

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

**Seventy-fifth Session  
March 25, 2009**

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 1:30 p.m. on Wednesday, March 25, 2009, in Room 2144 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 John J. Lee, Chair  
Senator Terry Care, Vice Chair  
Senator Steven A. Horsford  
Senator Shirley A. Breeden  
Senator William J. Raggio  
Senator Randolph Townsend  
Senator Mike McGinness

**STAFF MEMBERS PRESENT:**

Heidi Chlarson, Committee Counsel  
Michael Stewart, Committee Policy Analyst  
Cynthia Ross, Committee Secretary

**OTHERS PRESENT:**

Gustavo "Gus" Nunez, P.E., Manager, State Public Works Board  
J. Stephen Weaver, Chief of Planning and Development, Division of State Parks,  
Department of Conservation and Natural Resources  
Richard Nelson, P.E., Assistant Director, Operations, Nevada Department of  
Transportation  
Richard Haskins II, Deputy Director, Department of Wildlife  
Susan Stewart, Deputy Attorney General, Construction Law Counsel, State  
Public Works Board  
Bob Craddock  
Chris Giunchigliani, Former Assemblywoman

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Brad Jerbic, City Attorney, City of Las Vegas  
David Schumann, Chair, Nevada Committee for Full Statehood  
Jim Braswell, Nevada Airports Association  
Keith Lee, Southwest Airlines  
Robert Hadfield, Walker and Associates  
Bjorn Selinder, Churchill County; Eureka County; Elko County  
Mary Henderson, City of Fallon  
Robert F. Joiner, Government Affairs Manager, City of Sparks  
Lisa Foster, City of North Las Vegas  
Wes Henderson, Government Affairs Coordinator, Nevada Association of Counties  
David Fraser, Executive Director, Nevada League of Cities and Municipalities  
Randy Robison, City of Mesquite  
Alexis Miller, City of Reno  
Veronica Meter, Las Vegas Chamber of Commerce  
Paul J. Enos, CEO, Nevada Motor Transport Association  
Tray Abney, Director, Government Relations, Reno-Sparks Chamber of Commerce  
David Howard, Northern Nevada Chapter, National Association of Industrial and Office Properties  
Carole Vilardo, President, Nevada Taxpayers Association  
John Wagner, Vice Chairman, Independent American Party  
Janine Hansen, President, Nevada Eagle Forum  
Dennis Johnson  
Dino DiCianno, Executive Director, Department of Taxation

CHAIR LEE:

I open this meeting. We will move immediately into work session and begin with Senate Bill 42. This bill addresses the State Public Works Board (SPWB) and issues with compliance and code enforcement. The SPWB, Division of State Parks, Nevada Department of Wildlife (NDOW), Nevada Department of Transportation (NDOT) and the State Department of Conservation and Natural Resources worked on this bill and will be testifying before this Committee today.

**SENATE BILL 42**: Transfers final authority over the acceptance of certain public buildings and structures from the State Public Works Board to the deputy manager for compliance and code enforcement. (BDR 28-326)

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MICHAEL STEWART (Committee Policy Analyst):

The representatives of Senate Bill (S.B.) 42 will explain the compromise amendment ([Exhibit C](#)). The proposed amendment is also located in the work session document ([Exhibit D](#), pages 1 and 2). This amendment is a compromise between the parties identified by Chair Lee. The amendment references Nevada Revised Statute (NRS) 341.141. This statute is attached, [Exhibit D](#), page 7.

GUSTAVO "GUS" NUNEZ, P.E. (Manager, State Public Works Board):

Our original amendment clarifies the duties of the deputy manager for code enforcement and duties of the SPWB manager. It clarifies that the deputy manager for code enforcement will report to the SPWB on matters relating to code issues on completed projects. The manager will report to the SPWB on completion with respect to contractual issues. The amendment clarifies the division between code enforcement and the owner contractual responsibilities of the manager. There is an additional amendment. This is a result of meetings between the three agencies.

CHAIR LEE:

Are we going to be hearing from the Attorney General's Office?

MR. NUNEZ:

No, but our deputy attorney general, Susan Stewart, is here if you would like to ask her questions.

J. STEPHEN WEAVER (Chief of Planning and Development, Division of State Parks, Department of Conservation and Natural Resources):

The agencies NDOT, NDOW, and the Division of State Parks and the Department of Conservation and Natural Resources have been concerned about the wording of this bill and have been concerned for a number of years about NRS 341. We have a lot of maintenance projects and small construction projects, and we disagree these projects require the scrutiny of code compliance, plan reviews and inspections. The compromise reached is that occupied buildings over 1,000 square feet would still undergo the scrutiny of the SPWB. If there is liability, it will be in larger buildings with complex codes. Smaller buildings such as prefabricated restrooms and picnic ramadas and the like do not need code compliance, plan reviews and inspections. For a liability standpoint, we are well-covered by having the SPWB do plan reviews and inspections for occupied buildings over 1,000 square feet. Proposed amendments in [Exhibit C](#) provide exemptions as there are contradictions among

the code. For example, NRS 341 says buildings and structures. The code says fences built under six feet are exempt. If we were to put an eight-foot security fence around a maintenance yard, it would require code compliance, plan reviews and inspections, and for a project such as this, often there is no plan. To make matters worse, the Attorney General's opinion issued on November 15, 2007, said that all construction by our agencies have to go through the SPWB. There is a lack of consistency. The purpose of our amendment is to clarify what types of buildings have to go in front of the SPWB.

RICHARD NELSON, P.E. (Assistant Director, Operations, Nevada Department of Transportation):

The compromise language which has been worked out is acceptable to the NDOT and meets our needs.

RICHARD HASKINS II (Deputy Director, Department of Wildlife):

We concur. The language was a compromise worked out among the parties. We are satisfied with the language as submitted.

SUSAN STEWART (Deputy Attorney General, Construction Law Counsel, State Public Works Board):

I understand in a prior hearing, Mr. Weaver mentioned the Attorney General's nonpublished opinion. In my understanding, this opinion was statutory interpretation as to the statutes that existed in November 2007. The Attorney General's Office is neutral on these changes. These changes would, in fact, render the opinion irrelevant.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 42.

SENATOR MCGINNESS SECONDED THE MOTION.

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

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CHAIR LEE:

Mr. Stewart will introduce Senate Bill 215.

**SENATE BILL 215**: Extends the date for the reversion of money transferred to provide historical interpretive signs for the California Trail Wayside Sites to be located in eight northern Nevada counties of this State. (BDR S-1054)

MR. STEWART

This bill extends the date for the reversion of money transferred by the Commission on Tourism to provide historical interpretive signs for the California Trail Wayside Sites in several of our northern Nevada counties. The measure changes the date after which such funds must not be committed for expenditure from June 30 to December 31, and extends the reversion date, accordingly, from September 18 to September 17, 2010. There are no amendments for this bill.

SENATOR RAGGIO MOVED TO DO PASS S.B. 215.

