

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

**Seventy-Third Session  
April 14, 2005**

The Committee on Government Affairs was called to order at 7:50 a.m., on Thursday, April 14, 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. 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. Chad Christensen (excused)  
Mr. Kelvin Atkinson (excused)

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Valerie Weber, Assembly District No. 5, Clark County  
Assemblyman Brooks Holcomb, Assembly District No. 24, Washoe  
County  
Assemblyman Richard D. Perkins, Assembly District No. 23, Clark County

**STAFF MEMBERS PRESENT:**

Eileen O'Grady, Committee Counsel  
Susan Scholley, Committee Policy Analyst  
Nancy Haywood, Committee Attaché

**OTHERS PRESENT:**

John Runner II, Program Support Specialist, Nevada Employer Support of the Guard and Reserve (ESGR)  
Colonel Steven C. Spitze, Chief of Staff, Nevada Army National Guard  
John J. Slaughter, Management Services Director, Office of the County Manager, Washoe County, Nevada  
Donald A. Mahin, P.E., Registered Engineer, Resource Planning and Management Division, Department of Water Resources, Washoe County  
David Ziegler, Director of Regional Planning, Truckee Meadows Regional Planning Agency, Reno, Nevada  
Nicole Lambole, Legislative Relations Manager, Office of the City Manager, City of Reno, Nevada  
Steve K. Walker, Legislative Advocate, representing Truckee Meadows Water Authority  
Ron Dreher, Private Citizen, Reno, Nevada  
Stuart MacKie, Private Citizen, Reno, Nevada  
Russell Price, Private Citizen, Washoe County, Nevada  
Norman Harry, Tribal Chairman, Pyramid Lake Paiute Tribe  
Randolph Tobey, Vice Chairman, Pyramid Lake Paiute Tribe  
Paul Taggart, Legislative Advocate, representing the City of Fernley, Nevada  
Bob Milz, Chairman, Board of County Commissioners, Lyon County, Nevada  
Donna Kristaponis, County Manager, Lyon County, Nevada  
Carole Vilardo, President, Nevada Taxpayers Association  
Christina Dugan, Director, Government Affairs, Las Vegas Chamber of Commerce, Las Vegas, Nevada  
Joe Cain, Legislative Advocate, representing the Nevada Retail Association  
Terri B. Barber, Director, Intergovernmental Relations, City of Henderson, Nevada  
James B. Gibson, Mayor, City of Henderson, Nevada  
Chris Knight, Director, Office of Administrative Services, City of Las Vegas, Nevada

Randy Robison, Legislative Advocate, representing the City of Mesquite, Nevada

Pamella Malmstrom, Acting City Clerk, Boulder City, Nevada

Richard Holmes, Assistant County Manager, Clark County, Nevada

Mary Shope, Private Citizen, Boulder City, Nevada

Joe L. Johnson, Legislative Advocate, representing the Toiyabe Chapter of the Sierra Club

Scott MacKenzie, Executive Director, State of Nevada Employees Association (SNEA), American Federation of State, County & Municipal Employees (AFSCME) Local 4041

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

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

**Chairman Parks:**

[Meeting called to order and roll called.] We have six bills in front of us this morning. We also have an 11:00 a.m. Floor Session. We will not get to a work session today.

**Assembly Bill 319: Provides certain rights and other benefits to persons who perform service in military services. (BDR 36-352)**

**Assemblywoman Valerie Weber, Assembly District No. 5, Clark County:**

[Submitted [Exhibit B](#) and [Exhibit C](#).] I bring before you today A.B. 319, providing for certain rights and other benefits to persons who perform service in the military services. You originally received a twenty-page bill, but just set that aside. We are dealing strictly with the amendment, which makes it very simple and very clean and, you will find, has great merit. [Assemblywoman Weber read from prepared testimony, [Exhibit B](#), which is incorporated herein.]

**John Runner II, Program Support Specialist, Nevada Employer Support of the Guard and Reserve (ESGR):**

The mission of the USERRA [Uniformed Services Employment and Reemployment Rights Act] Committee is employer outreach in support of our guard members and reservists, collectively known as "reserve components," numbering over 4,500 in Nevada.

The seven services represented by the term reserve components are the Army and Air National Guard, the Army Reserve, Navy Reserve, Air Force Reserve,

Marine Reserve, and the Coast Guard Reserve. We are advocates for both the reserve component servicemember and the employer, providing free consultation, training, education, and mediation services regarding the rights of both parties under USERRA.

[John Runner II, continued.] I come before you today representing the Nevada state chair for the ESGR Committee, Dr. Dixie Sue Allsbrook, and the Nevada ESGR Committee, consisting of approximately 40 volunteers statewide. The Nevada ESGR Committee strongly supports A.B. 319. We recognize the sacrifice our patriot employers make when a reserve component member is mobilized to support our national interests.

We thank those employers who outwardly support their employee and mobilized reserve component member by providing care packages, family support, differential pay, and continued benefits. However, all employers and employees are not aware of the rights, protections, and guarantees afforded all reserve component members. The posting requirement of A.B. 319 will create awareness throughout the workplace and help to eliminate the discrimination of the reserve component members. Therefore, by adopting A.B. 319, we will raise awareness and reinforce the guarantees and protections of our reserve component members.

**Colonel Steven C. Spitze, Chief of Staff, Nevada Army National Guard:**

On behalf of Major General Giles Vanderhoof, the Adjutant General for the State of Nevada, I am pleased to express our support for this bill. This bill is important to the Nevada National Guard primarily because it will help provide stability and job security for National Guard members. Given the increased requirements for the use of the Army and Air National Guard since September 11, 2001, anything we can do to provide stability at home and job security will assist us in retaining members of the Army and Air National Guard and allow us to better perform our mission. The Nevada National Guard supports this bill.

**Assemblyman McCleary:**

The rights spoken about in this bill are already in law; am I correct? [Mr. Spitze responded in the affirmative.] I seem to remember those rights, as I am a six-year veteran of the Nevada National Guard. My concern is that we are going to require each employer to post a notice that all their employees can see that will make them aware of their rights. Is that correct?

**John Runner II:**

That is correct.

**Assemblyman McCleary:**

I think there are going to be so many employers that aren't going to be affected at all by this, yet they are going to have to, by law, post a notice. Would you gentlemen entertain the thought of making this available at your armories and meeting halls rather than require every employer, who may or may not be affected, to have to post this?

**Steven Spitze:**

I would say that the necessity to post it may be because of the employment situation. A member of the guard may not be in a certain workplace today, but tomorrow, that person could be employed. We don't know what happens from day to day or when it is going to happen. I think it is necessary not only because of what is happening now, but because of the future, the number of deployments, and the length of time people are being deployed. It could be a year or up to two years, depending upon the nature of the workplace changes. I think there is a federal requirement to post, and I think this reiterates it and shows the state's support. Clearly, if we had the federal posting requirement but didn't have the state requirement, I think there would be a void we need to make sure to shore up.

**Assemblyman McCleary:**

I think it would be more beneficial just to make sure members of the guard and reserve were aware of these laws, rather than the employer.

**Steven Spitze:**

In order to make sure our servicemembers are aware of their rights and benefits, we typically brief them annually. I also think it's important—as a reflection of an employer's support of this—to post it at the workplace.

**Assemblyman Hardy:**

What would happen to the employer who doesn't have walls to post something on, who hires people periodically, or who has people work in their homes? Do you have an example of such a notice with you?

**John Runner:**

The size of the posting is the size of an 8 1/2 by 11 piece of paper. This is currently like the federal posting. It does give additional information, which is important. I would suggest working on this with the Labor Commission at some point in time. My telephone number and the Department of Labor's telephone number are included, so there is a point of contact. There is a lot of information, other than just the requirements and the rights and privileges of our reserve component numbers.

[John Runner II, continued.] I haven't given thought to places where there is not a particular wall. Typically, there is a common area. It could even be in a media binder containing company policies, where they may be able to at least see this and have exposure to it at some point in time. Clearly, I think it's important that the posting be on a wall or in some common place, but I don't know that their policy is going to be an exception, and I think that should be addressed on an individual basis.

**Chairman Parks:**

I think we currently have in place requirements that all employers in Nevada have a legal obligation to post a variety of information relative to their employees' employment and employee rights. I think this is just another part of that requirement. They do it for everything else, and I guess they should do it for this as well.

I do have one question concerning the fact that there are several definitions for military or active duty military. One definition was in Section 10 of the United States Code of Military Justice, and the other was in Section 32. I just wanted to make sure we are happy with whatever we are posting and that it does satisfy the requirements. Perhaps Ms. Weber would like to research both of those before we finalize this bill. I will close the hearing on A.B. 319 and open the hearing on A.B. 247.

**Assembly Bill 247: Revises provisions governing management of water resources in certain counties. (BDR 22-805)**

**Assemblyman Brooks Holcomb, Assembly District No. 24, Washoe County:**

[Submitted [Exhibit D](#), [Exhibit E](#), and [Exhibit F](#).] I have provided you with a substitute bill and amendments to A.B. 247. The substitute bill and a draft of the amendment ([Exhibit E](#)) to the substitute bill are also provided.

[Assemblyman Holcomb read from prepared testimony, [Exhibit D](#), which has been incorporated herein.]

I am here because the voters are concerned about development and scarcity of water. They know it's a limited resource. I am concerned too, and that's why I developed a program that was a no-net-increase water use. I went around to various parties, to business, to the Washoe County Commission, and a number of other groups that were not supportive of this plan. I am totally disregarding those groups with this bill, but I have amended it in order to reach compromise.

[Assemblyman Holcomb, continued.] The parties involved are Washoe County, who developed the Regional Water Plan; the Regional Planning Board, who develops a comprehensive regional plan; TMWA [Truckee Meadows Water Authority]; and the Cities of Reno and Sparks. On Friday, I tried to come up with a compromise. I met with the director of Regional Planning, David Ziegler; TMWA representative Steve Walker; and the county representative, Donald Mahin. Ms. [Nicole] Lamboley, who represents the City of Reno, was not able to meet, but she stopped by. The representative from the City of Sparks was also not there. Basically, we had a meeting to try to come up with compromise language. We did come up with, and I thought that I would get agreement to, the very watered-down language that coordinates the elements of the plan, so that it recognizes the water resource constraints of the Regional Water Plan developed pursuant to NRS [*Nevada Revised Statutes*] 540A.130. Last night, I was informed by Ms. Lamboley that the City of Reno and the City of Sparks have backed out. David Ziegler with the Regional Planning Board also has backed out. They do not want to recognize that there is a resource constraint out there, that it is water.

There was a lawsuit in 2002 ([Exhibit G](#)) by Washoe County. It was *Washoe County and Sun Valley General Improvement District vs. Truckee Meadows Regional Planning Governing Board*. They moved for a writ of mandamus that covered a number of areas. The one I want you to look over is the summary of the settlement agreement. The last bullet says, "A number of Regional Plan amendments." On the second page, about two-thirds of the way down, it says "Regional Plan amendments." I will just read the first sentence:

The settlement agreement requires the Regional Planning Commission and Regional Planning Governing Board to adopt a series of 2002 Regional Plan amendments consistent with the settlement agreement.

Go down a couple of sentences. I will read that also:

The policy changes include enabling language supporting the cooperative planning and qualifying language indicating that the regional plan is resource-constrained.

Basically, Judge James Hardesty, the presiding judge in District 2, recognized that water is a resource constraint. The Planning Commission agreed that it is a resource constraint, and I am asking you to mandate the basically simple provision in the bill, that water is a resource constraint and that the plan, the Comprehensive Regional Land Use Plan, needs to recognize that and needs to conform to the Regional Water Plan. It is water management.

**Assemblyman Goicoechea:**

As we look at the Truckee Meadows Regional Plan and the parties brought to the table by this, I am concerned that the Pyramid Paiute Tribe was not listed or recognized. Why did you not recognize them, even though it's under the TROA [Truckee River Operating Agreement]? They clearly are a party, especially when talking about the Truckee Meadows and the Regional Water Plan.

