

**MINUTES OF THE  
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-third Session  
March 2, 2005**

The Senate Committee on Government Affairs was called to order by Chair Warren B. Hardy II at 2:02 p.m. on Wednesday, March 2, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Warren B. Hardy II, Chair  
Senator Sandra J. Tiffany, Vice Chair  
Senator William J. Raggio  
Senator Randolph J. Townsend  
Senator Dina Titus  
Senator Terry Care  
Senator John Lee

**STAFF MEMBERS PRESENT:**

Tonya Cort, Committee Secretary  
Kim Guinasso, Committee Counsel  
Michael Stewart, Committee Policy Analyst  
Susan Hult, Committee Secretary

**OTHERS PRESENT:**

Kathy Augustine, State Controller  
Christi Thompson, Chief Accountant, Debt Collection, Office of the State Controller  
Kathryn A. Besser, Assistant Treasurer, Office of the State Treasurer  
James Wadhams, Nevada Rural Electric Association; Silver State Power Association  
Delmar Leatham, General Manager, Overton Power District #5  
Carole Vilardo, Nevada Taxpayers Association  
James E. Bentley, General Manager, Indian Hills General Improvement District

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William R. Uffelman, Chief Executive Officer, Nevada Bankers Association  
Mendy Elliott, Senior Vice President, State Government Relations Director, Wells  
Fargo Bank  
Fred L. Hillerby, South Truckee Meadows General Improvement District; Sun  
Valley General Improvement District  
Wayne Carlson, Nevada Public Agency Insurance Pool; Public Agency  
Compensation Trust  
Richard Jost, Overton Power District #5  
Sean Gamble, Incline Village General Improvement District  
Nancy J. Howard, Assistant Executive Director, Nevada League of Cities and  
Municipalities

CHAIR HARDY:

We will open the hearing on Senate Bill (S.B.) 112.

**SENATE BILL 112**: Requires State Controller to apply fee for returned checks to  
other methods of payment that are returned or dishonored. (BDR 31-164)

KATHY AUGUSTINE (State Controller):

I come before you today on S.B. 112 to provide a brief overview of the State  
Controller's Office request for an expansion of *Nevada Revised Statutes*  
(NRS) 353C.115, which allows State agencies to charge a \$25 non-sufficient  
funds fee on returned checks ([Exhibit C](#)).

CHRISTI THOMPSON (Chief Accountant, Debt Collection, Office of the State  
Controller):

As the State Controller stated, we are here today to seek an expansion of  
NRS 353C.115 to allow State agencies to add a non-sufficient funds fee to any  
returned method of payment. ([Exhibit D](#)).

CHAIR HARDY:

We will close the hearing on S.B. 112 and open the hearing on S.B. 113.

**SENATE BILL 113**: Revises various provisions relating to Office of State  
Treasurer. (BDR 18-579)

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KATHRYN A. BESSER (Assistant Treasurer, Office of the State Treasurer):  
Senate Bill 113 is the Treasurer's housekeeping bill. It makes two title changes. It changes the Assistant Treasurer's title to Chief of Staff in order to more accurately reflect the duties I have taken on, and it changes the title of the Director of Millennium Scholarship Program to Deputy of the Millennium Scholarship Program as she is the only director, among the staff, who holds the same level as the rest of the deputies. The other change this bill makes is any agencies and State officers are now required to make any deposit that is less than \$10,000 on Thursday. The Department of Corrections has asked if they can make their deposit prior to Thursday.

CHAIR HARDY:  
The name to Chief of Staff is in lieu of a raise, is that correct?

MS. BESSER:  
No, that is not correct. It would also come with an \$8,000 raise.

CHAIR HARDY:  
How about the Deputy of the Millennium Scholarship Program?

MS. BESSER:  
The salary of the Deputy would stay the same.

SENATOR RAGGIO:  
The raise issue would have to go to fiscal.

KIM GUINASSO (Committee Counsel):  
It was our understanding when we drafted this bill, and the reason why it does not have a fiscal note, that the name change is merely a change in title. The budget provides the raise.

CHAIR HARDY:  
Then, we will not need to hold S.B. 113 up for a fiscal note.

SENATOR LEE:  
Is the Director of the Millennium Scholarship Program a full-time job?

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MS. BESSER:

The Director of the Millennium Scholarship Program has always been a full-time position. Susan Moore is in charge of administering the program for the State Treasurer and oversees a staff of three. All S.B. 113 does for her is a title change.