SENATOR TOWNSEND SECONDED THE MOTION.

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

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CHAIR LEE:

We will now hear Senate Bill 11. This bill prohibits the county commissioners of certain larger counties from holding certain other employment.

**SENATE BILL 11**: Prohibits the county commissioners of certain larger counties from holding certain other employment. (BDR 20-80)

SENATOR TERRY CARE (Clark County Senatorial District No. 7):

This is my last legislative session. When I came to the Legislature, I did not have an agenda as I was new and excited to be here, but any Legislator who has been in office for a length of time drifts toward a particular fascination with certain kinds of bills. I became involved with issues dealing with the role of government. These bills deal with the limitations of the powers of government the access of citizens to their elected representatives and to their government, and accountability. In essence, what does it mean when we talk about representative government, especially when we are talking about the people

who are represented in representative government? I have had bills concerning the Open Meeting Law, public records, eminent domain, initiative process, home rule, the First Amendment, and the right of citizens to gather on sidewalks, hand out leaflets and say whatever is on their minds in a traditional public forum. In this spirit, I bring three bills before you today. I suggest you think of these three bills together and not in isolation. There is a theme that runs through all three.

Senate Bill 11 addresses county commissioners in Clark County. This issue goes back in time. An article appeared in the *Las Vegas Sun* on June 5, 1999, discussing the possibility of a full-time Clark County Commission ([Exhibit E](#)). There have been other articles, and both constituents and Legislators have come to me and said maybe the time has come.

I acknowledge there will be people for and opposed to this bill. I have not asked for others to testify on behalf of this bill but ask for you to consider the merits.

Think of Clark County as the largest unincorporated city in Nevada. Clark County provides certain municipal services. Clark County provides services that in other states, counties do not normally do, but rather, cities do. In Clark County, you have a body that provides a fire department, is responsible for county parks and is involved with the police. This is not found in other jurisdictions.

I went to the Clark County Website and found the population in Clark County was estimated in 2008 at 2 million. This is about 70 percent of the State's population. Clark County employs about 10,000 people. It has a budget, according to the Website, of \$5.9 billion, which is larger than our State budget, and it is divided into 38 departments. The duties for a Clark County Commissioner are far-reaching. They are phenomenal. The responsibilities include overseeing the operations of an airport, which is one of the busiest airports in the world. A Commissioner is also responsible for a county hospital and the Las Vegas Valley Water District. A Commissioner sits on a gaming and liquor licensing board. A Commissioner also works with zoning and sanitation issues. Often a Commissioner sits on other boards, such as the Las Vegas Convention and Visitors Authority. My point is how one Commissioner who is responsible for all of these duties can possibly accomplish them with the attention they need without doing so on a full-time basis? A Commissioner spends a great deal of time in the capacity as a member on the County

Commission. Members even attend meetings at night. I have not yet mentioned the responsibility of responding to the communications from constituents, including telephone calls, letters and e-mails.

The position of Clark County Commissioner needs to become one of full-time status. Historically, we think of all elected positions as part-time, but in this instance, the time has come to make it a full-time position.

Two or three years ago, there was an issue with land sales next to the McCarran International Airport to a particular person who purchased the property and only days later flipped it for almost double the price. There were discussions about a Federal Bureau of Investigation involvement. There was no impropriety of a Commission member. However, if a Commission was fully devoted to its duties, would this have occurred? There was also a scandal with a county hospital a few years back. If a full-time Commission was inquiring into the activities of those entities under its responsibilities, would this have happened, at least, to the degree it occurred?

Senate Bill 11 will not increase the size of government. It says the duties the Commissioners assume should be full time. This bill acknowledges that duties are most likely done on a full-time basis. It also gets rid of the issue of abstentions because having another job requires one to abstain when certain conflicts come before Commissioners while serving on a part-time basis. This bill will make the issue of abstentions go away. I had a bill in the 2003 Session that addressed the issue of abstentions by elected bodies. Keep in mind, at the Legislature, a majority of elected members of each body is needed to pass a bill. In Clark County, in theory, most members could abstain, giving one or two Commissioners the power to approve or disapprove something as the case may be. This is a subject of another bill, but I am raising the issue because it discusses abstention issues which would go away, for the most part, with a full-time County Commission.

I point to other comparable counties between 1.7 million and 2.3 million in population that have full-time commissions: Dallas County, Texas; King County, Washington; and San Bernardino, California. Last year, the Las Vegas City Council determined the mayor's job should be a full-time position. I suggest this is the time. I ask you to consider, given all the responsibilities I enumerated that a Clark County Commissioner faces how to satisfactorily undertake responsibly

to carry out the many duties without having what is recognized in law as a full-time position.

CHAIR LEE:

The effective date is July 1. We vote on the county raises, and they approve them. Would something have to be added giving a basis to start with salaries so we would not have to wait two years?

SENATOR CARE:

The base salary for a Clark County Commissioner is between \$72,000 and \$80,000. The Nevada State Constitution requires us to set salaries for certain elected county officials. An exception is the Clark County Commission. We do not set county commission salaries; a county commission decides. If this position becomes full time in Clark County, I do not dispute raises to attract good people.

CHAIR LEE:

You have carved out temporary and part-time teaching duties on the University campus. Is there a particular reason for this language?

SENATOR CARE:

No, this is how the bill was drafted. I am sure there is a reason for it. I did not request this language. Regarding the effective date, in fairness to those Commissioners who are in midterm, it would be unfair to ask them to walk away from their current other employment. If this bill happens, it should not take effect until the Commissioners have had an opportunity to complete their current terms.

CHAIR LEE:

Is there a reason why this exception is presented?

HEIDI CHLARSON (Committee Counsel):

This language was modeled after other provisions where other officials are limited as far as employment. It is not required. An amendment can remove this language.

CHAIR LEE:

Is this modeled after the employment of a county treasurer or administrator?

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MS. CHLARSON:

Other provisions in the *Nevada Revised Statutes* limit the employment of others, so we used and included the language. The language does not have to stay.

SENATOR CARE:

I would offer the deletion as an amendment.

BOB CRADDOCK:

I support this bill. I will add to Senator Care's remarks. Had there been someone on the County Commission milling around Harrah's during the time illegitimate remodeling was taking place, there is a strong possibility the action could have been caught earlier. My own County Commissioner, Tom Collins, would have been able to catch it, as he is well-acquainted with construction. Each Commissioner represents approximately 30,000 constituents in Clark County. Each constituent should be represented at every County Commission meeting.

I received a Christmas card from my County Commissioner. He listed in priority things he was busy doing in the course of last year. He first listed visiting his grandchildren. This I can understand. His second priority was raising cattle, and his third was his service as a County Commissioner. Nothing other than an emergency issue should come between the County Commissioner and the responsibility to serve the public. He listed Western High School's fortieth reunion as a priority following his Commissioner's duties. He added it had been a busy and joyous schedule for the year. I am fond of my County Commissioner, but his priorities are wrong.

