

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

**Seventy-fifth Session  
April 6, 2009**

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 1:40 p.m. on Monday, April 6, 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

**GUEST LEGISLATORS PRESENT:**

Senator David R. Parks, Clark County Senatorial District No. 7  
Senator Michael A. Schneider, Clark County Senatorial District No. 11

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Douglas C. Gillespie, Sheriff, Las Vegas Metropolitan Police Department  
Tom Roberts, Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department  
Karen Keller, Chief Financial Officer, Office of Finance, Las Vegas Metropolitan Police Department

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Ted Olivas, Director, Government and Community Affairs, City of Las Vegas  
Chris Giunchigliani, Former Assemblywoman, Clark County Commissioner,  
District E  
Zev Kaplan, Regional Transportation Commission of Southern Nevada  
James T. Richardson, Nevada Faculty Alliance  
Dr. Jane A. Nichols, Vice Chancellor for Academic and Student Affairs, Nevada  
System of Higher Education  
Clifford Davidow  
Ron Crook  
Barry Smith, Executive Director, Nevada Press Association  
Linda F. Powers, Managing Director, Toucan Capital Corp.  
Luis F. Valera, Commissioner, Commission on Economic Development  
Russell M. Rowe, Nevada Development Authority

CHAIR LEE:

We open this meeting with Senate Bill (S.B) 321.

**SENATE BILL 321**: Revises provisions concerning metropolitan police committees on fiscal affairs. (BDR 22-1074)

SENATOR DAVID R. PARKS (Clark County Senatorial District No. 7):

Senate Bill 321 revises the metropolitan police committee on fiscal affairs. Nevada Revised Statutes (NRS) 280 providing for a metropolitan police department in the State has been in existence since 1973, but there is only one; it is the Las Vegas Metropolitan Police Department.

Senate Bill 321 changes the name of a Metropolitan Police Committee on Fiscal Affairs to a metropolitan police commission. In section 2, it authorizes the metropolitan police commission to apply for, receive and disburse federal funds. Section 3 requires a metropolitan police department to conduct a public hearing and provide notification to each member of a commission before negotiating any contract to construct a building, improve or acquire capital equipment. Section 8 revises the composition of the commission from two members from each of the political subdivisions from the City of Las Vegas and Clark County to three representatives from the County and two from each participating city. Section 12 requires the commission to meet monthly rather than quarterly. Section 18 requires the commission to hold a public hearing and provide to the governing bodies of the County and each participating city a detailed explanation of a proposed project for which the commission is seeking to

borrow money. Finally, section 28 provides that title to real property may be held in the name of the metropolitan police department.

Public safety is the paramount role of government. The Las Vegas Metropolitan Police Department (Metro) has a budget that exceeds more than \$0.5 billion per year and has about 5,000 employees. The department is a big agency. The intent of this bill is to provide more transparency for a metropolitan police department.

DOUGLAS C. GILLESPIE (Sheriff, Las Vegas Metropolitan Police Department):  
Our Committee is transparent to the community. The Committee has two city council members, two county commissioners and a citizen at large. I support this Committee. I have seen this Committee work for a number of years. The Chairs of this Committee have been high-caliber individuals, including former Governor Kenny C. Guinn, Peter Thomas and currently, William McBeath, who is consistently engaged and continues to engage in dialogue when making decisions regarding fiscal matters facing Metro. There is significant dialogue from a transparency and interaction standpoint. One example is our budget process. We submitted our budget in the latter part of February. It will not be approved until the latter part of April. The intervening period allows people to ask questions about our budget submittal. How will the money be spent? What are the future projects? In the time between budget submittal and approval, people can give us feedback. One main issue of the Committee concerns employee contracts. As we move through the process of deciding whether to proceed with an employee contract, members of our Committee have significant interaction with us as a police organization and the entities we represent, such as the City of Las Vegas, Clark County and the citizens at large. I am a firm believer if something is not broken, do not interfere with it. The Committee has been in operation since 1981. Since that time, not only has this body overseen the fiscal expenditures of a large police organization, but on three separate occasions, outside firms have been brought in to review Metro's efficiency. Each time, these firms have said we are a lean, well-run, efficient police organization. This is a direct reflection on the men and women at Metro and is also a reflection upon the commitment by those who have served on our Fiscal Affairs Committee.

