MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS

Seventy-fifth Session
February 9, 2009

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 1:38 p.m. on Monday, February 9, 2009, in Room 2144 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator 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:

Jeff Fontaine, Executive Director, Nevada Association of Counties
Wes Henderson, Governmental Affairs Coordinator, Nevada Association of Counties
David Frasier, Executive Director, Nevada League of Cities and Municipalities
Dan Musgrove, Nevada League of Cities and Municipalities
Kim Wallin, State Controller, Office of the State Controller
Mark Winebarger, CPA, Chief Deputy Treasurer, Office of the State Treasurer
Brenda Laird, CAFR Accountant, Office of the State Controller
Dennis Colling, Chief of Administration, Administrative Services Division, Department of Motor Vehicles
Keith Marcher, Senior Deputy Attorney General, Office of the Attorney General
Keith Lee, Attorney, Board of Medical Examiners

Paula Berkley, Chiropractic Physicians' Board; State Board of Physical Therapy Examiners
Chas Horsey, Administrator, Housing Division, Department of Business and Industry
Lon DeWeese, Chief Financial Officer, Housing Division, Department of Business and Industry
Hillary Lopez, Ph.D., Chief of Federal Programs, Housing Division, Department of Business and Industry

CHAIR LEE:
I open this meeting with discussion on Bill Draft Request (BDR) 25-196 which authorizes an expansion of the number of members of the board of trustees of certain general improvement districts. Section 1 authorizes a general improvement district which provides electric light and power in a county with a population of 40,000 or more. The issue is the Overton Power District in Clark County allowing someone from Mesquite to sit on the board.

BILL DRAFT REQUEST 25-196: Authorizes the expansion of the number of members of the boards of trustees of certain general improvement districts, (Later introduced as Senate Bill 124.)

SENATOR McGINNESS MOVED TO INTRODUCE BDR 25-196.

SENATOR BREEDEN SECONDED THE MOTION.

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

*****

CHAIR LEE:
I have asked the counties and the cities to present. First, however, before presentations, I want to make clear that we want to help you. Many of you bring to us outdated laws. Please bring these to our attention so we may remedy the problems. We want to make any necessary cleanup happen this session. Also, please speak to your people and check for redundancies we do not need.

Today's presentations will provide overviews of programs. First to present is Jeff Fontaine from the Nevada Association of Counties (NACO).

JEFF FONTAINE (Executive Director, Nevada Association of Counties):
The NACO was formed in 1924 under the name Nevada County Commissioners Association. We are one of the oldest associations in Nevada. We are a nonprofit and a nonpartisan state association for county governments and their officials and staffs. All 17 Nevada counties are members of NACO.

The NACO board is comprised of a commissioner from each Nevada county. We also have nine representatives from each of NACO's affiliated groups, including district attorneys, judges, county fiscal officers, assessors, sheriffs and chiefs, treasurers, county clerks, county service administrators, and country recorders. Our officers for 2009 include our president, Washoe County Commissioner Bonnie Weber; incoming president, Carson City Supervisor Robin Williamson; vice president, Douglas County Commissioner Doug Johnson; and past president, Elko County Commissioner John Ellison. Information about our Board of Directors is in our handout (Exhibit C, original is on file in the Research Library).

The NACO is the state affiliate of the National Association of Counties. This group represents the nation's counties on issues concerning the federal government. The NACO is also a member of the National Association of Counties, Western Interstate Region (WIR). The WIR deals primarily with public lands issues. The NACO is well represented on both the National Association of Counties board and committees as well as on the WIR board and their various committees.

Nevada's uniqueness is the rich history of our counties and how they make up the fabric of our state. Exhibit C provides information about the counties' histories and how they originated. Each Nevada county is unique in size and population. Esmeralda County has just over 1,200 residents and Clark County has nearly 2 million. Storey County has approximately 264 square miles, while Nye County, the third-largest county in the continental United States, has approximately 18,000 square miles. Nevada is 87-percent federal land, the largest percentage of federal land of any state in the nation. Five counties in our state have over 90 percent of land area federally owned. Refer to the map in Exhibit C. It is important to recognize the impact federal land ownership has on these counties. They are hindered in their ability to grow geographically and economically.

Nevada counties and their economies have not changed much over the years. Ranching, agriculture, mining and tourism continue to be the mainstays for the rural counties. Most of the State's counties are struggling and not immune to the economic downturn occurring state- and nationwide. Every county is looking to diversify their economy. Many are looking at the energy sector as a way to enhance revenues and to create jobs.