CHAIR LEE:

I have a letter from Clark County Commissioner Collins ([Exhibit F](#)). I am not sure of his priorities, but here we are addressing the position of a Clark County Commissioner.

CHRIS GIUNCHIGLIANI (Former Assemblywoman):

I am from Commission District E here to speak in support of S.B. 11. I am speaking on my own behalf. The Commission has not discussed this bill nor has a position.

June 20, 2007, during the first year of my first term, I came across an article in the *Las Vegas Review-Journal*. Let me read to you my quotation. It said, "I think this job should be declared full time and declare it as such and no outside job

should be allowed during that time.” This would rid the issues of conflict of interest that come into play. As a schoolteacher, I tried to do both jobs. In my one semester, it was not fair to my constituents or to my students, so I made the decision to take an unpaid leave of absence. It is time. As Senator Care pointed out, the budget we have is larger than the State budget. We do not have the opportunity to give ours as thorough of a review as needed because the structure does not allow it. The structure dedicates Tuesday and Wednesday, the first and third weeks of the month, toward zoning and business. We have a board book that averages four to six inches each meeting. It does not encompass policies and decisions we should be giving to management, and dialogue does not always happen. Policies are made we do not even know about as Commissioners, and actions are taken we may not even know about. If we were there full time, there would be more engagement and opportunity to pay attention to items. I believe even the City Council should err on this point because of the size of the Valley. We run for an office. If this bill moves forward, an amendment would have to anticipate NRS 245.043. You gave purview to the Commissioners to set salary, but you tied it to a specific percentage which would not allow that growth be commensurate with a full-time position. I make this as a suggestion. I also believe the temporary or part-time teaching duties would not be appropriate for exemption. If one is full time, it is full time. An idea to entertain is to allow those who are current and have the opportunity to be full time to be so, and then make it effective upon the next term of election for those who have outside employment. This way, anyone who runs for the first time for reelection knows it is going to be a dedicated position.

This is about direct public access and will eliminate conflict of interest. This will also help with the element of abstentions. In local government, people disclose and abstain. There are times with the Gaming Enterprise Districts and zoning where only a handful of us are making a decision.

SENATOR RAGGIO:

I am reluctant to inject myself into the structure and governments of other counties since I represent Washoe County, but I want to address comments made by Senator Care. There may not be support for full-time Commissioners. I agree the size of government in this State has grown over the last decade, particularly in southern Nevada in Clark County and the City of Las Vegas. If Commissioners are not full time, some responsibilities they now have in Clark County can be done otherwise. For example, we created an airport authority in

Washoe County. One time it was under the authority of the City of Reno. We found that by creating an airport authority, the City was relieved of great responsibility. It also allowed for people with expertise to get involved in the governance and operation of a regional airport. In Clark County, it would remove a lot of potential conflict of interests where Commissioners have to vote on vendor contracts and the like. There is plenty to do and with these added responsibilities. Has it been considered to restructure?

SENATOR CARE:

Last Session or in a bill, I recall the idea to create a separate airport authority in Clark County for the same reasons Senator Raggio stated.

CHAIR LEE:

The hearing on S.B. 11 is closed, and the hearing on S.B. 224 is open.

**SENATE BILL 224**: Revises provisions concerning voting by members of certain public bodies. (BDR 19-675)

SENATOR TERRY CARE (Clark County Senatorial District No. 7):

This bill will be familiar to members of this committee as it is my last act in completing a bill with Senator David R. Parks, then Assemblyman Parks in the 2003 Session. We passed the bill, and the Governor signed the bill into law. This bill dealt with abstentions. The end result was for local governments, with an exemption for counties less than 40,000 people. If one is going to abstain, one must first obtain a letter from counsel explaining the basis for the abstention. The number of people on that particular board is decreased by one for purposes of NRS 281A. 420. I asked Clark County to show me these letters. They are brief. For example, for a County Commissioner, it will say one has a basis to abstain and we recommend doing so. Originally, I wanted this bill to forget about it decreasing the number of the elected members of that body by one when there is an abstention through the process. This bill would take existing law, exempting counties of 40,000 or less, and say if one abstains, it is a no vote. In the Legislature, if one abstains, it is a no vote, and the Nevada Constitution requires that a majority of the Senate and the majority of the Assembly as an elected body vote on a measure before that measure is passed. This bill says that is the way it will be for those bodies in counties with more than 40,000 people.

Let me tell you what can happen. This is extreme, but it tells what can happen. The neighborhood gaming bill was the bill that said one can only put a casino within the gaming corridor. There were people who wanted to build a casino in the Spring Valley area of Clark County. That bill also said if one wanted to place a casino outside the Gaming Enterprise Districts, this would require a three-fourths vote. In this case, out of seven County Commissioners, three abstained, four voted in the affirmative and one voted against. Three out of four is three-fourths; three out of seven is not. If one is elected, they are supposed to vote and abstain when one is required. The people have the right to see their elected representatives vote.

This bill would force a vote rather than, in some cases, allow a representative to take the easy way out by not voting with use of an abstention. There will be true conflicts, but the policy of requiring a majority of the members of an elected board to vote in the affirmative far outweighs the complications with the creation of any conflict that leads to an abstention. If there are five or seven members to a county commission, the people within the confines of that county have a right to expect a majority of their elected representatives are voting for something to happen. Otherwise, something can slide in and get done when there are only a handful of commissioners voting.

CHAIR LEE:

If S.B. 11 passed, would you still feel obligated to push this bill because this bill applies to those counties with populations of 40,000 or more?

SENATOR CARE:

Yes, this bill should still apply to Clark County because of the abstentions that would go away. I will qualify this to say the abstentions that we would hope would go away. By and large, they would vanish but to be sure, the county commissions should be required to get a majority of the members of that body to vote.

CHAIR LEE:

Do you still want the counties whose population is 40,000 or more, including Washoe County, Elko County, Douglas County and Carson City, in your bill?

SENATOR CARE:

This would not change. This was a compromise. Initially in the 2003 Session, Assemblyman Parks and I were not seeking exemptions, but then we heard

testimony from those in less-populated counties that everyone knows everyone, they do business, they marry and the like.

BRAD JERBIC (City Attorney, City of Las Vegas):

Everything Senator Care said about this bill is true. In the past, there has been an easy out for people who did not want to vote. The original bill in 2003 was designed to close that loophole and to make a narrow exception that there must be a legitimate conflict of interest under NRS 282A. A written opinion must be received from legal counsel in advance of the vote. We asked for that exception, and Senator Care granted it because we do have occasions in Las Vegas where we are unable to allow people to vote because of legitimate conflicts of interest. These conflicts can occur. An example is a Council member who sits on a nonprofit board and the Council votes for a grant to that board. Another instance is one might have a business partner who is involved with a contract the body is voting upon, or one may have private interests including conflicts created by jobs, as there is a lot of outside employment. Until now, we have seldom had to use the exception. If we felt there were enough people to vote even if there was a conflict, we would still require four votes out of our seven-member body. We have had four or five occasions in the last four years where there were legitimate conflicts. In every case, they were brought to my attention before the vote, and in every case we analyzed NRS 281 to see if it was a legitimate conflict and then we wrote an opinion. Those opinions were filed publically with the clerk at the time of the City Council meeting and are available for inspection. I submit that if you were to adopt the language now and take out the exception, we would lose the ability to vote on certain matters. Some matters require a simple majority vote, others require a three-fourths vote or a supermajority vote. In cases where we have had conflicts, we have been willing to state it and to have our opinions analyzed. We would like to see the exception stay.

