

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

**Seventy-fourth Session
April 9, 2007**

The Senate Committee on Government Affairs was called to order by Chair Warren B. Hardy II at 1:42 p.m. on Monday, April 9, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file 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 Steven A. Horsford, Clark County Senatorial District No. 4
Senator Mike McGinness, Central Nevada Senatorial District
Senator Dean A. Rhoads, Rural Nevada Senatorial District
Assemblyman Ed Goedhart, Assembly District No. 36

STAFF MEMBERS PRESENT:

Candice Nye, Assistant to Committee Manager
Eileen O'Grady, Committee Counsel
Michael J. Stewart, Committee Policy Analyst
Erin Miller, Committee Secretary

OTHERS PRESENT:

Michael R. Alastuey, Clark County
Gary E. Milliken, Associated General Contractors Las Vegas Chapter

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Joshua Griffin, Industrial Properties Development, Incorporated
Mike Henderson, Nevada Military Advocacy Commission
Ted J. Olivas, City of Las Vegas
Alan Glover, Clerk/Recorder, Carson City
Scott Craigie, Monte Cristo's Castle
Andrea Robb-Bradick, Monte Cristo's Castle
Marilyn Newton, Monte Cristo's Castle
Douglas G. Smith, Scenic Nevada
Chuck Swezey, Scenic Nevada
David K. Morrow, Administrator, Division of State Parks, Department of Conservation and Natural Resources
Dorla M. Salling, Carson City, Chair, State Board of Parole Commissioners, Department of Public Safety
David M. Smith, Management Analyst III, State Board of Parole Commissioners, Department of Public Safety
Frederick Schlottman, Administrator, Offender Management Division, Carson City, Department of Corrections
Florence Jones
Joseph A. Turco, American Civil Liberties Union of Nevada
Lorraine Newlon, Victims of Brutal or Violent Crimes
Pat Hines
Donald Hinton, Spartacus Project
Consuelo McCuin
James Elste, Manager, Chief Information Security Officer, Department of Information Technology
Chris L. Apple, Administrative Services Officer, Department of Information Technology

CHAIR HARDY:

We will start with the work session. The Committee Policy Analyst handed out the work session document ([Exhibit C](#), original is on file in the Research Library). Let us look at Senate Bill (S.B.) 92.

SENATE BILL 92: Revises the applicability of certain provisions pertaining to the regulation of firearms by local governments. (BDR S-45)

SENATOR LEE:

We have gun shows that come into Clark County every year. There are requirements that they do certain things with the sheriff's office. We have put a

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provision in the bill that says if you stay in Clark County over 60 days, then you are required to register your gun. If you gift, transfer or purchase a gun, you have 72 hours to register it. That gives a person a reasonable amount of time to obey the law. This is good for Clark County.

SENATOR CARE:

Proposed Amendment 3439 to S.B. 92 amends section 5 of *Nevada Revised Statute* (NRS) 308 on October 1.

SENATOR LEE:

If the County does not act upon this provision, it conforms to state law on January 1, 2008. We would like to have them do it, but if it does not get handled, this would be the law of the County.

CHAIR HARDY:

It is the intent of the Chair to send a letter to the County indicating the changes so they are aware.

SENATOR CARE:

I have never seen where a statute states a county has to amend or repeal its ordinance. I question we can do that.

CHAIR HARDY:

That was drafted from a statutory construction perspective. We have spoken to law enforcement, and they are going to push for changing the ordinance. We will close S.B. 92.

SENATOR LEE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 92.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HARDY:

We will hold S.B. 157 because there are some questions that Committee Counsel has that still need to be answered. We will go to S.B. 163.

SENATE BILL 163: Revises provisions governing improvements constructed, altered, repaired or remodeled pursuant to lease-purchase or installment-purchase agreement. (BDR 31-430)

MICHAEL J. STEWART (Committee Policy Analyst):

This bill changes the law to state that the Manager of the Public Works Board is the building official for improvements constructed, altered, repaired or remodeled on state buildings pursuant to a lease-purchase or installment-purchase agreement. Current law provides that the Manager is the building official for state structures but does not apply to improvements made to those buildings. There were no amendments offered.

CHAIR HARDY:

We discovered during discussions that nobody was identified as the building official for these purposes, and we felt it was necessary to do so.

SENATOR TOWNSEND MOVED TO DO PASS S.B. 163.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HARDY:

We will go to S.B. 198.

SENATE BILL 198: Authorizes various governmental entities to enter into lease-purchase agreements. (BDR 31-231)

CHAIR HARDY:

This bill amends the City Charter of Las Vegas to authorize the City Council to enter into lease-purchase agreements. They felt they needed statutory authority to do that. This bill removes the restriction on the Nevada System of Higher Education to enter into lease-purchase agreements. They were only allowed to enter into a certain number. The Committee felt since we have a piece of legislation that works, that rule should be removed.

SENATOR TITUS:

Does this bill have an impact on prevailing wage?

CHAIR HARDY:

We have a statement of legislative intent that will specifically indicate that prevailing wage is used. The statute that governs this specifically requires prevailing wage is used. We put a statement of legislative intent that nothing in lease-purchase is to be used to attempt to get around the provisions of prevailing wage.

SENATOR BEERS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 198.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HARDY:

We will go to S.B. 199.