**Assemblyman Holcomb:**

Not including the tribe was an oversight on my part. I have representatives from the county, and they can respond on how to bring them into this. I feel that this is very simple, because the parties involved just need to recognize and conform to the comprehensive Regional Land Use Development Plan.

**Assemblywoman Kirkpatrick:**

I have a couple of questions and only because I am trying to understand the north versus the south. I know in the south, on our regional planning ward, we have representatives from the water authorities that actually work with the local entities to provide conservation plans and to look at how growth is going to be affected by water. I understood that it was a requirement of the regional planning ward. You are saying that in the north, they just alienated that position?

**Assemblyman Holcomb:**

The governing board consists of representatives from the City of Sparks, the City of Reno, and the Washoe County Commission. Basically, you have the Reno City Council and the Sparks City Council, and you have the Regional Planning Board that took a position. They only needed to recognize the Regional Water Plan, but they rejected it. So I went back to the original language to recognize and to conform to the Regional Water Plan.

**Assemblywoman Kirkpatrick:**

Being on the planning commission in my previous life, I know that we always looked at water and landscaping issues. I don't understand why there is not somebody on there that would actually be part of, or representing, water. From my research of the Truckee water handouts, it appears you actually have a plan in place, so I am trying to understand what you are trying to add. Water is a key issue in Nevada. Isn't there a plan in place? From the notes the rural counties have provided to me, there seems to be a plan in place, so are you saying it doesn't include anyone?



**Assemblyman Holcomb:**

There is a commission called the Regional Planning Commission, and on that are members from the County and the two cities. The county voted to support this provision; however, I did not attend yesterday's meeting of the Regional Governing Board, so I am not sure how many members were in attendance, but they voted not to support. The county members may have supported it because the County Commission supported it. I am assuming they basically supported this, but there were others from the city that declined to recognize or to support this bill.

There is a Comprehensive Land Use Development Plan and a Regional Water Plan, and basically, we are saying that this needs to recognize and conform to this limited resource constraint. They have to work in consort. What we are saying is, "Let us mandate that they work together and they recognize and conform to a limited resource." If you don't, this is going to take off, and at some point you are going to have problems. They need to work in consort. This is enough to show you that there are problems and that there was a lawsuit. That is a very good question, and to get into it in depth, you need to talk with the county, and they will be represented here.

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

The Washoe County Commission did review this bill, including the proposed amendment, and have voted unanimously to support the bill as amended. The new amendment is in compliance with the direction the board gave to support this bill. The board has said that they agreed with the settlement agreement and its directive on this, and that it is good public policy. Codifying this into state law will provide the legislative direction to look at water plans and recognize the constraints in those water plans as a part of our regional planning process.

As to the questions regarding regional planning, I am going to defer to Dave Ziegler, but Don Mahin may also be able to give some explanation of our Regional Water Planning Commission, which is a separate body and does provide some opportunity for the tribe to participate in water planning issues in Washoe County.

**Chairman Parks:**

Since we are pushed for time, I would prefer we directly discuss this as a proposed amendment and how it would affect the overall operations. If we could direct ourselves to that, it would be appreciated.

**Donald A. Mahin, P.E., Registered Engineer, Resource Planning and Management Division, Department of Water Resources, Washoe County, Nevada:**

I am only prepared to respond to your questions and to reiterate what Mr. Slaughter said about the Water Planning Commission being a separate body that is created under another Chapter of NRS, 540A, and that the Water Planning Commission has a water plan that is directed to develop the existing legislative direction. The water plan is ultimately submitted to the Regional Planning Commission for review. This legislation would provide water resource information up front when the regional plan is being developed or updated, so that it is not being developed in isolation. That is the big benefit of this legislation, having the water plan looked at as a resource and information source.

**David Ziegler, Director of Regional Planning, Truckee Meadows Regional Planning Agency, Reno, Nevada:**

Truckee Meadows Regional Planning Agency is the common name given to the program of regional planning in Washoe County that the Legislature established in 1989. Yesterday, the Legislative Committee of the Regional Planning Governing Board met and instructed me to express their opposition to this measure. Their opposition is based on the premise that this proposed policy takes one element of a conflict settlement agreement and puts it into state law. My committee was happy with the settlement agreement and the way the settlement agreement is working. Their basic position is, "Don't fix it if it's not broken."

Mr. Holcomb covered a little bit of the background, but let me briefly review some of that just to make sure the record is straight. In May 2002, the Regional Planning Governing Board adopted the second five-year update of the Regional Plan. In June of 2002, Washoe County and the Sun Valley General Improvement District sued the Regional Planning Governing Board over the adequacy of that plan and won a preliminary injunction against the agency to prevent us from implementing the plan. In September of 2002, the then-Chief Judge of the District Court, Judge Hardesty, invited all the parties into a settlement conference. The parties agreed to discuss settlement. There was a three-week settlement conference, and they met with the judge daily. At the end of the settlement conference on October 17, 2002, everybody signed off. Judge Hardesty retained jurisdiction for five years, or until the next updated Regional Plan.

The settlement agreement includes the following sentence: "The Regional Planning Commission and the Regional Planning Governing Board will amend the Comprehensive Regional Plan to clearly delineate that the Comprehensive

Regional Plan is natural resources-constrained.” We had 120 days to do that. The Regional Planning Commission and the Regional Planning Governing Board both held public hearings on that matter, and the Regional Planning Governing Board did adopt the necessary revisions to the Regional Plan around Valentine’s Day of 2003. That was about two-and-a-half years ago. There are dispute resolution provisions in the settlement agreement, and Judge Hardesty did retain jurisdiction over any disputes that would arise. No disputes have been brought up, and no one has contested the action of the Governing Board in adopting those amendments to the Regional Plan to date, so we feel like we have fulfilled our obligations under the settlement agreement.

[David Ziegler, continued.] One of our concerns about the amendment of that bill is that the settlement agreement is enforced basically by the parties through the judge. If Reno, Sparks, Washoe County, the Sun Valley General Improvement District, or the other interveners have a problem with the way it’s being carried out, they can take that into the District Court—or actually, to Justice Hardesty—and we can have it out. We can have hearings, and he can rule. By putting this policy into state law, we were concerned that it could create an opportunity for a third-party challenge against the Regional Plan, and we are not sure how we would defend ourselves against such a challenge. We are a little afraid that it would open a Pandora’s box and that someone could say, “Well, you didn’t adequately coordinate,” or “You didn’t adequately recognize the water constraints.” Then we would be in court somewhere, trying to defend ourselves and understand and explain what those terms mean. We are comfortable working within the confines of the settlement agreement. We are nervous about what would happen if this became embodied in state law.

This morning, the Assemblyman added three words to the amendment. The copy I have says that the plan recognizes the water resource constraints. This morning the Assemblyman said, “recognizes and conforms to the resource constraint.” That totally changes the meaning of that sentence and kicks in a whole other issue, and that is, which plan? Either the Regional Land Use Plan or the Regional Water Plan has primacy. That issue has been kicking around since just after the settlement agreement. It was briefed and argued in front of Judge Hardesty about six months ago. Judge Hardesty ruled on that disagreement that he would not make a ruling in the absence of an actual controversy, and he made it clear that he retains jurisdiction, and if a controversy should arise down the road, he would rule.

The Regional Water Management Plan was submitted to our Regional Planning Commission for conformance review, and they did review it within the forty days they had statutorily been allowed. They made their determination, and the appeal period on that has run. So, the Regional Water Management Plan has

been found in conformance with the Regional Plan with certain exceptions, and that is following the existing arrangements in statute.

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

We have communicated with Assemblyman Holcomb, and I indicated I would clarify the record. We indicated that we would take this proposal back to our board, and we thought we might be able to live with it. Yesterday at my council meeting, the council took this issue up and decided that the current law is where we would like to see this remain. They are committed to the settlement plan that has been negotiated. While we did not back out of our position, we retain the right for my council to express what their direction is. It was my board's feeling that we would take the direction of the Regional Planning Governing Board, because that is the agency with which we are all committed to working.

**Steve K. Walker, Legislative Advocate, representing Truckee Meadows Water Authority:**

Assemblyman Holcomb has asked the Truckee Meadows Water Authority to take a position on this legislation and we are neutral. We are a water purveyor, and we are not involved in water planning aspects.

**Ron Dreher, Private Citizen, Reno, Nevada:**

I support Assemblyman Holcomb's bill, A.B. 247.

**Chairman Parks:**

I will close the hearing on A.B. 247 and open the hearing on A.B. 440. This is a rehearing of a bill that was previously presented to us, and we found there were some comments and concerns. We want a rehearing to make sure everyone is given the opportunity to speak.

**Assembly Bill 440: Revises boundary line between Washoe County and Lyon County. (BDR 20-1019)**

**Assemblyman Tom Grady, Assembly District No. 38, Lyon, Storey, Carson City (part), and Churchill (part):**

I would like to make a few remarks and update and remind the Committee that A.B. 440 is a boundary line adjustment between Lyon County and Washoe County. Assembly Bill 440 was first listed as BDR 20-1019 with my name on December 15, 2004. While working with Lyon County, Washoe County, and Fernley—others did not contact me until this week—there have

been at least four meetings in Washoe County, three in Fernley, one in Wadsworth, and numerous agendized meetings with the Lyon County Commissioners. Today, people are coming forward in opposition, Mr. Chairman. Where have they been during the last year, when all the public hearings were held?

[Assemblyman Grady, continued.] When approached by Lyon County on this project, I requested that the Commission work with both Washoe County, the Lyon County Commissioners, and the City of Fernley via public meetings, and they were held. I compliment all of them for the numerous public hearings that were held. Upon completion of the public meetings and the reception of letters of support from commissioners of both Washoe and Lyon Counties, I requested the bill. Washoe County did a due diligence where they estimated total tax income that would be lost from the area could not be offset by expenses that would be incurred, due to the distance of this property.

On Tuesday of this week, Assemblyman Goicoechea and I met with Tribal Chairman Norm Harry and Vice Chairman Randy Tobey of the Pyramid Lake Paiute Indian Tribe. We listened to their concerns—mainly water. Pete represents the tribal area. I briefly met with Chairman Harry and Vice Chairman Tobey again later in the day. I committed to them that I would work with them to open a dialogue between Lyon County, Fernley, and their tribe to address short- and long-term goals for this area.

I ask that Lyon County Commission Chairman Bob Milz and I be given a short rebuttal statement at the end of this hearing.

**Stuart MacKie, Private Citizen, Reno, Nevada:**

I have a few questions, which never seem to have come to the surface. The Truckee River Quality Settlement Agreement specifically talks of Wadsworth being a non-point pollution area, from which Washoe County would immediately receive pollution credits should it get it off its roster. Those pollution credits would mean that more sewage would come down the Truckee River, because Lyon County is not a member of the Truckee River Quality Settlement Agreement. I believe Senator Reid put that together, and I don't believe his office has been informed of this situation. I think there should be an EIS [environmental impact statement] put out, because Mr. Grady was saying that this is going to take up to ten years for the development to finish out there. There should be plenty of time for an EIS.

The people of Washoe County should vote on this, because it is not just a line adjustment, but a diminishment of the County and the tax base. The problem that the tribe is going to have is that there are wells drying up along the canal,

which Fernley uses for its vast system of housing water. The ditch rider for TCID [Truckee-Carson Irrigation District] had the well in the house that he lived in—below canal level—go dry. They actually had to move into a motel. Fernley definitely has water issues. They are going to have to drill in this area in order to provide water for rate development for their water credits that they have with the City of Fernley.

[Stuart MacKie, continued.] I object that there has not been an environmental impact study taken of this area before it was put before you, because he said they had such a long time to bring this forward; nine months, it said in the paper the other day. He put his bill in so it would show up two or three days before the end of the last BDR submissions, and the public was notified one-and-a-half days before the revised agenda meeting was put on your schedule for this hearing. This hearing today was known about last Thursday, yet it was only put on yesterday. I don't understand why the public is not being informed in a good manner here. It's like something wants to be hidden, and I just don't understand that.