SENATOR LEE:

Now that we have struck the Assistant Treasurer title, who is, basically, the Assistant Treasurer?

MS. BESSER:

I would be, as Chief of Staff.

SENATOR LEE:

So, the Chief of Staff is now the Assistant Treasurer.

MS. BESSER:

That is correct.

SENATOR HARDY:

We will close the hearing on S.B. 113 and open the hearing on S.B. 67.

SENATE BILL 67: Authorizes general improvement district to file petition in bankruptcy pursuant to the Federal Bankruptcy Act and clarifies status of general improvement district as municipality. (BDR 25-880)

CHAIR HARDY:

This bill first came forward as S.B. No. 225 of the 72nd Session. There was an issue Overton Power District was involved in, and it was resolved. I feel it is important we now have a policy discussion on this issue. Senate Bill 67 allows us to have a policy discussion on the wisdom of this concept.

JAMES WADHAMS (Nevada Rural Electric Association; Silver State Power Association)

That preliminary description sets the stage for what I need to explain. This is not a bill to solve a particular problem. The historical issue that brought to light

the problem has been resolved. It had to do with the power manipulation that was going on in the marketplace several years ago.

CHAIR HARDY:

That was the reason we did not feel comfortable going forward with this bill last Session, because there was litigation involved and we did not want to change the circumstances midstream. Now that this has been resolved, it is time to have a policy discussion.

MR. WADHAMS:

This sets the stage for what Mr. Leatham can explain a little bit clearer, perhaps, from his specific end of the organization. Although, this is set up to refer to NRS 318 entities, it needs to be considered in a broader light of all local governments. In the problem that presented itself under the federal bankruptcy law, there was clearly provision for municipalities; I will use the municipality phrase, so I do not have use all the variations, for municipalities to access the bankruptcy court for either liquidation or for reorganization. The more common United States Code chapters on bankruptcy we are aware of are Chapter 11 for business reorganization, Chapter 13 for individuals, under which we can reorganize our debt as opposed to Chapter 7, which is the liquidation chapter. The issue here is the difference between Chapter 7, which avoids responsibility, versus Chapter 9, which addresses debt in an orderly and responsible fashion.

What happened that brought the issue to the attention of this Committee last Session involved a judgment creditor. Without arguing the merits of the lawsuit, the vendor of power obtained a judgment in an Idaho court. If enforced by a sheriff's sale in Nevada, the judgment would have done two things. First, the judgment was so large, it simply transferred the ownership of that power facility to the judgment debtor. Secondly, in that process, others with interests, both secured and unsecured, could have been completely preempted from asserting their interests.

This raises the beneficial effect of being able to access Chapter 9 in bankruptcy for an orderly process in addressing debt. This is what I really think the legal status is. Nevada does not allow this. The bankruptcy act requires that in order to access that facility, you must have specific statutory authority to do so. This

really is the policy question: What is to happen when we have some counties and some municipalities in distress? How can this be dealt with? In the case we had several years ago, there was a judgment debtor who literally could have obliterated any other interests that might have been in that facility. Chapter 318 of NRS is really a form of government. The power district in Overton has an elected board that sets the policies and sets the rates; it is a form of municipal activity.

DELMAR LEATHAM (General Manager, Overton Power District #5):

I was the manager of administrative services during the legal proceedings that attended this bill coming before you. That suit was settled and never had a court resolution. In the proceedings, and rightly so, it was determined that Overton was not a municipality but rather a quasi-municipality, calling into question the manner in which it would file for insolvency and restructure its debt. There was never an intent or desire to avoid that responsibility. We settled with Idaho Power Company of IDACORP, Inc. We do not have any immediate need for debt restructuring through an insolvency issue, but the underlying need for this still remains. While this bill was originally drafted specifically to meet the needs of Overton Power and NRS 318 entities, as Mr. Wadhams points out, it may be more important to address it as a policy for all municipalities within the State of Nevada. That said, we would be more than happy to see it passed in its current form; I do not know if everyone in the State would feel this way. We bring this issue back to the front because the underlying groundwork or problems still exist and have not been addressed. Some other entity may face this same problem in the near future.

Overton Power is a general improvement district (GID). We have an elected board that deals with the issues, answers to the consumers of the power district, and this works very well. There was not a viable method under Chapter 7; if they had come in and done a liquidation by taking the transformers, the line trucks, the buildings and the power poles, I suppose the casinos in Mesquite could have gone with lamplight. It is not a viable option for an entity like Overton Power to face that kind of bankruptcy. The issue that remains is how do you go through an orderly restructuring of debt?