SENATE BILL 199: Makes various changes to requirements for a public work involving the construction of a traffic-control signal. (BDR 28-348)

MICHAEL R. ALASTUEY (Clark County):

Senate Bill 199 was intended to shorten the time cycle for constructing traffic lights, especially in high-growth communities. In discussions with contractor and electrical union representatives, it was determined the bill would not pass. We suggest removing reference to the public body option to perform the work itself. The bill, as amended, allows for a breakdown of components to bid out separately if expedient to do so. We inserted provisions that would allow for annual contracts. If an emergency finding is made and the annual contract mechanism is utilized, the bid specifications could include: maximum time allowed from notice to completion and the delivery of materials to complete construction. The delivery of materials stalls the beginning of a job. If the public body can provide those as part of the agreement, then so be it. The public body can opt to perform the work itself if annual contracts were advertised and no

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bids received. If a successful bidder says they cannot meet the bid conditions and the project is an emergency, the public body can do the work.

GARY E. MILLIKEN (Associated General Contractors Las Vegas Chapter):
Mr. Alastuey and I had several meetings and are in total agreement on the language and changes made.

SENATOR BEERS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 199.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HARDY:
We will move to S.B. 200.

SENATE BILL 200: Extends the duration of certain redevelopment plans.
(BDR 22-358)

SENATOR RAGGIO:
How broad is this amendment? Is this limited to this redevelopment area or does this open it up to all?

CHAIR HARDY:
The intent is to limit it to this particular redevelopment area.

MR. STEWART:
The amendment switching to areas created before 1990 only impacts the City of North Las Vegas. With the date change, no other redevelopment areas are impacted by moving the date from 1987 to 1990.

CHAIR HARDY:
We have narrowed the bill to this district by use of the date instead of a specific reference.

SENATOR CARE:

How many redevelopment agencies have a similar problem? If we do this today, is that not an invitation for others to come forward?

CHAIR HARDY:

That was part of my concern. Because of the concerns brought up, it was best to deal with them on an individual basis. By doing this, we are setting a precedent. We are saying we want to review them individually and make a decision about whether it makes sense.

SENATOR RAGGIO:

Could we hold this bill?

CHAIR HARDY:

We will hold this bill. We will move to S.B. 203.

SENATE BILL 203: Revises provisions concerning local financial administration.
(BDR 20-711)

CHAIR HARDY:

There is a mock-up of S.B. 203 with amendments ([Exhibit D](#)). The amendment will allow the original intent of the bill to occur until October 1. The original intent of the bill is to get a minor league team, defined as a Triple- or Double-A affiliate, to Reno. If it does not occur by October 1, the money will be open to all purposes.

SENATOR RAGGIO:

An agreement is highly likely in accomplishing our original goal which was the acquisition and relocation of a Triple-A professional baseball team to Washoe County. Under the provisions of the amendment, the funds will be dedicated, provided all is in place, including a site for the stadium. If that is not accomplished, the funds can be used for other purposes. The amendment should be further changed to provide the last section of the bill have the date changed from July 1 to October 1.

SENATOR CARE:

I am opposed to public financing of a professional sports stadium. However, Washoe County has accumulated money and something should be done with it. I will vote for the bill.

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SENATOR RAGGIO:

Most of this money is from car rental. Most of the funds are not paid by local residents but by tourists. We have dedicated a portion of the funds for the Center for the Performing Arts, which is also in Clark County.

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 203.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HARDY:

We will move to 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):

There were some complications when we started, and there is a proposed amendment to S.B. 269 ([Exhibit E](#)).

JOSHUA GRIFFIN (Industrial Properties Development, Incorporated):

The amendment is virtually identical to the work session document except for section 6 under the local master plan.

EILEEN O'GRADY (Committee Counsel):

The minimum notice required is in the bill. A local government can give more notice if they want. Making it only affect military installations might be interpreted that they could not give notice to other property owners.

CHAIR HARDY:

Is there a reason it is drafted this way?

MR. GRIFFIN:

I did not work on that part of the draft.

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CHAIR HARDY:

The language we are concerned with is "from noticing to a greater distance."

MIKE HENDERSON (Nevada Military Advocacy Commission):

This language ensues from testimony given by Captain W. Scott Ryder from Naval Air Station Fallon. He talked about how Churchill County goes from one mile to five miles on notifications. That is incorporated in statute in North Carolina. We did not want planning commissions to feel constrained to 3,000 feet. However, if it is adequately covered elsewhere and they have the ability to notice farther out, that is fine.

CHAIR HARDY:

We do not want to limit them from having the requirement elsewhere. We will get Committee Counsel to draft the bill in a manner more consistent with current statute.

SENATOR MCGINNESS:

There was some concern about intent. This bill does not give the military veto authority over any proposal or prohibit development near military installations. It tells planning and zoning authorities that when a change in land use is proposed that might affect the mission of a military installation, they must notify the military and give officials an opportunity to state their views. It does not put a moratorium on any use of land near military bases.

CHAIR HARDY:

I cannot imagine the impact on North Las Vegas if Nellis Air Force Base was put out of business by land use planning.

SENATOR LEE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 269.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HARDY:

We move to S.B. 234.

SENATE BILL 234: Provides exception to competitive bidding procedures for certain contracts relating to redevelopment areas. (BDR 28-490)

TED J. OLIVAS (City of Las Vegas):

Page 22 of [Exhibit C](#) is an amendment that clearly defines what we are attempting to do. At the hearing of the bill, there was concern that it was liberally written. You could perform any public work as a part of a project within a redevelopment agency. We added a section that defines it as a project within a redevelopment area, a public improvement and for a building or buildings with a value of at least \$20 million. We added a provision that in addition to going to the legislative body, we make sure the project has efficiency, coordination and economy in design and construction. We wanted to make sure the additional work would be covered under prevailing wage rules. We provided a definition of public improvement that includes streets, medians et cetera so the scope is narrowly defined.

