

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

**Seventy-Sixth Session
April 15, 2011**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 7:34 a.m. on Friday, April 15, 2011, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 5100 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn K. Kirkpatrick, Chair
Assemblywoman Irene Bustamante Adams, Vice Chair
Assemblyman Elliot T. Anderson
Assemblywoman Teresa Benitez-Thompson
Assemblyman John Ellison
Assemblywoman Lucy Flores
Assemblyman Ed A. Goedhart
Assemblyman Pete Livermore
Assemblyman Harvey J. Munford
Assemblywoman Dina Neal
Assemblywoman Peggy Pierce
Assemblyman Lynn D. Stewart
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman	David	Bobzien,	Washoe	County	Assembly
	District No. 24				
Assemblywoman	Debbie	Smith,	Washoe	County	Assembly
	District No. 30				

STAFF MEMBERS PRESENT:

Brenda Erdoes, Legislative Counsel
Susan Scholley, Committee Policy Analyst
Cyndie Carter, Committee Manager
Sheryl Burrows, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Erika Wesnousky, Controlled Burn, Reno, Nevada
James M. Wright, Chief, State Fire Marshal Division, Department of
Public Safety
P. Michael Murphy, representing Clark County
Lucas Foletta, General Counsel, Office of the Governor
Jeff Herring, Executive Director, Department of Human Resource
Management, State of Utah
Vishnu Subramaniam, Chief of Staff, American Federation of State,
County, and Municipal Employees, AFL-CIO Local 4041
Ron Bratsch, representing American Federation of State, County, and
Municipal Employees, AFL-CIO Local 4041
Tina M. Leiss, Operations Officer, Public Employees' Retirement System
Don Helling, Deputy Director, Operations, North, Department of
Corrections
Teresa J. Thienhaus, Director, Department of Personnel
Rudy Malfabon, Deputy Director, Southern Nevada, Director's Office,
Department of Transportation
Nancy Wojcik, Administrator, Division of Field Services, Department of
Motor Vehicles
Elmer Bull, Chief, Habitat Division, Department of Wildlife
Jennifer McEntee, Administrative Services Officer II, Office of the Military
Laurence Irwin, representing the Office of the Military
Robert Fisher, Member, Nevada Commission on Homeland Security
Josh Griffin, representing MGM Resorts International
Ernie Adler, representing the Reno Sparks Indian Colony

Rebecca Gasca, Legislative and Policy Director, American Civil Liberties Union of Nevada

Chair Kirkpatrick:

[The roll was called.] I would like to wish Ms. Woodbury a happy birthday. We are going to open the hearing on Assembly Bill 304.

Assembly Bill 304: Provides for the certification of fire performers and apprentice fire performers. (BDR 42-885)

Assemblyman David Bobzien, Washoe County Assembly District No. 24:

I will immediately direct you to the amendment in the Nevada Electronic Legislative System (NELIS), which changes this bill significantly ([Exhibit C](#)). This is a bill about fire performance and culture in northern Nevada. I have with me at the table Erika Wesnousky from Controlled Burn, which is a nonprofit organization that does fire performance in northern Nevada and is a big part of our cultural activities. We want to ensure that the statutes support the performance and the safety standards adhered to by this organization in all of their practices. You should have received an email a day or so ago of an instructive YouTube clip about fire performance and about the nature of Controlled Burn. I hope that you will look at that. The amendment does two things. It sets in statute 18 as the minimum age for a fire performance apprentice, instead of 12—a key distinction. Section 6 explains that at 21 years of age, one has the ability to be a fully licensed fire performer. It also regulates the fee for a license paid by performers to the State Fire Marshal. The Fire Marshal, himself, Jim Wright, who is here to testify in favor of the bill, was on a team of a variety of fire officials who worked on this amendment.

Erika Wesnousky, Controlled Burn, Reno, Nevada:

I wish to speak in support of A.B. 304. [Erika Wesnousky read from prepared testimony ([Exhibit D](#)).]

Chair Kirkpatrick:

Thank you. Does anybody have any questions?

Assemblyman Ellison:

Why is such a bill necessary? Can the local authorities not handle this issue?

Assemblyman Bobzien:

This bill came to me by way of the constituents. I have become familiar with Controlled Burn over the course of a couple of summers in helping out with, and providing music for, a couple of their performances. I have seen firsthand the safety protocols that they put in place and how seriously they take their art

form. But there has been, at times, confusion and contention on the part of the local jurisdictions—and understandably so—over how to how to deal with Controlled Burn. Fire performance is, after all, a unique art form, which elicits varied responses from local jurisdictions to the performances, on a case-by-case basis. It results in hardship when Controlled Burn is trying to schedule and carry out events. I have worked with the State Fire Marshal, and I believe we can create standards which level out the playing field for these performances.

Chair Kirkpatrick:

Are there any other questions?

Assemblywoman Bustamante Adams:

Is section 7 of the original bill still valid?

Assemblyman Bobzien:

Yes.

Assemblywoman Bustamante Adams:

In line 25 of section 7 it says that the application that is submitted to the State Fire Marshal includes the member's social security number. Is that a standard practice?

Assemblyman Bobzien:

My understanding is that that is, but I would like the State Fire Marshal to speak to that. A lot of the language down here below, about court orders for support of children and so on, is fairly standard licensure language.

Assemblywoman Bustamante Adams:

It was mentioned that Controlled Burn works collaboratively with a lot of other nonprofit organizations. I have a good number of constituents in my district of Asian Pacific descent who participate in this kind of practice as a career. Was southern Nevada included in any of the discussions regarding this legislation?

Assemblyman Bobzien:

We had an open discussion, but it did not necessarily include input from southern Nevada. We do recognize that the art form is a traditional cultural characteristic of certain communities. Regulations for these types of performances are not relevant to every state, nationally. They are contemplated in Hawaii, because of its traditions and, interestingly enough, here in Nevada, because of the organization in northern Nevada. As we put policy in place, we want to make certain that it is sensitive to the rights of all communities across the state and that outreach happens.

Chair Kirkpatrick:

Are there any other questions?

Assemblyman Livermore:

You have performers and apprentice performers in this. Is the difference about age? What moves you from an apprentice to a performer?

Assemblyman Bobzien:

The idea would be—and Controlled Burn is a great group for this in terms of providing instruction, safe practices, and mentorship—that you start off as an apprentice at age 18 and then, once you have gone through the apprenticeship, you become a fully licensed performer at age 21. I think it is an important distinction. For me, this is similar to a bill I did last session dealing with apprentice hunters. The age for that is much lower than what we are discussing here, and in that situation we are talking about youth with firearms, et cetera. The idea is to try to enshrine the notion that it is intrinsically valuable to learn skills by working with a senior, more experienced person in a real-life environment before you are a fully licensed performer.

Assemblyman Livermore:

So you could be an apprentice at 18 or at 28, depending on your level of indoctrination.

Assemblyman Bobzien:

Correct.

Chair Kirkpatrick:

Are there any other questions?

Assemblyman Goedhart:

What was the genesis of the movement behind this bill? Was some person playing around with a torch and burned a place down or something? What has caused us to go down this road?

Assemblyman Bobzien:

Controlled Burn has, at times, found themselves in various problematic conversations with local jurisdictions about their performances. For instance, the City of Reno knows them well, as they do a lot of performances downtown, but relations with Lake Tahoe have been less straightforward in the past. So this is to provide some guidance and information to all those jurisdictions which are unfamiliar with the nature of Controlled Burn and to help them understand that the performances are, in fact, properly regulated and safe.

Assemblywoman Flores:

This says, a “‘Fire performer’ means an entertainer or other performer who performs for an audience using an open flame.” I have seen that a lot on Las Vegas Strip properties, and sometimes not in the hotels. Does that activity fall under these regulations? And do you know what current regulations exist and if this regulation would change them?

Assemblyman Bobzien:

I prefer to defer that question to the Fire Marshal. Currently a lot of the structure is found in the *Nevada Administrative Code* (NAC). We are making adjustments and putting the ages, specifically, into statute. My understanding, however, is that this would not make much change to current practices.

Assemblywoman Pierce:

I was thinking along the same lines. So does this mean that people who have been doing this for years on the Las Vegas Strip will now need to fill out a résumé and get a certificate?

Assemblyman Bobzien:

Again, I would prefer to have the Fire Marshal weigh in on this. But, yes, and that is current practice. The certificates have to be obtained now. And Controlled Burn does that.

James M. Wright, State Fire Marshal, Department of Public Safety:

I am also here in support of A.B. 304 as amended and appreciate Assemblyman Bobzien bringing this forward and for working with Controlled Burn and the local fire services. As the licensing authority for fire performers in this state—and currently we have 164 individuals in Nevada licensed to do fire performance, so if there are individuals on the Strip not adhering to regulations, please let us know about that, Ms. Flores—but we set the policy for these performers, and the local fire jurisdictions have the authority to enforce them. With respect to social security numbers, putting them on the application is standard for all of the licensing that we do for the fire industry and for fire performers, and the information is kept confidential.

Chair Kirkpatrick:

Are there any questions? [There was no response.] Are there any other testifiers?

Assemblyman Bobzien:

That is it, thank you.

Chair Kirkpatrick:

Is there anybody who would like to testify in support of A.B. 304?

P. Michael Murphy, representing Clark County:

We were initially opposed, but Clark County's concern about the 12 years of age was heard by Assemblyman Bobzien. So we support this as amended, and we believe it will bring us in line with the National Fire Prevention Association.

Chair Kirkpatrick:

Are there any questions?

Assemblyman Goedhart:

Does the legislation as amended prevent someone who is under 18 years of age from being a fire performer? I know that the licensure age is in there, but does this legislation actually prevent and make illegal someone under 18 performing with fire?

James M. Wright:

Yes, it would prevent that for someone under 18 years of age.

Assemblyman Goedhart:

You are talking to a guy whose son started shooting coyotes at age ten, so to me that seems a little bit of an overreach.

Assemblyman Ellison:

Some cultures start the children off at an early age doing this stuff for religious purposes. I think that setting a minimum of 18 years old could impact those cultures in a large area like yours.

Chair Kirkpatrick:

Mr. Bobzien, could there be a different age? Is it something that you might talk about, or is there some history behind that? The original age was 12, and then it was changed to 18.