CHAIR LEE:

Page 6, line 20 of S.B. 321 says, " ... shall conduct at least one public hearing to solicit public comment ... " Can the public be solicited for comment in the existing process?

SHERIFF GILLESPIE:

Like many public committees, we post our meeting agendas in advance. Agenda items clearly depict what will be discussed. In addition, at the end of each meeting, there is an opportunity for the public to make comments about agenda items. In the past, we have had public comments on contractual issues, but the public tends not to appear at our meetings. Meetings are sparsely attended, but agendas are posted in advance.

CHAIR LEE:

On page 14, section 28, lines 34 and 35, do you have any thoughts regarding title and possession of real property, Sheriff Gillespie?

SHERIFF GILLESPIE:

This is worthy of future discussion. It has been discussed, but from my standpoint, I have not taken an in-depth look at that particular item. Based on the number of leases and the variety of things we are involved in, this needs to be clearly vetted before we look at the police department owning real property.

TOM ROBERTS (Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department):

We are here for logistical questions in case the Sheriff was unavailable. Karen Keller is responsible for the public notices for the Fiscal Affairs meetings.

CHAIR LEE:

There is a \$1 million threshold. How common is it to have a \$1 million contract?

KAREN KELLER (Chief Financial Officer, Office of Finance, Las Vegas Metropolitan Police Department):

We have several contracts over \$1 million. For instance, we spend over \$1 million to buy vehicles and for the annual purchase of fuel.

TED OLIVAS (Director, Government and Community Affairs, City of Las Vegas):

We are in opposition to this bill. I echo the comments of Sheriff Gillespie. He covered it comprehensively. The Committee has a letter ([Exhibit C](#)) that voices

our opposition. It is signed by Mayor Oscar B. Goodman as well as Mayor Pro Tem Gary Reese and Councilman Steve Wolfson, Ward 2. Mayor Pro Tem Reese and Councilman Wolfson sit on the Committee.

CHRIS GIUNCHIGLIANI (Former Assemblywoman, Clark County Commissioner, District E):

I am here also as an individual. I served for two years on the Committee. There are issues where local governments need to have better control. While I respect our Sheriff, I do think there are issues of fiscal responsibility that need to be reviewed. The Committee tends to obligate local governments, funding-wise, with purchases and lease purchases. The intent of this bill is to address the make-up of the newly named commission. It should be based on the formula funding, and Clark County does fund 63 percent of the dollar amount. In addition, it says the Committee can recommend, but upon recommendation for lease purchases and items that obligate the local governments, the item should still go back to a fully elected board to make those decisions. Too often, commitments are made by a small group, and although members represent the City Council and the County Commission, they do not come back to the full boards for approval. Rather, they make the commitment and the obligating funding aspect to it. The formula is mainly funded by the City and the County. Outside of the formula, the County must fully fund the detention center and those types of things. Obligations are made affecting priority and our constituents. Sometimes, we have to make a decision. Will we support an oncology program at University Medical Center or do we want to construct a building? These decisions should be made by a full board. Senator Parks has been working with me to reflect the obligations of the Fiscal Affairs Committee and to bring forth the need for more transparency.

SHERIFF GILLESPIE:

This is a discussion in which Commissioner Giunchigliani and I agree to disagree. As an example, I would use a Las Vegas Police Protective Association contract that was approved a number of years ago. It was taken back to the full County Commission and there was significant vetting of that issue before it came back to Fiscal Affairs. The checks and balances are present. The Committee is fairly represented on both sides and includes a citizen at large. We do not have one elected body showing influence compared to another. Roughly 30 percent of Metro's funding is separate from the City and County. When looking at the total representation of percentages, the two and two with a citizen at large is the appropriate Committee make-up.

CHAIR LEE:

The hearing on S.B. 321 is closed. We will now hear S.B. 279.