SENATOR LEE:

That is about a 60,000-square foot building in a redevelopment area. That is a huge building. Lowering the value to \$10 million gives you more opportunity to utilize this and help our community. This might not ever be used if the limit were \$20 million for the redevelopment area of Las Vegas.

CHAIR HARDY:

I agree with Senator Lee. Is there a number that would create some opposition?

MR. OLIVAS:

We do not want this bill killed because of a number. This was the number provided by our office of business development responsible for the redevelopment area.

SENATOR LEE:

I will process it the way it is, but I would hate to give a tool they can only use once.

SENATOR LEE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 234.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CARE VOTED NO.)

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CHAIR HARDY:
We will go to S.B. 419.

[SENATE BILL 419](#): Revises provisions relating to certain county clerks. (BDR 20-1161)

CHAIR HARDY:
We wanted to find out whether there was a two-thirds majority requirement.

Ms. O'GRADY:
It does not require a two-thirds majority notation because it authorizes a board of county commissioners to do this.

SENATOR LEE:
The Office of the Governor stated if the county commission saw need to do this, that would not affect his decision.

SENATOR CARE:
Record and file is not the same thing. Lawyers and other people search public records all the time. I want to make sure it is accessible.

CHAIR HARDY:
This shifts everything related to marriage licenses to the county clerk's office. It was felt we should be clear on where people can access these documents.

SENATOR TITUS:
Where do we stand with the fee?

CHAIR HARDY:
The fees are not changing. The fee in question is the \$3 technology fee. The fees for filing, recording and issuing a marriage license will not change.

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SENATOR LEE:

All fees from the county recorder's office will transfer to the clerk's office. They will have to go before the county commission to get the \$3 fee, we will not decide at the state level.

SENATOR LEE MOVED TO DO PASS S.B. 419.

SENATOR BEERS SECONDED THE MOTION.

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

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CHAIR HARDY:

We will go to S.B. 352.

SENATE BILL 352: Requires the City of North Las Vegas to develop a program to make certain improvements to infrastructure in and near the Southern Nevada Enterprise Community. (BDR S-1315)

CHAIR HARDY:

I had a couple of local governments approach me asking if this bill will bring other local governments into this.

SENATOR STEVEN A. HORSFORD (Clark County Senatorial District No. 4):

No one has expressed concerns. After the amendment was presented to the Committee and the local governments affected, there were questions as to what role every local government would play.

MR. OLIVAS:

We have not seen the amendment. We are very interested in the Enterprise Community and will participate in this.

SENATOR HORSFORD:

The City of Las Vegas did several projects within this community designation. We want everyone at the table so they can all update, upraise and use their resources to make this planning go forward.

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CHAIR HARDY:

Page 29 of [Exhibit C](#) is a mock-up of S.B. 352 that changes the bill to create a Southern Nevada Enterprise Community Advisory Board. Senator Lee asked to add a new section to require the Advisory Board compile a report and summary of its activities and bring it back to the Legislature to let us know how it is working.

SENATOR LEE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 352.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HARDY:

We will move to S.B. 499.

SENATE BILL 499: Revises provisions governing the approval of certain plans, designs and specifications for school buildings. (BDR 22-443)

MR. STEWART:

This bill has to do with the approval of school building plans by the State Public Works Board. The proposed amendments address the involvement of the State Fire Marshal in the plan check process. It clarifies that the Fire Marshal is not required to check plans for school buildings unless the Public Works Board is involved in those plan checks as well. Proponents of the measure wish to clarify the State Fire Marshal's approval of school building plans is not required if the plans were approved by a local building department. The amendment ensures this framework is carried through portions of the *Nevada Revised Statute* 393.110, and an exception is made in NRS 477 concerning responsibilities and duties of the State Fire Marshal.

CHAIR HARDY:

This specifically allows the Washoe County School District to go to the local government for all purposes. Only in cases where they use the State Public Works Board will they be required to have the Fire Marshal—so there is no more duplication of services.

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MR. STEWART:

The measure also provides that plan checks concerning inspection remain unchanged for Clark County. This does not impact Clark County.

SENATOR RAGGIO:

Some financial impact on the funding for his office may be alleviated by less responsibility. We will have to look at how the Fire Marshal's Office will be funded in the Finance Committee.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 499.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HARDY:

We will move to S.B. 515.

SENATE BILL 515: Provides a declaration of legislative intent regarding the use of certain lease-purchase and installment-purchase agreements. (BDR 31-229)

MR. STEWART:

Richard Daly, Laborers International Union of North America, provided an amendment on page 47 of [Exhibit C](#). It provides clarification on the use of prevailing wage in lease-purchase and installment-purchase agreements. He wanted to make sure it references the projects constructed under those agreements as opposed to specifically reference a public work because it might be something beyond a public work.

CHAIR HARDY:

I am uncomfortable with that kind of expansion. Lease-purchase projects use the private sector all the time. I want this to expand those areas. What is the concern with "for public works"? Public works is the requirement that triggers prevailing wage.

SENATOR BEERS MOVED TO DO PASS S.B. 515.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CARE VOTED NO.)

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CHAIR HARDY:
We move to S.B. 509.

SENATE BILL 509: Makes various changes to provisions relating to state financial administration and the acquisition of property. (BDR 31-424)

MR. STEWART:
This bill requires a state agency to advertise for proposals before entering into a lease-purchase agreement for the purchase of an existing building on property not owned by the state. An amendment was to provide specific references in NRS 321 rather than a blanket reference. The amendment and explanation are on pages 45 and 46 of [Exhibit C](#). It was more of a technical change.