SENATOR CARE:

I do remember the bill from the 72nd Session. Mr. Leatham, you said the matter was resolved particular to Overton Power. When you say it is resolved, with no outstanding obligations, the settlement has been satisfied?

MR. LEATHAM:

Yes. That is correct. There was a large monetary settlement of \$52 million, and both parties, through a lengthy negotiation, came to this agreement. The case was dismissed. As of today, there is no outstanding obligation of Overton Power District #5 to IDACORP, Inc.

SENATOR CARE:

What other entities in Nevada have been recognized by statute as municipalities? I do not think the courts, the way Chapter 11 of U.S. Code, section 109, paragraph (c) is written now, have any discretion. You need to get the State to say this is a municipality. Nonetheless, before the law was amended, a municipality had to demonstrate the characteristics of a municipality. Mr. Wadhams spoke about this elected board. What other characteristics of a municipality does Overton Power have?

MR. LEATHAM:

When Overton Power was originally formed in October of 1935, the original legislation indicated it was to take the form of a municipality. As the laws were codified over the years, it was not until 1967, when NRS 318 came into being, that the term quasi-municipal became a part of the language. I suppose it is debatable what quasi-municipal means, but it is clearly not municipal. We have never exercised some of the powers we have, like taxing or issuing general obligation bonds. We initially relied on federal funding through the Rural Electrification Association, which is now the Rural Utilities Services under the U.S. Department of Agriculture. Our debt to date has been financed typically through revenue bonds. To my limited knowledge, we have an elected board, we have the ability to tax and issue general obligation bonds, and we have the ability to have eminent domain in the case of right-of-way issues. These powers would qualify us as a municipality.

SENATOR CARE:

Do you know what states have recognized general improvement districts as municipalities?

MR. LEATHAM:

I do not.

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SENATOR CARE:

I want to find out if Nevada is the first to do this.

CHAIR HARDY:

Senator Care, NRS 354 has some specific provisions that speak to local governments in financial distress. Ms. Guinasso, can you address this briefly for Senator Care?

Ms. GUINASSO:

There are extensive provisions in NRS 354 that provide a procedure by which local governments are able to enter into receivership. They are overseen by the Department of Taxation in a condition known as severe financial distress. Those provisions apply to NRS 318 districts as well as any local government subject to the Local Government Budget and Finance Act in NRS 354. This is a very broad category. There are already provisions in place that provide for the manner in which a local government in severe financial emergency is administered.

SENATOR CARE:

Chair Hardy, can you give me some idea of what other states have general improvement districts as municipalities?

CHAIR HARDY:

We will get some research on that. Any additional questions?

Ms. GUINASSO:

With regard to the classification as a municipality for purposes of the federal bankruptcy act, it is not just a designation as a municipality that is necessary. The entity has to be specifically authorized to be a debtor under that chapter. This is a point I want clarified. It is not just known in the NRS as a municipality, the entity has to be specifically authorized to declare bankruptcy.

CHAIR HARDY:

That is what this bill does.

Ms. GUINASSO:

That is correct.



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SENATOR RAGGIO:

This bill would comply with the federal law requirement, as far as a general improvement district. Do I understand that a municipality could not avail themselves of Chapter 9 unless we specifically authorize other municipalities? At this time, we may want to consider a blanket authorization that present municipalities also have the same advantage to file a petition pursuant to the federal bankruptcy act, not limited to, but including Chapter 9.

CHAIR HARDY:

Senator Raggio, that is the policy discussion we ought to have. Mr. Wadhams, you indicated this would provide for Chapter 9 of that title. Senate Bill 67 says "including but not limited to Chapter 9" of the federal bankruptcy act. It would provide for Chapter 7, Chapter 11 and all of those.

MR. WADHAMS:

That is correct. As I said in my remarks, it is important that the Committee, assuming you take this issue forward, decides whether you want the option to do either Chapter 7 or Chapter 9, or simply Chapter 9.

CHAIR HARDY:

There seems to some indication S.B. 67 just applies to the Overton Power District, but that is not how I read this. Am I reading this correctly?

MR. WADHAMS:

It does not. It is for any entity formed under chapter 318 of NRS.