Nevada's county governments are diverse. Seventy-three county commissioners have jobs, own businesses, serve on many boards and committees, and spend many hours attending meetings. They care about their state and communities, and they participate in the continuum of services in varying degrees. The largest counties have staffing and resources needed to provide a broad range of services. Other counties do not and rely on state services. Five counties do not have county managers. In these counties, it is not unusual to find a county commissioner who prepares a budget, puts together county codes and completes grant applications. It is important to recognize this diversity among Nevada counties and the need for flexibility when certain legislation is considered.

Declining or flat revenues are affecting all counties' core functions, most of which are mandated, including public safety, the courts and care for the indigent. The counties serve as a safety net for our residents. They provide for those who cannot care for themselves and who do not qualify for other federal or state assistance programs. The NACO places emphasis on county mandates for social services, as it is an important issue for NACO.

The NACO spends significant time researching, analyzing policies and formulating positions on a variety of state and federal issues. We monitor state and federal regulations and policies, coordinate programs and policies with state and federal agencies, provide technical assistance on a variety of issues to counties, and provide education and training to county officials and their staff. The NACO is also partners with the University of Nevada's Extended Studies program, and we work with Power Program, a workshop for public officials. The NACO also hosts an annual conference and other training forums.

The NACO is represented on numerous boards and commissions. Four statutory commissions include the Nevada Rural Housing Authority, the Nevada Commission on Nuclear Projects, the Board of Trustees for Indigent Care and the Local Government Finance Committee. Other committees include the Southern Nevada Public Lands Management Act, the Partners Working Group, the Question One Bond Advisory Working Group, and the Department of Health and Human Services Grants Management Advisory Committee.

Finally, NACO lobbies year-round on both the state and federal level. Wes Henderson and I are paid lobbyists, but we feel we are representing county governments. We view ourselves as your partners in providing services to the citizens of our State. We look forward to working with this committee and we want to serve as a resource for this committee this Session.

WES HENDERSON (Governmental Affairs Coordinator, Nevada Association of Counties):
The first issue concerning the counties is dwindling revenues and increased demands and expenses. The counties, like the state, are seeing revenues reduced. These reductions are forcing tough decisions on what services to provide. Many county services are mandated either through the State or by the federal government. These mandates are causing certain quality-of-life services, such as library hours or parks and recreation hours, to be reduced. These reductions are necessary to maintain the essential services.

Counties also struggle with economic development and job growth. Most counties are seeing a rise in unemployment, causing an increase in demands for social services. This chain of events further stresses county budgets.

The county map, found in Exhibit C, shows the majority of land owned by the federal government. Counties and their economic development can be impacted when the federal government withdraws acres from multiuse. This limits recreational, mineral and geothermal development in these public lands. Every legislative session, the counties come to this body and the Assembly seeking specific legislation to address local issues. This year is no exception. The NACO strongly believes the citizens of Nevada are best served when all levels of government work together. As mentioned, NACO is here to be your partner this Session.

The NACO has submitted five BDRs. One topic includes indigent legal defense. Another addresses changes to the Open Meeting Law to allow county managers and other direct reports to be held in private forums rather than in public forums. Another NACO BDR provides for county approval prior to the granting of tax abatements by the Commission on Economic Development, while another creates a funding source for counties to pay for public safety and health by allowing county commissioners to impose an additional ad valorem tax. Our last BDR addresses the ability to sell naming rights to certain county facilities, to abate graffiti and to levy civil penalties for code violations. As it stands, counties can only bring criminal charges.

Some members of this Committee, including Chair Lee, participated in last year's NACO conference. There was discussion to create a commission on intergovernmental relations. We are still working with Chair Lee to introduce a bill to create such a commission.

Lastly, Mr. Fontaine and I work with other county lobbyist hired by different counties in the State, but in regards to NACO, he and I are the only two lobbyists.

CHAIR LEE:
Is 4 percent the number Governor Jim Gibbons has asked the counties to pay to help offset the State budget problem? Is this going to negatively affect the counties?

MR. FONTAINE:
The 4-cent tax only affects Clark and Washoe Counties. I am sure it will negatively affect both counties, and they will be here to represent themselves on this tax issue. In addition to the 4-cent tax, there is also a 2.5-cent tax. This 2.5-cent tax goes into the Indigent Medical Fund. This is divided into two accounts. The Indigent Accident Fund gets 1.5 cents while the other 1 cent goes into a supplemental account. The Indigent Medical Fund is also in the Governor's budget to be used to supply general funds to pay for Medicaid. This 2.5-cent tax definitely will be an issue for the counties. One of NACO's biggest priorities this Session is to restore the funds so counties can pay the hospitals for indigent claims. Counties are required by law to pay medical costs for indigents. Without the fund, the counties are unable to do so.