CHAIR HARDY:
In areas where there would not be an advertising requirement, we want to have transparency in the process. If someone approached the state saying they have a building that is perfect for what the state needs, it is possible for the state to enter into a lease-purchase to acquire that with no advertising requirement. This bill would require that the state advertise they were considering an agreement. Does anyone else have anything to offer?

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 509.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HARDY:
We will go to S.B. 520.

SENATE BILL 520: Requires the approval of certain changes in the scope of installment-purchase and lease-purchase agreements. (BDR 31-230)

CHAIR HARDY:
This bill would require any changes in scope on a lease-purchase project to come back to the Interim Finance Committee. Public works projects are required to come back to the Interim Finance Committee on scope changes, but there was no such requirement for lease-purchases projects. This is to clean up the language to make sure Finance is consulted. There are no amendments.

SENATOR TOWNSEND MOVED TO DO PASS S.B. 520.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HARDY:
We will open the hearing on S.B. 369.

SENATE BILL 369: Revises provisions concerning the recording of declarations of homestead. (BDR 20-58)

SENATOR RANDOLPH J. TOWNSEND (Washoe County Senatorial District No. 4):
There are two components of this bill. Page 2, line 31 states "The county recorder may conform the size of a declaration of homestead that does not meet the formatting requirements set forth." It says "may." Page 4 talks about a fee authorized for recording a declaration of homestead that does not meet the requirements set forth. That came as a result of a technical glitch where the forms were 0.125 of an inch smaller than normal and not acceptable without a \$25 fee. The fee is mandatory so it became a struggle. They may conform these things, but they may not charge extra for conforming them based on something as technical as 0.125 of an inch.

SENATOR LEE:

If you sign your name out of the border, they charge an additional \$25 for the sizing. Does this bill affect that?

SENATOR TOWNSEND:

If you sign most documents accepted at county recorder's offices outside of the appropriate margin, including the stamp of the notary, those are not considered acceptable. This bill will cover it, but does not require them to cover it. It says they "may" conform those to size. If they do, they cannot charge extra money.

SENATOR RAGGIO:

In the fiscal note, there is significant fiscal impact in Washoe and Clark Counties. One fiscal note indicated a \$60,000 increase in revenue for Clark County and a \$65,000 decrease in Washoe County. Why is it different in one county? In the smaller counties, they are showing an increase in expense. If there is a fiscal impact on the counties, I question where existing law preventing unfunded mandates will have applicability if we process this measure.

SENATOR TOWNSEND:

If you divide the \$25 into the Washoe County amount, you can see how many transactions required an additional charge. The staff of the recorder's offices in both affected counties was accommodating in accepting these but not accommodating on the \$25. One of two things is happening: We are narrow in our understanding of that or it is a revenue-generator. We need to know what is real. Is this is a revenue-generator or does it take staff time and is problematic?

SENATOR RAGGIO:

Washoe County has commented on their loss of revenue. How does it result in an increase in revenue for Clark County?

ALAN GLOVER (Clerk/Recorder, Carson City):

Four years ago, this Legislature passed legislation to adopt the national uniform recording standards which provided for margins, size of paper and so forth. It works well, but it does have problems. Our office has gotten in trouble because we are not as strict with a signature going outside of a line. The idea behind past legislation was to get a document through the scanning process and not lose information. The recorders in the state are confused about S.B. 369 and not sure how to implement the portion on page 2, lines 31 through 35. Our major concern is making an exception for one type of document may have

everyone else coming in to ask for exceptions for their documents. We lose the whole idea of having a standard form.

The reason you are getting different fiscal notes is because the recorders are interpreting the law differently. If you waive the fee and they are not standard, there will be a decrease in revenue. If we have to create a new form and conform it, it would cost the County.

SENATOR RAGGIO:

We are showing a \$3,000 increase in expense for Carson City.

MR. GLOVER:

That may be the cost of paper or a software change. There would be a decrease in revenue if you waive the fee; there could be an increase in cost if you have to create or do something. Some recorders thought the bill gave them the authority to create and distribute a form. Some counties do that, other counties will not on advice from their district attorney. If you require or permit counties to give out a form, language exempting counties from legal liabilities might be in order.

SENATOR TOWNSEND:

If we want to avoid getting away from the uniform standard forms, we have to go back to the \$25. Is \$25 the number to reflect those accommodations or did you come up with that number because you are discouraging people from making a mistake?

MR. GLOVER:

That number was recommended by the National Association of County Recorders, Election Officials and Clerks. When the model legislation was set forth, they picked \$25 as an appropriate amount. It was high enough to encourage people to standardize their forms. Some places are substantially higher than that. It was an incentive for form companies and people preparing documents to prepare a document that worked.

SENATOR RAGGIO:

I would like Committee Counsel to get information on the question I raised.

CHAIR HARDY:

We will close the hearing on S.B. 369 and open the hearing on S.B. 513.

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SENATE BILL 513: Creates the position of Coordinator of Geographic Information Systems for Natural Resources within the State Department of Conservation and Natural Resources. (BDR 18-403)

SENATOR DEAN A. RHOADS (Rural Nevada Senatorial District):

I have submitted written testimony ([Exhibit F](#)). At the meeting the Legislative Committee on Public Lands had in Mesquite, we heard a presentation from the Department of Conservation and Natural Resources concerning the lack of Geographic Information Systems (GIS) usage among the Division of State Lands. While some GIS applications are occurring in the Division of Forestry, much of the use of GIS occurs in the Nevada Department of Transportation and the Department of Agriculture. In the Department of Conservation and Natural Resources, GIS does not exist. The Committee on Public Lands was surprised that the State's natural resource-related programs lacked much of the expertise and personnel needed to compile the basic mapping products and provide spatial analysis. This bill needs to go to the Senate Finance Committee; I am not sure why it is here.

