that money related to this?

Assemblywoman Giunchigliani:

The Reynolds Foundation is a very philanthropic group that makes awards based on presentations and needs within communities. I believe they just awarded \$8 million to the Northern Nevada Food Bank. The Foundation just awarded the single largest grant ever in the history of the state of Nevada—\$50 million—to Clark County or the City of Las Vegas for the operation and construction of a performing arts center. They can bond against the car rental tax, and we have the likelihood of being the first performing arts center that could actually be built and opened without a debt.

Assemblyman Munford:

I was wondering where all this money was going. We pay it off once it's completed.

Assemblywoman Giunchigliani:

You need to build and pay it off, and then you always need money for ongoing operations.

Assemblyman Munford:

This will be a state-of-the-art type of thing?

Assemblywoman Giunchigliani:

Absolutely. The center can bring so much. We could have our youth using it from the schools. It's such an opportunity, and it complements the entertainment industry. It doesn't take away from it. Many people that come to gamble, their spouses or other family members want something else to do. I think the gaming industry recognized that and supported the creation of this. Many years ago, they thought it would be competition.

Assemblyman Parks:

I haven't been given a copy of the agreement from the Donald W. Reynolds Foundation. For those who don't know, that's Donrey Media. They previously owned the *Las Vegas Review-Journal* and other media elements. Upon Mr. Reynolds' passing in 1993, a foundation was established that would run for a very limited number of years, not an indefinite period. The whole reason for establishing the foundation was to give away his money. Certainly, this is a major amount of it. The Donald Reynolds Foundation only provides funding to the states of Arkansas, Oklahoma, and Nevada, where Mr. Reynolds had his primary investments in his media empire.

It probably sounds a little convoluted that we have a foundation, we have the City of Las Vegas, and we have Clark County. The reason, in part, is that the City of Las Vegas is donating the land. In addition, we want to be able to use what Ms. Carole Vilardo always calls "the double-barrel bond concept." We would be able to sell revenue bonds guaranteed by the revenue generated from the rental car tax, as well as using the City of Las Vegas' general obligation bond ability, which then easily shaves a half percent off the cost of any bonds. It is such a win-win proposition that people are really excited about this whole concept.

Vice Chairwoman Pierce:

What is the next step on this?

Assemblywoman Giunchigliani:

Accept the amendment that Mr. Parks is proposing, to do a design/build turnkey, subject to the prevailing wage. The interlocal agreements are already in place and waiting. The taxes are waiting, have been voted on and implemented, and will start to be collected upon the conclusion of this legislation. That's why this is upon passage and approval.

Vice Chairwoman Pierce:

What is the usual time frame from design to completion on something like this?

Assemblyman Parks:

It could be a lengthy process, but I think that there's a real strong interest in moving this fast. One of the things that is conditional in the grant agreement from the Donald W. Reynolds Foundation is that \$5 million is granted up front. However, the balance of \$45 million is contingent upon putting in place and having this other revenue source to fund the balance of the construction.

I might also indicate that a large number of private donations have also been made. I believe there are three or four \$1 million donations, which was covered

in the press recently. This will be a very complex facility to build. There are not a lot of truly world-class performing arts facilities, and consequently, it needs people who have a great deal of expertise in the area of designing a performing arts center. So, the design element is the most critical aspect of this project and will certainly take a while, but with the passage of A.B. 456, I'm sure things will begin to move very quickly.

Assemblywoman Giunchigliani:

[People used to say], "We have to bring culture to Nevada. We have to do some things so that there's more for our kids and our families that come here." Now, 25 years later, we're able to really start to do that piece of it. I just think this puts us on the map, and it will be something our children and grandchildren will enjoy. I've always welcomed Mr. Parks' dedication and work in this area, because he really knows it far better than I do, and I just wanted to publicly thank him as well.

Assemblywoman Parnell:

I'd just like to make a comment. A week ago Sunday, I was at the Pioneer Theater in downtown Reno, watching 42nd Street. That's where the redevelopment is—the River Walk—and that whole area has been transformed and has a new feel. It has a new look, and I would think when you put something like that in Las Vegas, you're going to see the same result, that domino effect.

Dan Musgrove, Director of Intergovernmental Relations, Office of the County Manager, Clark County, Nevada:

We appreciate the fact that this bill is coming forward, and we completely support A.B. 456. The Board of County Commissioners has already enacted the rental car tax, so it can begin generating the revenue they need. We've reached an agreement with the City of Las Vegas so that they will take care of the performing arts management in cooperation with the nonprofit group. This is the final thing that needs to be put in place to make sure this dream becomes a reality.

Vice Chairwoman Pierce:

I will close the hearing on A.B. 456. [Vice Chairwoman Pierce yielded the gavel to Chairman Parks.]

Chairman Parks:

We have in front of us a Work Session Document ([Exhibit L](#)). I will go ahead and start it with A.B. 31.

