

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

**Seventy-fourth Session
March 21, 2007**

The Senate Committee on Government Affairs was called to order by Chair Warren B. Hardy II at 1:39 p.m. on Wednesday, March 21, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

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

GUEST LEGISLATORS PRESENT:

Senator Mike McGinness, Central Nevada Senatorial District
Assemblyman Chad Christensen, Assembly District No. 13

STAFF MEMBERS PRESENT:

Eileen O'Grady, Committee Counsel
Michael J. Stewart, Committee Policy Analyst
Olivia Lodato, Committee Secretary

OTHERS PRESENT:

Scott Ryder, Captain, U. S. Navy
Maria Dowling, Colonel, U. S. Air Force
Brad T. Goetsch, Manager, Churchill County
Cynthia N. Kirkland, Major General, The Adjutant General of Nevada, Nevada
National Guard, Office of the Military
Madelyn Shipman, Southern Nevada Home Builders Association

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Joshua Griffin, Industrial Properties Development
Adam Titus, Industrial Properties Development

Chair Hardy opened the Committee meeting with a discussion of Senate Bill (S.B.) 269.

SENATE BILL 269: Requires that land use decisions take into account military installations and requires notice of certain land use hearings to be given to the commander of a military installation. (BDR 22-111)

Senator Mike McGinness, Central Nevada Senatorial District, said he represented most military installations in Nevada. Senator McGinness said the majority of military installations were established prior to World War II and were located far from urban areas. As population growth occurred, the distance from the base had become smaller. He said neighborhoods were exposed to overflights, artillery fire, dust and noise. He said an installation that could not perform its mission may not remain viable ([Exhibit C](#)). He mentioned viability was one of the criteria for the Base Realignment and Closure (BRAC) Commission's recommendations for base closure. Senator McGinness said most development around bases occurred with input from the military. He said S.B. 269 was an effort to increase coordination and communication between development and military installations. Senator McGinness said the bill required notification to base commanders when certain land-use hearings, which might affect the base, were scheduled. The bill gave military bases the same notice as surrounding neighbors and also gave them the right to appeal the change. He said the bill did not give the military veto authority. He said decision-making power remained with planning and zoning commissions, city councils and county commissions. The bill did not prohibit development near military bases, but required notification when a change in land use was proposed.

Assemblyman Chad Christensen, Assembly District No. 13, said he represented Creech Air Force Base. He said land use was an issue at this time at Nellis Air Force Base. He said Senator Lee and he had met staff at the Pentagon last year to discuss encroachment issues on the bases. Mr. Christensen said Nellis Air Force Base had a large economic impact on the Las Vegas Valley. He said the base brought in billions to the area. He supported S.B. 269.

Senator Raggio asked about the 3,000-foot designation for notification in sections 5, 7, 9 and 10 of the bill. He asked if the distance was more than necessary, appropriate or should it be less than 3,000 feet.

Senator McGinness said the distance was appropriate. He said new technology required more distance. He said he would prefer a greater distance if possible. Senator McGinness said Churchill County had worked with Naval Air Station Fallon (NAS Fallon) and was satisfied with the 3,000-foot designation.

Senator Lee asked about the word "recruitment" in section 1 of S.B. 269. He said recruitment occurred in storefronts and strip malls. Senator Lee also asked about the phrase "other essential functions" in section 1. He was concerned a military installation was too broad a term.

Senator McGinness said the word "recruitment" needed further discussion.

Scott Ryder, Captain, U.S. Navy, said he represented the Naval Air Station, Fallon. He stated it was the "crown jewel" of naval aviation training. He said NAS Fallon and the Fallon Range Training Complex played a critical role in readiness capabilities of the U.S. Navy ([Exhibit D](#)). Captain Ryder said the conditions at NAS Fallon would be difficult to replicate anywhere else. He stated NAS Fallon had a positive relationship with the local community. He said it was imperative the military departments in Nevada were given the "mission assurance" opportunities provided by the passage of S.B. 269.

