

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

**Seventy-Third Session
May 16, 2005**

The Committee on Government Affairs was called to order at 8:40 a.m., on Monday, May 16, 2005. Vice Chairwoman Peggy Pierce 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. Kelvin Atkinson
Mr. Chad Christensen
Mr. Jerry D. Claborn
Mr. Pete Goicoechea
Mr. Tom Grady
Mr. Joe Hardy
Mrs. Marilyn Kirkpatrick
Mr. Bob McCleary
Mr. Harvey J. Munford
Ms. Bonnie Parnell
Mr. Scott Sibley

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Steven Horsford, Clark County Senatorial District No. 4

STAFF MEMBERS PRESENT:

Eileen O'Grady, Committee Counsel
Susan Scholley, Committee Policy Analyst

Michael Shafer, Committee Attaché

OTHERS PRESENT:

Bob Shriver, Executive Director, Nevada Commission on Economic Development
Russell Rowe, Legislative Advocate, representing the Nevada Development Authority
John Wagner, Legislative Advocate, representing the Nevada Republican Assembly and the Burke Consortium of Carson City
Sabra Smith-Newby, Legislative Lobbying Team, City of Las Vegas, Nevada
Kimberly McDonald, M.P.A., Special Projects Analyst and Lead Lobbyist, City Manager's Office, City of North Las Vegas, Nevada
Christina Dugan, Director of Government Affairs, Las Vegas Chamber of Commerce, Las Vegas, Nevada
Anne Loring, Legislative Advocate, representing the Washoe County School District
Nicole Lambole, Legislative Relations Manager, Office of the City Manager, City of Reno, Nevada
Joe Henry, Code Enforcement Officer, Code Enforcement Division, Community Development Department, City of Reno, Nevada
Alex Woodley, Manager, Code Enforcement Division, Community Development Department, City of Reno, Nevada
Santana Garcia, Legislative Advocate, City of Henderson, Nevada
Lieutenant Stan Olsen, Executive Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department, Las Vegas, Nevada; and Legislative Advocate, representing the Nevada Sheriffs' and Chiefs' Association
Dan Musgrove, Director of Intergovernmental Relations, Office of the County Manager, Clark County, Nevada
Major General Giles Vanderhoof, Adjutant General, Nevada National Guard
P. Forrest "Woody" Thorne, Executive Officer, Nevada Public Employees' Benefits Program
Gary Wolff, Business Agent, International Brotherhood of Teamsters Local No. 14, Las Vegas, Nevada
James T. Richardson, Director, Judicial Studies Program, University of Nevada, Reno; and Legislative Advocate, representing the Nevada Faculty Alliance
Roger Maillard, President, State of Nevada Employees Association/American Federation of State, County, and Municipal Employees Local 4041, Retiree Chapter

Martin Bibb, Legislative Advocate, representing Retired Public Employees of Nevada

Danny Coyle, Legislative Advocate, representing the State of Nevada Employees Association/American Federation of State, County, and Municipal Employees Local 4041, Retiree Chapter

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

Frank Page, Private Citizen, Carson City, Nevada

Nancy Howard, Assistant Executive Director, Nevada League of Cities and Municipalities

Chairman Parks:

[Meeting called to order and roll called.] The first bill up will be S.B. 229.

Senate Bill 229 (1st Reprint): Creates certain tax incentives for economic development. (BDR 21-910)

Senator Steven Horsford, Clark County Senatorial District No. 4:

I would like to just quickly go through a presentation ([Exhibit B](#)) to give you an overview of how the programs currently work and how we're proposing to change them in S.B. 229. As this Committee is well aware, we have the existing Commission on Economic Development (CED) and incentive programs throughout the State of Nevada. The primary focus of these programs is for diversification of industry and businesses that we've been trying to attract to our state and to certain cities. They have been very successful, and I have nothing but praise for the efforts of the Commission and the local development authorities.

The incentive programs currently in place are primarily for industries in manufacturing, warehousing, distribution, and back office operations, as well as attraction for corporate headquarters, specifically in research and development. These are areas that really bring high-paying, highly skilled jobs to the state of Nevada. If these types of industries are identified, they are able to apply for abatement of sales and use taxes, deferral of sales and use taxes, or the abatement of personal property taxes.

The way the program works now, to apply for property tax abatement, a company's average hourly wage must equal or exceed 100 percent of the average wage established by DETR [Nevada Department of Employment,

Training and Rehabilitation], which, for FY2004, was \$15.89. The company must have a minimum of 75 full-time permanent jobs in counties with a population over 60,000 or 15 jobs in counties below 60,000. If a company wants to expand, it must increase its labor pool by 10 percent or 6 employees, whichever is greater. In addition, for the sales and use tax deferral, there is a qualification for companies to provide medical insurance, which we all know is important. They must have 10 permanent jobs in Nevada, at least meet the 80 percent statewide average of \$15.89, and have put in at least a minimum capital investment of \$100,000.

[Senator Horsford, continued.] Requirements for the tax abatement are similar to those for the deferral, but in populations over 60,000, a company must also meet the threshold of 75 full-time jobs, or 15 jobs in counties with populations under 60,000. There must be a minimum of \$1 million investment in counties with a population over 60,000, or \$250,000 investment in counties under populations under 60,000. As you all know, there is the 2 percent tax that must be maintained, so all but 2 percent of the tax could be abated if the application were approved by the Commission on Economic Development.

In addition to the criteria established by the Commission on Economic Development, S.B. 229 would provide for economic development programs to be administered specifically in the following geographic boundaries:

- The Southern Nevada Enterprise Community, which is located in Clark County. It was a designation approved by HUD [United States Department of Housing and Urban Development] in 1998. It is a community that is designated based upon the poverty level in that area and the inability to attract certain types of business to that community.
- The other area is the Community Development Block Grant (CDBG). In any area in the state that qualifies under a Community Development Block Grant, if a business wants to locate in that area based upon that designation, they would be able to apply for these types of incentives. This helps rural communities as well as urban blighted communities throughout our state.
- Finally, there is the historically underserved business area as defined in Section 2 of the bill, and that is the designation that the Commission on Economic Development utilizes now.

Why are we proposing S.B. 229? In addition to all of the successful programs that the Commission already administers, there are a number of small businesses that cannot meet that \$250,000 or \$1 million threshold of

investment in order to qualify for incentives. In ten other states that I've researched, there are programs that model those proposed in S.B. 229 based upon geographic areas. Essentially, what we are proposing to do for these specific designated areas is lower the threshold that businesses will need to meet in order to qualify for these types of incentives or even meet the criteria to apply. By doing this, the following will occur: we will create jobs in these areas, we will develop economic growth in underserved communities, and entrepreneurship and expansion will occur. That is exactly what I think needs to occur in these communities.

[Senator Horsford, continued.] Why is S.B. 229 needed? Currently, there are underserved communities facing many obstacles that prevent economic development and growth, including high poverty levels, high unemployment, and low economic investment. When you combine all of these factors into small areas that are affected within this bill, you can't attract residential development. You can't attract commercial development, which affects the quality of life in those communities, as well as education, health care, and it just goes on and on from there. When you don't have investment in a community, essentially the community begins to die.

