

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

**Seventy-Fifth Session  
March 27, 2009**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:04 a.m. on Friday, March 27, 2009, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/75th2009/committees/](http://www.leg.state.nv.us/75th2009/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Marilyn K. Kirkpatrick, Chair  
Assemblyman David P. Bobzien, Vice Chair  
Assemblyman Paul Aizley  
Assemblyman Kelvin Atkinson  
Assemblyman Chad Christensen  
Assemblyman Jerry D. Claborn  
Assemblywoman April Mastroluca  
Assemblywoman Peggy Pierce  
Assemblyman James A. Settelmeyer  
Assemblywoman Ellen B. Spiegel  
Assemblyman Lynn D. Stewart  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Ed A. Goedhart (excused)  
Assemblyman Harvey J. Munford (excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman Joseph (Joe) P. Hardy, Clark County Assembly District  
No. 20

**STAFF MEMBERS PRESENT:**

Susan Scholley, Committee Policy Analyst  
Scott McKenna, Committee Counsel  
Cyndie Carter, Committee Manager  
Cheryl Williams, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Lee Esplin, Principal, Martha P. King Elementary School, Boulder City,  
Nevada  
Lisa Foster, Reno, Nevada, representing Boulder City, Nevada  
Travis Chandler, Councilman, Boulder City, Nevada  
Linda G. Strickland, Councilwoman, Boulder City, Nevada  
Joe Roche, Private Citizen, Boulder City, Nevada  
Robert F. Joiner, Manager, Government Affairs, City of Sparks, Nevada  
Carole Vilardo, President, Nevada Taxpayers Association,  
Carson City, Nevada  
Paul McKenzie, Executive Secretary-Treasurer, Building and Construction  
Trades Council of Northern Nevada, AFL-CIO, Sparks, Nevada  
Dino DiCianno, Executive Director, Department of Taxation  
Michael E. Skaggs, Executive Director, Division of Economic  
Development, Carson City, Nevada  
Jeff Fontaine, Executive Director, Nevada Association of Counties,  
Carson City, Nevada  
Tim Tetz, Executive Director, Office of Veterans' Services, Reno, Nevada  
Ted J. Olivas, Director, Government and Community Affairs, City of  
Las Vegas, Nevada  
J. David Fraser, Executive Director, Nevada League of Cities and  
Municipalities, Carson City, Nevada  
Tim Rubald, Rubald and Associates, Carson City, Nevada

**Chair Kirkpatrick:**

[Roll taken.] We have only two bills this morning. We will start with  
Assembly Bill 397.

**Assembly Bill 397: Authorizes redevelopment agencies to expend money to improve schools located within redevelopment areas. (BDR 22-130)**

**Assemblyman Joseph (Joe) P. Hardy, Clark County Assembly District No. 20:**

This hearing is about redevelopment agencies. When we start looking at the redevelopment and all the issues that go with it, one of the issues that comes up in the discussion is education. Theoretically, the incremental tax that goes toward the redevelopment agency, and which probably takes some money from education, indirectly allows the tide to rise, and the rising tide floats all boats, one of which is education. As a result, theoretically, education eventually gets more funding than the funding it lost through redevelopment.

Some people have qualms about redevelopment. Resolving that issue is not the purpose of this bill. There are bigger and smarter people trying to work on that in this session. The concept of A.B. 397 is that redevelopment agencies would be allowed to expend funds on educational improvements in the areas where they exist.

The genesis of this bill came about in Boulder City—a city that has less than 16,000 in population, does not allow gaming, has a slow-growth ordinance, and is located in a county that has a population greater than 400,000. The City of Boulder City has four public schools, a private school, and a preschool, all of which are within the confines of the city.

The redevelopment agency in Boulder City was carefully crafted to avoid residential areas, so the agency's boundaries do not include the schools. However, the friendly amendment (Exhibit C), which been passed out to you, would allow the agency to use the funds "for the improvement of schools within or without any redevelopment area."

This redevelopment option to fund education does not violate the Nevada Plan, the mechanism that adjusts funding equitably to schools around the state. The Nevada Plan does not preclude private or foundation subsidies to education. In a small school, such as Boulder City High School, a copy machine, based on the Nevada Plan per-student funding, would cost \$3,000. In a large school it still costs \$3,000, so in a smaller school you have a loss of the so-called economy of scale. There is a need to improve the ability of small schools, in particular, to have more money.

The Community Advisory Board in Boulder City started a foundation ostensibly to fund education and improve the educational experience for the town's students. We debated on where the money should go and quickly realized there was not enough money in the foundation to fully fund everything that was

wanted, such as a Prometheus Smart Board in every school. We never did get the money to do what we wanted to do.

Accounts for educational grants were established by Senate Bill No. 404 of the 73rd Session and Senate Bill No. 185 of the 74th Session. Those bill numbers are used in the terms "S.B. 404" monies and "S.B. 185" monies. Thus, there is already a mechanism to appropriate and distribute money allocated to the schools from whatever source. At least one redevelopment agency in the state has figured out how to get funds to schools and even replaced a gymnasium floor with redevelopment funds.

I have, in Las Vegas, Principal Lee Esplin of Martha P. King Elementary School in Boulder City, and I would like to invite anybody who is in favor of this bill to come up and testify. I am open to answering any questions that you may have.

**Chair Kirkpatrick:**

Does anyone have any questions? [There were none.] You and I have talked about some of my concerns regarding redevelopment in general. I just want to make sure that we are not expanding the language that we are trying to tighten. Is there anyone in Las Vegas who would like to speak in support of A.B. 397?

**Lee Esplin, Principal, Martha P. King Elementary School, Boulder City, Nevada:**

I have been the principal at Martha P. King Elementary for seven years. The things I share with you today relate to the experiences I have had as a principal in Boulder City. A number of important school materials and programs have been provided through the foundation monies that Assemblyman Hardy talked about. We have been able to purchase several sets of novels for our classrooms. We have been able to purchase reading kits that help students with comprehension learning. We have also purchased science materials to enhance our science program, which is so important now that science is part of the proficiency exam that students have to pass to graduate from high school.