CHAIR HARDY:

My primary concern is what this might do to the cost of money. This is really the policy question. I am open to any other concerns and we may have some individuals who wish to testify on this bill. I know you have Mr. Jost here to testify.

MR. WADHAMS:

Mr. Jost is in Las Vegas ready to testify. This is one of the important issues. Theoretically, the option for reorganization or liquidation is a factor in the cost of credit. The other side of that, which was alluded to by Mr. Leatham, is the

continued provision of municipal services. In this case, it is power, in other cases, it might be fire or crime control. You have the policy question both ways. How do you sustain that for the constituents who rely upon it?

CHAIR HARDY:

This is why it is important to have the policy discussion, because you can not take those two things separately. Mr. Leatham, do you have something to add?

MR. LEATHAM:

Yes. We had an additional debtor who held some revenue bonds Overton Power had issued. We do not want it to be a race to the courthouse to see who gets paid. Certainly, from a debtor's standpoint, at least from my limited experience, they were much more comfortable with a structured, organized manner in which to transact business rather than simply "I got here first, give me my money."

CHAIR HARDY:

The solution to this policy discussion can range all the way from doing nothing to doing everything to providing Chapter 9. Last time, there was some wisdom in at least allowing Chapter 9 to occur. What I would like to do, if it is all right with you, Mr. Wadhams and Mr. Leatham, is have everybody come up to testify, so we get our arms around what the concerns are. Perhaps, Mr. Jost can answer some of those. I suggest he think about the cost of money question and how we might address that.

SENATOR RAGGIO:

I need to disclose that Mr. Wadhams is a shareholder in the law firm of Jones Vargas, of which I am also a shareholder.

CHAIR HARDY:

Thank you, Senator Raggio. This will be noted for the record. Anyone else wishing to testify, please come on up.

CAROLE VILARDO (Nevada Taxpayers Association):

I oppose S.B. 67 as written. When I signed the guest list, I did not indicate whether I was opposing or supporting this bill because I did not know the background. I have three reasons why I oppose this bill, as written. Yes, I applaud this bill coming forward because it raises an interesting policy decision and discussion, and I believe we have part of the answer in statute.

The first issue is my concern that it apply to every GID, which has been referenced. The second issue is, while the discussion and Legislative Counsel Bureau's digest speak primarily to Chapter 9, the bill allows Chapters 7, 9, 11, 13 et cetera. The third issue, one of the most important from my perspective representing the taxpayers, is that to allow a bankruptcy potentially impugns the integrity of the credit ratings of the entities within which the bankruptcy occurs and may also affect surrounding entities. Despite discussion about allowing this to extend to all governments with municipality status, I am not sure counties would apply in the definition here. Take a look at what the impact would be if you suddenly had Overton Power in a bankruptcy, Pershing County in a bankruptcy and White Pine County School District in a bankruptcy. I believe it is an absolute inevitability that our State credit rating would "tank."

What I appreciate about the policy discussion is the recognition we had a general improvement district that thought it needed this mechanism. This leads me to believe NRS 354 may not be clear enough with how the State handles its problems. If you remember, this Committee started working on that emergency in the 67th Session, when you had the presentation made by White Pine County, and adopted some short-term measures. This culminated in the 68th Session, when you did financial emergency. Then, in the 69th Session and the 70th Session, with the City of Gabbs issue coming up, you created "severe financial emergency." The interesting thing about that was we lost no credit ratings, and yet we had entities that had severe financial problems.

Maybe the wording in the severe financial emergency statute is not sufficient to capture NRS 318 entities; it may be a point of education. The proponents who want to raise the policy discussion on this should look at the provisions in NRS 318 because, effectively, you have a two-step process, each of which has multiple conditions. The first step is a voluntary one, whereby a district that believes it is having a problem with its budget and cannot set a tax rate may apply to the Department of Taxation for a review and assistance to get its problem areas straightened out. The second step is severe financial emergency, where a set of circumstances may need to be broadened to accommodate chapter 318 of NRS. Given a specific set of circumstances, a red flag is given to the Department of Taxation, which then goes in and requests specific information from the entity. That information is brought to the Committee on

Local Government Finance. This Committee is currently chaired by Marvin Leavitt, and primarily consists of certified public accountants. The Department of Taxation's Local Government Finance Section works with this Committee to analyze the contracts. In the case of White Pine County School District, they renegotiated the contracts for equipment. The mechanism is there; and let us work toward the state control and not outside.