DAVID FRASIER (Executive Director, League of Cities and Municipalities):
Please refer to our handout (Exhibit D). The Nevada League of Cities and Municipalities considers the counties and the state our teammates. We are cognizant of the fact we all serve the same people. I will begin with how the League of Cities and Municipalities came about.

Mayors joined together in the 1940s to be able to speak with a common voice. In the 1950s they officially incorporated and became the Nevada Municipal Association. The organization is now known as the Nevada League of Cities and Municipalities. On page 1 of Exhibit D, there is a listing of our membership. We represent the smallest to the largest cities in Nevada.

Turning to page 2, Exhibit D, there is a list of services the League of Cities and Municipalities provides. Along with our services, we hold annual meetings where we provide training and opportunities for our members to network with one another. Many of you have attended these meetings and have given our members an opportunity to network with you as well, opening and maintaining lines of communication. We also provide member services, recognition awards and scholarships. Please spend some time looking over our listed services, Exhibit D, page 2.

On page 3, Exhibit D, cities are incorporated under *Nevada Revised Statutes* (NRS) 266 or NRS 267. They have certain responsibilities, including what is listed on page 3, Exhibit D. Falling under the broad categories of public safety, public works and utilities, cities provide those services as well as parks and recreation and other quality-of-life services.

On page 4, Exhibit D, to demonstrate the diversity of our membership, we have compared Las Vegas to Wells. Both cities are members of the League of Cities and Municipalities. Las Vegas has nearly 600,000 residents; Wells has only 1,657. Las Vegas has 133 square miles, and Wells has just over 6 square miles. The budget for Las Vegas is $532 million, and the budget for Wells is just under $1.5 million. An interesting contrast between these cities is there are only 2 schools in Wells compared to 103 in Las Vegas. As one can see, there is a broad difference in the cities we represent but all provide the same essential services. These services are listed on the bottom of page 4, Exhibit D.

Funding is the issue of the day, and as the State struggles to deal with changes in the economy, our local governments are doing the same. We, as the State, are dependent on sales and property taxes, which are elastic as the economy shifts. As development slows, we have witnessed a dramatic reduction in resources. On the bottom of page 5, Exhibit D, state and local government expenditures are shown for the purpose of comparison. For both state and local governments, personnel costs account for 75 percent to 80 percent of the budget. Interestingly, as the second line presents, more than 50 percent of the State's expenditures go to public schools and more than 50 percent of local expenditures go to public safety. Again, sales and property taxes are a significant part of the State's revenue stream, and they are the primary part of revenue for Nevada's cities.

As seen on page 6, Exhibit D, nearly 70 percent of the City of Las Vegas general fund expenditures go to the high-priority services involving public safety, judicial and public works. The remaining 30 percent go to general government, culture and recreation, and economic development. Using the City of Las Vegas as our example, the pie chart on the bottom of page 6, Exhibit D, shows 87 percent of city revenue streams are state-controlled. These are consolidated tax, property tax, franchise fees, and licenses and permits, where only 13 percent are at the discretion of the city council for charges for services, fines, forfeit and others.

On page 7, Exhibit D, an example compares the City of Sparks and the City of Elko. This example looks similar in terms of proportions. Page 8, Exhibit D, outlines the challenges in generating income. Gaming, tourism, housing and retail are all struggling. In addition, the credit crises, reliance on tourist-related and growth-related taxes are hurting our revenues. The State Legislature has met in special session twice in the last calendar year to address our State's terrible decline in revenue. At the same time, city governments have been meeting every two weeks doing just the same thing cutting budgets. On Page 9, Exhibit D, the December 2008 figures are out of date because cities are in further budget reductions. The chart demonstrates the millions of dollars our communities are cutting from their budgets in the current fiscal year. In addition to budget cuts, cities are also seeking to meet with their bargaining units to see what they can negotiate. They continue to reprioritize their capital improvement projects, and reducing, in some cases eliminating, services and executing layoffs.

On page 10, Exhibit D, property taxes and potential areas of concern are outlined. Unfunded benefit liabilities are displayed on page 11, Exhibit D. Also, there are a couple of notions we may want to address. The League of Cities and Municipalities wants to assist the Legislature and work together on finding solutions.