Assemblyman Bobzien:

You are right, and there are certainly Asian communities, Polynesian communities—and I could not cite it for you, but my understanding is that there is some case law dealing with religious exemptions when cultural issues are at stake. We mean, though, to address the broader arts culture and to provide structure around fire performance beyond that associated with communities of religious affiliation.

Assemblywoman Woodbury:

The way I had first read it was that the 18 years only applied to apprentices but not to fully certified fire performers.

Assemblyman David Bobzien, Jr.:

The original bill said 12 years old, and that has been amended to 18.

Assemblywoman Woodbury:

Do you mean the original regulations or the original bill? And now the amendment makes everyone have to be 18?

Assemblyman Bobzien:

The NAC currently says age 18. The bill originally dropped that to 12 for the apprentice program. After further discussions, it was thought prudent to increase that to 18 and set 21 for the full standard.

Assemblywoman Woodbury:

For full standard, you mean nonapprentices?

Assemblyman Bobzien:

Correct.

Chair Kirkpatrick:

Are there any more questions? [There was no response.] Is there anybody else who would like to testify in support of A.B. 304? [There was no response.] Is there anybody who is in opposition to A.B. 304? [There was no response.] Is there anybody who is neutral on A.B. 304? [There was no response.] Do you have any final words, Mr. Bobzien?

Assemblyman Bobzien:

I do urge the Committee's support, and we look forward to possibly doing a demonstration when we get over to the Senate side, so you can all see what it is we are talking about, live and in person. Thank you.

Chair Kirkpatrick:

Thank you. We will close the hearing on A.B. 304. Being that today is the last day, I am open to taking motions, if anyone would like to offer one. Is there any discussion?

Assemblywoman Bustamante Adams:

I appreciate Mr. Bobzien presenting this, and I want to make sure I check with my constituents, with the Asian-Pacific Islanders I have in my community. So I would like to reserve my right to change my vote on the floor.

Chair Kirkpatrick:

Is there any other discussion?

Assemblyman Ellison:

I, too, think that we are going to impact the culture with the age limit, so I would like to reserve the right to change my vote on the floor.

Assemblyman Stewart:

I would, also.

Chair Kirkpatrick:

Is there any further discussion? [There was no response.]

ASSEMBLYWOMAN FLORES MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 304.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN GOEDHART VOTED
NO.)

Chair Kirkpatrick:

Mr. Bobzien, could you please speak with the Committee members to ensure that their concerns about cultural sensitivities are addressed? [The Chair received an affirmative response.] Thank you. We heard Assembly Bill 406 last week, but the Office of the Governor wanted to put an amendment on it. For the sake of transparency, I told them that they needed to come in and propose it.

[Assembly Bill 406](#): Creates the Evaluation and Sunset Advisory Commission.
(BDR 18-584)

Lucas Foletta, General Counsel, Office of the Governor:

I am here this morning to discuss the Governor's proposed amendment to A.B. 406. Before I discuss the substance of the proposed amendment, I would like to thank Assemblyman Hansen, who worked with the Governor's Office on this proposal.

The Governor's proposed amendment is consistent with the priorities he outlined in his State of the State Address to pursue positive government reform, in general, and reforms which implement transparency in the Executive Branch. The proposed amendment would replace the currently existing language in A.B. 406 and would change the *Nevada Revised Statutes* (NRS) Chapter 353A,

which is the provision of the state's laws describing the duties and functions of the Division of Internal Audits, as headed by the Chief of the Division of Internal Audits under the supervision of the Executive Branch Audit Committee.

The amendments would accomplish two things, basically. First, they would clarify the authority of the Chief of the Division of Internal Audits to conduct investigations in addition to audits. Second, the amendments would provide the Governor, as Chair of the Executive Committee on Internal Audits, the authority to direct the Chief to undertake an audit or investigation without the approval of the majority of the Committee. Nothing in the amendments would limit the Committee's ability to also authorize an audit or an investigation, but the Governor would, if these changes were enacted, have the authority to direct an audit or an investigation on his own, without seeking the approval of the Committee.

Chair Kirkpatrick:

I just want to clarify that this is actually an addition, for germaneness, so the original bill stays intact, which puts a fiscal note on it, so it would be prime to go to Ways and Means. But this is an amendment to keep the bill intact. And then, I want to make sure that we clarify, if it turns out to be criminal, what is the ensuing process? Is it rereferred to the Office of the Attorney General? Is it rereferred to somebody different? I would like to understand the process, there.

Lucas Foletta:

Currently in NRS Chapter 353A, if the Chief during the course of an audit learns about a potential illegality, he or she is required to report it, although the statute is not clear as to whom it gets reported. One would presume the person would be required to report the potential illegality to the Committee, which approves the work plan by which the auditor performs these audits. If these changes were enacted, the process would remain the same. If the investigation or audit resulted in some potential illegality being discovered, the information would be communicated to the Committee. Similarly there is nothing to preclude the auditor from giving that information to the Attorney General's Office for the appropriate action on their part.

Chair Kirkpatrick:

The only reason I asked is because I, personally, have been working with the Attorney General's Office on some different issues, and I just wanted to make sure that it was clear that we could still proceed. Are there any other questions?

Assemblywoman Pierce:

So the bill was about sunsets, but the amendment is about fraud and waste? Is that correct?

Lucas Foletta:

Yes, that is correct.

Assemblywoman Pierce:

Is there some kind of connection between those two, or do they both happen to be in the same chapter?

Lucas Foletta:

I do think they are consistent in the sense that the purpose, as I understand it, of the Evaluation Committee that the bill originally proposes, is to review currently existing Executive Branch committees to determine whether or not they are still necessary and fruitful. The Governor feels that further evaluating the Executive Branch to determine whether or not those types of bodies and Executive Branch agencies, in general, are efficiently being stewards of the people's money is consistent with the overall goal to evaluate the efficiency and efficacy of Executive Branch authority.

Chair Kirkpatrick:

Ms. Pierce, we were all in a public meeting last Thursday night, at which the Governor's Office, Mr. Hansen, and Mrs. Smith, all came and spoke on the Sunset Commission. So I believe that there is another avenue for that. However, within the germaneness, this seems to be the place where the bill fits. Ironically, it does not necessarily fit on a bill that has to do with audits. It does not necessarily fit on a bill that has to do with boards. But it does work within their purview of what the Sunset Commission was trying to do, that is, to go back and make sure that people were doing what they were supposed to be doing. That is my understanding of it. It is like at the end of any good deadline, you are always looking for the right avenue to amend something onto, and make the process go.

Assemblywoman Benitez-Thompson:

So right now within the language, the Division is explicitly prohibited from conducting its investigations, is that right?

Lucas Foletta:

That is right. There is language currently in the statute which prohibits the Division, specifically, from conducting investigations. The statute provides, however, the Chief of the Division of Internal Audits with separate duties and authority, and there are some provisions in the statute which suggest that the

Chief maintains the authority to conduct an investigation, in spite of the fact that the provisions relating to the Division's duties and responsibilities do preclude it. There is some lack of clarity as to what the Chief of the Internal Audits Division can do.

Assemblywoman Benitez-Thompson:

And without the concurrence of the Committee? So there would not have to be any discussion amongst Committee members about the investigation or about moving forward with the investigation? This would just be carte blanche for the Chief to decide who to investigate and to what extent and scope?

Lucas Foletta:

It would not be carte blanche for the Chief to determine whether or not an investigation is appropriate, but the Governor would have the discretion to direct the Chief to undertake an investigation. It is the Governor's view that providing that authority would make the Chief and the Division more responsive to evidence, complaints, or indications of waste, fraud, and abuse over the course of a year. With the current process, the Chief of the Division must submit a plan annually to the Committee for its approval. And then over the course of the year, he or she undertakes audits consistent with the approved plan. So there is no mechanism right now by which the Committee can formally ask that the Chief undertake an audit. But this change would allow the Governor, upon his finding it appropriate, to ask the Chief to do an investigation or an audit.

Chair Kirkpatrick:

Are there any other questions? [There was no response.] Is there anybody in support of this bill who would like to speak? [There was no response.] Is there anybody in opposition to this bill who would like to speak? [There was no response.] Is there anybody in neutral who would like to speak? [There was no response.] We will close the hearing on A.B. 406. I believe that if a motion were to be made that the appropriate motion would be to rerefer to the Assembly Ways and Means Committee with no recommendation. The bill has already been exempted, and they were all working on the issue of the Sunset Commission.

ASSEMBLYMAN ELLISON MOVED TO REREFER
ASSEMBLY BILL 406 TO THE ASSEMBLY COMMITTEE ON WAYS
AND MEANS WITH NO RECOMMENDATION.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE
MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Kirkpatrick:

We will open the hearing on Assembly Bill 479. We are teleconferencing from Utah.

Assembly Bill 479: Revises provisions governing the hours of operation of state offices and the hours of employment of state employees. (BDR 23-890)

Assemblywoman Debbie Smith, Washoe County Assembly District No. 30:

[Assemblywoman Debbie Smith gave the following presentation ([Exhibit E](#)).]

Thank you for hearing A.B. 479 today. This is the bill that requires a four-day workweek for state employees. Members of the Committee who were here last special session remember that we passed a similar bill. It was vetoed after we left session. This bill deals strictly with the ten-hour, four-day workweek. Most government agencies would be required to have open office hours from 7 a.m. to 6 p.m. every day, so the public would have access to services for the same number of hours every week as is currently the case. If people needed to access a government agency, they would have the ability to go in earlier in the morning or later in the evening.

Agencies involved in public safety or certain types of welfare situations would be, for obvious reasons, exempted from these requirements. There would be exemptions allowed by the Board of Examiners for the Executive Branch, the Board of Regents for the Nevada System of Higher Education, and the Public Employees' Retirement System. The Supreme Court could make that determination for the Judicial Branch, and the Legislative Commission for the Legislative Branch. We probably would not want our employees working four days a week when we are in session, for example. The idea of the ten-hour, four-day workweek is a new one that is taking hold across the country. We will talk, in a few minutes about Utah, which has used this system for a while.

This idea does a few things. It saves money for the state. It saves money for employees. It gives the public more hours, on four of those work days, to visit state agencies and take care of business. It has been documented to improve employee morale and retention, and it conserves energy. Difficult budget

issues, especially during the last few years, have meant asking our public employees to make concessions and to take cuts, such as furlough days. But something we can put in place for their benefit is this type of work schedule. It would allow them to not have to come in one day a week and can help them save on child care and transportation costs. We have a lot of state employees who commute, and you also know we have some who are losing a portion of incentive pay and rural differential and things like that.