CHAIR HARDY:

Mr. Leatham, if you would express your concerns in going through that mechanism, I would like to get this on the record because it is an extremely valid point.

SENATOR TOWNSEND:

Ms. Vilardo, let us pull back from the policy question and go forward to Mr. Leatham's problem, which in this case was a foreign government. If they could not settle, this was going to end up in ownership of an asset that was providing power to a local entity. How do you deal with the foreign ownership issue? This was a very narrow case, which some of us are familiar with. Putting aside the general policy question of whether municipalities be allowed to utilize Chapter 9, how do you feel about that particular situation? This is how the policy question got here, but I am backtracking into the actual issue. If you are opposed to this, how do you protect foreign ownership? If they had not cut a deal, foreign government would have owned these assets.

MS. VILARDO:

Senator, I do not know if I can answer the legality on that. The only thing I have been told, and related to, is the source-pension issue we got involved in with tax whereby another state can not impose on a state. There are court rulings and a doctrine. Senator Raggio, Mr. Wadhams and Ms. Guinasso could better address that. I would assume, by some provision in statute, if we were able to do that with the source-pension bill we passed, where California would not try to tackle our residents, then someplace there may be something. I am not an attorney, and I do not know those laws.

JAMES E. BENTLEY (General Manager, Indian Hills General Improvement District):

This bill looked like it had language in it that would make me want to dance. I have tried for seven or eight years to have the word municipality recognized. Federal government grant sources want our State definition to include the language of a general-purpose local government if the GID were to go for

funding from the U.S. Department of Housing and Urban Development or the Department of Commerce. Chapter 318 of NRS has GIDs of power companies as a single item and GIDs like us are multifaceted: parks and recreation, sewers, water, the whole thing. I thought I saw a broad-brush attempt to elevate the status of municipality, but this gets into the idea of being able to declare bankruptcy. I have trouble with that. As Ms. Vilardo has explained, the State has a lot of good controls over us, to keep us from bordering on that kind of potentiality. Senate Bill 67 is a law of unintended consequences. My capacity to declare bankruptcy is much less important to me than my capacity to honor the debts I have made as we build GID projects. Typically, it is public indebtedness I would cancel if you gave me the option. This amounts to the taxpayers eating my mistake, and I have a problem with that. We are a multipurpose GID that does not do law enforcement or have a fire department; everything we do is public. We were chartered by a county, and the county would still be there if we fell through all of the Taxation Department cracks, despite the oversight by the Committee on Local Government Finance. I do not think we need the ability to declare bankruptcy. I suggest this part of the bill is not necessary and probably more of a problem than it would be as an intent to fix something.

CHAIR HARDY:

You have reidentified one of the concerns and issues. I do want to point out for everyone that we had a near-death experience in Overton. The problem is real. Whether this is the ultimate solution or Ms. Vilardo points out the ultimate solution, we ought to fix the problem. That is not contrary to what the Overton Power District wants to do. They want to make sure we have a mechanism to deal with this because the consequences for the ratepayers, and more importantly, the customers of Overton Power District, were very real. That is what we need to fix. As Chair and sponsor of S.B. 67, I appreciate your insight. The bill does apply to all GIDs at one end of the spectrum, and Senator Raggio points out, we should visit it from the policy perspective of all municipal governments.

WILLIAM R. UFFELMAN (Chief Executive Officer, Nevada Bankers Association):

In some respects, I echo your earlier comments that the issue of the ability of any municipal entity or quasi-municipal entity in the State of Nevada to declare bankruptcy would have an impact on the credit rating and the credit costs of those entities. The Chair certainly recognizes that and the proponents recognize that. The solution, as I listen to Ms. Vilardo and others, may be chapter 354 of NRS and its specific application. If some entity of Nevada has been left out of

NRS 354, then, maybe, putting them in is appropriate. Perhaps, that is the mechanism, the homegrown solution, as opposed to putting it in the legal system.

CHAIR HARDY:

We have clearly identified the cost of money is a significant problem or potential problem and putting this into NRS 354 might be a preferable alternative. Unless you have something significant to add on those two points or any other new concerns or problems, let us focus on this.

MENDY ELLIOTT (Senior Vice President, State Government Relations Director, Wells Fargo Bank):

One of the concerns Wells Fargo had in looking at this bill was not only the ability of the municipalities, the GIDs, to file Chapter 9, but more importantly, the total impact it might have on the State rating. We do have a concern that the pooling of funds in the Nevada Public Agency Insurance Pool would also have a detrimental impact if the GIDs had the ability to file Chapter 9.