The League of Cities and Municipalities has five bills. These bills will cover issues such as city elections, public benefits and public utilities. I want to reiterate we are in the same position as the State and we are on the same team because we do represent the same people.

DAN MUSGROVE (Nevada League of Cities and Municipalities):
There are constituents with issues in their neighborhoods such as graffiti, crime, poor roads and inoperable street lights. These are the things we do with state dollars, more important, with tax dollars, as these issues are our responsibility. We share in how we take care of our constituents. Please keep this in mind when you are addressing revenues and policy issues. We bring these issues before you and ask for your assistance. We ask that you look at these issues as a taxpayer-constituent issue.

SENATOR RAGGIO:
My question is for both the Nevada League of Cities and Municipalities and for NACO. On page 11, Exhibit D, the Nevada League of Cities and Municipalities lists the issue of unfunded benefit liabilities under NRS 287 and NRS 286. These address public employee benefits and public employee retirement. The unfunded benefit liability is a big issue this Session. It was an overriding concern during the interim, and it was part of the Spending and Government Efficiency (SAGE) Commission Report and the chambers of commerce reports. If this is not the time to act, there never will be a time. With the economic downturn and the unfunded liability gap growing larger, there is no question this Legislature needs to find solutions. What is NACO doing to address this issue, and what recommendations, if any, does your group have to help solve this problem? Budgets are 85 percent to 90 percent personnel and benefits.

MR. FRASER:
You are right. It's time to seek solutions. One of our bills is related to how we book post-benefit liabilities. By making a simple word change in the statute, the liability will be reduced on the cities books.

SENATOR RAGGIO:
I am not talking about accounting issues, what are we going to do to solve this problem? It affects county employees, city employees, all public sector employees, as well as state employees. I am asking you the same question people are asking me.

MR. MUSGROVE:
Our elected officials face the same challenges. We have additional problems because of our many collective bargaining agreements. We have existing agreements and expectations of contracts. Because of this, elected officials in our jurisdictions have gone to the unions, outside of the normal negotiating process, to discuss what was assumed to be normal raises, merit increases and the like. It is difficult for our elected officials to do this with their unionized employees as city elections approach. These elected officials may experience a ballot-box rejection for their efforts by doing what is needed to keep people employed versus instituting layoffs. We know the Public Employees' Retirement System and the Public Employees' Benefits Program need to be looked at, and we do not have easy answers.

SENATOR RAGGIO:
Are you prepared with specific recommendations for the unfunded benefits liabilities? We are going to have to deal with all of its problems.

MR. FRASIER:
We certainly have the people to work on it. The issue is twofold. We have our collective bargaining agreements and we have our statutory requirements. Recently, Reno city officials met with firefighters, who made some concessions.

SENATOR RAGGIO:
Yes, it was a good meeting, and the public sector union has come up with a proposal. This is a good example for the other public sector unions to take a look at because it is survival.

CHAIR LEE:
In addressing this issue, there will be a hearing addressing the disparity of pay between state and local employees on February 25. This committee does not want to blight the counties or the cities. Rather, we want to work progressively with you to ensure open communication. We want people to enjoy where they live and see their tax dollars spent in their neighborhood.

SENATOR CARE:
I am disclosing that Mr. Musgrove is employed by my law firm.

SENATE BILL 63: Makes various changes concerning public financial administration. (BDR 31-493)

KIM WALLIN (State Controller, Office of the State Controller):
Senate Bill 63 is a cleanup of NRS 354, 361, 562 and 567 for outdated or duplicate reports we no longer require. *Nevada Revised Statutes* 482, 487 and 353B are also being revised to reflect language consistent with Generally Accepted Accounting Principles (GAAP).

CHAIR LEE:
Changes to NRS 353B.340 address the location of money, so all money goes to the Nevada College Savings Trust Fund. For clarification, will you further review the bill?

MARK WINEBARGER, CPA (Chief Deputy Treasurer, Office of the State Treasurer):
This Trust Fund is one of several 26 U.S.C. subsection 529 education plans the Office of the State Treasurer sees. This money is different than the Nevada prepaid tuition program or Governor Guinn's Millennium Scholarship Program funds. These are funds set aside so that you or your family can put money into a plan. It is accounted for separately, apart from State control.

