

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

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

The Senate Committee on Government Affairs was called to order by Chair Warren B. Hardy II, at 2:15 p.m. on Wednesday, April 13, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 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

GUEST LEGISLATORS PRESENT:

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

STAFF MEMBERS PRESENT:

Kim Marsh Guinasso, Committee Counsel
Michael Stewart, Committee Policy Analyst
Olivia Lodato, Committee Secretary

OTHERS PRESENT:

George Benesch, Virgin Valley Water District
Lorraine T. Hunt, Lieutenant Governor, Office of the Lieutenant Governor
Robin Holabird, Deputy Director, Division of Motion Pictures, Commission on
Economic Development
Brian K. Krolicki, State Treasurer, Office of the State Treasurer
Fred D. Gibson, Jr., Chairman of the Board, Nevada Taxpayers Association

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Berlyn D. Miller, Nevada Development Authority

Somer Hollingsworth, President and Chief Executive Officer, Nevada Development Authority

Dorothy S. Gallagher

James T. Richardson, Nevada Faculty Alliance

Mark Winebarger, Deputy of Cash Management, Office of the State Treasurer

Patrick Foley, Senior Deputy Treasurer, Office of the State Treasurer

Robert Chisel, Assistant Director for Administration, Nevada Department of Transportation

Kim Huys, Acting Chief Deputy Controller, Office of the State Controller

Dana Bilyeu, Executive Officer, Public Employees' Retirement Board, Public Employees' Retirement System

Scott Doyle, District Attorney, Douglas County

Madelyn Shipman, Nevada District Attorneys Association

Ann Wilkinson, Deputy City Attorney, Civil Division, Office of the City Attorney, City of Reno

Neil A. Rombardo, Senior Deputy Attorney General, Office of the Attorney General

John Swendseid, Swendseid & Stern

Karen Winchell, Motor Carrier Division, Department of Motor Vehicles

Cindy Arnold, Motor Carrier Division, Department of Motor Vehicles

Carole Vilardo, Nevada Taxpayers Association

Paul J. Enos, Retail Association of Nevada

Mark Sullivan, Associated General Contractors Nevada Chapter

Anthony Bandiero, Nevada Petroleum Marketers and Convenience Store Association

James F. Nadeau, Nevada Association of Realtors

Ronald S. Levine, Nevada Motor Transport Association

J. David Fraser, Nevada League of Cities

Terry Savage, Director, Chief Information Officer, Department of Information Technology

Michael Bouse, City of Henderson

Ronald L. Lynn, Clark County

Nicole J. Lambole, City of Reno

John Slaughter, Washoe County

Dan Musgrove, Clark County

Jake Smith

Cheri L. Edelman, City of Las Vegas

Heidi Mireles, Chief of Right-of-Way, Nevada Department of Transportation

Jay L. Parmer, Regional Economic Development Council
Susan Fisher, City of Reno
Scott M. Craigie, American Resort Development Association
Karen D. Dennison, American Resort Development Association
Michael G. Alonso, Reno-Sparks Convention & Visitors Authority

Chair Hardy said the Committee would alternate working between the work session bills and the bills on the agenda. He opened the meeting with Senate Bill (S.B.) 408.

SENATE BILL 408: Revises provisions governing Virgin Valley Water District.
(BDR S-1161)

Chair Hardy requested this bill on behalf of the Virgin Valley Water District. He said when the water district was created, the ability to lien had been inadvertently left out. Additional provisions in S.B. 408 needed to be stricken from the bill. He said section 1 of the bill was needed for the ability to lien.

George Benesch, Virgin Valley Water District, said the language in the bill came from the Las Vegas Valley Water District's enabling legislation.

Chair Hardy said section 1 of the bill amended the bill and removed section 2 which dealt with franchise and right-of-way fees.

Senator Care asked Chair Hardy if section 1, the enabling legislation, remained in the bill. Chair Hardy replied it would remain in the bill. Senator Care asked about the proposed section 3.3, subsection 5, paragraph (a), to chapter 100 of *Statutes of Nevada* 1993, as detailed in S.B. 408, line 41, which referred to the lien notice mailed to the last known owner, and asked if the notice mailed to the present owner would have the same meaning.

Mr. Benesch replied it would accomplish the same thing.

Senator Care asked Mr. Benesch if there was an opt-out procedure for the receiver of the services. Mr. Benesch stated the opt-out procedure required the person to appear before the Virgin Valley Water District Board and present their case. He added each case was handled on an individual basis. Senator Care asked if a customer had not paid their water bill, was the Water District entitled to stop the service, and Mr. Benesch replied yes.

SENATOR CARE MOVED TO AMEND AND DO PASS S.B. 408 WITH THE AMENDMENT BEING THE DELETION OF SECTION 2.

SENATOR TIFFANY SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS LEE AND TITUS WERE ABSENT FOR THE VOTE.)

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Chair Hardy opened the discussion on S.B. 493.

SENATE BILL 493: Provides certain tax incentives for registered motion picture companies. (BDR 18-354)

Lorraine T. Hunt, Lieutenant Governor, Office of the Lieutenant Governor, said she was appearing as Chair of the Nevada Commission on Economic Development, overseeing the Nevada Film Office. Lieutenant Governor Hunt stated Nevada needed to look to the future for new economic opportunities. She said the motion picture, multimedia industry was a perfect fit for Nevada ([Exhibit C](#)). Lieutenant Governor Hunt stated feature film work previously represented 60 percent of all production by the Division of Motion Pictures but was now 15 percent. The Division had done more television and commercial production than feature film production lately, she added. She said 36 states had adopted tax incentives for movie production companies. She said Nevada had no incentives. Lieutenant Governor Hunt proposed three incentives in S.B. 493 for major motion picture companies who chose to come to Nevada as a production location. She said she wanted to set aside the abatement of the hotel room tax for production crews, but retain the other two incentives. She urged support of abatement of the sales tax on materials used in production, special-use licensing fees and taxes for various large trucks used in motion picture production. She restated 36 other states already offered incentives to the motion picture industry.

Robin Holabird, Deputy Director, Division of Motion Pictures, Commission on Economic Development, emphasized the importance of the need for specific, film-related tax incentives for the State of Nevada. She said she was asked which incentives were specifically geared to the film industry. She said the sales tax exemptions were already offered in 21 other states. California, Utah,

Arizona and New York all had a point-of-sales tax exemption for the motion film industry, she said

Senator Townsend asked Ms. Holabird what portion of the loss of revenue from the film industry was a national loss from companies going overseas. He also asked for more detail on the exemption of the room tax in S.B. 493.

Lieutenant Governor Hunt said the room tax issue involved the earmarked funds for tourism, and those funds needed protection. She said the hotels and motels offered reasonable rates for the motion picture production companies. She said the incentive remained, but would not be formalized.

Ms. Holabird said Nevada had some of the most competitive room rates in the country. She added the room tax was exempted after a 30-day stay. She said billions of dollars in revenue was lost overseas.

Senator Care said he understood the trend to track the number of film production companies that came to Nevada. He asked if specific examples could be cited for lost revenue when a film company did not come to Nevada due to the lack of added incentives.

Ms. Holabird said it was hard to track the actual loss or gain due to incentives offered. She said it was easier to sell the project and the location when financial advantages were in place.

Chair Hardy closed the hearing on S.B. 493 and opened the hearing on S.B. 463.

SENATE BILL 463: Makes various changes concerning use of revenues from disposition of unclaimed property. (BDR 30-578)

Brian K. Krolicki, State Treasurer, Office of the State Treasurer, said S.B. 463 was an economic development bill. He said the bill added to and complemented the economic development efforts in Nevada. He said the bill would financially jump-start the type of economic development the State desired. He said it also provided the financial relief needed to sustain the Millennium Scholarship Program.

Fred D. Gibson, Jr., Chairman of the Board, Nevada Taxpayers Association, and retired chairman, president and chief executive officer of American Pacific Corporation, said the Georgia plan for economic development, developed by the Georgia Research Alliance, was the perfect model for Nevada to follow. He cited his written testimony ([Exhibit D](#)).

Senator Townsend said he was present at a Georgia Institute of Technology presentation with Mr. Gibson. Senator Townsend said the plan was successful.

Mr. Gibson commented the transformation at the Georgia Institute of Technology was remarkable. He said the school committed to mentor Nevada and the implementation of the Georgia Research Alliance plan. He said the plan was in practice in Georgia for 15 years.

Chair Hardy said there was a magazine Mr. Gibson had included in his presentation which discussed the Georgia Research Alliance, ([Exhibit E](#), original is on file at the Research Library).

Berlyn D. Miller, Nevada Development Authority, said he was speaking as an individual today in support of the Georgia Research Alliance plan. He said the timing was important to move forward and not delay the decision to implement the plan. He said the Georgia Research Alliance was receiving four or five requests a month to present the plan to other economic development entities. He said it would be possible to pull companies and research institutions from California with the plan. Mr. Miller added he was supportive of the proposed amendment.