It would not help employees for whom the schedule does not apply, such as those who work in public safety. But in many cases this would save our employees money. We may use Utah as a case study. Utah instituted their four-day workweek by executive order in 2008, and it has recognized savings in the areas of energy use, fleet vehicle costs, overtime, and employee leave, and, most importantly, transportation costs for employees. As a footnote, they have had a difficult time exactly quantifying the savings, but it has been documented that they have saved money. As for whether or not employees like the schedule, I would say the answer is yes. A survey showed an 82 percent employee satisfaction rate and 30 percent reduced cumulative overtime, which is significant. Sixty-two percent of the general public favored the idea, and 11 percent did not have an opinion on it so, overall, a pretty significant piece of the public believes it was a good idea. Calls to consumer complaints have been down and, again, it saves the employees and the state money on gas, energy costs, and janitorial costs. And it is a sensible conclusion that if you are not opening buildings every day to have staff and the public using them, that wear and tear on buildings is reduced.

The bill would not become effective until January 1, 2012, to allow the employees and the state time to prepare for this idea. Some of that preparation would entail adopting certain regulations effective immediately. There is language in the bill which explains how holidays would work and how the days would be structured to address the technical aspects of this new schedule. In summary, this is the idea of implementing of a four-day ten-hour workweek. You will hear from the state employees' association that past polls show very strong support for this idea. We believe it makes employees happy, that it makes the general public happy, and that it also lets the general public see that we are making every effort to be more efficient in government and save costs wherever we can. It conserves gas and energy, which probably does not make the oil companies happy, but that is okay. It saves money for the employees and for the state. That would be the concept, here. The Executive Director of Human Resources from Utah is on the line to talk about how this has worked in Utah. We have had the opportunity to talk a lot about this idea and how they have implemented it, how it has worked, and how pleased the public has been with it. Thank you.

**Jeff Herring, Executive Director, Department of Human Resource Management,
State of Utah:**

Good morning. How are you?

Chair Kirkpatrick:

If you would like to go ahead and tell us a little bit about how the program has worked in Utah, that would be most helpful for the Committee.

Jeff Herring:

Thank you for the invitation to testify in the great state of Nevada. We are sister states, and I think have a lot of the same demographics, so this is probably a fairly good analysis. In Utah, we implemented what we call, "Working 4 Utah," on August 4, 2008, so we are almost three years into it now. As was explained, we did it for a multitude of reasons—to reduce energy costs and to increase customer service to the public by operating some fringe hours, so that the state workforce and the private sector did not have to take off as much of their own time but had extra hours, in the morning and evening, to access state services. We looked at it from an employee perspective and from an environmental perspective, especially thinking about the air quality we have here along the Wasatch County front. And those were the multipoints we returned to as we assessed the program all the way through.

But even our bigger driver in this was probably the independent poll that we had conducted which took a statistical sample across the state, of rural and urban areas and measured public satisfaction. In October 2009, just after a year into the program, we asked people if they wanted it to continue, and 66 percent of those polled said that they did, and 14 percent said that they did not care. For us, that was an 80/20 split with the public.

We also had real cost savings, with 13 percent decreased energy usage due to shutting down buildings one day a week. You can set your watch, now, by how the buildings are regulated with their energy. It reduces the heating in buildings in the winter and the air conditioning in the summer. We saw from the start of the pilot period to postpilot period an increase in positive response from employees to the new schedule up from 82 percent. In May of 2009 we were at 82 percent, so I am sure if I were to do that poll again today we would be 85-plus with the employees. We were concerned about employee response to change, but we helped to facilitate adjustments. There were child care and public transportation issues, but those are challenges that can be met. Cooperation between public agencies helped us to overcome many of those issues.

There is one other thing I would like to mention. The governor who launched "Working 4 Utah" is not the current governor, and I do not think I am going too far out on a limb by saying that, when the new governor came in, he was probably one of the more skeptical observers of the program. But he promised to sit down and look at the data, and when he did he found that it was saving money and that the citizens liked it. He commissioned us to do that independent poll. It would be a tough decision to revoke the program in these tough economic times, when the poll shows a cost savings in government operations. And usually when we propose employee benefits, we come to the Legislature asking for money for those benefits. It is rare to find a benefit that is not only cost neutral but actually saves the organization money. I will answer any questions.

Chair Kirkpatrick:

Thank you, Mr. Herring. Are there any questions?

Assemblywoman Bustamante Adams:

I appreciated your presentation. At the beginning of your statement, you said that Utah and Nevada have similar demographics. Can you elaborate what you meant by that and if that includes Utah having some 24-hour operations?

Jeff Herring:

I mean that, as I have traveled through Nevada, I have observed that you have a couple of urban centers and many rural centers. As our population spreads out, that is an important distinction for us, too. We have got a lot of people in relatively small spaces and also a lot of rural spaces. We do have a big infrastructure. I believe a key to success is to offer an abundance of online services. When we began our program, we had 800-plus online state services. Now we are up to 900-plus, so a program like this can result in innovation and encourage people to use alternative methods of delivering services. The brick-and-mortar construct is slowly dying, and we can put more and more of our services online and have 24/7 citizen access.

Assemblywoman Benitez-Thompson:

Can you speak to the management of flextime? With longer days and then a free day—not a free day, but a day that is not worked in the work week on the Friday—has it been easier for your workers to manage and track that flextime? I thought it might actually reduce it.

Jeff Herring:

This probably put employees on a tighter schedule. When we are at work, we are all at work. We have got a lot of reports from managers, and from their perspective, not having five days over which to spread the hours helps

government to run more effectively. Employees are still working their 40 hours, so this has probably reduced a little bit of the day-to-day schedule flexibility. But, at the same time, it is a trade-off for employees and our numbers, at least, indicate it is a positive one. We are always looking for telecommuting opportunities. I think performance management is essential to any type of flexible or remote scheduling. You have to make sure that you have got good deliverables of metrics around that. But from the employee's perspective, this probably reduces flexibility a little bit.

Chair Kirkpatrick:

Are there any other questions? Mr. Herring, I would bet that the employees probably get a little bit more work done in that extra hour on both ends of the day, just because it is quiet. Is that something that some of the employees talked about as being favorable?

Jeff Herring:

We measured that on our employee survey. About 60 percent of employees reported that they were more productive, and another 18 or 20 percent said that they were as productive. To get a more objective opinion we asked the managers their perspective and got a similar 60/20 response. For me, anecdotally, I find myself working on projects at 4 p.m. which I would have, on an 8 a.m. to 5 p.m. workday, with only an hour left, put off to the next day. I have fewer stops and starts throughout the day. So once I get off and rolling I actually find that I accomplish a lot more in the ten-hour days.

Chair Kirkpatrick:

Are there any other questions? [There was no response.] Mrs. Smith, do you have anything else for Mr. Herring?

Assemblywoman Smith:

I do not. I just want to say thank you for joining us this morning and lending your perspective. It is very helpful.

Jeff Herring:

We would love to help out and to offer you any lessons we have learned.

Chair Kirkpatrick:

With that, is there anybody else you would like to have testify?

Assemblywoman Smith:

Yes, thank you, there are representatives from the employees' association, from the American Federation of State, County, and Municipal Employees, in support.

Chair Kirkpatrick:

If you would like them to come up now, that would be helpful, and then we will go to southern Nevada for those who want to testify in support. There is a ten-second delay.

Vishnu Subramaniam, Chief of Staff, American Federation of State, County, and Municipal Employees, AFL-CIO Local 4041:

We would like to thank Assemblywoman Smith for introducing this bill. We are here in full support of A.B. 479, for several of the reasons already mentioned today. State employees have taken numerous cuts over the past several years such as furloughs, pay freezes, and concessions in regards to pensions and health benefits. This bill would change the workweek for state employees to four ten-hour days per week. It would improve the morale of our state workforce, as it has done in other states. It would give employees an additional day to carry out their family obligations, earn additional income, do community service, or take care of other personal errands. There would be some cost savings to the employees in not having four days of commuting and transportation costs, per month; and with today's gas prices, that does add up. Finally, this would improve employee morale and retention, and thus quality of life. It would keep experienced employees working for the state and would demonstrate appreciation for their hard work.

And, as mentioned, this bill would be good for our state overall. It would reduce costs for the state. There would be four days fewer operating expenses and energy costs per month. It would allow the public to access services earlier in the day, before people go to work, and later in the day, after most people's regular working hours. I think it will make it easier for the state to recruit and maintain professional staff. So there are many benefits for state employees and for the state. That is why we are in full support of this legislation. My colleague will talk about the surveys that have been done by our union as well as the Department of Personnel, and there is overwhelming support for this type of a schedule. Thank you.

Chair Kirkpatrick:

Thank you. Does anybody have any questions? [There was no response.]

Ron Bratsch, representing American Federation of State, County, and Municipal Employees, Local 4041:

We did find a survey ([Exhibit F](#)) done by the state Department of Personnel just before the special session. I made copies; I am sorry I did not get it onto the Nevada Electronic Legislative Information System (NELIS) early enough. We are working on that. The survey shows that 82 percent of state employees would

prefer to go to the 4/10s. Our association also did a survey that showed that over 70 percent of our members would prefer the 4/10s.

In the Department of Corrections, we were on 12-hour shifts, and in my experience, having extra days off heightened the sense of camaraderie with coworkers. We spent more time camping with each other, and doing things like that. And we had time away from the coworkers with whom we were not so friendly. And we saved money. Working 12-hour days saved us, on average, for a commute of 20 miles, an extra hundred dollars a month. Some workers commute even farther, so this means an even bigger savings to them in time and money.

I appreciate your time. Mrs. Smith mentioned Senate Bill No. 3 of the 26th Special Session, and we had overwhelming support out of the Legislature during the special session, and we appreciated it then. We hope to get similar support for A.B. 479. Thank you.

Chair Kirkpatrick:

Are there any questions?

Assemblywoman Woodbury:

Will you just repeat those percentages for me?

Ron Bratsch:

Yes, this one, like I said, will be on NELIS and showed 82 percent. Our Local 4041 took a survey as well that showed over 70 percent. I apologize; I do not know the exact number.

Chair Kirkpatrick:

Are there any other questions? We are going to go to the testifiers from southern Nevada. Is there anybody who would like to testify in support? [The Chair received a negative response.] Is there anybody else in support of A.B. 479 who would like to testify as neutral?