Case in point: the Southern Nevada Enterprise Community, which is partly in Senate District 4, is a designation approved by the federal government more than ten years ago. It includes ten census tracts encompassing five neighborhoods in two cities and unincorporated Clark County. It's a large area, with over 51,000 residents. It covers nearly ten square miles and has 33.3 percent of its population living below the poverty line. Forty-one percent of the residents within the Southern Nevada Enterprise Community are African-American and 28 percent are Hispanic—a very large minority population.

The need for S.B. 229 is clear. First, we need to attract large or small businesses to locate, relocate, or expand within the Southern Nevada Enterprise Community or other communities like it in the State of Nevada. The criteria for small businesses to meet currently are just too difficult, especially in underserved communities. You don't see small businesses or any businesses investing \$1 million to locate in these types of communities. It's just not happening. The economic incentive plans we have in our state aren't helping the communities that need it most.

For businesses that meet all of the other criteria for the Commission on Economic Development and who are located in one of the underserved boundaries that I've outlined in S.B. 229, the following is how they would qualify:

- The bill would lower the required capital investment from \$1 million to \$500,000 if they want an abatement of their taxes, and to \$250,000 if it's for a simple deferral.
- It would lower the average wage of placement from the statewide average—which is \$15.89—to 100 percent of poverty, which is currently \$9.39.
- It would still maintain the requirement for medical coverage.
- Finally, it would allow the sponsorship of the applicant by the local municipality to the Commission on Economic Development.

[Senator Horsford, continued.] For example, in Assemblyman Hardy's district, if a business wanted to locate or expand, it would go to the City of Boulder City and ask for support. The City would review that application based upon economic development needs and whether or not that business met those criteria. If it did, that application would be sponsored by that city to the Commission on Economic Development, at which time they would review all of the information in the application and make a determination on whether or not to grant the incentive.

There's also an employment provision within the bill that goes to the higher levels of unemployment that typically exist within these areas as compared to the rest of the state. As this Committee is aware, Nevada currently has an unemployment rate of 3.9 percent, one of the lowest in its history and throughout the country. Unfortunately, in some of these communities, the unemployment level is at least twice the state's unemployment level. Again, you have to ask the question: why?

It's because there aren't businesses located in those communities where people can live and work right in their communities. So, there's an employment provision that according to the 2000 Census data, the unemployment rate at that time was 6.6 percent. For Hispanic residents, it was 8.8 percent, a full 2 percent higher, and among African-American residents, the rate was 11.5 percent, an astonishing 4.9 percent higher. Again, this is census data for the entire state. When you look at the census data for the specific areas that I'm speaking about in the bill, the unemployment rates are even higher.

There is also a provision in this bill that deals with the retail pilot provision. Currently, the industrial development plan approved by the Commission on Economic Development actually only allows certain types of industries to apply for or be granted all of these incentives. Retail is one of the industries that is really not allowed to apply for these incentives, because it's thought that retailers do not contribute to the economic diversification in our state. In one community that I represent, we do not have a grocery store within a five-mile

radius for the residents of that community. They have to go five miles in order to buy their groceries or get their prescriptions filled. So, there is a provision in the bill that encourages the Commission on Economic Development to prioritize any applications for a retail grocery store that is located within the Southern Nevada Enterprise Community, and it provides up to \$1 million in abatements or deferrals for this purpose.

[Senator Horsford, continued.] The overall goals of S.B. 229 are clear. We want the same economic development growth that has occurred in most parts of our state to benefit some of the underserved communities in our state. By adopting this bill, the following will be achieved: we will create jobs and lower unemployment, we will attract private capital to underserved communities, and we will encourage entrepreneurship and small business expansion. With those provisions, I would ask for this Committee's support. [Distributed [Exhibit C.](#)]

Assemblyman Goicoechea:

I need a little clarification. Will the sales and use tax deferral be on the sales tax, the building, the property, or the sales tax that would normally be collected from the consumer?

Bob Shriver, Executive Director, Nevada Commission on Economic Development:

The sales and use tax abatement is for capital equipment purchased by the company for its operation. We do not provide incentives for construction material, the purchase of land, or anything like that. It would be strictly on the capital equipment used by the company in the process. Back office may be computer equipment as it relates to its business core, et cetera. That's currently the definition.

Assemblyman Grady:

Is there a definition in statute that addresses underserved communities?

Bob Shriver:

The definition is of "historically underutilized," which is a federal designation used by the Small Business Administration (SBA), and which is cited on pages 1, 2, 3, and 4 of this bill. There are several rural communities that can apply for that. That brings in more rural communities. The enterprise zone only exists in southern Nevada. There is only one enterprise community. The rest could be if the cities or counties decide that a redevelopment area leads to this sort of thing. That certainly is a rural prerogative, as is the HUB [historically underutilized business] zone.

Assemblywoman Kirkpatrick:

If we started the process today to apply for this grant, how long do you think it would take local governments to implement this? Sometimes it's very cumbersome and not worth the wait.

Senator Horsford:

Because the programs already exist and the provisions in the bill would just require the Commission to develop additional regulations to carry out these specific provisions, the big role that local government will play will merely be in sponsoring the applicant to come forward. In my opinion, this bill is going to have to be pushed by the local Latino, Asian, and urban chambers of commerce in these communities, as well as the Las Vegas Chamber of Commerce, in order to get the word out to businesses that the rules of the game have changed a bit. If you want to locate or expand within these specific boundaries, these are the new qualifications. Based upon that information getting out, there will be significant interest from businesses.

There are businesses in communities that we represent that want to expand and are putting \$250,000, \$300,000, or \$400,000 of capital investment into that expansion, but can't qualify for these existing programs because the benchmark is too high. Why aren't we giving the same incentives to small businesses who want to locate or expand as we are to business or industry that is larger and typically out-of-state? I support trying to attract those larger businesses, and I think we can continue it, but I also think we need to support the small businesses here in Nevada.

Assemblyman Munford:

Senator Horsford, your district overlaps my district, so I can echo everything you've presented. I think you've done an outstanding job and articulated it very well. You answered my questions when you answered Mrs. Kirkpatrick's. I wanted to know what the vehicle would be that would really reach these various companies or businesses and try to stimulate and inspire them. I know about the abatement and all of those things that serve that purpose, but how do you get them by the hand and say, "Do this. Come over here. Do something for this area or district"?

The platform I ran on was economic development. In my district, there has been an ongoing problem with all the things that have been mentioned by Senator Horsford and me. I want to work in any way I can with Senator Horsford and any of the agencies in our district, such as the Las Vegas Chamber of Commerce, to assist us.

[Assemblyman Munford, continued.] The last comment Senator Horsford made in his presentation about the grocery store was extremely critical. Every time I go home—every weekend—the number one concern I hear from my constituents is the grocery store. What are we going to do; we need one so desperately. It's almost a sin not to have one. There was a time when we did have one, but that was a long time ago. I support this wholeheartedly, and I just hope we can get some positive results. Senator Horsford, I thank you and your assistants for presenting this to the Committee.

Assemblyman Hardy:

I suspect we have statistics on small business and how many employees we have in small business versus big business in this state. I suspect that if we look at those things and what that percentage is, we'll find that when we look at economic recovery, we should be looking at small business. I love this bill.