SENATOR HORSFORD:

Can you elaborate on the types of matters in which Council members would not be able to vote? Can you give examples for us to better understand the City's position?

MR. JERBIC:

Chapter 281A of NRS creates specific reasons when one cannot vote or has to disclose and abstain. One instance is when one is related to somebody by blood or marriage where it would benefit them from a particular agreement. Another

situation is where one has a business interest in a private capacity. Often, we have people on the Council, regardless of their employment, who have a land deal where a partner shows up to a Council meeting. It would be inappropriate for them to vote. Perhaps a law partner shows up to a City Council meeting where it would be inappropriate for them to vote. Perhaps a vote would directly affect business property a Council member owns if they were to vote on a zone change or land use change. This is clearly prohibited under NRS 281A. We have a number of people on our City Council who sit on nonprofit boards. Catholic Charities is one example. One time we had three members of our Council who sat on the board of Catholic Charities, and Catholic Charities is a regular receiver of grant funds from the City of Las Vegas. When they appear before the Council, those individuals whose board would benefit from that particular vote need to disclose and abstain.

DAVID SCHUMANN (Chair, Nevada Committee for Full Statehood):

This bill seems unreasonable as people abstain. Our current U.S. President's, his most common vote in the Illinois State Senate was present. Maybe we can get rid of abstain, and one can vote present.

SENATOR HORSFORD:

Could an individual disclose the conflict but vote so the record is clear on whatever the disclosure? Is there still a requirement to vote?

MR. JERBIC:

Under NRS, there are a couple of options when there is a conflict of interest. One option might be where a full disclosure is all that is required and the individual can vote. The abstention only comes into play when one hits those parts of the NRS that absolutely require abstention. In those cases, a present vote would be the same as a no vote. In cases where six out of seven votes are needed for an item to pass and two people have conflicts, even if all five vote yes and the vote is unanimous, the item could not pass. We need wiggle room in situations where individuals with legitimate conflicts have an ability to disclose and abstain, and the body can still pass the legislation. The flipside is when individuals—who know that by abstaining they will deprive the city of a project or piece of legislation—will be more prone to jump in when they should not. This creates a dangerous situation.

SENATOR CARE:

As City Attorney, Mr. Jerbic is familiar with *Woodbury* Opinion from the Nevada Commission on Ethics, in re Woodbury, CEO # 99-56. That opinion can be read to mean that if one is an elected representative, it can be a struggle to find a way to vote. There may be circumstances when one has gone through the hoops required under NRS 281A and undeniably arrives at the position where abstention is the only way one can go. Reading this, with *Woodbury*, we will not always agree when we recognize that we have made the disclosure. We are not always going to agree whether a particular set of facts requires an abstention. Without this bill, there can be a tendency to err on the side of abstention when it is not necessary, in light of *Woodbury* when read with NRS 281A.420.

CHAIR LEE:

We are going to close this hearing. We will move into S.B. 264.

**SENATE BILL 264**: Authorizes local governments to impose, increase, decrease and repeal certain taxes to carry out their functions. (BDR 31-81)

SENATOR TERRY CARE (Clark County Senatorial District No. 7):

Last Session I had a bill that went before the Senate Committee on Legislative Operations and Elections where I requested an interim study to examine whether the time had come to recognize the need for home rule or quasi-home rule in Nevada. I had no success with this request. I am term-limited, so I am not requesting a study but am trying to pass legislation.

To provide background for this bill: Nevada is what is known as a Dillon's Rule state. This stems from an Iowa 1868 Supreme Court case. The Court ruled that a municipality can not do anything unless the state grants them authority. Research I had done two years ago shows that there are 31 Dillon's Rule states, 10 home rule states, which is where the local entity can do whatever they wish without state authority, and 9 states that have Dillon's Rule but only for certain types of municipalities. Members of this Committee, with the exception of Senator Breeden, will recall in recent sessions that we had a bill to raise the sales tax in Clark County two years ago at the request of Clark County. Last Session, there was a bill from Nye County to raise voter-approved sales tax, but the County needed the authority of the Legislature for its increase. There was a bill proposed last Session to allow Douglas County to raise the room tax for the construction of a convention center at the state line, actually a bit into the

California side of South Lake Tahoe. There was a bill last Session, which was the subject of what we had earlier this Session to sustain the Governor's veto of that bill, and that would have raised the property taxes in Lyon and Churchill Counties to fund a juvenile youth detention center. There was also discussion of taxation last Session allowing the voters in Washoe County to vote a tax increase to fund the construction of schools.

We will be revisited with the bill from Clark County because the Las Vegas Metropolitan Police Department wants us to give the authorization to Clark County to raise the sales tax the other 0.125 percent to put more police on the street.

Why should the Nevada Legislature be the body who determines whether these counties be allowed to raise these taxes? Who better to know whether these taxes need to be raised than the local entities themselves? Who better to take the vote, in this case, than the county commission from a particular county? The commissioners are elected to take the heat the same way we are elected to take the heat. Governments have a lot of powers. Some are extreme powers, and the power to tax is one of these extreme powers. People are uncomfortable discussing taxes, and elected representatives do not like to vote on taxes, but at times it has to be done. These bills, when they come to the State Legislature, give a comfort level to counties because they can say the Legislature went along with the tax or in some cases, the voters approved the tax and then it went to the Legislature, and they approved it, so the tax must be okay.

The point of this bill is to remove the State Legislature from this process. You can call it limited home rule. When looking at the bill, we are talking about property taxes, the sale of tangible personal property, room tax, aviation fuel, motor vehicle fuel, special fuel and Real Property Transfer Tax. In section 1, subsection 2, this bill will also grant the authority for local government to increase taxes and decrease or repeal taxes. It is a home rule bill, but it is not asking for everything. When I hear testimony, for example, about a room tax in Douglas County, how do I know about Douglas County? This puts me in the spot of having to arbitrate a volatile issue from that particular county.

SENATOR RAGGIO:

This is not a new issue. One of the concerns—and the reason why the majority of states still retain what is termed Dillon's Rule or prevention of home rule, particularly in financial matters—is because of the potential for discrepancy

across the state. The State also relies on a level of tax. We have a constitutional limit on property tax, although we have imposed a statutory limit less than the \$5 constitutional limit. If local governments, particularly counties, can use their own judgment on the amount of tax that might be levied, whether it is property tax or room tax, there would be no consistency across the State. We are always concerned about whipsawing. Local governments, particularly in Clark County, set salaries at a high level. This results in the State and other jurisdictions having to meet that salary level. If we allow tax rates to get out of focus and out of uniformity, how will we deal with that? Without limitation, control, supervision or monitoring, local governments will freewheel and compete for tax dollars. I can see problems. Soon, the \$3.64 property rate would be gone because everyone would want to draw from the well. Home rule cannot freewheel.