Assembly Bill 31: Makes confidential certain records of local governmental entities relating to use of recreational facilities and participation in certain instructional and recreational activities and events. (BDR 19-602)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

This bill was sponsored by the Assembly Committee on Government Affairs on behalf of the City of Las Vegas. It declares that the names, addresses, and phone numbers of persons who provide information while registering themselves or a child for a recreational facility or event are not public records. The bill does allow the information to be released in response to a court order to protect public safety or prosecute a crime. There was testimony, written and oral, in support of the bill from the entities listed in the summary. Testimony in opposition came from the Nevada Press Association, the Incline Village General Improvement District, and the Nevada Trial Lawyers Association. In response to concerns about the definition of "person" and the exceptions in the bill, the City of Las Vegas has incorporated amendments proposed by the Nevada Trial Lawyers and the Nevada Press Association.

You'll recall we attempted to pass this bill out a couple of days ago, and there were some additional questions, which I believe have since been worked out. Turning to your mockup ([Exhibit L](#)), I'll remind you that "Social Security number" was deleted. Unfortunately, despite the fact that I swear I pushed the delete button, the Social Security number still didn't come out of line 9, but it will someday. We've changed "person" to "natural person," so corporations and other entities are not covered by the bill. Page 2, line 3, the records "shall" be disclosed.

And then, the exceptions. In the original bill, there was one exception. There have now been added three exceptions—for a total of four—as spelled out on lines 8 through 17. Subsection 2(b) and 2(c) you saw at the last work session; however, (d) is the new exception. It covers the request for information by a news entity for a journalistic purpose.

ASSEMBLYMAN SIBLEY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 31.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Atkinson was not present for the vote.)

Chairman Parks:

Moving on, we have A.B. 111.

Assembly Bill 111: Requires Department of Administration to conduct study concerning feasibility and desirability of relocating certain state agencies to rural communities under certain circumstances. (BDR S-989)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

Assembly Bill 111 requires the Department of Administration to conduct a study concerning the feasibility and desirability of relocating certain State agencies to rural communities. It was sponsored by Assemblyman Sherer and was heard in this Committee on April 6. The bill does provide for a study. The study will also include a survey of State employees' willingness to relocate. The study will only be conducted if money is received in gifts and grants. No State funds will be used to conduct the study. The bill also directs the Department of Administration, if feasible, to relocate one State agency. The bill is concurrently referred to the Assembly Committee on Ways and Means.

Testimony in support of the bill came from Cindy Nixon, Rod Wolven, and Mike Baughman. There was no testimony in opposition to the bill. Amendments were proposed by Mike Baughman to add "expanding or" in front of "relocating." So, in the mockup ([Exhibit L](#)), you will see that I have attempted to add "expanding or" in the appropriate spots. I may have missed a couple, but we will make sure they are all covered in the final amendment.

Assemblyman McCleary:

Susan, am I reading this right? We're going to do a study and a survey to determine whether it's feasible to move some existing governmental services to the rural counties?

Susan Scholley:

Yes, that's correct. It would also, as covered by the amendment, include, perhaps, the expansion of a State agency.

Assemblyman McCleary:

As far as adding a branch of DMV [Nevada Department of Motor Vehicles] to where a population that's growing needs it, I don't have a problem with that. I have issues with the rest of it, though. I think the services need to be where the population is, and I think I'm going to have to oppose this.

Susan Scholley:

I think the testimony indicated there might be some instances in which backroom operations of State agencies could be moved to a rural community, so that it would be a State operation that doesn't involve a public counter or a front counter operation. Perhaps it's data processing or something like that which could be conducted in a rural community, where you wouldn't need a population base to support it.

Assemblyman McCleary:

It doesn't limit it to that.

Assemblyman Rod Sherer, Assembly District No. 36, Nye, Esmeralda, Mineral, Lincoln, and Churchill (part):

To answer Mr. McCleary's question, all we're looking at doing is a study and taking a survey. In most of the departments right now, it's easier to email than it is to go to the counter and actually talk to another person. Instead of spending hundreds of millions of dollars building another building in Carson City, you can take an already existing building in Tonopah, Caliente, Ely, Elko, or somewhere else, add five to ten employees—making some pretty decent wages to that community—and really make a difference. At the same time, the people who move there would have a nice quality of life.

I stress getting to work. It takes me five minutes, and there's only one stoplight. It takes me just as long to get home. I don't have to worry about the kids playing in the streets or any of those other things. The whole lifestyle is totally different. This would give someone an option to make a change in their lifestyle.

Chairman Parks:

Do we have a motion?

ASSEMBLYMAN GOICOECHEA MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 111.

ASSEMBLYWOMAN PARNELL SECONDED THE MOTION.

THE MOTION CARRIED, WITH ASSEMBLYMAN McCLEARY
VOTING NO. (Mr. Atkinson was not present for the vote.)

Chairman Parks:

The next bill we have in front of us is A.B. 113.