Tina M. Leiss, Operations Officer, Public Employees' Retirement System:

[Tina M. Leiss read from prepared testimony ([Exhibit G](#)).]

[Assemblywoman Bustamante Adams assumed the Chair.]

Vice Chair Bustamante Adams:

Are there any questions from the Committee members? Seeing none, we will go to the next person.

Don Helling, Deputy Director, Operations, North, Department of Corrections:

We would request a clarification with regard to exemptions. You detail police, deputy sheriffs, and jailers. Are you talking about peace officers? There are three different categories in Nevada of peace officers, I, II, and III. Police are in category I, correctional officers are in category III, and there are a lot in between which make up category II. Does this bill exempt all police officers?

Vice Chair Bustamante Adams:

That would be a question for the bill's sponsor, but I am sure she is writing it down. Are there any questions from the Committee members? [There was no response.] Thank you for pointing out the clarification needed. Is there anybody from southern Nevada who would like to testify as neutral on A.B. 479?

Teresa J. Thienhaus, Director, Department of Personnel:

[Teresa Thienhaus read from prepared testimony ([Exhibit H](#)).]

Vice Chair Bustamante Adams:

Thank you. Seeing no questions from the Committee, we will move on to the next person. Is there another individual from southern Nevada who would like to testify as neutral?

Rudy Malfabon, Deputy Director, Southern Nevada, Director's Office, Department of Transportation:

The Nevada Department of Transportation (NDOT) is neutral on A.B. 479. There are some things that NDOT does currently. We do have some maintenance crews on 4/10s. We stagger work hours, so that some crew members are off on Mondays and some are off on Fridays, just so that we can have coverage for public safety issues, such as responding to automobile crashes, hazardous material spills, snow and ice control, flash floods, and such events. One of the concerns that NDOT has is that the requirement could affect employees who have issues with child care or elder care and need to be somewhere at a certain time. Right now they are working 5/8s, and working 4/10s might have an effect on them.

Staggering those employees who do work 4/10s gives us better coverage, but it does make it more difficult to get them hands-on training when that is necessary. We just have to do things to accommodate that. So NDOT is neutral, but we would have to make some changes in the way we operate. One of the district engineers mentioned to me that when we have employees working 5/8s, she has seen less overtime than when they are working 4/10s. Also, 4/10s force, in some instances, maintenance crews to work longer in the dark, which means they are less productive and encounter more safety issues.

But that is something we deal with on a daily basis, particularly during daylight savings time and the night shifts.

Vice Chair Bustamante Adams:

Thank you. Seeing no questions from the Committee, is there anyone else from southern Nevada who would like to testify as neutral?

Nancy Wojcik, Administrator, Division of Field Services, Department of Motor Vehicles:

I represent all of the Department of Motor Vehicles (DMV) frontline servicing for the processes of vehicle registration and issuing driver's licenses. The DMV is also taking a neutral position. I would like to remind everyone that we are a six-day work program and we service over a thousand customers per day. You would be consolidating those thousands of customers into those four days. We currently offer a 4/10 shift to our staff. We have quite a few staff members on minimal to eight-hour shifts, for personal reasons, like NDOT. We ask that we be exempted, to offer the type of work schedules that are necessary to provide our services. I am available for any questions. Thank you.

Assemblyman Livermore:

I just want to clarify what I thought I heard you say. If this bill were to pass, the DMV would be without exemption and required to go to a four-day workweek?

Nancy Wojcik:

Yes, sir, that is right.

Assemblyman Livermore:

Could the public apply for driver's licenses and register vehicles online?

Nancy Wojcik:

There is currently an option for customers to do registrations online, offered seven days a week, 24 hours a day; and, we are looking to extend the capacity of our kiosks to be able to do driver's licenses, as well. Currently, however, they do not.

Assemblyman Ellison:

You say you service a thousand people a day, five days a week, for eight hours a day. I think we need to let the departments handle these as they see fit, because you have a lot of people standing in line trying to get registrations for cars and license plates. In a four-day workweek, that issue alone could manifest real problems. Is that not correct?

Nancy Wojcik:

That is correct, sir, and we do six days a week now. We are the only agency that is open six days a week, and we are processing over a thousand customers a day. So that would definitely increase the customers in the lobby, in a four-day workweek. Also, when we close our doors at 5 p.m., it is our practice not to turn away the customers in the lobbies but to continue to serve all of them. So our employees would potentially stay way past 6 p.m. if we do a 7 a.m. to 6 p.m. shift.

Assemblywoman Benitez-Thompson:

I am looking under section 1, at subsection 4 where it talks about the exemptions, and there is language in here about people being able to exempt themselves. Subsection 4 lists the different reasons why you would not have to be subject to the requirement. So I feel like there is room in this language for different departments to make a case for why this would not work for them. I am wondering if you think this language is not sufficient for you to make a case for exemption.

Nancy Wojcik:

I interpret that as addressing the public safety part of it, but I would be more than happy to get clarification on that.

Vice Chair Bustamante Adams:

Seeing no other questions, is there anybody else from southern Nevada who would like to testify in neutral? [There was no response]. We will take the testifier from Carson City, then.

Elmer Bull, Chief, Habitat Division, Department of Wildlife:

The Department of Wildlife is testifying as neutral on A.B. 479. However, with regard to the need for exceptions, we have one portion of our operation that would need to be exempted from the four-day workweek, and that is the operation of our fish hatcheries. The Department has four fish hatcheries located in various places in the state. Currently we have staff at those facilities seven days a week, 365 days a year. Because of the nature of the operations of the fish hatcheries, it is necessary to have at least one employee there every day of the year, to feed the fish and monitor their condition, and to make sure the water supplies are continuing to be available for the fish. We absolutely need to be able to continue that aspect of our operation in that manner. We request that it be noted that the operation of the Nevada Department of Wildlife's fish hatcheries be exempted from the four-day workweek.

Vice Chair Bustamante Adams:

Thank you. Seeing no questions from the Committee, Major Irwin, you may go next.

Laurence Irwin, representing the Office of the Military:

Actually, I would like to defer to Ms. McEntee and let her lead off, if that is acceptable.

Jennifer McEntee, Administrative Services Officer II, Office of the Military:

[Jennifer McEntee read from prepared testimony ([Exhibit I](#)).]

Vice Chair Bustamante Adams:

Seeing no questions from the Committee, Major Irwin, would you like to testify?

Laurence Irwin:

I believe Ms. McEntee has adequately summarized our concerns. The Nevada Office of the Military is a unique agency in that we are composed of federal, state, and contract employees and the lion's share of our employees are actually federal employees. I would just like to reiterate that we would like to seek an exception, under subsection 4 or subsection 5, to allow us to continue to operate in the manner we have chosen. I think we have proven that it already reduces energy costs, and if we are forced to use state employees under this schedule and to reconcile that with our existing schedule, it will actually disrupt what we think is a pretty efficient organization.

Vice Chair Bustamante Adams:

Thank you. Seeing no questions, are there any individuals from northern Nevada who would like to testify as neutral? [There was no response.]

[Assemblywoman Kirkpatrick reassumed the Chair.]

Chair Kirkpatrick:

We are ready to have all of those in opposition from southern Nevada testify. [There was no response.] Is there anybody from northern Nevada in opposition? [There was no response.] Mrs. Smith, did you want to say any final words?

Assemblywoman Smith:

Thank you, Madam Chair. I appreciate the Committee hearing the bill today, and we can certainly address the issues that Ms. Thienhaus brought forward or clarify any of the things needing clarification. I suppose the bill needs to go to the Assembly Committee on Ways and Means, because it has some fiscal notes on it and needs some more work. I do want to note that Mrs. Benitez-Thompson was absolutely correct in that the language in the bill

allows the Board of Examiners to provide an exception for any particular offices which need to operate under a different schedule. Making it completely optional probably does not make a lot of sense, because where you get the savings in energy and overtime costs is by having the majority of your offices closed on the same day. But there is certainly a provision allowing for exceptions for the obvious places, and I suppose the DMV would be one of those. I do not want to cause unnecessary phone calls from your constituents or mine.

Assemblyman Ellison:

I really believe that ten-hour work days work in some areas. But in some areas they could be disastrous, as we heard in the testimony from DMV. My biggest concern is that some places will run into a lot of trouble if transitioned to a four-day workweek. The assessor's office, for example, is open Monday through Friday from 8 a.m. to 5 p.m., and unless you have enough people to stagger to have open hours from 8 a.m. to 5 p.m., I think you will run into a wreck. We still have to provide public service, and that is what it is about. I do not have a problem with ten-hour work days if you can stagger. Can you address how that could work?

Assemblywoman Smith:

I think if you just, literally, go to 4/10s and stagger, you really do not accomplish anything and have any savings at all. I think the idea is to apply this to the offices that would not impact the public in any particular way should they be closed one day a week and close them, so that you get the energy savings and you truly get the whole point of having those offices down for one day. Then you take the offices for which it does not make sense and make exceptions for those, like with the DMV. We clearly heard from the Utah example that employees were more productive, cut their overtime by 30 percent, and that the only way you achieve those real effects is by making it the same across the board. But exceptions and allowances can be made based on what is necessary for different departments to function.

Assemblyman Munford:

Mrs. Smith, do you anticipate or see this as applicable to education and schools?

Assemblywoman Smith:

That is a local school district decision. But there are already districts in rural Nevada that have implemented four-day weeks. For some of them it is working well, especially when they have to travel a lot for extracurricular activities or students have long commutes. But that is strictly a local decision.

Assemblyman Livermore:

We have listened to the neutral positions, and I think that this is about more than a four-day week and also about what the public has come to expect from state government services. It is problematic unless you are able to create something parallel with the private sector so that they can transfer titles, or issue driver's licenses, perform the same services as NDOT, or grant travel permits, and all of those kinds of things. I acknowledge the potential cost savings here, but I think the number one business to take up is the service to the public, and if you do not parallel that with the private sector, you are going to let go a day of the week and have one day that the public sector does not have the ability to receive and process whatever it receives and processes, from permits to certificates to everything else. Because of that, I am a little shy to think that this will really benefit us, overall. There may be some savings in energy and gas but I think the savings are probably going to be quickly consumed, and other agencies and the private sector will not be able to acclimate.