SENATOR CARE:

My inclination is the imposition of taxes, especially the raising of taxes, is an exercise of one of governments' extreme powers. This would not be done lightly; there would not be a rush to raise taxes. There are political implications. The people who are going to be taxed need to have an understanding as to why and be provided a level of reassurance that the tax is appropriate. We still have certain constitutional limitations, although they do not apply to all taxes. For example, we have the constitutional limitation of \$5 on the ad valorem tax.

I have heard for years we need to have uniformity throughout the State. If that were the case, there would be a brothel in every county or we would not have any at all. It is not an exercise that would be used lightly.

JIM BRASWELL (Nevada Airports Association):

Our concern with S.B. 264 is with the aviation fuel taxes. As pointed out in section 1, "except as otherwise provided in or limited by federal law." For aviation fuel taxes and where it might be going to airports or to local, we would like further clarification. Under NRS 365, local authorities can impose an 8-cent-per-gallon tax for aviation fuel and 4 cents for jet fuel. That ability was brought to the Legislature years ago. We would like a clarification, or the provision for jet fuel could be omitted. Counties and cities already have the ability to implement these taxes by ordinance.

SENATOR CARE:

This is an issue best left for local government. I am not advocating increasing taxes. Let the local governments decide which is best. I am willing to look at anything you are willing to offer.

KEITH LEE (Southwest Airlines):

Southwest Airlines is the single largest carrier in the State. I also represent the Air Transport Association, which represents 90 percent of all passengers and cargo hauled in this county. Yesterday, I submitted a letter ([Exhibit G](#)) from James Hultquist, who is the Managing Director for Taxes at the Air Transport Association in Washington, D.C. The essence of Mr. Hultquist's letter is that any tax imposed on or after January 1, 1988, on jet aviation fuel must be used specifically, according to United States (US) Code, for capital operating costs of the airport, the local airport system or any other local facility owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

To provide background, NRS 365.170 imposes a 1-cent tax on jet aviation fuel, and that goes to the State's General Fund. This tax was imposed prior to January 1, 1988, so it is not preempted by the US Code. Mr. Braswell is referring to NRS 365.203, which essentially allows local airport authorities, or the jurisdiction that operates an airport, to impose certain taxes on jet aviation fuel. Those taxes are limited by the constraints of the US Code, referenced in Mr. Hultquist's letter, [Exhibit G](#). Southwest Airlines and the Air Transport Association do not want local governments to walk away, if this bill should pass, with the idea or notion that this will be a source of revenue for general fund purposes within local government. In our judgment, it cannot. Local authorities that operate airports and sell jet aviation fuel have an ability to impose a tax on jet aviation fuel to be used pursuant to NRS 365.203. In these difficult economic times, a 1-cent increase in jet aviation fuel tax, based on fuel tax Southwest bought last year, would cost them another \$1.5 million.

CHAIR LEE:

You are stating that the taxes are prohibited by federal law.

MR. LEE:

Mr. Hultquist requests that you remove that provision from law, section 1, subsection 1, paragraph (d). It is clear because of the exemption limited by

federal law in section 1, local government cannot look to jet aviation fuel as a general fund source.

ROBERT HADFIELD (Walker and Associates):

I am also representing myself as an elected official for 22 years with the town of Minden and as a citizen of the State. For the last 31 years, I have been directly involved with town and county government. I have been engaged in every Legislative Session since 1979. During this time, I have been County Manager of Douglas and Lyon Counties and executive director of the Nevada Association of Counties. I remember when counties had the right to tax. In Douglas County, while I was County Manager, we had a serious problem with fire protection at Lake Tahoe and Carson Valley. We were the fastest-growing county in the United States in that decade, and the County Commissioners enacted a 33 cent property tax to consolidate the fire districts at Lake Tahoe and to create the East Fork Fire Protection District. This was a major tax increase. We did not have a citizen uproar, and all five county commissioners returned to office in their respective elections.

Since this time, we have gone through a number of tax changes in the State that have resulted in less local authority to finance the existing responsibilities of local government. We have also gone through a period of time when other responsibilities have been added to county government without our asking for them. This resulted in a statewide county advisory ballot measure asking to end the unfunded mandates. This was approved by 78 percent of the voters. We have an unfunded mandate statute in the State, NRS 354.599. There is an exemption that the provisions to that statute do not apply. We have a situation where local authority is often expanded without an opportunity to expand revenue. Our taxing authority has been diminished by the various State tax reform measures. It is important to understand that our traditional revenue sources, at times, have been preempted by the State. Court fees and marriage licenses and the like that used to be levied to pay for providing county services and programs were brought before the State. These fees were increased, and local government still has to come to the Legislature to get increases in fees to support the services previously paid for by the people who used them.

Clearly, this is a difficult issue. When we had a \$5 tax limitation in Douglas County, we had times when we had to get all local governments together and conclude which taxes the governments were to impose. We managed to do that. The State and local governments live and die by sales tax revenues. As a

member of the Minden Town Board, I have to deal with collective bargaining. A state law tells me what I can and cannot do for my employees. The State does not have that law applying to their employees. It is not a level playing field, and one cannot make salary comparisons when a law requires us to comply with mandatory arbitration and other obligations. Our salaries do increase faster than the State due to collective bargaining, not because of irresponsibility at the local governance level.

It is important this issue continues to be discussed and voters of Nevada understand the tax base of this State no longer reflects the reality of the State's economy. I was here when the Legislature did the Price Waterhouse and Urban Institute Study, commissioned in 1987. From this study, recommendations were made to broaden the tax base. We are relying on a narrow, limited tax base. The State, local governments, counties, cities, school districts and improvement districts need money, and then we have the continuing issue that no tax is a good tax.

The board I served with until term limits took two of our members served together for 22 years. We ran for election. Voters at the local level and at the county level will remove people from office if they do not believe they are doing good work. The public can be engaged in a tax issue.

Local authority is important and needs to be seriously considered. Our State population is growing, and budgets are difficult. On our level, we have less of an ability to deal with growing caseloads because we do not control our own revenue. Nevada has one of the most centralized revenue systems in the United States. This was brought forth in the study by Price Waterhouse and the Urban Institute.

BJORN SELINDER (Churchill County; Eureka County; Elko County):

I also have a long history in local government. I served as the Churchill County Manager for nearly 30 years. I have also worked with the Legislature and with a number of counties throughout the State. I have accumulated 35 years of experience with local government management.