Assembly Bill 113: Authorizes certain public employees with active military service to purchase up to 2 additional years of service in Public Employees' Retirement System. (BDR 23-696)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

Assembly Bill 113 was sponsored by Assemblyman Manendo and was heard in this Committee on March 17. Assembly Bill 113 allows persons with active military duty to buy up to two years of additional service credit from the Public Employees' Retirement System (PERS). The State of Nevada Employees Association testified in support of the bill, as did the Veterans Service Commission and the Truckee Meadows Water Authority. Dana Bilyeu, the PERS Executive Director, indicated that the PERS Board was neutral on the bill, although she did note some potential administrative costs in dealing with potential tax consequences. There was no testimony in opposition to the bill. Senate Bill 122 was also mentioned during the hearing, and it is currently pending on the Floor of the Senate. It's similar to A.B. 113, except that S.B. 122 links purchase of the service credit to actual time served and allows the purchase of up to three years.

A conceptual proposal has been made to amend A.B. 113 to limit the purchase of service credit to actual time served as in the Senate bill. It would not change the two-year limit. I have provided to you a copy of S.B. 122, with the relevant language highlighted on page 2 of the bill ([Exhibit L](#)). This highlighted language shows up again later in the bill, but I only highlighted it once. There is no fiscal impact at the state or local level.

Chairman Parks:

Senate Bill 122 references a purchase of the number of months of service equal to the number of full months he or she served on active military duty. Could you comment on that as a possible amendment to your bill?

Assemblyman Mark Manendo, Assembly District No. 18, Clark County:

If that's the will of the Committee, I have no problem with that. Maybe that is a good compromise. Maybe that will help streamline the bills as they cross. We just wanted to bring something forward that would help our veterans, give them a little more incentive for all the good service they do for our country.

Chairman Parks:

From a personal perspective, I feel we probably should align the number of months of active duty service to the eligibility for that benefit to keep the two bills consistent. I'm ready for a motion. Are there any further questions by

anyone else? The amendment is to make the number of months of service equal to the number of full-time months in active duty military service.

Susan Scholley:

I would just like to clarify to the Committee that the amendment would change the language about linking the purchases of service credit to actual months served. We will not be changing the two-year maximum.

Chairman Parks:

Is that okay with Mr. Manendo?

Assemblyman Manendo:

Yes.

ASSEMBLYMAN McCLEARY MOVED TO AMEND AND DO PASS OF ASSEMBLY BILL 122, MAKING THE NUMBER OF MONTHS OF SERVICE EQUAL TO THE NUMBER OF FULL-TIME MONTHS OF ACTIVE DUTY MILITARY SERVICE.

ASSEMBLYWOMAN PARNELL SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Atkinson was not present for the vote.)

Chairman Parks:

The next bill in front of us is A.B. 210.

Assembly Bill 210: Requires contractor and subcontractor on certain public works to submit monthly report on demographics of persons employed on public work. (BDR 28-872)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

Assembly Bill 210 came up in an earlier work session. It's sponsored by Assemblyman Hogan and was heard in this Committee on March 29. The bill requires certain reports from contractors and subcontractors on public works projects costing \$20 million or more. The reports must include information on race, ethnicity, and gender. The bill also creates a committee comprised of contractors or subcontractors and representatives of groups that represent the interests of minorities. The bill, in its original form, also provides monetary penalties for failure to comply.

[Susan Scholley, continued.] There were a number of groups speaking in support of the bill, which I've listed here in your summary ([Exhibit L](#)). There were also several groups testifying in opposition to the bill. The City of Las Vegas, the Public Purchasing Study Commission, the Regional Transportation Commission of Southern Nevada (RTC), and NDOT [Nevada Department of Transportation] were either neutral or raised significant concerns about the bill, which I believe have been somewhat allayed by the testimony and proposed amendments. After the hearing, Assemblyman Hogan submitted amendments to address the concerns raised at the hearing. After the earlier work session, further discussions took place between Assemblyman Hogan and some of the interested groups, so there have been two further amendments to the bill. There are no fiscal impacts.

Walking through the mockup of the bill here, you'll recall that Assemblyman Hogan has recommended changing the threshold dollar amount from \$20 million to \$25 million, which is done throughout the bill. On lines 16 and 17 of page 1 is one of the new amendments since the last work session, which is to clarify that subcontractors and contractors that would be involved would be performing over 1 percent of the project amount. The new language is the reporting payroll for the preceding calendar month. That would clarify that the actively engaged contractors and subcontractors would be participating in the committee meetings.

Turning to page 2, the amendments on this page, for the most part, we discussed at the earlier work session. Another one of these new amendments, however, is in the middle of the page at lines 26 and 27. It addresses concerns about the requirement of monthly meetings. This amendment requires the monthly meetings, but it says, "...unless conditions affecting the project make a particular meeting impractical." With that, the rest of the amendments in the bill are pretty much \$20 million rising to \$25 million.

Going to the very last page of the mockup ([Exhibit L](#)), you will recall there was quite a bit of discussion on the legislative audit provision in Section 9, and there was also discussion by the Committee of a possible sunset date, but no date was proposed. As in the earlier work session document, you see the proposed amendments by the Associated General Contractors, who still feel the threshold dollar amount should be \$40 million. There were some proposed amendments from Mr. [Ted] Olivas from the City of Las Vegas, not all of which have been incorporated in the second mockup.

Assemblywoman Kirkpatrick:

Could you go back and explain being able to show up at the monthly meetings and the penalty there?

