

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

**Seventy-fifth Session
April 8, 2009**

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 2:18 p.m. on Wednesday, April 8, 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

GUEST LEGISLATORS PRESENT:

Senator Dennis Nolan, Clark County Senatorial District No. 9

STAFF MEMBERS PRESENT:

Heidi Chlarson, Committee Counsel
Michael Stewart, Committee Policy Analyst
Olivia Lodato, Committee Secretary

OTHERS PRESENT:

Richard "Skip" Daly, Business Manager, Laborers' International Union of North America, Local 169
Richard J. Nelson, P.E., Assistant Director, Operations, Nevada Department of Transportation
Cass Palmer, Chairman, Governor's Workforce Investment Board
Jay Parmer, Enhanced Capital Partners, Inc.
Gingee M. Prince, Enhanced Capital Partners, Inc.

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Chair Lee opened the work session with the discussion of 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)

Michael Stewart, Committee Policy Analyst, said S.C.R. 16 created a revolving fund to help support businesses specializing in medical, health care, biotechnological, bioindustrial and bioagricultural activities ([Exhibit C](#)). He said there were no amendments proposed for the bill.

Chair Lee said the bill was an attempt to open accounts with the Nevada Development Authority. He also said there might be federal money available. He asked for a motion on S.C.R. 16.

SENATOR HORSFORD MOVED TO DO PASS S.C.R. 16.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Lee opened the discussion on Senate Bill (S.B.) 263. He said the bill was introduced by Senator Rhoads and amended the charters of the Cities of Carlin and Wells.

SENATE BILL 263: Amends the Charters of the Cities of Carlin and Wells to revise provisions governing municipal elections. (BDR S-1003)

Mr. Stewart said S.B. 263 concerned municipal elections in Carlin and Wells. He said there was an attached Proposed Amendment 4128 which incorporated a portion of the amendment presented by the Office of the Secretary of State in consultation with the Elko County Clerk ([Exhibit D](#)).

Chair Lee said the Secretary of State presented an amendment which made the filing for the offices consistent throughout the State. He asked if there was any discussion concerning the bill. As there was none, he accepted a motion.

SENATOR MCGINNESS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 263.

SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Lee opened the discussion on S.B. 245.

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

Chair Lee asked to bring S.B. 245 up for reconsideration. He said he talked to Zev E. Kaplan, legal counsel for the Regional Transportation Commission (RTC) of Clark County. He said the revised provisions in S.B. 245 were referred to as the Regional Transportation Commission Act and brought various statutes concerning RTCs. The legislation looked at the Clark County Airport Act in *Nevada Revised Statutes* (NRS) as a guide. He added he learned the language in S.B. 245, section 39 was not necessary for the RTC since they had language in every contract that provided the contractor protected, defended and indemnified and held harmless the RTC. He said the language was used for 18 years and the RTC had experienced no problems with claims. He requested the Committee rescind their action to amend and do pass S.B. 245 without the deletion of section 39. Chair Lee requested processing S.B. 245 as proposed in the work session document which included the deletion of section 39 ([Exhibit E](#), original in on file in the Research Library).

SENATOR CARE MOVED TO RESCIND THE ACTION TAKEN ON APRIL 6 ON S.B. 245.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR RAGGIO VOTED NO.)

Chair Lee asked for a new motion on S.B. 245.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 245.

SENATOR BREEDEN SECONDED THE MOTION.

Chair Lee asked if there was discussion on the motion.

Senator Raggio asked if the amendment to S.B. 245 restored section 39, Exhibit E. He said he supported the bill originally when section 39 was in the bill. He said, for the record, he wanted to leave section 39 in the bill. His concern was the country was a litigious nation, and deleting section 39 of the amendment in Exhibit E made the RTC vulnerable. He read section 39 into the record.