Bob Shriver:

Yes. As a matter of fact, the majority of employment in Nevada is with companies having fewer than 100 employees, which we list as small businesses. The SBA lists small businesses as those having fewer than 400 employees, but we consider that a large business here. It is probably over 90 percent, maybe as high as 95 percent. We think this bill will reach out to that area that is being underserved economically. We think Senator Horsford came up with a great plan and certainly, as mentioned by others, the marketing of it.

This touches three municipal governments—Clark County, the City of North Las Vegas, and Las Vegas—who have active economic development operations as well. They're going to get a boost there, too. We get a lot of inquiries from outside the state as well. We're going to get inquiries from NDA [Nevada Development Authority] as well. It's going to be an interesting process, something that about which we're very hopeful.

Assemblyman Goicoechea:

To qualify for a CDBG, a community has to be 51 percent senior or slum and blighted. What are the other criteria?

Bob Shriver:

I don't remember all the federal requirements either. What we've done is try to limit the area. Historically, our abatement program has been, in a sense, discriminatory to only those businesses that we feel can repay the abatement program in a quick manner. We usually do that through wages. We also, in this case, have used federal criteria—one of them being a CDBG—which certainly again brings in a rural element if they choose to go that way.

[Bob Shriver, continued.] There are certain areas of HUB zones within the rural areas, which, in your case, might work. For example, Caliente, in Lincoln County, has three active businesses located in a HUB zone that are purchasing managers for the Nevada Test Site. It's strictly a mom-and-pop operation using computer systems, but they're bringing new dollars into Caliente that would never have been there without that designation. Of course, there are also the redevelopment areas that local governments establish. The only exception is the Southern Nevada Enterprise Zone, which limits it.

Assemblyman Goicoechea:

What qualifies something as a historically underserved business area?

Bob Shriver:

It primarily has to do with an employment number, with SBA startups and business failures. They look statistically at that. It's usually drawn over a period of time, so it generally impacts those small areas. It's almost like a census tract zone of where there have been some business failures. They feel that if they can incentivize business to locate there, using their resources at the federal level, they will help entice businesses. It gives you a leg up in federal contracting, and that's very important.

Assemblyman Goicoechea:

Where would a business or an entity go to put this together to have it declared?

Bob Shriver:

That is compiled by the Small Business Administration at the federal level.

Assemblyman Parks:

Senator Horsford, on your page of the provisions of S.B. 229, you talked about lowering the average wage of placement from the statewide average to 100 percent of poverty, which is currently \$9.31. You also made some comment about benefits. Could you repeat that?

Senator Horsford:

My comment was that the current average, which is one of the criteria used to determine one of the criteria for determination, is \$15.89. Because of the specific challenges of the boundaries outlined in this bill, I'm proposing that this be set utilizing 100 percent of poverty, which is used in other programs. There is a provision that would require that the applicant also provide medical insurance to its employees. So, while the wage would be lowered, we would still be encouraging businesses that provide medical benefits and want to ensure that the other needs—I'm finding it now on page 6, subsection (d): "The

business employs one or more dislocated workers who resides in the Enterprise Community, and pays such employee or employees a wage of not less than 100 percent of the federally-designated level of poverty for a family of four and provides medical benefits to the employee or employees and his or her dependents." That's the provision in that section.

Assemblyman Parks:

Is that lines 12 through 15? [Senator Horsford responded in the affirmative.]

Bob Shriver:

The medical benefit provision is a requirement of the Commission on Economic Development incentive program, and we wanted to keep that in place. We think that is probably the most crucial element in this. If we're going to lower the wage a little bit, that's fine, but one of the greatest expenses we have right now is handling employee benefits. We agreed that this is one area where we should not compromise.

Assemblyman Hardy:

On that very issue of medical benefits, I don't see it defined here in the statute other than "...provides medical benefits." One of the challenges we have now is pre-existing conditions. How does that relate? If a person gets a job and has a pre-existing condition and doesn't qualify for private insurance provided by the company, do we now fire that person from the job? What provisions do we have for that?

Bob Shriver:

That's an excellent question. Right now, the Commission, as a precondition to approval, understands that they must cover the employee when they're moving their company or expanding their company in Nevada. The idea here would be to work to find groupings. I know there are efforts at chamber of commerce membership groupings. Things like that probably need to be expanded or at least relayed to these people. When you're looking at a retail operation, they more than likely will have that. They run into that on a regular basis and offer it.

It's a good question. It's one of those things that we expect them to do. We audit their application within two years of the application through the Department of Taxation. They look for that, and so far, we've had compliance on that. We've had other issues with companies. We've had a very good track record with compliance in our abatement program, and the benefits have not been an issue. Most good companies understand that they need to distinguish themselves as the employer of choice. One of the keys to that is having a good medical benefit program for the employees. That retains employees, and the good companies know that and take advantage of that.

Assemblyman Hardy:

We really haven't solved my question. I notice that we provide medical benefits to the employee and his or her dependents. Is that an increase in the coverage in the Economic Commission?

Bob Shriver:

That's an "and" or an "or"; they may. Right now, we don't require it. We say that it would be nice if they did offer it. We would look more kindly on the application if they did, but it's not a requirement. First of all, we do want them to cover the employee. If they happen to have a cafeteria-style plan that would help pay for a portion of the cost for their dependents, we'd like that. If they actually even cover the dependents, which is an extremely expensive proposition, that's even better. That's what we look for.

Assemblyman Hardy:

So, this bill would require the small business to not only cover the employees, but also their dependents? That would be in the application that would be required?

Bob Shriver:

Actually, it's "...or the employees and dependents." There are two options there.

Assemblyman Hardy:

I'm looking at line 15 of the bill, and I don't see the "or." It may be somewhere, but I don't see it.

Bob Shriver:

On that, it says, "...to the employee or employees and his or their dependents." We look at it as an option for the company. It's not a requirement that they do it for their dependents.

Assemblyman Hardy:

I'm reading that totally different from you then. I'm looking at, "to the employee or employees." If I read it, it says, "to the employee and his dependents." You're reading it as "employee or employees and his or their dependents." I'm reading it in English differently than you're reading it in English. I need some clarification there, even if it's to change it to say, "...to the employee and/or his dependents and employees and/or their dependents." Am I just reading it differently?

Bob Shriver:

If we need to clarify that, that's fine. We can come up with a way to satisfy that.

Assemblyman Hardy:

So, there should be an "or" there. I need to ask the sponsor that question.

Senator Horsford:

Because we're lowering the wage, I would not feel comfortable with it being "or." At \$9.39 an hour average wage, I think you should provide benefits to the employees and their dependents if they have them. That's what I would ask for the intent of that section of the bill. If there is greater flexibility on the other provisions, okay. However, because we're giving on the wage, I would like to maintain the medical benefit.

Assemblyman Hardy:

I appreciate the clarification. I think that is a reasonable thing. That is legislative intent, reading it the same way that I do.

Russell Rowe, Legislative Advocate, representing the Nevada Development Authority (NDA):

We're in strong support of this legislation. To put it frankly, it's a hard sell in some of these areas for the NDA. The way the statutes are currently structured, it actually provides a disincentive for the NDA to get involved in these areas because of the higher thresholds that are required to get the incentives and the abatement programs. When we bring companies in, all other things being equal, it's just unlikely they're going to go into these areas without other provisions in the statutes to provide additional incentives for them to come in. We think this is very good legislation, and it will give us the opportunity to bring more companies into these areas. We request you support this as well.