Martha P. King and Andrew J. Mitchell Elementary Schools have received sound systems through the foundation monies. Teachers write mini-grants for instructional support. Without these monies we would not have been able to purchase music stands or instruments to enhance our music programs in Boulder City.

I wrote a grant for "S.B. 404" monies that allowed us to acquire Fast ForWord, which is a reading program designed to help students with memory, attention processing, and sequencing. Brain research shows that students who are low readers have a lot going on in the frontal hemisphere of the brain, but those synapses are not connecting to the back of the brain, and therefore the

students struggle. This program has helped a lot of students in Boulder City, and with "S.B. 404" monies we got ten computers the first year and ten the second year to set up a lab to help run the program. We also received staff development monies to train teachers in the program, pay for substitute teachers, and get headphones and the cords necessary to run the program. We also received monies to run it after school and in summer programs for the past four to five years. We have always been able to offer Fast ForWord to students at no charge because we have had monies available to pay our teachers \$22 an hour to run the program.

With "S.B. 185" monies we received ten computers to help enhance a program called Read 180. This program builds upon the Fast ForWord program, which we have also had great success with. We were able to purchase books, novels, and other support materials for this program so students could improve their reading skills, get up to grade level, and get excited about reading.

These monies helped us switch over to the district server, through Scholastic, which gives our students access to over 50,000 tests through the Reading Counts program, which is in all the schools in Boulder City and allows students to read books and then take the tests.

Unfortunately, we had our "S.B. 185" monies cut for this school year, and I have had to start charging students \$35 a month to participate in the after school program. My enrollment of students who were learning and growing from the program dropped from 48 to 32 students. Even at that minimal price, parents are having a hard time affording these programs in these tough economic times.

When available, these monies definitely enhance our programs. Boulder City is small, our schools are small, and our funding is continuously being cut. We have fewer teachers to run programs, and we have less money to purchase program materials, because my budget is based on the number of students I have, and I do not have a lot of students as compared to some of the other schools. I truly support the things that are happening in Boulder City. With these various funds we are able to give our kids the best education possible in a small city.

**Chair Kirkpatrick:**

Does anyone have any questions? [There were none.] Assemblyman Hardy, are those all the reasons you believe we should use redevelopment money to help the schools?

**Assemblyman Hardy:**

You say it well, Madam Chair.

**Chair Kirkpatrick:**

Is there anyone else in Las Vegas who would like to testify in support of A.B. 397? [There were none.] Is there anyone in Carson City who would like to testify in support of A.B. 397?

**Lisa Foster, Reno, Nevada, representing Boulder City, Nevada:**

I would like to say that the city is in support of this bill, and the Mayor specifically let us know he is in support of the amendment that Assemblyman Hardy presented.

**Chair Kirkpatrick:**

Does anyone have any questions? [There were none.] Do you know how big the agency's redevelopment fund currently is?

**Assemblyman Hardy:**

At the risk of perjury, I am going to say it is probably between \$2 million and \$3 million. Inasmuch as we take money from education, I think it is appropriate that we have this as an option to help fund education.

**Chair Kirkpatrick:**

Is there any new redevelopment? This would be going forward, correct?

**Assemblyman Hardy:**

I am not changing the redevelopment agency in any way. I am just allowing, encouraging, and assuring that they can use those redevelopment funds for the schools that technically are not within the boundaries of the redevelopment agency. But certainly the children would benefit, as well as the economy, as we teach them how to earn a living.

**Chair Kirkpatrick:**

Is there anyone else who would like to testify in support of A.B. 397? [There were none.] Is there anyone in Las Vegas in opposition to A.B. 397?

**Travis Chandler, Councilman, Boulder City, Nevada:**

I am also a member of the Boulder City Redevelopment Agency (RDA) Board. Regarding our RDA funding, I would like to point out that Clark County School District Operations, Clark County Operations, and the Boulder City Library District are the three major contributors of the funds that would have otherwise gone to them.

We are all aware of the need to fund statewide education in our current budget crisis, but I do not think this bill helps that cause. It is taking money away from schools, and we now seem to be giving a little back. We need a more comprehensive look as to whether we should be doing this in the first place.

We heard earlier that there are fewer teachers in Boulder City, and I think that is one of the factors involved—cutting programs, cutting teacher costs, and cutting teacher payroll.

Our state's real need is for school operations, the majority of which is teacher and administrative staff salaries. If what we hope to address here are school operations, I have difficulty seeing how it would work. Would we send the money to the Clark County School District and tell them to add the money to the teacher salaries, but only to those in Boulder City? Or would we tell them to hire an extra teacher or two specifically for Boulder City?

The problem is, RDA then becomes part of the school district administration. If we are funding those teachers, which is where the need is now, what becomes of the RDA? Does it become an employer? Do we need to withhold taxes and so on? The key point is that the Boulder City Redevelopment Agency withdraws funds strictly for administration. As you can see, we are going to be adding an additional administrative cost that is carried currently by the Clark County School District.

Assemblyman Hardy stated earlier that this is not a violation of the Nevada Plan, that the Nevada Plan allows private and foundation gifts. I think we are overlooking the source of the money. It is not private money; it is taxpayer money. It comes from property taxes, and so I think this is a potential violation of the Nevada Plan. We are trying to fund all the kids throughout the state equally. This would hurt that, because some communities do not have redevelopment agencies, and those that do may designate different amounts to certain school funds, or none at all. You can see there is going to be a big difference in the funding from one community to another, particularly in some of the largest communities that have large redevelopment agencies.

Also, the primary purpose of community redevelopment law is to address blight and unsafe conditions conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime. This is what we are trying to do with the RDA money, and it is a fine statement of purpose. It shows the Legislature's concern for these serious problems in our state, and it does justify withdrawing funds for those other important purposes, such as teacher salaries or voter approved-functions like Clark County Operations, police, or the Boulder City Library District.