Assemblywoman Smith:

There are local governments which have gone to four-day workweeks; and, I am sorry to keep using Utah as an example, but their example shows that business and the public acclimated quickly and liked the idea of having the earlier morning and the later evening hours to do their business. Actually, we are cutting all the time. We have fewer government employees per capita than we have ever had. Ms. Pierce has talked about that. Government is being asked to cut back, streamline, be more efficient, and I truly see this as one of the ways it can happen and simultaneously give public employees somewhat of a benefit in the savings it provides them.

Chair Kirkpatrick:

A few sessions back we passed a bill out of Commerce that talked about changing. I think that change, in itself, is difficult. I used to tell this to parents in the Parent Teacher Association—the kids do not care if they go to school early in the morning or late at night; it is the parents who complain because they have to change. The kids would be there when they are told to be there. But the parents would complain that their children were devastated by having to change schools or be on double sessions. You ask a third grader, and they just want to go to school and have recess. They just want to go to school and look forward to something. So change is hard. But to get back to the point on the bill that we passed, and I do not specifically remember what it was, but it was a bill that allowed people to get online appointments with the health care system. I was a person who questioned that. I was skeptical about allowing people to make their appointments online and to access their records. What about the senior citizens? And so on. But I asked last summer how that program was

going, because I like to follow legislation, and 70 percent of the people using the program were the senior citizens I was so worried about. So I think sometimes it is just hard for us to envision change. But in the end the change is neither necessarily bad nor necessarily good. I believe that, with the exemptions, there is a lot of room to factor in considerations. I got an email yesterday and learned that the new DMV kiosk in my district is going to be going in at the grocery store. It is kind of like when we first had ATMs. But people are doing more and more in different ways. I have lived in North Las Vegas for a very long time, and we have always had 4/10s. So I am kind of used to the system. Henderson started it, and Las Vegas seemed to get used to it after a while.

Assemblyman Stewart:

I am a little confused. With cities already doing the 4/10s, did you amend section 1, on page 2, subsection 1(b)? It looks to me like we are limiting them to eight hours.

Chair Kirkpatrick:

I think that this is something that was sunsetted during the special session. Do you remember we allowed that, Mrs. Smith? I think it was Assembly Bill No. 2 of the 26th Special Session?

Assemblywoman Smith:

That allowed the local governments? Yes.

Assemblyman Stewart:

Do we need to amend that to make it clearer?

Assemblywoman Smith:

Would you give me that section again, please?

Assemblyman Stewart:

It is on page 2, section 1, subsection 1(b), lines 8, 9, and 10. They are limited to no more than eight hours in one calendar day?

Assemblywoman Smith:

I will check on that, Mr. Stewart.

Assemblyman Stewart:

I appreciate that, because I do not want Boulder City and Henderson to have to stop that.

Assemblywoman Smith:

I do not want any phone calls for you, either.

Chair Kirkpatrick:

Thank you. Mr. Stewart, we can call and find out that answer for you. Is there anything else?

Assemblywoman Flores:

I just want to say that I agree with the concept and I think that, ultimately, this does end up being more flexible and helpful to the public. I am a little concerned that subsection 4 on page 3 is not as flexible as it, perhaps, could be in terms of the language for providing for those exemptions. I do think there are a few departments that would actually be hindered and the service hindered if they were made to do this. If there were a way in which that were a little more flexible, I think that I would absolutely be supportive of the bill. But that is really my only concern and, otherwise, I believe in the concept.

Assemblywoman Smith:

My understanding with subsection 5(a) is that the State Board of Examiners would be able to determine which positions cannot be subjected to the provisions of this, but if we need to have further clarification that it is not just those referenced in the prior section, we can certainly do that. And that would take into consideration the testimony that you previously heard.

Assemblyman Goedhart:

In Nevada, with overtime laws, we are not going to get some sort of additional overtime liability with employees working ten hours instead of eight hours, correct?

Assemblywoman Smith:

No, it restructures the day, and my goal is to save on overtime costs, as was seen in Utah.

Assemblyman Goedhart:

I happen to think it is a great bill.

Assemblywoman Smith:

Thank you.

Chair Kirkpatrick:

Do you have anything else, Mrs. Smith?

Assemblywoman Smith:

No, I will work on all of the things that we have heard from the Committee this morning. If the Committee chooses to rerefer it, we will keep working on it and see if we can answer all these questions.

Chair Kirkpatrick:

With that, we will close the hearing on A.B. 479. We will take a motion to rerefer it to the Ways and Means Committee, because there is a fiscal impact. It is already concurrently sent out.

Chair Kirkpatrick:

Is there any further discussion? [There was no response.]

ASSEMBLYMAN GOEDHART MOVED TO REREFER
ASSEMBLY BILL 479 TO THE WAYS AND MEANS COMMITTEE
WITH NO RECOMMENDATION.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE
MOTION.

THE MOTION PASSED UNANIMOUSLY.

[Assemblyman Livermore reserved his right to change his vote on the floor.]

Chair Kirkpatrick:

Just for the Committee, if the bills leave the Ways and Means Committee, they actually go to the floor, so you will get to see them one more time. They will also have to be heard in Ways and Means, so there are a couple more public processes in which you can participate.

At this time I want to open up the hearing on Assembly Bill 549.

[Assembly Bill 549](#): Revises various provisions governing homeland security.
(BDR 19-41)

Lucas Foletta, General Counsel, Office of the Governor:

The Governor has proposed amendments to A.B. 549 ([Exhibit J](#)). I would defer to Mr. Fisher who, I believe, is in Las Vegas, for the presentation of the bill prior to addressing the amendments, unless the Chair would prefer that I discuss the amendments first.

Chair Kirkpatrick:

I would prefer that we just talk about the amendments, and let me explain why to the Committee. Anytime we talk about homeland security it is very controversial. You have a lot of folks who want to be involved, and you can never make everybody happy. What I want to do is to at least address these amendments, and at the end we may end up just referring it out to the floor and hope that the Office of the Governor can get an exemption to send it to the Ways and Means Committee from the floor. This would die today if we sent it to Ways and Means since there is no exemption in place. I do want to have the testimony, but I also recognize that we have 15 bills on work session that we need to go through as well, before 2:45 this afternoon. So if you could address the amendments, that would be helpful for us.

Lucas Foletta:

The Governor has proposed amendments to A.B. 549 which, essentially, do two things. Generally they ensure that the Nevada Commission on Homeland Security performs its traditional function as reflected in the current version of the *Nevada Revised Statutes* (NRS) Chapter 239C. That is to say that the Commission on Homeland Security will continue to be a body that advises and recommends various actions related to the maintenance of homeland security to the Governor and to the Division of Emergency Management, within the Department of Public Safety. In addition, the amendments essentially provide for a direct line of accountability for the acquisition of, distribution of, and oversight of the distribution of federal grant funds that are required for certain homeland security related expenditures. Without the amendments, the bill essentially makes it the province of the Commission, itself, to perform those functions. The Governor feels that it is more appropriate for the Commission to perform its traditional function, which is to advise and make recommendations to him and to the Division, and maintain that the accountability to the federal government, for the use for those funds, lies with the Governor and with the Division of Emergency Management. I can discuss the amendments more specifically if the Chair would like or I can entertain questions.

Chair Kirkpatrick:

Let us go to the questions.

Assemblywoman Neal:

I was reading through, and on section 14, which continues on page 4, I had a question. It said that "state agencies, political subdivisions, and tribal nations shall . . . ," which made it mandatory. So then I went looking under tribal nations under NRS Chapter 233A, and it says that State of Nevada administrative agencies cannot increase their power of jurisdiction over persons living and residing upon tribal or Indian country unless they have consent. The

caveat to this is that the only administrative power that is still in full effect is any power that came into existence before July 1, 1974. So I am going to need you to help me understand how you are going to subject a tribal nation to mandates.

Also, I researched homeland security, thinking maybe there is some kind of federal language which provides authority. But under the Executive Order 13175, homeland security recognizes the sovereign authority of tribal governments on a government to government basis. And that they will only engage in a partnership. So how can this state mandate what a tribal group will do? And you have got tribal groups all the way through, here.

Lucas Foletta:

First I would note that the bill here was produced at the request of the Commission on Homeland Security. I am not familiar with the vetting process that went through every single substantive provision, particularly those that relate to the participation of tribal nations. I am not familiar with the provisions you are referring to that relate to the ability of the state to increase authority over those nations. But, to the extent that there are conflicts with those provisions, the Governor is clearly amenable to discussing how we can better accommodate our laws around this new expression of the duties and functions of the Commission of Homeland Security.

Assemblywoman Neal:

I would like to clarify that this is NRS 233A.130; so if you could get an answer on that, that would be great.

Chair Kirkpatrick:

And let me give a little bit of history for most of you. Last session we had, I think, Assembly Bill No. 284 of the 75th Session by former Assemblyman Christensen, and it became drama for the rest of the session. One of the biggest arguments was about allowing the tribal nations to be a part of the overall team, like a voting member. They have a whole little group which is supposed to be a representation of the state. When I first looked at this bill, it appeared that they were coming back to try and revisit that to ensure that they have a voice within our homeland security plan, statewide. Is that correct?

Lucas Foletta:

That is correct, and I should have stated that. The Governor actually has proposed an amendment here to make the seat for the representative of the tribal nations a voting member, which is different than the original expression of this bill, which included only a nonvoting advisory seat for the tribal nations' representative.

Chair Kirkpatrick:

And I believe that in them being a voting member, that answers your question, Ms. Neal, about their participation. Mr. Munford probably remembers this because we questioned how that one tribal nation's representative would represent the entire state, which is diverse with respect to the different tribes. I do not want to speak for the tribal nations, but they did say that they had agreement amongst the tribes such that one voice would work for everybody, that everybody would work together. I do not know if that helps you, but that is my recollection of A.B. No. 284 of the 75th Session.

Assemblywoman Neal:

I just think that it somehow needs to be demonstrated that the administrative provision does not override the other subportion of the law. I just want that to be clear, and I want an explanation of the federal law and of what partnership Homeland Security has already granted. So when you put in "shall," I have an issue with that. I am curious. Educate me.

Chair Kirkpatrick:

You say that now, but last time . . . Listen, I will just be honest, this bill was not scheduled and, when the Governor's Office called and I recalled the drama from last time, I was not enthused. We had three overflow rooms on this particular issue, on this side. And then when it got to the Senate it became like big fireball rolling through every floor in the session.