The problem of the drying up of the wells means that they are going to have to take the water from the tribe that goes through to the Truckee River. Washoe County should not be able to move this property until an environmental impact study has been done and Lyon County has signed on to the Truckee River Water Quality Settlement Agreement.

**Russell Price, Private Citizen, Washoe County, Nevada:**

Mr. MacKie has covered some of the areas that I have been concerned about. I currently live in a hydrobasin that has a 400-acre-foot yield. I am concerned about overpumping and overappropriating in this area and the solids credit that Washoe County will get. The pollution is going to happen. The bottom line with this whole situation is that it's a situation that exists now for the Truckee River Water Quality Settlement Agreement. How do we know that's not going to be violated?

**Norman Harry, Tribal Chairman, Pyramid Lake Paiute Tribe:**

There seems to be a breakdown in communication in a lot of areas, especially when issues are going to affect the tribe, and the tribe is not notified and being a participant with some of these issues.

The position of the tribe as it stands right now is that we are in opposition to A.B. 440 in its entirety. Moving a county boundary line may seem to be a simple task, but such a move may create much larger problems than if left alone. The tribe's primary concern revolves around water. With respect to development, where is the new development going to get its water supply, and

how will the new development handle its wastewater treatment? These are the two issues that we spoke with the Assembly people about earlier this week.

[Norman Harry, continued.] Under the current language, the new county boundary will be shared with the Pyramid Lake Paiute Tribe. We have a real concern with this. The tribe, local governments, and state and federal agencies have worked diligently and tirelessly together in the past to achieve milestone agreements that addressed and improved water quality, water quantity, restoration of riparian habitat, fish passage, and environmental protection for threatened and endangered species. We believe it is a true testament to what can be achieved by all parties working together for a common goal. We are most concerned about the possible drilling of water wells within a newly adjusted boundary. At a recent Washoe County caucus meeting earlier on Monday, one of the commissioners asked a developer if they would be agreeable to including another condition for not drilling wells within newly annexed properties. The response was no, which renews our fears.

Drilling wells in this area would definitely have an impact on surface water rights near the Truckee River watershed. The opposition will say that they may be utilized in their groundwater component. We all know that the groundwater component is replenished from the surface water of the Truckee River. What would prevent a water purveyor in the future from sinking such a well and siphoning Truckee River water, which may impact water quality standards at the expense of all upstream users? It really doesn't paint a very pretty picture.

The tribe undoubtedly believes that this proposed boundary change is strictly development-driven and would respectfully request this Committee to fully consider the future ramifications for all parties affected by moving this boundary line. In our opinion, there are too many unanswered questions, and we would ask for some type of interim study to further address these issues before the continued forward movement of this legislation.

The tribe right now is in a catch-up mode. We should have been involved with these discussions on a government-to-government basis from the very beginning. I would again appeal to this Committee to allow the process for the tribe to implement measures that will protect our precious Truckee River and the lifeblood of the Pyramid Lake Paiute Tribe.

**Randolph Tobey, Vice Chairman, Pyramid Lake Paiute Tribe:**

I want to go on record as opposing A.B. 440.

**Assemblyman Goicoechea:**

Whether this parcel is Lyon County or Washoe County, I need you to clarify how that would impact how the developer, Wade Development, might develop their property. I realize Lyon County is not a party to many of the agreements on the Truckee, but I would think if the county line wasn't adjusted, would Wade Development still have the opportunity to develop that property in Washoe County?

**Norman Harry:**

Yes, they would. I think any development in that area of Washoe County prior to a boundary adjustment still falls within the jurisdiction and regulatory aspect of that respective county.

**Assemblyman Goicoechea:**

I guess I would like to know what Washoe County's position is on the development of that parcel, if it were to remain in Washoe County, and where the services would come from for wastewater and municipal water.

**Norman Harry:**

I would like to reiterate what happened on Monday at the caucus meeting held at the county. It is probably better to get an interpretation from them, but there were other conditions that were discussed, such as possibly rolling back the size of the property to be included. I had one question. I know there were conditions originally requested by Washoe County, and going through the bill, it's basically a legal description. I question whether there is some time in the future where we might be able to sit down, discuss these issues, and maybe come to some type of mutual agreement—conditions we may want to see if that actually becomes part of the law itself—or whether this is going to be something addressed between government agreements for enforcement. I am not really clear on that part, because looking at the way the bill is introduced, it looks like a legal description.

**Paul Taggart, Legislative Advocate, representing the City of Fernley, Nevada:**

The mayor of the City of Fernley asked me to come this morning to convey the concerns that the City has, mainly arising after some comments that were made on Monday night at the Washoe County meeting. Last night, the mayor sent a letter to Washoe County clarifying Fernley's action with respect to this boundary line adjustment. The same letter has been distributed to the Committee ([Exhibit H](#)). I just want to go through the letter that has been written and answer any questions you might have.

The letter indicates that Fernley wants to clarify the reasons for the action, with respect to the county line adjustment. That action was taken on



February 2, 2005. There were a number of qualifications that were made when that action was taken. That action was to support the boundary line adjustment if all obstacles were mitigated, and that was a significant qualification that the City Council placed on the approval.

[Mr. Taggart read from the letter from the mayor of Fernley, dated April 13, 2005 ([Exhibit H](#)), which has been incorporated herein.]

**Chairman Parks:**

We do have your letter ([Exhibit H](#)), and we will make that a part of the record. If you would care to make a summary comment on behalf of the City, we would appreciate that.

**Paul Taggart:**

The summary I offer is that the boundary line adjustment appears to have an implication that utility service will be provided to the new land use in Lyon County from Fernley. Fernley wants to make clear that whatever obligations exist for Fernley to provide utility service to this project are going to be determined in the future. There is no preexisting obligation for Fernley to provide service to this property. No decision on whether to support or not support this bill should be made with the misconception that Fernley is under an obligation to provide service to this project.

**Assemblyman Grady:**

I want to answer Mr. MacKie. Other county line adjustments have been made, most recently between Clark County and Nye County. A vote of the people has not been prior practice. As far as water issues go, I think Mr. Taggart is absolutely correct. There is nothing in this legislation that commits Fernley or anyone else, Lyon County included. This is a boundary line adjustment. Water, sewer, building permits, and zoning will all be addressed if and when this bill goes through and if and when the City of Fernley decides to become a part of this issue. Right now, this is a boundary line adjustment between Washoe County and Lyon County only. There has been no discussion to my knowledge that Fernley would annex this property. This is all in the future.

**Bob Milz, Chairman, Board of County Commissioners, Lyon County, Nevada:**

This is an act relating to counties revising the boundary line between Washoe and Lyon County and providing other matters related thereto. It is not an act between Washoe County and a developer or the tribe. It is an act between Lyon County and Washoe County.

[Bob Milz, continued.] Lyon County approved and supported this bill as written, five to nothing. Anything different would not be satisfactory to Lyon County unless it is brought back to Lyon County for discussion and action.

This is simply a boundary line adjustment and not a water issue. As far as water is concerned, it is up to the developer, no matter whether it is in Lyon County, Clark County, or any other county. We support this bill as written.

**Donna Kristaponis, County Manager, Lyon County, Nevada:**

While I agree with Mr. Milz that we support this the way it is written, it is important for you to know that we currently operate on the Carson River subject to the Alpine Decree. We certainly have another decree on the Walker River, and we are certainly familiar with TROA and would understand the constraints of that, irrespective of being a party to it as a named party, because this land is subject to it, as is the river. We have been working very closely with the State Engineer on our water plans and wastewater plans for the Dayton area. We would anticipate doing something similar in this area if Fernley chose not to develop. When we say it is up to the developer to address the water issues, it truly is. They must bring water rights to the table. It's not a function of simply drilling wells, which are allowed under state law on five-acre parcels and could happen in this area. But with a master-planned community, you can plan on having municipal requirements, which are very closely regulated by the State.

I view development as a continuum. Annexation is one of the first pieces and does not always happen. While I recognize Lyon County to be a rural county, it's the fastest-growing county in the state, and we have all of the mechanisms in place to be able to control water quality, water quantity, transportation and access questions, environmental issues, and so on. If people were to develop in Lyon County, they would face as much stringency as they currently do in Washoe County.

I have spent most of my career in planning. I would tell you that taking the property east of the Reservation, which is where this is located, and putting it into Lyon County makes sense from a development basis and from a planning basis, something that Washoe County would not be able to do. I heard Wadsworth was raised as an issue, and I was totally confused by that. They are not part of this. We commit to you to be good stewards of the land. We are happy to work with the Paiute Tribe on resolving this issue and resolving any of their concerns. We do not view that as part of the request to move the boundary line. It does not mean those things won't happen. It is just a function of where in the process they do happen. We commit to work with them.

**Assemblyman Munford:**

I wasn't really sure of the impact it would have on the Paiute tribe. If they redeveloped the area, would they take water from the tribe?

**Donna Kristaponis:**

No, sir. I believe that the tribal representative made that statement. Development in that area would happen in two ways. One is through a master-planned community, where they bring water rights to the table that they must purchase and turn over to the utility serving in that area. The other scenario could happen now and complies with state law. That would be to develop five-acre parcels, and each person would have to drill a well. We've actually had that happen in a portion of our county, and that has had a more adverse affect on water wells in that area than has an M&I [municipal and industrial] utility, as it is classified under state law. We would not see how we could possibly do that.

I realize that has been said, but state law simply does not allow that to happen, nor does the TROA. It's really not a piece of the annexation, but it's an issue worthy of discussion—irrespective of this property being in Washoe County or Lyon County. All you are doing is taking the boundary line, which has been traditionally Washoe County and you are moving it east so that it's now on the eastern boundary of the Reservation, as opposed to what was the western boundary. There are protections in place, and we need to come to the table and know we will not be stealing water from anyone.

**Chairman Parks:**

I will now close the hearing on A.B. 440 and open the hearing on A.B. 321.

**Assembly Bill 321: Provides for Nevada Report to Taxpayers on status of state finances. (BDR 31-1198)**

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

A complaint echoed time and again by taxpayers is that they don't know how their tax dollars are being spent. It's easy for those of us who live in this building for 120 days every other year to forget this, since we probably know more about that subject than any person would want to.

Shareholders demand accountability from the corporations they invest in, and so they are provided with annual reports on how their investment is being spent. Our shareholders, the citizens of Nevada, deserve the same level of accountability and transparency from this state. In essence, our citizens are the

shareholders. We are the board of directors, and the Governor is the CEO [chief executive officer]. It is for this reason that I have introduced A.B. 321, which would require the Governor to annually prepare a report ([Exhibit I](#)) to Nevada taxpayers. The report will give all Nevada citizens and businesses a comprehensive understanding of how their investments—their tax dollars—are being spent.

[Assemblyman Perkins, continued.] This knowledge will empower our constituents to better communicate their wishes and thoughts to us. When they read about bills making their way through the Legislature, they will be able to reference the report and access for themselves how a bill could affect spending. The heightened understanding will make us better representatives. It is my belief that representative government will be more efficient with a better educated and communicative citizenry. I think we have all had communications with misinformed citizens about things they've read or things that they came to understand through the grapevine. They would communicate with us and be angry or try to sway our position, only to find out that they had been misinformed. It is usually about the tax dollars that are spent in this state.

This report will include a summary of State agency budgets, tax revenues received by the State, reports about school districts and local governments, amounts appropriated to government agencies, and the cost to pay public debt. Nevadans deserve a government that is operated efficiently and openly and that provides the essential services we all need in our day-to-day lives. This report will provide taxpayers with the information they need to judge for themselves how the state is operating.

In the context of the current discussions about limiting government growth, I believe this measure will help us communicate with our constituents and understand what it is they want or don't want. It's been suggested to me that this information is already available. Well, even for us that do serve in this Body 120 days every other year, you have to go search for the information. It's found in various places. You have to be somewhat of a financial detective to go find all the information that you are looking for. In fact, it takes us 120 days to grind through the entire budget.