The effect of Assembly Bill 397 would be to set up accounts to keep funds locally to duplicate already existing functions, using the same money already earmarked for those purposes, and it would also add an administrative burden on those tax dollars. I think the better way to get more money into the schools is to not let it move from property taxes designated for schools to the RDA, and then back to the schools, but allow it to stay in the school district funding in the first place.

It is fortunate that the Legislature is addressing this issue, because it is a real problem for us at the local level. I would be happy to answer any questions.

**Assemblyman Stewart:**

The allocations of these funds will be up to the Redevelopment Agency Board in Boulder City, is that correct?

**Travis Chandler:**

Yes, that is how I read the amendment to the statute.

**Assemblyman Stewart:**

So, if the Redevelopment Agency did not want to give the money to education, they would not have to, is that correct?

**Travis Chandler:**

That is how I understand it.

**Assemblyman Stewart:**

Then, I do not see any problem.

**Chair Kirkpatrick:**

Does anyone else have any questions? Mr. Chandler, I am excited to hear you say that, because I have been conducting a comprehensive study on redevelopment for about a year and a half, and Boulder City was the one place that I struggled to get information from. So I am excited that you people want to come to the table.

I agree that there is already a money base that goes to the schools because of redevelopment, but one of my big issues is that the schools do not see any growth as redevelopment grows. What you do is freeze the tax base for your city's schools for 20 years. I am glad to hear that you think we should protect schools, because they produce the workforce that your redevelopment agency will want when it brings in future business. I am a big supporter of your town, but I have to ask myself, where is the blight in Boulder City?



The definition of redevelopment has been changed five times in the last ten years, so local government is just as guilty as the legislators. I agree that the language is a little broad. I do not think that it was Assemblyman Hardy's intention to have the teachers in Boulder City make more than the teachers in Clark County. Because, quite frankly, I might have a problem with that; I represent North Las Vegas. I do think that there are grant potentials that we could use hand-in-hand with our redevelopment agency, such as teaching kids the aspect of business or internship programs. I hope you will stick around for my bill today, because I have been doing the comprehensive study. I am glad to hear that you are supporting education. The language needs to be tightened, but I think within the existing statute it already allows for various purposes.

We do not want to stop redevelopment. Redevelopment is a huge part of our state, but what we want to do is make sure that education can have some out-of-the-box thinking and get the rate increase that they do not currently get, the increase that 36 other states now give to education. I want to be clear. I do not think that this proposal was intended for wages. I do not think that we want you to be an employer for the Clark County School District. If it allowed you to do grants and such things, would you then be in support of the bill?

**Travis Chandler:**

How much of the state tax burden that goes directly to schools is a policy decision that belongs with the Legislature. Administratively, I think we are making this more complicated than it needs to be. We are taking money that would have gone to schools from the property tax bases, putting the money into the RDA, and now we are trying to send it back. To have additional policy-making boards saying we are giving money to this foundation to support the schools complicates the system, and this comes at an administrative cost. It would be better if we streamlined and just kept that flow of money within the school district. I am talking about limiting the use of the RDA funds. I really did not want to get into a general overview of the RDA program at this time.

**Chair Kirkpatrick:**

I have been studying redevelopment for a year and a half, so I do not want to get into that debate either. But I think if you take education all the way out of redevelopment, it is probably a 45 percent hit to your business community when you try to bring them into your city. I do not see what the harm is in having the ability to create partnerships. But I am glad to hear that you folks are aboard. We will be having more meetings about redevelopment, and I will gladly give you a call.

**Linda Strickland, Councilwoman, Boulder City, Nevada:**

I am also on the RDA Board of Boulder City. I want to first make a slight clarification. I believe that Ms. Foster said that Boulder City is in support of this bill. I do not necessarily believe that to be accurate, because obviously, Councilman Chandler, who represents his constituency in Boulder City, is not in support of this bill, and neither am I.

All of us support teachers. As a former substitute teacher, I understand how difficult their jobs are. I think the concept of Assembly Bill 397 is quite admirable since we do need to support our teachers who are suffering in this difficult economic climate.

You all acknowledge that the current language of A.B. 397 is vague and ambiguous. I am concerned about that because, as a practicing attorney for over 26 years, I understand what happens when the courts are required to interpret vague and ambiguous statutes. Therefore, I come before you to discuss some of the problems that are inherent in the current language.

As you are aware, *Nevada Revised Statutes* (NRS) Chapter 279, which contains redevelopment statutes, indicates that the money in RDA is to be used for blight. It also discusses blight with respect to land and structures, whether they are commercial or residential. The only salaries that are referred to in NRS Chapter 279 pertain to salaries for administration of the RDA fund.

As we have heard today, it appears that the current language of A.B. 397 is vague and ambiguous in that the framer's intention is unclear. We heard Assemblyman Hardy talk about the purchase of equipment for schools, and we heard Principal Esplin talk about equipment as well as the payment of some salaries. So we do not know if this bill applies to salaries or to the purchase of equipment, but based on the language of NRS Chapter 279, I can tell you it will pertain only to the improvement of school buildings, since it is real property, and land and structures are generally what is referenced in NRS Chapter 279.

If you decide this bill is going to be applied only to real property, such as school buildings, or the purchase of equipment, a few problems may arise. When it talks about schools, does it mean only public schools, such as Clark County schools, or does it also pertain to private schools? Does it pertain to day care centers, which may be considered to be places of learning? Does it pertain to church schools or homeschooling? Can all of these different schools apply for RDA funds to improve their structures or purchase equipment? Furthermore, will we suffer the unintended consequence that the school district will cut funding for Boulder City schools because it believes Boulder City schools can self-fund through the RDA program?