SENATE BILL 279: Makes various changes relating to public records.  
(BDR 19-82)

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

When Senate Bill 279 was drafted, it was drafted in haste as there was a deadline to introduce bills. The bill did not read the way it was intended. Before you is a rewrite ([Exhibit D](#)), which deletes in total sections 1 and 2. Section 3 concentrates on contracts between university employees and third parties. The genesis on the bill goes back to the summer of 2007 after the 2007 Session adjourned. The *Las Vegas Sun* requested copies of outside income disclosure forms submitted by faculty members and other employees at the Nevada System of Higher Education. The request was denied. Before you are two newspaper articles from the *Las Vegas Sun* ([Exhibit E](#) and [Exhibit F](#)). These are also from the summer of 2007, in which people made public statements before the University of Nevada Board of Regents came up with their now-existing policy. I want to direct you to a quote in the article dated August 7, 2007, [Exhibit E](#), "I think the public has a right to know who our people are working for." This is a quote from Chancellor Jim Rogers. Directly below, the article says, "A majority of the 13-member Board of Regents polled by the *Sun* said they favored disclosure, with several saying the system's rules need to be changed to give the public access to the outside income forms." The second newspaper article dated August 10, [Exhibit F](#), says, " ... Chancellor Jim Rogers and a majority of the regents told the *Sun* that they favor public disclosure." The notion of public disclosure does not originate with me. At one time, the Chancellor and the majority of the Regents felt disclosure was appropriate as to the forms requested by the *Sun*.

After meeting with faculty representatives and others, the Regents came up with their present-day policy. This requires a faculty member to provide, in advance, a request in writing to their immediate supervisor detailing the nature of the work to be performed, the company or organization for which the work will be performed and the estimated time involved. This bill reflects the sentiment, at one time, of the majority of the Regents and Chancellor Rogers for full disclosure. Section 3, subsection 3 in the amended version is intended to say an employee providing professional services in an area related to the work done for the university system needs to put in the notice what the Regents

require. This would become a public record. I had a conversation with Vice Chancellor Jane Nichols, and I am agreeable to have this policy apply only to full-time employees. The Vice Chancellor pointed out there may be adjunct faculty members who are part-time employees. Notice, we are not requiring disclosure of a copy of the contract. There may be proprietary, confidential information in a contract. We are not asking that an employee provide the amount of compensation. We want to take the next step and make the notices to the Regents public documents. We would all like to believe we can trust the government. While the Regents may or may not see a conflict, which is the purpose behind the policy, it is best to err in the name of full public disclosure. Let the public have its discussion about whether there is a conflict. We are not prohibiting anyone from entering into a contract, and there are statutes in place referenced in section 1, subsection 3. We are saying that if one is going to take on additional work, the public is entitled to review the details.

SENATOR RAGGIO:

What kinds of situations make this public record necessary? What kinds of things occurred that are the basis for this requirement?

SENATOR CARE:

Existing policy encompasses the idea of seeking permission from your immediate supervisor in the university system to determine whether there might be a conflict.

SENATOR RAGGIO:

What types of contracts?

SENATOR CARE:

I cannot say, but there is enough concern to the Regents, so this is the idea behind the policy. You asked, what did this? It goes back to a request made by the *Sun* in August 2007, wanting to see the financial disclosure forms and being denied access. There was a public discussion on that request.

SENATOR RAGGIO:

This is for those earning outside income?

SENATOR CARE:

Yes, for those who work full-time. The newspaper article, [Exhibit E](#), quotes Chancellor Rogers as saying he is in favor of public disclosure, and according to

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the newspaper articles, [Exhibit E](#) and [Exhibit F](#), at that time, so was the majority of the Regents.

SENATOR RAGGIO:

Your suggestion is that this would apply to full-time employees only?

SENATOR CARE:

Yes.

SENATOR HORSFORD:

For the record, I am disclosing that my wife is a full-time faculty member with the Nevada System of Higher Education. This does not materially affect me, so I will participate in the voting process.

CHAIR LEE:

We will temporarily close the hearing on S.B. 279 and move into work session. We will hear S.B. 245. This bill makes various changes relating to regional transportation commissions. Senator McGinness and Senator Townsend had concerns on the communication issue.

**SENATE BILL 245**: Makes various changes relating to regional transportation commissions. (BDR 22-585)

ZEV KAPLAN (Regional Transportation Commission of Southern Nevada):

Questions arose in section 34 of S.B. 245 in ([Exhibit G](#), original is on file in the Research Library) regarding communications. There have been concerns as to what types of communications or systems the Regional Transportation Commission (RTC) would be engaged in. These are limited to the dynamic message boards along the freeways, the traffic signalization for traffic lights on the public right-of-ways, and the communication systems necessary to connect these signals. In section 34, subsection 1, these communication systems are specifically limited to related infrastructure necessary to carry out the Commission's duties set forth in sections 2 to 41 of this Act. The RTC and the intent of this statute are not looking to permit the Commission to get into other types of communications systems or have the ability to lease out existing communications systems or future systems to private operators wishing to compete with existing communication providers.