They have been working for a couple of weeks to have consensus, and I know Mr. Fisher has been sending emails telling everybody we have got to all be on the same page, that we have got to make this work. I do have my own concern about the term "designee" in the homeland security statute, which was changed in 2005. Ms. Neal, this was one of those bills that, on the last day as a freshman, at 9:30 at night, everybody who sat in front said it has got to change. We will not have that. So there was an amendment added that allowed for the person in charge, or that person's "designee,"—but that could mean the secretary or somebody else—but they will not let the Legislative Counsel Bureau (LCB) see it. I find it ironic that you can designate somebody who is not necessarily part of the plan, but on the state level, we cannot seem to get all the information that we need to do our jobs and to provide for the safety of the state. I spoke with the Governor's Office about my concern. The feedback I got was that gaming would be uncomfortable giving out their plans. But I am going to try to address this further.

Robert Fisher, Member, Nevada Commission on Homeland Security:

I am the Chairman of the Legislative and Bylaws Committee of the Nevada Homeland Security Commission. Is it possible that almost ten years

have passed since September 11, 2001? Ten years of meetings, federal road maps, new agencies, the Homeland Security Committee formed by Congressman Jim Gibbons, and a Homeland Security Commission formed by Governor Kenny Guinn. And within a short period of time, the two commissions combined into one. During the 2003 Legislative Session, three homeland security bill drafts were circulated in Carson City. In a rush to have something in statute, the three bills were hastily combined into one at the end of the session. The legislation signed into law was not popular, the language was vague and inconsistent; and critical stakeholders, such as properties up and down the Las Vegas Strip, refused to participate in turning over proprietary security documents. With each passing year, different threats emerged and its weaknesses became more pronounced.

There was a failed attempt to pass legislation in 2009. Our failures turned out to be a blessing, because it gave us a true road map on what needed to be done, starting by having stakeholders come to the table. While the bill in front of you this morning is very long, the overall intent is focused and narrow and the improvements are comprehensive. They created and fine-tuned a bill draft request (BDR). Ninety-four stakeholders had a hand in writing what you have before you. Those who objected the most two years ago are now its strongest supporters, including gaming, utilities, and our sacred tribal nations. What we achieved over the last two years was accomplished transparently, through open meetings and ongoing communication. We reached out to the American Civil Liberties Union (ACLU), and they reached out to us.

There will always be conflicts with respect to what information is proprietary and confidential, and what information may be made public. I want to be very clear in saying that the constitutional fathers never could have imagined, beyond their wildest imagination, that technology would advance to the point where communication and the exchange of information would be a tool for those who would do us harm. If the founding fathers were to have stood at Ground Zero, on September 12, they would have understood the truth America faces. In my opinion, just as the ACLU does its job, the Nevada Homeland Security Commission—charged with saving the lives of tens of thousands of Nevadans and tourists—should be able to move forward and do its job.

Governor Sandoval assumed the Chairmanship of the Homeland Security Commission only last month, and he and his executive staff have provided guidance and mentoring support. The Governor himself took the time to study the bill and, together with me and the Department of Emergency Management, reviewed every section of the bill and the draft of amendments that was submitted to this Committee. We think that, with the amendments, the bill will be polished off, as it is being heard.

Chair Kirkpatrick:

Mr. Fisher, I do not have a copy of what you are reading, but how long is your list of bullet points? We do have a large work session. With all the controversy out there, I am happy to put your bullet points on the Nevada Legislative Information System (NELIS). I think there is a lot that has to be worked out, and I do not see that happening today. I think your best shot is to get it referred out with no recommendation to the floor, and have the Governor's Office try to get an exemption. I think that there is a lot to this bill, and there is a reason why it was not on my agenda. I do not know how much you have left, and I think we need to have a full hearing on this, but we also need to keep it alive, and the only way to do that is to get it out of this Committee without a recommendation.

Robert Fisher:

I was on my last two points, but I will certainly yield to your recommendation. I am not sure that I totally understand. We believe we addressed the issues that arose two years ago, in this bill. I will yield to you, however.

[Assemblywoman Bustamante Adams assumed the Vice Chair.]

Vice Chair Bustamante Adams:

Thank you, Mr. Fisher. At this moment, then, we are going to take a five-minute recess [at 9:23 a.m.].

[Assemblywoman Kirkpatrick assumed the Chair.]

Chair Kirkpatrick:

We are going to call the Committee back to order [at 9:31 a.m.]. I do want to let the ACLU get in their opposition, but I also want to be able to go on to our work session soon.

Josh Griffin, representing MGM Resorts International:

We thank you for your time and attention on a very busy day, and if the Committee and the Chair desires to send the bill to the floor without recommendation, we do think, with everyone working together on these valid concerns, that in the next few days we would have something to either refer back to Ways and Means, or whatever the process may be. We will continue to work on it, and we appreciate an opportunity for a move to the floor without recommendation.

Chair Kirkpatrick:

Does anybody else have any questions? [There was no response.]

Lucas Foletta:

I feel the same as Mr. Griffin does, and the Governor's Office would concur with that request.

Ernie Adler, representing the Reno Sparks Indian Colony:

I do not represent all the tribes, but I had some relevant conversations very recently. The tribes do have a pending memorandum of understanding with the state of Nevada that will solve many of the problems Assemblywoman Neal brought up in terms of the state working with the Indian tribes. We believe that the current language in the bill is appropriate. To be sure, we will review it. We have an Indian law expert attorney on contract, and we will have him review it, as well as the tribal attorney, to make sure the language is proper.

Chair Kirkpatrick:

Are there any questions? [There was no response.] I just want to state this for the record. I am personally going to watch this bill. This is an annual discussion so, should it make its way back to Ways and Means, I will work with the Chairman of Ways and Means to see if the Government Affairs Committee can, at least, have a part in it. I am personally going to watch this, because I think that everybody's concerns need to be addressed. Rebecca, would you like to come and give neutral testimony, and then we will either move on this bill or not.

Rebecca Gasca, Legislative and Policy Director, American Civil Liberties Union of Nevada:

We do have multiple concerns about this bill and, while we are certainly sensitive to the need to take preventative measures to prevent a potential terrorist attack, we are afraid that the scope of this bill is virtually so unlimited that it would actually contribute to harming public safety.

First, the definition of "critical infrastructure" is incredibly broad. Second, the proposed amendment would allow secrecy of all sorts of information and documents that have nothing to do with public safety. And, finally, the proposal provides for no judicial oversight or other checks and balances on Executive Branch decisions. Creating an overbroad exemption for critical infrastructure information could actually undermine public safety. What I mean by this is that this broad definition could bar the government from disclosing information regarding environmental hazards, health hazards, defective products, and other security or safety dangers. It is even possible that the public records exemption in this bill could shelter private industries and public bodies from the consequences of violating national environmental consumer protection and health and safety laws.

The state of Nevada is particularly subject to environmental safety concerns. In places like Amargosa Valley, with the mining industry; the way that this is drafted is just incredibly overbroad. It is also unclear how this proposal would relate to whistleblower protections for individuals, both in private and governmental spheres, in cases when this proposal qualifies the disclosed information as confidential. I have lengthy feedback on multiple sections, which I submitted to the Committee about a week ago and which should be on NELIS ([Exhibit K](#)).

Section 3 defines confidential information and does not follow federal counterpart law. It also does not define “authorize” which unduly limits access to noncritical information. Section 4 has several terms that are not defined, particularly “economic security.” Section 5 refers to information which is not intended to be in the public domain, which is very different than the way federal law treats this type of information. “Not intended” raises all sorts of questions—intended by whom, and for what purpose—and practically speaking, much of this information that is “not intended” to be a part of the public domain actually ends up there anyway.

Chair Kirkpatrick:

Rebecca, can you just give us a little brief per section, please?

Rebecca Gasca:

In section 8, it is problematic that there is no meaningful definition of “key resource.” Things like public schools and private schools are included. Certainly it is commendable that defining K-12 schools this way nicely endorses education, but it is unclear how that actually pertains to critical infrastructure and key resources.

Section 11 requires one centralized repository. From the September 11 attacks, we know that it was certainly not a good idea to have New York City’s primary emergency management center in one of those buildings that fell. Section 14 deals with proprietary information. Subsection 7, particularly paragraph (a), is problematic. Section 19 deals with predicting what type of terrorist attack or building would be attacked by a terrorist, and the usage of that in there is problematic. We are acutely concerned that First Amendment rights may be violated because of requirements that a public officer or employee shall observe any person while that person inspects a restricted document. That could have a chilling effect on persons, including journalists, upon simply looking at what, before this bill, would have been considered a public document.

Section 26 provides exemption from judicial oversight for law enforcement, counterterrorism, and intelligence officials, and it arguably could encourage a

governor to issue executive orders regarding certain circumstances that are threatening public health, safety or, welfare. Those are, of course, not defined in this bill or in existing law. Section 27 deals with restricted, but not secret, documents and what is required for people to review those. This, too, would have some chilling effects, we believe. It also poorly defines things like press associations, and might have been meant to accommodate new services and press syndicates. For all our comprehensive feedback, none of our questions were addressed.

We worked with the Commission on Homeland Security for the last eight months on this bill. I certainly reached out to representatives of the Commission when this bill was first discussed last July and watched as it was put in draft form. We submitted our comprehensive feedback when it was in its draft form and then, when the subcommittee met to discuss it, we were there at the meeting to put in our oral and written remarks on the record. Then our executive director met with representatives of the Commission in order to further address these concerns. Unfortunately, none of them were ever taken into account, and the bill was not drafted in a way that incorporated them. We certainly appreciate your hearing this bill, and we hope that members of this Committee will take our remarks a little more seriously. Essentially, this bill creates a hole that a large truck can drive through, and that is certainly problematic from a governmental transparency perspective, especially as it relates to public safety. Thank you.

Assemblyman Goedhart:

Were you able to present these in oral or written form as far as your recommendations or concerns with the Commission? Did they take any of them under advisement and make any changes at all? Or did they basically say that this is the way we want it and we are not concerned about what you have pointed out?