CHAIR HARDY:

I was astounded when I learned that those programs did not have this capability. I do not know how we can expect them to complete their responsibilities without this. I agree that it may not be in the right Committee.

SENATOR RAGGIO:

If the Committee is amenable, this bill can be rereferred to Senate Finance because it would be exempt.

SENATOR BEERS MOVED TO DO PASS AND REREFER S.B. 513 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HARDY:

We will open the hearing on S.B. 514.

SENATE BILL 514: Establishes Monte Cristo State Park in Esmeralda County, Nevada. (BDR 35-401)

SENATOR RHOADS:

I have provided written testimony ([Exhibit G](#)). Senate Bill 514 is a discussion on the Monte Cristo Park. People have been working on this for over five years. This bill probably has to go to the Senate Finance Committee.

SENATOR MCGINNESS:

This area is in my Senate District. We were invited to tour this area. I understand the financial implications, but it is a treasure of Nevada and should be preserved somehow.

SENATOR TITUS:

During the interim, I chaired the Legislative Commission's Subcommittee to Study the Protection of Natural Treasures, and we heard this presentation. There was a great deal of support for this project on that subcommittee.

SCOTT CRAIGIE (Monte Cristo's Castle):

We recognize the fiscal situation, but this group has been working year by year on this project. We would like to find a way to take a reasonable step forward. We have created a presentation ([Exhibit H](#), original is on file in the Research Library).

ANDREA ROBB-BRADICK (Monte Cristo's Castle):

I am a 60-year resident of Nevada who is passionate about this state and its land, particularly in the central Nevada area. The creation of this new state park is a grassroots campaign that has grown to have widespread support throughout Nevada. Monte Cristo's Castle is located between Las Vegas and Reno in Esmeralda County. Due to the lower elevation of the area and planned activities, this proposed park is not season-limited. The primary entrance is three miles off U.S. Highway 395 which makes it an appealing tourist stop. Groups of all sizes visit Monte Cristo.

There are no state parks in Esmeralda County, and the beauty and diversity of the area makes it deserving of state park status. Monte Cristo's Castle is covered with lacey sculptures of white. There are huge boulders looking like mythical characters and animals. There are purple, green, lavender, gold, black, white and red rocks throughout the area. This central Nevada area has been

designated by a nationally known third party as No. 1 in the United States for its dark skies. Judging from other successful star-gazing sites, it is important to have daytime activities and Monte Cristo has a wide variety. People are constantly traveling from one park to another, and tourists are looking for other desert parks to enjoy. Monte Cristo fills this need. Death Valley, Grand Canyon and Zion have 9-million visitors a year.

In the early 1900s, this Legislature gave money to the Tonopah Historic Mining Park. It has been the best rural museum for the last five years in a row. We believe your investment in this park will produce similar results. Our central Nevada area is eager to embrace a new project that will add synergy to our unrecognized and underutilized natural resources and help our economy.

We are not asking the state to spend its money without first investing a great amount of our own time and money. The town of Tonopah and others have donated time and money to this effort. We have made multiple grant applications. The proposed area has state park-quality scenery, and the new park would boost the economy. We have no known opposition to this project.

CHAIR HARDY:

Is there all-terrain vehicle (ATV) access and trails?

MS. ROBB-BRADICK:

There is ATV access but no trails. There has been incursion by ATVs going into the sensitive areas of the canyon. It needs to have signage and trails.

CHAIR HARDY:

You would contemplate trails for ATV use for those who want to travel into the canyon?

MS. ROBB-BRADICK:

The area we have asked for is big enough to accommodate trails for ATVs, but we would not recommend trails on the 1.5-mile hike already established there.

CHAIR HARDY:

I recognize places where ATVs are not appropriate. I do not want to completely limit the access to this area. It is important that it be included.

MS. ROBB-BRADICK:

We have asked for an area larger than the sensitive area to accommodate trails for ATVs and off-road vehicles. It was recommended that something like that be developed, but our first priority is protecting the sensitive area.

SENATOR LEE:

What would the \$500,000 buy? How many people go to Berlin-Ichthyosaur State Park?

MS. ROBB-BRADICK:

Berlin is off of the main highway. You have to travel many miles of dirt road so it is not a comparable park. In the booklet you have ([Exhibit I](#), original is on file in the Research Library), we did comparable studies using the Nevada Department of Transportation figures going by Monte Cristo's Castle and Cathedral Gorge State Park. We used other studies done by University of Nevada and the City of Tonopah to come up with those figures.

MR. CRAIGIE:

That number was put in by the Legislative Counsel Bureau from information they got from the Division of State Parks. We want to protect the sensitive area and plan the rest of the park later. We know better than to ask for funding the entire development of the park. There is widespread belief that we will lose that sensitive area if it is not preserved.

MARILYN NEWTON (Monte Cristo's Castle):

I was given the opportunity to go to Monte Cristo's Castle and photograph it. It needs to be protected.

DOUGLAS G. SMITH (Scenic Nevada):

We support S.B. 514. I have submitted written testimony ([Exhibit J](#)).

CHUCK SWEZEY (Scenic Nevada):

We can be proactive instead of reactive in this case. This area is new and unknown; becoming a state park would be the most appropriate way to head off problems.