Susan Scholley:

The change is in lines 26 and 27, on page 2. The original bill said that the committee may meet monthly. It was later changed to say that the committee shall meet monthly, and concerns were raised that, perhaps, because of weather delays or other problems on the project, work would slow down and folks wouldn't be around. The idea here would be to allow the deferment of the monthly meeting if conditions affecting the project make monthly meetings impractical, and I wouldn't be able to add anything more to that.

Are you also asking about the withholding? Mr. McCleary raised that issue at the last work session. In lieu of the monetary penalties, Assemblyman Hogan has proposed that payments may be withheld for a violation of the provision. The question was whether or not those payments would be released, and it was our understanding that it would be upon compliance.

Assemblyman McCleary:

It says four years in Section 9. I don't have a problem with that. If I understand this correctly, all we're going to get is an audit report like the pile of them that we get at every legislative session, rather than have it come back to this Committee to fine tune or readdress. I'll support this if it is the will of the Committee. I just wanted to see it come back to this Committee for review, rather than just being a document that may or may not be read.

Chairman Parks:

The issue deals with Section 9. I still feel that the Legislative Auditor should be the one to audit, assess, or do the analysis to the Legislature. I think there would be enough time so that there would be, as Mr. McCleary said, one of those big reports we get at the beginning of every session. Any thoughts occur to you?

Assemblyman Joe Hogan, Assembly District No. 10, Clark County:

[Submitted [Exhibit M](#) and [Exhibit N](#).] There has been some discussion with the persons who were concerned with establishing this new requirement in the construction area that we not let it go on forever. They suggested a sunset. It seemed to me that because this program has been done repeatedly on large construction projects—and you may recall getting a copy of the evaluation of it from the U.S. Department of Labor, Women's Bureau ([Exhibit M](#)); it has, in every case, been successful—it seemed to me to sunset it, to bring it to an end and then see what we think of it, is not really appropriate. This is something that always works. I would like to see an evaluation, because if, contrary to our expectations, it doesn't accomplish what it should, then it shouldn't continue to be a requirement. If it succeeds, but it needs some adjustment, that would be great information to get from the auditor.

[Assemblyman Hogan, continued.] I spoke with the auditor this morning. He also cleared up one issue that had been raised: whether the auditor has authority in a situation like this to audit the participation of a local government. He assured me that, as long as it's provided in the legislation, he would be able to evaluate the applications of this procedure to projects other than State-funded projects. If you're suggesting a change in language as to how we would present it to the Legislature or direct it back to the originating committee, that certainly is not a problem. I, like everybody involved, want to have an audit to make sure it's doing what we want it to do and that it achieved the pretty remarkable results it has in other places. I would have no problem with that.

Assemblyman McCleary:

I'm not talking as much about a sunset, as I'm talking about wanting a review. I'm not talking so much about whether it's a burden to the business that has to comply, as I am about whether it's accomplishing its purpose. A lot of things come out of this Body imperfectly, and I just think it's a good idea to review it from time to time, especially if it's going to be an ongoing thing. I want to make sure that we can come back and fine tune it if it needs anything. If not, that's fine.

Assemblywoman Kirkpatrick:

Couldn't we ask to have a presentation on this without changing the language?

Chairman Parks:

On line 26 of page 14, the word "audit" could conceivably be amended to "a review or an analysis." I think when we look at an audit, we assume certain extensive requirements.

Assemblyman McCleary:

If I'm the only one that feels that way, then let's just go ahead. I have to be the oddball on this.

Assemblyman Sibley:

I have a concern with Section 1, paragraph 5, "The contractor or any subcontractor engaged in a public work may have payments withheld for violation of a provision of this section." My concern is, who's going to be the one deciding whether to hold these payments back? I'd hate to see a \$25 million or larger job come to a screeching halt because a report was not filed. It just seems to be one more way the Regional Justice Center will take longer to finish.

Chairman Parks:

I think before a contractor or subcontractor gets paid, there are numerous documents that must be filed as part of the submission of his claim. I see this as being only one more of those items that a contractor or subcontractor would know must be part of the submittal. Having looked at and reviewed some major projects in my years, those projects, especially if they involve any federal funding, do require an extensive amount of documentation.

Assemblyman Goicoechea:

I commend Assemblyman Hogan for his intent in the bill, but I think it's extremely cumbersome. To the maker of the bill, do you envision that this committee could, in fact, cause payment to a contractor to be withheld?

Assemblyman Hogan:

The provision wouldn't be in there if it weren't in there so that it could be used in an appropriate situation. You may recall that the previous language was a rather cumbersome array of fines—\$50, \$100, and so on. I felt the language should be what is pretty standard in construction contracts. If some element is not being performed satisfactorily, the issue is really raised by the owner or the prime contractor by saying, "Well, we can't pay you in full, because you haven't completed this or haven't completed that."

There are no penalties for not meeting any sort of goals for hiring women and minorities. There's no penalty of any kind. If everyone participates, as they have in these other applications, it gets great results. If a quarter or a third of the folks—for whatever reason—drop out, it destroys the operation of the system to speed up the integration of the project. I think it's extremely unlikely anybody would impose a larger dollar withholding if the only issue is that the company is not getting to these particular meetings or they're not submitting that little form.