SENATOR MCGINNESS:

My concerns have been satisfied.

SENATOR TOWNSEND:

This covers my concern. There are a number of amendments to this bill. One includes language relative to section 34, [Exhibit G](#). It states nothing authorizing a commission to construct or maintain any telecommunication system, including without limitation, a tower, pole or similar structure used to provide telecommunication services. I presume Mr. Kaplan has seen this language and if he is fine with it. I get more comfort than with his successors who might have a different view of how the RTC might want to get into the telecommunication business.

MR. KAPLAN:

We have no problem with that additional amendment. It is consistent with our intent.

SENATOR RAGGIO:

I am still concerned about the willingness to delete section 39. We discussed this and the comment was we will get reimbursement from the contractor. Why would we delete that when the desirable component is that they should not have a liability if they have had no part of the operation or management? It is not a good answer that there are provisions for reimbursement. This means they can still be sued and then have to go through the process of defending a suit. So, I object to deleting section 39. There should be a cause of action against someone who has operated or maintained the facilities or the equipment, but where the RTC is not in control, where they are not involved with the conduct other than being the Commission, it is wrong. The Nevada Justice Association should not have concerns. They can still bring action against the entity or individuals who did control or were involved in the activity. I have a strong objection here.

MR. KAPLAN:

We have operated without that language up until this point. In our contracts with our providers or with contractors, they have the obligation to defend and indemnify the RTC. It is true we are almost always named as an additional defendant. In most instances, the RTC is dismissed. The expense is incurred by our contractor to provide the defense, not the RTC. On a personal level, I do not

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necessarily disagree, but there are numerous elements of this bill significantly more important. We did not want to jeopardize the passage of this bill.

SENATOR RAGGIO:

Why would this jeopardize the passage of the bill if we did not delete section 39? There is no reason to keep the RTC in as a potential defendant when they have no part in the participation.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 245 WITH THE MOCK-UP AMENDMENT EXCEPT FOR THE DELETION OF SECTION 39.

SENATOR RAGGIO SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS BREEDEN, CARE, AND HORSFORD VOTED NO.)

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CHAIR LEE:

We will hear S.B. 248.

[SENATE BILL 248](#): Extends the validity of certain building permits and development agreements beyond the original expiration date under certain circumstances. (BDR 22-981)

MICHAEL STEWART (Committee Policy Analyst):

Senate Bill 248 extends the validity of certain building permits and development agreements for a maximum of 15 years beyond the original expiration date if the land upon which the construction is to take place is leased for renewable energy projects and the permit holder or landowner cannot yet finance the project. If such extension is granted, no condition may be placed on the permit or agreement that was not imposed on the original permit or agreement. However, new laws or regulations concerning environmental protections on the land in question would apply. That last statement is the subject of one of the amendments.

There are two amendments proposed in the mock-up, [Exhibit G](#). The conceptual amendment was jointly proposed by Clark County, the Cities of Henderson and

Sparks and the Las Vegas Valley Water District. The first would make the extension of the building permits and development agreements permissive by changing "shall" to "may" in section 4, subsection 1, and in section 6, subsection 2. The second amendment provides that changes to ordinances and laws requiring life and safety standards are applicable to extended permits. The bill provides that environmental standards can be changed. This amendment clarifies that ordinances relating to life and safety standards can also be applicable to these permits. It also provides clarifying language concerning what environmental life and safety standards include.

SENATOR TOWNSEND:

I commend the parties who worked on this bill. They were helpful in my concerns with the intent of the bill and with the language brought forward that meets the intent. This will also help them to work with developers. I support the language.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 248.

SENATOR RAGGIO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LEE:

We will resume our hearing on S.B. 279.

SENATE BILL 279: Makes various changes relating to public records.  
(BDR 19-82)

JAMES T. RICHARDSON (Nevada Faculty Alliance):

Nevada Faculty Alliance has chapters at University of Nevada, Las Vegas (UNLV); University of Nevada, Reno (UNR) and at Desert Research Institute (DRI). I have had communications expressing concern about the part of this bill making everything a public record. A serious issue was raised a year and a half ago with the request by the *Las Vegas Sun*. The Regents and our Chancellor were saying things in the press that concerned people. We had discussions, and the Regents addressed this issue at great length and came up with a policy we

think is workable and protects the interest of the State and the faculty members involved in the institutions.