DAVID K. MORROW (Administrator, Division of State Parks, Department of Conservation and Natural Resources):

I oppose S.B. 514. Although we recognize the efforts of the bill proponents and legislative committees to protect and promote this site, the state park system does not have the funding to absorb another park, especially when it comes in significantly underfunded. The \$500,000 that would be provided is approximately \$3 million short of our estimates to operate and develop the site. I have submitted written testimony and spreadsheets with our cost estimates ([Exhibit K](#)). This sight is 70 miles from the nearest state park and 160 miles from the closest region of the state park system that would oversee the area. The \$500,000 appropriation would not cover the cost of transferring or developing the site.

Many Nevada state parks have been acquired under a similar provision and most of them have not received the appropriations needed to adequately operate or develop them. By adding this to the state park system, Monte Cristo would compete with the other 24 state parks and come before the next Legislative Session with parks that need funds.

SENATOR TITUS:

Was this proposal ever presented to Governor Jim Gibbons for possible inclusion in his budget?

MR. MORROW:

It was not.

ASSEMBLYMAN ED GOEDHART (Assembly District No. 36):

I am in full support of moving this park concept forward.

SENATOR LEE:

The area is in Bureau of Land Management (BLM) property. They are doing nothing to protect this area. Why did that not happen?

MS. ROBB-BRADICK:

When I first saw this area, I went to BLM and asked them about it. They did not know where or what it was. We asked a Congressional member if they could donate the land to the state so we could use the donated land as money towards grants. The Bureau of Land Management says they cannot take care of what they have right now because of lack of money.

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SENATOR RAGGIO:

This bill should have been sent to the Senate Finance Committee as any bill with an appropriation. I would recommend this bill be sent out with no recommendation and rereferred. When this bill goes before the Senate Finance Committee, it is unlikely the State Parks' estimate of \$3.5 million is realistic because of budget limitations. I suggest you focus on the amount necessary for initial, basic preservation of the site.

SENATOR RAGGIO MOVED TO REREFER WITHOUT
RECOMMENDATION S.B. 514 TO THE SENATE COMMITTEE ON
FINANCE.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CARE AND TOWNSEND WERE
ABSENT FOR THE VOTE.)

* * * * *

CHAIR HARDY:

We will open the hearing on S.B. 496.

SENATE BILL 496: Makes various changes to provisions governing the State Board of Pardons Commissioners and the State Board of Parole Commissioners. (BDR 19-1435)

DORLA M. SALLING (Carson City, Chair, State Board of Parole Commissioners, Department of Public Safety):

We have submitted a memo that details our support of this bill and copies of pending litigation ([Exhibit L](#), original is on file in the Research Library).

CHAIR HARDY:

Why do we need these changes in statute?

MS. SALLING:

Historically, Parole Board hearings have been open to the public. The only things closed are the deliberations and victim testimony. Over the years, the Board has been faced with litigation that indicated it should be subject to all points of the Nevada Open Meeting Law. Up until October 2006, the Board had always been considered an arm of the judiciary and exempt. The Nevada Supreme Court

handed down a ruling that the Board should be subject to the Nevada Open Meeting Law. We are operating under a stay, but we are asking that it be clarified in NRS 241 that the Board is exempt. If it is not clarified as exempt, we ask that it not go into effect until January 2008 to give us time to prepare. If we are not exempted, the fiscal impact to the state is dramatic and would substantially slow down the parole process. There is a grave concern if victims have to testify in front of the inmate.

CHAIR HARDY:

The only thing the public has a compelling need to know are the results. This appears to be a blanket exemption to all aspects of the Open Meeting Law. Is it possible to draft it to make an exception for the outcome? That is germane to the public.

DAVID M. SMITH (Management Analyst III, State Board of Parole Commissioners, Department of Public Safety):

We wrote the language so the exemption was specific to hearings to consider inmates for release on parole. *Nevada Revised Statute* 213 requires the Board to provide notice to every sheriff and police department 30 days before they take action. The results are also provided. Those law enforcement agencies are supposed to make that list available to the public.

CHAIR HARDY:

Is there a practice that the information is released upon request to victims' families?

MR. SMITH:

The results of the hearings are public record. We are required to submit notice to the victims.

CHAIR HARDY:

That would not be impacted with the blanket exemption?

MR. SMITH:

That is correct. Any administrative hearing of the Parole Board is subject to the provisions of the Open Meeting Law. It only affects the consideration of an application of a prisoner. The Nevada Legislature declared parole is an act of grace by the state, and no person has an expectation to be released on parole. That is one reason we have prevailed in our lawsuits, but the Open Meeting Law

created a process right. If we are found in violation, the decision is void. Inmates and victims would sue to overturn parole decisions by using the Open Meeting Law.

FREDERICK SCHLOTTMAN (Administrator, Offender Management Division, Carson City, Department of Corrections):

Department of Corrections is in full support of this legislation. The practical application of this legislation, if it were not passed, would be far fewer inmates granted parole. If deliberations were made public, particularly for high risk offenders, the Board would have more difficulty coming to a decision to grant parole.

CHAIR HARDY:

We are codifying existing practice. It is existing practice that has gotten you into trouble.

MR. SMITH:

The existing practice based on the advice of the Attorney General.

CHAIR HARDY:

Sections 5 and 6 relate to reviewing information without consent of the prisoner. I cannot believe we must have the consent of the prisoner to do that.

MR. SMITH:

There have been complaints and advice with regard to release of medical and mental health information because that information may be protected. We have added the section about disclosure of the information so the Board would not be subject to liabilities.