This matter is important and needs to be discussed. Robert Hadfield, Mary Henderson and I are concerned over the loss of local control over budgetary matters, especially the ability to raise revenues to meet needs that are generally unique to local government. We are dealing with an unpopular and

highly charged political issue that deserves discussion and thoughtful deliberation. We have forgotten the power of the ballot box. Local officials are elected as well, and they are the ones who bear the brunt of decisions made within the narrow confines of what has been established through State statute. I submit that in the long run if, in fact, local government were to have an element of greater control over certain revenues, people would become interested in matters relating to their local governments. The ballot box would be the place where individuals would exercise their rights and opinions on the matter of taxation.

MARY HENDERSON (City of Fallon):

We have been discussing portions of this bill over the years. It is a dialogue that needs to occur. The last time the Committee looked at local authority was in 1995. We had discussions about how to look at taxation differently. Little progress has occurred. In my career, I have represented both cities and counties. I have been staff, I have done budgets, and I have been both a staff and contract lobbyist. What escapes us when having dialogue on taxation and money is what does it mean? It equates beyond salaries, which is the bulk of our budget, to service for the public. It is about quality of life. It is about one's community and having pride in one's community. It is about having a safe park for one's kids, it is about driving down the streets without having your windshield shot out, it is all these things we do at the local level that you are concerned about at the State level as well. When we talk about money, it is often said it is their money or it is our money—but it belongs to the taxpayers of this State. Voters have made decisions to increase taxes at the ballot box for things they felt were important. Local governments should be given the flexibility to provide for them on their behalf. This bill is not about control, but the bill does provide controls such as statutory limits. The Legislature sets the framework for which local governments can work. The bill gives us flexibility. As the State struggles to set budgets every two years, we have to wait to see what the State does before we can set our budgets. We have to come back every two years as well. Local governments do not have the flexibility they need to react. This bill has controls, but the biggest control is the ballot box.

ROBERT F. JOINER (Government Affairs Manager, City of Sparks):

The City of Sparks has been at the table for many years on this issue and has supported the issue of local authority. We collect 28 percent of the total retail sales tax in Washoe County, but we only get back 12 percent. We were told that if we did not diversify our economy and continue to be a residential

bedroom community to the City of Reno, we would not be able to provide service in 10 to 15 years. We changed our master plan. We have put in over 1 million square feet of retail in our North Sparks area in the last three years. We have the Legends at Sparks Marina. With that new retail online, we have had no benefit with sales tax because of the distribution rate. We need to make some local authority decisions. What exists does not adjust to growth. We were the fastest-growing community in the Truckee Meadows for the last six or seven years. In 2006, we asked our voters if they wanted more support for public safety, and they said yes. It did not pass in the unincorporated county so we came to the Legislature to see if we could get support for just our community for what our citizens wanted, and we were told no. There was no support.

Our community is progressive. Sometimes we cannot wait every two years for funding. The example Mr. Hadfield mentioned makes this clear. Douglas County had to react to a local emergency. We have local emergencies, and we have no way to react. We come here each session. It is a bit of a slight to the men and women of city and county governing boards that those on the State level do not feel they are responsible to respond to the voters in their communities. They meet several times a month. They are on the street level with our citizens. They know what is right and wrong, as they are told every day. Some have expressed government is best closest to the people. We do not want total home rule. We call it local authority, and we want more local authority to deal with concerns on our level. We are struggling. We have 60 officers below the Western Standard for police. We are losing police through attrition and have no revenue to replace the officers leaving our community. We support this bill with the understanding this does not open the door to additional unfunded mandates. There are 30 bills in this Legislative Session that, if passed, would add additional negative fiscal impacts to local government.

SENATOR CARE:

The problem with coming to the Legislature is the process. One comes to the Legislature, does everything right and the bill comes out of one House but for reasons having nothing to do with the merit of the bill, the bill is killed. For instance, the bill can be killed if it is late in the session and there is no time for bill action. Now, one must wait another two years and try again.

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LISA FOSTER (City of North Las Vegas):

The City of North Las Vegas is in support of this bill and will appreciate the greater autonomy and flexibility this bill would provide.

WES HENDERSON (Government Affairs Coordinator, Nevada Association of Counties):

We want to ensure this bill does not become a vehicle for placing additional unfunded mandates upon the counties or for diversion of local revenues, using the reasoning that the counties have the ability to generate the revenue to fund new responsibilities or to offset any diversions imposed by the State. We are willing to draft an amendment to address these issues. Local governments need the flexibility to respond in a timely manner to changing conditions ([Exhibit H](#)).

CHAIR LEE:

The chair recognizes Washoe County Commissioner Bonnie Weber in the audience.

DAVID FRASER (Executive Director, Nevada League of Cities and Municipalities):

Las Vegas has discretion over 13 percent of its revenue stream, and yet it is tasked with important items. Cities do meet in deliberate, public and transparent processes to make decisions. They do not make these decisions lightly. I stress the accountability our elected officials have to the voters.

RANDY ROBISON (City of Mesquite):

I will echo previous comments and add the City of Mesquite has a City Manager who has worked several years in a couple of localities, among those that have some version of home rule. He has learned to work within our system but is often frustrated in his inability to react with as much agility as he was accustomed to in meeting local issues. This is the purpose of this bill. The City of Mesquite supports this measure.

ALEXIS MILLER (City of Reno):

We offer our support on this bill.

VERONICA METER (Las Vegas Chamber of Commerce):

We are here in strong opposition to S.B. 264. The best venue to discuss these types of matters is at the Legislature, where issues can be fully vetted in an open forum with meaningful and thoughtful dialogue while looking at the whole budgeting picture. We are also concerned specifically with section 1,

subsection 3 which would take this to the voters. The local government would not only have the ability to control the taxes but also the ballot. There is no mention in the bill language regarding a time frame, general election or otherwise.

PAUL J. ENOS (CEO, Nevada Motor Transport Association):

We are also in opposition to S.B. 264. We realize local government needs flexibility; however, there are issues where a decision made on a local level can have broad impacts and implications on State, federal and international levels. I have been dealing with one of these issues since the start of this Session. We tried to deal with an issue regarding a 2008 Regional Transportation Commission (RTC) ballot question, RTC-5, on a local level. The issue indexes gas and diesel taxes. Diesel taxes are dealt with in a much different manner than fuel taxes. Every trucking company that is out-of-state or goes out-of-state has to be a party to an agreement called the International Fuel Tax Agreement (IFTA). The IFTA puts strict rules on local governments in the adoption of diesel use taxes on a local level. If we do not comply with this agreement, the State could be kicked out of this agreement and no longer be able to collect fuel taxes. The IFTA is a congressionally mandated agreement that every state and provinces in Canada are a party to. We tried to have this debate with our folks on the local level, and it was not addressed until we were here in this process. The legislative process allows for open debate that does not always occur on the local government level. This process provides subject matter experts, it can thoroughly vet many issues, it brings in experts and people who can see the far-reaching implications of laws, taxes and fees passed with the ultimate goal of better public policy. We are opposed to S.B. 264.