Another question is how local governments decide who gets the money. There may be questions as to whether we are providing special preference to some groups, and will that subject the board to possible litigation? Who is going to decide what equipment is needed, and do we as a board have the ability to make appropriate decisions in that regard? Are we heading down a slippery slope where other public servants and agencies—whose funding has also been cut as a result of these difficult economic times—are also going to tap into our RDA funds? Those are my concerns if you ultimately interpret this language to apply to buildings and equipment such as Mr. Esplin discussed.

If you ultimately decide that it can also be applied to salaries, I think some similar problems will arise. Again, does it just apply to Clark County schools or also to private schools, day cares, homeschooling, or church schools? Will it upset the Clark County School District pay schedules and union contracts? How does this work with the Public Employees' Retirement System (PERS)? Are we involving our community and our RDA program with PERS?

**Chair Kirkpatrick:**

Ms. Strickland, I am going to invite Assemblyman Hardy up, because I do not think it was ever intended for salaries. So we will clear this up right now.

**Linda Strickland:**

If indeed it was not, the language needs to be made clear so it is not subject to judicial interpretation a later time.

**Chair Kirkpatrick:**

Assemblyman Hardy, for the record, was this intended for salaries?

**Assemblyman Hardy:**

No, it is not intended to replace salaries. I would recognize that teachers traditionally use their own money to supplement materials in their classrooms, and in my experience, a teacher usually spends at least \$1,000 out of their own pocket. Theoretically, if the school can buy some of those materials and improvements, the teacher would receive, in essence, an indirect ability not to have to pay out of their own pocket for classroom supplies, thus allowing them to be actually paid more because they get to retain more. This has nothing to do with the Nevada Plan. I would hope the Legislature would never change the Nevada Plan to discriminate against certain schools.

**Chair Kirkpatrick:**

Let me clarify. If this law were approved, it would apply to every redevelopment agency across the state. Ms. Strickland, it would not apply only to Boulder City.

**Linda Strickland:**

That is how the current language reads. It is not solely for Boulder City. It appears to be applying to all RDA agencies within our state.

**Chair Kirkpatrick:**

Correct.

**Linda Strickland:**

So with that clarification from Assemblyman Hardy, then certainly the concerns I have are limited to those that I expressed relative to the improvement of school buildings and the purchase of equipment and how that is going to be ultimately interpreted with respect to the broad definition of schools as it is currently set forth in the proposed language. Indeed, whether that will create unintended consequences for teacher funding by the Clark County School District is one of my basic concerns. I appreciate that you all are taking a look at the RDA program in general since I think there are certainly some abuses in it, which I am sure you will be working on in this legislative session.

**Joe Roche, Private Citizen, Boulder City, Nevada:**

I concur with your thoughts earlier that Boulder City may not experience the blight that may be seen in North Las Vegas, and I believe, because of that there has been an abuse in Boulder City through this RDA program. As Assemblyman Hardy had suggested, Boulder City is the genesis of where this bill is coming from. Just this year in the RDA program we saw a \$60,000 statue purchased and that money went solely to Colorado. Two bathrooms were built in Boulder City at the cost of \$665 a square foot, for 250 total square feet, through the RDA program. Under current conditions, I believe there would be a sense of unfairness regarding the schools receiving RDA money. Instead of a school receiving a \$3,000 copier, we might have a school get a \$10,000 copier, with lasers and everything else.

The abuses that I have seen in the RDA program concern me. I lack faith that the RDA Board would do the right thing with the money. I believe the RDA program takes money away from the teachers and does not apply the money appropriately to the redevelopment agency standards that exist under state law.

**Chair Kirkpatrick:**

Does anyone have any questions? [There were none.] I am very proud of my city of North Las Vegas for working to be just as beautiful as Boulder City. We are working on it and we are getting there.

Is there anyone else who would like to testify in opposition to this bill in Las Vegas? [There were none.] Is there anyone in Carson City who would like

to testify in opposition? [There were none.] Is there anyone who is neutral in Las Vegas on A.B. 397? [There were none.] Is there anyone in Carson City who would like to testify as neutral on A.B. 397?

**Robert F. Joiner, Manager, Government Affairs, City of Sparks, Nevada:**

The City of Sparks is neutral on this bill, but we are leaning toward support. I have spoken recently on this bill to some of the folks who are supporting it in Washoe County.

I want to give you a little background from the City of Sparks. We have an older downtown and intercity area. We have had redevelopment—we have the oldest redevelopment agency in the state—and some of us who grew up in that area and went to those older schools, went away and came back to Sparks. We were appalled to see the conditions of some of those schools. Our redevelopment agency was not required to do anything. The school district did not have the resources to build new schools and also take care of some of those older schools. We did not need the benefit of this law. I just talked to Carole Vilardo of the Nevada Taxpayers Association, and it is in law that you can deal with any blight within your redevelopment area, and you probably should. We felt that way, so we partnered with the school district and built a new gymnasium at Sparks High School. We put a new roof on Robert Mitchell Elementary School, which might be the oldest operating school in northern Nevada. Students of Robert Mitchell Elementary had to do their intramural sports at other schools because they could not use their track, it was that unsafe, so we partnered with them.

When our redevelopment funds got a little lean, we dipped into our Community Development Block Grant (CDBG) program. As we were an entitled community, we could use those funds, as allowed by law, for health and safety and blight. There were no sidewalks within walking distance of the schools. There were no playgrounds, or the playground area was all decomposed granite. We put turf in. That was just the right thing to do.

I think we are neutral only because, as some of the previous speakers mentioned, some language may need to be tightened up, but we certainly saw the benefit of this use of RDA funds. I am not saying it is for everybody—newer communities may not qualify under the blight provisions—but we certainly had it, we addressed it, and we felt it was the right thing to do.

**Chair Kirkpatrick:**

Does anyone have any questions? [There were none.] I understood that concept, and I will clarify with Legal that this can already be done within some

of the RDAs, based on the reference to open space. We appreciate knowing that someone is doing the right thing.