John Wagner, Legislative Advocate, representing the Nevada Republican Assembly and the Burke Consortium of Carson City:

We feel that anything that we can do to help the less fortunate in our communities is a help to all of us. If one of us hurts, I think all of us are hurting. This is a great way to do it. Some of the communities may lose a little bit of money temporarily, but they're going to give a benefit to these people who are unemployed. They're now going to be employed. It's going to help the community. The tax rate may be cut, but with more money coming in, the tax benefits would be the same. I agree one hundred percent with this bill.

Sabra Smith-Newby, Legislative Lobbying Team, City of Las Vegas, Nevada:

We are also in strong support of S.B. 229. One of the primary focuses of our council, and one of the priorities they've adopted, is to revitalize and invigorate mature areas. Clearly this bill speaks to that goal, so we rise in support.

Kimberly McDonald, M.P.A., Special Projects Analyst and Lead Lobbyist, City Manager's Office, City of North Las Vegas, Nevada:

We did support this bill in the other House, and we are very strongly in support of it. We certainly feel that it will help our efforts for innovation in our redevelopment area and for revitalization.

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

We represent about 6,800 members, roughly 80 percent of whom have 20 or fewer employees. One of the things that took place during our candidate interviews was that Senator Horsford shared with us the startling unemployment figures of his district. We are very pleased to see that he is moving forward to provide incentives to the business community to come forward and do something about that. We are very supportive of his bill.

Speaking to the questions of Assemblyman Munford and Assemblywoman Kirkpatrick, we would certainly be willing to at least publicize this innovation with respect to our membership, to encourage them to move into some of these areas, through our various business publications, email, and other communications that we have. Again, we are very supportive of this bill and want to sincerely commend Senator Horsford for bringing it forward.

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

As you know, with other bills, we have shared with you concerns whenever the school district's revenue may be impacted. But, in this kind of situation, these are much shorter-term abatements. What we would just like to acknowledge on the record and thank Senator Horsford for is that in his bill, he has sections where school districts are notified when these issues are coming forward and given a chance to have input, should there be some input of significance that school districts need to share. We would just like to recognize and thank him for his obvious keeping of concern about school districts and their funding in the forefront, even in admirable efforts such as this. We just wanted to formally thank him on the record.

Vice Chairwoman Pierce:

Is there anyone else who would like to speak on S.B. 229? We'll close the hearing on S.B. 229. Is there anybody here to present S.B. 52?

Senate Bill 52 (1st Reprint): Revises provisions relating to adoption and enforcement of certain ordinances by local governments. (BDR 14-369)

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

While this bill does have Senator Townsend's name on it, he was the introducer of the bill on behalf of the City of Reno as we were looking at our bill draft requests last spring. Senate Bill 52 is actually an extension of many abatement and nuisance statutes that exist, and it has four components to it. I'm going to turn it over to my colleagues from code enforcement to talk to you more about the specifics of this legislation, why we feel it's necessary, and what it would enable our code enforcement officers to do.

Joe Henry, Code Enforcement Officer, Code Enforcement Division, Community Development Department, City of Reno, Nevada:

[Distributed [Exhibit D.](#)] Code enforcement is a growing field in the entire country, including Nevada. The first consideration we wanted the bill to take on was the ability to issue misdemeanor citations. When we first started in code enforcement about seven years ago, we didn't issue misdemeanor citations. When you look at NRS [*Nevada Revised Statutes*] 171, the Legislature has occupied that with specific titles. Currently, our city attorney's office informed us that we cannot issue misdemeanor citations unless it is under that specific title.

Code enforcement officers do housing code inspections, zoning enforcement, and nuisance abatement. This legislation will go ahead and add that anyone charged with the enforcement of city ordinances has that ability. We have administrative processes in place where we would go through an administrative process first, which gives all sorts of appeal rights to an individual, before we move to the step of misdemeanor citation. Misdemeanor citation is the last step we would use when no other abatements would work.

The next section we are proposing is to increase the amount of civil liability the city can issue instead of a criminal citation for a violation of the code. Working through the Senate, it was changed to being able to issue a civil fine of up to \$1,000 per day only on commercial properties. When you're dealing with major corporations and talking about nuisance abatements or zoning violations, a \$500 a day fine is almost the cost of doing business. It does not really prevent them from doing something if it's beneficial to their business.

[Joe Henry, continued.] By increasing the amount of that fine, we would at least be able to get a bigger hammer to get them to come to compliance. In the state of California, civil liability that code enforcement uses goes up to a maximum of \$25,000 per day. When you're dealing with a zoning violation or some other type of violation, you do get their attention with a fine of that magnitude.

The next part of this bill clears up some language and makes it consistent with the other two sections. Basically, NRS 268.4122 was the first part of the legislation for nuisance abatement. Then, we added chronic nuisance and then the abatement of abandoned nuisances. What we're trying to do is get the language consistent in all three sections, so that there is clarity.

The last part of this bill deals with towing vehicles off public property. The way the law is currently written, you have to have a police officer to sign that. What we have are parking enforcement people. They go around and tag the vehicle, but before that vehicle can actually be removed from the street, you have to have a police officer come out and sign that. What we're trying to do is get that changed so that a code enforcement officer can actually go ahead and remove those abandoned vehicles.

Assemblyman Goicoechea:

Section 4 does give me a little bit of heartburn about the ability of a code enforcement officer being able to have a vehicle towed. As I understand it, that would be either from public property or at the request of a private property owner.

Joe Henry:

Right now, we do have the ability to tow off private property at the request of a citizen. For many years, we did go through, actually tagged abandoned and junked vehicles, and got them off the street on public property. Once we found out there was a section that actually stated we couldn't do it, that has changed.

Assemblyman Goicoechea:

Typically, this code enforcement officer wouldn't necessary have to be POST [Peace Officer Standards and Training] certified. He could be a building inspector, the way I read this.

Nicole Lamboley:

If you're listed under that statute right now, yes, you can remove an abandoned car. You can wait for the tow company. All this would allow us to do would be to have a code enforcement officer or someone charged to remove that vehicle. This Body supported a similar measure that originated in this House and expanded the authority as well, because this has been such an issue with law

enforcement having to sit around waiting for a tow company to come. I can provide you with a letter from our police department saying that they were very supportive of that and would have liked to see it change. It just gives an option to the removal of the vehicles.

Assemblyman Goicoechea:

I believe that particular bill allowed a police officer to designate someone to stay at the scene or allow for the tow.

Assemblyman Hardy:

I have probably the same concerns. It seems to me that the police sometimes are there to protect the code enforcement officer. I don't think code enforcement officers are armed. When you start towing people's vehicles, and they happen to come up on you, there's usually somebody that's mad.

Alex Woodley, Manager, Code Enforcement Division, Community Development Department, City of Reno, Nevada:

You are correct. We're not armed. Once again, I would like to emphasize they are to address junked and abandoned vehicles which meet a certain criteria—missing numerous parts on that vehicle. It is very less likely that we will be contacted by an individual. For the most part, staff is out in the field for an area such as Las Vegas or the city of Reno, which are pretty big. Staff can be out in the field addressing other issues, and at that time, they identify the vehicle in the street as something completely stripped and burned. There are concerns for the safety of the children in the neighborhood who can get access to the vehicle, and we want to have the ability to address that situation right then and there, as opposed to having to contact the police department and wait.