This policy requires us to fill out a conflict of interest form annually. I have to do this and if I do not, I am harassed. This form asks a number of questions. If I answer them a certain way, I have to furnish documentation which is reviewed by the department chair, the vice president of research and it could potentially go all the way to the president. It is not a public record but is defined as part of our personnel file.

The subcommittee that reviewed this policy included two former Legislators, former Assemblyman Jason Geddes and former Assemblyman Ron Knecht. They voted with us because of arguments made. There are companies that will not do business with faculty members at DRI, UNR and UNLV because the very fact they are doing this business is immediately made public. There is a proprietary interest. Once information is out that one is working with a company, all kinds of questions can arise and companies become concerned. We are convinced, and the Regents passed this unanimously, that making the information public would actually hurt the institutions, hurt efforts to diversify the economy of the State and deter activities we, the experts in helping Nevada, are trying to engage. There is a rigorous plan in place which was not in place before. We had serious problems of reporting. We do have a rigorous plan. It is working. I would ask for your indulgence to give us time to see if problems in our plan arise. In the meantime, the problem was one of acknowledging people who were engaged in consulting and nobody knew it. This problem has been solved. This bill has some hidden costs and these costs are contracts that we might otherwise get that could affect, in a positive manner, the economy of the State of Nevada.

SENATOR CARE:

The fundamental rule is a document is public unless there is legal authority on the contrary. What is the legal authority that makes information contemplated in this bill confidential? Is it because it is a personnel record?

MR. RICHARDSON:

I would harken back to constitutional authority of the Board of Regents to establish personnel policies that are in the best interest of the System, the faculty involved and of the State. In their policies, they have declared that conflict of interest forms and any accompanying documentation become part of

the personnel file of a faculty member. They are always there, they are available to anyone within the System who has authority to access the files—the Regents that have the authority granted by the Nevada Constitution—and by actions of the courts and this Legislature to establish personnel policies.

SENATOR CARE:

If somebody were to come up to you today and say they wanted to see what was getting filed, would you say you have to cite authority, and the System has the constitutional authority to establish a personnel system?

DR. JANE A. NICHOLS (Vice Chancellor for Academic and Student Affairs, Nevada System of Higher Education):

The personnel in the System are of two types. There are the professional employees and they are classified. They are classified by the choice of the Board of Regents and fall under State personnel. They actually do not need to be part of this bill. They are governed by the State and follow State personnel policies. The Board of Regents establishes personnel policies for professional employees. Professional employees consist of all faculty, not only teaching faculty. In other words, professional employees are all employees who are not classified, and they do fall under our current policy. The Board of Regents has the authority vested in them by the State Constitution and by the Legislature to establish personnel policies.

There were three meetings held as a result of the *Sun's* inquiry. In the beginning, the Regents were convinced personnel files should be made public record, but we discovered there are two layers. The first thing we learned is that in order to have good policy, we have to have a policy that encourages faculty to let us know if they are doing other work outside of their regular work for the university or college within their area of their professional expertise. Before a faculty member can enter into an outside contract or agreement, they have to ask permission from us if they can do it. In that asking permission, not reporting, there is a detailed amount of information we have to collect to make sure there is not a conflict of interest. This includes family members who might own a company or have financial interests in that company, anything that might tamper with the quality and the outcome of their research, State integrity requirements and NRS requirements for the integrity of our employees. Our policy is complicated and research-based, but our colleges are becoming more involved in business-related areas. With the new stimulus monies coming down

the road, we see further opportunity to work with industry. We will see more and more of these potential conflicts of interest.

Before it ever gets to this stage, we collect detailed information from an employee and place this information into a personnel file. The supervisor and the supervisor's supervisor—often all the way up to the president—have to determine if the employee can engage in that activity without compromising the institution. We are very clear that when an employee engages in compensated outside service, it cannot conflict with the hours we pay them for their work. There are many layers of examination we go through to make this determination.

