MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS

Seventy-sixth Session
May 16, 2011

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 8:10 a.m. on Monday, May 16, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator John J. Lee, Chair
Senator Mark A. Manendo, Vice Chair
Senator Michael A. Schneider
Senator Joseph (Joe) P. Hardy
Senator James A. Settelmeyer

GUEST LEGISLATORS PRESENT:

Assemblyman David P. Bobzien, Assembly District No. 24
Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1
Assemblyman James Ohrenschall, Assembly District No. 12
Assemblywoman Debbie Smith, Assembly District No. 30

STAFF MEMBERS PRESENT:

Michael Stewart, Policy Analyst
Heidi Chlarson, Counsel
Martha Barnes, Committee Secretary

OTHERS PRESENT:

James M. Wright, Chief, State Fire Marshal Division, Department of Public Safety
Erika Wesnousky, Controlled Burn, Inc.
Danielle Gann-Lind, Controlled Burn, Inc.
Janine Hansen, President, Nevada Eagle Forum
Carole Vilardo, Nevada Taxpayers Association
Phil Johncock, Alliance for Nevada Nonprofits

Cari Herington Rovig, Executive Director, Saint Mary's Foundation
Paula Berkley, Nevada Network Against Domestic Violence
Ernest E. Adler, Ex-Senator, Nevada Rural Housing Authority; Reno-Sparks Indian Colony
Charles (Chas) L. Horsey III, Administrator, Housing Division, Department of Business and Industry
Lucas Foletta, General Counsel, Office of the Governor
Rebecca Gasca, Legislative and Policy Director, American Civil Liberties Union of Nevada
Barry Smith, Nevada Press Association, Inc.
Judy Stokey, Executive, Government and External Affairs, NV Energy
Terry Bohl, Emergency Manager, Homeland Security Director; Inter-Tribal Emergency Response Commission
Constance J. Brooks, Senior Management Analyst, Administrative Services, Clark County
Susan Fisher, Valley Electric Association, Inc.
Jesse Wadhams, Nevada Rural Electric Association
Steve Walker, Douglas County; Lyon County
Andrew Clinger, Director, Department of Administration

CHAIR LEE:
I will open the hearing on Assembly Bill (A.B.) 304.

ASSEMBLY BILL 304 (1st Reprint): Makes various changes relating to fire performers and apprentice fire performers. (BDR 42-885)

JAMES M. WRIGHT (Chief, State Fire Marshal Division, Department of Public Safety):
Assembly Bill 304 provides for licensing of fire performers. The State Fire Marshal licenses many individuals in the fire protection aspects of performances with fire. There are about 134 individuals licensed through the office of the State Fire Marshal.

This bill was introduced to reduce the age limit of fire performers to the age of 12, but it was modified to allow for an apprentice fire performer to be licensed by the State Fire Marshal at the age of 18 and then fully licensed at the age of 21 as a fire performer. We have proposed an amendment (Exhibit C) to clarify some language from the previous versions of the bill and support it with amended language.

ASSEMBLYMAN DAVID P. BOBZIEN (Assembly District No. 24):
To give you some background and reason for this legislation, fire performers are an important component of the arts community that we have in northern Nevada. Controlled Burn, Inc., a nonprofit organization, puts on fire performances, but performers have found themselves in situations at odds with the authorities in various jurisdictions. This bill will provide the structure needed to provide clarity for the performers and ensure public safety. It has been a privilege to work with the State Fire Marshal to structure this needed legislation.

Assembly Bill 304 creates two types of certifications: one is the apprentice fire performer and the second is a full fire performer. What we envision is that someone 18 years of age can register to be an apprentice fire performer and perform under the supervision of a full fire performer. The bill specifies how to obtain the proper certification from the State Fire Marshal. In sections 7 and 8 of the bill, there is standard language pertaining to how the State deals with licenses and how an applicant obtains and maintains a license.

CHAIR LEE:
I understand about the people who twirl fire, but is a person who walks on hot coals considered a fire performer?

MR. WRIGHT:
We do not have a license for walking on hot coals. If walking on hot coals were to be performed in a situation where it could create a fire hazard, we would certainly review it. You are correct in your description of the fire performers as they twirl live fire in a performance.

CHAIR LEE:
I have a proposed amendment to the bill and want to ensure it is a friendly amendment.