**Assemblyman Hardy:**

I think the critical piece in this is the permissive language referring to outside the border of the redevelopment area. I think tightening that would clarify in statute what could be done and probably remove some of the issues of what may be considered for RDA funding.

**Chair Kirkpatrick:**

If you did that, it would be similar to the way affordable housing with the City of Las Vegas can be used outside of the redevelopment area.

**Assemblyman Hardy:**

Thank you.

**Chair Kirkpatrick:**

Does anyone else have any comments?

**Assemblyman Hardy:**

For the record, I understand there was a discussion in the Boulder City Council about redevelopment, but no vote was taken.

**Chair Kirkpatrick:**

With that, we are going to close the hearing on Assembly Bill 397 and open the hearing on Assembly Bill 492.

[Vice Chair Bobzien took over the meeting while Chair Kirkpatrick presented A.B. 492.]

**Assembly Bill 492:** Imposes certain requirements on the enactment of abatements and exemptions from property taxes and sales and use taxes.  
(BDR 32-602)

**Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District No. 1:**

I know some clarifications need to be made. I would ask the folks behind me to please come forward so that we know where all the issues are. We worked late to meet the deadline.

The starting point of A.B. 492 is Assembly Joint Resolution No. 16 of the 73rd Session, which was passed by the 2005 and 2007 Legislatures and then went before a vote of the people in 2008 as an amendment to the *Nevada Constitution*. The ballot question asked whether voters thought there

should be good public policy and a sunset date on all future sales and use tax exemptions, and the voters overwhelmingly supported it. So in this bill, subsection 1 talks about what has already been passed by the voters and is now part of our state *Constitution*, that the people want to know what the public policy is when we decide to give away sales and use taxes throughout our state.

The voters also asked for a sunset date, and we included it in subsection 2. We limited the sunset to just ten years, because as term limits come and legislators change, I think there is always reason to go back and look at any exemptions. The Spending and Government Efficiency (SAGE) Commission also recommended a sunset provision, so we are on the same page. I think that if we have sales and use tax abatements and exemptions, and the economics change, we need a way to come back and look at them. If they sunset, and if they are working, whoever is in this building 20 years from now will know there will be a history. We have several bills this session that require accountability, so there will be some type of tracking device for future Legislatures.

Going forward, there are some concerns and perhaps some unintended consequences. This bill is prospective; it does not go backwards. It is effective for any legislation that is passed this session. Already Legal has asked for a sunset date on some of the bills that are out there. There might be some concerns in subsection 2 regarding government entities, that you cannot double-dip. I know that is a buzzword, but it is the truth. We were finding that some groups were coming to our state and getting exemptions on personal property tax, exemptions on sales and use tax, tax increment financing, and then receiving green building abatements, so for 20 years they did not give anything to the state.

We want to make sure that you have to pick your abatement; you cannot have them all. Where does that benefit the community? It is not in this bill, but we had wanted to break it down more, because economic development, redevelopment, and then the sales and use tax all have different standards.

In the future, you will hear about renewable energy and renewing those exemptions. I would like to have the time to go back and break down subsection 4 on how we want to apply those provisions because it is not one size fits all. For instance, we would be one of seven states that did not allow for tax increment financing and redevelopment at the same time. However, currently our standards are very broad, so you can get tax increment financing and the redevelopment base freeze for 20 years.

Other states limit the tax increment financing to one-half of the life of the project. So if it is a 20-year redevelopment project, in ten years that tax increment financing for roads and capital improvements is done. That money comes back into the state coffers and goes into education and indigent care. There are a lot of pieces to the puzzle, so I would like to spell it out a little more clearly so there is no mistake about the intention. I have been working a long time to get this into statute, and getting it right is probably the hardest part of the process. Exemptions and abatements will be still allowed, but we need to change the rules. We cannot touch anything that is already bonded because they have financial obligations in place. I think that is fair because the rules should not change for anyone in the middle of the game.

Our intention was not to hurt our veterans or our senior citizens. I do not believe that this bill does hurt them, but we want to clarify it, because we do have veterans' exemptions, such as the special license plate and the property tax. Absolutely, those folks deserve that. We are not talking about changing that. With the nonprofit organizations, I would never want to sell out the Girl Scouts or Boy Scouts, or the homeless youth. So I would ask that everybody please come forward and address the issues. I am open-minded about this. We were just trying to meet the deadline. I know that Ms. Vilardo has a few issues. I want to work with her on those, because if we do not have the reporting provisions right, it will not be beneficial to anyone in the future. I would ask that we have more time to work on this bill, and I will take any questions.

**Vice Chair Bobzien:**

That was a very nice summary. May we please have the folks in support of A.B. 492 come to the table.

**Carole Vilardo, President, Nevada Taxpayers Association, Carson City, Nevada:**

I know how hard the Chairwoman has worked on this bill, and I applaud her for it. We supported that ballot question last November because circumstances do change, and you need to be able to go back and evaluate. She mentioned some redevelopment issues, the tiffs, and what she referred to as double-dipping. There are some cases where you want to allow it; and some cases where you want to have additional scrutiny. Overall, the bill works, with some tightening up in a couple of sections. That is my opinion.

The one thing that I have a concern about is where it says the Department of Taxation ultimately determines if there is a cost-benefit. The Department does administration for collection and issues regulations to effect that collection. My impression from the ballot language was that the cost-benefit analysis was for the Legislature to determine.



I do not know if you would want any agency to say that this company deserved an exemption, or this company did not. If you had the information, you could evaluate it for purposes of coming back and making adjustments to the law for the future. That is probably my biggest concern. We are happy to work with the Chair because the basis of this bill is good policy.

I would love to see you add the other taxes, if not this session, then the next. That way the other taxes will have a point of evaluation because there is a sunset date. At least it might make people more aware of what we are doing on other taxes, such as the modified business tax. I think it is good policy to have every tax that the Legislature enacts be properly evaluated.