Senator Hardy asked Captain Ryder's opinion on the 3,000-foot notification distance. He wondered if the distance was insufficient. He said at Nellis Air Force Base the issue involved the flight path.

Captain Ryder said an aircraft at NAS Fallon was airborne between 2,000 and 3,000 feet. He said when the air crew reached the end of the runway, the plane was typically between 1,000 and 2,000 feet above ground level elevation. He said the Air Installation Compatible Use Zones (AICUZ) information built for all air installations stated the noise contours of the AICUZ document showed the decibel level at 3,000 feet was still very loud. He said from a military perspective this might not be enough distance.

Senator Hardy asked the speed at which a plane was traveling on takeoff.

Captain Ryder said the airspeed immediately after takeoff was between 145 and 175 nautical miles an hour.

Senator Beers asked if the area of land beyond the runway was marked and named. He wanted to know if there was a way to mark the area of overflight.

Captain Ryder said there was not a way to specifically mark the area. He said it differed at every air base. He said the AICUZ document had contour lines of noise level depicted over the property.

Senator Beers said the line did not have to be visible on the ground. Captain Ryder replied the AICUZ data could be used.

Senator Beers said if the runway ran north-south, the encroachment would be much less an issue to the east and west. Captain Ryder said the primary runway at NAS Fallon was a northwest-southeast runway. He added a crosswind runway was often used which was an east-west runway, thus creating a 360 degree circle around the base.

Maria Dowling, Colonel, U. S. Air Force, said S.B. 269 protected the State's military installations and the continuing realistic training of all military disciplines ([Exhibit E](#)). Colonel Dowling stated approximately 40,000 tactical and testing sorties were flown over the Nevada Test and Training Range every year. She said Nellis Air Force Base personnel had an active dialogue with the boards of commissioners in Clark, Nye and Lincoln Counties and with local developers. She said Nellis Air Force Base strongly supported S.B. 269.

Senator Care said in 1979, there was little housing located around Nellis Air Force Base. He said as people bought houses closer to the flight patterns, they complained about noise levels and requested flight patterns change. Senator Care asked why local planners allowed development in areas where homeowners would be unhappy.

Chair Hardy said he concurred with Senator Care.

Senator Lee said he grew up in North Las Vegas and Nellis Air Force Base was the third-largest city in Nevada at one time. He asked about a proposal from Clark County Commissioner Tom Collins concerning a "redline" around the base.

Colonel Dowling said Commissioner Collins proposed a "redline" encircling the Nellis Air Force Base putting a nine-month moratorium on incompatible development or development not meeting current zoning requirements. She said it gave the base time to incorporate their requirements into a county master plan. She said the current language allowed developers to bring projects to the county commissioners if sponsored by a council member.

Senator Lee said an Accident Potential Zone (APZ) was a unique way of notifying potential danger. He asked if an APZ worked where ordnances could accidentally be dropped.

Colonel Dowling said APZs follow the flight path for takeoff and recovery of aircraft at a runway. She said the APZ "vees" out from the end of the runway and take into account various turns the aircraft takes. She said the accident potential zones were defined by numbers such as APZ 1 and APZ 2, with the APZ 1 being a higher risk.

Senator Townsend said the bill had been discussed with base staff. He asked if the 3,000-foot distance was sufficient. He said it was necessary to accommodate future technological advancements.

Captain Ryder said science had not been applied to the 3,000-foot mark. He said he appreciated any distance from the boundary of the base and the opportunity allowing the Navy to be informed of a land-use issue.

Senator Townsend said 3,000 feet seemed a long way, but the speed of the planes needed to be considered. He said the bill concerned notice, not the prohibition of land use. Senator Townsend said he did not want the distance of notification chosen arbitrarily.

Senator McGinness said Churchill County Manager Brad Goetsch also held the position Captain Ryder had and could address some of the issues Senator Townsend mentioned.