Rebecca Gasca:

We were able to give them written feedback, and from the very beginning I expressed to the Commission that the ACLU's role in this, and in lobbying in general and dealing with issues of public policy, is to ensure that those laws that are created are clear and understandable at face value. That was our main concern, and that is generally our main concern with any draft of any law, so that people may reasonably understand the mechanisms which govern them, and evaluate and react appropriately. That was the basis of the beginnings of our conversations last summer. Then when the bill came out, I put forward some general comments on January 13 of this year, which I am happy to provide you. Later, in the month when the Legislative and Bylaws Committee met, we put forward specific recommendations regarding the bill, section by

section. None of those, unfortunately, were taken into consideration, and the bill you see before you is largely the same bill we provided feedback on back in January. Our comments have changed very little from the time that it went from the bill draft form through LCB and then introduced into the body during this legislative session.

Assemblyman Goedhart:

Thank you for your testimony.

Chair Kirkpatrick:

I want to make sure that the state also has a seat at the table, because if we cannot view things but a designee can, that puts the state in harm's way, as well. With that, we are going to close the hearing on A.B. 549. If there is anybody else who would like to submit comments for the record, please get them to my office by Monday morning, and we will make sure that they are on NELIS, so as this group goes forward, they can take those into account. For the Committee, I think that we should at least move it out to the floor without a recommendation, and give them time to get an exemption. From there, if they can get an exemption, it would go to the Ways and Means Committee. Then I can work with the Chair of Ways and Means to see if she can form a subcommittee, or have somebody from Government Affairs involved. For those of you that are on this Committee this time, this comes back every single session. I have seen it since I have been here, so you might as well get to be part of the process.

Is there any further discussion? [There was no response.] I will follow this bill throughout this building, so I will put it on my number one tracker list.

ASSEMBLYMAN ANDERSON MOVED THAT ASSEMBLY BILL 549
BE REFERRED TO THE FLOOR WITH NO RECOMMENDATION.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE
MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Kirkpatrick:

With that, we are going to open the work session with Assembly Bill 68.

Assembly Bill 68: Revises provisions governing the sale or lease of real property by cities. (BDR 21-401)

Susan Scholley, Committee Policy Analyst:

Assembly Bill 68 was sponsored by this Committee on behalf of the Nevada League of Cities and Municipalities and heard on February 18 ([Exhibit L](#)). The bill relates to permitting a city to lease real property without an appraisal if certain conditions are met, one of which includes adopting a resolution. The city must also publish notice and hold public hearing before doing such a lease. And it also, in another section of the *Nevada Revised Statutes* (NRS), reduces the number of required appraisals from two to one. That requirement would apply to most other real estate transactions.

The Nevada League of Cities and Municipalities presented the bill with assistance from the City of Reno. The other testimony is summarized. Clark County proposed an amendment that would add parallel provisions for the counties in Chapter 244. After the hearing, the Chair proposed the attached amendment, which would include the Clark County amendment. If you turn to the mock-up, you will see the change here in section 1. This is modeled per the Chair's instructions after some of the changes in Assembly Bill 469, adding real property or city-owned buildings, or a portion thereof, in appropriate places. So it would include both real property and office space, to make that clear. At the top of page 2, the amendment proposes placing a limit on the term of such leases of three years, with the potential of the extensions, for a total of five years. And then the amendment proposes to delete the remaining substantive portions of the bill. Some of the other sections are being retained because they include cross references. You will see on page 4, for example, the language reverts back to the current language. Pages 5, 6, and 7 also revert. That concludes my remarks.

ASSEMBLYMAN LIVERMORE MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 68.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE
MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Kirkpatrick:

At this time we are going to go to Assembly Bill 312.

[Assembly Bill 312](#): Revises provisions governing public works. (BDR 28-692)

Susan Scholley, Committee Policy Analyst:

Assembly Bill 312 was sponsored by Assemblymen Hardy, Kite, Sherwood, Ellison, and Senator Hardy and others, and heard on April 11 ([Exhibit M](#)). This bill clarifies the definition of what constitutes an offense. I apologize in advance for my typographical errors. The bill also creates a tiered system for penalties for offenses. As far as overtime, it deletes the requirement of overtime for work in excess of eight hours a day but, of course, retains the forty hours per week limit. It also revises provisions with regard to the prevailing wage survey, conducted by the Labor Commissioner, and it makes collusion to effect the outcome of a prevailing wage survey an unfair trade practice. Assemblyman Hardy presented the bill. The testimony is summarized here. Amendments were proposed at the hearing by the Associated Builders and Contractors of Nevada.

Chair Kirkpatrick:

I think there were some amendments. Did we put them all in there? I would like to move it to the Ways and Means Committee with no recommendation, so we can continue to work on it.

ASSEMBLYWOMAN BUSTAMANTE ADAMS MOVED TO REFER
ASSEMBLY BILL 312 TO THE WAYS AND MEANS COMMITTEE
WITH NO RECOMMENDATION.

ASSEMBLYMAN GOEDHART SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN PIERCE VOTED NO.)

Chair Kirkpatrick:

We will now move to Assembly Bill 329.

Assembly Bill 329: Defines the term "wildlife" for certain provisions of law relating to water. (BDR 48-312)

Susan Scholley, Committee Policy Analyst:

Assembly Bill 329 was sponsored by Assembly members Goicoechea, Bobzien, Smith, and Grady, and was heard March 30 ([Exhibit N](#)). This bill defines the term "wildlife" as used in the water chapters, in Title 48, and excludes wild horses and burros. Assemblyman Goicoechea presented the bill, and the testimony is summarized there. No amendments were proposed.

ASSEMBLYMAN ELLISON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 329.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Kirkpatrick:

We will now turn our attention to Assembly Bill 334.

Assembly Bill 334: Exempts from the limitation on the total proposed budgetary expenditures for a biennium any expenditures for the purpose of satisfying an unfunded federal mandate. (BDR 31-1009)

Susan Scholley, Committee Policy Analyst:

Assembly Bill 334 was sponsored by Assemblywoman Pierce and heard on April 13 ([Exhibit O](#)). This bill proposed to modify the expenditure cap in *Nevada Revised Statutes* (NRS) 353.213. The bill was presented by Assemblywoman Pierce, who presented the bill with a conceptual amendment which would be in lieu of the current bill provisions. The sponsor proposes an amendment, so that the bill would exclude the Distributive School Account from the expenditure cap.

Assemblyman Livermore:

I am going to support this bill, but I want to reserve my right to change my vote on the floor.

Assemblyman Stewart:

Ms. Woodbury and I, also.

Chair Kirkpatrick:

And, at least for me, all you have to do is to come and tell me or the bill's sponsor, and that is sufficient. I change my mind sometimes, also. Is there any further discussion? [There was no response.]

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 334.

ASSEMBLYWOMAN NEAL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN GOEDHART AND
ELLISON VOTED NO.)

[Assemblymen Livermore, Stewart, and Woodbury reserved their right to change their vote on the floor.]

Chair Kirkpatrick:

Next, we will go to Assembly Bill 354.

Assembly Bill 354: Revises provisions relating to the State Personnel System.
(BDR 23-1014)

Susan Scholley, Committee Policy Analyst:

Assembly Bill 354 was sponsored by Assemblyman Segerblom, and heard on April 8, 2011 ([Exhibit P](#)). This bill abolishes the local government employee-management committee and substitutes an arbitrator to hear and resolve disputes. Assemblyman Segerblom presented the bill. Testimony is summarized. After the hearing the sponsor submitted the attached amendment, which substitutes a hearings officer in lieu of the arbitrator.

Chair Kirkpatrick:

I know that there is more work being done on this bill. We heard from the State Personnel Commission that they were working to try and resolve some of these issues. I also heard from the president of the group and American Federation of State, County, and Municipal Employees that they are all trying to work together. My recommendation would be to send it to the Ways and Means Committee without a recommendation so that they can continue to work in conjunction to make sure our employees are best served.

ASSEMBLYMAN STEWART MOVED TO REFER ASSEMBLY BILL 354 TO THE WAYS AND MEANS COMMITTEE WITH NO RECOMMENDATION.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Kirkpatrick:

At this time we will turn our attention to Assembly Bill 403.

Assembly Bill 403: Requires the adoption of certain permanent regulations.
(BDR S-974)

Susan Scholley, Committee Policy Analyst:

Assembly Bill 403 was sponsored by Speaker Ocegüera and heard on April 6 ([Exhibit Q](#)). This bill requires the appropriate agency or board to adopt a

permanent regulation to replace the temporary regulations listed in the bill no later than November 1, 2011, which is the date on which these regulations would otherwise expire. The bill clarifies that *Nevada Revised Statutes* (NRS) Chapter 233B, which is the Nevada Administrative Procedure Act, would be followed in the adoption of the regulations, and the final regulation may differ from the temporary. Speaker Ocegüera presented the bill. Testimony is summarized. No amendments were proposed.

Chair Kirkpatrick:

Is there any discussion? [There was no response.] I spoke with the Governor's Office about this. I think that they all want more time to go through and see exactly what the regulations are, but it is clear that the regulations do, even before they are permanent, have to go to the subcommittee for review, which would be another public process. I wanted to make that clear. I am sympathetic to anybody who has any reservations, and I know that the Governor's Office is looking into this, as well. I have alerted the Speaker that they need to talk.

Assemblyman Ellison:

What is your recommendation?

Chair Kirkpatrick:

It is a different process, Mr. Ellison, so my recommendation is to send it out as a "do pass," and before it comes to the floor, to let those two work out the issue. Many times, we put things on the Chief Clerk's desk if it does not go anywhere, but I know that the two groups are trying to work together. I cannot send it to Ways and Means, because it will die. So I would like to move it out.

Assemblyman Goedhart:

As of this morning the Governor's Office still had some reservations with the current language. I do not know how to give them more time, but I feel uncomfortable doing the "do pass," personally.

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 403.

ASSEMBLYWOMAN PIERCE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ELLISON, GOEDHART,
LIVERMORE, STEWART, AND ASSEMBLYWOMAN WOODBURY
VOTED NO.)

Chair Kirkpatrick:

We do not have very many partisan votes in here, and I am good with that. We will now turn our attention to Assembly Bill 410.

Assembly Bill 410: Revises provisions relating to the filing by a governmental entity of a protest against the granting of certain applications relating to water rights. (BDR 48-360)

Susan Scholley, Committee Policy Analyst:

Assembly Bill 410 was sponsored by Assemblymen Goedhart, Sherwood, and others, and was heard in this Committee on March 30 ([Exhibit R](#)). This bill requires the signatures of certain persons for the filing of a protest on a certain category of water rights applications. Assemblyman Goedhart presented the bill. Testimony is summarized there. The sponsor has proposed an amendment which would limit the bill to requiring signatures for the water right applications that are covered by the bill, only, from the State director of agencies within the Department of Interior, the Director of the Department of Conservation and Natural Resources, and the chair of county commission.