ASSEMBLYMAN BOBZIEN:
Yes. The amendment clarifies the ages specified in the bill.

SENATOR HARDY:
I have attended performances at a high school where a student with a baton is on the football field. Would this preclude this type of performance if the student was not 21 years old?

ASSEMBLYMAN BOBZIEN:
If the baton is on fire, then the State Fire Marshal would have a problem with the performance, but without the fire, it would be okay.

SENATOR HARDY:
The amendment says you can be an apprentice at the age of 18 and a performer at the age of 21. That means no more high school students performing with batons of fire, even outside on the football field.

ASSEMBLYMAN BOBZIEN:
Not unless the performance is supervised and the performer is 18 years old and certified. You may have been witnessing activity that the State Fire Marshal would have frowned upon if he had been in attendance. To further answer Senator Hardy's question and provide additional background on the bill: as this activity has grown in popularity, procedures must be put in place to characterize it. The State Fire Marshal created a certification for the use of propane but not necessarily a fire performance. This emerging issue is also being discussed at the national level to ensure public safety. Nevada will be leading the way because of some of the unique cultural activities we have in this State. Other states such as Hawaii and those who may have large Polynesian communities have also started discussing this issue. National fire administrators are trying to create a structure for this type of performance. Through these discussions, we drafted the language included in A.B. 304.

SENATOR HARDY:
Speaking of the Polynesian community, have members of that community bought into this language and structure? Family groups seem to perform this type of activity.

ASSEMBLYMAN BOBZIEN:
We have heard about how this might work, and there are some religious issues to address. We have acknowledged these freedom of religion issues that would trump some of what we are trying to do. This is more for a general performance scenario.

SENATOR HARDY:
Would there be an opportunity for the culture to continue, not necessarily in the performance arena but in the practice of family traditions?

ASSEMBLYMAN BOBZIEN:
This bill is contemplating only the public performance scenario.

MR. WRIGHT:
For many of the religious ceremonies and special events, the fire code does allow the fire official to recognize and establish conditions for the event being proposed. If someone wants to perform a religious ceremony, the fire official in the jurisdiction where the performance is to be held could establish the safety parameters for the specific event.

SENATOR HARDY:
We do allow some flexibility for that opportunity?

MR. WRIGHT:
In those situations, yes.

CHAIR LEE:
We have delegated responsibility for inspections to Clark County or Washoe County because the staff of the State Fire Marshal is not large enough to handle the additional work. Will this allow Clark County to certify the entertainers on The Strip? Can they go to the local fire department and receive their certification or must they go through the State Fire Marshal?

MR. WRIGHT:
Licensing for these performers would be through the State Fire Marshal. Those individuals performing in Clark County or Washoe County would be working through the local jurisdiction that can approve and permit the event. Local fire agencies can put provisions in place to ensure the events are fire-safe within their communities. The licensing and enforcement of that licensing would stay with the State Fire Marshal. The local jurisdiction has the ability to enforce the law if something goes wrong during a performance and the performers are being unsafe. Local jurisdictions also have the right to impose enforcement action and then notify the Fire Marshal.

ERIKA WESNOUSKY (Controlled Burn, Inc.):
As a member of Controlled Burn, Inc., I am here in support of A.B. 304 (Exhibit D). Controlled Burn is a federal educational nonprofit and public charity. We are a Reno-based group with 50 fire artists who have performed internationally. We have helped thousands of fire performers through education,

outreach and event participation and have danced with fire for hundreds of thousands since 2000. We collaborate with many other local and national nonprofits. Controlled Burn is a 100 percent volunteer-powered organization, and any money the group earns is turned back into perpetuation of the art. We dance while manipulating fire tools for the sheer pleasure and enjoyment that it brings us and because we can share the dance with others. We teach fire art so that safety is learned in conjunction with performance.

We greatly appreciate the support and collaboration of local and State fire officials. Safety procedures and education are tantamount to all other aspects of this art form. We continually analyze and adapt safety protocol. We are our own most stringent authority. We look forward to the opportunity to work closely with Chief Jim Wright and other State officials in developing regulations that can be applied consistently across Nevada.

Thank you for considering what we see as a gift to the local arts community at a time when you are faced with grave decisions on behalf of Nevada.

SENATOR SETTELMEYER:
What do other states do? Is this type of licensing common in other states? How many other states license fire performers?