Treasurer Krolicki said S.B. 463 worked by using the unclaimed property program in the State Treasury's Office to utilize the revenue realized from that program. He said last year \$30 million was lost that came through the program. The plan was to use the revenue to support the issuance of bonds for economic development purposes. Treasurer Krolicki said the leveraging ability of the plan made it profound. He said \$4 million would translate into \$50-million worth of economic development. He said \$8 million would leverage the program into a \$100-million program. He said the unique part of using unclaimed monies for the bonding program was the debt did not constitute a debt to the State of Nevada. He introduced an amendment to S.B. 463. He said sections 1 through 7, with the amendment in section 6, provided the bond lawyers what was needed to make the program viable ([Exhibit F](#)). Treasurer Krolicki said no state

had used the technique before, but his office was confident it could be done. He said the bonds would be investment grade bonds but without the backing of the State of Nevada. He said unclaimed property monies were unique in the sense they were not part of the general portfolio. He said there was flexibility with these funds that otherwise would be constrained by the State Constitution.

Chair Hardy said the amendment before the Committee went to section 6 of the bill and replaced subsection 4.

Treasurer Krolicki said the amendment did three primary things: provided for research and development programs through the university system, assisted in the research laboratories and related equipment and allowed the creation of a corporation similar to the one created by the Georgia model.

Chair Hardy said global language was replaced with specific language in regard to economic development.

Treasurer Krolicki said the definition of economic development in the bill applied specifically to the research and development area. He said an important part of the bill was to sustain the Millennium Scholarship. He said there was a desire to use \$8 million a year from unclaimed property to sustain the scholarship. The money transferred annually to the scholarship trust fund.

Senator Care asked if the amount of collateral in the unclaimed property could fluctuate to the extent it might affect the bonds.

Treasurer Krolicki said the amount in the unclaimed property figures was similar from year to year. He said the average amount returned to the heirs was approximately one-third. He said \$30 million came in last year from unclaimed property. The bill had certain formulas to ensure a security was sustainable and of investment grade. He said a year's worth of debt service was kept in reserve. He said the reserve had to be 125 percent of the anticipated full debt service for the fiscal year. He was comfortable with the revenues on which the program was based.

Senator Titus asked if this was the same money as discussed earlier to bond the Millennium Scholarship. He replied it was. She inquired if the same problems would arise as previously discussed.

Treasurer Krolicki said the benefit of unclaimed property was the monies were lost; they were not traditional tax revenues. He said under the Constitution, the money could be treated differently. He said the public-private partnership had a unique ability in this situation. He said the ability to bond kept it from being applied against the debt limit. He said the earlier Millennium Scholarship proposal was to just fund the scholarship.

Senator Titus asked if the constitutional prohibition against investing State dollars into private business applied in this situation.

Treasurer Krolicki said the State Treasurer's Office would go through a judicial confirmation process through district court to ensure the program did not violate the Constitution. He said they would go through a similar mandatory process in order to sell the bonds.

Senator Titus mentioned her economic development bill proposed grants to local entities or the private sector, and it was not allowed. She said she was told it was necessary to have a nonprofit or government entity receive and redistribute the money.

Treasurer Krolicki said they would go through judicial confirmation to ensure the monies were not constrained as other State monies.

Senator Titus said it was definitely a public-private partnership.

Somer Hollingsworth, President and Chief Executive Officer, Nevada Development Authority, said his organization had studied the Georgia plan for approximately four years. The plan created new jobs within the state and universities, but the companies created within the plan were spun off into the private sector and created new jobs. He said Georgia was at the bottom of the list for job creation 15 years ago and now they were among the top 5 states for technology jobs created. He said there were over 60,000 technology jobs in Georgia at this time.

Dorothy S. Gallagher said she was not speaking for the Board of Regents. She was appearing before the Committee as an interested citizen. She said she was an enthusiastic supporter of the Georgia plan. Mrs. Gallagher said it would make Nevada's good universities excellent universities. She said it would also bring funding and economic development into the State. She said with the help of the

Georgia Institute of Technology, Nevada could institute the plan without making the mistakes Georgia made in the beginning.

Chair Hardy said he concurred with Mrs. Gallagher's comments. He was convinced the State needed something like the Georgia plan to turn the universities into top-notch institutions. He also said Nevada needed a State college system.

James T. Richardson, Nevada Faculty Alliance, said he supported both aspects of S.B. 463. He submitted his recommendations in support of S.B. 463 ([Exhibit G](#)). He stated Nevada should emulate the model from the Georgia Research Alliance.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 463.

SENATOR TIFFANY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Hardy opened the discussion on S.B. 464.

SENATE BILL 464: Revises certain provisions relating to state financial administration. (BDR 31-580)

Treasurer Krolicki said S.B. 464 did a variety of things within the purview of the Office of the State Treasurer. He said there were two proposed amendments from his office; one amendment was clarification for auditing purposes, and the other was a commercial paper program for the State. He added there was another proposed amendment from the Public Employees' Retirement System (PERS) of Nevada which his office supported.

Treasurer Krolicki said sections 1 and 2 of S.B. 464 dealt with the pool collateral program. He said the public deposits would be fully collateralized, meaning protected. He said the current language precluded the State Housing Division from participating in the plan.

Chair Hardy asked if the State Treasurer's amendment dealt with section 2, page 2, lines 14 through 16.

Treasurer Krolicki said the proposed amendment was required by auditors. He cited the Governmental Accounting Standards Board (GASB), and said there were questions regarding whether definitions needed to be better written.

Senator Raggio asked what the bill accomplished with the amendment.

Treasurer Krolicki said the bill further clarified the collateralized pool program and better defined local government. He said Housing was not part of the existing statute. He said his office thought they should be included and the restructuring of language accomplished that. The amendment was clarification of language demanded by the State auditor and how it related to the GASB Statement No. 40. He said it was a technical amendment ([Exhibit H](#)).

Chair Hardy asked if the problem was in reference to the *Nevada Revised Statutes* (NRS) 356.390. He said it changed the language from a collateral pool in which the State Treasurer participated to the State Treasurer Nevada Collateral Pool.

Mark Winebarger, Deputy of Cash Management, Office of the State Treasurer, said the GASB Statement No. 40 required certain disclosures for deposits if they did not reach certain criteria. He said local governments were concerned that if they were in the collateral pool, disclosure would be required. He said the proposed language said the name of the pool would be the Nevada Collateral Pool rather than in the name of the State Treasurer. He said the change satisfied the disclosure requirements according to the GASB.

Chair Hardy surmised the concern in section 1 was that State or local government was too broad a definition in regard to public money.

Kim Marsh Guinasso, Committee Counsel, was concerned about the reference in the amendment to the collateral pool. She said the collateral pool only existed by virtue of regulations. She said if it was going to be referred to as the State Treasurer Nevada Collateral Pool, it did not exist anywhere. She said the term was not created by statute. She asked how they could make the amendment without creating it by statute. She asked Treasurer Krolicki to again explain the intent of the bill.

Mr. Winebarger said the amendment just changed the name of the pool.

Chair Hardy said Ms. Guinasso's point was the name did not appear in statute; it appeared in regulation. He said you could not define something in statute if it did not have any application in statute. He suggested unless there was an application in statute, the term needed to be changed by regulatory measures.

Ms. Guinasso asked if the concern in the statute was related to a collateral pool in which the State participated. The language describing the collateral pool by regulation had to stay in the bill because it was where the collateral pool was created. She asked if the intent was to say a collateral pool in which the State Treasurer participated, or to say in which only the State Treasurer participated.

Mr. Winebarger said the intent was that all the money held for local governments and the State Treasurer was in the pool. He said that satisfied the GASB requirements and required updating regulations.

Chair Hardy asked if the bill required a reference to the regulations. He said the language needed to remain "pursuant to regulations." He asked if the GASB required it in statute. He said the only way to determine what constituted a collateral pool was by referencing the regulations adopted by the State Treasurer. He said removing the language made it problematic for the *Nevada Revised Statutes*.

Senator Townsend said the GASB needed it in statute.

Chair Hardy said as the language now existed, it defined collateral pool in statute by referencing it back to the regulations. He said the language could not be removed.

Treasurer Krolicki said he would withdraw the amendment to avoid confusion.

Ms. Guinasso said if the concern was the GASB required the term collateral pool be defined in statute, the regulations that dealt with collateral pool could be put into statute.

Chair Hardy said as the bill was written, it was a legal definition for Nevada's purposes of a collateral pool. He stated removing the reference to the regulation that created it was the problem. He said he did not understand why it was a problem for the GASB if what was required statutorily defined the term.

Mr. Winebarger said the GASB did not require this. Local governments would be concerned they would have to disclose perceived risks to their deposits where the State Treasurer could usurp their funds in case of a banking collapse.

Patrick Foley, Senior Deputy Treasurer, Office of the State Treasurer, said they were trying to change the name on the accounts where the actual assets were housed to the collateral pool. The way the statute currently read, those assets were held as a benefit of the State Treasurer. He said it put a potential risk back to the local, participating government agencies.

Chair Hardy said he thought the language as currently written accomplished that goal. It made it clear it was a collateral pool in which the State Treasurer participated pursuant to regulation.

Mr. Foley said he wanted to add in the aspects of the benefit of the pool itself.

Chair Hardy said the amendment stated they wanted to remove a reference to the regulation adopted by the State Treasurer under the NRS 356.390. He said he could not understand why it would be required by the GASB. He said they had accomplished what he understood the Committee had been asked to accomplish. Chair Hardy recommended the amendment be withdrawn. He said if new information became available prior to the Committee processing the bill on the Senate Floor, it could be discussed then.

Treasurer Krolicki said he accepted Chair Hardy's recommendation to withdraw the amendment.