Brad T. Goetsch, Manager, Churchill County, said Churchill County had dealt with the question of distance many times. He said a notification zone had been established and a county area of concern around the base. He said the lines and distances were extremely important. He said initially they relied on the Navy's APZ and noise contours. He said that was unworkable because the citizens,

developers and government were concerned with where the line existed. He said conceptual lines were unworkable; physical boundaries were needed. He said a road, canal, block or a section of land was required. Mr. Goetsch said the Navy always tried to accommodate the needs of the county. He said Churchill County delineated by roads and developed maps they dispersed and posted in public areas to establish physical boundaries. He said buffers and areas of consideration needed delineation. He said the county had considered the whole program. Mr. Goetsch said currently the county used an area of interest or notification area of one mile defined, and three miles of discussion areas. He added they did height-of-structure discussions with the Navy.

Chair Hardy asked Mr. Goetsch if the bill should define a minimum area and allow local entities to define areas in the master plan.

Mr. Goetsch said he would choose a distance of not less than a mile. He said the area could be defined as "in the vicinity of a mile" and then choose a physical boundary people recognized for further definition.

Chair Hardy said the bill specifically allowed, through regulation, adoption of the actual boundary.

Senator Beers asked Mr. Goetsch if he had a written policy that did not have specific roads on it that the Committee could look at as a model.

Senator Care asked if the areas included more than the main installation.

Captain Ryder responded he thought Senator Care was alluding to the target areas, and areas of property the Navy had withdrawn from the Bureau of Land Management to support bombing ranges and movement of mobile targets. He said they were part of the Fallon Range Training Complex. He said it encompassed 241,000 acres of target areas and areas that had been withdrawn. He said the bill did not include those areas.

Mr. Goetsch said he was a member of Nevada Joint Military Affairs Committee. He said he had been stationed at bases closed by BRAC. He said a base he was stationed at was scheduled for closure because the community was unable to come to a decision and return some of the surrounding property to the Navy. He said a community that did not take an aggressive planning stance and support the base, lost the base. He said S.B. 269 allowed communities to look forward

and plan for the needs of the base. He said another issue was an evolution which occurred in communities where agricultural predominance gave way to industry and development interests. He said encroachment pressure from development that wanted to be closer to the base, and the aircraft flying at the base were increasing in power and noise levels and worsening the conflict. He said Nellis Air Force Base produced \$2.5 to \$3 billion in economic impact in southern Nevada each year, and NAS Fallon produced \$200 to \$300 million in economic impact in northern Nevada.

Chair Hardy asked if there was further testimony in favor of S.B. 269.

Cynthia N. Kirkland, Major General, The Adjutant General of Nevada, Nevada National Guard, Office of the Military, spoke on behalf of S.B. 269. She said the Nevada National Guard was in a different position than either Nellis Air Force Base or NAS Fallon, and the training requirements and facilities were embedded in the middle of communities. She said the 3,000-foot limit had little or no impact on their facilities because there were nearby neighbors. She said it was imperative to protect facilities ensuring the training necessary for the Guard to do their job. She said the training ranges and opportunities in Nevada were unique.

Madelyn Shipman, Southern Nevada Home Builders Association said her organization supported S.B. 269, but had some concerns. Ms. Shipman offered some language changes that addressed their concerns ([Exhibit F](#)).

Chair Hardy said two specific concerns of Southern Nevada Home Builders Association (SNHBA) were in section 3, subsection 2, paragraph (b), subparagraph (8) and section 4, subsection 9.

Ms. Shipman said her exhibit stated the current language in the bill and the revised language SNHBA preferred.

Chair Hardy asked her to explain why the changes needed to occur. Ms. Shipman said both sections applied to the regional planning agencies in the north and south. She added the language in section 5, subsection 4, paragraph (b), subparagraph (2) and subsection 5, paragraph (b) should be deleted [Exhibit F](#). Ms. Shipman added the 3,000-foot designation was not a limitation on development but a noticing distance for an installation. Her final comment had to do with the separate language creating the military as a

"person." She said it did not appear to elevate or diminish the right of appeal and wondered if the wording was necessary.