MR. WRIGHT:
Nevada is going to take the lead on this issue. When the matter was brought forward a couple of years ago, I began researching through my counterparts in the United States and found there is a void. Hawaii came closest, based on the performances held there. The National Fire Protection Association Standards are written mostly for the use of propane effects. We are hoping to take what is being done in Nevada to a national level and create some fire protection standards to address this issue.

ASSEMBLYMAN BOBZIEN:
I sent a link to a YouTube video Controlled Burn put together to provide more background of what the group does and what it is about. Certainly, we are also trying to get some sort of demonstration down here so people can see it up close and personal.

DANIELLE GANN-LIND (Controlled Burn, Inc.):
I am a member of Controlled Burn and am in support of A.B. 304.

CHAIR LEE:
I will close the hearing on A.B. 304 and open the hearing on A.B. 242.

ASSEMBLY BILL 242 (1st Reprint)
: Requires a quasi-public organization that receives money from a state agency to make available certain information. (BDR 31-67)

ASSEMBLYWOMAN MARILYN KIRKPATRICK (Assembly District No. 1):
Assembly Bill 242 begins the transparency we are seeking with nonprofit organizations and how the State interacts with these organizations. This bill has come a long way, and some opposition could remain, but we owe it to Nevada taxpayers to understand how nonprofit organizations are being utilized by the State. We changed the bill, but it will still allow us to get the information needed to understand the solvency of these organizations.

Last Session, we were unable to access information from these nonprofit organizations. It is not a problem today, but it could be in the future. This bill will allow us access to that information.

Information is provided to State agencies if the nonprofit organization receives funding from that agency. This bill requires the nonprofit organization to supply the information to the Legislative Counsel Bureau (LCB). The nonprofit organizations must have a Website or link to information from the partner State agency's Website. When funding was provided to these nonprofit organizations, the Legislature had no way to determine if the money was used as described. When we asked the agency about how the money was spent, we were directed to contact the nonprofit organization. That was not the purpose of funding nonprofit organizations, and I believe many of these organizations want to be transparent.

All nonprofit organizations are required to post mission statements so everyone knows their goals. The Legislature can ensure they are receiving the correct grants and assist them through the soon-to-be State Grants Office. We will be able to ensure the grant money is going to the correct nonprofit organization. This is a smaller step than what I had originally envisioned, but I understand sometimes you have to start small to get to the root of the problem.

There will be some concerns about how smaller nonprofit organizations work with State agencies. We talked to agencies about allowing nonprofit organizations to have a link to their information on the State agency Website. If the nonprofit organization cannot afford to maintain a Website, the information will still be available. I have agreed to work with the agencies to ensure we do not overlook smaller nonprofit organizations.

Amazingly, we found some of the small nonprofit organizations provide more help to our State than some of the larger ones because they are focused on one particular issue.

CHAIR LEE:
How do you want the LCB to disperse the information received from the nonprofit organizations? Do you just want the information available if someone requests it, or are you looking for a report generated for the Legislature?

ASSEMBLYWOMAN KIRKPATRICK:
I have spoken with LCB Director, Lorne J. Malkiewich, who indicated the information can be submitted electronically so it can be reviewed by anyone. There have also been discussions about placing the information on our Website as we do to provide other pertinent information for easy accessibility. Most of you will remember last Session we could not access any information because the Governor's Office blocked us. That is not what we want in the future. I want to ensure we are providing correct information to the public and our tax dollars are being spent as presented.

CHAIR LEE:
You also want to know the names and titles of the people on nonprofit boards of directors. Has that been an issue in the past?

ASSEMBLYWOMAN KIRKPATRICK:
During the interim when we were trying to locate some of the American Recovery and Reinvestment Act (ARRA) funding, it was difficult to find out who to contact because we did not know who was on boards of directors. It also applies when we are trying to ensure the funding provided was utilized as presented. This is consistent with what the larger nonprofit organizations do across the Nation.

SENATOR SETTELMEYER:
Section 5, subsection 1 says information will be on the nonprofit's Website or the Website of the State agency from which the organization receives money. Does every agency that provides funding have a Website?

ASSEMBLYWOMAN KIRKPATRICK:
Yes, they do.

SENATOR HARDY:
Was there any discussion about inserting the words "asks for or" receives money from a State "or federal" agency in the form of a donation? This pertains to section 5, subsection 1, where a quasi-public organization, which is defined in the bill, receives money from a State agency. So instead of "receives" money, include "asks for or" and not just a State agency but from a "federal" source as well.