**Vice Chair Bobzien:**

Are there any questions for Ms. Vilardo? [There were none.]

**Paul McKenzie, Executive Secretary-Treasurer, Building and Construction Trades Council of Northern Nevada, AFL-CIO, Sparks, Nevada:**

We support the idea of reviewing these tax abatements because we have sold the farm to get these projects to come here and supposedly provide financial aid to our communities. The promises are made on the front end, but on the back end we are not getting the benefit expected from those promises. As an example, recently I was at an economic development meeting, and Microsoft was looking for a tax abatement for a building that they were constructing in Las Vegas. They had received a similar abatement only four years before in Reno, and they were supposed to stay in that building for ten years. They closed that building, moved to Las Vegas, and got another abatement to move to Las Vegas. These abatements are being abused. It is a great idea to give incentives to businesses that come to this state and are going to bring financial gain to the state. But it is unfair for businesses to come to this state and receive these abatements so they do not have to pay anything to move here, and then not create good paying jobs. We need to have some oversight on those abuses, and I think this bill is a good step in that direction.

**Vice Chair Bobzien:**

Are there any questions from the Committee?

**Assemblyman Christensen:**

Mr. McKenzie, as I listen to that Microsoft case, I am curious if you could give the Committee an example of an abatement that you liked.

**Paul McKenzie:**

Several renewable abatements have been awarded in recent years. We are not 100 percent supportive of everything they have done, but the economic benefit

has been there once the abatement was awarded. Ormat Technologies has several abatements in southern Reno for taxes. Enel received some abatements in Fallon which are probably going to end up helping Churchill County. We were not happy with the original part of it, but ultimately they are probably going to give the benefit back to Churchill County because of the expansion of the geothermal plants there. Those are two that I have been involved in. Neither one of them is over three years old, but they appear to be ultimately beneficial to this state.

**Assemblyman Christensen:**

I ask that question to make sure that I am comparing apples to apples. It is good that the Committee hears from people who have personally experienced where abatements were taken advantage of and used appropriately. Obviously, we on this Committee want to do everything we can to help Nevada grow economically, in a sound way, and make decisions today that are still good decisions 5, 10, 15 years down the road. In the example that you mentioned, I would be curious to know what funds are going to the municipality, what the wages are, what kind of building was constructed, and how many jobs they brought; it is necessary for us to understand that.

**Vice Chair Bobzien:**

I think that is an excellent point. The bill gives us the tool to be able to make those assessments. Are there any other questions? Do we have any opposition to the bill? Do we have anyone in Las Vegas? [There was no one.] We have a number of people who are signed in as neutral.

**Dino DiCianno, Executive Director, Department of Taxation:**

I want to thank the sponsor of the bill for her openness. I also want to thank Carole Vilardo for her comments, because we have been requested to do a fiscal note on this bill, and I have more questions than I have answers with respect to providing that report to the Legislature. The way the bill is written, is there supposed to be an independent audit, and is that audit supposed to be provided to the Department of Taxation to compile that study? I am curious who is going to do that independent audit. I do not know who that is. We are also charged with doing regulations. Again, we are more than willing to sit down with the maker of the bill, with any of the parties involved, and we will make this thing work.

**Michael E. Skaggs, Executive Director, Division of Economic Development,  
Carson City, Nevada:**

My interest in being here today is to include the Nevada Commission on Economic Development as a party to the discussion on the criteria, because obviously the intent of the bill is to have everything very transparent, and we

totally agree that is a good direction to go. We are willing to do our part with the criteria, such as the taxes created and paid by these firms, the jobs they create, the average wage, and the investment. We want to be a part of that discussion. We deal with the high-wage job picture in the state, and there are so many projects discussed in the name of economic development that we never see, such as the earlier Microsoft example, and there are so many different incentives that this gets tumbled and jumbled from the economic development side of the house. We want to be a part of the discussion on compliance, and perhaps we can offer constructive ways to support the Taxation Department in doing those audits. We have regional authorities in every county that could add legs to their staff, because I know that conducting those audits will be quite a task.

**Jeff Fontaine, Executive Director, Nevada Association of Counties,  
Carson City, Nevada:**

First, we appreciate Chair Kirkpatrick bringing this bill forward. We think that there are a number of good provisions in this bill that have been described. Our official position at this point is that we are neutral, with some concerns. We are not against exemptions or abatements per se, but it is our position that the counties that are impacted by exemptions and abatements ought to have a say in the development of the policies related to those abatements and exemptions, and certainly their implementation.

One of the previous witnesses testified that he believed that a good example of an abatement was the geothermal project in Churchill County. While I do not have specific knowledge of that particular project, I can tell you that if you ask Churchill County, I am not sure they would agree with that opinion. Generally speaking, while geothermal creates a lot of jobs to construct the facilities, once that resource has been put into production, there are very few jobs associated with the operation and maintenance of those geothermal projects.

Our specific concern with this bill has to do with the abatement of property taxes. Of course, property taxes are a major revenue source for county governments; they are used to fund essential countywide services. In subsection 2, paragraph (b) of the bill, it basically holds public education harmless from property tax exemptions. We do not have a problem with that; we can understand why public education should be held harmless, but it significantly decreases, if you will, the state's direct financial stake in these property tax abatements. So it really changes the equation and, I think, changes the way the Legislature may look at future tax abatements.

All we ask is that if this bill moves forward, we would like the counties to have a say in how those future tax abatements and exemptions are granted. We are certainly willing to work with Mrs. Kirkpatrick and others on this bill.

**Vice Chair Bobzien:**

Do we have any questions from the Committee? [There were none.]

**Tim Tetz, Executive Director, Office of Veterans' Services, Reno, Nevada:**

I come before you neutral on this bill, partially because I am confused as can be on this and am trying to understand what the ultimate impacts or unintended consequences might be. As Chair Kirkpatrick said, the veterans' tax exemptions or abatements are out there. This bill might negatively impact us. For example, it would be hard for me to come before any committee and put into words the social purpose or benefits of a veterans' tax exemption. Each and every one of us sitting here can say, "Yes, we need to give those veterans tax exemptions, but how do we balance that against the economic impact?"