By creating this report, it would place everything in one location so it would be at somebody's fingertips. I think you all have in front of you an example of how I think this might occur in a very simple four-page document ([Exhibit I](#)). This is just an example, and I am not suggesting that this is the only way it can be done. The bill itself, in subsection 3, talks about the report being made available for access by the public on the Internet. It would be great to have a paper one of these in the hands of anybody that wanted one, but then again, we all know

that there is some cost associated with that. We could at least put the consolidated report on the Internet.

[Assemblyman Perkins, continued.] Assembly Bill 321 is fairly simple. On or before January 1 of each year, the Governor shall compile a report on the status of the finances of the State:

- The information published in The Executive Budget
- The report prepared by the State Controller that basically covers all the funds and outstanding debt
- The report on the count of State money pursuant to NRS
- The most recent report on transactions and proceedings of the Department of Taxation
- The most recent report prepared by each regulatory agency
- The most recent report prepared by each school district
- The most recent report prepared by each local government
- Any other report prepared by the State, city, town, school district or other public agencies or political subdivisions that the Governor deems to be relevant to the status of the finance of the State of Nevada

In essence, consolidate all that information into one report. Subsection 2 is very important, especially in subsection 2(b), where it says that it's written in plain English, so that our citizens can understand what it means.

I think this would serve our state very well, and it would help us communicate with our constituents and be better representatives and better stewards of the state tax dollars. We oftentimes hear that government should run more like a business. We know that it is impossible for the government to run exactly like a business, but this moves us more in that direction and keeps us more accountable to our constituents.

**Carole Vilardo, President, Nevada Taxpayers' Association:**

I am speaking in support of A.B. 321. I think the Speaker has eloquently expressed some of the things that I would like to say. I know time is short, but I do want to say something.

While you have a report in front of you, there is no requirement that one be done. I think it is important for the taxpayer. It provides a level of transparency to something that sometimes seems like voodoo magic, when you are trying to determine why money is spent the way it is or how it is spent. For that reason alone, I would encourage you to pass the bill. I think it's just one more step in having a better-informed taxpaying public.

**Christina Dugan, Director, Government Affairs, Las Vegas Chamber of Commerce, Las Vegas, Nevada:**

We too are in support of the bill and echo the comments that Carole Vilardo made. We feel that providing transparency to the taxpayers, particularly those in the business industry, is something that is beneficial, and we would ask you all to give serious consideration to the Speaker's bill.

**Joe Cain, Legislative Advocate, representing the Nevada Retail Association:**

I am just echoing the remarks of Speaker Perkins, Ms. Vilardo, and Ms. Dugan from the Chamber. I think it's a good bill. Anything that gives the taxpayers more information—in this day and age of increasing complexity in the state budgets, where you practically have to have a Harvard MBA [master of business administration] to understand it all—we think is good. We support the bill.

ASSEMBLYWOMAN PARNELL MOVED TO DO PASS  
ASSEMBLY BILL 321.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Christensen was not present for the vote.)

**Chairman Parks:**

I will now close the hearing and work session on A.B. 321 and open the hearing on A.B. 487.

**Assembly Bill 487: Revises provisions relating to boundaries of cities in certain larger counties. (BDR 21-878)**

**Chairman Parks:**

Before we proceed, I would like to read into the record a request ([Exhibit J](#)) relative to Section 1 of the bill. Copies have been distributed, but to quickly summarize, the statement says:

Pursuant to a request from the Mayor and City Council and Manager of Boulder City last night, Eldorado Valley Development Company, Inc., would respectfully request that sections with de-annexation language in A.B. 487 be removed from the bill in advance of the April 14 hearing in your Government Affairs Committee. [signed] William J. Wadley, President, Eldorado Valley Land Development Company, Inc.

We will delete Section 1 and proceed with the hearing on A.B. 487.

**Terri B. Barber, Director, Intergovernmental Relations, City of Henderson, Nevada:**

We are here this morning to give you a brief presentation on what our annexation legislation proposes to do.

**James B. Gibson, Mayor, City of Henderson, Nevada:**

This bill has a couple of primary objectives that I will attempt to review with you and help you understand. We intend to introduce the bill and discuss overall objectives. We had lots of discussion among ourselves, and we have had some discussion with members of this Committee and others in the Legislature. We have met with Clark County to discuss our intentions, our objectives, and the presentation ([Exhibit K](#)) of this legislation to you. We will be prepared to discuss some changes to the bill that we think will be productive and well-received. We probably won't take your time to do that today. We are prepared to do that in work session, unless there are things that you would like to cover.

At the outset, we are motivated in large part because the application of federal policy, in the way that it manages its lands and issues related to its lands, have begun to create conflict with the way that local government interacts in the formation of the planning of its policy. That is primarily what motivates us to urge adoption of this bill upon you.

We have a statute in place today that effectively gives the federal government a seat at the table when it comes to the state and local issue of the annexation of lands. We are going to talk to you about how we would propose to remedy that situation, because we believe that it is something that is not productive. Having said that, there is nothing we propose that would in any way create conflicts in sensitive areas or cause irresponsible development or development that would be in conflict with the kinds of activities that the federal government and we—and all the citizens of this state—are concerned about.

Today, it is clear that there has been and there continues to be a lot of long-term planning taking place that deals with areas of major concern to all of us in southern Nevada. The city of Henderson is nearing a build-out of suitable land for development. We feel that the responsible thing to do is to look into the future. In many cases, we are looking way down the road into the future in an attempt to influence, at as early a time as possible, the decision making process. If and when the time comes that any of the property that would become a part of the city of Henderson comes into the city, there has been enough long-range planning that we impact the environment, the citizen, and

the overall issues that are important to the sustainability of southern Nevada as little as possible.

[James Gibson, continued.] For instance, the airport in Ivanpah is something that has drawn a lot of attention. That airport is critical. It is critical to Clark County, and it is critical to each and every one of the cities in southern Nevada. The economy is dependent upon there being a plan and that plan being produced at an early-enough time that the airport would be able to come on line as soon as possible. It is also important that, because of the areas that lie to the north along I-15, the City of Henderson have an opportunity to participate in the discussions about the planning of that airport.

We're concerned about more than just growth. In fact, we are really not concerned about growth, per se. We are concerned about planning activities, about protection and preservation. We have been, in our estimation and in the judgment of many others, worthy stewards of lands and issues that are important to all of us. We have a couple of model programs in the City of Henderson that we continue to improve upon, which we adopted when we discovered the rock art at Sloan Canyon, which is now in the National Conservation Area (NCA) that the federal government established there. It is a conservation area, and we went to the federal delegation and encouraged that there be protections afforded that property. We, on our own part, did some things that we thought would be helpful. We established a sensitive lands overlay that would protect it from encroachment and development in a way that we thought was responsible, understanding full well that we may not ever apply the sensitive lands overlay to something outside our jurisdiction. Maybe that would never be applied to that property, but we were prepared in the event the land ever became part of the City of Henderson.

We have developed an extensive trail system with important and well-used trailheads that currently exist, and there are others in the development stage. Our citizens tell us it is important that we fully develop a trail system. To that end, we continue to work on open space planning that takes into account environmental issues, as well as the other kinds of issues that affect human life. Our objective is to make our community as livable and sustainable as we possibly can. That open space plan has been the subject of several public meetings, and we have all of the voices at the table. We are excited at the prospect that within the next several months, we will be rolling something out that will be new and different for us and, quite frankly, probably for the region.

We established a bird preserve at the water treatment plant. There are a couple hundred different varieties of birds that have been viewed there by those who are interested in such things. We have groups of children that come out there



from all across the valley in busloads. They are coming to the sewer plant to see birds. It's one of the largest bodies of open water in southern Nevada. It had been pointed out to us a long time ago that we had a lot of species there, and so we decided we would formalize their presence there. It has been a wonderful educational tool and an environmentally friendly tool to advance the interest in birds among those who are concerned about such things.

[James Gibson, continued.] We have a rural preservation overlay that protects the rights of property owners who elect to live in a rural environment. If you were to travel into southern Nevada and drive to the areas we have protected with our overlay, you would find they own horses there, they ride their horses there, and we have planned the streets and the construction process in a way that allows them access to the Bureau of Land Management (BLM) property. We have done that in an effort to preserve that lifestyle, and we think that is also evidence of our commitment to grow in the right way and to respond to the interests of both the citizen and to the concerns for our ecology that all of us have.

I mentioned Sloan Canyon and the NCA management plan. It is something that is in discussion. We have made a commitment to provide water and sewer, police, and fire or emergency services to that area, as well as to build and maintain roadways. That is a commitment we have given to the federal delegation and that we have also given to the local federal agency representatives. The reason the NCA was originally placed in this bill was because we would be building out or building to that area and then developing within it and maintaining these essential infrastructure elements within that NCA. It seemed appropriate, since we are also going to be responding with emergency services personnel in the area, that we would have it within the city limits of Henderson. We felt, given the things that I mentioned to you a moment ago, that we had long since established a record and a reputation for being environmentally sensitive.

We are prepared to delete the portion of the bill that would bring the NCA into the city limits of Henderson if that really is the thing people feel ought to be done. We are supportive of the NCA. We want it to succeed, and being within our city limits is not the most important thing here in this bill. I want you to understand why we proposed it in the first place.

All of these things that are underway—including the Ivanpah Priority Plan, which is under discussion and for which there is an enormous effort under way—obviously will affect the development that goes along I-15 toward the south. We feel there is so much discussion and study of the area north of the Ivanpah airport underway today that it is important for us to look at what kind of a

community would develop in any portion leading into that area. We think we have done a good job in terms of managing the way our city grows and the way we accommodate new kinds of ideas and new kinds of development. We think it is especially important that we have an opportunity to really be there with some authority. It is the only area where the city of Henderson can grow at all beyond its current borders. It is toward I-15 and then south along I-15, and generally on our side of I-15. I mentioned a moment ago that we have had some discussions, and we are prepared to either place those in the record at an appropriate time or to reflect those discussions and any amendments to this bill. One of the things that we have been very clear about in our discussions with our friends at Clark County is that we have no intention of jumping over I-15 and seeing development that would be within the city limits there. There is a lot of beautiful ground over there, and some of it will likely be developed at some point in time. We imagine Clark County will work to do that development, and we will work cooperatively with them to do development on our side of the road.

[James Gibson, continued.] We are concerned about anything that happens at our borders. There have been conflicts at our borders in terms of the compatibility of activities that happen on one side of the border or the other. We have since entered into an interlocal agreement that we and Clark County were able to negotiate. It has been an important part of our planning process since then, and we appreciated the collaboration and the cooperation of the County as we tried to bring our borders together and plan them well. Our citizens know what to expect, and their residents know what to expect.

There are some things that are important from a practical perspective even today. We mentioned in the presentation there that are borders, viewshed protection, and BLM-managed uses. There are also transmission lines and gravel pits, some of which are on our borders and some of which we have been dealing with for many years. We are concerned that those kinds of uses are going to proliferate, but we hope they proliferate after discussion with the city that will likely end up growing in that direction. We feel that we have learned how to live with them, and we think we understand how they can succeed by taking into account the things that we are concerned with on behalf of our residents.

Of course, we will always be concerned about protecting the interests of our existing residents. The things that we do are designed to make their lives better. Quality of life is an important overarching principle in the things we do in the city of Henderson.

[James Gibson, continued.] One of the things that we have to be concerned with is the federal government's position on land lying outside the disposal boundary. I will refresh your recollection in telling you that the disposal boundary is a line that has been drawn on the map by the federal government. It is the extent to which federal lands can be acquired by private persons and developed. We had this disposal boundary years and years ago, and some of you will remember the "ring around the valley" discussion. This is the real ring around the valley. As we talk about development plans and other strategic planning activities that are happening outside or beyond this disposal boundary, we know at some point in time the disposal boundary will move. When it does, because of the location of development, the availability of utilities and other infrastructure, and the services that will be required in those areas as development, we know that the City of Henderson is going to be called upon to provide a lot of that. We recognize—even without this discussion today—all of that will happen in due course.