I also have tried to determine how to control the grant writer who is not legitimate, so I wondered if that may have been discussed. If a quasi organization is asking for funding, what happens if grant writers who are not legitimate promise they can qualify them as a nonprofit organization for a certain fee? The grant writer can say the organization is now nonprofit and qualifies for a grant, but the grant writer never gets the organization the grant nor do they get the organization to qualify as a nonprofit. The organization is now out the $5,000 or $10,000 paid to the so-called grant writer, thinking they were going to receive free money.

ASSEMBLYWOMAN KIRKPATRICK:
That is a great idea. There was a great deal of commotion because the original bill had more requirements than it does now. That is a great addition to the language. There are commercials and also advertising in newspapers all the time stating that for $1,500, a business will get you all these government grants. There is no way to guarantee these people are legitimate grant writers. I would be happy in include that language in the bill.

JANINE HANSEN (President, Nevada Eagle Forum):
We testified on this bill when it was heard in the Assembly because it is a very important bill. We believe in transparency and accountability in government. When taxpayer money goes to private organizations, they must show accountability and transparency. I have seen some nonprofit organizations that

have political agendas and sponsor events such as candidate nights, and this would not be in line with receiving government funding.

I had a friend, a young woman who was in college, who worked for one of these nonprofit organizations that received considerable funding from the State. She was very idealistic and wanted to help young people. She was appalled at what was going on. She shared these thoughts with me.

She said there was constant disregard for how much everything cost. The organization spent so much money just feeding people. She thought it could have given people work study instead. Leaders constantly abused work time and would leave for hours on end during the day with no accountability. They need accountability.

She said the group exhibited gross overspending and it was very easy to fabricate misleading financial reports. There was much waste and abuse, including spending grant money on soda pop and snacks. There were lavish staff training lunches. Gas money and mileage reports were abused. The people in charge of the nonprofit organization had huge paychecks, and would say they were working from home for three or four days during the week, but they were simply gone. They complained extensively about tobacco money going to the Millennium Scholarship Fund. My friend was a beneficiary of the Millennium Scholarship program, and she felt it helped so many young people who never would have had a way to attend college. She was very unhappy about the complaints.

My friend said the group wasted money when ordering office supplies and bought the most expensive things, which were delivered. For the student interns, the group bought datebooks costing between $25 and $30 apiece that could instead have been purchased much cheaper at a dollar store. Personal groceries were also purchased using money from the organization, my friend said. She lost all faith in nonprofit organizations because it was such a gross waste of money. The people in charge were paid so much, and she felt the people who really loved the mission within the nonprofit organization and not just making it a job were in short supply and much needed. Among the highest-earning jobs in the United States are nonprofit CEOs.

My friend thought there should be incentives for saving money. If the organization does not use all of the budget money, then it is lost, so it can be

wasted on unnecessary expenditures. The attitude was, who cares? The government paid for it. The nonprofit leaders made decisions based on money and how it could get more funding instead of performing a service to the community. What needs to be done is to ask the nonprofit organizations to maximize the use of every dollar. She said the people in charge wasted money at every turn. They had three or four desks. When she came, they bought her a new desk, but there was no need for a new desk. The other desks were not being used. They did not utilize what they had on hand. Every time they had a party, it was simply to secure additional funding. Some take advantage of nonprofit funds, which is terrible, because it is done on the backs of the needy. Mt friend sees this as a way to keep the rich richer and the poor poorer.

We want to see the money from taxpayers spent well to help people, not wasted. We want to do that as best we can. We support A.B. 242 as the beginning of accountability and transparency for nonprofit organizations. Once these organizations accept taxpayer dollars, they should be accountable to the taxpayers.

CAROLE VILARDO (Nevada Taxpayers Association):
I am speaking in support of the bill. Besides taxpayer transparency, the bill has another benefit that has not been addressed. Frequently, you have ongoing requests for grant funds from government, and this allows you to see exactly what has been spent and what has been purchased. The information will raise a flag the next time a grant is analyzed and reviewed. This is another very important consideration.