CHAIR HARDY:

Thank you. That does provide new information.

FRED L. HILLERBY (South Truckee Meadows General Improvement District; Sun Valley General Improvement District):

The only thing I want to add to this on behalf of my clients, Sun Valley General Improvement District and South Truckee Meadows General Improvement District, is we have been told by our bond counsel that the ability to declare bankruptcy does have detrimental affects on your ability to borrow money.

WAYNE CARLSON (Nevada Public Agency Insurance Pool; Public Agency Compensation Trust):

I represent Nevada Public Agency Insurance Pool and Public Agency Compensation Trust, which is a self-insured workers' compensation program. We have GIDs in both programs. The workers' compensation program is required to post solvency bonds and letters of credit. The consequence of this bill would affect our credit rating. The Insurance Division contacted me to express concern over the insolvency issue. We are formed under the Interlocal Cooperation Act, which means we have the powers of a local government, collectively, to do a self-insured program. That is just one of those unintended consequences.

CHAIR HARDY:

I will bring Mr. Wadhams and Mr. Leatham to address the NRS 354 provision dealing with this and why that was not pursued.

MR. LEATHAM:

In the case of NRS 354, this was discussed. At the time, we did not believe it clearly applied to us and would be questioned in court whether or not we could apply that law to our indebtedness. The whole line of logic was curtailed, and we did not pursue that as an option. We should note that Overton Power District's intent was never to place the debt anywhere but squarely on the members and the consumers within our geographical boundaries. Any fall in the credit rating should go to the defaulting entity, in this case, Overton Power District, toward future bonds. Our intent is not to see any law passed that would hinder the ability of another entity to have good credit.

CHAIR HARDY:

Thank you. That answers the question; Ms. Vilardo's assumption was correct. If the only recourse is the State, and we do not have the ability to declare bankruptcy or do something intermittent, that would also impact the debt ability and cost of money to the State. This applies if they know the only recourse is for some of the GIDs authorized by the State to go back to the State. This is something to be considered as well.

MR. WADHAMS:

It is important to restate why this policy discussion was raised in the 72nd Session and this Session. It is simply to decide whether it is time to have an orderly process to address competing debt. The problem with the Executive Branch agency is it needs to be examined from the effective power. The judicial powers are vested in the Judicial Branch of government, both federally and at state level, not necessarily the Executive. You may have some facility in negotiation, but the finality of that management does not come with a court order.

MR. LEATHAM:

One final comment, Overton would be happy to participate in any process to bring resolution to this. We may not be able to bring expertise to solve the problem; we can provide anecdotal information from someone who has stood before the firing squad.

SENATOR RAGGIO:

I am mindful of everything everyone has said here. Truly, something you would want to avoid is having any impact on a credit rating. Chapter 354 of NRS means that when a local government has what is determined by the Department of Taxation to be a severe financial emergency, they take over; and among other things, they can authorize a tax rate up to \$4.50. You have mentioned something like \$52 million. Would NRS 354 have worked in your case and other similar cases?

MR. LEATHAM:

I am not an expert to address that. The entire contract was for \$320 million to purchase power over an extended period of time. I am sure that could have been borne by the property owners.

SENATOR RAGGIO:

What assets or capability would Overton have had? Tax increase, property tax of up to \$4.50, room tax increase?

MR. LEATHAM:

We could have increased revenues.

SENATOR RAGGIO:

I just wondered how practical that is. I am not advocating for the bill. Is that really a solution for a local government such as an Overton general improvement district?

MS. VILARDO:

I have to be anecdotal on this because there is no one here from the Department of Taxation. If the Committee will allow, I will use the City of Gabbs or the White Pine School District, whichever you prefer. In both cases, when it was determined there was a problem, after the hearing, everything on the expense side was reviewed. The biggest problem in the City of Gabbs was, literally, no money—no people staffing it and a huge dollar amount due on their water treatment plant. They could not make the payments. The solution was to work out dissolving the City of Gabbs. The county that had the ability to take over those payments, in effect, assumed outstanding obligations, and there was no need for additional taxes. It was a restructuring. In the White Pine County School District, one of the first things that happened was all the contracts, I remember one for band uniforms and a piano, which were with one of the



banks, were renegotiated. Different terms were worked by the State, and Marvin Leavitt was involved with that. We had no tax increase to the District. That was not the first solution; there are numerous other things that can be done.