We need the ability to have a seat at the table that is not prevented by the federal government's position that it can object to an annexation. I need to say that annexation is not growth. It is not a development plan. When we annex, we are not talking about immediately putting together a request that the federal government immediately dispose of land so that it can be available for development. We are not going to move, in any way, differently from how we have done it in the past. It is important to point out to this Committee that in the past, we have had occasions where we pulled off property that we had nominated from public auction simply because we felt we needed to study the impacts of development, and we needed to figure out how we could better make growth pay for growth in an area. We didn't feel we had sufficient information to make that determination at the time. It was less important to us that the land be sold and developed than it was that it be sold after we understood exactly what we needed to do in order to get the best possible development there, and also to get the kind of development that would not cost our citizens more than it ought to. We think that we have demonstrated that we can be faithful stewards of the land, the planning, and all of the other processes.

Inside the disposal boundary, infrastructure is currently being planned in lands that are not a part of the city of Henderson. In order to accommodate the most economical development of that infrastructure, we need to be able to have planning capacity over those lands that are still federally owned. At some point in time, those lands that are inside the disposal boundary will be nominated for disposal. That is the intent of the law. That is the plan, and at the appropriate time when that happens, it would be nice if, some years beforehand, we had done the planning so that the infrastructure was there, so there would be an

opportunity for developers to recover their costs as soon as possible. That is important, not because developers' recovery of costs is important in and of itself, but the cost of housing in southern Nevada is a function of lots of things. One of them is that if there are costs that cannot be recovered, they are recovered in the cost of the housing. So, if we can do something that makes it more economical to the development of the infrastructure, that is one way we can influence the cost of housing.

[James Gibson, continued.] I have covered the NCA and the things that we propose to do there. I want to point out to you what the federal government has said about a recent annexation that you may have read about. We proposed and filed notice of intent to annex about 3,600 acres that would take us from our current boundary out toward Las Vegas Boulevard along St. Rose Parkway. This is as far as we would propose to go toward Las Vegas Boulevard. The federal government's response was that they objected to the City's proposed annexation of public lands identified outside the SNPLMA [Southern Nevada Public Lands Management Act of 1998] disposal boundary. They include in that the Sloan Canyon National Conservation Area, which we are willing to not annex if it seems to be the reasonable thing to do, even in light of the other things we are willing to do in the way of infrastructure support for the development of that incredible area.

Our view is that the federal government was given a seat at the table by our law, but they really don't need a seat at the table because it ought not to be their decision who it is that has boundary and jurisdictional authority over the land. It ought to be the State of Nevada that makes that determination. Under our current statute, the BLM has to concur with an annexation notice. They can block our long-term planning and preservation activities because they prevent us from having a permanent and meaningful seat at the table. That is not to say that our friends at Clark County don't confer with us or won't confer with us. We don't mean that. There is an important distinction between having the planning authority over property and conferring with someone else who does.

Each of the governments in southern Nevada is unique in the way they plan and strategize for the growth of their communities, and we would like the opportunity to continue doing what we feel has been well done.

We believe that spreading the cost of the infrastructure financing plan is something that will help us all. There are a couple of things I think are important to point out in the context of the costs associated with development of large tracts of ground or even just any additional land. In our experience, if there is not annexation, the cost of the infrastructure increases by sufficient amounts, so it makes it really important for us to be attentive. It isn't just a matter of who

wants to control it and who should have the power. It is a matter of influencing the cost of development. When costs go up, there is a point of diminishing return. Our concern is that the taxpayer, that eventual homeowner, and the developer realize a kind of return that makes it possible for affordable development to happen. For us, it is to be able to see the development in a way that is meaningful and that works to the strategies we have established. We don't need to see things built for which there isn't need, but that happens when there is an annexation in the way we are proposing.

[James Gibson, continued.] The other element of the letter we received back from the BLM, in response to our notice of the annexation, indicated that we have identified some land within the SNPLMA disposal boundary, and they are willing to not object if Clark County supports the annexation. We feel that their objection ought to be immaterial. What Clark County believes, feels, and wants to plan and work with us on is something that is a different matter. We will work, have always been willing to work, and are anxious to work out issues with Clark County. The reason southern Nevada thrives and the reason that the governments in southern Nevada do such a good job is because we have had a good working relationship among all of the entities, cities, and the county. We are proposing to remove the federal agency from the Nevada annexation process. That is really what we propose. Doing so would allow all of the local entities in southern Nevada to work cooperatively together, to negotiate the way governments do, and to enter into interlocal agreements for annexation and infrastructure in areas that are not yet within the disposal boundary but obviously need to be planned for today. That is what we encourage you to allow us to do.

**Assemblyman Goicoechea:**

I just want to make sure I am clear on this. You are proposing to remove the federal agency out of the annexation process, even though it might be BLM lands that were going to be annexed?

**James Gibson:**

Our objective is to remove them completely from the process. We feel that the planning and the uses on the BLM lands that will eventually be developed over time, whether on a 5-year or 30-year horizon, need to be done in the context of local planning issues and priorities. That is not to say that we have in mind violating federal law or ignoring the environmental or other laws that currently protect a conservation area or other sensitive lands. We don't believe that simply because the federal government owns the land, they have to be dictating how the planning process occurs and who participates in those planning processes.

**Assemblyman Goicoechea:**

I just want to clarify that the BLM manages the land, but they don't really own it.

**Assemblyman Hardy:**

I appreciate the graciousness that the Chairman had in removing Section 1 of A.B. 487. It would be problematic where I live, and I appreciate the acceptance into the record of the amendment ([Exhibit L](#)) that I had distributed to the committee, effectively removing Boulder City from that act. I stand in support of the rest of the bill and the intention that has been explained to us.

**Chris Knight, Director, Office of Administrative Services, City of Las Vegas, Nevada:**

Mayor Gibson has very eloquently put the position of the cities forward in his comments, and we are here to support this bill and to speak in favor of the bill. Our annexation area is a little different from Henderson's in that we are annexing. In our growth areas to the north, we have an agreement for boundaries and land development with Clark County. We have joint land use planning, and we have done major annexations of federal land. We are now in the process of continuing to annex land, but those lands are small 10- or 20-acre parcels. This bill, as proposed, would allow the City of Las Vegas to continue to move forward in that direction in an agreed-upon and well-planned direction. We are fully in support of the bill as it's written.

**Randy Robison, Legislative Advocate, representing the City of Mesquite, Nevada:**

We have similar types of growth issues, although on a much smaller scale than Henderson's. We also deal with the BLM quite a bit. We would be in support of this bill and the flexibility it allows to give us another tool to help us with our growth.

**Pamella Malmstrom, Acting City Clerk, City of Boulder City, Nevada:**

City Manager Vicki Mayes and Mayor Bob Ferraro are in Washington, D.C. today, and they have requested I appear before you representing Boulder City's concerns with portions of A.B. 487. I have submitted a letter, which I believe you have before you ([Exhibit M](#)). I respectfully request that I read the first paragraph:

The City Council of Boulder City voted unanimously at its April 12, 2005, regular City Council meeting to oppose the amended language inserted into Sections 1 and 2 of Assembly Bill 487, regarding deannexation of territory.

With the removal of Section 1, that does alleviate Boulder City's opposition to A.B. 487. I do respectfully request that the reference to Section 1 also be deleted from Section 2.

**Richard Holmes, Assistant County Manager, Clark County, Nevada:**

I am here today to testify in opposition to Section 4 of A.B. 487, which concerns the annexation of land owned by a government entity. It is somewhat unfortunate that we are here today, because we have a good track record in Clark County of resolving annexation issues through interlocal agreements. The most notable was with the City of Henderson—an agreement that lasted from 1999 through early 2005, as Mr. Knight just testified—and a current and ongoing agreement with the City of Las Vegas, which has been very helpful in resolving boundary jurisdictional issues in the northwest part of the valley.

Section 4 of the bill certainly addresses a very important issue: expansions of boundaries of cities through annexation of government land. Our view, however, is that new legislation—and particularly this legislation—is not the best way to accomplish that annexation process.

Clark County agrees with many of the comments made by Mayor Gibson. Those really form a basis for future agreements to renew that agreement that was in place from 1999 through just a few months ago. However, the bill goes very far beyond what Clark County can support. The Mayor is correct. The bill does eliminate the federal participation in the annexation process; however, there is no replacement or filling of a vacuum that mandates in any form the type of coordination and cooperation we feel is essential.

Our discussions with Henderson are ongoing. They are very productive. We have great confidence that we can reach an agreement, and we support the Mayor in those efforts. There certainly is no language in the bill that is before you today that would require any of that to take place.

I have three specific comments on the bill. First, the proposed amendments to NRS 268.597 circumvent the present requirement that the government entity owning the land provide a written statement that it does not object to the proposed annexation. This really is essential information. We think that all residents of southern Nevada should rely on federal land managers in our national recreation areas, national conservation areas, national forests, wilderness areas, wildlife management areas, and other areas of critical environmental concern.

As we read the statute, the primary purpose of allowing cities to annex is to extend urban development. Indeed, even the amendment proposed by the City

of Henderson requires the city to provide municipal services to the annexed territory. However, without the process in place today, the "no objection" statement from the government land manager creates a potential to cause conflicts between the urban expansion of cities and the conservation and management of natural resources by government agencies.

[Richard Holmes, continued.] Allowing cities to annex natural conservation areas and wilderness areas is a significant policy departure from what is in place today. If limited services are needed for some of those areas, we believe those can be worked out through interlocal agreements. I think annexation to provide a first responder or a water supply to a visitor center in a national recreation area does not require annexation. That is something we can work out through an interlocal agreement.

Second, the proposed amendment in Section 4 of the bill gives the annexing city all of the decision making authority on the question of annexing government-owned land. This unilateral authority is contrary to prior legislative actions that have required a collaborative approach to growth and development in southern Nevada. One of those actions was the establishment of the Southern Nevada Regional Coalition in the 1999 Legislature. By removing the requirement of a statement of no objection from the government land manager, this legislation removes the consultation and collaboration that normally takes place among federal estate land managers, the county, and other affected local governments.

My third point, Mr. Chairman, is that the proposed amendments are overly broad. The proposed method of annexation would allow any city in Clark County to annex virtually any undeveloped government land, subject only to a somewhat vague commitment to provide municipal services within a reasonable period of time. A particular concern is that the bill would easily enable annexations outside of identified federal land disposal areas. Again, this unilateral extension of a city to those boundaries and areas that are not planned for disposal or privatization just doesn't make sense. We don't believe that is good policy for southern Nevada.

That concludes my testimony, but I would like to reiterate that Clark County is meeting and continues to meet with the City of Henderson in an effort to work out our agreement. We met as recently as yesterday, and more information and exchange is planned for Monday. We think there is a good basis for agreement. We had in place a boundary planning and public facilities agreement from 1999 through early 2005, and we think that there is a high probability of success. We are confident we can develop a new interlocal agreement that meets the City of



Henderson's present needs without having to change legislation. We can work within the framework of existing legislation on annexation.

**Assemblyman Hardy:**

Did the County Commission come forward with the recommendation that you shared, or is this a staff recommendation? How did this opposition come up?

**Richard Holmes:**

This position is developed by staff in discussion with various entities within the County—groups such as the airport and others that are given federal land management on a daily basis. We have had discussions with individual county commissioners, but this has not been on the board as an action item to take a position on the bill.

**Assemblywoman Kirkpatrick:**

I am quite aware that Henderson did bring this forward, but it does include other cities. I am wondering why they are not included in the discussions. How long have your discussions been taking place? This bill was filed back in March.

**Richard Holmes:**

First, we had a long-standing agreement with Henderson. We were somewhat surprised to see legislation introduced, but the discussions on renewing the interlocal agreement have been in progress for many months. Our board has received presentations and the kinds of maps you have seen today. The needs for Henderson to grow, develop, and expand have been provided in briefings by the Henderson staff for quite some time. There are no new surprises in terms of Henderson's needs and expectations. The only recent development has been this legislation.