Assemblyman Goicoechea:

The way I read the language, it really concerns me, because we are removing two major players: the contractor and the owner of the facility. We've already established that it will be a project over \$25 million, and we're allowing this committee to shut the whole project down. Liabilities would then be incurred for nonpayment from the owner of the facility, public works, the local government, or whoever is sponsoring the program, as well as the general contractor. You say it might be small, but nonpayment is nonpayment, and I'm assuming you're not going to issue part of the check. You're going to say, "Look, anytime you're in noncompliance—either a subcontractor or a general contractor—you usually don't get paid at all until you bring it into compliance."

[Assemblyman Goicoechea, continued.] I realize I don't represent a county that's over 100,000 in population, so I really don't have a dog in this fight, but it does concern me that we are putting in place, in statute, something that would allow a committee of employees and subcontractors to really wag the tail of the dog, who is a general contractor.

Assemblyman Hogan:

The intention of this is not that the committee would have any authority to impose that, but rather that the owner of the project, if it's NDOT [Nevada Department of Transportation] or a school district building a big high school, would have the authority to exercise that. My understanding is that construction contracts regularly have provisions for withholding for various reasons, such as the work not being done right, the work getting behind, et cetera. It's a very common way of not punishing anybody and, hopefully, not withholding for any length of time, but rather just getting stuff done that's keeping up with the schedule. That was the intent. The owner of the project, if they conclude that one or more subcontractors is not participating as required, would threaten to withhold.

I don't think anybody likes the complexity of withholding and getting into lawsuits. I felt there had to be some actual requirement that people do participate in this mandate that's coming from the statute. That would be totally without any enforcement mechanism at all.

Assemblyman Goicoechea:

I agree, but the fact of the matter is that the general contractor and the owner of the project are the two people who will incur the liability, not the committee and not the subcontractors. That's what bothers me.

Assemblyman Grady:

I can see real problems along these same lines. If a small subcontractor on this job is having a cash flow problem and he doesn't submit that form, who are you hurting? You're hurting the workers, because then he doesn't have the money to pay them. That's why I can't support the bill with that language.

Assemblywoman Pierce:

I think it's important to say that the provisions of this section require filling out this form—approximately three-and-a-half minutes worth of work—and sending someone to a meeting once a month. I think this is a way to get some entities together to look at whether or not everyone in a community knows about the jobs that are available. I think the provisions are not onerous, and I think that in the practical world, there are never going to be payments withheld. What's going to happen is that somebody is going to call somebody and say, "Hey, you

didn't send these forms. I haven't had a form for three months," and someone's going to fax it over. That's what's going to happen. No project is ever going to get stopped. Nobody is ever not going to get paid. But what it might do is bring some people in the community together who don't normally sit in a room together. I think that's a really good thing, and I really support this bill.

Assemblyman Christensen:

So that I'm not repeating my comments from a couple of days ago, with all due respect to the sponsor of the bill, I can't support this bill. I have run a company roughly the size of these organizations that bid on these jobs, and I can tell you that it's hard enough to turn a profit running a company. Ted Olivas from the City of Las Vegas said, "I know of no study or data to suggest that there is a problem with demographics of the workers employed by the general and subcontractors in our public works projects." I get concerned when I hear that if someone doesn't turn that in, payment will be withheld. Maybe because somebody doesn't like the contractor, they have the teeth to withhold payment. That can cost jobs. I don't believe that is a real issue. I'd rather focus our attention on helping contractors complete their projects and even complete them early, get them done for less, and save the taxpayers money.

Assemblyman Claborn:

This bill you presented here was to make sure that all ethnic nationalities got jobs that paid prevailing wages. We're way off the mark here—some kind of committee survey. Some kind of restitution would be made if people didn't get these jobs. Is that correct?

Assemblyman Hogan:

No, there's no restitution. That is the simplest form that I think could be devised to simply capture the actual rate of participation of women and each of those three minority groups in the project. It's a real-time measurement of how we are doing with respect to achieving some diversity. The going rate for women on major construction projects tends to be around 1 percent. I'm not criticizing anyone who's in the past, but I'm saying that we need to do better than that. There are a lot of women who can and would get into construction. It's an excellent career, as you know. But, there's no restitution. There's no cost involved, it's just saying, "How are we doing this month, and we'll be back together next month. Have we made some progress? Has the community been able to refer some people?" It opens up that communication, and that's why they're still using it after 15 years in the Bay Area. There's not even any state requirement, because it works.

Assemblyman Claborn:

When you presented this here, that's exactly what you said. It was some kind of survey to make sure that all these different nationalities, different minorities, are working on these projects. That's what I got out of it. I don't know how we got off the beaten trail here.

Assemblyman Hogan:

You said "restitution." That's what I responded to.

Assemblyman Claborn:

I didn't mean restitution.

Assemblyman Hogan:

It's a little snapshot of every month: here's how well we are doing.

Assemblyman Claborn:

It's a survey.