CHAIR LEE:
The bill requires all money that comes in for the Nevada College Savings Trust Fund is referred to as "Money in the Trust Fund." Is this a simple wording change? Is this the reason? Where did this bill come from?

MS. WALLIN:
This bill came from the Controller's Office in conjunction with the Office of the State Treasurer. Money, such as administrative fees, was being deposited into the Fund that was not truly Trust Fund money. We are clarifying language. Monies people set aside for 529 education saving plans are to be used specifically for the plans. Monies for administrative purposes are to be kept in the General Fund. This is what we are clarifying. The original statute went against GAAP.

CHAIR LEE:
Regarding subsection 6-8 of NRS 482.1805, can you explain the blue plate changes?

BRENDA LAIRD (CAFR Accountant, Office of the State Controller):
These sections are making accounts conform to GAAP. A couple of accounts are set up in the Motor Vehicle Fund, which is an agency fund. This Fund is meant to be strictly a pass-through fund. For example, money comes in, is collected on behalf of cities and counties, and then is dispersed to them. The license plate accounts do not belong in agency or Trust Funds. They are revenue accounts that come into the state. They also have expenditures related to them. This bill is simply moving these accounts out of the agency fund and putting them into the State Highway Fund.

CHAIR LEE:
Can you explain the money going into a Revolving Account for the Issuance of Salvage Titles?

MS. LAIRD:
The Revolving Account already exists. We are only changing the physical location of the accounts.

CHAIR LEE:
We will go into a work session, as I want to know more about this bill. Please follow up on subsections 6-8.

DENNIS COLLING (Chief of Administration, Administrative Services Division, Department of Motor Vehicles):
The Motor Vehicle Fund 618 already exists. We collect these funds as revenue, and we deposit them in the 618 account and distribute as required. At the end of each year, the account needs to be zeroed out. For accounting purposes, these license plate accounts more properly belong in the State Highway Fund. This is a cleanup bill, and it will have no effect on the amount of money or its use. This bill will change the location of monies from the Motorized Vehicle Fund 618 to the State Highway Fund.

SENATOR MCGINNESS:
Are we overthinking this? Are we addressing simple accounting changes?

MS. WALLIN:
Yes. Under my statutes, if a state law does not conform to GAAP, I may disregard the state law and conform to GAAP. Why have laws on the books that do not conform to GAAP?

MR. WINEBARGER:
I want to clarify one statement I made regarding the Trust Funds. We do not have control of these funds. These trust funds are not invested by the Treasurer's Office but are invested by four money managers.

SENATE BILL 76: Revises provisions governing the administrative procedures for the summary suspension of licenses issued by certain state agencies. (BDR 18-263)

KEITH MARCHER (Senior Deputy Attorney General, Office of the Attorney General):
Senate Bill 76 amends subsection 3 of NRS 233B.127. It revises provisions governing the administrative procedures for the order of summary suspension of a license. This bill is clarifying who and what members of an agency can issue the summary suspension. The bill also indicates that a governing agency member who participates in the issuance of the summary suspension cannot participate in further proceedings against the licensee. Also, this bill sets a specific time frame for the summary suspension. The agency would have to institute and determine the proceedings against a licensee within 60 days after issuance of an order of summary suspension. This bill cleans up language and defines who can issue the suspension and how long it can last.

SENATOR CARE:
Is the genesis of this legislation the hepatitis C scare with the various clinics down south?

MR. MARCHER:
Not specifically. Last year, Attorney General Catherine Cortez Masto put together a blue-ribbon panel of people who explored issues involving boards and commissions. The issue of summary suspensions kept surfacing. There was even confusion and disagreement within our office about the exact procedure for issuing the order. As you can see, the way NRS 233B.127 is written now, it does not specify who can issue the order or how long it lasts. For clarity, we changed the language to make it specific so everyone can get on the same

page. It certainly would have applied to the Board of Medical Examiners and those hepatitis cases.

SENATOR CARE:
The way this is drafted now (Exhibit E), it says, even an "employee," which could arguably be a secretary. It does, however, say "acting within the scope of his authority."

MR. MARCHER:
The intent is to give licensing boards the flexibility to determine who is going to issue the order of summary suspension. We assume the boards would create policy where a board member is pulled aside, meets with the executive director and their deputy attorney general (AG), and they decide if they are going to issue the order. If they want to delegate it to a different employee, this would allow it. The intent is to give flexibility to procedures so an order can issue immediately, as opposed to getting tied up in administrative processes and taking too long to issue.