This is the policy the Board of Regents put in place after lengthy examination. If we do give permission, an employee negotiates an agreement. The testimony that came to the Board of Regents was from the faculty, many of whom did not want to participate in the new policy. Much of the testimony was from the business community who came to us saying if there is news in the morning paper that I am working with the university's economics department on an issue, my competitors will know. The news report does not have to go into detail or show a contract to be damaging. The public reporting is an unnecessary step that may discourage businessmen from working with faculty. Because it is critical in Nevada to increase economic development activities and have faculty contributions, we encourage faculty to work with business. As part of this discussion, we tell our faculty they have a responsibility to do what they can for the State.

The Board of Regents made the difficult decision that they would view this detailed information as confidential and it would go into a personnel file. The Board of Regents would then receive a report each year from each campus, which includes all of our community colleges, two universities, DRI and our State college. In that report, the president would have to certify the integrity of the work and verify no conflict of interest had occurred. This collected data for the Board of Regents would then be made public. It would not be the individual forms faculty members fill out but a collection of employee data from the entire System.

I do not want this legislation to supersede or prevent the good work we are doing, nor do I want to add a different kind of reporting form into the mix. We require our faculty to fill out enough forms. It is no small amount of time to

gather collected information in the current requirement to produce an aggregate report for the Board of Regents. The first of these reports will go to the Board this August. Give us time to try this report system to see if it answers the questions the press says are a public right. This is a legitimate question but is superseded by the public's need for us to build a stronger economy by encouraging faculty and businesses to work together.

SENATOR CARE:

What about a physics professor who gets the no-conflict-of-interest clearance for outside employment that he would not have been able to enter into except for the fact that he is an employee of the university? He was not hired off the street. He was hired because he is teaching this area of expertise. This is No. 1. He is ultimately compensated by the taxpayer? Are there any circumstances under which you can see where the taxpayer does not have the right to know about that?

DR. NICHOLS:

In general, taxpayers should have the right, but many of our faculty members are nationally and internationally known. Whether they work for us or not would not matter. Many of them are paid by grants and contracts from the federal government. They are not necessarily paid by the taxpayers of Nevada but by the taxpayers of United States. If the defining element is that the employees are paid by the taxpayer, then all employees in Nevada should be covered. I do not see how our professors should be singled out under a State statute when we have particular professional issues within the Nevada System of Higher Education.

SENATOR CARE:

The bill as originally drafted would have done that, and I did not want to go so broadly. I will take it back to the request made by the *Sun* which was to the Nevada System of Higher Education specifically.

CLIFFORD DAVIDOW:

I am a State employee. This bill does not apply to me, but if it did, there are particular areas I would have issue with. Section 3 can be interpreted many ways. This section needs further clarification. In regard to Ms. Nichol's comments about companies and doing contracts with them, they will require you to sign a nondisclosure agreement because they are seeing the contract as between two people, not between two people and the public. The fact that

there is a contract may be part of a prerequisite nondisclosure agreement; therefore, one cannot do business with that company. As Ms. Nichols testified to, the information should only be in a person's personnel file. This is work that is done after hours. It is not work that one is being paid for by the State but is done on a person's own time. By the fact it becomes public record will mean in many cases the work will not be done at all.

CHAIR LEE:

You are saying people should be able to do what they want to do on their own time?

MR. DAVIDOW:

Yes. My other point is that if one is doing work for another company in an area where one has expertise, even if the work is not similar to the work with the State, this would require a nondisclosure agreement. It should not become a matter of public record.

RON CROOK:

I am a licensed, professional architect. Initially I saw the amendment and the striking out of section 2 that would have applied to us. There are similarities between the Nevada System of Higher Education and other State government. I do not support this bill for many reasons stated. Questioning about one's private time is an unnecessary infringement into individual rights. It is difficult to make a living. We should have the ability to pursue whatever living we want to make on our own time. My employer has required similar informal disclosures. It is important our employers do not get blindsided because we are doing something that could be perceived as a conflict of interest. I do not see how the public would be served to make this public record.

BARRY SMITH (Executive Director, Nevada Press Association):

In regard to the question as to what conflicts might exist, the answer is, we have no idea. The public is unable to examine what types of conflicts may exist as they are in the personnel files. I applaud the System for tightening their policy. The *Sun* reported the policy in place was largely ignored. There was a great deal of underreporting of these contracts. It took public exposure of the problem to get it addressed. The employers are the taxpayers, so that is the interest the public has. On the proposed amendment, in some or many cases, the employer requires that the file be kept confidential. The testimony has not been that is the case in all contracts or agreements for an outside employer.