FLORENCE JONES:

I am opposed to reducing transparency in our government. I am the mother of two inmates who have been in prison for 26 years and have followed the process for some time. The Open Meeting Law was enacted in 1977 to give Nevadans the opportunity to know what our government is doing. The Open Meeting Law was followed by Parole Board. In 1983, there was a push to have victims speak. The Parole Board said it would cost them a lot of money to have victims able to speak. Up until 2001, the operating manual of the Parole Board called for the fact they were following the Open Meeting Law. Between 2001 and 2003, that was deleted when they reprinted the manual to say the hearings

were open and public. Two Nevada Supreme Court cases say NRS 246 exists and the Parole Board needs to comply. The two inmates have prevailed. They want the Legislature to clear it up and say they were exempt.

What the Board does is pretty clear, and they notice the inmates properly. They would have to create an accurate auditory and public written record. Right now, they use a checklist which is difficult for their staff and the public to follow. If they follow the Open Meeting Law, they have to give everyone an opportunity to speak, including perpetrators families and victim families. You have to behave well to speak under NRS 246. Under NRS 213, they have the right to have closed deliberations. I do not believe anyone would want to take away that right, but to close all proceedings would take away the transparency we need in all areas of government.

MR. SMITH:

There was a brief period of time when the Attorney General's Office believed the Open Meeting Law applied to parole hearings. The Open Meeting Law at the time was written much differently than it is today. In a past session, the Open Meeting Law was changed to say if a Board is to consider the character, mental health and competence of a person, that person is allowed to attend. They are given 21 days certified written notice of the proceedings and representation. When the Parole Board conducts a hearing on an inmate, they are considering the inmate's character. If inmates are entitled to representation and the public defender is required to represent indigent persons, they are entitled to representation by a public defender at the hearing? With regard to closed deliberations, it raises another question: Would that be considered a closed meeting subject to the Open Meeting Law or is it outside of the Law? We ask that the Legislature clearly state whether the Open Meeting Law applies. If the inmates had to be present at the hearings, there are much higher costs. There is a \$3-million fiscal note.

CHAIR HARDY:

The Committee needs to get some information on the policy. Why do we need an exemption? We are interested in transparency, but there are limited circumstances where the Open Meeting Law does not work

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JOSEPH A. TURCO (American Civil Liberties Union of Nevada):

Open government is necessary in public policy. No aspect of government is afforded a blanket secrecy, and parole should not be one. Not even the Board of Regents is subject to blanket secrecy.

CHAIR HARDY:

What is the compelling public reason to know the deliberation of a parole hearing?

MR. TURCO:

It goes the other way. The government has to show a compelling reason.

CHAIR HARDY:

I understand the reason for the results. Why does the public need to hear the deliberations?

MR. TURCO:

We are in the midst of a prison crisis. Dr. James Austin, a state expert, said the parole system is broken. Do we want to keep a broken component of the state system in the shadows?

CHAIR HARDY:

You need to view proceedings to determine whether the process is working appropriately.

MR. TURCO:

Sunshine is the best disinfectant. Closed government and meetings are breeding grounds for abuse and corruption.

CHAIR HARDY:

I agree with that, but it is important that the Committee consider these concepts.

SENATOR CARE:

When it comes to deliberating a person's fate, why should jury deliberations not be public? I see an analogy between jury deliberations and the deliberations of a parole hearing.

MR. TURCO:

I am not prepared to compare the parole process to jury deliberations. If parole is broke, we ought to look upon what information decisions are based. We can take a look at the process and determine if it is broken. I submit that prisoners have little expectation of privacy, but sections 5 and 6 of this bill, where the Board may review documents without consent of the prisoner, call due process into question. Liberty is at stake at these hearings. When liberty is at stake, due process applies. The procedures must be fair. Part of due process means the prisoner can cross-examine all evidence, witnesses and documents. How is the prisoner to rebut a negative finding in his favor when he does not know to what the Board is looking?

CHAIR HARDY:

That is the question in sections 5 and 6. Does the prisoner have a right to the privacy of those documents?

MR. TURCO:

I have not heard one complaint of a government agency breaking its budget because it was complying with the Open Meetings Law nor is any function of government broken because of open meetings. Parole is broken, let us open it up and fix it.

CHAIR HARDY:

You can see with what the Committee is struggling. We need to get at the public policy issue. Senator Care made a good point with the jury process analogy.

MR. SCHLOTTMAN:

The Department of Corrections strongly objects to the broad accusations contained in the statement by the American Civil Liberties Union. The Department and Parole Board have hard-working staff, to suggest their motives are derogatory does a disservice to the employees of the state.

SENATOR RAGGIO:

We are all advocates of the Open Meeting Law, but we always try to outdo ourselves on how we approach some of the issues. I am aware of both sides of the issue and rights of the offenders and victims. If the testimony of victims with sensitive information is to be aired in public, it would be a great disservice to the system and those who have already suffered in these situations. If the

deliberations were open, it would be a serious misuse of the Open Meeting Law. Where do you go from a quasi-judicial proceeding to juries? This is one step removed from a jury deliberation process, which is not perfect but nobody has come up with a better system. Recognized situations where personal, business and financial information come before agencies such as Nevada's Tax Commission and Gaming Commission would be destructive to the operations of businesses.

MR. TURCO:

There are good arguments on both sides. Compromises have been made in other areas where portions of meetings are closed while others are open. The same compromise has been made with documents.

SENATOR RAGGIO:

Do you think jury deliberations should be open to the public?

MR. TURCO:

No, I do not. The people sitting on the Parole Board are not selected in the same way. The Board is not a jury of the inmate's peers, they are commissioners. I am having trouble making the connection.