Assemblywoman Kirkpatrick:

Isn't there a process that you have to go through? You wouldn't just be driving by and decide to tow the vehicle. Don't you first have to cite them, and then after a couple of times, they have to go to court; it's just not driving down the street and saying, "I think I'll take that junker out." Right? There's a process?

Alex Woodley:

Yes, there is a process. There isn't really a necessity for a court, but there is a process of posting the vehicle as such, providing the owner of the vehicle ample time—48 to 72 hours—with the ability to remove that vehicle. It is posted in a conspicuous manner; it's a very bright, fluorescent orange with a big sticker on it.

Assemblywoman Parnell:

On page 4, where it talks about the definition of "garbage," it says if the county board of health has a definition of garbage, then that's what you would abide by. What if they don't? Is there a stipulation there about going back to see if there's a definition elsewhere if it's not in county?

Alex Woodley:

Yes. Initially, this was implemented at the request of the county because they wanted to make sure we didn't have conflicting definitions of "garbage" when the city does have a definition of it. We have adopted this in our code. We've implemented this portion so that we would coincide with their definition of garbage. If, in fact, we didn't have a definition by the county, then we would use our own definition.

Santana Garcia, Legislative Advocate, City of Henderson, Nevada:

I just wanted to go on record with our full support for S.B. 52. We believe it complements our own bill with the City of Henderson, S.B. 424, which this Committee processed last week.

**Kimberly McDonald, M.P.A., Special Projects Analyst and Lead Lobbyist,
City Manager's Office, City of North Las Vegas, Nevada:**

We're very much in strong support of S.B. 52 for the reasons stated by the previous testifiers.

Sabra Smith-Newby, Legislative Lobbying Team, City of Las Vegas, Nevada:

We also are in support of S.B. 52 for some of the reasons listed previously and also in support of one of our city council's main priorities, revitalizing and reinvigorating mature neighborhoods.

Vice Chairwoman Pierce:

Is there anyone else who would like to speak on S.B. 52? I will close the hearing on S.B. 52 and open the hearing on S.B. 380.

Senate Bill 380 (1st Reprint): Makes various changes relating to homeland security. (BDR 19-611)

Lieutenant Stan Olsen, Executive Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department, Las Vegas, Nevada; and Legislative Advocate, representing the Nevada Sheriffs' and Chiefs' Association:

I have been involved in coordinating the efforts behind S.B. 380 and another Assembly bill that is now in the other House, which is exactly the same as the original S.B. 380. To bring the Committee up to speed, there was a working group put together at the direction of Mr. Parks on the other piece of legislation that moved through the House. Several amendments were submitted to make the two bills match. S.B. 380 was missing a couple of portions that did get into the other piece of legislation that did move through the House, and I would like to offer amendments ([Exhibit E](#)) to make S.B. 380 match A.B. 233.

The document before you ([Exhibit E](#)) has some amendments that I'll walk through. The first one would be on page 4, Section 7, subsection 2 of S.B. 380, line 18. The terminology on line 18 is "investigation in this state." After the word "state," it should be amended to read "as a voting member." The intent behind this is that the special agent in charge of the Nevada office of the Federal Bureau of Investigation would be a Commission member and have voting privileges.

The next amendment would be page 4, Section 7, subsection 2, line 21. It ends with the word "designated," and with the amendment, after the word "designated," it would state, "for this state as a voting number." In A.B. 233, this position also is a voting position. This is a new position as outlined by the Department of Homeland Security.

The third amendment to S.B. 380 would be in Section 8, subsection 1, line 7. After the wording "without limitation," we would add, "airports other than international." This is in A.B. 233. The purpose behind this is that federal regulations cover the international airports, and there have been times when the state homeland security law has conflicted with federal law. Again, this piece is in A.B. 233, but it did not make it into S.B. 380, because at the time the issue came out, S.B. 380 had already passed from its committee. With your permission, Dan Musgrove from Clark County has some cleanup that ties into that same amendment.

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

I just wanted to bring this to your attention because it's similar. We've passed out another amendment ([Exhibit F](#)) that just relates to a different section of law, NRS 239C.090. At the top of page 4 of the bill, we would actually add a new section, Section 7, and then renumber the rest of the bill going forward,

because it fits right there between Section 6 and Section 7 of the existing bill, S.B. 380. Again, we're just fitting into the bill the same language talking about the restricted documents, and it's just "airport other than an international airport."

[Dan Musgrove, continued.] Again, this relates to requirements we have both federally, as well as with the state. It relates to the financial impact of having to deal with restrictions of a restricted document as put forth in both A.B. 233 and S.B. 380. This would essentially clean it up. Once the bills came together, this was an area that neither bill had addressed. We thought it would be important to go ahead and put it into this bill. In conference, when the two bills are melded together, this section would be a part of both bills. We're just trying to be consistent throughout the bill as it deals with international airports.

Assemblyman Sibley:

On the restricted documents, how are we going to do RFPs [requests for proposal] for an addition to a school or some other construction project if the blueprints are restricted? How are we going to know what we're bidding on as a contractor?

Stan Olsen:

If I understood the question, construction of schools, add-ons, or things of that nature are already covered in the bill. Existing language was done two years ago. When an architect or a contractor needs to have access to blueprints of government buildings or other properties that would normally be a little more restrictive, they can apply for and get those documents for purposes of add-ons, construction, repairs, or anything like that.

Assemblyman Sibley:

The problem I have with it is that as part of our request for proposal, we are required to deposit these plans, with the construction notebook, at several bid depository companies in Las Vegas, and we have to make it available to the public so that they can bid on this project. I just have a concern that I don't want us to be caught in a situation where we can't put these jobs out to bid.

Stan Olsen:

This was discussed at length in the last legislative session when the first homeland security bill was developed, and the interested parties that would deal with the issues Mr. Sibley is discussing here were there and said that the way the wording is currently in law would allow them to do that.

Assemblyman Sibley:

If it's okay with them, it's okay with me.

Stan Olsen:

I would like to put on the record that two years ago, and again now, it is not our intent to prevent any of that from happening as Mr. Sibley described. That was an important aspect that was taken into consideration. We took it into consideration again this time by not wanting to amend any of the language in there. So, it didn't change anyone's abilities.

Assemblyman Grady:

Stan, would you go back to your amendments on page 4, Section 7, and clarify for us exactly who you are looking at as voting members?

Stan Olsen:

Every appointed member or designated member of the Commission that's listed here would be a voting member. There could be ex officio members. They're not discussed here; that's at the call of the chair. Going back to Section 7, all the positions that are listed in S.B. 380 would be voting members. The sheriff of each county that has a population over 100,000 would be a voting member. The county fire chief would be a voting member. The special agent in charge of the office of the Federal Bureau of Investigation would be a voting member, and the newly appointed representative of Homeland Security would be a voting member. The member from the medical community of a county of 400,000 or greater would be a voting member, and then there are five additional positions—for a total of fourteen—the Governor can appoint as he sees fit, who would also be voting members.