The System's policy is that all this information, whether it is confidential, privileged or some conflict may exist, goes into the personnel file and is not available to the public.

CHAIR LEE:

Do you think the problem has been solved due to the policy in place and the openness of sharing? Are they doing a good enough job without this bill?

MR. SMITH:

My understanding of the policy is the Nevada System of Higher Education has made stricter guidelines. There is no provision for the public to find out about the conflict of interests. They can find out how many are there and this is of benefit, but we do not know the conflicts that exist, what they are and what effect they might be having.

CHAIR LEE:

The hearing on S.B. 279 is closed and we open the hearing on Senate Concurrent Resolution (S.C.R.) 16.

**SENATE CONCURRENT RESOLUTION 16**: Encourages the Nevada Development Authority to create a revolving fund to help support certain types of businesses. (BDR R-875)

SENATOR MICHAEL A. SCHNEIDER (Clark County Senatorial District No. 11):

Senate Concurrent Resolution 16 is meant for Nevada to become aggressive in medical development and medical tourism. The thrust of this resolution is to allow the Nevada Development Authority (NDA) to set up a rotating fund to collect monies to lend to the qualifying companies. Linda Powers is from Toucan Capital in Washington, D.C., representing an assortment of biomedical companies. Her main thrust is tissue and stem cells. Ms. Powers wants to relocate her company to southern Nevada for stem cell application. She is looking at Nevada because of the number of hotel rooms in Las Vegas. There are 160,000 hotel rooms and an international airport with direct flights to first- and second-tier cities within the United States. This is the big step she needs to take for medical tourism. Medical tourism is a multibillion-dollar industry. Many third-world countries have medical tourism, and Nevada needs to lead this nation.

Page 1, lines 19 and 20 of S.C.R. 16 refer to businesses in the medical, health care, biotechnological, bioindustrial or bioagricultural industries. These concern health care with the exception of bioagricultural. Bioagricultural would cover making biodiesel fuel. There is a biodiesel plant in Las Vegas. They have to import corn from Iowa to make their product. Southern Nevada is perfect for growing algae. It grows rapidly because of the heat and is harvested constantly. Algae provide significant oil, and after the oil is squeezed from it, it becomes a food product for humans and cattle. It is efficient. We could replace the importation and use of corn by getting an algae farm in southern Nevada.

LINDA F. POWERS (Managing Director, Toucan Capital Corp.):  
Our fund is one of the largest funds across the United States doing early-stage investing and company-building in the biotech area. I have information ([Exhibit H](#), original is on file in the Research Library). The opportunities are enormous. The twentieth century was the century of physics. The twenty-first century will be the century of biotechnology and biology. This is across the board: human medicine, animal medicine, industry with less toxic industrial enzymes, ingredients for making various materials such as plastics, as well as bioagriculture and bioenergy.

A capital facility such as this revolving fund could catapult Nevada virtually overnight by attracting and cherry-picking the best and brightest from companies across the country. It has taken California over 20 years to build up the biotech clusters in the Bay Area and the San Diego area. It has also taken Massachusetts over 20 years to build up in the Boston area. It took time because they had to grow funds. This is the advantage Nevada would have with the creation of this revolving fund. The explosion of research and the fruits of research ready for commercial application outstrips the supply of funding for them. Additionally, the available funding to date has been heavily concentrated almost entirely on research and not on the commercial application resulting from research. In my world of regenerative medicine, there are states such as California investing \$3 billion; New York, \$1 billion; Massachusetts, \$1 billion; and Maryland, \$1 billion. Florida's amount is pending. Where did all this money go? It went into research. Right now, there is a capital shortage for early-stage company-building. If capital is provided through this revolving facility, it can be done in a self-sustaining way that gets paid back. We have 22 companies in our portfolio that would happily pay back a multiple of the money, because if the funding is available and products get off the ground, the financial returns in these biotech industries are enormous. If the State could make a concerted

effort while stimulus monies are distributed, the NDA could set up this facility on a one-time basis to become self-sustaining. You can condense a couple of decades of growth funding into a rapid process.

SENATOR RAGGIO:

This is an exciting prospect. What is the name of your fund?

Ms. POWERS:

Our fund is called Toucan Capital.

SENATOR RAGGIO:

How long has your fund been in operation?