Assemblyman Hogan:

A survey or report, yes.

ASSEMBLYWOMAN PIERCE MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 210.

ASSEMBLYMAN MUNFORD SECONDED THE MOTION.

THE MOTION CARRIED, WITH ASSEMBLYMAN CHRISTENSEN,
ASSEMBLYMAN GOICOECHEA, ASSEMBLYMAN GRADY,
ASSEMBLYMAN HARDY, AND ASSEMBLYMAN SIBLEY VOTING
NO. (Mr. Atkinson was not present for the vote.)

Chairman Parks:

We'll move on to A.B. 376.

Assembly Bill 376: Provides for various benefits for members of Nevada National Guard who are called into active service. (BDR 36-1072)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

Assembly Bill 376 was sponsored by Speaker Perkins and was heard in this Committee on April 12. The bill provides a number of benefits for members of the Nevada National Guard, including a sales tax exemption for guardsmen and members of their family, reimbursement for life insurance premiums, and tax incentives to mortgage companies who defer payments. Testifying in support of the bill was Adjutant General Giles Vanderhoof. Amendments were proposed by Speaker Perkins at the hearing.

You will recall that the tax incentives for mortgage companies have been proposed to be deleted from the bill as impractical due to the secondary market in mortgages, et cetera. Speaker Perkins added to the bill the Patriot Relief Fund, which would be used to defray educational expenses—specifically textbooks—pay life insurance premiums, and also provide economic hardship relief for National Guardsmen and their families. In addition, the amendments proposed increase the number of military leave days from 15 to 39. A mockup of the proposed amendments is attached ([Exhibit L](#)). There is a fiscal impact on local government, and it does contain an appropriation that is not included in The Executive Budget.

The mockup is essentially identical to the one Speaker Perkins presented to you at the hearing, with the exception of some of the section numbers being changed, because there was a stray mortgage tax incentive provision in the mockup we received the other day. That has since been deleted and some of the section numbers changed, but otherwise, it is identical to the one you saw previously.

Assemblyman Goicoechea:

It does not allow for a sales tax exemption to be a ballot question, but let's say we put that in place. How would you determine eligibility or what would you use? Discharge papers?

Chairman Parks:

I've worked with numerous nonprofit organizations, and we get a letter from the Department of Taxation that says we are tax exempt. I would envision them using a card or something that would require they show verifiable identification to go with it. I think it's easily administered. I haven't heard anything from Department of Taxation, but it seems like it would be quite simply achieved.

Assemblyman Goicoechea:

I endorse the bill. I was just wondering what mechanism would be used.

Assemblyman McCleary:

As the only veteran of the National Guard on this Committee, I would be honored if you would let me make the motion to amend and do pass as proposed, and I would like to do the Floor statement if it's the will of this Committee to pass this.

ASSEMBLYMAN McCLEARY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 376.

ASSEMBLYMAN GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Atkinson was not present for the vote.)

Chairman Parks:

The next bill in front of us is A.B. 509.

Assembly Bill 509: Revises Charter of City of North Las Vegas concerning procedure for enactment of ordinances. (BDR S-514)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

Assembly Bill 509 revises the city charter of North Las Vegas. It was sponsored by the Assembly Committee on Government Affairs on behalf of the City of North Las Vegas and was heard April 11. It permits the City to act on an ordinance no later than the second regular meeting. Currently, the City must act at the next regular meeting. The Nevada League of Cities testified in support. There are no amendments and no fiscal impact.

ASSEMBLYMAN HARDY MOVED TO DO PASS
ASSEMBLY BILL 509.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Atkinson was not present for the vote.)

Chairman Parks:

Our next bill is A.B. 510.

Assembly Bill 510: Revises provisions related to publications of state agencies and local governments. (BDR 33-400)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

Assembly Bill 510 was sponsored by the Assembly Committee on Government Affairs on behalf of the Division of State Library and Archives and was heard in this Committee on April 5. Assembly Bill 510 contains definitions of a depository library, a local government publication, and also provides for the transmission of electronic documents to the State Publications Distribution Center. The bill deletes the requirement for local governments to provide a publication list, while authorizing the center to publish its publication list online.

Testimony in support of the bill was from the State Library and Archives. Several local governments expressed concern about the broadness of the definition "publication." In lieu of amendments to the bill to redefine "publication," the State Library and Archives staff has proposed to further clarify the term through a guidance statement—a copy of which I've attached ([Exhibit L](#))—that would be posted on its website. I think several of the local government folks suggested this as a possible option to clarify why this was included within publications of something of importance, and not just every piece of paper generated. This was the proposed resolution, and there is no fiscal impact at the state or local level.

ASSEMBLYMAN HARDY MOVED TO DO PASS
ASSEMBLY BILL 510.

ASSEMBLYWOMAN PARNELL SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Atkinson was not present for the vote.)

Chairman Parks:

Now, we'll move on to A.B. 511.