SENATOR RAGGIO:

Those are quasi-judicial functions. It seems tilted when we discuss the objectives of and the reasons for the Open Meeting Law.

MR. TURCO:

There is a middle ground.

LORRAINE NEWLON (Victims of Brutal or Violent Crimes):

I am in favor of the bill as written. I agree with Senator Raggio. When we start talking about this legislation and the Open Meeting Law, we are all concerned about information and how the Board makes its decision. I am a victim of crime, and the Board needs to have changes. I do not agree that the hearing should be subject to the Open Meeting Law. I agree with the legislation dealing with the release of information under NRS 213.130 and the consent of the prisoner not being necessary. The legislation needs to have input of organizations such as ones involving victims of crime.

PAT HINES:

Those of us who are advocates are not asking for the Open Meeting Law to apply to deliberations. However, not many people come to parole hearings. What percentages of parole hearings have victims? Why can they not continue like they have now and have a portion of the hearing closed if there is a victim? There are differences between a jury and a parole board. The jury is made of different people every time. A jury is there to put people in prison; a parole board is there to listen and decide if the person is ready to be given a second chance.

I have spoken to many families of inmates, and they do not sit in on the deliberations. They would like to see the deliberations prior to the hearing and the decision given the day of the hearing. The Board will tell the inmate and their family that they do not have to give a reason for denying parole. They would also like the inmate face-to-face with the Board. I have traveled the country and have found one other state that does not give their decision the day of the hearing. In that case, the decision is given seven days after the hearing. In Nevada, the decision is given within 14 days of the end of the month's agenda. If an inmate has a hearing on May 2, he may not get the decision until June 15. This causes many problems for the inmate because they have had to submit a parole plan and may have paid advanced rent. It is time to make a decision on this.

DONALD HINTON (Spartacus Project):

We should go back to what the Nevada Supreme Court has ruled and quit playing around with the Open Meeting Law. Equating a parole hearing with a jury decision is ludicrous. However, as soon as a jury is done deliberating, their answer is given. The parole commissioners allow victims to say what they need, but the inmate's family is not allowed to say anything in defense of that. The Board and the Department of Corrections should be under one jurisdiction to negotiate and communicate better. Slowing down the release of an inmate shows poor administration quality. The Open Meeting Law should be established for the benefit of every citizen in Nevada.

CONSUELO MCCUIN:

I am opposed to S.B. 496.

MR. SMITH:

Hearings are conducted by panels of Board members. Their decision is not the final decision; it requires the majority of the Board. After a parole hearing takes place, the recommendations are sent around until a majority is reached. That takes time. As soon as the action is ratified, the orders are sent to the Department of Corrections and given to the inmate. It takes time to process that and get the votes, and if the Board splits, it will take more time. The Department has asked us not to give out results until the inmates are provided with them. If a decision to deny parole results in a change of classification, the Department does not want the inmates walking away from a camp because they found out they were denied before the Department knew. If somebody is denied parole and becomes suicidal and distraught, a caseworker provided the result could take preventive action instead of making a call.

CHAIR HARDY:

We will close the hearing on S.B. 496 and open the hearing on S.B. 508.

SENATE BILL 508: Creates the Office of Information Security within the Department of Information Technology. (BDR 19-575)

JAMES ELSTE (Manager, Chief Information Security Officer, Department of Information Technology):

I am in support of the amendments to NRS 242 proposed in S.B. 508. The Office of Information Security (OIS) provides the leadership, oversight and delivery of comprehensive state information security programs including security assessments, policy and standards development, incident management and disaster recovery to all state agencies, boards and commissions under the Executive Branch of Nevada government. The OIS addresses a wide variety of security issues, provides technical security architecture and planning, and assists all state agencies in implementing security controls to protect critical information and information systems. Our mission is to give value to the state by delivering information security expertise and effective information security services.

The Department of Information Technology was formed and receives its general authority under NRS 242. Senate Bill 508 proposes the formalization of the OIS within NRS 242 and places the responsibility of developing security standards under the Director. This responsibility was previously associated with the planning and research unit. This change is consistent with the Director's

responsibilities described in NRS 242.111. These may seem like simple changes, but they represent an important milestone in the promotion of information security within the state. We do not know when or where a threat might manifest itself or systems be abused, but we need an office that is vigilant and prepared to identify these problems and take action when they occur.

CHAIR HARDY:

I noticed there was no fiscal note. Is that because you can make the adjustments you need without changing personnel?

MR. ELSTE:

That is correct. The OIS has existed since 2003. This is the first formal manifestation of the OIS in statute.

SENATOR BEERS:

Is this independent of the staffing requirement?

MR. ELSTE:

The changes to NRS 242 do not directly impact the state. The existence of the OIS and our request to have a separate budget account have fiscal impact not directly related to the statute.

SENATOR BEERS:

If you come to the Senate Committee on Finance and ask for more staff because this bill passed, there will be an impact.

CHRIS L. APPLE (Administrative Services Officer, Department of Information Technology):

The intent with this bill was to separate the OIS from the Director's budget as well as codify it within the statute that covers the Department of Information Technology. Separate from that, there are some requests for additional personnel in our budget. However, the fiscal impact would be negligible under this bill because we are moving the existing staff into a separate budget account.

SENATOR BEERS:

How many staff does OIS have?

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MR. ELSTE:

We have seven individuals and one open position.

CHAIR HARDY:

We will close the hearing on S.B. 508. This meeting is adjourned at 4:40 p.m.

RESPECTFULLY SUBMITTED:

Erin Miller,
Committee Secretary

APPROVED BY:

Senator Warren B. Hardy II, Chair

DATE: _____