The final amendment for Section 13 is actually a significant amount of new language that is not in S.B. 380, but is in A.B. 233. It creates the Office of Economic Development of the Security Industry, and it's out of the Governor's Office. There are a number of universities and private businesses throughout the nation that, through an economic development office, can break in testing technology grants. A lot of universities have them where they can do work for the private sector or with the private sector to develop new technologies in specific areas. This would be specific to the security of the homeland-type industry. It was a late entry into A.B. 233. Again, S.B. 380 had already been passed out of the Committee by the time this one came up. This would be a great advantage to the state on a lot of different levels. Therefore, we are submitting this amendment.

Vice Chairwoman Pierce:

Stan, there's an appropriation in A.B. 233 that isn't in here.

Stan Olsen:

That is to cover the Office of Economic Development. This would put a fiscal note on S.B. 380, and for information for the Committee, that portion of A.B. 233 on the funding already has been heard, and I honestly don't know if it passed out of Committee or not.

Vice Chairwoman Pierce:

We're wondering why that appropriation is not in the language on the amendment.

Stan Olsen:

When we put the amendment into A.B. 233, I did not do the fiscal note. I think LCB [Legislative Counsel Bureau] found that there would be a fiscal note related to it, and they put a fiscal note on it. If you would like, we can submit the same exact fiscal note based on what LCB put into A.B. 233. I will have that for the Committee today. According to my notes, A.B. 233 is still in Ways and Means.

Major General Giles Vanderhoof, Adjutant General, Nevada National Guard:

I just would like to very briefly echo what Stan Olsen has told you. I can tell you that I am in support of all the amendments that he has made, as are Dr. [Dale] Carrison, the commission chairman, and the Governor's Office. I think these are important. When A.B. 233 and S.B. 380 come together, if we have these amendments in there, the state will be well-served, so I would encourage your support.

Stan Olsen:

To advise the Committee also, the working group that was put together consisted of representation from the Governor's Office, members of the Legislature, members of the private sector, members of the Department of Homeland Security, General Vanderhoof, and members of various local government entities, such as the county representatives, rural representatives, law enforcement, firefighters, the ACLU [American Civil Liberties Union]—there were a significant number of people involved.

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

I would just like to point out one clarification: Section 7 talks about the members of the Commission, and subsection 2(b) refers to the chief of the county fire commission in a county whose population is 100,000 or more. Washoe County contracts with the Reno Fire Department for fire services, so the Reno Fire Chief is the county fire chief. I just want it clearly on the record that that's the way it exists. That way, if the contractual relationship should

change as we move forward, then obviously the law, as it is written, would stand.

Vice Chairwoman Pierce:

Is there anyone who would like to speak on S.B. 380? Seeing no one, I will close the hearing on S.B. 380 and open the hearing on S.B. 479.

Senate Bill 479: Makes various changes to provisions governing Public Employees' Benefits Program. (BDR 23-609)

Vice Chairwoman Pierce:

On May 10, a subcommittee met on this bill. Susan Scholley will go through the report of the subcommittee.

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

[Summarized from [Exhibit G](#).] Senate Bill 479 relates to the Public Employees' Benefits Program (PEBP) and makes two minor administrative changes: one relating to the effective date of insurance and the second changing the entity that will be notified by retirees reinstating coverage. A more substantive change is in Section 4 of the bill, which would prevent the reentry of a member of an opt-out group, which may be permitted to leave under NRS [*Nevada Revised Statutes*] 287.0479. The subcommittee members present at the meeting were Chairwoman Pierce, Assemblywoman Parnell, and Assemblyman Grady. Several other legislators were present, notably Mr. Carpenter, Mr. Goicoechea, Mr. Hardy, Mrs. Koivisto, Ms. McClain, and Mr. Parks. During the hearing, the subcommittee received testimony from Woody Thorne, Executive Director of PEBP [Public Employees' Benefits Program]; Gary Wolff, Teamsters Local 14; Ron Dreher, Peace Officers Research Association; Danny Coyle, AFSCME [American Federation of State, County and Municipal Employees] retiree chapter; Jim Richardson, NFA [Nevada Faculty Alliance]; and Marty Bibb, Retired Public Employees of Nevada.

Several amendments were proposed at the subcommittee hearing. Assemblyman Grady proposed amendments that would require an opt-out group to include its retirees—that is, take its retirees with it if they decided to leave. Second, Assemblyman Grady proposed amendments that would allow reentry of a group that left back into PEBP if the group was to lose its insurance due to insolvency or other reasons. Further, it would allow reentry for an individual if a member changed his or her job and was no longer employed by the entity that left them.

[Susan Scholley, continued.] The subcommittee also proposed five additional changes to the bill. First, it would limit the amount of any annual increase in the rates for premiums or contributions for participants in PEBP to not more than the percentage increase for medical care health insurance for the immediately proceeding calendar year. It's important to note that this simply wouldn't be the Consumer Price Index (CPI) increase, but this would be specifically keyed to an index from health insurance. Second, it would create an account in the Rainy Day Fund that would exceed the reserves that PEBP is authorized to maintain and would provide for the use of the money in that account for programs that benefit active and retired public officers and retirees. Third, it would require the PEBP board to comply with the same provisions as other insurers who are regulated by the Commissioner of Insurance. Fourth, it would prohibit PEBP from commingling with claims experience with persons who have a primary coverage with PEBP with persons whom PEBP provides secondary coverage, such as Medicare retirees. Fifth, it would require PEBP to present its rates to IFC [Interim Finance Committee] prior to the PEBP board approving those rates.

The subcommittee voted unanimously to recommend that the Assembly Committee on Government Affairs amend and do pass the above seven amendments to S.B. 479. The subcommittee also recommended that the Assembly Committee on Government Affairs send a message to the A.C.R. 10 Subcommittee chaired by Assemblywoman Chris Giunchigliani, asking them to meet regularly and to provide substantive recommendations to the Legislature. Finally, the subcommittee recommended that the amendments prepared by Gary Wolff and attached to the subcommittee report be included in the Work Session Document presented to the Committee.

Vice Chairwoman Pierce:

Mr. Thorne, would you like to come forward and comment?

P. Forrest "Woody" Thorne, Executive Officer, Nevada Public Employees' Benefits Program:

We had commented in the subcommittee discussion of these potential amendments. A couple of things I need to point out to the Committee: as to the amount of limiting the annual increase in rate to a designated index, you have to consider that the increase in price inflation for medical cost is only one component of trend. For example, the trend we're using for 2006 to 2007 is 15.5 percent. The medical inflation component of CPI has been running 4.3 percent. As you can see, there is a considerable disparity. Utilization is a much bigger driver of the overall costs to the program for claims. If you limit the increase in overall rates we could charge to that amount, you have the potential to cripple the program. If it is a limit on the amount you can charge to

participants, then you need to avoid the same problem, although to a lesser extent. You're going to need some requirement that the State fill the gap. If you do that, then you'll need a fiscal note on the bill.