Assembly Bill 511: Provides requirements relating to release and use of certain publications and certain information in files and records of Commission on Tourism. (BDR 18-382)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

Assembly Bill 511, sponsored by the Assembly Committee on Government Affairs on behalf of the Commission of Tourism, was heard in this Committee on April 11. Assembly Bill 511 specifies the materials for which the committee may charge and collect fees, which include materials released from their files and records from their commission. It also permits the executive director to deny requests for information in certain situations. Testimony in support of the bill came from the Commission on Tourism. There was no other testimony. Amendments were proposed by the Commission as set forth in the attached mockup ([Exhibit L](#)). There was no fiscal impact.

Turning to the mockup, the proposed amendment is on page 2, lines 2 through 12. You'll see the deleted language and the substitute green underlining, which would allow the executive director to deny a request for personally identifiable information and other information on persons who have submitted requests for marketing, or who have participated in marketing surveys. The director may also deny a request for internal documents or communications relevant to the development of a marketing strategy, if it would enable competitors to gain an advantage. The other language there has been deleted.

Chairman Parks:

I think there was a question on page 2, relative to subsections 4, 5, and 6 possibly being considered for deletion. I don't see anyone from Tourism here. Mr. Lauer, I believe you were trying to contact Ms. Dunn to clarify something. Would you like to comment?

Kent Lauer, Executive Director, Nevada Press Association:

I've spoken with her briefly, and I think its okay right now. If it's something we can clarify later, we'll try to get through it.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 511.

ASSEMBLYMAN McCLEARY SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Atkinson was not present for the vote.)

Chairman Parks:

That takes us to A.B. 334.

Assembly Bill 334: Provides for protection of social security numbers and certain other personal information. (BDR 19-874)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

Assembly Bill 334 provides for the protection of Social Security numbers and other personal information. The bill was sponsored by Assemblywoman Buckley and was heard in this Committee on April 7. Assembly Bill 334 requires government entities to ensure that Social Security numbers and other information are kept confidential, except in certain limited circumstances. The bill requires notice to persons if their confidential information is, or may have been, acquired by an unauthorized person. A civil cause of action is provided for a violation of the provisions of the bill, and the bill also adds spyware to the list of prohibited computer contaminants.

Testimony in support of the bill came from the Sheriffs' and Chiefs' Association, Metro [Las Vegas Metropolitan Police Department], the American Civil Liberties Union, and the Independent American Party. Testimony in opposition to the bill was received from the County Records Association and the Washoe County School District. Expressing concern about the bill and proposing some amendments were representatives from American Express, Consumer Data Industry Association, and the Nevada Bankers Association. It does increase the term of imprisonment, so there is a fiscal impact at the state government level. I neglected to mention that the Nevada Department of Information Technology also had concerns on this bill.

The proposed amendments that were put together by Assemblywoman Buckley after the hearing in response to the concerns are shown on the next page ([Exhibit L](#)). There are essentially three of them: one was deleting the recovery of punitive damages against a government agency, which was discussed at the hearing. Number two was to put in a 1,000-person limit and also indicate that there is a federal act, so if an entity is complying with a federal act, they would not be subject to the state provision. Finally, there was a proposal to change the effective date to January 1, 2006, to give folks time to adjust to the bill. I think Ms. [Eileen] O'Grady would like to add to this.

Eileen O'Grady, Committee Counsel, Legislative Counsel Bureau:

On the provision in the Gramm-Leach-Bliley Act [of 1999] that relates to requiring financial institutions to secure their customer information, it also has

procedures when there are breaches of customer information, including requiring those businesses to give notice. I don't know if it would be a better approach to just exempt those subject to that act from the requirements of this legislation, because there are penalties under the federal act for noncompliance. That's just a suggestion.

Assemblyman Hardy:

Is there some way to mitigate the all-at-once changes, a phase-in?

Susan Scholley:

The effective date was delayed by six months, which was intended to provide that.

ASSEMBLYMAN McCLEARY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 334 WITH THE AMENDMENTS IN THE WORK
SESSION DOCUMENT, REMOVING THE REFERENCE TO THE
GRAMM-LEACH-BLILEY ACT.

Assemblyman Hardy:

If we have a six-month or a one-year phase-in, is there a penalty we incur if we don't get it done? I want to prevent this. At the same time, I'm anxious for this to be phased in in such a way that it's not an excessive burden on the entities.

Assemblyman Goicoechea:

For years we required that every student have a Social Security number.

Assemblyman Munford:

That was my question. What about the school districts?

Assemblyman Goicoechea:

And the counties. It's going to take a significant cost to go through and purge those records.

Assemblyman Sibley:

My concern is with the Recorder's Office in Clark County. I was told that it was going to cost them \$4.5 million to comply with this because of all their recorded documents. There are a lot of documents that have Social Security numbers on them, and they're a matter of public record. A county would be violating the statute unless they went into all those records that went back 100 years and took out the Social Security numbers. I think it's great policy, but we need to

figure out a way where the counties are not going to be impacted by this and subject to all these fines.

Assemblywoman Kirkpatrick:

It's actually very simple. Each year, the school district is required to update records for their children, and the Social Security number is just a field where they actually go in and do that. All they would have to do is delete it at that time. You would be amazed how people change things, because it's never really been required by the school district.