PHIL JOHNCOCK (Alliance for Nevada Nonprofits):
We are in support of the intent behind the bill for greater transparency and accountability, but I would like to propose two amendments to the bill (Exhibit E). The one concern we have is the term “quasi-public.” Quasi-public really means government-owned. We have concerns that if the bill passes in its current form, it will define nonprofits as quasi-public, and that is a bad statement to make. Nonprofits are by law private entities, independent of the government. A more appropriate term would be “designated organizations.” It could be defined in section 5, subsection 3, paragraph (a) as something like "any entity receiving money from a state agency in the form of a grant or conveyance pursuant to an interlocal agreement." My recommendation would be to change the term quasi-public to designated organizations or something with which Assemblywoman Kirkpatrick is comfortable.

CHAIR LEE:
Would you like to explain your second amendment, or was that conclusive?

MR. JOHNCOCK:
If section 5, subsection 3, paragraph (a) is changed to "any entity receiving money from a state agency in the form of a grant or conveyance pursuant to an interlocal agreement," then you could delete section 5, subsection 3, paragraph (a), subparagraph (1) in its entirety. Nonprofits need not be singled out, nor should chambers of commerce and trade unions receiving state money for economic development and training subsidies because they are 501(c)(3) organizations as well. In fact, the for-profit businesses that ultimately receive much of the ARRA funds are part of the problem. They received part of the money for road projects and other programs. If it would strengthen the bill to say "any entity receiving money from a state agency," then section 5, subsection 3, paragraph (a), subparagraph (1) could be eliminated completely.

CHAIR LEE:
Did you discuss these amendments with the Chair of the Assembly Committee on Government Affairs?

MR. JOHNCOCK:
It was discussed briefly with her, but it was not submitted as a proposed amendment during the Assembly Committee hearing.

CHAIR LEE:
I would like to ask Assemblywoman Kirkpatrick her thoughts on your proposed amendments.

ASSEMBLYWOMAN KIRKPATRICK:
Honestly, I am okay with the language, but it broadens the scope and that was the biggest concern of the smaller nonprofit organizations. I thought I was addressing their concerns after I was bombarded with complaints because I was picking on nonprofit organizations through Mr. Johncock's association. I am willing to broaden the language, but I had narrowed it so it would not capture the "one-shots" that we do on the State level. I am happy to work on the amendment because it puts me back where I started.

CHAIR LEE:
I am not going to consider this as a friendly amendment because you have not had a chance to review it.

ASSEMBLYWOMAN KIRKPATRICK:
I do not have a copy of the amendment and do not know what it does, but I will be happy to work with Mr. Johncock on the language.

SENATOR HARDY:
On this particular issue, we are defining a quasi-public organization, and it looks as if this is the only place in statute where it is defined. When someone says we should define quasi-public organization differently, it concerns me. Where is this person getting the information to define quasi-public organizations? How does this relate to our existing statutes? Are we creating a new definition, or do we have a definition in conflict? Would we have confusion if we crossed state lines because we have a different definition than another state?

HEIDI CHLARSON (Counsel):
Quasi-public does typically mean some sort of government-owned entity; however, the bill in section 5, subsection 3 specifically sets forth the definition of quasi-public organization solely for purposes of this section. In statute we can define a term in any way intended. You can certainly change the term if that term is not acceptable or, alternatively, you can leave the term so the meaning is very clear. The term would only be for purposes of this section, so if there is another definition of quasi-public organization, it would not apply for purposes of this bill.

SENATOR HARDY:
We would not need to change this definition because it only applies to this section of the law.

MS. CHLARSON:
This is correct.

CARI HERINGTON ROVIG (Executive Director, Saint Mary's Foundation):
I work in a nonprofit organization for the mission, not for what I get paid. We are not in support of A.B. 242, and I did submit a letter (Exhibit F) in that regard to this Committee. We believe in transparency and being good stewards of State funds. Doing so requires us to be efficient and effective in our efforts,

but it also requires that we are not duplicating and wasting time and money. Saint Mary's Foundation, along with our partner Catholic Healthcare West organizations in southern Nevada, holds ten grants, subgrants and/or agreements to work with the State. That covers things from working with Women, Infants, and Children clinics, immunization efforts, chronic disease management and public health preparedness where we work with the State.

I have personally worked with the State for over eight years. Each time we go under contract with the State, we are required to complete and submit information about our board. We submit our Internal Revenue Service (IRS) filings. The IRS is the agency that approves us as a nonprofit organization. We submit all the required information prior to being awarded any funding. Each and every one of these grants, subgrants and agreements require different reporting. Some are reported monthly, some are reported quarterly, still others are reported yearly or at the end of a project. Whatever the agency or project requires is provided, and the information is intense. If we receive a phone call by a State agency or someone else requesting additional information, we are happy to supply it.