No action or suit shall be brought or maintained against the commission or its officers, agents, servants or employees for damages arising from tort occurring in or about the construction, transportation system, facilities or equipment under the control of a commission or in the conduct of its activities at such times as such system, facilities or equipment may be leased to, operated by, or otherwise under the control or management of any individual

Senator Raggio inquired why a provision allowing the RTC to be sued and go through the expense of a trial would be left in the law. He said he was a lawyer and he understood it gave the trial lawyers an opportunity to file a suit. He said they could file the suit against the actual entity or individuals who were operating the facility. He asked why they would leave a cause of action or put it back in the bill and force the Commission to go through a trial. He said it was not an answer to say they could be reimbursed if a judgment was levied against them. He said he did not encourage this kind of lawsuit.

Chair Lee said he made sure that this action would not harm the RTC. He asked if there was any further discussion. There was none.

THE MOTION CARRIED. (SENATORS MCGINNESS, RAGGIO AND TOWNSEND VOTED NO.)

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Chair Lee opened the discussion on S.B. 377.

[SENATE BILL 377](#): Makes various changes relating to public works. (BDR 28-729)

Mr. Stewart said the bill concerned public works. The bill clarified the exemption for certain purchasing contracts in existing law from the requirements for public works contracts. He said the original bill eliminated exemptions from Nevada Department of Transportation (NDOT). The bill eliminated the exemption for certain utilities and water districts from the requirement for competitive bidding ([Exhibit F](#), original is on file in the Research Library). Mr. Stewart said Amendment 4084 was attached. He said it deleted sections 1 through 7 of the bill and added a new section 8 to the bill, [Exhibit F](#). He said the deletion of sections 1 through 7 served to address concerns of the Las Vegas Valley Water District, the City of Las Vegas, Clark County School District and Washoe County School District. A new section 8 of S.B. 377 addressed the authority of NDOT to receive informal bids and award contracts for highway projects estimated not to exceed \$250,000.

Senator Lee said the original bill caused consternation among a large number of people. They all met and agreed to the revised amendment for S.B. 377.

Senator Raggio asked the effect of deleting sections 1 through 7. He said it was a concern expressed by the Washoe County School District. He asked if that meant deleting the entire bill. He said the bill had eight sections in it.

Mr. Stewart offered comment on Amendment 4084. He said the mock-up proposed to delete sections 1 through 7 of the bill, created a new section 8, and the original section 8 became section 9 which was the effective date provisions, [Exhibit F](#).

Senator Raggio asked if it addressed the concerns expressed earlier by the school districts and water districts.

Senator Lee replied it answered the questions of the various entities.

Richard "Skip" Daly, Business Manager, Laborers' International Union of North America, Local 169, said the bill addressed the concerns of the various agencies. The effect of deleting sections 1 through 7 meant existing law

remained the way it was without amendments and the compromise with NDOT was addressed in the amendment in section 8.

Senator Raggio asked if NDOT was in support of the proposed amendment.

Richard J. Nelson, P.E., Assistant Director, Operations, Nevada Department of Transportation, supported the amendment. He said it would facilitate NDOT's ability to contract out smaller projects, which was the intention of the bill.

Senator Care asked if the new bill removed the fiscal note attached to the original bill.

Mr. Nelson replied it removed the fiscal note.

Chair Lee asked for a motion on S.B. 377.

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 377.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR TOWNSEND WAS ABSENT FOR THE VOTE.)

Chair Lee opened discussion on S.B. 376.