Joshua Griffin, Industrial Properties Development, said the amendment proposed by his organization had been distributed to the Committee ([Exhibit G](#), original is on file in the Research Library). Mr. Griffin said the amendment was similar to SNHBA's proposed amendments.

Chair Hardy asked Adam Titus to outline the differences between his proposed amendment and the SNHBA amendment.

Adam Titus, Industrial Properties Development, said the primary difference in the bill was requiring the notice be reciprocal. He said if the landowners were required to give notice to military installations of changes in land use, the military bases also needed to inform the landowners of their changes in mission. He said the 3,000-foot noticing distance was all right provided the other changes his organization wanted occurred. He said the bill referred to Nellis Air Force Base and the Apex Industrial Park. In 1990, Clark County was required to produce an Apex Master Plan. The plan had to determine compatible uses at Apex Industrial Park. He said the park was in the flight path of Nellis Air Force Base. Mr. Titus discussed the redline ordinance. He said the Board of Commissioners had an ordinance that created a redline encompassing 15 square miles at Apex Industrial Park which severely limited the uses allowed at the park.

Chair Hardy asked Mr. Titus to focus on [S.B. 269](#).

Mr. Titus said the bill allowed the Air Force to say any land use his organization was proposing could impede the mission of the Air Force. He said the bill would prevent the industrial park from going forward with their plans.

Senator Lee said industrial use was already approved for the area.

Mr. Titus said the proposed redline ordinance allowed only 14 of the 110 uses available.

Senator Lee mentioned the amendments proposed by Mr. Titus listed 3,000-foot, 1,000-foot and 1,500-foot distances. He asked Mr. Titus if those differences were errors.

Mr. Titus said his organization preferred to maintain the 1,000-foot level.

Senator Lee asked again if it was the 1,000-foot or the 1,500-foot distance.

Mr. Titus said he supported the SNHBA amendments and the distance they chose.

Senator Care asked the distinction in his amendment between impeding the mission of the Armed Forces and the purpose of the military installation. Senator Care said the purpose of the installation was consistent with the mission of the Armed Forces.

Mr. Titus said it was more difficult defining "impeding the mission of the Armed Forces" rather than describing the mission that could be far reaching in regard to zoning or land use.

Chair Hardy closed the hearing on S.B. 269 and requested the people who had proposed amendments meet with Senator McGinness to find language to resolve the issues.

Chair Hardy said he was going to hold S.B. 218 for a later meeting.

SENATE BILL 218: Revises provisions relating to county fair and recreation boards. (BDR 20-1020)

Chair Hardy opened the work session discussion. He said a bill draft request (BDR) needed introduction. He added he had scheduled a Committee meeting on the Senate Floor for the next day.

BILL DRAFT REQUEST 16-1354: Authorizes a board of county commissioners to contract with a private entity for the detention of prisoners. (Later introduced as Senate Bill 438.)

SENATOR TOWNSEND MOVED TO INTRODUCE BDR 16-1354.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Hardy opened discussion on S.B. 84.

SENATE BILL 84: Requires the approval of building officials for certificates pertaining to the subdivision of certain buildings. (BDR 22-377)

Chair Hardy said the bill provided that the building official having jurisdiction over an existing building that was proposed for subdivision must review, approve and sign a certificate stating the subdivision complied with the appropriate building codes ([Exhibit H](#)). He said there were several amendments proposed for the bill. The first amendment clarified the building was in compliance with the applicable building codes of original construction and current state laws. The second amendment recommended the bill cover only Clark County.

Senator Beers said the bill covered industrial buildings that were sold and subdivided to create a different use for the building. The building was then converted to ownership.

Chair Hardy said he wanted to hold S.B. 84 for further clarification in another work session.

Chair Hardy opened the discussion on S.B. 101.