SENATOR CARE:
How difficult would it be to specify on a summary suspension that it is done pursuant to the executive director as opposed to a regular employee? As a licensee, I want to know the executive director or the board has made the determination as opposed to an employee.

MR. MARCHER:
It would probably be in the body of the order who issued the summary suspension and who signs it. I want to encourage the licensees to set up an emergency procedure. In such a case, the executive director is to see the complaint first. This person can immediately pull in a board member and this board member is then dismissed from hearing more of the case. The executive director and the chosen board member then get with their deputy AG. Together, the three can decide, that day if necessity warrants, to order a summary suspension. The licensee is immediately served with the order and the agency has 60 days to get their hearing in place.

SENATOR CARE:
The language reads "a member of the governing board." Would it not be possible for one member of the governing board to say we need to do this while

another one says we do not, but the one who says we need to, authorizes the summary suspension?

MR. MARCHER:
I understand your point. In theory, there would be a policy for each board. This policy would designate a board member to be a contact person for the executive director. The executive director cannot go to each board member. Instead, the director would identify the contact person via policy, pull the person in, and this person, along with the executive director and the deputy AG, could make the decision to issue. The problem was the issue of timeliness. Some of the deputies in our own office and some of the agencies were of the mind that the full board of an agency had to issue the suspension. The issue of timeliness became problematic. Time is needed to get a board meeting together. If a quorum of a public body is going to take administrative action against a licensee, to notice the person pursuant to the Nevada Open Meeting Law also takes time. We were seeing instances where it was taking too much time to issue suspension orders. In addition, when going in front of a board to lay out a case in order to get a summary suspension, essentially, the body is becoming biased from hearing the case later. What we are trying to do here is not involve the full board, not bias them and get the suspensions out immediately.

SENATOR MCGINNESS:
Looking at the fiscal notes for S.B. 76, nobody had a fiscal note except for the Department of Business and Industry Real Estate Division. Do you understand why this would affect them differently?

MR. MARCHER:
No. This just came to my attention before this meeting and I do not know why they would put a fiscal note on this. This legislation already is in statute. This bill is simply for clarification. I do not believe a fiscal note is necessary on this bill.

SENATOR MCGINNESS:
Can you check this out for us?

MR. MARCHER:
Absolutely.

SENATOR TOWNSEND:
Generally, licensing-board issues regarding revocation are the province of the Senate Committee on Commerce and Labor. To see this coming through as a separate statute gives one pause. I do not know if you have addressed this to Senator Maggie Carlton, Chair for the Senate Committee on Commerce and Labor. More important, she was Chair of the Subcommittee on Boards and Commissions for ten years. Senator Carlton has substantial expertise in this area and where this Committee stands for processing this bill. Mr. Chair, I would not want her surprised, as this is an area she has spent a great deal of time in. The Committee had a great deal of respect for her work.

MR. MARCHER:
Senator Carlton was actually on the blue-ribbon panel that was put together by the Attorney General. She is aware of the issue, but I am more than happy to get in touch with her and share the specifics of this bill and get her to sign off on it.

SENATOR TOWNSEND:
The comfort level for those of us who sat on the Senate Committee on Commerce and Labor would be elevated if the Committee, particularly the Chair, has had an opportunity to read the bill, hear your explanation, and maybe question your concerns and answer her questions. This is a departure, and I do not agree with it. It is a distinct policy change from the due process we have had in those boards. We have a process here, and we are trying to work within it.

CHAIR LEE:
Senator Townsend, are you thinking of a rereferral or do you want to only hear from the Chair the Senate Committee on Commerce and Labor?

SENATOR TOWNSEND:
Chair Lee, because of the nature of this and Senator Carlton's extensive ten years as head of that Subcommittee, it would perhaps benefit this Committee if Mr. Marcher and Senator Carlton address this bill at a work session. Senator Carlton has put in huge amounts of work into her efforts on boards and commissions, and I want for us to know that she has gone through this and does not have questions or concerns. This can be done without rereferral.

KEITH LEE (Attorney, Board of Medical Examiners):
As Legislative Counsel for the Board of Medical Examiners, I am here to support S.B. 76 to amend NRS 233B. We are proposing a substantial redo of chapter 630 of NRS addressing the Nevada Medical Practices Act. The Board of Medical Examiners is asking to be given specific statutory authority in chapter 630 of NRS with guidelines to issue an order of suspension. In answer to Senator Care's question, our legislation proposes either the executive director or the president of the board be the two individuals in an agency to issue an immediate suspension. We are proposing the time frame for a hearing after immediate suspension to be 45 days after completion of investigation. Investigations vary in length. The Board of Medical Examiners supports the amendment of chapter 233B of NRS. We will also process the changes in NRS 630. These changes will give us specific authority. Senator Carlton is sponsoring S.B. 76.