TRAY ABNEY (Director, Government Relations, Reno-Sparks Chamber of Commerce):

I signed in opposed to this bill. The Chamber's Agenda for Economic Vitality in Nevada, which outlines our public policy positions, lists a support statement. It states, "We support a concept of reasonable tax and fee caps to prevent government from unnecessary expansion." In many aspects, local government might deserve more autonomy, but it may be more important with tax increases to have the extra check and balance this Legislature provides. We give it a holistic perspective and provide some type of ultimate authority on these matters. Clark County is the economic engine of this State, and decisions made there and in other counties to a smaller extent could affect the State budget and have unintended consequences.

SENATOR CARE:

I left in the language regarding the ballot question with reluctance. The language is not necessary.

DAVID HOWARD (Northern Nevada Chapter, National Association of Industrial and Office Properties):

We are an association of 121 developers, brokers and investment people in northern Nevada. We stand opposed to this bill. Section 1, subsection 3 says, "At its discretion ... ." This says local governments, if they choose, can have a question submitted to the voters. Is this the intention?

SENATOR CARE:

Yes. If one is elected to a representative position, it begs the question if one is not going to do anything unless one first submits it to an advisory question. Why have the elected position in the first place?

MR. HOWARD:

If this bill moves forward, we would like to have this section go away. We have had a 24-month experience of discretion of local government raising fees on development. In this time, fees have increased 92 percent on building permits and 250 percent on transportation impact fees. These have been allowed by the Legislature. This is how local government funds the things they need. My organization is uncomfortable with giving local officials this discretion to raise taxes. We have not witnessed responsibility in the last 24 months.

MR. SCHUMANN:

I want to point out poisonous language in section 1, subsection 1, paragraphs (b) and (c) on page 2, starting on line 1 and line 5. What is discussed is imposing a gross receipt tax, but one can still have a gross receipt tax and still have a loss. One may have had fewer tenants and had a loss. Adding to this loss, you want to tax his gross receipts. To be responsible, this needs to be changed to net profit. Addressing the language "At its discretion," the local government must submit this to a vote of the people. The growth of government needs to be limited.

SENATOR CARE:

In the 2003 Session, the reason I found the gross receipt tax to be unacceptable is precisely the reason you just gave. A business that has a loss should not have to pay a gross receipts tax. Paragraph (c) talks about the room

tax. For example, the MGM has to collect a room tax even though they are apparently not making money. You have to charge the room tax when someone stays there.

MR. SCHUMANN:

A distinction needs to be made between the big hotels and those that rent rooms or apartment buildings. If the language remains, the counties will go for the money.

CHAIR LEE:

Ms. Chlarson, can you look into this language of gross receipts and the rental of transient lodging and provide clarification for us?

HEIDI CHLARSON (Committee Counsel):

Yes, I need to take a look into this and discuss it with attorneys in our office who draft text provisions. I will provide further clarification to the Committee.

CAROLE VILARDO (President, Nevada Taxpayers Association):

This language is taken straight out of sales tax law in NRS 372. Sales tax is considered gross receipts because it is on the purchase of a tangible product. It does not mean gross receipts on a profit level or income. It speaks to a specific full price of a tangible product.

JOHN WAGNER (Vice Chairman, Independent American Party):

I want to give a brief history on Carson City. Last election, Carson City had a voter bill come forth. The Board of Supervisors did not want to put it on the ballot. It is easier for them to get one person to change a vote than to get signatures to get items on the ballot. The one vote on the Board was changed, and the issue was placed on the ballot. The people of Carson City voted, and 70 percent said no. The City did not sign onto this bill because of the 70-percent vote. The cap means nothing. They talk about carrying out their functions and other matters. What are these functions and matters? We have the right to recall, but it takes 25 percent of registered voters who voted in the last election. What is this 25 percent? Did one have to vote in the last election? Can one be a new resident and sign the petition? Regardless, it is tough to get 25 percent to sign a recall; therefore, recall does not mean much. The last election, I filed a complaint against the Sheriff, as he was using his office building for campaigning. This is against NRS. The Attorney General's Office said it was an Ethics Commission issue, but when I checked with the Ethics

Commission, they said they would take the complaint, but it needed to be rewritten and they would not address the complaint for months. I let the issue drop. Not many people were going to the Sheriff's office building to hear what they had to say, but by the time my complaint would have been addressed, who cares? I also was not interested in punitive damages.

JANINE HANSEN (President, Nevada Eagle Forum):

I have sympathy for the idea of home rule and local control. It is a basic foundation of good government. This is the wrong time for this bill because of the opposition people feel towards taxes. The idea of local control is good and one where people can respond more readily. At this time, we do not have a lot of confidence in local government because they became accustomed to the good times and the money. They would increase taxes. This bill also circumvents the property tax cap which was hard fought. A lot of bargaining occurred to get the cap. It also circumvents the required vote of the people and other restrictions. I oppose unfunded mandates from the State to the counties as I do from the federal government to the states. We do not feel local government is responsive, and why is that? When we come here, the greatest number of lobbyists represent government, not the taxpayer. I recently heard a complaint about all the sent e-mail. How do the people who are trying to survive economically communicate with you otherwise? They cannot be here. They do not have a government job to come here and talk with you. They have to communicate with e-mails or other means to let you know where they stand.

An average family's income has 50 to 60 percent go to federal, state and local taxes. This is more for taxes than they pay for housing, food, education, transportation and recreation. It was explained to me that if I sell a \$5,000 house, \$2,500 of that money will go to taxes, fees and permits. This is money I would have to pay. Most taxes are hidden and placed on the local level. We do not have confidence in local government. The Legislature is an additional check. As mentioned, we understand home rule and local authority is an important principle, but we oppose this bill because it is the wrong time to give this authority to local government that has been irresponsible. We ask you to not support this bill, but we do so, reluctantly, because local government is important—but not now. It is too scary to allow local government the authority to raise our taxes, especially without requiring a cap or observing the will of the people.

MS. VILARDO:

I do not disagree with providing autonomy to local governments. I prefer this bill to be a functional home rule bill than a fiscal home rule. If the Committee were to consider it, one of the mechanical problems of this bill is within the existing definition of a local government. On page 2, lines 31-33 say, "'Local government' means every political subdivision or other entity which has the right to levy or receive money from ad valorem ... ." Let me offer examples how broad this language becomes. The Clark County Library District receives 10 cents from a rate of property tax. They receive that money, and they have an unelected board. That board has the authority to put a ballot question for a bond. A school district that has elected trustees has to go through the county commission to put a property tax bond question on the ballot. A redevelopment area receives property tax. Does this bill say they are receiving it from the increment? As I read this, this has been extended beyond cities and counties that deal with the largest budgets. That part which is in existing statutes and works for what it is meant to do does not work by reference for this bill.

The other mechanical concern is that which Mr. Enos testified to regarding IFTA. We have IFTA and International Registration Plan. I have sat on a number of transportation funding committees including those in Washoe County, Clark County and the State. There is a major problem on the federal fuel tax issue for jet fuel. If the bill were to be processed, it needs to be narrowly crafted. This being said, I oppose the bill.