I mentioned the IRS designation of a nonprofit, which is specific and requires that these nonprofits submit information every year on a IRS Form 990. You can download Form 990 from the Internet for any nonprofit across the United States. Much of the information is already available. We believe in transparency and want to be good stewards of the funds from the State and the federal funds we have received. Over the years, I have seen both for-profit and nonprofit organizations that may not have been good stewards, and the State no longer contracts with them, which is appropriate.

PAULA BERKLEY (Nevada Network Against Domestic Violence):
The Nevada Network Against Domestic Violence (NNADV) is a combination of 14 nonprofits coordinated by the Network. Some of the nonprofits are very large. These are $1 million organizations, and they would have no problem e-mailing these reports to whomever requests them. We appreciate Assemblywoman Kirkpatrick's efforts to make this bill more workable than the original version.

We have a number of small domestic violence shelters that are all manned by volunteers. These shelters might have a budget of about $30,000. Some of them have computers and some do not, so they will have to contact the

State agencies monthly, quarterly, semiannually and annually to provide this information. The small nonprofits feel that is a lot of reporting for a minimal amount of money, and it would be a hardship for them. Despite the fact that we meet all the requirements for transparency, with domestic violence it is important to provide figures to the appropriate State agency for tracking purposes. We track how many people we have, how many safety issues we have and how many protection orders we assist with. We already do a lot of reporting, so we do not feel this would be beneficial for us.

SENATOR MANENDO:
You mentioned the entire budget is about $30,000. How much of that $30,000 comes from the State?

MS. BERKLEY:
It depends on your definition. Most of the funding is federal money. Funds come through the Victims of Crime Act of 1984 and Violence Against Women Act of 1994 grants through the State that are passed down to the local level. We also receive funding from the sale of marriage license fees. For a small nonprofit organization, that is between $6,000 and $8,000 a year. This is a State fee, so it would qualify for reporting under this bill, but it is not like a grant.

Once in a while, domestic violence programs will apply for grants, but in the domestic violence community, we are unfortunately no longer eligible for the grants management grants due to funding cuts. The Community Development Block Grant funds are also gone at the county level. The money we can draw from is dwindling and right now, we are losing 50 percent of the funds granted through contracts from the Department of Health and Human Services, Division of Welfare and Supportive Services. When Welfare gets so many people applying for cash assistance, they are referred to the NNADV in order to receive the service and care, and we are losing those funds also. Even if we get $4.20, we will still be doing what we can for these women.

SENATOR MANENDO:
Do all of the nonprofits have Websites?

MS. BERKLEY:
The small nonprofits do not have Websites. The NNADV reflects a great deal of the program services and statistics. Certainly a larger one like Safe Nest is efficient about having all that information available and on the Internet.

SENATOR MANENDO:
It seems the smaller nonprofits would be able to set up Websites easily and cost-effectively. Maybe people would create a Website as an in-kind donation. Because of where we are headed with technology, even small nonprofits really should be on the Internet, and maybe they would raise more money. People have cell phones and use them as their computers now. It is not always on paper. Do you think it is a burden to submit information to the LCB as opposed to your current reporting? Is it really that much of an extra burden for you?

MS. ROVIG:
Speaking for Saint Mary's Foundation, we can certainly absorb the additional reporting, keeping in mind we currently have ten of those contracts and the number of reports we send out monthly is immense. We could certainly send another set of reports or e-mail, whatever is needed. It is not a huge burden on us, but it seems to be duplicating efforts.

SENATOR MANENDO:
It could be just the click of a button and not overburden you. If you can report to one, you should be able to report to ten very easily.

CHAIR LEE:
If the State gives money in the form of a donation, grant or other conveyance, agencies could share information to report what it is being used for. We want to ensure the money is used for the right purpose. I am not saying your organizations are not doing everything correctly right now. I believe the idea was to ferret out those nonprofits that were not doing as well.

I have copies of three letters to be included in the record: The NNADV signed by Susan Meuschke in opposition to A.B. 242 (Exhibit G); Easter Seals of Southern Nevada submitted by Brian Patchett (Exhibit H), who says Easter Seals views this as redundant; and Nevada Advocates for Planned Parenthood Affiliates by Elisa Cafferata (Exhibit I). I will ensure Assemblywoman Kirkpatrick receives copies of these letters.