**Assemblywoman Kirkpatrick:**

Although this is Henderson's bill, it truly affects the entire Clark County area. Why are the other entities not involved in discussions that you are working on today? So many times we hear about each entity not being part of the discussion, and you are saying they are truly not part of the discussion, but it affects them.

**Richard Holmes:**

As Mr. Knight mentioned on behalf of the City of Las Vegas, we do have an interlocal agreement in place operating today, and by all accounts, both parties are very pleased with the way that it is operating. We continue to meet and monitor our progress and make adjustments, but that agreement is in place and ongoing with the City of Las Vegas.

[Richard Holmes, continued.] The City of North Las Vegas has not approached us, nor have we the city, with any kinds of boundary adjustments. We do not have an interlocal agreement with North Las Vegas, but we are not aware of any issues that relate to our city/county boundaries.

The City of Mesquite, a number of years ago, went through a series of discussions with the County regarding growth and expansion areas. We resolved those discussions without legislation. The City of Mesquite does operate within a Mesquite land act boundary, allowing for substantial expansion of the City of Mesquite. That land act is lined up with the federal land management and is a special act of Congress identifying those expansion boundaries.

**Assemblywoman Kirkpatrick:**

I know we try, as a county regional planning commission, to plan accordingly, but so many times we have county islands. I represent 16 percent of the county islands within the city of Las Vegas. The little county island could be adjacent to ranch estates or commercial, and then we get something totally off the wall that comes forward. It makes me believe that annexation works to get rid of these little county islands. To the north you have ranch estates, to the east you have ranch estates, and to the west you have ranch estates. Now to the south, you have multi-family, thirty units to the acre. How closely do you try to work with the local entities to make sure that we do not have those problems?

**Richard Holmes:**

For the area in the northwest part of the valley, working with the City of Las Vegas is the first time we have ever had a broad comprehensive approach to that question. I am sure you are probably aware that counties don't create county islands. Those are created by the methods of annexation by cities. We are all living with those county islands, and the different development styles that may take place in an island—compared to surrounding city environments—make it very difficult to work with and manage. We have put in place agreements on mutual aid for fire response and other types of ways the services are provided. The basic friction or conflict between long-established unincorporated areas now surrounded by a city development project does inherently create problems for both jurisdictions.

Our agreement with the City of Las Vegas, the northwest, is an attempt to get ahead of that and to deal with areas larger and more comprehensively. We are still living with a number of county islands that are difficult to deal with.

**Assemblyman McCleary:**

I am a little confused on why the staff of Clark County would be coming up here opposing a policy question. With something this important, wouldn't the County Commission itself make a policy statement? Why didn't that happen?

**Richard Holmes:**

I think it is a reflection of the fact that we are optimistic and confident that we can continue our discussions with the City of Henderson and reach an agreement. I think at this point our board has not taken a hard and fast position, as a policy matter, in opposition to this bill. I have outlined a number of factors that we see from the staff perspective after discussions with elected officials, but there has been no vote by our board. Those issues are very real, should this legislation pass.

**Assemblyman McCleary:**

I just find it strange that we have staff coming up here opposing a bill that its policymakers won't even make a statement on.

**Assemblyman Sibley:**

Under what authority are you here to testify today?

**Richard Holmes:**

I am a registered lobbyist with the Nevada Legislature. I have been asked by the County Manager to appear before you and go over these points of testimony. I believe Mayor Gibson started by saying, from their perspective, this was not the last hearing or final hearing he was expecting on A.B. 487. I can tell you that our opposition to the bill is in place. We have taken this view on many pieces of legislation, and not every action by a lobbyist is in front of our Board of County Commissioners as a vote prior to hearings. We are in contact and communication with our elected officials, but again, there has not been a formal vote by the board regarding this bill and many other bills.

**Chairman Parks:**

Mr. Holmes, you have had occasion at commission meetings to at least brief the commission on activities here at the Legislature, as I understand.

**Richard Holmes:**

That is correct, Mr. Chairman. These are reports, and we ask for direction. Again, there is something short of a posted Open Meeting Law action or resolution regarding individual pieces of legislation. In part, bills change and there are modifications, amendments, reprints, and in part, the pace at which the legislative process moves, particularly this week. Our duties as staff are to

keep in touch with the policymakers and to generally reflect to you their sense in regard to issues such as annexation.

**Assemblyman Hardy:**

How would this affect what the county does with the federal government? As I understand, we are looking at an agency of the federal government otherwise known as the BLM. How would this adversely affect the county or the city in having some cooperative agreement with the federal government or its agencies? I am trying to figure out why the contestation.

**Richard Holmes:**

The new subsection (d) of NRS 268.597 does not have any involvement of federal agencies at all, as I can see. There is a process to annex land that is under management by a government entity, but there is no process built into this language for any kind of consultation, cooperation, or communication. If you are one-eighth contiguous to that federal land, a city can proceed with annexation. So one of the points, Dr. Hardy, was what takes place now under the subsection (c), immediately above that new proposal. The federal land manager is asked for a written statement of non-objection if they do not object to annexation of the territory. This new amendment eliminates that provision. Where the county has come in is when the federal land manager—which, as far as we know, is not under any obligation—typically asks the county for a view on certain types of annexation within the disposal boundary already identified, and those are fairly routine. For areas outside of the disposal boundary, they have in the past consulted with the county on those types of annexations.

**Assemblyman Hardy:**

Is there a competition between the county and a city for the land that is potentially disposed and developed?

**Richard Holmes:**

None that I am aware of, because we don't know if there will ever be a movement of the disposal boundary or the creation of a new disposal area in Ivanpah Valley outside of the existing disposal areas identified around the airport location. It's a highly speculative question about whether they would ever be in competition, because there is little indication of that line moving or of a new disposal area being created in another valley.

**Assemblyman Hardy:**

Can I gather from the comments you are making that the county is committed, in a spirit of cooperation, to working with the cities to allow us to get to where we want to in planning? How does the county see all of those wonderful things the City of Henderson has showed us that they do, so that we can have lower

housing costs and affordable housing, the birds, the trees, the trails, the paving, the infrastructure protecting Sloan Canyon, and doing all of those things that we as citizens in the greater Clark County area want to do? Is the county committed to those conversations, which is what I hear you say?

**Richard Holmes:**  
Absolutely.

**Mary Shope, Private Citizen, Boulder City, Nevada:**

I want to go on the record in opposition of A.B. 487 as it originally came from the printer to the Committee, with the deannexation language. I want to thank Assemblyman Hardy for taking out Section 1. I would like to add a modification to that amendment that it also include Section 2, page 2, line 15, where it makes reference to "and Section 1 of this Act," because it would no longer be in Section 1 dealing with any deannexation of land issues.

As the *Boulder City News* stated today, "Boulder City needs someone to fight the bully." Boulder City deserves better treatment than it has received in this fiasco of A.B. 487.

**Joe L. Johnson, Legislative Advocate, representing the Toiyabe Chapter of the Sierra Club:**

We had concerns with the bill and I was in opposition. I think, with the amendments and further discussion, we will go to neutral.

**Terri B. Barber, Director, Intergovernmental Relations, City of Henderson, Nevada:**

I wanted to thank the Committee for accommodating us this morning so that the Mayor, City Manager, City Attorney, and Assistant City Manager could fly in. We thought it was important for them to be here face-to-face to explain our issues, and we thank you for your time and attention.

**Chairman Parks:**

I will close the hearing on A.B. 487 and open the hearing on A.B. 484.

**Assembly Bill 484: Authorizes collective bargaining for certain state employees.  
(BDR 23-1300)**

**Scott MacKenzie, Executive Director, State of Nevada Employees Association (SNEA), American Federation of State, County & Municipal Employees (AFSCME) Local 4041:**

There are two sections to this bill at the outset that I would like to talk about and clarify the intent. Then I would like to go over a brief history that led up to the bill in its current form and show you a 6-minute video that was cut from a 30-minute presentation on public television. We will attempt to explain the bill section by section.

Because of the nature and the controversy of this bill, I think it is really important to clarify what our intent is. Section 25, page 7, clearly states terms and conditions of employment, hours, working conditions, grievances, disciplining, discharge, and any other term or condition of employment that does not require an appropriation from the Legislature to be given effect. We have taken the economics out of this bill. Wages and benefits are no longer a part of this process.

In Section 26, "The Legislature hereby finds and declares that there is a great need to...promote orderly and constructive relations between the State and its employees; and increase efficiency of State Government. It is therefore within the public interest that the Legislature enact provisions granting certain state employees the right to associate with others in organizing and choosing representatives for the purpose of discussing workplace relations..." I think it's really important to be aware of what this bill is about, because this bill has been around in various forms for many years.

The sections that actually deal with our proposal are Sections 14 through 48, inclusive. I want to make clear that this bill was much different from NRS [*Nevada Revised Statutes*] 288, which allows collective bargaining for city and county workers. Those of you who are not aware of the history of collective bargaining within Nevada, let me give you the history so you can understand what we are trying to accomplish.

In 1969, the Legislature passed NRS 288, granting collective bargaining to all city and county workers within the state of Nevada. It was known as the Dodge Act. State employees were purposely excluded from the act. The argument was that if State employees had the right to bargain economically, there would be no control over the budget. The State of Nevada Employees Association has put forth collective bargaining bills in 1973 for the purpose of parity and equal protection. In 1991, a collective bargaining bill passed through both Houses of the Nevada Legislature. Bob Miller vetoed the bill. What is not commonly known about that time is that Bob Miller offered the State of Nevada Employees Association non-economic bargaining. A board of directors met to

address the Governor's offer, with a majority of board members rejecting the non-economic offer at that time.

[Scott MacKenzie, continued.] I asked some old-time members who were on the board at that time why they rejected the Governor's offer of non-economic bargaining. The explanation I received was that the grievance procedure was working satisfactorily at that time, and the desire of the membership was parity with their city and county counterparts who do the same work. Since that time, the average wage within State government has fallen 26.75 percent—with a high of 49.9 percent for peace officers—behind their city and county counterparts. Health insurance has been unstable, with benefits cut and high deductibles. That recently led to budget surpluses and may lead to subsidy cuts, which, in my opinion, will lead to additional problems in the next couple of years. The only way to describe the health insurance experience for our members is "Mr. Toad's wild ride," up and down.

Now, there is a move to remove health insurance subsidies for new hires when they retire. Currently, there are at least seven collective bargaining bill agreements with cities and counties within Nevada that have retired subsidies. There is also legislation to take away the defined benefit for future retirees' pensions. There is no question that this state has become the training ground for cities and counties. Young workers jump at the opportunity to instantly receive raises anywhere from 26 to 49 percent just by changing jobs to a more lucrative city or county collective bargaining agreement. When one considers the cost of training due to turnover rates and the cost of having an older workforce when it comes to health insurance, are we really saving money or just kidding ourselves? Are we creating a system where, slowly but surely, we are losing the institutional knowledge that has run our state?

The question of wages for State workers is now tied to how far behind city and county counterparts are, and what the current turnover rate is. This is the economic reality for State workers, and there is evidence to show direct relationships between raises and turnover rates over the last five years. With all this to deal with, the most disturbing reality for State workers today is the way many State workers are treated on the job.

With the exception of the Department of Corrections, there is currently no meaningful mechanism to discuss workplace relations for Nevada's classified State workers. Two years ago, during the 2003 Session, I tried to explain to the Legislature the problem State workers were having being treated with dignity and respect on the job. At that time, I was new as the Executive Director of SNEA and did not clearly understand what had happened to the system to cause it to be so unjust. I knew, at that time, I didn't like what I saw. During

this time period we received most of our complaints from the Department of Corrections. We met with our members during our annual corrections summit in Tonopah to discuss workplace problems. We found that our members were very disturbed by safety and security issues. There was also a proposal to work shifts based on seniority, rather than on the whim of the shift manager. To our members, this was a very important quality-of-life issue.