[SENATE BILL 376](#): Makes various changes relating to the prevailing wage requirements. (BDR 28-730)

Mr. Stewart said S.B. 376 concerned prevailing wage requirements. The bill clarified that the prevailing wage rates surveys conducted by the Labor Commissioner encompassed private and public nonresidential construction work ([Exhibit G](#)). He said the bill specified the classes and subclasses surveyed. If it was a prevailing wage that was collectively bargained, it required the Labor Commissioner recognize that rate and adjust it for the classes and subclasses of workmen. The bill exempted the Labor Commissioner from compliance with the Nevada Administrative Procedures Acts in establishing the prevailing wage rates

in each county. He said there were several proposed amendments to S.B. 376. He said the amendment added "electrician-lineman/groundman" to the classes of workmen listed. The amendment deleted language in section 1, subsection 4 of the bill requiring the Labor Commissioner recognize and survey only the workmen subclasses of foreman, general foreman and journeyman. Additionally, the amendment clarified in section 1, subsection 5, the Labor Commissioner need not conduct a hearing in the locality in which the work occurred if the prevailing wage can be corrected to the rate of wages requested in the objection or information by the Labor Commissioner through administrative action.

Mr. Stewart said the amendment deleted a provision in section 1, subsection 9, requiring the Labor Commissioner to adjust premium pay in addition to the prevailing wage. The amendment also clarified the adjustment must be based on the collectively bargained wages in effect on the effective date of the wage determination. Another portion of the amendment provided in section 2, subsection 1, paragraph (n), the Labor Commission was exempt from the Nevada Administrative Procedures Act only as it related to the process of determining and issuing the conduct of annual surveys, [Exhibit G](#). Finally, the amendment added language clarifying the effective dates of the bill.

Mr. Stewart referred to an amendment proposed by John Madole of the Associated General Contractors, Nevada Chapter, which deleted proposed new language in section 1, subsection 2 of the bill relating to the survey of private or public nonresidential construction. The amendment also proposed deleting section 1, subsection 9 in its entirety, [Exhibit G](#).

The proposed amendment to section 1, subsection 2 of the bill added a new wage classification for "Lightning Protection Technicians," [Exhibit G](#).

Mr. Stewart said the next amendment to section 1, subsection 2 deleted the new proposed language relating to surveying of private or public nonresidential construction and specified the Labor Commissioner shall not include public works and residential projects in his annual survey of contracts. He said Tray Abney of the Reno-Sparks Chamber of Commerce said the language was identical to a bill in the Government Affairs Committee in the Assembly, [Exhibit G](#).

The last amendment provided the Labor Commissioner adopted regulations establishing a process to annually adjust the prevailing rates of wages and classifications established through the survey, [Exhibit G](#). He said some of the amendments were mutually exclusive and the Committee would have to make a policy decision as to which direction they chose.

Senator Lee referred to the amendment concerning the electrician, linemen/groundmen. He said they had been left out and were not an added trade in the bill. He talked to several contractors and union members and they were in agreement with the bill. He said the portion concerning the "Lightning Protection Technicians" was brought forth by someone who was trying to put together a new classification. He said electricians already do this kind of work. He said the amendment did not appear to have the big public policy of the bill. He said the lightning technician work would continue to be handled by the electrician classification. Chair Lee said the amendment proposed by Tray Abney changed a large amount of the structure of the bill, [Exhibit G](#).

Mr. Stewart said the Committee needed to make a policy choice on this amendment. He said either they chose to go primarily with the proposed amendment by the working group or Mr. Abney's amendment, which said surveys would not include public works in residential projects. Mr. Stewart added John Madole, the Associated General Contractors of America, proposed a similar amendment, [Exhibit G](#).

Senator Lee asked for discussion on the proposed amendments.

Senator Raggio inquired whether the mock-up Amendment 3700 included the amendments on page 2, paragraph 2 of [Exhibit G](#) which included John Madole's proposed amendments 2a, 2b, and 4. He asked what Amendment 3700 included of those proposed amendments.

Mr. Stewart said the description of the mock-up was all the amendments numbered 1a, 1b, 1c, 1d, 1e, and 1f of [Exhibit G](#). The mock-up did not include amendments 2, 3 4 and 5 of [Exhibit G](#).

Senator Raggio said there was an extended hearing on the amendments. He said the prevailing rate of wages had new items added that the Labor Commissioner was required to recognize. He said it could increase the cost of prevailing wage.