Senator Townsend said the issue had to do with local government and their participation in the pool. He said the issue had nothing to do with the GASB.

Treasurer Krolicki said the issue did have to do with the local governments. He said under the rules promulgated by the GASB, his office and the auditors who implemented those rules believed there was a question of risk to the local governments.

Senator Townsend said the language, which put monies in the hands of the State Controller and not in the collateral pool, was the problem. He said the concern was the definition of a collateral pool. They were making reference to something and then pulling the reference out of the regulation. He said the Chair

might say, "... in order to meet this concern that GASB creates for local government, you have to define collateral pool, and then make the reference to it." He said something may not be referenced that was in regulation because the regulation could go away, and then the statute would stand by itself.

Treasurer Krolicki said his intention was to readdress the matter in a coherent way. He said he needed to get the amendment written correctly, and he accepted Ms. Guinasso's comments. He said if he was not able to return to the Committee swiftly, it was the State Treasurer's job to accomplish it for the Assembly.

Chair Hardy asked if Senator Townsend's reference was that the GASB problem referred to something that could be removed by regulation. Senator Townsend replied that was correct, and it also still left the local governments at risk.

Ms. Guinasso said the current program for the collateral pool was in regulation. The State Treasurer had the authority to adopt those regulations pursuant to the NRS 356.390. She said the only way the collateral pool could become statute was by taking what was in regulation and making it statutory. It would then become possible to talk about the collateral pool that existed pursuant to statute, not pursuant to regulation.

Chair Hardy suggested the Committee hear the remainder of the bill, and then hear language on Friday concerning the amendment.

Treasurer Krolicki said sections 3 and 9 of S.B. 464 referred to the travel account for travel advances. He said it was part of the State Treasurer's Office for almost 50 years. He said an existing fund of \$186,000 previously assisted traveling State employees. He said the fund had not been used since October 2000. He said the Controller's Office agreed with the changes. He said the existing money would be reverted to the general portfolio for better use.

Treasurer Krolicki said the next section of the bill was completely new for amendment into the bill. He said it was not incorporated when the bill was drafted. He said it created a commercial paper program ([Exhibit I](#)).

Chair Hardy asked Treasurer Krolicki if the amendment he was proposing referenced changes to the NRS 349.227. He replied that was correct.

Chair Hardy said it was a substantial amendment to the NRS 349. He said the amendment did not apply to existing language, but was all new language.

Treasurer Krolicki said the amendment did what corporate America did and some of the larger local governments in Nevada already participated in this program. He said the Nevada Department of Transportation (NDOT) issued hundreds of millions of dollars of debt every year. He said if the State Treasurer had the ability to do short-term financing, which commercial paper allowed, they would have a tool for cash management to help finance projects. He said by definition, commercial paper was a variable-rate, security debt issued for less than 270 days. He said instead of doing two or three bond issues, it might be possible to do only one. The cost of issuing debt would be significantly reduced. Treasurer Krolicki added commercial paper as short-term debt was less expensive than long-term debt. He said in 2003, the NDOT had a \$198-million bond issue. He said by incorporating this technique, using the market rates at the time, the NDOT would have saved approximately \$3.5 million. Treasurer Krolicki said he regretted the proposal was not part of the original bill; it was their intention to make it a part.

Senator Raggio asked if the entire amendment was necessary and whether it amended chapters 349, 350 and 396 of NRS. He asked if they were all germane to short-term paper utilization.

Treasurer Krolicki said the amendment clarified and created a powerful tool for Nevada and saved money for the State.

Robert Chisel, Assistant Director for Administration, Nevada Department of Transportation, said he wanted to go on record in support of the amendment to allow the State to issue commercial paper. He said the tool allowed the NDOT greater flexibility in its bonding program for the issuance of their construction projects with the added potential to save interest costs over the long term.

Kim Huys, Acting Chief Deputy Controller, Office of the State Controller, said her office was in full support of the proposed amendment to S.B. 464 concerning the elimination from the State Treasurer's Office of the Account for Travel Advances ([Exhibit J](#)). She said the Office of the Controller would deal with any travel claims that needed to be advanced on a short-term notice.

Chair Hardy said there was a proposed amendment from the Public Employees' Retirement System to S.B. 464.

Dana Bilyeu, Executive Officer, Public Employees' Retirement Board, Public Employees' Retirement System, said in S.B. 464, the collateral pool redefined public money in such a manner construed to include the Public Employees' Retirement System (PERS). She said PERS had collateral agreements in place with their commercial and custodial banks. She said PERS was fully collateralized at 102 percent. The agreements were specific to the requirements of the accounts, Ms. Bilyeu added. She said PERS was asking to be specifically excluded from S.B. 464 ([Exhibit K](#)). She said it was the intent when the program went into place to exclude the PERS. Ms. Bilyeu said the proposed amendment made the exclusion a part of the statute.

Senator Hardy asked Treasurer Krolicki to work on the language in the proposed amendment concerning the collateral pool. He said the Committee would rehear the amendment at the next meeting.

Senator Raggio reopened the discussion on S.B. 463. He said the Fiscal Division of the Legislative Counsel Bureau had advised him if the Committee acted on the bill, it would be declared exempt and should be rereferred to the Senate Committee on Finance.

Chair Hardy asked Senator Raggio if the earlier motion on the bill should be changed. Senator Raggio responded it should be rereferred to Finance because it was declared exempt by the Fiscal Division. Chair Hardy asked Senator Raggio if a new motion was needed, as the Committee had already amended and voted to do pass S.B. 463. Senator Raggio said it needed to be a motion.

SENATOR RAGGIO MOVED TO AMEND AND REREFER S.B. 463 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR TIFFANY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Hardy opened the discussion on the Work Session Document ([Exhibit L](#)) pertaining to the two bills relating to the Open Meeting Law. He said he wanted to discuss and take informal action on each of the items for consideration, and then have the Committee act on the bills as a whole. He said the Committee might roll both bills, S.B. 244 and S.B. 267, into one bill for the purpose of simplification.

SENATE BILL 244: Makes various changes regarding Open Meeting Law.
(BDR 19-344)

SENATE BILL 267: Makes various changes regarding Open Meeting Law.
(BDR 19-77)

Chair Hardy opened the discussion by stating language would be added to chapter 241 of NRS providing any statement made by a member of a public body during the course of a public meeting was absolutely privileged, and he referenced page 1 of [Exhibit L](#). Chair Hardy added any witness would also be absolutely privileged, except it would be unlawful to knowingly misrepresent any fact when testifying. He said he supported the language as drafted.

Senator Raggio said he agreed with the Chair. He said S.B. 267 used the term "knowingly" which was the key word to the proposed change.

Senator Care said the language for a witness already existed for anyone testifying before a legislative committee. He said the change applied to anybody who testified before a public body and codified what already existed in common law.

Chair Hardy proceeded to review the next section of the Work Session Document regarding NRS 241.015 on page 2 of [Exhibit L](#). Chair Hardy discussed the similarities between the two bills in regard to NRS 241.015 and NRS 241.020.

Chair Hardy asked Ms. Shipman, Mr. Rombardo and Mr. Doyle to come to the testifier's table to discuss the amendments they proposed for the two bills.

Scott Doyle, District Attorney, Douglas County, said the County's interest in S.B. 244 and S.B. 267 was with amendments in sections 9 and 10 to the existing NRS 241.037.

Senator Raggio said he concurred with what had been discussed. He said he noted on page 3 of [Exhibit L](#), the amendment did not include closed meetings regarding character, alleged misconduct or professional competence.

Chair Hardy said the language in S.B. 244 indicated it would include character, alleged misconduct or professional competence. He said the language in S.B. 267 did not include it.

Senator Care said there might be opposition to the idea of some open hearings where well-known people were discussed. Senator Care said he agreed with the language in S.B. 244.

Chair Hardy reiterated information from page 3 of [Exhibit L](#) which said any supporting material provided to members of the public must, if requested, be provided to the requester at the same time material was provided to the public. He stated there was no requirement to mail the information; it was available if requested.

Senator Raggio said Ms. Shipman suggested a change in the language was required. He said she mentioned it would be a logistical problem the way the language was currently worded.

Madelyn Shipman, Nevada District Attorneys Association, said her proposed amendment requested the word "provided" be changed to "made available."

Chair Hardy reiterated the term "made available" be inserted in the bills where the terms "must be provided" were written. Chair Hardy continued reviewing S.B. 244 and S.B. 267 and the similarities between the 2 bills in relation to NRS 241.030, page 3 of [Exhibit L](#).

Ms. Guinasso said if the change to NRS 241.015 deleted language that stipulated a meeting did not include a gathering of members of a public body to receive information from legal counsel, then the change to NRS 241.030 needed to be deleted also.

Chair Hardy continued to discuss the differences and similarities between S.B. 244 and S.B. 267 in reference to NRS 241.030. He mentioned the added language Senator Care wanted adopted in S.B. 267 on page 3, paragraph 4 of [Exhibit L](#).

Senator Raggio said if the language was adopted that stated a person's name had to be on the agenda, that person could waive the closure of the meeting and request it be open to the public.

Chair Hardy said Senator Raggio was correct and added the subject of the closed meeting could request an open meeting at any time. Chair Hardy continued reviewing the similarities between the bills on page 4 of [Exhibit L](#).