[Scott MacKenzie, continued.] We approached the management at every corrections institution throughout the state to discuss the issues. We found that there was a great deal of resistance. It was clear there was a long-standing culture of one-sided discussions. As one warden said about the system, it was "winner-take-all." This simply was completely unacceptable.

We trained our members on how to approach the management workplace issues through the constant constitutional First Amendment rights. We created a struggle between management and corrections workers that lasted just under two years. The end result was a federal lawsuit that ended up with a shift bid based on seniority and a "meet and confer" system to discuss workplace relations. From that point to this point, our relationship between our members and the Department of Corrections has improved dramatically. I would like to publicly thank Jackie Crawford and her efforts and the efforts of former deputy Glen Whorton and the current deputy, [Greg] Cox, in working toward changing the culture that exists within the Department of Corrections to make it what it is today. We would like to show you a brief six-minute video.

[The six-minute video on how the "meet and confer" works with the corrections administration warden and the correctional officers was shown. The video contained anecdotal examples of how correctional officers interacted with their administration. Examples included days off, staff empowerment, increased staff meetings, promoting a better work environment, higher staff morale, and security issues. The video was not submitted as an exhibit.]

This type of culture change needs to take place throughout the state of Nevada regarding all classified employees. We can no longer live with "winner-takes-all." The only way this is going to happen is if this Body passes legislation that will send a clear message—to all State employees and management workers alike—that cooperation is the best way to serve Nevada citizens.

Working out workplace issues among ourselves is what needs to happen. Every time there is an issue in the workplace, having our lawyers fight it out in litigation only hurts everybody involved. If I were to sum it up, I would say that the State having personnel officers and the Attorney General's Office at the



beck and call of the managers creates an environment of “winner-takes-all.” In the private sector, the system is much different, and it makes a lot more sense. The Department of Personnel gets involved in personnel matters and has the power and authority to overrule the manager, if the manager is putting his or her personal feelings ahead of what is best for the company’s interest.

[Scott MacKenzie, continued.] When a manager gets upset with an employee, sometimes they do not see how existing law may be violated by their actions. If there is no one in authority to have them stand down and take a look at the entire ramification to their actions, then the employee and the State pay the price. How many of you have had emails from State employees pleading for your help because they feel they are being treated unfairly? How many of you have had the time to get involved and really find out what is going on? Is the Legislature the correct place for an employee or group of employees to bring their issues, or is that micromanaging? We only ask for the tools to have a voice in the workplace, so justice may be served for the workers whose working lives you have stewardship over by virtue of your elected offices.

We strongly urge you to pass A.B. 484. I gave you some handouts ([Exhibit N](#), [Exhibit O](#), [Exhibit P](#), [Exhibit Q](#), and [Exhibit R](#)). The first one talks about a settlement of wrongful termination suit, ([Exhibit N](#)). Just briefly, that employee testified at an employee-management hearing and the next day received a warning and three months later lost her job. There was no way for us to intervene in the process until it got extremely expensive. We had to spend \$35,000 representing that employee in the current system. If we had “meet and confer” and the ability to communicate with the management, we may have been able to grab a manager and say, “Do you realize this happened the day after she testified in the Employee-Management Committee? Do you realize she is being attacked because somebody’s angry at her?” Do we need to go through this to make this manager who has all the power over the Attorney General’s Office and the Personnel Office? It is abuse at its worst.

We went to the Attorney General’s Office and tried to settle it with her walking away from her job, but they had to destroy her career. They had to ruin it, so she would never have the ability to be a nurse again. They had to punish her. We had no choice but to defend this person at a very costly rate. The amounts of damages she received are not all mentioned in the paper; I think it is more like \$160,000. If you add the attorney’s fees—our attorney’s fees—and you add the settlement fees, this gets quite expensive.

The next article ([Exhibit O](#)) talks about a prison’s suit over guards’ rights. We had nine people put on administrative leave at High Desert State Prison for over one year, and they were paid their salary the entire year. They were the victims

of an illegal EEOC [U.S. Equal Employment Opportunity Commission] investigation that stemmed from the warden in High Desert State Prison, who no longer works for the State. We spent \$120,000 defending those people in court. I am sure you spent that at least. We got 85 percent of our claims back. We got a check for \$94,000. The State pretty much picked up the tab for the whole thing. This is where "meet and confer" came from and where the culture in the Department of Corrections has changed. It is now the best-behaved department in the State and really addresses the issues. However, it took a huge fight and injustices to get to this point.

[Scott MacKenzie, continued.] I hear people saying, "You can't go to arbitration." Arbitration is about \$2,500 for each party. We are talking between \$300,000 and \$400,000 for two cases the State had to pay. This is our system. This is the system that we live under.

**Chairman Parks:**

I would like to ask you to explain what is in A.B. 484 as published on March 28, versus the mockup that you have presented to us, dated April 11. You might simply reference the document ([Exhibit P](#)) that precedes your mockup ([Exhibit Q](#)) and talk a little about that.

**Scott MacKenzie:**

When the bill went through the Legislative Counsel Bureau (LCB) drafting process, there were some things we wanted to clarify. I have a list of what they are, but they were just technical aspects of the bill. For example, we wanted to separate Category 1 peace officers from Category 3, because the Teamsters have an interest in that unit and we didn't want to clash. We are trying to set this bill up so there is as little controversy as possible within the unions that represent different groups. We were trying to accommodate everybody, and some of that didn't come out the way we wanted it to, but we fixed that. I have a handout ([Exhibit R](#)) that goes over all of the amendments and why we wanted to make them. I also have a mockup ([Exhibit Q](#)) that goes section by section and explains each section. I knew this was a lengthy bill, and I wanted you to be able to have it when you left so you could study it.

Essentially, A.B. 484 breaks down the state into bargaining units with people who have common interests, so we can meet with those people and figure out what kind of workplace issues they have. It sets up a type of bargaining—the reason we took offense to the term "collective bargaining" was because when we took the collective bargaining bill into the Senate two years ago, it wasn't even given consideration. We want to make it clear that the economics are out of this bill. This bill is designed so that there are different units, where employee organizations can seek to represent those groups of people if they have

30 percent in signed cards. If there is competition, there would be an election, and if there is a unit where there is no competition and they get over 50 percent, then they would receive the representation. If nobody receives more than 50 percent, then everything stays exactly the way it is right now. It uses the existing system—the employee-management system and hearing officer system—but it adds the ability to meet formally on a regular basis with management. It also has sub-meetings where different smaller groups can meet and discuss issues.

[Scott MacKenzie, continued.] The whole idea is to continue the dialogue. It does set up a bargaining unit—a “meet and confer” unit. There might be some folks who take offense to that, but I think that’s just a matter of representation. Each one of you runs in your own district for office. The people that lose in your districts don’t say, “We need to have another representative in that district to sit next to you, because I was in the minority in your elections and I don’t believe in what you believe.” It does set up that type of a situation.

It calls for mediation. The mediation is free, and then finally, it goes to arbitration if necessary, which would probably cost \$3,000 for each side, and then you split the cost. Keep in mind that no economic issues are being discussed. It’s very unlikely it would go to arbitration. It’s not like we are going for a raise and our members have said, “That’s if we want 5 percent, and arbitration is our hope.” It’s not like that. The arbitration is just there, hanging over everybody’s head, to get us to talk.

**Chairman Parks:**

If you would make those documents available to the Committee Manager so that she may make copies for all the members of the Committee I would appreciate that. I want to go back and reopen the hearing briefly for A.B. 487. I think there were a couple of questions that were not fully covered, and I have asked Mr. [Dan] Musgrove to make a comment.

**Assembly Bill 487: Revises provisions relating to boundaries of cities in certain larger counties. (BDR 21-878)**

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

I understand that there were some questions during the hearing as to why I was not present during the hearing. I wanted to make sure that the Committee understood that it was in deference to your workload and the fact that you have a busy agenda. We made the decision that Assistant County Manager

Rick Holmes, who answers directly to both Thom Reilly and our Board of County Commissioners and who is an expert on this matter, would present the bill. We didn't feel it was necessary for me to come up, and I apologize if that gave a wrong impression to the Committee.

[Dan Musgrove, continued.] I want to also clarify that at the last County Commission meeting, we did a legislative presentation to the board that contains numerous bills. We discussed with the board our position on each of those bills. During that presentation we mentioned the Henderson annexation bill, and County Manager Thom Reilly presented the fact that it would be our position to oppose that bill. The County Commission agreed to the positions we took on all the bills presented that day. It's always been our intent to work this out at a local level and not bring this bill and ask the Legislature to solve problems that we could handle locally.

**Chairman Parks:**

[Chairman Parks recessed the meeting on April 14, 2005, at 11:04 a.m. The meeting was reconvened on April 15, 2005, at 7:12 a.m.] I would like to ask Mr. MacKenzie to come back to the witness stand.

**Assembly Bill 484: Authorizes collective bargaining for certain state employees.  
(BDR 23-1300)**

**Scott MacKenzie, Executive Director, State of Nevada Employees Association (SNEA), American Federation of State, County & Municipal Employees (AFSCME) Local 4041:**

We spent a long day yesterday trying to amend A.B. 484, because there were objections to the language in NRS 288, which is the local government bargaining language. We have amended A.B. 484 to exclude any language that does not have anything to do with workplace relations. The document that you have before you this morning has all relevant language to what we are asking for in this legislation.

**Chairman Parks:**

Mr. MacKenzie, is the section-by-section analysis ([Exhibit P](#)) that you gave us yesterday still relevant, and would that be a good guide to follow?

**Scott MacKenzie:**

Absolutely. As a matter of fact, what I am going to do is just follow that guide with you, because I think that explains it completely.

[Scott MacKenzie, continued.]

- Section 1 provides for executive representation rights by prohibiting withholding for dues for employee or labor organizations other than those duly recognized as exclusive representatives pursuant to the act. Basically, this allows us to have dues deduction.
- Section 2 clarifies agreements reached pursuant to the provisions of the act prevail over State personnel rules. In other words, whatever we agree to in "meet and confer," unless there is an existing law which we will deal with later on in the document, would supersede.
- Sections 3 through 13 were deleted, except for Section 13.5, which, if my interpretation is correct, sets up a new chapter for this language to be in, so it will separate it from NRS 288.
- Section 14 clarifies definitions and clarifies the terms in Sections 15 through 25, inclusive, and of the definitions established therein throughout Sections 14 to 48, inclusive.
- Section 15 defines "arbitration."
- Section 16 defines "employee relations board."
- Section 17 defines "confidential employee."
- Section 18 defines "workplace relations."
- Section 19 is the definition of an "employee."
- Section 20 defines "exclusive representation."
- Section 21 defines "executive department" as the agency, board, bureau, commission, department, division, elected officer, or other unit of State government.
- Section 21.5—that is not in the mockup—talks about grievances and defines grievances.
- Section 22 defines "mediation."
- Section 23 defines "professional employee."
- Section 24 defines "supervisory employee."
- Section 25 is very important. It clarifies what we are able to "meet and confer" over, which are hours, working conditions, grievances, discipline, discharge, and any other term or condition of employment that does not require an appropriation from the Legislature to be given effect. I think that's a very important clause to be aware of.
- Section 25.5 finds workplace relations means "a collection of employees that the Board has established as a workplace relations unit pursuant to Section 32 of the Act."
- Section 26: the Legislature finds it is in the public interest.
- Section 26.3 discusses that the board may make rules governing proceedings before it, procedures of factfinding, the recognition of exclusive representative, determination of workplace relations unit, and

such other rules as are necessary for the Board to carry out its duties pursuant to this chapter.