He said that was something they did not want to do or put into statute that would result in an increase in the prevailing wage.

Mr. Daly said the provisions in the proposed amendment versus Mr. Madole's proposed amendments were in conflict. He said the mock-up contained the compromises they believed were appropriate, [Exhibit G](#). He said road construction work for NDOT was done by signatory contractors 80 percent of the time. He said any increased cost would be negligible. They already paid the provisions in the amendment. He said the shift differential was recognized for several crafts, but not all of them. He wanted consistency for all the crafts if the union rates prevailed.

Chair Lee requested a brief recess. He reconvened the Committee and requested [S.B. 376](#) be held and the bill processed at the end of the week.

Senator Horsford said there were several hearings concerning the bill. He urged the Committee to move forward and work out any problems on the floor or in the other House.

Senator Raggio said the bill had not had several hearings. He said there was only one hearing on the bill last week. He said he sat through the entire hearing last week as did most of the Committee. Senator Raggio was prepared to vote no on the bill unless Mr. Madole's proposed amendments were included. He said the bill was at risk of not being approved in Committee or by the Governor.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED [S.B. 376](#).

Senator Raggio asked, for the record, for clarification that the Majority Leader was suggesting the bill be amended by the Proposed Amendment 3700 to [S.B. 376](#) and no further amendments, [Exhibit G](#).

Chair Lee asked Senator Horsford if the proposed amendment was Amendment 3700.

Senator Raggio said he wanted the record to be clear on what the Committee was voting. He said they were voting on a motion to amend with a proposed Amendment 3700 and no further amendments were being considered.

Senator Horsford said it was Amendment 3700, and he asked Staff to point out any other language in the work session document that needed consideration.

Mr. Stewart pointed out that the mock-up was Proposed Amendment 3700 to Senate Bill 376. He said the rest of the amendments were proposed on page 2 of the work session document, Exhibit G. He said the other amendments were proposed by Mr. Madole and also the deletion of subsection 9. He said that was not part of Amendment 3700. Mr. Stewart said amendment number 3 was not part of Amendment 3700 and numbers 4 and 5 were also not part of Amendment 3700.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS MCGINNESS, RAGGIO, AND TOWNSEND VOTED NO.)

Chair Lee opened the discussion on S.B. 279.

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

Senator Care said there were several amendments proposed by the Nevada System of Higher Education's Board of Regents. He said the first option provided that the notice of the contract provided by the employee was a public record except where the employer had determined that such contractual information was private or privileged. He said he was unsure of the criteria the Board of Regents used to make the determination whether it was private or privileged information. The second option provided that the notice was public record except the Nevada System of Higher Education employees and officers, and such disclosures shall be governed by the Board of Regents' policy (Exhibit H). Senator Care said he pointed out to Vice Chancellor Jane Nichols the state of Ohio had statutes that made such documents public. Ms. Nichols was aware that was the case in Ohio, but she said most states did not make the documents public.

Mr. Stewart said the mock-up of Proposed Amendment 3825, mentioned by Senator Care, Exhibit H, included full-time faculty members. The

second proposed amendment was from the Nevada System of Higher Education and retained section 2 of the bill, [Exhibit H](#). He said both amendments addressed full-time state officers and employees. Senator Care's proposal only addressed the faculty at the Nevada System of Higher Education.

Chair Lee asked Senator Care if he wanted to include full-time state officers or full-time employees in S.B. 279. Senator Care said he was always in favor of full disclosure and had not changed his mind with today's bill.

Chair Lee said the Committee had Proposed Amendment 3825 to Senate Bill No. 279, [Exhibit H](#), with an additional option by the Nevada System of Higher Education. He asked for a motion on the bill.

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 279.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS LEE, MCGINNESS, RAGGIO,
AND TOWNSEND VOTED NO.)

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Chair Lee opened the discussion on S.B. 301.