Senator Care said the intent was to not have a closed meeting when discussing the character, alleged misconduct or professional competence of limited-purpose public figures. He cited examples such as fire chiefs, county managers and university presidents who gave up some of their rights to privacy. Chair Hardy added the changes included consideration of opening hiring to the public.

Mr. Richardson cited his testimony ([Exhibit M](#)), and said a potential problem with the language included the hiring process in the Open Meeting Law. He said it would negatively affect the quality and size of the pool of applicants.

Chair Hardy said Senator Care stated he would withdraw that portion of [Senate Bill 267](#) on page 4, paragraph 4 of [Exhibit L](#).

Senator Raggio said he was still concerned about the prohibition on closed meetings to consider physical or mental problems of an elected member or an appointed public officer as discussed on page 4, paragraph 5 of [Exhibit L](#). Chair Hardy responded to Senator Raggio by saying the proposed amendment changed that requirement. He said the prohibition should not be extended to the physical or mental health of an individual. Senator Raggio said federal legislation prohibited discussion of a person's private medical history. He was concerned about people with "high-level positions" being singled out for discussion of their physical and medical capacities at open meetings. He said if their physical and medical capacities were a concern, that concern should be discussed in a closed meeting.

Senator Care said existing law stated you could not hold a closed meeting to consider the physical or mental health of an elected member of a public body. He said he recognized Senator Raggio's concerns and a constitutional right to privacy. He said he did not want to remove existing law concerning closed meetings about an elected official.

Chair Hardy said the Committee needed to remove references to physical or mental health in S.B. 267.

Senator Raggio asked if the first issue remained in the bill, where a meeting involving character or misconduct was an open meeting, and questioned whether the person involved still had the option to close a meeting. Chair Hardy responded the person could opt to open the meeting. Senator Raggio said he understood a closed meeting could be opened, but wondered if the reverse was also possible.

Senator Care said he was not in favor of giving a person the option to close and open a meeting. He said it defeated the purpose of the bill. He said it canceled out the intent of the bill in its draft form.

Ms. Guinasso said the current provisions of NRS 241.031 stated the public body should not hold a closed meeting to consider the issues of character, alleged misconduct, professional competence or physical or mental health of an elected member. She asked if it was clarification or the opening of a meeting under any conditions that needed to be eliminated.

Senator Raggio said he accepted Senator Care's proposal to retain the provision that meetings considering character and alleged misconduct be open meetings. He said regardless of existing law, the bill should be amended to state a closed meeting was permissible if it involved the physical or mental health of the person.

Chair Hardy said he suspected the language in NRS 241.031 was written before the Health Insurance Portability and Accountability Act of 1996 (HIPAA) laws were enacted. He said there was testimony that HIPAA would require closed meetings to discuss physical or mental health.

Senator Care asked if the language could be written specifically and include Senator Raggio's repeal of existing law.

Ms. Guinasso asked the Committee if the references throughout the bill to meetings involving the mental and physical health or character of either an elected or an appointed member of a public body needed to be closed meetings unless that person chose to waive a closed meeting and hold an open meeting. She said with respect to character, alleged misconduct and professional

competence, the meeting needed to be open for an elected member. She asked the Committee if the meeting should also be open for an appointed member.

Chair Hardy continued the discussion of page 5 of [Exhibit L](#). He stated this section of S.B. 244 and S.B. 267 concerned the NRS 241.033. He recapped the section of the two bills which stated a written notice with proof of delivery had been received by the person being discussed. He said the bills dealt with notification requirements and clarified that casual or tangential references did not constitute consideration of the physical or mental health of that person.

Ms. Shipman asked about the administrative action provided in another section of the Open Meeting Law. She said there was a 21 working day notice or a 5-day personal notice, and she assumed any action taken was in the open and not in a closed meeting. She said the new language could be construed that the closed meeting could be held, and the administrative action could take place in the closed session.

Chair Hardy said it was certainly not the intent of the Committee to imply that any action could be taken in a closed meeting.

Chair Hardy continued the discussion, citing page 6 of [Exhibit L](#). He said S.B. 244 and S.B. 267 added language to avoid duplicate notices.

Ms. Shipman said the intent was two places in the Open Meeting Law required to give a 5-day personal notice or 21 working day notice and use certified mail. She said the notice was required when an administrative action was taken against a person, and the other notice was required for eminent domain. She said the same requirement was in the Open Meeting Law for a closed session. She said the language proposed for the NRS 241.034, on page 6 of [Exhibit L](#), eliminated the need to send 2 notices. She said it would be possible to send one notice and do both actions as part of one notice.

Chair Hardy stated the change to the NRS 241.035 assured a record of what occurred in a closed meeting after it was determined there was no longer a reason for confidentiality.

Ms. Shipman said if the attorney-client meeting was exempted from the coverage of the Open Meeting Law, no minutes were taken for such a meeting.

She said there was no clerk present in those meetings. Ms. Shipman stated the NRS 241.034 referred to in both S.B. 244 and S.B. 267 should be deleted.

Chair Hardy said S.B. 267 added a provision that any Nevada resident could sue to have an action taken by a public body in violation of the NRS 241.034 declared void.

Mr. Doyle referenced his comments to his letters dated March 28, pages 1 and 2, and April 6, pages 1 and 2, previously sent to the Committee ([Exhibit N](#)). He said the letters explained the concerns he had with respect to private rights of action and standing. He said the language "any resident" as proposed by Senator Care was meritorious. He said the Committee should consider taking the residency language of the new subsection 3 and deleting the "denied a right conferred by this chapter" in the NRS 241.037, section 2, and substitute "who is a resident of the state" from the NRS 241.037, section 3, [Exhibit N](#).

Senator Care said Mr. Doyle's suggestion might be better addressed in S.B. 6 scheduled to be reheard in a later work session. Senator Care said this section of the bill was a Board of Regents issue. He said there had to be a way to get the attention of public bodies that violated the Open Meeting Law.

Ann Wilkinson, Deputy City Attorney, Civil Division, Office of the City Attorney, City of Reno, said she wanted to state the City of Reno opposed adding the additional language as proposed by S.B. 267. Ms. Wilkinson stated Patricia A. Lynch, City Attorney, City of Reno, had provided comments for the work session documents in opposition to language proposed in S.B. 244 and S.B. 267 with regard to attorney-client briefings ([Exhibit O](#)).

Neil A. Rombardo, Senior Deputy Attorney General, Office of the Attorney General, said his office received complaints from the entire State that were often frivolous complaints. He stated the complaints were not just a problem for the City of Reno. He said to open the standard for lawsuits as suggested in S.B. 267 in relation to the NRS 241.037 would create a flood of litigation on the Open Meeting Law.

Chair Hardy said the Committee should address the policy issue first. He said he would be more comfortable removing the language from S.B. 267.

Senator Care said the language could be removed, provided a provision allowed somebody to get the issue in front of a judge.

Senator Raggio said he was unclear why the new language was necessary. He said in the NRS 241.037, the right was guaranteed that any person denied a right could sue. He asked why that section was not adequate.

Chair Hardy opened the discussion on NRS 241.040 as it related to S.B. 244 and S.B. 267. He said it provided the Attorney General interpret and administer the provisions of chapter 241 of NRS, and he cited page 6 of [Exhibit L](#).

Mr. Rombardo said he agreed with Mr. Doyle. He said if the intent was to draft regulations out of the Office of the Attorney General, it would create huge problems. He said his office was the enforcement agency, not the regulatory agency. He said he did not think his office should draft regulations on a law they would be required to enforce.

Mr. Doyle said his concern was the opinion-writing process declared the rights of the public officials subject to the law. It also declared the rights of individuals who may have had a right abridged by the public body's actions under that law. He said several basic procedural processes needed to be built into the administrative remedy. Mr. Doyle said proper notice with an adequate opportunity to be heard was needed. He added an appropriate division of functions inside the Attorney General's Office with respect to investigation, preparation of the initial opinion, decision-making and adequate resort to judicial review was required.

Chair Hardy asked if the current language in the proposed bills codified what was already done. Mr. Doyle said it took an Open Meeting Law Opinion process which was an unofficial process.

Senator Raggio suggested the Committee not change the existing law at this time.

Chair Hardy said he wanted a more substantive policy discussion on the issue. He said it was important there be something in statute upon which the public could rely. Chair Hardy continued the discussion of page 6 of [Exhibit L](#). He stated Senator Care wanted the item regarding the NRS 433.534 removed from S.B. 267. He said the final item to consider was the effective date for the

two bills. He said S.B. 244 had an effective date of July 1, and S.B. 267 proposed a date of October 1.

Senator Raggio asked the Committee if the bill would be ready by July 1. Chair Hardy said he had not requested that date and said October 1 was sufficient.

SENATOR RAGGIO MOVED TO INCLUDE SENATOR HARDY'S NAME ON THE BILL AND TO AMEND AND DO PASS AS AMENDED S.B. 267.

SENATOR TOWNSEND SECONDED THE MOTION.

Chair Hardy said he needed to indicate for the record the Committee had empowered legal counsel to make whatever changes were necessary to satisfy HIPAA requirements.

THE MOTION CARRIED UNANIMOUSLY.

Chair Hardy opened the discussion on S.B. 411.

SENATE BILL 411: Revises provision governing payment by installment of assessment for local improvement. (BDR 21-1293)

Chair Hardy said the bill was originally simple. The Committee needed a vehicle for additional cleanup language. He said he had been told the language was agreed to by all interested parties. Chair Hardy stated a lengthy amendment was added to the bill. He asked Mr. Swendseid to give the Committee an overview of the amendment.