SENATOR SCHNEIDER:
I have a letter from Edward Guthrie (Exhibit J), the Executive Director of Opportunity Village. He thought the meeting would be teleconferenced to Las Vegas and because that option was not available, he was unable to testify.

He has provided a letter to be included on the record and stands in opposition of this bill.

ASSEMBLYWOMAN KIRKPATRICK:
There are a couple of different reasons why this bill is intended to work. If nonprofits are opposed to providing their information, that concerns me. We cannot obtain the information needed to monitor these organizations. For one example, I requested information that took seven months to get. A representative of Girl Scouts of the USA (GSUSA) called and said they hate this bill. I asked if GSUSA got State dollars and if they have a Website. I was told no, GSUSA does not receive State funds and they have a Website, so they would not be affected. The public needs to see what is being done with tax dollars. We need to see what services the State is helping to provide and ensure the funding is being spent wisely in this economic climate.

I tried working with the nonprofits, but they must share information about the organization. I understand there is a IRS Form 990 available, but nonprofits have a number of different names, and I would be sifting through information for hours. I need to know the names of people who do business in our State and review information about their organization. That is not too much to ask. The State is experiencing a terrible budget crunch. In 2005, dollars were given out when the State had funds. I cannot tell you if the money was spent, and I have been asking this same question for a few years. The Legislature wants to help the nonprofits in our State provide more assistance.

It bothers me that Mr. Guthrie from Opportunity Village is opposed to the bill because I pared it down from what was originally introduced. He provides great services in our State, but we should know who serves on his board, be able to see his Website and review where the money goes.

Easter Seals has the same issue. I did not know Easter Seals provided weatherization assistance until the interim. So many of these nonprofits do a lot more than what I would assume they do based on their name. I believe it is only fair that we see their information. I support nonprofits and give away more money to nonprofits than I spend at my home because I think they serve good causes and the dollars go a long way. However, to be in opposition and not provide suggestions to make it work is not right.

I saw one amendment, which is proactive by helping us ensure that the good nonprofits get the bulk of available funding and the money is not wasted on people who do not provide those services. I could look at the IRS Form 990, but next Session I may not be so nice about paring back my bill. It will take a lot of hours to review the information currently available. If these nonprofits are doing business in our State and receiving State funds, they should be required to provide the information about what is being spent to the Legislature.

CHAIR LEE:
Since there has been a proposed amendment, I would appreciate if you could speak to some of the opponents to see if something can be worked out. If not, we will take this up in a work session sometime next week.

SENATOR HARDY:
Since some of the nonprofits have religious affiliations, is there a scenario where we as a State are giving to a religion in some way?

ASSEMBLYWOMAN KIRKPATRICK:
Yes. Many of the religious nonprofits provide day care and meal services, and we are providing funding for the continuation of those services.

SENATOR HARDY:
It is not in their religious context as much as it is their educational context?

ASSEMBLYWOMAN KIRKPATRICK:
Yes.

SENATOR HARDY:
The bill is not trying to hinder their religious practice but get information about the alternative services they are offering with State funds.

ASSEMBLYWOMAN KIRKPATRICK:
Yes, we want to know about the additional services they provide to the community. Some of them have schools and others have after-school programs. These are all great programs, and we just want to ensure that we are getting information to help the good programs flourish. One nonprofit received a large amount of money that served fewer than 50 people. Other nonprofits such as NNADV serve quite a few people for the small amount of money they receive. We want to ensure these organizations get what they need in funding. I would

ask these speakers not come to the table to be naysayers but come prepared to help make the language work.

SENATOR SCHNEIDER:
Opportunity Village has a concern with section 5, subsection 2, because private corporations can do this also. All the names of the board of directors are listed on the Opportunity Village letterhead and on the Website. The charity updates its Website monthly and has for the past five years. The group already has the information available but has a problem with this section. I will provide you with a copy of this letter also.

ASSEMBLYWOMAN KIRKPATRICK:
I would appreciate that because Opportunity Village told me I would find all the information I was seeking on the Website.

CHAIR LEE:
I will close the hearing on A.B. 242 and open our work session with A.B. 198.