SENATOR CARE:
How long can an investigation take?

MR. LEE:
In the case of the hepatitis C situation, we learned, like many, about the scare through the newspaper on a Thursday. On Friday we issued subpoenas. On Monday we served them, and as we were working with the doctors and their lawyers to produce documents, the Las Vegas Metropolitan Police Department (Metro) came in with a search warrant that trumped our subpoena and took all the records. We still do not have all the records, but we have enough from Metro to process three complaints against physicians. To respond to your question, Senator Care, it depends on how responsive the physicians are to our subpoena and how clear the records are. It also depends on testimony given by witnesses, the claimant, members of personnel and other involved individuals. It is unclear how long an investigation would take. We are asking for substantial changes in chapter 630 of NRS that governs in the way we conduct our disciplinary proceedings.

PAULA BERKLEY (Chiropractic Physicians' Board; State Board of Physical Therapy Examiners):
I am speaking on behalf on the Chiropractic Physicians' Board and the State Board of Physical Therapy Examiners. We are interested in the intent and the changes this law would make. Both of my executive directors said they do not want the authority. We are also interested in what Senator Carlton has to say.

SENATOR MCGINNESS:
The Board of Dispensing Opticians has a small $1,800 dollar fiscal note.

SENATE BILL 74: Makes various changes relating to assistance to finance housing. (BDR S-699)

SENATOR RAGGIO:
I am making a disclosure. As a member of the law firm of Jones Vargas, the firm has advised me it represents the Department of Business and Industry Housing Division on some matters, but the firm has no involvement with this bill.

CHAS HORSEY (Administrator, Housing Division, Department of Business and Industry):
I have been Administrator of the Housing Division since 1986. Approximately eight or nine years ago, we became concerned with the direction the financial markets on Wall Street and other parts of the world were heading. As a result of those concerns, the Housing Division realized we needed more flexibility in our statutes. As a result, we proposed several changes to the statutes three sessions back that were approved. These statutes are to expire at the end of this year. This is the reason for S.B. 74. It is to allow us to continue to do what we have been doing for the last six years.

I will read from Standard & Poor's "RatingsDirect." This is the handout titled "Nevada Housing Division; General Obligation" (Exhibit F), page 2. The rating agency paid close attention to our relation with the Governor's Office and with the Legislature.

SENATOR TOWNSEND:
Standards & Poor's also recommended Lehman Brothers to buy 30 days before they went under, so this may not be the document you want to use today.

MR. HORSEY:
The underwriting approvals the rating agencies gave Lehman Brothers are not the same groups that approved us.

SENATOR TOWNSEND.
Mr. Horsey has an extensive tenure with the state, and he has always received the highest ratings by all the agencies because he runs his agency well.

I appreciate his positions because he does not always make the popular decision but those best for the agency.

MR. HORSEY:
It was Senator Townsend and his committee who encouraged the Housing Division and the apartment projects for senior citizens that we financed to take a more stringent and proactive green approach. We were the first housing agency in the nation to impose stringent energy-conservation units on all projects we financed, and in retrospect, it proved beneficial for residents and developers. When it was popular to take subprime loans and use similar types of financial instruments, the Housing Division did not. As a result, we have not been adversely impacted. We are also the lead on working with local agencies and the private sector with incoming federal funds. Also, at a cost of zero to the taxpayers of Nevada, approximately 40,000 Nevada families live in a home or in an apartment we have financed. Now our priority is working with the private sector to get rid of unsold inventory that is causing harm. Nevada is also further along, perhaps, than any state in our country regarding readiness to implement federal funds that will be coming our way.

SENATOR HORSFORD:
Can you apprise this committee on the Governor's task force relating to the financial crisis and its institutions?

MR. HORSEY:
A number of things have taken place. Last week, Nevada's plan for the Neighborhood Stabilization Program grant (NSP) funds was approved by the U.S. Department of Housing and Urban Development (HUD). In addition, our plan incorporated the plans from all local governments. The key component for success is dependent upon the State's private lending institutions. Are they willing to take on losses and if so, how much of a loss will they take when mortgages are attempted to be refinanced? The first bill passed at the federal level and signed by President Bush on July 29, 2009, raised hopes but did not contain any provisions for helping people who are currently in foreclosure. The focus of the bill was designed to help us assist local governments and to help the private sector get rid of unsold homes. The change occurring with the current bill is to give funds to help people who have not yet lost their homes. Local governments and the State are conducting public hearings to advise their constituents as to the availability of funds. We are now waiting for the federal bill to become finalized in order to see its language.