John Swendseid, Swendseid & Stern, said he was bond counsel to various entities in Nevada that issued bonds under chapter 271 of NRS. He said this chapter dealt with local improvement bonds. These bonds benefit particular properties, such as streets, water and sewer. He said the cost of the improvements was assessed against the property. The purpose of S.B. 411 was to make the procedure more fair and efficient for property owners and the municipality. He said he would review the key amendments as presented in the Work Session Document on S.B. 411 ([Exhibit P](#), original is on file at the

Research Library). Mr. Swendseid referenced page 1a, paragraph A, of [Exhibit P](#) referring to section 1 of the bill. He said it created the local improvement districts a municipality could create for assessment. Mr. Swendseid next discussed the proposed changes to section 5 of the bill in the prepayment penalty on bonds citing page 1b, paragraph E, of [Exhibit P](#). He said it would change the prepayment penalty to a maximum flat 5 percent. He said paragraph F on page 1b of [Exhibit P](#) incorporated section 6 of the original bill. He said it changed the maximum term of assessments and bonds from 25 years to 30 years.

Mr. Swendseid said page 1c, Paragraph J in [Exhibit P](#) of the amendment to section 10 dealt with surpluses. He said originally, if \$10,000 remained after the bond was paid off, it was returned to the property owners. That amount would be increased to \$25,000, which would leave more money with the local government. He said Paragraph L referring to section 12, on page 1c of [Exhibit P](#) allowed, with the consent of all property owners in a district, bonds an interest rate that would satisfy the cash flow test. He said the assessments would generate enough to pay the bonds. He said it allowed property owners to be charged less than under the existing law.

Mr. Swendseid said the last section he wanted to mention dealt with refunding these bonds. He said current law allowed a refund only if the rate of interest was being reduced. He said there might be a case where people were having problems paying the assessments. He said a refund could extend the term of the assessments to 30 years. The interest rate might not be reduced, but the payment would be lower due to the longer term.

Chair Hardy said it was a consensus amendment.

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 411.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Hardy reopened the discussion on S.B. 493.

Karen Winchell, Motor Carrier Division, Department of Motor Vehicles, read her testimony on S.B. 493 ([Exhibit Q](#)). She said the Department of Motor Vehicles (DMV) submitted a fiscal note that reflected the added expenses DMV would incur ([Exhibit R](#)). She said the bill exempted the motion picture industry from paying the special fuel use tax of 27 cents per gallon. She said passage of the bill would cost \$48,319 in fiscal year (FY) 2006. She said the cost to the State Highway Fund would be \$37,800 in FY 2006, \$37,800 in FY 2007 and \$75,600 in future biennia. She said an average of 42 companies with 5 vehicles each worked in Nevada for approximately 6 days per company, per year.

Cindy Arnold, Motor Carrier Division, Department of Motor Vehicles, requested the expenses incurred implementing the changes be included in DMV's budget through an appropriation. She also requested an alternative effective date of October 1 order to implement the computer changes.

Chair Hardy informed Senator Raggio the representatives from DMV said there would be a fiscal note on S.B. 493. Chair Hardy closed the hearing on S.B. 493 and opened the hearing on S.B. 488.

SENATE BILL 488: Makes various changes concerning adoption of certain rules and regulations affecting business. (BDR 19-1294)

Chair Hardy said he had requested S.B. 488. He said the bill related to business impact statements. He said in his opinion, the business impact statements were not given good consideration by the local governments. He said the bill required identification of the methodology used to determine the fiscal impact statement. He said it was not the intent of the legislation to require an additional meeting.

Senator Lee asked where the bill would be implemented. Chair Hardy said under current law, a county or city commission was required to make a financial impact statement on how an ordinance would impact business. He said he had seen extreme requirements that supposedly had no fiscal impact.

Carole Vilardo, Nevada Taxpayers Association, spoke in favor of S.B. 488. She said S.B. 488 was needed to ensure local government or departments had a person, who made determinations concerning an impact on a business, with experience in that area. The provisions in the bill allowed for notification of a business at the beginning of the project rather than retroactively.

Senator Lee asked if the phrase "if they request" could be added to the bill at section 1, line 5, rather than insisting an organization submit data.

Senator Raggio agreed with the intent of the bill. He said it was helpful and proper to have a statement identifying the method used by an agency to determine the impact on a business. He said the present law required an agency to consult with trade associations or owners who were likely affected by an ordinance. Senator Raggio said the current law appeared adequate in addressing the problems. He said he did not understand the requirement and whether some sort of specific notice had to be given. He asked what the phrase "must afford" specifically meant, besides what was already in the law.

Ms. Vilardo said the affording of an opportunity occurred after the fact. She said the opportunity needed to occur before action was taken.

Paul J. Enos, Retail Association of Nevada, said there had been examples of an ordinance or rule that clearly impacted business, but an impact statement was not required because it would not impact business. He said the bill would afford the opportunity for contact beforehand so business could work with the city or county in drafting the ordinance for as little negative impact on business as possible.

Chair Hardy responded to Senator Raggio's question by saying as the law was currently written, a person who knew nothing about the business impacted made a determination whether or not there was an impact on that business.

Senator Raggio reiterated his question about what was different in the bill from what was already in the law.

Senator Townsend said the bill requested a workshop before an ordinance was passed if there was the likelihood of an impact on business by a rule or an ordinance. He said small businesses would have input in helping a person who did not know anything about a particular business better understand the impact on that business. Therefore, the ordinance or rule could be more considerate of the business, and the business entity would have had input before the ordinance was drafted.

Mr. Enos said Senator Townsend was absolutely correct. He said a business wanted to have some input to assist local governments and entities in drafting better laws.

Chair Hardy said Senator Raggio's point was to question how the word "afford" would make early input occur if it did not work in the law already in force.

Mark Sullivan, Associated General Contractors Nevada Chapter, said he agreed with Senator Townsend's summation of the bill as providing a proactive approach. He said the interpretation of the phrase "reasonably practical" in the existing law was done internally and did not occur in practice.

Chair Hardy suggested a better phrase than "must afford" would be to substitute the phrase "shall consult." He said the language could remove the phrase "insofar as practicable" and insert the phrase "shall consult with trade associations," and then add the additional language.

Chair Hardy asked if there were further testifiers for S.B. 488. He asked people who wanted to be on record in support or against the bill to come forward.

Anthony Bandiero, Nevada Petroleum Marketers and Convenience Store Association, said all of his clients were in favor of S.B. 488. He was followed by James F. Nadeau, Nevada Association of Realtors, who also wanted to be on record as supporting the bill. Ronald S. Levine, Nevada Motor Transport Association, said his organization wanted to be on record in support of S.B. 488.

J. David Fraser, Nevada League of Cities, said his organization did not want to be characterized as opposing the bill, but he needed to comment. He said the goal of every governing body was to work well with their business community. He said his organization respected the intent of the bill, but said there was some concern about how the bill would be implemented.

Senator Raggio said he supported the bill. He said there was enough legislative intent on the record to cover his concern about what constituted a reasonable opportunity to submit data. He said the portion of the bill under section 2 which required the business impact statement at the time an agenda was posted was especially good.

SENATOR TOWNSEND MOVED TO DO PASS S.B. 488.

SENATOR TIFFANY SECONDED THE MOTION.

Chair Hardy asked if there was any discussion on the motion.

Senator Lee had a question from page 4, line 28 of S.B. 488. The new wording removed the phrase "insofar as practicable" and placed the word "consult" at the beginning of the sentence. He asked how it would be accomplished.

Chair Hardy said the escape mechanism for agencies had been the term insofar as practicable. He said there was no reason an agency could not consult with a business on an ordinance that impacted the business. He said the goal of that section of the bill was to remove the escape mechanism.

Chair Hardy requested the motion be restated.

Senator Raggio asked Ms. Guinasso a question concerning who the NRS 233B.060 applied to in section 4 of S.B. 488. Ms. Guinasso responded chapter 233B of NRS applied to State agencies and their adoption of regulations.

Senator Raggio asked, as a practical matter, if the State agency was able to consult with all businesses likely affected.

Ms. Vilaro responded it was not a problem for State agencies. She said if a business was interested, it notified the State agency which then placed the name of the business on the mailing list for all notifications.

Senator Raggio said he did not want to create a problem by removing the phrase "insofar as practicable" under section 4 that dealt with State agencies. He said present law stated the agency must consult with the owners of businesses. He asked if missing one or two restaurants would create an impossible situation.

Ms. Vilaro said she agreed with Senator Raggio. The language "insofar as practicable" should remain in the bill.

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Senator Townsend withdrew his previous motion to do pass S.B. 488 and Senator Tiffany withdrew her second to the motion.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 488 BY LEAVING LINE 28 ON PAGE 4 IN THE BILL.

SENATOR RAGGIO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Hardy opened the discussion on Senate Bill 20. He said the bill revised provisions to the Las Vegas Convention & Visitors Authority.

SENATE BILL 20: Revises provisions governing certain county fair and recreation boards. (BDR 20-682)

Chair Hardy said the way the Clark County fair board was currently drawn up, it had 14 members on the board. He said the local governments Clark County, Las Vegas, Henderson and North Las Vegas had permanent seats on the board. He said the City of Mesquite and Boulder City had rotating seats. He said the bill contemplated adding a new seat so Mesquite and Boulder City would have full-time seats on the board of the Las Vegas Convention & Visitors Authority. He said he had received no opposition to the bill.