SENATE BILL 301: Makes various changes relating to military installations.
(BDR 22-689)

Mr. Stewart said S.B. 301 required planning commissions in areas that included military installations to work with military personnel to designate certain areas of property near the military installations for special treatment under the master plans ([Exhibit I](#), original is on file in the Research Library). Master Plans were required to amend zoning to assure compatibility with military operations. He said a compromise amendment, Proposed Amendment 3903, was generated to address some of the concerns raised during the earlier hearing on the bill, [Exhibit I](#). He said a copy of the amendment was supplied for the Committee.

Chair Lee said a large number of people were interested in S.B. 301.

Senator Dennis Nolan, Clark County Senatorial District No. 9, said the bill involved the two primary military installations in Nevada, Nellis Air Force Base and Fallon Naval Air Station. The need for the bill was a result of the growth in population in the State that encroached on the bases and their ability to conduct operations. He said the operations were not being interfered with at this point but action was needed to maintain the ability to continue their operations. He said the loss of a wing at Nellis Air Force Base might result in the loss of thousands of civilian jobs. Senator Nolan said there were a large number of interested people who worked to perfect the amendment. The different parties agreed to most of the issues in Amendment 3903. He said some new issues were also a part of the discussion. Many parts of the bill were deleted in order to satisfy the interests of local government and developers. He said section 7, subsection 5 of Amendment 3903 required the governing body of the city or county where 1,000 or more service members were assigned to include in its master plan a military activities plan as provided in NRS 278.160, [Exhibit I](#). Senator Nolan said the amendment included commonsense provisions. He said they wanted to alert developers to the potential hazards of building near an active military base. He suggested people from the bases testify if required.

Chair Lee said 90 percent of the problems addressed were solved in Amendment 3903 to S.B. 301. He said the bill was ready to be moved.

Senator Care asked Senator Nolan to clarify what installations in the State had 1,000 or more service members permanently assigned. Senator Nolan mentioned Creech Air Force Base, Fallon Naval Air Station and Hawthorne Army Depot.

Chair Lee requested a motion on S.B. 301.

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 301.

SENATOR MCGINNESS SECONDED THE MOTION.

Senator McGinness said he represented Hawthorne, and it was the most military community in the world. He wondered if the bill adversely affected Hawthorne.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Lee opened discussion on S.B. 239.

[SENATE BILL 239](#): Provides for greater coordination of Nevada's economic development and workforce development goals. (BDR 18-1080)

Mr. Stewart said S.B. 239 provided for greater coordination of Nevada's economic development and workforce development goals. He said it had to do with the Governor's Workforce Investment Board establishing industry sector councils. The bill also required the Board to identify and seek federal funding to provide grants to fund those job training and education programs ([Exhibit J](#)). Mr. Stewart stated there were two mock-up amendments to the bill Amendment 4127 and Amendment 4129, [Exhibit J](#).

Chair Lee said Cass Palmer was participating in the discussion via telephone from Las Vegas.

Senator Horsford said Amendment 4127 proposed in the work session document to S.B. 239 added additional stakeholders as deemed necessary by the Governor's Workforce Investment Board on the industry sector councils, [Exhibit J](#). He said the second Amendment 4129, proposed by Mr. Galbreth, was brought forward by Mr. Parmer. Senator Horsford was in agreement and supportive of Amendment 4127 and Amendment 4129.

Cass Palmer, Chairman, Governor's Workforce Investment Board, said he was in full support of the bill and the proposed amendments. The main focus of the amendments would be to support the Nevada's Workforce and Nevada JobConnect. The bill allowed the Governor's Workforce Investment Board to identify and create demand-driven sector councils and help provide intelligent feedback regarding job training and education needs that best met workforce needs and goals. He said S.B. 239 aided the State in utilizing more employment training and resources and better leveraging those resources through public and private partnerships. The bill also helped the Governor's Workforce Investment Board effectively plan and allocate training dollars to create new pathways for low-wage workers. Lastly, S.B. 239 partnership requirements assisted the State

in acquiring additional funding for workforce investment acts and grants which required strong partnership and collaboration.