I oppose this bill because the Legislature has at various times done things that are workable. I oppose this bill after identifying local issues. For instance, one is in a county that has a tax rate of \$3.30, and the school district wants to go with a vote of the people to expand facilities. The needed tax rate would be 10 cents. If all local governments in that county utilized property tax because no increment is allowed, then conceivably, the Legislature has precluded any general obligation bonds for facilities by school districts or otherwise. I also have a problem with the school districts because I am not sure how this bill would work. For example, let us say a school district, which under the provisions of the definition of a local government, decided they wanted to raise property tax. This becomes a tax of choice because of the perception it is stable and always has a growth factor. Taking it out of the current economy, the school district raises the tax 10 cents. Statute speaks to and sets the operating rate for schools at 75 cents. Would the school district actually get that 10 cents? Because the way the formula works, the local operating money on

schools from property tax is minus from State support. The wide scope of this bill, particularly with general improvement districts, satisfies anybody. Ultimately, that creates more problems for the local governments because they will butt up against caps such as property tax. They will butt up against the rate at which you have diminishing returns—in other words, sales tax.

Local government, in trying to provide flexibility back in the 1989 Session, provided 5 cents that could be used within a county with the agreement of the locals and split. The counties have used this, and it was to be used for infrastructure. There is no reason the Legislature could not be specific with what you want to give them. Sales tax advisory questions arise because the local officials who put the question on the ballot cannot assure voters the Legislature will approve it. If the Legislature gave them flexibility within their existing rates of sales tax, even if it went to the voters, you would need to clean up another section of law. The problem with the ballot questions and sales tax: Instead of generically giving a 0.5 percent to local governments for use, we have 19 local options because the Legislature has chosen to specify that you can do this at 0.25 percent for Clark and Washoe Counties, you can do this at 0.5 percent for the Regional Transportation Commission, 1 percent in Elko County goes for hospitals ... . This is problematic. This restricts flexibility the Legislature could otherwise get.

I oppose this bill because there are major problems. I will echo that at this point in the economy, it gets scary to think what might happen without a vote. The locals need more flexibility, particularly when it comes to a property or sales tax issue, and there are ways of doing it.

SENATOR RAGGIO:

When referring to the ad valorem tax, it reads any local government will be able to impose a property tax notwithstanding any statutory provision of the State to the contrary. The cap of \$3.64 is a statutory cap. This would allow any local government—and as Ms. Vilardo has pointed out, that is a plethora of governmental entities—to, notwithstanding the statutory cap of \$3.64, to go ahead and tax. Regardless of any statutory cap, the only cap in place would be the constitutional \$5 cap. I want to ensure I am reading it with this understanding. Secondly, Ms. Vilardo, let us take the sales tax. There is not a cap. When you look at the compilations, the State's sales tax is one of the higher sales taxes, certainly in the West. With unlimited authority for boosting sales tax, you can have an effect on the State as a whole because of the high

rate that could then exist because of these different levels of increase in tax. If I am reading this wrong, tell me.

Ms. CHLARSON:

Senator Raggio is reading the bill correctly. The bill does allow any local government to impose a tax. The definition of local government is provided in NRS 354.474. This is a broad definition, and a statutory cap would not limit a local government. The only limits would be the Constitution of the State and if they were limited by federal law.

SENATOR CARE:

There are all manner of political consequences for any governing body to go out and start raising taxes. As Ms. Henderson testified, there are some controls here. It is almost a State's right bill. This is the bill's intent. Local governments cannot keep coming to the Legislature every two years saying we need this. They do not get it and then ask a Senator from Clark County to weigh the merits of a sales tax increase in another county. These escalating or out-of-control tax increases are going to happen. This bill also authorizes taxes to be decreased.

DENNIS JOHNSON:

I am a resident of Carson City. I have spent in excess of 30 years dealing with property matters, 24-plus years with governmental agencies. I have spent the last two election cycles working on the eminent domain reform which passed and is now part of the State's Constitution. Property interests are of importance to me. The issues I have with this bill address ad valorem tax on property. The bifurcated property tax system that Nevada has is convoluted, subject to arbitrary decisions on the part of the county assessors and subject to wide fluctuations. For example, the value of my house that I bought five years ago has now decreased, according to the assessor, \$4,000. When taxes are good, people will see the projects are good. In 2006 and 2008, I studied 30 different tax ballot measures throughout the State; 11 of these measures failed outright, 3 passed because there was no increase of tax and 16 of them passed the voter test. This is how it should be. If a county or a city has a good product or good project for the tax increase, the local taxpayers should be able to vote yes or no on the tax. I agree with Senator Care regarding the advisory votes. They can be a popularity contest, but the voters should be given a chance to say yes or no on the tax other than as an advisory vote. It should be clearly defined. The other element I have issue with is the construction and operation of tourism facilities.

It is vague and brings in the Nevada Commission for the Reconstruction of the V & T Railway and the project in Carson City, Lyon and Storey Counties. This has cost tremendous amounts of money. The voters of Carson were asked to pass additional taxation last year. It failed by 60 percent of the people. Senator Care mentioned voters have the right to vote people out of office if they passed taxes. This may be true; however, one has to wonder how many people who hold elected office at this time would have been placed in office if the public were aware of their representative's taxation policy.

CHAIR LEE:

The bill states there is an effect on the State. We have not yet received the fiscal note. Can you give me information on this?

DINO DICIANNO (Executive Director, Department of Taxation):

We have received a request, and I was reluctant to file the fiscal note because of the broad language. I have no clue which local governments would raise either a sales tax or property tax. It would be difficult for us to estimate what that impact. In respect to the property tax, is it within the cap or outside the cap? This makes a big difference. Also, in respect to sales tax, let us assume the City of Ely decides to increase their sales tax. Under normal conditions, a sales tax is a countywide tax. In other words, that increase in the city would be borne by everyone in that county. If it is not structured like that, we will be in violation of the Streamlined Sales and Use Tax Agreement. If we are going to maintain our affiliation with that Agreement, no individual entity can impose its own sales tax. Now, it is entirely different if this body decides to no longer be a part of this Agreement.

With respect to discussion on gross receipts, that is a term of art. It is not intended to become income. Gross receipts are what you pay for a tangible piece of property. Our difficulty is to get our arms around the total impact on this bill. I would take the language Senator Care put at the beginning to be limiting language. It says it is limited by federal law or the Constitution of Nevada and notwithstanding any other statutory provision. If we are to maintain our affiliation with the Streamlined Sales and Use Tax, provisions in the statutes would not allow a local government to raise an individual sales tax. If I am incorrect, please correct me.

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CHAIR LEE:

There is no further business. This meeting of the Committee on Senate Government affairs is adjourned at 4:06 p.m.

RESPECTFULLY SUBMITTED:

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Cynthia Ross,  
Committee Secretary

APPROVED BY:

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Senator John J. Lee, Chair

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