SENATOR LEE MOVED TO DO PASS S.B. 20

SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TIFFANY VOTED NO.)

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Chair Hardy opened the discussion on S.B. 130.

SENATE BILL 130: Revises provisions governing organization and duties of Department of Information Technology. (BDR 19-608)

Chair Hardy asked Michael Stewart, Committee Policy Analyst, to review the Work Session Documents he had prepared for S.B. 130 ([Exhibit S](#)).

Mr. Stewart said the work session documents contained amendments proposed by Terry Savage and a letter from the Office of the Attorney General. He said Mr. Savage's first amendment dealt with section 3, page 3, lines 15 and 16 of S.B. 130. Mr. Stewart said the amendment retracted the deletion of the University and Community College System of Nevada (UCCSN), [Exhibit S](#). Mr. Stewart said the same concept applied to remove section 4, line 11, on page 4 to restore the exemption for the State Controller's Office. He said the amendment also added language exempting all constitutional officers. He said the final amendment in section 4, page 4, line 14 removed the deletion of UCCSN and restored the exemption.

Chair Hardy told Mr. Savage he received concerns about the exemptions in total. He asked if there needed to be another portion in the bill, in addition to removing exemptions, for the Department of Wildlife and others.

Terry Savage, Director, Chief Information Officer, Department of Information Technology, said the deletion of the expiration date on confidential documents was briefly discussed. He said the effective section in the bill was the deletion of most exemptions. He said with regard to the Department of Wildlife, he already drafted the exemption for the tag application system.

Chair Hardy asked Mr. Savage if anything prohibited departments from coming to the Department of Information Technology to receive services even though they were exempted from the requirement. Mr. Savage said his department provided services for a number of exempt agencies because it made sense to those departments.

Senator Raggio said a number of witnesses testified against the bill. He asked Mr. Savage if his intention at this time was to not remove the exemptions. Senator Raggio said he did not see the need for the bill unless it contained something that needed to be processed.

Mr. Savage said the purpose of the bill was to change the authority to change the exemptions by removing the requirement in statute and making it an executive decision by the Governor. He said the Governor determined an agency exemption based on whether it was efficient to operate separately. He said he

would draft specific applications when it was appropriate. He said the reason for the change was to rapidly produce efficient improvements if an opportunity was identified.

Chair Hardy asked Mr. Savage what else in the bill needed to be processed. He said there was significant concern with removing the exemptions.

Senator Care said section 14, subsection 3 of the bill was the deletion of the sunset provision. He said he was convinced the sunset provision needed to be deleted in order to keep confidential matters that related to homeland security.

Chair Hardy asked Senator Care if that meant only section 14 needed to remain in the bill. Mr. Savage said that was correct and referred to his handout ([Exhibit T](#)).

SENATOR TIFFANY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 130 BY RETAINING SECTION 14 AND DELETING THE REMAINDER
OF THE BILL.

SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Hardy opened the discussion on S.B. 184.

SENATE BILL 184: Revises provisions relating to enterprise funds. (BDR 31-23)

Mr. Stewart said S.B.184 related to enterprise funds. He said Carole Vilardo had proposed an amendment. He said the Committee had a copy of the amendment in the Work Session Document on S.B. 184 ([Exhibit U](#)).

Chair Hardy said Ms. Vilardo had explained the amendment at the original hearing of the bill. He said Senator Care agreed with the amendment.

Ms. Vilardo referred to the amendment all the Committee members had from their Work Session Document, [Exhibit U](#). She said the section-by-section

description explained what the amended bill did, she would answer any questions the Committee might have.

Chair Hardy asked if the sections in [Exhibit U](#) answered the concerns of local government. Ms. Vilardo said she understood it did.

Michael Bouse, City of Henderson, said he agreed with the intent of Ms. Vilardo's amendment. He said the City's finance department had not seen the amendment and requested the opportunity to review it in the Assembly at a later date.

Ronald L. Lynn, Clark County, said Clark County did not support section 2 of the proposed amendment. He said building departments worked under the auspices of elected officials who were responsible to their constituents in the performance of their duties. He said if the local legislative body felt the need to establish any advisory committee, they were free to do so. He said Clark County had established such a committee; its composition, length of service and the goals were set by the local legislative body. He said the way to minimize the effectiveness of a regulatory agency was to control their purse strings ([Exhibit V](#)).

Chair Hardy said the Committee was not reopening the hearing on S.B. 184. He asked Ms. Vilardo if Mr. Lynn participated in the earlier discussions. She said Mr. Lynn had a problem with a mandate from the State for the advisory committee.

Chair Hardy asked for a definition of the policy question.

Ms. Vilardo said the purpose of the committee was to foster a dialog regarding the operation of the enterprise funds. She said her members had concerns about fee increases on the basis that additional people would be hired. She said two years later the people had not been hired. She said the section she suggested repealing was an existing law enacted last Session on building enterprise fees.

Chair Hardy asked Mr. Lynn if his concern with the bill was with subsection 3 of section 2 or something else.

Mr. Lynn said his concern was with section 2 which established the committee. He said his objection was to the establishment of a committee.

Senator Care said he had confidence in Ms. Vilardo's amendment. He said he recalled the testimony from the earlier meeting.

Chair Hardy noted for the record the opposition brought forward at this time was expressed at the original hearing. He said it was out of order for a work session.

Senator Raggio asked Ms. Vilardo the effect of deleting section 3 on the bill.

Ms. Vilardo said the effect of deleting section 3 was to capture every enterprise fund, except the utilities. She said there were a lot of enterprise funds with different restrictions.

Senator Lee asked about the composition of the committee. He inquired why a representative of the residential construction industry was specifically included on the committee. He did not know why an exclusive place was held for a member of the residential construction industry.

Ms. Vilardo said those were the minimum requirements. She said residential construction was included because in urbanized areas, residential builders paid a substantial proportion of the fees.

Senator Lee had a question about section 2, line 31, in the proposed amendment. He asked if adequacy meant an increase of fees or was "adequate" just a bland word. He asked for Ms. Vilardo's interpretation of the word.

Ms. Vilardo replied the expenditures of the enterprise fund were covered. She said secondly, there should not be an excess profit. Senator Lee asked if there could be a decrease in the fees. He also said he still had a problem with a residential construction person as the only person available to sit on the committee. He said a lot of good commercial contractors or subcontractors would be eligible. He said he would eliminate the phrase residential contractor and make the requirement more general.

Chair Hardy suggested changing the wording to two representatives of the construction industry. Senator Lee said that was fine.

Ms. Guinasso asked Chair Hardy if the phrase "who may be a subcontractor" should be left in the bill or deleted entirely. Chair Hardy recommended deleting the phrase and writing "a representative of the construction industry."

Senator Raggio said the bill originally established the maximum amount of unreserved working capital. He asked if the amendment changed anything with respect to the bill or the allowable reserve.

Ms. Vilardo responded the change was previously worded based on the budget amounts; the change now put it to the Comprehensive Annual Financial Report. She said an audited report would identify the funds.

Senator Raggio asked Ms. Vilardo if the amendment was more limiting than the original bill. She replied the amendment was not more limiting; it provided greater accuracy.

Senator Raggio said she mentioned discussing the amendment with representatives of local government, and he asked if Washoe County was involved in the amendment. Ms. Vilardo replied Fallon, Washoe County, Reno, Henderson, the City of Las Vegas, the League of Cities and Clark County all agreed to the language in the new amendment.

Nicole J. Lamboley, City of Reno, said the City of Reno understood the intent of the amendment and agreed to the language. She said they understood the original intent of the restricted and encumbered funds. She said their biggest concern initially was with the composition of the committee.

John Slaughter, Washoe County, said his organization had tracked the bill and their concern was also with the composition of the committee. Mr. Slaughter said Washoe County agreed with the City of Reno.

Dan Musgrove, Clark County, called the attention of the Committee to an area in the proposed amendment on page 8, section 7, line 4 (b), [Exhibit U](#). He said the word "overhead" was a concern for Clark County. Mr. Musgrove said the word was not defined in statute. He said it was already provided for in statute under the NRS 354.517, which defined enterprise fund. Mr. Musgrove suggested section 7, line 4 (b) be deleted, and again referenced [Exhibit U](#).

Ms. Vilardo said she did not concur. She said the deleted language in section 5 was basically the language which said "operating and overhead," but in that section, it had nine months of operating.

Chair Hardy asked Senator Care, as the sponsor of the bill, if he was comfortable with the discussion and changes. Senator Care responded he was ready to proceed.

SENATOR TIFFANY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 184.

SENATOR TOWNSEND SECONDED THE MOTION.

Chair Hardy asked if there was any discussion on the motion.

Senator Raggio asked what the amendment included.

Senator Hardy said the amendment included a change in the composition of the committee. He referred to Work Session Document, [Exhibit U](#), and said the change would be in section 2, line 17 (c) to end with a period after the phrase "a representative of the construction industry."

THE MOTION CARRIED UNANIMOUSLY.

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Chair Hardy opened the discussion on Senate Bill 262.

SENATE BILL 262: Authorizes raising, relocation or compensation for loss of outdoor advertising structures as result of certain governmental actions.
(BDR 22-1250)

Chair Hardy said S.B. 262 was the billboard bill. He said the Committee was provided a multicolored document of the proposed amendment. He said it was Amendment No. 5, submitted by Jake Smith ([Exhibit W](#)).