[Woody Thorne, continued.] As far as creating an account in the Rainy Day Fund, you have an issue where, in order to meet the requirements of OMB [U.S. Office of Management and Budget] Circular A-87, you would have to repay a portion of that to the federal government before you could put the balance into the Rainy Day Fund. So what you would have is a situation where you'd be putting away only a General Fund portion of the additional reserves into the Rainy Day Fund for a future need. When that future need comes along, you're requiring the General Fund to pick up the entire tab instead of being able to assess the federal government for its fair share. As far as prohibiting the commingling of claims experience for Medicare retirees, that issue has been addressed by the Joint Subcommittee on General Government for the Senate Committee on Finance and the Assembly Committee on Ways and Means. It was in their motion for closing our budget, so this may be duplicative.

In making the program subject to the insurance statutes, there are a couple of issues to be dealt with. One, you will be treating the PEBP self-funded program as entirely different from any other public or private self-funded program in the state. That applies to local entities as well as the private sector. In addition, you have an issue of premium tax, which would be a requirement if you brought us under those statutes. There are issues with all of those that we have gone through.

As to Mr. Grady's proposed amendment, based on the clarification he gave at the session, we're fine with that. There are also a couple of issues that were raised at the original hearing that I'd like to address. There was an indication that dealing with the opt-out group, as we proposed in our amendment and the original bill, was punitive. We don't believe so, because unlike an HMO [health maintenance organization], for example, which offers a part of the program, the opt-out group is choosing to leave and no longer be a part of the program. Therefore, returns should not be allowed unless—as proposed by Mr. Grady's amendment—through regulation dealing with catastrophic events, change-of-position type, and at the discretion of the board. There's also a comment having to do with the July 1, 2005, effective date as being prohibitive. In fact, that's enabling, because any group that was looking to apply based on our regulations must have that application in by the end of September. This will clarify what they are applying for and when it is due.

Vice Chairwoman Pierce:

Could you explain what you said about the index in more detail—the difference between the four points and the fifteen points on the two indexes?

Woody Thorne:

There are several components of a trend when you look at increase in cost. One of those was price inflation, the cost of the services. The second and largest component is utilization by the participants in whatever program it is. They're actually using more services; therefore, the costs of the program go up.

Another component is technology. Technological advancements in the medical field are happening at a rapid clip, whether the new technology is for a surgical procedure, implants, or prescription drugs. Those, especially in the early stages, are very high cost, and the more of those that come into play, the more there are utilized. That's the third important factor for the difference. Does that help?

Vice Chairwoman Pierce:

So, the actual health care index that was referenced only deals with inflation?

Woody Thorne:

That's correct. Just like the CPI only deals with inflation in the price component of goods rather than how people are using those, you have the same effect. The medical component works the same way, just with a price increase.

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

As you know, I passed out a letter to you, Mr. Parks, and Mr. Grady, referring to Section 5. In the original amendment, we had put in "...subject to a judicial review." The reason we believe it's very strong to have some mechanism in place is for accountability of any entity that's appointed in state government, so we don't have to deal with things every two years and come in here, jump up and down, and do a lot of things. The amendment I gave to you was Terry Johnson's suggestion from the PEBP board: instead of "a judicial review," put "an appeal before the State Hearing Officer."

The document I gave to you said Section 4. Maybe that should be expanded to any part of the section with the retirees, so if there are any disputes—even among their groups with PEBP—they would have the opportunity to request a hearing before a hearing officer. For our purposes, it is Section 4, and the reason, as I explained before, is that they have "may" instead of "must" in this system, and now they want to lock out the group once it leaves.

[Gary Wolff, continued.] I disagree with Mr. Thorne that it's any different from an HMO, because they have absolutely no control over the HMO. Once the people are into the HMO, the HMO is a private organization. They have to pay the bills. Mr. Thorne has testified to this before hearings. Once you're in an HMO, they don't have control. They can disapprove of it in the next go around, I agree, but that would be true when this group was first enacted in 1999. What I thought this group was going to do was be put in place as a regulatory board, not a board that would violate the provisions under the regular law.

That's just a comment I would like to make. I think it's imperative that you put something in the system that holds people accountable, because if you don't, then it just goes on and on and on.

James T. Richardson, Director, Judicial Studies Program, University of Nevada, Reno; and Legislative Advocate, representing the Nevada Faculty Alliance:

I would like to testify in support of Mr. Grady's amendments. I think they're reasonable, and I would encourage the Committee to adopt them. In terms of the other suggestions that Assemblywoman Parnell offered, I have a few comments to make. I've talked to a number of people about these amendments, and I appreciate the sentiment behind them, but some of them may have some problems that need to be addressed.

Mr. Thorne has just testified about the problem with the index. If the first amendment is used in some form, I think you'll need some kind of combined index or something of that nature to take care of the problem that he pointed out, because we certainly don't want the plan to go bankrupt due to our good intentions to stabilize rates. On the second amendment about the surplus monies being put in a Rainy Day Fund, I think it's pretty clear we can't pull a fast one on the feds. It would be nice, given the volatility of this system over the last several years, to have an extra chunk of change somewhere.

You might want to consider explicitly writing into the legislation—perhaps, in this bill—that if the fund got into trouble, it could access the Interim Finance Committee (IFC). Any budget that gets General Fund dollars can theoretically go to the IFC if they get into any difficulty, and it might be something to consider as a backup. It would be interesting to ask Legal if that kind of provision would attract the attention of the feds. They could end up saying, "You can't do that, either," but it's worth considering. I think if the plan got into difficulty in an off year, the IFC could be a place for them to go for help.

In terms of the Commissioner of Insurance, I don't understand all of the implications of that. If you did pursue that, I would think you'd certainly want to

include a provision that any premium tax would be waived because of the nature of this plan and its uniqueness. It would be one public body paying another, in a sense. I don't know that the premium tax is now. Someone said 3.5 percent, and if we tax 3.5 percent on top of the cost of this plan, then you're either costing the General Fund more or having to cut benefits. So, if you did pursue that, and I think there are some in the audience who may wish to testify in favor of that, I would urge that you at least consider a provision waiving the premium tax.

[James Richardson, continued.] The fourth one has been taken care of. It may be an example of being careful what you wish for, because some of us were urging that commingling be handled in the future as it is now—that is, commingling on dental, vision, and pharmaceuticals, but not on other parts of the plan. I believe that the two money committees passed a budget built on the provision that no commingling at all will occur. The Medicare folks would be totally out and on their own because they are a smaller group and therefore potentially subject to dramatic increases in rates. Chairman Beers and Assemblywoman McClain did talk, as the budget closed, about the fact that right now, the rates will be lower as of July 1, in terms of the new rate structure that Mr. Thorne presented. In the future, they could change fairly rapidly in the wrong direction.

The last comment I would make has to do with the IFC and the reporting of rates. There is a complaint about people not seeing rate changes in an adequate time frame to do anything about them or to comment. That may be a case of a lot of us being asleep at the switch or busy with other things at the time this has to happen, so I'll accept some responsibility myself in that regard.

The intent here is that we have more transparency and more people aware of what's going on. I was pleased at the way this was written up, and I assume it was Assemblywoman Parnell's intent that the suggestion is not that the IFC would have to approve the rates, but that they would be reported to them. It's a time when legislators like yourselves, the two money committees, would have rates reported to them. If a problem developed or they thought some change was not justified, then they could comment to that effect, but you are still, according to the way this is worded, leaving your authority with the PEBP board. Even though you know I've complained about some things they've done, I personally think that's best. If we can have more transparency, that's good, but I would not say we should take rate-setting authority away from the PEBP board.