ASSEMBLYMAN ELLISON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 410.

ASSEMBLYMAN LIVERMORE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

[Assemblywoman Bustamante Adams assumed the Chair.]

Vice Chair Bustamante Adams:

We will now hear Assembly Bill 469.

Assembly Bill 469: Revises provisions governing public property and purchasing. (BDR 27-678)

Susan Scholley, Committee Policy Analyst:

Assembly Bill 469 was sponsored by the Assembly Committee on Government Affairs and heard in this Committee on April 13 ([Exhibit S](#)). This bill requires state agencies to submit an inventory of buildings and grounds that are not being fully utilized. The Chief of the Division of Buildings and Grounds must compile the inventories and make the list available to the Commission on Economic Development, which is then authorized to enter into leases or agreements with businesses seeking to relocate or expand in Nevada. The

terms of the leases are limited to being at least ten years, and discounts may be offered on the first year's rent.

The bill also makes changes in Chapter 332 of *Nevada Revised Statutes* which is the local government purchasing chapter, permitting the formation of purchasing consortiums by local governments. It also adds additional criteria that may be considered in uses, the basis for decision in awarding contracts, defines best value and total cost of ownership. The bill also contains provisions regarding school districts and requiring them to advertise bids for certain services at least once every five years and report annually to the Legislative Counsel Bureau (LCB) for transmittal to the Legislature on the status of those bids. Assemblywoman Kirkpatrick presented the bill. Testimony is summarized there. The Division of State Lands submitted amendments which are attached. Also the sponsor is proposing two additional amendments which would be to limit sections 5, 8, and 9, which relate to the school districts, to only those counties whose population is 40,000 or less. That would exclude Clark, Washoe, Carson City, Douglas, and Elko Counties. Also the second amendment would be to extend the deadline in section 9, again which relates to school districts, from 2011 to 2013. And there was also an amendment which I omitted to bring forward, which was the proposed amendment by the Nevada Public Purchasing Study Commission, which was to provide a definition in the bill of a "Request for Bids." And this was presented at the hearing and would amend section 6.

Vice Chair Bustamante Adams:

Are there any questions from the Committee members?

[Mr. Livermore spoke off microphone.]

Assemblywoman Kirkpatrick:

Mr. Livermore, it does have a fiscal note on it of \$7 million. I got it down from \$13 million in just a matter of days. I think it probably needs to go to the Ways and Means Committee. It is already exempted to . . . [Mr. Livermore spoke off microphone.]

Vice Chair Bustamante Adams:

I believe, Mr. Livermore, that your recommendation is to send it to Ways and Means with no recommendation?

ASSEMBLYMAN LIVERMORE MOVED TO AMEND, AND DO PASS AS AMENDED AND REREFER ASSEMBLY BILL 469 TO THE COMMITTEE ON WAYS AND MEANS.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Vice Chair Bustamante Adams:

Next we have Assembly Bill 471.

Assembly Bill 471: Revises provisions relating to enterprise funds.
(BDR 31-915)

Susan Scholley, Committee Policy Analyst:

Assembly Bill 471 was sponsored by the Assembly Committee on Government Affairs and heard in this Committee on April 12 ([Exhibit T](#)). This bill prohibits the transfer of money out of an enterprise fund except in limited circumstances and also provides a penalty for a knowing violation. Assemblywoman Kirkpatrick presented the bill. Testimony is summarized. The sponsor proposed conceptual amendments during the hearing, as did the Cities of Las Vegas and North Las Vegas. Conceptual amendment is proposed by the Speaker and is attached. This proposed conceptual amendment, and these amendments, are further refinements of the points that Assemblywoman Kirkpatrick spoke to during the hearing on the bill—one, that a local government cannot raise fees that are deposited in an enterprise fund until the fees are used solely for the purpose for which the fees were collected, with the two exclusions. Also, existing interfund loans issued in accordance with medium term obligations and approved as shown, and transfers made prior to the effective date of the bill, will not be subject to these changes. Future transfers must be done as an interfund loan pursuant to the *Nevada Revised Statutes* (NRS) Chapter 350, and paid back within five years. And then it also spells out the reporting requirements that would be included.

Vice Chair Bustamante Adams:

Are there any questions from the Committee members? [There was no response.]

Assemblywoman Kirkpatrick:

I just want to say for the record, I know local government did not get to see it until this morning. I am willing to entertain doing a floor amendment but, at the

end of the day, I am not willing to give up the intent of my bill. There is plenty of time to think about that.

ASSEMBLYWOMAN PIERCE MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 471.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

[Assemblywoman Kirkpatrick reassumed the Chair.]

Chair Kirkpatrick:

We will now hear Assembly Bill 545.

Assembly Bill 545: Makes changes to the population basis for the exercise of certain powers by local governments. (BDR 20-548)

Susan Scholley, Committee Policy Analyst:

Assembly Bill 545 was sponsored by the Assembly Committee on Government Affairs and heard on April 13 ([Exhibit U](#)). This bill adjusts the population caps within the *Nevada Revised Statutes* (NRS) to reflect the changes in population reported in the recent 2010 Census. There were amendments proposed by the Washoe County Sheriff's Office and the Washoe County Public Attorneys' Association. Would you like me to summarize the bill?

Chair Kirkpatrick:

All 107 sections.

Assemblyman Ellison:

We talked about the amendments that were presented. Under section 41, through 42, can you please speak on that; and can that amendment be added all along with the recommendations of Clark County?

Susan Scholley:

I understand you, Mr. Ellison. You are proposing that section 41 would not be amended, such that Washoe County would be in the same category as Clark County. And also you are proposing the same sort of amendment in section 42, so that Washoe would join the category of Clark with regard to the Sheriff's Department in relation to the district courts. And there may need to be a change to another section. Legal would have to advise us on effectuating the change with respect to making Washoe and Clark the same with regard to

security and the relationship with the district court marshals, and that sort of thing.

Chair Kirkpatrick:

I believe there was one more piece that we talked about that had to do with the district attorneys. Was that in section 46?

Susan Scholley:

Yes, the Washoe County Public Attorneys were requesting amendments in sections 43 and 46, which would essentially put them, I believe, in the same category as Clark County.

Chair Kirkpatrick:

Is there any further discussion on this?

Susan Scholley:

Excuse me, but I did find that section, and it is section 47 and goes along with section 42.

Chair Kirkpatrick:

That is the piece that deals with the marshals, correct?

Susan Scholley:

Yes.

Assemblywoman Flores:

Mr. Ellison, you were referring to section 41. What exactly is in that? Is that in addition to the sheriff's office and the public defenders?

Chair Kirkpatrick:

I think we had some lengthy discussion on section 42. I think she is asking about section 41, Mr. Ellison.

Assemblyman Ellison:

The problem was with the sheriff's department, and if the district attorneys wanted to use, say, marshals versus the sheriff's department, they could do that. The problem is that the way it is written in here, they could not.

Chair Kirkpatrick:

That is correct with respect to section 42.

Assemblyman Ellison:
Section 42.

Chair Kirkpatrick:
But section 41, I think, deals with something completely different.

Assemblyman Ellison:
I agree, and I think that I mismarked it, Madam Chair. I actually did. It is section 42.

Chair Kirkpatrick:
Good. That makes a lot of people in this room breathe a sigh of relief. Section 42 is what, I believe, was proposed by the Sheriff. And section 47; we specifically asked about the marshals and how they do that in Clark County. Do you remember there was opposition? So we asked about how they do it in Clark County. And then we went to the next section, 47, which talked about the marshals, so that then the marshals could be the designee?

Assemblyman Ellison:
That is correct, and thank you for catching that, because I would hate to have the Sheriff . . .

Chair Kirkpatrick:
I want you to go back and read section 41 when we are done. I believe sections 43 and 46 were the pieces that had to do with the Public Attorneys' Office. And going back and reading the statute, they were correct that Washoe County is the only county that does not do it; because counties with a population less than 100,000 are not required to. I did want to clarify that. So I would guess that, if there is going to be a motion by somebody, that sections 42, 43, 46, and 47 were the ones that were most discussed. A motion by Mrs. Benitez-Thompson includes both amendments

ASSEMBLYWOMAN BENITEZ-THOMPSON MOVED TO AMEND
AND DO PASS ASSEMBLY BILL 545.

ASSEMBLYWOMAN FLORES SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Kirkpatrick:

This concludes our work session [at 10:42 a.m.].

[The meeting reconvened behind the bar (at 12:01 p.m.).

ASSEMBLYMAN LIVERMORE MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 469.

ASSEMBLYWOMAN PIERCE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN WOODBURY WAS
ABSENT FOR THE VOTE.)

The meeting adjourned (at 12:02 p.m.).]

RESPECTFULLY SUBMITTED:

Sheryl Burrows
Recording Secretary

Rebecca Richman
Transcribing Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: April 15, 2011

Time of Meeting: 7:30 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Assembly Agenda
	B		Attendance Roster
A.B. 304	C	Assemblyman David Bobzien	Proposed Amendment
A.B. 304	D	Erika Wesnousky	Prepared Testimony
A.B. 479	E	Assemblywoman Debbie Smith	Presentation
A.B. 479	F	Ron Bratsch	Survey
A.B. 479	G	Tina Leiss	Prepared Testimony
A.B. 479	H	Teresa Thienhaus	Prepared Testimony
A.B. 479	I	Jennifer McEntee	Prepared Testimony
A.B. 549	J	Lucas Foletta, Governor's Office	Amendment
A.B. 549	K	Rebecca Gasca, ACLU	Prepared Text
A.B. 68	L	Susan Scholley	Work Session Document
A.B. 312	M	Susan Scholley	Work Session Document
A.B. 329	N	Susan Scholley	Work Session Document
A.B. 334	O	Susan Scholley	Work Session Document
A.B. 354	P	Susan Scholley	Work Session Document
A.B. 403	Q	Susan Scholley	Work Session Document
A.B. 410	R	Susan Scholley	Work Session Document

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A.B. 469	S	Susan Scholley	Work Session Document
A.B. 471	T	Susan Scholley	Work Session Document
A.B. 545	U	Susan Scholley	Work Session Document