- Section 26.5: the purpose of deciding hearings and appeals.
- Section 26.7: every hearing in determination of an appeal or complaint by the board is a contested case subject to the provisions of law that govern the administrative decision in judicial review of such cases.
- Section 27: establishment of employee rights.
- Section 28 requires that workplace relations agreements contain a procedure of grievance resolution and a provision for the withholding of dues, and establishes that terms of such agreement shall prevail over regulations issued by executive departments, but that existing state statutes shall prevail over the terms of such agreements.
- Section 29 prohibits the executive department in an employee organization from certain kinds of behavior.
- Section 30 establishes rules and remedies for alleged violations of Section 29.
- Section 31 establishes rules for the board to conduct hearings and limits the basis on which the parties may appeal decisions made by the board.
- Section 32 requires the PERB [Public Employee Relations Board] to establish statewide workplace relation units for the purpose of creating employee organizations and engaging in discussions of workplace relations with the employer. The ten workplace relations units established in the act are defined by occupational groups. This section also provides further guidance for the board in creating units and classifying workers within those units.
- Section 33 requires the board to recognize an employee organization as the exclusive representative for a given workplace relations unit without an election, if said employee organization submits a list demonstrating membership of more than 50 percent of the unit.
- Section 34—rules for representation in decertification elections—requires the board to initiate a representation election when an employee organization submits a list demonstrating membership of more than 30 percent of a workplace relations unit. It also requires the board to initiate a representation election when another employee organization or group of employees submits a list demonstrating that more than 50 percent of the workplace unit has requested a change in or discontinuing of the existing exclusive representation. It limits representation elections to once every 12 months.
- Section 35—regulations governing elections—states that representation election ballots shall include choices for any existing employee organization with exclusive representation rights, any other employee organization having demonstrated their requisite interest, and no

representation. It establishes a runoff procedure if an election with more than two choices does not yield one choice with the majority of the votes passed in the election.

- Section 36 grants PERB authority to conduct representation elections, provides procedures for employees and employee organizations to challenge results, and grants the board the authority to invalidate election results and order a new election based on such a challenge.
- Section 37 establishes a duly recognized exclusive representative to represent all members in a workplace relations unit in grievance proceedings and allows individual unit members to address grievances without assistance from an employee organization, so long as the exclusive representative has the opportunity to attend any meetings related to an individual grievance and so long as the resolution of the grievance is not inconsistent with the terms of an existing workplace relations agreement.
- Section 38 clarifies that an employer may not withhold dues from an employee's salary for an employer organization if another employer organization has been duly recognized by the board as an exclusive representative for the workplace relations unit that employee is a member of.
- Section 39 requires that the parties begin discussions of workplace relations no later than 60 days after either party notifies the other of their desire to begin such discussions.
- Section 40 allows parties to request mediation assistance if no agreement has been reached within 120 days of the initiation of discussion. It also establishes timetables for initiation and resolution discussions with mediation assistance.
- Section 41 establishes a procedure for ending mediation proceedings and requesting arbitration by a neutral third party. It creates rules for the selection of an arbitrator, a timetable for initiation of arbitration proceedings, and also states that the parties shall equally divide the cost of arbitration proceedings. That's different right now. The State pays the costs of all proceedings. In this document, the union is agreeing to pay for half. That might interest some folks.
- Section 42 has the rules for binding arbitration discussions and requires that binding arbitration discussions incorporate the final offer of one of two parties at each separate issue, not allowing the arbitrator to split the difference. It establishes criteria the arbitrator shall use in making a decision in establishing a timetable for completion of the arbitration process. The announcement of a decision by the arbitrator states that the decision of the arbitrator is final and binding to both parties.
- Section 43 is about judicial review and allows either party to seek judicial review of an arbitrator's decision based on limited criteria, including

fraud, pollution, or unsupported evidentiary findings. It also establishes rules and remedies for court review of an arbitrator's decision.

- Section 44 states that provisions of workplace relations agreements do not require legislative action.

[Scott MacKenzie, continued.] The rest of the mockup that we gave you no longer applies.

**Assemblyman Goicoechea:**

We talk about the Public Employee Relations Board under NRS 288.080. Can you walk through that quickly for us? It is Section 16.

**Scott MacKenzie:**

In the past, SNEA tried to establish a separate board for State workers, which had a humongous fiscal note. After review, it was my decision that we should try to figure out how to tie them with the existing board for the purpose of saving resources. The way we are looking at this now, we are not sure how many of these units will actually want this procedure. So, a process has to find out how many of these units will want workplace relations. There is no money involved, and some workers who are in units that have a good working relationship may not be interested in this. We have to figure out how many of these units will actually want the procedure. At that point in time, we would approach the board and talk to them, because hopefully, this would be existing law, and we will have some ability to deal with the board to figure out whether we need to put additional people on the board to deal with the state issues, or whether the existing amount of people that are on the board would satisfy that need.

My understanding is that local bargaining has already had some problems with the board and some of the time limits in the way things are happening. We didn't want to exacerbate that problem. What we wanted to do was open it up, to try to figure out a viable solution. It wouldn't make any sense to address the board and talk to them unless this legislation passes.

**Assemblyman Hardy:**

As I have gone through the document and looked at it, these are my impressions. There is no strike and there is no wage, and according to Section 25, the terms and conditions of employment include limitations that do not require an appropriation from the Legislature. It is a fact that mediation is free and what I call a "critical step" before we do anything. The prison system had the hammer of the court hanging over its head and found that mediation in these kinds of organizational structures allowed for appropriate input and feedback from employees, to the point where the whole work environment was



improved. The arbitrator can actually split a decision instead of ruling one side and for the other. You don't have to join the organization. There is a section that says that if you are a member of another organization, you don't have to pay dues, and even if you are not a member of another organization, you don't have to pay dues.

[Assemblyman Hardy, continued.] Those are my initial observations. The State does split the cost of arbitration. There is a clause to protect elections if there looks like there could be fraud of any kind. Are those all appropriate observations?

**Scott MacKenzie:**

We appreciate your comments, because last session we really tried to listen to what people were saying about State employees and what their concerns are, as well as the different system for State employees as opposed to local employees. We really tried to build a document that would bring consensus, and we hope we have done that. We will find out, but I think that we've tried to listen to folks' concerns about what is in a document like this.

**Assemblywoman Parnell:**

I just want to thank Scott. I carried your arbitration bill for two sessions. It was frustrating because we were trying to save the State money; we were trying to take care of matters before they became so extreme that somebody in the workplace was forced to leave. It looks like you certainly have done it this time. I think those at a lower level in State employment and those in higher management positions would really benefit from looking at the workplace in this manner.

**Assemblyman Grady:**

One point for clarification: under Sections 50 and 52, we no longer will have a local government employees management board; we will now have a Public Employee Relations Board. Is it the same board, but expanded?

**Scott MacKenzie:**

It hasn't expanded at this time, but we probably will expand it. We have hesitated to go forward with that, because we felt we had to see how many of these units would actually do this before we went to the board to figure out what the resources will be. So, chances are we will be back next session to say, "Here's what happened," because there are 16,000 employees in the state, and this is going to take some time to put together. We feel that by next session, we will be coming back and saying, "Here's what the needs of the board are," and "Here's what we all decided would be the remedy to deal with it."

[Scott MacKenzie, continued.] Conceptually, we are thinking that there would be one new spot that might be designated for us, but we haven't really defined that yet, because we feel we need to talk to the board and we need to see how this is received by the employees, because there is no financial gain in it. If you are in a position where you are being treated fairly well at work, there may not be an incentive to want this. I think we will find out where the workplace has been difficult, and those folks will certainly want to join this kind of procedure. So, we're going to see how it shakes out. I think we will be coming back to you next session.

**Assemblyman Grady:**

I would like to go along with my colleague, Ms. Parnell, in saying you have done an awful lot of work in a short amount of time. I congratulate you on the work that you have done.

**Assemblyman Goicoechea:**

On page 7, Section 28 of the mockup ([Exhibit Q](#)), it is my understanding the way it is written here that the employee has to authorize in writing to have any dues. They don't have to belong if they don't want to?

**Scott MacKenzie:**

Absolutely.

**Assemblyman Goicoechea:**

If an employee didn't want to belong to the workplace relations group—if they said no—they still have the right to work and be there?

**Scott MacKenzie:**

That is correct, and under this agreement, we still have to represent them whether they are members or not, whereas currently, we don't have to. The reason we could afford to do that is because arbitration is in here, which is far more affordable with the amount of cases that we are dealing with than what we are dealing with now.

**Chairman Parks:**

We have another bill front of us—A.B. 483—and I am presuming we will take action on it today. I know that in your numerous sections of your bill, you have references to the same language that is in A.B. 483. I would presume that you are in support of the language that's in A.B. 483 to be incorporated into your bill, A.B. 484. Assembly Bill 483 is a bill that Assemblywoman Smith has put forward that, in effect, sets more specific timelines for the arbitration and the arbitration process.

**Scott MacKenzie:**

Yes. That deals with local government, and I am not sure if it is appropriate to be in this bill, but wherever it is appropriate, we agree with the concept of that bill, in terms of what the bill's intentions are for local government.

**Danny L. Thompson, Executive Secretary-Director, Nevada State AFL-CIO:**

That really is a separate issue, because that issue applies to local government.

**Chairman Parks:**

You would not necessarily care that it would be or wish it to be mirrored in this bill?

**Danny Thompson:**

I would just say for the record that I am the "me too" guy, and I represent everyone. On this particular amendment that's been created here—and I was asked to be the one person to come to the table to speak in favor of this amendment on behalf of everyone that is involved—that is really a separate issue because it deals with local government. In this particular case, where the State employees historically have sought out a bill that would allow them to collectively bargain for money, there is no money involved in this bill. This only makes sense.

I can tell you that since the time I have been here, the State has spent untold millions of dollars going to court over shift changes. It just doesn't make any sense for the State. Look at the success of the Department of Corrections. There was a history there that was unbelievable, because people would not bend and ended up in court, and you lose, and then everyone loses. Huge amounts of money have been expended on ridiculous things and this, because there is no money in it, because the money is left to the Legislature, just pertains to the workplace and the rules there.

I think it is in the best interests of everyone that this be passed. I am speaking on behalf of all the other organizations that looked at this amendment ([Exhibit R](#)) yesterday.

**Scott MacKenzie:**

I just wanted to thank the LCB for all of their work yesterday. They did a great job, and I think that this bill is a consolidation of a lot of people's thoughts. It is really important to us that this be a nonpartisan bill. We have really tried to reach out to everyone.

**Chairman Parks:**

Is there anybody in the room who would like to voice opposition?

ASSEMBLYWOMAN PARNELL MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 484.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

**Chairman Parks:**

This meeting is adjourned [at 7:45 a.m.].

RESPECTFULLY SUBMITTED:

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Nancy Haywood  
Recording Secretary

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Paul Partida  
Transcribing Attaché

APPROVED BY:

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Assemblyman David Parks, Chairman

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

## EXHIBITS

**Committee Name:** Committee on Government Affairs

**Date:** April 14, 2005

**Time of Meeting:** 7:50 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
AB 319	B	Assemblywoman Weber	Prepared testimony
AB 319	C	Assemblywoman Weber	Proposed amendment
AB 247	D	Assemblyman Holcomb	Prepared testimony
AB 247	E	Assemblyman Holcomb	Proposed amendment
AB 247	F	Assemblyman Holcomb	Proposed amendment
AB 247	G	Assemblyman Holcomb	Settlement agreement
AB 440	H	Paul Taggart / City of Fernley	Letter from Mayor of Fernley
AB 321	I	Assemblyman Perkins	Pamphlet sample
AB 487	J	Chairman Parks	Letter from William Wadley
AB 487	K	James Gibson / Mayor, City of Henderson	PowerPoint presentation
AB 487	L	Assemblyman Hardy	Proposed amendment
AB 487	M	Pamella Malmstrom / Boulder City	Letter to the Committee
AB 484	N	Scott MacKenzie / SNEA and AFSCME	Wrongful termination suit article
AB 484	O	Scott MacKenzie / SNEA and AFSCME	Article from prison guards' suit
AB 484	P	Scott MacKenzie / SNEA and AFSCME	Section by section summary of bill
AB 484	Q	Scott MacKenzie / SNEA and AFSCME	Proposed mockup of amendment
AB 484	R	Scott MacKenzie / SNEA and AFSCME	Explanation of changes to original version of bill