Jake Smith said he was with Clear Channel Outdoor. He said he was in several work sessions with the cities, counties and NDOT to arrive at the amendment.

He said the bill gave tools to the industry to provide compromises for sound walls. He said the bill provided a multitude of avenues through the cooperation of cities, counties and the State to arrive at compromises for billboards. He said several possibilities were included—relocation, raising of the signs and changing the angle of the signs. He said his industry would absorb the costs of the proposed changes.

Chair Hardy asked Mr. Smith which amendment he was discussing. He said Mr. Stewart received an e-mail amendment earlier and another was presented in Committee. Mr. Smith stated Amendment No. 5 was the correct amendment.

Cheri L. Edelman, City of Las Vegas, said she would provide an electronic copy after the meeting of the correct amendment for Mr. Stewart.

Mr. Smith said the amendment provided different tools and solutions to try to remedy sound-wall problems in regard to billboards. Mr. Smith said every governing body would be involved in the process. He said the NDOT had no opposition to the agreement. He said the size of the signs would not increase. He said the purpose was to obtain similar visibility to what was there before the sound walls were erected.

Chair Hardy requested the Committee be apprised of the proposed amendment, line by line.

Ms. Edelman said she would highlight the changes in the original bill. She said section 2, related to just compensation, had been deleted. The definition in section 3 only applied to lawfully erected, NDOT-permitted billboards. Section 4 applied only to any publicly constructed improvement projects and specifically to noise abatement measures [Exhibit W](#). Ms. Edelman said all language regarding highways or interstates was replaced with the term “controlled access freeway facility.”

Chair Hardy mentioned the presentation of the amendment was very difficult to follow. He said the Committee needed a copy of [S.B. 262](#) as it appeared with the amendments. He suggested the Committee go to the original bill and disregard amendment draft No. 5. He said section 2 was being entirely deleted. Outdoor advertising structure was limited to exclusively mean lawfully erected billboards.

Chair Hardy asked Ms. Guinasso to assist with the wording of the amendment and to advise the Committee of things they could not do or say.

Ms. Edelman said section 3 added language which referred to a billboard subject to a permit issued by the NDOT.

Ms. Guinasso said if something were subject to a permit, the permit was already issued. She said there was no distinction between "being subject to" and actually having a permit issued. Ms. Edelman said the difference was whether or not the NDOT had issued the permit. She said other signs could be permitted through other agencies. Ms. Guinasso said the language needed to say a "permit issued by NDOT" in order to make the definition work. Ms. Guinasso said the word "lawful" would then not be needed in the amendment.

Chair Hardy said section 4 removed the words "approved by" or "caused to be performed by" a governing body. He asked the effect of that section.

Ms. Edelman said she did not want something approved by a local agency. She said it should be those projects performed by local governments. She said the amendment added it was a public improvement construction project. She said in section 4, lines 13 through 15, noise abatement projects was the only subject addressed. She added the date June 1991 was deleted from the amendment.

Ms. Edelman referenced paragraph (a) in section 4 and said the words changed to "similar visibility" of an outdoor structure, [Exhibit W](#). The amendment also added the phrase "at no cost to local or state governments." She said section 4, subsection 1, paragraph (b), line 11, added the term "at no cost to local or state governments" and deleted a reference to 500 feet. She said section 4, subsection 1, paragraph (c) of the bill was deleted and replaced with paragraphs (c), (d) and (e) of the amendment, [Exhibit W](#). Ms. Edelman said paragraph 3 (a) through (e) of the proposed amendment replaced section 4, subsection 2 (a) through (b) in S.B. 262. She said paragraph 4 of the proposed amendment on page 3 of [Exhibit W](#) should be added as written as another paragraph. Ms. Edelman said section 5 and section 6 of the bill were unchanged. Section 7 mirrored previous sections except it was for State government, [Exhibit W](#).

Senator Titus asked for a summary of why the bill was necessary.

Mr. Smith said the reason was to provide as many options and tools as possible for noise barriers. He said the goal was to keep the existing property, billboards, whole.

Senator Titus asked if the goal was compensation for the sign company or the ability to move the sign to a different location when a sound wall was erected. Mr. Smith said the sign company would pay to move the sign, and there would be no money from the city, county or State.

Senator Titus asked why legislation was necessary to accomplish that goal. Mr. Smith said it was a tool to make it easier for everyone when sound walls were erected.

Chair Hardy said billboards were not the favorite thing of local governments. He said it was complicated because the discussion involved a specific property. He said private construction would not occur between a freeway and a billboard. Chair Hardy said some mechanism was needed to compel local governments to deal with the problem.

Senator Care said four years ago, a bill dealt with compensation for a billboard company. He said the current bill was entirely different. He said the NDOT had the easement and the billboard company had to yield because a sound wall went up and the billboard had to relocate. He asked what would occur if there was not a place to relocate, and what would happen if the bill were not enacted.

Mr. Smith said the individual billboard company could opt to sue; however, nothing in the bill compromises anybody's position. He said the goal of the bill was to avoid such a situation. Mr. Smith said billboard companies wanted to come to a compromise with cities and counties agreeable to all involved.

Senator Care asked Mr. Smith if he foresaw a circumstance where there was no other place to put the sign. Mr. Smith said there was always a chance that might happen. He said in his experience, raising the sign solved 95 percent of the problems. He said most sound walls were 10 feet high so the sign would be raised 10 feet.

Senator Raggio said he commended the industry, cities, counties and NDOT for coming together on the bill. He said he assumed the Nevada Department of Transportation was comfortable with the amendment. He said he understood

that since the issue of just compensation was removed from the bill, there was no longer any problem. He asked what the problem was now. He said he had been asked by the industry and the head of NDOT to introduce the bill for clarification.

Heidi Mireles, Chief of Right-of-Way, Nevada Department of Transportation, said the Department, the sign industry and the local public agencies came to a consensus. She said unfortunately, as the amendment was produced for the Committee, there had been some confusion. She said the NDOT wanted the compensation clause removed and the implied right was taken out. She said going through the amendment today was difficult.

Chair Hardy said it appeared the bill had to be postponed until the next meeting. He said he would have a five-minute hearing to address questions and concerns from NDOT.

Senator Raggio asked the Legal Division to assist in writing the amendment in the way the Committee was used to seeing it. He said the amendment should have been presented in the proper form.

Senator Titus said some things could not be fixed and should not be put into legislation. Senator Titus said the bill should have been left to local governments to decide these issues.

Chair Hardy said he had been told four times there was a consensus on the bill. He said the Committee did not need to discuss the bill any further.

Ms. Mireles said there was a consensus. She said section 7 as written in the proposed bill had been dropped and replaced with the amendment. She said some things were excluded.

Ms. Guinasso said the way the amendment was drafted, it combined local governments and the NDOT in both chapters. She said it was not possible to write the bill that way. She said she needed to be sure the intent of the amendment was the same as the provisions provided to the local governments in NRS 278, which also applied to the NDOT in chapter 410 of NRS. She expressed concern about section 7 of the amendment as proposed. She said the language in the amendment which stated the Nevada Department of Transportation "shall authorize by law, or local authority" was ambiguous. She

said she did not know how the NDOT could authorize by local authority anybody to do anything. She asked for further explanation.

Ms. Mireles said the intent was to make it clear the local government was involved in the process. She said the application, once submitted by the billboard company, had to be coordinated with the local public agency. She said the NDOT needed that clarified.

Ms. Guinasso asked who the final authority was—the NDOT or the local government. Ms. Mireles replied final authority was the stricter of the two agencies. She said if a local government had an ordinance or a code stricter than NDOT, the local agency would be in the controlling position.

Ms. Guinasso said the provision should be in chapter 410 of NRS. She said the Department either will authorize or ensure that a local government is authorizing. Ms. Mireles replied the local government was consenting under chapter 410 of NRS.

Chair Hardy said he would still like the amendment drafted as discussed.

Ms. Edelman said essentially sections 2, 3 and 4 of the original bill were deleted. The first 3 pages of Amendment No. 5 replaced those sections. She said section 5 and section 6 remained as written. She said section 7 was added to the bill.

Ms. Mireles said the entire section was deleted and replaced by the new section 7 of the amendment. She said the NDOT would make sure the submission to the Committee would be written in that manner. She said the NDOT was fine with the bill and the amendment.

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 262.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CARE AND TITUS VOTED NO.
SENATOR TIFFANY WAS ABSENT FOR THE VOTE.)

* * * * *

Senator Care said his no vote reflected the fact the Committee was receiving last-hour changes in the amendment. He said in chapter 278 of NRS, there was a section in zoning and planning which referred to cities and counties and covered billboards. He said he was unsure he understood the dialog explaining how local government fit in along with the NDOT.

Chair Hardy said the committee would now discuss S.B. 229.

SENATE BILL 229: Creates certain tax incentives for economic development.
(BDR 21-910)

Chair Hardy asked the Committee to refer to the Work Session Document concerning S.B. 229 ([Exhibit X](#)).