SENATOR HORSFORD:
The reality of the federal stimulus is that it will not do as much as people expect. Recognizing this, what is Nevada's strategy, specifically, for two groups? One group consists of individuals who have not yet lost their homes or are not in foreclosure. I have heard estimates as high as 40 percent of homes in Clark County are upside down in value, and people are struggling to make their mortgage payments. The second group regards toxic loans. Has anyone identified the amount of toxic loans in Nevada? I am referring to loans that contribute to the devaluation of property values across the State.

LON DEWEESE (Chief Financial Officer, Housing Division, Department of Business and Industry):
Our Division has not had much involvement because our loan portfolio is clean. Secondly, our ability to deal with refinancing is extremely limited because our ability to bring in resources is either in the form of grants or in the form of bonds. Bonds are only limited to first-time home buying. Bonds do not allow us to refinance. The Housing and Economic Recovery Act of 2008 (HERA) did allow for a refinancing option. To date, we have received zero loan applications for refinancing directly with the Housing Division.

MR. HORSEY:
We are working with the Federal Reserve Bank of New York who will be negotiating for all of the various financial institutions. We need to learn what institutions are willing to take on losses, such as anybody buying a home that is already foreclosed or is in foreclosure. Some financial institution is going to have to be willing to take a loss because the first thing required will be a new appraisal. The new appraisal, on average, is about $100,000 less than the original loan. Therefore, to get clean titles, that financial institution is going to have to be willing and able to accept a payoff, release their lien and take a $50,000 to $100,000 loss on that particular loan.

DR. HILLARY LOPEZ, PH.D. (Chief of Federal Programs, Housing Division, Department of Business and Industry):
As part of HERA, a portion of funds was allocated to NeighborWorks America on a competitive basis. This money is specifically for foreclosure-mitigation counseling. Nevada received approximately $218,000. We are working with three counseling agencies, two in southern Nevada, one in northern Nevada, to provide free foreclosure-mitigation counseling services to eligible households. We applied for a second round of funding for similar services and were

successful getting approximately $350,000. We will be partnering with two HUD-certified, nonprofit housing counseling agencies in southern Nevada and one in northern Nevada. Another network of agencies throughout the State also has received an allocation directly from NeighborWorks America. We are facilitating these services for folks currently in default or looking to work with their lender in resolving problems or refinancing.

SENATOR HORSFORD:
I am looking for strategies beyond what is currently in place. I want to see what is on the horizon, with a focus on the two groups. First, what is Nevada's role addressing the toxic loans the banks do not want to touch? Can something be done? Second, I hear from people who are paying their mortgages but are upside down, not behind in their payments, and that they do not qualify. How can we assist these individuals so they do not walk away from their homes and contribute to the problem?

MR. HORSEY:
This is one reason why we are waiting impatiently. We need to see the details of the federal bill in Congress. Until this bill is signed, no state has any federal funds to address these very issues. With the final details, we hope to have the ability to address your specific questions. Local HUD-approved governments are considering the rehabilitation load as part of their efforts.

DR. LOPEZ:
The U.S. Department of Housing and Urban Development will be doing rehabilitation as a part of the Neighborhood Stabilization Program grants. Requirements must meet HUD's definition of foreclosure or abandoned property.

MR. HORSEY:
One provision still in the bill provides a $15,000 tax credit that does not have to be paid back. In addition, we get expanded authority beyond our first-time home buyer programs to do refinances and make mortgages with slightly greater incomes as well. There are some provisions in the federal bill that can actually work.

MR. DEWEESE:
I want to point out to the committee we have submitted a technical correction. There is consideration of repealing sections 2 and 4 of chapter 383,

Statutes of Nevada 2003. Please refer to Exhibit G. Page 1 shows section 2 and 4 of chapter 383, and page 2 provides a brief explanation.

CHAIR LEE:
If there is no further discussion, this meeting is adjourned at 3:03 p.m.

RESPECTFULLY SUBMITTED:

____
Cynthia Ross,
Committee Secretary

APPROVED BY:

____
Senator John J. Lee, Chair

DATE:___________________________________