SENATOR RAGGIO:

I do not know if either one of us has the answer, I am just being practical. We are talking about the ability to have power for an area. If they could not raise the taxes adequately to deal with this, you have a termination or dissolution, and someone has to take over. The County of Clark would have become the obligee or obligor here.

MS. VILARDO:

One of the things you do, and maybe this becomes the first step before you go any further, is deal with the Department of Taxation, or a legislative group that you appoint. What you are doing is trying to figure out what the problem is, what you need to solve and what resources are available to solve it. Maybe, there comes that point at which you decide this does not work, I have gone through these preliminary steps, now. I finally do whatever the final recourse is. Surprisingly enough, that provision has worked very, very well to this point. I think you will hear that from the governments, if you were to talk to them directly, or the Department of Taxation.

CHAIR HARDY:

It is obvious we have quite a bit of work to do on Senate Bill 67. For now, please provide the Committee with an opportunity to get any concerns on the record. I would like staff to look into Senator Care's request in terms of what other states have done to remedy this. The problem is real. It is an issue we have to answer for all the reasons brought up by Overton Power District, Senator Raggio and Senator Townsend. We are talking about the provision of an essential utility.

We will open the work session on Senate Bill 18.

**SENATE BILL 18**: Revises provisions governing program that provides grants for water conservation and capital improvements to certain water systems.  
(BDR 30-707)

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MICHAEL STEWART (Committee Policy Analyst):

Senate Bill 18 expands the authority of authorized projects under the Assembly Bill (A.B.) 198 grant program, to include connection of certain domestic wells, or wells with temporary permits, to a municipal water system. It essentially addressed the Safe Drinking Water Act and connection of those wells in certain situations. The amendment basically clarifies that a grant under this program may be awarded to pay the costs associated with connecting a well to a municipal water system if that well fails to comply with the standards of the Safe Drinking Water Act and any adopted regulations. We want to expand this so it covers all wells as much as possible. They took out the bonding in this particular amendment because it was covered in A.B. 20, sponsored by Assemblyman Thomas Grady.

CHAIR HARDY:

There was no opposition to S.B. 18.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS  
AMENDED S.B. 18

SENATOR TIFFANY SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE  
VOTE.)

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CHAIR HARDY:

The Committee will now address S.B. 48.

SENATE BILL 48: Makes various changes relating to collection of debts owed to  
State. (BDR 31-165)

MR. STEWART:

This lowers the amount of debt on which collection costs and fees may be recovered by a State agency from \$200 to \$100. They were limited to the \$200.

CHAIR HARDY:

I am trying to remember the amount; it was in the millions, as I recall.

SENATOR TOWNSEND MOVED TO DO PASS S.B. 48.

SENATOR TIFFANY SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

\* \* \* \* \*

CHAIR HARDY:

Senate Bill 112, was requested by the State Controller. Currently law allows them to collect \$25 on returned checks or drafts.

SENATOR TOWNSEND MOVED TO DO PASS S.B. 112.

SENATOR TIFFANY SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

\* \* \* \* \*

CHAIR HARDY:

Senate Bill 113 was brought to us by the Office of the State Treasurer. It changes the titles of Assistant Treasurer to Chief of Staff and Director of Millennium Scholarship Program to Deputy of the Millennium Scholarship Program. Testimony was given that the title of Chief of Staff does come with a pay increase, but that is accounted for in the budget, which is why there is no fiscal note.

SENATOR RAGGIO MOVED TO DO PASS S.B. 113.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

\* \* \* \* \*

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SENATOR TITUS:

I want the record to show I was late due to having three bills in the Senate Committee on Human Resources and Education.

CHAIR HARDY:

The Committee will reopen the hearing on Senate Bill 67.

RICHARD JOST (Overton Power District #5):

As I understand it, you want me to address the issue of the cost of money testified to by some of the prior witnesses. I would note there is not a significant amount of history of municipalities using Chapter 9 of the federal Bankruptcy Code or its predecessors. New York City took advantage of this many years ago. I do not feel competent to offer testimony to this Committee about whether New York City suffered or did not suffer as a result of having used that bankruptcy protection. More recently, Orange County, California, went through a substantial reorganization of its debt under Chapter 9. It was cumbersome for them to the extent that some creditors were paid less than 100 cents on the dollar. I am sure they perceived this to be a bad thing and have been reluctant to extend further credit to Orange County. It is fair to say, contrary to the speculation of some of the prior witnesses, California did not tank, and Orange County did not tank and none of the cities in Orange County tanked. They are all still borrowing money to fund their normal day-to-day operations. It is important to come back to the question both Senator Raggio and Senator Townsend raised. For the record, Senator Raggio disclosed he is a partner with Mr. Wadhams; Senator Raggio and I are also partners.