Chairman Parks:

As clarification, none of the local governments spoke against it. I know the recorders were very concerned because they already have microfiche records that have Social Security numbers on them. So, for them, there might be some additional expense. The only other thing I can say is that the summary of local government responses provided in the fiscal note is pretty much all over the map, as far as the costs they're projecting for what it would take.

Assemblyman McCleary:

I was going to mention that I didn't hear any opposition from the locals. Maybe I'm misunderstanding something, but I thought it was to keep confidential. I didn't realize that they had to go in and purge their records. Am I wrong on that? I thought they just not could give out that information. Am I off base?

Chairman Parks:

Ms. Scholley, would you care to comment?

Susan Scholley:

I believe that some of the cities or counties—although not all of them, by any means—would need to go into their data and make sure that it was maintained in such a way that it was more secure. To the extent that there may be one or two additional costs to go into and secure the data, they already have it. It doesn't require purging, but it would require them to ensure that there wouldn't be some hacking or something like that.

Assemblyman McCleary:

So, if I understand this, the records that they're currently making available to the public for perusal would have to be changed. I see where you're going now.

Assemblyman Hardy:

If we had what I would consider a friendly amendment, we could recognize that, in new records and new updates, the Social Security number is treated with confidence, if it's required at all, so that all new records going forward are

protected. Over a period of time, as we open up other records, those likewise are protected. Then, we give some kind of interim opportunity for the locals to come up with their plan and report to the Legislative Commission.

Chairman Parks:

I think most everyone maintains their databases. All they need to do is purge or protect those particular fields through encryption or whatever they want to do. I think that the problem tends to only be with recorder's offices that have records that go back 100 years or so. For them, that would be difficult to do. I certainly would be willing to provide an added amount of time, if that would handle the issues with records maintained by a recorder's office.

Assemblywoman Pierce:

Do these records really have to be purged, or is it just a matter of taking a black felt tipped pen and crossing out the Social Security number?

Chairman Parks:

I'm also thinking that there are a lot of recorders' records you can view online or through viewing microfiche, and that's where the problem lies. It's not just data in a database. It's in a document. I have a few of those recorded myself. Is there any recommendation that staff could provide? Could we give the recorders' offices an additional period of time and then come back?

Assemblyman Sibley:

The problem is that the recorders have documents that are filmed. They are an official record, and you can't go in and alter them. When you go in and try to buy a certified copy, there wouldn't be a certified copy if they've made any changes to the document. I think we might have to find a way that the recorders' documents may be exempt from this and then, going forward, make sure those documents don't have Social Security numbers on them.

Assemblyman Goicoechea:

Is it possible to amend the language at this late date, or is it something we need to capture on the Senate side to clarify existing records?

Chairman Parks:

Let me consult with the author of the bill, and we'll see if we can work up a solid recommendation.

Assemblyman McCleary:

With your permission, Mr. Chairman, I'll withdraw my motion.

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Chairman Parks:

Thank you. I appreciate that. Nothing further. We are adjourned [at 1:26 p.m.].

RESPECTFULLY SUBMITTED:

Michael Shafer
Committee Attaché

APPROVED BY:

Assemblyman David Parks, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: April 13, 2005

Time of Meeting: 7:43 a.m.

Bill	Exhibit	Witness / Agency	Description
N/A	A	Government Affairs Committee	Agenda
A.B. 275	B	Assemblyman John Carpenter	Written Testimony Encouraging Passage of A.B. 275
A.B. 275	C	Assemblyman John Carpenter	Proposed Amendment to A.B. 275
A.B. 275	D	Dan O'Brien, Manager, State Public Works Board, State of Nevada	Proposed Amendment to A.B. 275
A.B. 419	E	Assemblyman Richard Perkins	Proposed Amendment to A.B. 419
A.B. 299	F	Arlan D. Melendez, Chairman, Reno-Sparks Indian Colony	PowerPoint Presentation on A.B. 299 handout
A.B. 299	G	Arlan D. Melendez, Chairman, Reno-Sparks Indian Colony	Information Package, Including Newspaper Articles and Letters in Support of A.B. 299
A.B. 299	H	Assemblyman John Marvel	Proposed Amendment to A.B. 299
A.B. 299	I	Jackie Crawford, State of Nevada, Department of Corrections	Flier in Support of A.B. 299
A.B. 480	J	James W. Penrose, Legal Counsel, Nevada State Education Association	Proposed Amendment to A.B. 480
A.B. 408	K	Phil Gervasi, President, Police Officers' Association of the Clark County School District	Information Package, Including Written Testimony, Letter to the Committee, and Statistics on Teen Violence in High Schools

	L	Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau	Work Session Document for A.B. 31, A.B. 111, A.B. 113, A.B. 210, A.B. 376, A.B. 509, A.B. 510, A.B. 511, and A.B. 334
A.B. 210	M	Assemblyman Joe Hogan	Letter from the U.S. Department of Labor Women's Bureau Supporting A.B. 210
A.B. 210	N	Assemblyman Joe Hogan	Sample Worksheet that Employers Will Be Given for A.B. 210