Senator Horsford elaborated on the statements by Mr. Palmer. He said the Amendment 4127 was brought forward in part due to concerns about the Governor's Workforce Investment Board. He said the amendment by Mr. Galbreth addressed the appointment of members and the functions of the Board to be more effective in its goals relating to workforce and economic development.

Chair Lee asked Senator Horsford about Proposed Amendment 4129 to S.B. 239, [Exhibit J](#).

Senator Horsford said Proposed Amendment 4129, [Exhibit J](#), was separate from the issue of the Governor's Workforce Investment Board and sector councils but was germane. Senator Horsford was approached by Mr. Parmer to use it as a vehicle. Senator Horsford supported Amendment 4129.

Jay Parmer, Enhanced Capital Partners, Inc., said [S.B. 239](#) addressed the need for job creation in Nevada. He said the State should not wait to address the needs for good-paying jobs until the economy rebounded. The Proposed Amendment 4129 to Senate Bill No. 239, [Exhibit J](#), addressed the challenge of providing job opportunities to the best and brightest in the State. The Commission on Economic Development identified Nevada as needing a mechanism to bring ideas from the universities to the marketplace. The Commission also identified that Nevada did not have the ability to commercialize "home-grown technology." He said the bill presented an opportunity for the State to use Nevada-educated college graduates and people trained by the proposed programs.

Gingee M. Prince, Director, Enhanced Capital Partners, Inc., worked for a national private investment firm specializing in investments in small and growing businesses. She spoke on the need for access to capital for small businesses and to provide information about the small business investment credit program which would provide capital for small businesses. She said prior to the economic downturn, there existed a cap in capital financing for early-stage small businesses. She said the capital gap was approximately \$500,000 to \$3 million. Traditional venture capital funds were investing at a later stage and not taking as much risk as they use to take. The Nevada small business investment credit

was designed to fill this void in the capital spectrum by providing much-needed, early-stage venture and debt financing for small businesses. The focus of the capital would be directed at companies developing renewable energy sources; helping rural Nevada companies obtain financing; providing capital for companies located in enterprise zones; and creating opportunities for minority-owned businesses to grow.

She said programs similar to Nevada small business investment credit program created over 21,000 jobs on a national level. She said if Nevada were to authorize a similar program, a \$50 million program, it had the potential to attract up to \$300 million in private investments into the State.

Chair Lee said after family and friends were asked for funding and they did not have enough money, a company such as Ms. Prince's came in with serious money and helped bring industry to the State.

Ms. Prince replied he was correct.

Senator Horsford summed up what he was attempting with S.B. 239. He said the bill created sector-based policy councils under the direction of the Governor's Workforce Investment Board. The amendment provided by Mr. Palmer, Amendment 4127, provided more structure for the appointment of members to the Board. The Proposed Amendment 4129 from Mr. Parmer allowed the bill to be used as a vehicle for further discussion on the concept around small business investment opportunities that may be able to be leveraged with some of the resources coming through the economic development agency in place. He said this offered several new ideas, and he supported the concepts. He said Mr. Parmer's proposal would have to go to the Senate Committee on Finance for discussion around revenue earmarked for the small business concept.

Chair Lee said S.B. 239 with two amendments was ready for a motion.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 239.

SENATOR TOWNSEND SECONDED THE MOTION.

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THE MOTION CARRIED UNANIMOUSLY.

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Chair Lee said the Committee had completed its work. As there was no further discussion, he adjourned the meeting at 3:36 p.m.

RESPECTFULLY SUBMITTED:

Olivia Lodato,
Committee Secretary

APPROVED BY:

Senator John J. Lee, Chair

DATE: _____