Ms. POWERS:

The fund has been in operation since 1998.

SENATOR RAGGIO:

Where does most of your funding come from?

Ms. POWERS:

Our funding had to come from alternative, nonconventional sources. Seventy-five percent came from the federal government under a program called Small Business Investment Company, in which the federal government will provide up to \$2 of federal cash for each \$1 of private capital. Additional capital came from two states, Maryland and West Virginia. They conducted competitive processes and chose us as the recipient. The remaining 25 percent, about \$40 million, is private capital; the largest amount of money comes from the partners themselves. Where it did not come from was pension funds and other typical institutional investors, who do not want to have their money flow into early-stage biotech. Whether it is medical biotech or bioenergy, you have to get across the early-stage capital gap, which is often referred to as "the valley of death."

SENATOR RAGGIO:

Is your fund also limited to the type of businesses that are indicated in this resolution? These are medical, health care, biotechnological, bioindustrial and bioagricultural.

MS. POWERS:

Yes. Our fund is focused on life sciences broadly defined.

CHAIR LEE:

We are asking the southern Nevada Development Authority to recognize this. Has there been conversation with them?

SENATOR SCHNEIDER:

There has been extensive conversation with them. Ms. Powers has also had extensive conversation. The Nevada Development Authority is here, ready to testify in favor of this resolution.

MS. POWERS:

The spectrum of biotech, medical or nonmedical offers a number of high-quality jobs involved with this industry. This is a jobs-intensive industry. These are knowledge-based jobs that do not require a four-year college degree. Each segment of this is not only a segment of new product, but also a segment of new manufacturing of the new products. If you get the regenerative medicine patients coming here in the medical biotech, you are going to have the regenerative medicine manufacturing here. This is the new manufacturing industry of the future that does not require prequalifications and easily fits with community college training programs.

SENATOR SCHNEIDER:

This area would drive our tourism industry. People are traveling for health care tourism. On the *Today Show* this morning, there was the story about Farrah Fawcett and her relapse with cancer. I assume she received a bad prognosis regarding her cancer, so she has been traveling to Germany for treatments. Germany is aggressive in their treatment programs. Why should people have to leave our county to receive treatment? Dr. Nancy Snyderman, also on this morning's Today Show, said people often travel to Mexico and other third-world countries for aggressive treatment not available in our county. This biotech industry can be the leading edge in the world with their stem cell research and other tissue research.

LUIS VALERA (Commissioner, Commission on Economic Development):

The Commission on Economic Development supports this plan as a vehicle to grow the biotech cluster around outpatient stem cell services and procedures. It has the added value of not only creating high-wage jobs and attracting

investments but also building on our resort infrastructure, as most procedures are outpatient. The Commission registers our support for this resolution.

RUSSELL M. ROWE (Nevada Development Authority):

Somer Hollingsworth, President and CEO of Nevada Development Agency (NDA), has been in discussions with Senator Schneider and Ms. Powers about creating this type of fund, which would be helpful in developing the biotechnology sector, including biofuels. There is more work to be done on the details. The NDA is not set up to be a bank. Mr. Hollingsworth, as a former banker, certainly understands what is involved. This is something we can move forward on, provided we can handle this administratively.

SENATOR RAGGIO:

The concept is good, but is the resolution necessary to do this?

MR. ROWE:

We could move forward without the resolution, although the intent of the Legislature is helpful with our work with the community and the NDA's work with the community.

SENATOR RAGGIO:

We need to encourage others, such as Economic Development Authority of Western Nevada, northern Nevada and others, to do the same. It is a great idea and something that can be done without the Legislature urging you do something.

SENATOR CARE:

Page 1, lines 17 and 18 say, " ... the Nevada Legislature hereby encourage[s] the Nevada Development Authority to create a revolving fund... ." Can the NDA do this already, or does it require a specific statute. Is this language sufficient?

MR. ROWE:

The resolution is not necessary for the NDA to move forward, short of potential prohibition or regulatory requirements with respect to our financial regulatory structure, which I have not reviewed. Absent that, we could move forward without a resolution.

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CHAIR LEE:

There is no further business. This meeting of the Committee on Senate Government Affairs is adjourned at 3:03 p.m.

RESPECTFULLY SUBMITTED:

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Cynthia Ross,  
Committee Secretary

APPROVED BY:

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Senator John J. Lee, Chair

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