Furthermore, subsection 2, paragraph (a), of Assembly Bill 295, sponsored by Assemblyman Settelmeyer, gives the veterans' tax exemption to a person who qualifies as both a veteran and the surviving spouse of a veteran. I hope we don't have to come back and address that, or any other changes, every ten years.

Finally, I am not a lawyer, but as I read subsection 2, paragraph (c), it requires "each recipient of the abatement or exemption" to submit audit results to the Department of Taxation. If "each recipient" of a property tax exemption means each veteran, I do not want to be anywhere near that Department when those calls start. Thousands of veterans get those exemptions. I understand the underlying piece here, and I will be happy to help make certain there are no unintended consequences that hurt those veterans who serve the most and whom we try to help day in and day out.

**Vice Chair Bobzien:**

Mr. Tetz, I think we can all appreciate your concerns, and certainly the bill sponsor mentioned its particular impact. I think you will find that we are pretty supportive of those cases. Thanks for your willingness to work with us.

**Ted J. Olivas, Director, Government and Community Affairs,  
City of Las Vegas, Nevada:**

We are neutral on this bill. We did have some concerns and I spoke with the bill sponsor prior to this hearing about them. The potential effects on the nonprofits, the independent audit, and the taxation requirements have been vetted before this Committee. We would be glad to assist in clarifying some of those items and making this the bill that the sponsor certainly intended it to be.

**Vice Chair Bobzien:**

I apologize; I did not give the Committee an opportunity to ask questions of Mr. Tetz. So, if any of the Committee members have any questions for Mr. Tetz or Mr. Olivas, please feel free to ask them. [There were none.]

**J. David Fraser, Executive Director, Nevada League of Cities and Municipalities, Carson City, Nevada:**

We understand that the bill in its present form did not capture everything that the Chair intended, and we appreciate the importance of the issue. I would like to appear in the neutral position. As the bill moves forward, we look forward to working with Chair Kirkpatrick and being a part of that discussion.

**Vice Chair Bobzien:**

Are there any questions for Mr. Fraser? [There were none.]

**Tim Rubald, Rubald and Associates, Carson City, Nevada:**

As many of you know, I served as the Executive Director of the Commission on Economic Development for two and half years, but I administered the economic development abatements for seven and a half years prior to that. So for a total of ten years I oversaw the programs of the Commission with regards to abatements, and today part of my practice is looking at the economic impacts of the abatements for my clients.

There seems to be a broad-ranging set of bills introduced this session that look to change some of those abatements, and I think it is important that all of the legislators understand that compared to other states, we have a tremendously good structure that has developed over the years. We do not provide any cash or cash equivalence; of course, that is thanks to our *Constitution*, which protects the taxpayers. Those companies that are able to receive abatements through the current structure must perform to receive those abatements. There is not a single abatement that provides anything up front. They either make the investment in Nevada, or they do not receive any type of abatement. In most cases, those abatements are parts of taxes—50 percent, for example, for the property tax. So, it creates new revenue. I think we oftentimes look at the glass being half empty rather than half full. Economic development is probably one of the most competitive businesses in the world today, because we work totally on a world level. It is extremely competitive and something that we have to look at every day.

We have excellent monitoring through the Department of Taxation for all of those abatements. Most of the abatements receive not one but two separate audits from the Department of Taxation that look at whether the companies are performing as they promised to do—whether they have created the jobs, made

the investments, and are paying the wages that are required. They not only look at what is required in statute, but also at promises made by the company in the written contract with the Nevada Commission on Economic Development.

Most importantly, and something that a lot of states do not have in their economic development statutes, are claw backs. We have claw backs, and frankly, we have used them on a number of occasions when companies have not met their promises. I think it is important for everyone to understand that.

I would like to bring up a couple of points on the bill. In subsection 2, it talks about "any funding from a governmental entity." The way it is worded now, that could include the federal government. That would cause some problems and concerns in the alternative energy field, and it would not make anyone in that field eligible to apply for incentives in the State of Nevada. There is sun, wind, and geothermal in many other states, and if we make it unattractive in Nevada by not providing some assistance, these companies will take their money and go elsewhere. I am currently working with clients that represent approximately \$1.5 billion-worth of future investment in the State of Nevada. I can assure you, if they feel they cannot work with the state and the local government to obtain some incentives, they will take their money elsewhere.

**Vice Chair Bobzien:**

I would like to stop you right there. Thank you for laying it out, but I have you signed in as neutral. Do you have suggestions to make this bill better, or is this more general opposition that you are highlighting?

**Tim Rubald:**

Absolutely, I have some things. The change in the "governmental entity" language would be one for example.

**Vice Chair Bobzien:**

Make an exception or...

**Tim Rubald:**

I believe I understand the author's intent. I think we need to perhaps insert the words "state or local government" rather than just "governmental entity." The other concern I had relates to the independent-audit issue, which might possibly be onerous, but that has been addressed.

**Vice Chair Bobzien:**

Do we have any questions?

**Assemblywoman Spiegel:**

Based on the example that we heard earlier concerning Microsoft getting an abatement in northern Nevada to construct a building, with the requirement that the building be there for ten years—but then leaving after five years, moving to southern Nevada, and looking for a second abatement—how does that work within the safeguards that you enumerated during your testimony? How could something like that happen?

**Tim Rubald:**

I do not believe that anything like that could happen. I am not familiar with that case, and as I indicated, I managed those abatements for a ten-year period. I am not aware that Microsoft ever received an abatement through the Commission on Economic Development. I believe Mr. Skaggs stated that as well. It is not something that we would have normally allowed within the state, at least during my administration. Mr. Skaggs may speak to this better than I. Part of the process is that those have to be primary jobs, and a definition of a primary job, which is in the *Nevada Administrative Code*, requires that those jobs be funded from outside the state. So if a company was moving from one county to another county, we would have not let that happen.