SENATE BILL 101: Amends the Charter of the City of Sparks. (BDR S-335)

The bill amended the Charter of the City of Sparks ([Exhibit I](#)). The bill dealt with responsibilities of the City Attorney. He said the bill added language to the City Charter to set qualifications for members of the City's Civil Service Commission.

Senator Raggio said at an earlier discussion it was suggested the bill be broadened to include Reno city attorneys. He said it was not the time to include both cities. He said the Sparks City Council stated they wanted the bill passed in its original form.

Chair Hardy agreed with Senator Raggio.

Senator Townsend said an issue was discussed concerning people who run for the office of city attorney. He said the discussion included not placing the name of a person on the ballot if they were unopposed.

Chair Hardy said Mr. Stewart researched the question proposed by Senator Townsend.

Michael J. Stewart, Committee Policy Analyst, said on page 2 of the work session document, [Exhibit I](#), discussion point No. 2 answered Senator Townsend's inquiries. He said if there was only one candidate who filed for nomination for an office, that candidate was declared elected and no election was held for the office.

Chair Hardy said the discussion involved statute requirements that stated the name must appear on the ballot under notification. He said as a policy matter, did the Committee want to require the name appear on the ballot.

Senator Raggio said the original purpose of not showing all the names on a ballot was to save the expense of an election for an entity if one was not required.

Chair Hardy said the discussion was in the interest of full public disclosure. He said the public was notified that only one candidate filed for the office and therefore was deemed elected. He said he checked with election officials to see if the ballot had a place where the information could be noted for public information. He said the purpose of S.B. 101 was to specifically authorize the City Council of the City of Sparks to employ attorneys to perform any civil or criminal duty of the City Attorney. He said the elected City Attorney had expressed the opinion the City Council could not hire an attorney.

Senator Townsend said the City of Sparks Charter appeared to be in conflict with the *Nevada Revised Statute* 293C.180. He said it was ironic because the City Attorney was the person asked concerning the conflict, and twice his name did not appear on the ballot.

SENATOR TOWNSEND MOVED TO DO PASS S.B. 101.

SENATOR RAGGIO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Hardy opened the discussion on S.B. 117.

SENATE BILL 117: Provides an exemption from the Local Government Purchasing Act for certain contracts entered into by the Board of Trustees of the Reno-Tahoe Airport Authority. (BDR S-809)

Chair Hardy stated the bill exempted the Reno-Tahoe Airport Authority from the Local Government Purchasing Act. He said the type of exemption in the bill was specific to airports. He said there were three proposed conceptual amendments ([Exhibit J](#)).

Senator Titus asked if the exemption required by the federal mandate meant the contracts were done in secret with exemptions. She said the federal mandate only stated it required a secure area.

Mr. Stewart said the U.S. Department of Homeland Security had concerns about people having open access to plans and building procedures as it related to Homeland Security-related projects at airports.

Senator Titus asked Mr. Stewart how the McCarran International Airport dealt with the problem. He replied the construction in the Las Vegas baggage claim area was completed when the Homeland Security rules were less restrictive.

Chair Hardy said all three amendments were necessary.

Mr. Stewart mentioned a statement in the bill did not exclude prevailing wage on a project.

Senator Beers asked if a sunset should be applied to the bill as there was no upper limit on the amount of money exempted from the Purchasing Act.

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Senator Raggio disclosed his law firm represented the Reno-Tahoe Airport Authority. He said the bill dealt only with issues mandated by Homeland Security. He said it was a limited exemption.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 117.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CARE AND TITUS VOTED NO.)

Chair Hardy asked the Committee to listen on the Senate Floor for announcements of floor meetings for bill introductions. He said as there was no further business, the meeting was adjourned at 3:19 p.m.

RESPECTFULLY SUBMITTED:

Olivia Lodato,
Committee Secretary

APPROVED BY:

Senator Warren B. Hardy II, Chair

DATE: _____