Roger Maillard, President, State of Nevada Employees Association/American Federation of State, County, and Municipal Employees Local 4041, Retiree Chapter:

I have to agree with just about everything Mr. Richardson said, but I want to get back to the complying with the regulations of the Insurance Division. I have here in front of me a litany of things that have transpired in the last three or four years that would not have been allowable if they had come under the Insurance Division regulations.

Because it's something brand new, I haven't added it to this, but I'll give you an example of something that happened late last week. At a budget meeting that was announced by the PEBP staff—the Executive Director—when we're talking about commingling, the definition of a Medicare retiree has changed. Up until that point, it was a person who had Part B of Medicare. Now, by some unregulated method, they've changed that to where you have to have both Parts A and B. What they've basically done is disenfranchise 250 to 300 retirees. Those are the kinds of issues that I'm concerned about. We need some oversight, and we just don't have it. Thank you very much.

Martin Bibb, Legislative Advocate, representing Retired Public Employees of Nevada:

I would agree that those amendments that Mr. Grady submitted seem to have merit and should be, in our view, considered for this measure. Relative to Item 1 that was contained in Ms. Parnell's recommendations to be developed into an amendment, I think, as Mr. Richardson said, that there may be a little work that's needed, because there is a difference between usage and CPI. Somehow, if those two could be put together, the intention is what it should be. That is to try to have some vehicle to prevent things from escalating to a point where they have in the past, which has provided a great deal of instability for the plan.

Relative to the issue on the Rainy Day Fund, I know there are some regulations, which affect that, that we have to comply with. Although I don't know the precise cite, as I understand it, there are some exceptions for plans that have had a great deal of volatility. There may be some flexibility in terms of reserving for the future based on the condition the plans have been through in the past. This is the type of thing I would suppose that, working with a Committee and working with plan managers, et cetera, perhaps we could find if there are some exceptions, because of past performance, that might permit some additional reserving.

As for the commingling that Mr. Richardson spoke about, we share that view that there are some things that might be commingled as they currently are, because they are the things for which Medicare is not primary, necessarily

dental, vision, and pharmaceutical. That may still need some work. I know the issue was brought up in the money committee, although I don't believe that's the way they passed that motion—relative to the commingling issue that may well land in this Committee's purview or their own—but I think there may still be at least some discussion on that.

[Martin Bibb, continued.] I think that the reporting to IFC in some other fashion, to find a way to be involved with the users of the plan, and those with a vested interest—necessarily the Legislature and the groups and individuals who comprise the makeup of the plan—would be very helpful. It would be extremely helpful, in light of the complexity of this plan and the fact that some of their agendas are 400 pages long, to see if there could be some involvement prior to the assembling of those detailed agendas and, perhaps, some input people could have prior to their assembly and recommendation.

We plan, along with some others, to submit some brief talking points for the future that we would hope, during the interim—through A.C.R. 10 of the 72nd Legislative Session or some other vehicle—might be used to try to truly make this plan more responsive to those in the plan by anticipating what is out there in the future. Quite frankly, the plan's great peaks and valleys have created huge challenges for the Legislature, as well as those in the plan.

We have one concern regarding the Part A Medicare retirees, which Mr. Maillard addressed. Some Part A Medicare retirees, simply because they worked all their careers in public service, do not have Medicare Part A. As we understand it, under the rate relief recommended by the money committees, they won't be able to benefit to the same degree that folks who have both Medicare Part A and Part B will. We hope to be able to work with the Legislature, the committees, and the plan managers to see if there might be some way those retirees might be involved in benefiting from some rate reduction.

Danny Coyle, Legislative Advocate, representing the State of Nevada Employees Association/American Federation of State, County, and Municipal Employees Local 4041, Retiree Chapter:

I concur with the comments made by Mr. Maillard, Mr. Bibb, and Dr. Richardson. However, I have a couple of unresolved issues left regarding the Insurance Commissioner and the indexes. With that in mind, I would like to wait and see what the Legislative Counsel Bureau's read is on this. They have the onerous task of looking to see what's proscribed and what's allowable under existing federal statutes and then putting this thing into legislative language. Also, I just had a chance to look at Assemblyman Grady's amendments to the bill, and I can see no problem with them. I don't think the association will have any objections to them.

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

When I signed in in opposition to this bill, I hadn't seen the mockup of what the Committee had done. The main issue I had on the bill has been taken care of with Assemblyman Grady's amendment. I appreciate it, and I would be in favor of the bill.

Frank Page, Private Citizen, Carson City, Nevada:

I merely wanted to bring up some of the things that Marty Bibb and Roger Maillard had talked about. I sat in a meeting the other day—on Thursday—at a teleconference to the PEBP board. Out of the blue—the board has not approved this—you must have both Part A and Part B in order to receive the Medicare rate. That was never brought up before; it's a whole new thing. It's rather hard to comment on some of this when it just comes out of the blue. Where the board has not approved this, I don't believe this is the way the board should operate. The board should approve recommendations to come up.

What I have here from Public Employees' Benefits says that if you're over 65, you must pick up Part B. That's the way it's been for years. I've testified before different groups, where people have said that if you don't have Part B when you're 65, the State insurance will not pay. This is a fact. Unfortunately, I'm in that 220 to 260 group, which I don't quite understand with the fluctuation, but I feel this is the wrong time to be doing this. I made the mistake of retiring in January of 1987 after 35 years. I think that coming back and changing horses in the middle of the stream at this time is an unfair thing to do.

Nancy Howard, Assistant Director, Nevada League of Cities and Municipalities:

This bill does not directly impact local government. However, I think there are a few areas where it does. Local governments do participate in the nonstate employee category. I believe that the commingling portion of this amendment, the whole conversation surrounding this, would also impact them. We are in support of the prohibition on the commingling in there to assist in getting those rates down for Medicare-eligible retirees.

As to the Commissioner of Insurance, I agree with the previous statement regarding the premium tax. If you bring this in under, there is the possibility that you would be paying the insurance premium tax there, and you certainly wouldn't want to do that. We agree with that.

Those are the only comments we had. We've been following this issue very closely, as this impacts local governments and continues to do so. We'd be happy to work with you or answer any questions you have.

Vice Chairwoman Pierce:

Are there any other comments? I'll close the hearing on S.B. 479. [Stan Olsen entered and distributed [Exhibit H.](#)] There is no other business before the Committee. We will adjourn [at 10:51 a.m.].

RESPECTFULLY SUBMITTED:

Mary Garcia
Transcribing Attaché

APPROVED BY:

Assemblyman David Parks, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: May 16, 2005

Time of Meeting: 8:30 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
SB 229	B	Senator Steven Horsford	PowerPoint presentation
SB 229	C	Senator Steven Horsford	Letter from Bob Shriver supporting the bill
SB 52	D	Alex Woodley, Code Enforcement Manager, City of Reno, Nevada	NRS excerpts
SB 380	E	Stan Olsen, LVMPD	Proposed amendment
SB 380	F	Dan Musgrove, Clark County, Nevada	Proposed amendment
SB 479	G	Susan Scholley, Committee Policy Analyst	Subcommittee report
SB 380	H	Stan Olsen, LVMPD	Proposed amendment