**Vice Chair Bobzien:**

That might be something to check out after I get a little more information. Do we have any other questions from the Committee? [There were none.] Do we have anyone else who would like to testify on the bill?

**Assemblywoman Kirkpatrick:**

Thank you, Mr. Vice Chair and Committee members. I have heard all the concerns today. I do want to point out that the voters of the State of Nevada asked that there be some type of public social benefit to them. I think tax exemptions for veterans very much falls under that, and I told Mr. Tetz his concerns can be easily addressed. We want to make the criteria very clear.

We talk about good abatements and bad abatements, and if there is a combination of both within our state. It is how you perceive it. Some redevelopment projects have been absolutely fabulous for our state. They have brought in a lot of jobs and have done good things. But there are other projects that are very hard for the taxpayer to justify because, quite honestly, the press will report a \$965,000 abatement, and we got three jobs. We need to set better criteria so that they are very clear to the public; those standards are in place.

An accounting mechanism is also needed. That way, 20 years from now, legislators can see what worked and what did not work. Quite frankly, some of

these exemptions are for 30 and 40 years, so there would be no data for 30 years or more otherwise. I will give you an example. There is an exemption on the books that was put in place in 1988 and has never been used. Why do we have it? We need to get rid of it. That is why you have to come back and look at things. We have to be careful. Lobbyists are going from state to state and saying, hey, if you do not give us this exemption, I am going to Arizona. At some point you have to say, "Okay, see you." We cannot be held hostage. We need to do what is right and what we believe works for Nevada.

I will give you an example. I have been working a lot with the states of Virginia, Kansas, and Missouri in the last couple of years. Dell Computers went to Virginia and said, "We are coming here, this is the legislation we need, this is what we are going to give you, and it has to happen now." Virginia said, "We have to think about it." Meanwhile, Dell went to Kansas, Tennessee, and another state and said the same thing. In the end, Dell went with whoever gave them the best deal.

On other websites we see a link, "Why do you want to come to our state?" I ask every one of you to look at Virginia's website, because I think they are very conservative and very efficient; their typical agreement pays for itself within three years, and that is what we all want. How would we know that unless we have some type of accountability? Mr. Skaggs has been very helpful to me. Anytime I call and ask for something, I get it immediately. I do not think that the redevelopment agencies want me sending them five more letters saying, "Show me your stuff," so we can figure what you have. I think the public says, "Show me your criteria and data—we want to see." When you go to Virginia's website, it is posted. You know what you gave away to this company when they came to your state, what your return was, and how fast it was paid. But the key thing they say is, "Why do you want to come to Virginia?" Virginia says their education system is awesome, their medical facilities are great, and they are working on their infrastructure. That is the whole reason to go to Virginia.

I have 11 bills this session to try to address this problem. I think it is time that we do things right and have accountability. I am willing to work with folks. I think we do have to separate the contexts, because what works in economic development does not work in redevelopment, and definitely does not work with sales and use taxes. Also, if a city's action is going to affect a county, the city should have to notify the county, as well as the state. We have to have accountability. I think it is good business for the state to justify these exemptions and criteria.



**Assemblyman Stewart:**

This is not a question but a comment. I would like to sincerely commend the Chair for her work in this very difficult area. I know last session and this session she has done a heroic job in this area.

**Vice Chair Bobzien:**

Are there any other questions from the Committee?

**Assemblyman Christensen:**

This is a great topic for us to be addressing, because in my travels and in my line of business, I have noticed so many people see Nevada as a great place to come and start or relocate their business. California businesses talk to me all the time. The bulk of our clients are in California, and oftentimes when they find out that I am a Nevada legislator, they will ask about Nevada's business environment and mention that they want to get out of their current environment in California, and that is echoed by businesses in other states.

Madam Chair, I know that you spent a significant amount of time on this subject, and I know there is a lot you can teach me and the rest of the Committee. I think that you speak very well for this Committee in understanding our legislative role and the people to whom we are accountable.

With that, I would be interested in what I can learn from your knowledge and understanding, as well as what the Commission on Economic Development and Mr. Skaggs would add to this dialogue. I try to look ahead. Is this a good idea today? Will it still be a good idea ten years from now? Will we still be talking about this ten years from now saying, "Remember when we made this significant policy change in regard to how we handled abatements, and how we could really turn Nevada into a business magnet?" I truly believe we can do that if we are smart. At the same time I think of a quote that my brother uses: "You cannot pour toxic waste in one end of the pond and not expect it to float to the other end."

This is such a delicate ecosystem. I look at our unique opportunity today. The people who really make their mark in business often do it when times are down. I think that now is our time to shine, and I am anxious to work with you on that effort. Again, I look forward to discussing your experiences, and those of Mr. Skaggs and others, and making sure that this Committee focuses on this matter and that we can work well with the Senate.

**Vice Chair Bobzien:**

We are closing the hearing on A.B. 492.

[Chair Kirkpatrick took over the meeting again.]

**Chair Kirkpatrick:**

Is there any public comment? [There was none.] Is there anything from the Committee? I gave everyone their homework file ([Exhibit D](#)); there are a couple of items.

**Assemblyman Stewart:**

I just want to clarify—is this for this weekend or the rest of the session?

**Chair Kirkpatrick:**

I never want it said that no one has enough information; knowledge is power. We do have another work schedule on the calendar next week.

Does anyone have any comments? [There were none.]

Meeting adjourned [at 9:38 a.m.].

RESPECTFULLY SUBMITTED:

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Cheryl Williams  
Committee Secretary

APPROVED BY:

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Assemblywoman Marilyn K. Kirkpatrick, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** March 27, 2009

**Time of Meeting:** 8:04 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B.397	C	Assemblyman Hardy	Amendment
	D	Chair Kirkpatrick	Homework File