Senator Steven A. Horsford, Clark County Senatorial District No. 4, said the amendments before the Committee were clarifying amendments from the Commission on Economic Development and attempted to address an issue brought forward by the Clark County School District. Senator Horsford began the review of the amendments on page 2, line 33, [Exhibit X](#) and noted the word revenue would be deleted. Senator Horsford continued his overview of the proposed amendments mock-up. He summarized all of the changes in the amendments on a one-page worksheet ([Exhibit Y](#)). He referred to page 4, lines 16 through 22 of the mock-up summary, [Exhibit X](#).

Chair Hardy asked Senator Horsford what the effect would be of removing the word revenue. Senator Horsford replied the capital a business put up was not actually in the form of revenue; it was in the form of equipment.

Chair Hardy asked if the amended language was existing language being returned to the bill. Senator Horsford replied Chair Hardy was correct. He continued by saying the numbering would be adjusted for the addition of the language, [Exhibit X](#).

Chair Hardy asked if there were any questions on the amendments. He said Senator Raggio suggested removing the language "for at least one year" on page 5, line 32, [Exhibit X](#).

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Chair Hardy congratulated Senator Horsford on an innovative and well-thought-out concept that would impact areas of Las Vegas that desperately needed help.

SENATOR TIFFANY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 229.

SENATOR TITUS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Hardy said S.B. 244 and S.B. 267 were discussed, and he agreed to have the two bills combined in S.B. 267. He opened the discussion on S.B. 283.

SENATE BILL 283: Creates Committee for the Economic Diversification of Nevada. (BDR S-801)

Chair Hardy said the bill proposal made the Committee for the Economic Diversification of Nevada a subcommittee to the Interim Committee to Evaluate Higher Education Programs ([Exhibit Z](#)). He said it was an exempt bill, and no further action was required.

Senator Titus asked Chair Hardy if S.B. 283 made the Interim Committee to Evaluate Higher Education Programs a permanent committee. He replied she was correct.

Chair Hardy opened the discussion on S.B. 414.

SENATE BILL 414: Creates Nevada Economic Resource Investment Fund. (BDR 18-1062)

Chair Hardy said he thought S.B. 414 was an innovative idea, and the bill had a fiscal impact. He said there were several proposed amendments ([Exhibit AA](#)). Chair Hardy asked Mr. Parmer to explain his proposed amendment to the Committee.

Jay L. Parmer, Regional Economic Development Council, said the current language required the fund manager to deposit \$30 million into the account. He said that would double the size of the fund. He said fund managers typically contribute between zero and 5 percent to a fund. He said a decision was made to require the fund manager to deposit 2.5 percent to the fund.

Mr. Parmer said in order to elicit an investment from an insurer, the insurance company needed a guarantee that if they made the investment, they would earn their tax credits. He said the amendment made it clear the investor was eligible to exercise the tax credit at a later date, and he referenced page 2 of [Exhibit AA](#).

Mr. Parmer said the final change in the proposed amendment to S.B. 414 extended the amount of time from 20 to 30 days the board governing the fund had to review a proposal before taking action.

Senator Raggio said the Fiscal Division of the Legislative Counsel Bureau said the bill needed to be rereferred to the Finance Committee. He said there was considerable impact on the insurance premium tax currently going into the General Fund. He said the bill would be designated as exempt.

SENATOR RAGGIO MOVED TO AMEND AND REREFER S.B. 414 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR TIFFANY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Hardy opened the discussion on Senate Bill 422. He said Senator Lee had an amendment to the bill. He said the bill did not create new licensing or a new certificate. He said the bill allowed governing bodies to require certain certificates already available to managers. The bill exempted real estate licensees and other people appropriately licensed by ordinance.

SENATE BILL 422: Authorizes governing body of local government to regulate managers of certain motels, hotels or apartment complexes. (BDR 20-533)

Senator Care asked if the bill required the property owner to receive a certificate. Chair Hardy said owners were specifically exempted.

Senator Lee said his amendment was a way to prevent a governing body from levying additional taxes on contractors who were multiple-licensed but practicing under one trade. He used the example of a subcontractor licensed as a painter, a sheetrock installer and a sheetrock taper who was taxed individually for a business license for each of his subcontractor licenses. Senator Lee said the City of Las Vegas, City of North Las Vegas, Henderson and the City of Sparks all agreed if a subcontractor had the same set of books, the cities would include all the specialties and only issue one business license. He said his bill would protect contractors.

Senator Raggio said he wanted to make sure the original requesters of S.B. 422 were aware and in favor of the proposed added amendment.

Susan Fisher, City of Reno, said Reno had no objections to the amendment.

SENATOR TIFFANY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 422.

SENATOR LEE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Hardy opened the discussion on S.B. 426. He said the bill clarified the definition of public works, and said there were no specific amendments offered with the bill. He added Senator Raggio had questioned how the dollar value of energy savings was determined as set forth in the bill.

SENATE BILL 426: Clarifies certain provisions relating to public works. (BDR 28-1032)

Senator Raggio said he was concerned how the dollar value of a contract guaranteeing an energy savings could be determined before actual construction and use had occurred.

Chair Hardy asked Senator Raggio if he would leave the language in the bill as written.

Senator Townsend said there was a company which offered a guarantee. He said several neighboring states entered into contracts with the company. Senator Townsend said since there was no risk due to a guarantee, there was no reason not to proceed.

Chair Hardy said he referenced the bill as a vehicle for an issue brought to his attention with regard to electronic bid storage. He said he wanted to include this item as an amendment to S.B. 426. He said it admitted a concept technology now allowed but not currently permitted in law.

SENATOR TIFFANY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 426.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Hardy asked if all interested parties for S.B. 84 were still in the meeting. He opened the discussion on S.B. 84.

SENATE BILL 84: Revises provisions governing exemption of certain uses of time-share units from taxes on transient lodging. (BDR 20-135)

Chair Hardy said he would turn the gavel over to Senator Tiffany who conducted the subcommittee meeting for S.B. 84.

Senator Tiffany said she wanted to go through the bill and the amendment with discussion on the transcripts of the State of Nevada Tax Commission meeting of April 4 (Exhibit BB, original is on file at the Research Library).

Scott M. Craigie, American Resort Development Association, said he wanted to read two excerpts from the transcripts.

Karen D. Dennison, American Resort Development Association, asked the Committee to turn to page 2 of her handout ([Exhibit CC](#), original is on file at the [Research Library](#)). She said the amendment clarified time-share owners did not always occupy the same unit. She said owners bought a unit type rather than a specific unit. She said the amendment had an exception to time-share projects and when they could be taxed for room tax purposes. She said the exemption applied not only to owner use of the unit, but also exchange owner use of the time-share unit.

Mr. Craigie said he would read from two sections of the State of Nevada Tax Commission hearing [Exhibit BB](#). He said the motion made by the members of the Nevada Tax Commission touched on the main points discussed earlier with the Committee. He read the first part of the motion on page 163, lines 14 through 20 of [Exhibit BB](#). He said the key part of the motion was no gross receipts were to be taxed. The second section of the motion Mr. Craigie quoted was on page 164, lines 14 through 18 of [Exhibit BB](#). Mr. Craigie reiterated his earlier comments by saying "... unless there was cash on the table, there should not be a tax collected."

Michael G. Alonso, Reno-Sparks Convention & Visitors Authority, said the amendment was not needed. He said the critical issue was the impairment of the bonds. He said the change of policy would impair the bonds and affect the constitutionality of the proposed statute.

Chair Hardy said the full Committee had heard the final subcommittee report. He asked if the Committee had any questions.

Senator Care said gross receipts were not the issue with time-shares. He said in 1980-1981, Clark County promulgated an ordinance which recognized there was no "cash on the table." He said they chose a specific sum which would be adjusted annually. Senator Care said a tax mechanism was in place in Clark County and was problematic in that Clark County had not aggressively attempted to collect the tax. He said as to the bond issue, a discussion had been held on whether impairment of the contract with the bondholders by not collecting the tax constituted impairment in violation of the United States Constitution. He said he asked for and received a 2004 Ninth Circuit Court of Appeals opinion which indicated the impairment must be substantial. Senator Care said he had not seen the fiscal note until this meeting. He said he was unable to determine if the amounts on the note would be considered substantial.

Senator Care said for legislative intent, it was not possible at this time for the Legislature to know if the impairment was substantial due to lack of data. He said he wanted the record to clearly indicate the Legislature could not determine if the impairment was substantial.

Senator Raggio indicated he would abstain from the vote on this matter.

Senator Tiffany said the State of Nevada Tax Commission report, [Exhibit BB](#), was informative for the subcommittee. She said it made it clear Reno did not have the local ordinance to tax the entity although Clark County did have such an ordinance. She said she would make a public policy decision.

SENATOR TIFFANY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 84.

SENATOR TOWNSEND SECONDED THE MOTION.

Senator Townsend said S.B. 84 covered the entire State. He said it did not differentiate between Clark County and Washoe County with regard to their convention authorities. He added it eliminated Clark County's ordinance to collect the tax. The bill would set a statewide standard.

Senator Titus said the policy being set, as she understood it, was when you rented a time-share you paid the room tax, but when you traded or exchanged a time-share, the tax did not apply.

THE MOTION CARRIED. (SENATOR RAGGIO ABSTAINED FROM THE
VOTE.)

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Chair Hardy asked if there was any further business for the Committee. As there was none, he adjourned the meeting at 7:32 p.m.

RESPECTFULLY SUBMITTED:

Olivia Lodato,
Committee Secretary

APPROVED BY:

Senator Warren B. Hardy II, Chair

DATE: _____