CHAIR HARDY:

We will note that for the record.

MR. JOST:

The more important issue is, when you have a catastrophic event that did not occur gradually or over time and no one is capable of changing by going back in time, you need to have appropriate tools to deal with those problems. With all due respect to Ms. Vilardo, what happened to Overton Power District did not come about because they bought too many band uniforms or too many pianos. It came because they were a victim; just as IDACORP, Inc., the other party in this contract was a victim. Hundreds of other electric utilities in the Western United States were also victims when the power supply contracts in the Western United States were manipulated by people who are now on their way

to prison, and as a result of some poorly designed electric deregulation in states other than Nevada and Idaho.

Before Overton, it was clear everyone was going to have to share the pain. The question was, on what basis would different people share the pain? The most orderly way to have accomplished that, rather than having Overton with its army of lawyers sitting on one side of a conference table and IDACORP with its army of lawyers sitting on the other side of the table, would have been if Overton could have sought the protections provided in Chapter 9 of the federal Bankruptcy Code.

The suggestion that Overton could have, or should have, gone to the State, and had itself declared a local government in severe financial distress, would have resulted in the entire amount of that contract being assumed by either Clark County or the State. That, clearly, was not the proper result. If the negotiations had failed and a settlement had not been reached, the only opportunity, since Chapter 9 was not available, would have been for Overton Power to go back to Clark County and say, "disestablish us, liquidate our assets, use those assets to pay off our bondholders," who have a first priority under existing NRS 318, "then to the extent there may be a dollar or two left, give that to IDACORP." As Mr. Leatham, who testified earlier, said, the big loser would be the people who depend on power from Overton Power District and now find themselves without electricity. Overton Power District has resolved its immediate problem.

The bigger question should be for the catastrophic event that may happen in the future to some other NRS 318 district, or perhaps, to Overton, and create a financial catastrophe not of their making. They, like Overton Power District, feel it is important not to push their misfortune off on all of the taxpayers of the county and state where they reside. It would be a more appropriate solution to allow them to have access to Chapter 9 of the Bankruptcy Code, just like virtually every other debtor in the United States.

As I listen to people expressing their concerns about allowing NRS 318 districts to have access to Chapter 9 of the federal Bankruptcy Code, I was struck by testimony actually saying we should not have a bankruptcy code. That, certainly, is a question that has been debated and will continue to be debated on a national stage: whether our federal Bankruptcy Code is appropriate or

should be modified or abolished. The reality is we have a bankruptcy code, and it does provide a method for debtors to reorganize in appropriate circumstances. Just by a quirk of the inconsistent language in NRS 318, there are some places where general improvement districts are described as subdivisions of government and other places where the districts are described as quasi-governmental corporations. That is what led to the mischief when Overton was litigated in Idaho.

CHAIR HARDY:

Mr. Jost, thank you for articulating the problem. I do not have any preconceived ideas about the best ways to fix this. I just know it needs to be fixed

SEAN GAMBLE (Incline Village General Improvement District):

It is basically the same as everyone else has testified. I am representing Incline Village General Improvement District, a GID. If there is any law passed that is going to impede on our ability to do bonding, we are not for that. I just want to be on the record.

CHAIR HARDY:

It is clearly our intent to not do that.

NANCY J. HOWARD (Assistant Executive Director, Nevada League of Cities and Municipalities):

If you do put a working group together, we would be pleased to help you in any way we can.

CHAIR HARDY:

We will close the hearing on S.B. 67. If anyone wishes to be notified and to participate in the informal discussion group, please provide your contact information to the secretary and we will make sure you are notified. This will come back to the full Committee in a hearing format, so there will be an additional opportunity for everyone to have their input on this.

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There being no other issues before the Senate Committee on Government Affairs today, the Committee meeting is adjourned at 3:16 p.m.

RESPECTFULLY SUBMITTED:

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Susan Hult,  
Committee Secretary

APPROVED BY:

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Senator Warren B. Hardy II, Chair

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