ASSEMBLY BILL 198 (1st Reprint): Revises provisions governing the Nevada Rural Housing Authority. (BDR 31-376)

MICHAEL STEWART (Policy Analyst):
You may recall last week we heard A.B. 198 relating to the Nevada Rural Housing Authority. The work session document for A.B. 198 (Exhibit K) includes the Nevada Rural Housing Authority within the definition of a "local government" for the purpose of allowing a local government to make a loan to the Authority. The Authority is also authorized to enter into contracts with the State or local governments to provide services anywhere in the State so long as those services do not include the making of mortgage loans. The bill also permits the Authority commissioner, who is appointed to represent recipients of assistance but who stops receiving such assistance during his or her term, to complete that term provided the commissioner continues to reside in the Authority's area of operation.

Subsequent to the hearing, a joint proposed amendment from the Housing Division, Department of Business and Industry, and the Nevada Rural Housing Authority was submitted, Exhibit K. The amendment serves to clarify the applicability of the bill to rural counties and limit certain mortgage-related services of the Nevada Rural Housing Authority. We have included the language

that clarifies the population as referenced in the definition of local government in section 1. Similar language is also included in section 3, subsection 2.

Finally, in section 4, subsection 2 you will see the amendment deals with various types of mortgage activities. It clarifies the designated duties of the Rural Housing Authority as it relates to that issue.

CHAIR LEE:
This started out as a turf war, but in essence it was two entities trying to assist some of the same clients. Both entities want to ensure things go well for those who utilize the services. With that said, Charles (Chas) L. Horsey III, Administrator of the Housing Division, Department of Business and Industry, and ex-Senator Ernest Adler have worked together to provide some amended language.

ERNEST E. ADLER (Ex-Senator, Nevada Rural Housing Authority):
The section being amended has to do with direct loans of money and the Local Government Budget and Finance Act. The Nevada Rural Housing Authority is the only local government not allowed to receive loans from other local governments. The amendment reads this activity cannot be performed in Clark County or Washoe County because of their population bases. In all of the rural counties, the Authority can receive loans so it can approve housing projects. Specifically, we referred to Eureka County because that is the biggest area of concern. Eureka needs another local entity to loan money to so the County can hire contractors to build houses. Eureka will get the loan payments back on the project, but it allows the County to give starter money for some developments. A mine is going into the area, and there is a shortage of available housing for teachers and federal employees which cannot be funded any other way. This allows us to get building started while respecting that the Authority should not be doing the same thing in Washoe and Clark Counties.

CHARLES (CHAS) L. HORSEY III (Administrator, Housing Division, Department of Business and Industry):
As was referenced last week, Senator Adler contacted us and afforded us the opportunity to express some of our concerns in detail. He in turn explained the purpose and goals the Nevada Rural Housing Authority hoped to achieve. In relatively short order due to his brokering, we have come to a compromise, and we do support A.B. 198 as amended.

SENATOR SETTELMEYER:
I want to make sure Assemblyman Tom Grady as the sponsor of the bill agrees with the amended language.

SENATOR ADLER:
I spoke with Assemblyman Grady and gave him a copy of the amendment for review. He was fine with the amended language because it still allows him to do everything he wanted to accomplish with the bill. Section 4, where it states what we can and cannot do in areas above 100,000 population, sets important parameters. It takes Nevada Rural Housing Authority out of all mortgage activities in those areas and for certain weatherization actions. The Authority can do assessments and inspections, which is important because often another local governmental entity may want to hire one inspector instead of two, which can occur in urban and nonurban counties.

SENATOR SCHNEIDER:
How big is the Nevada Rural Housing Authority? How many people are employed?

SENATOR ADLER:
There are about 35 employees, but a lot of the work is done through contractors. More people are out there working than just those employed by the Authority.

SENATOR SCHNEIDER:
In these tight budget times, and since I will not be back next Session, it seems we have two organizations performing the same work. You might see if they could be combined. Maybe that would put a burden on the Housing Division, but as long as there is an agreement today, that is fine with me. You may want to pursue this in the future.

> SENATOR SETTELMEYER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 198.
>
> SENATOR SCHNEIDER SECONDED THE MOTION.
>
> THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR LEE:
Regarding the comments made before the vote by Senator Schneider, you might want to talk to him, as former Legislators are still involved in the process. It might be wise to bring him up to speed. We will now discuss A.B. 276.

ASSEMBLY BILL 276 (1st Reprint): Requires the State Controller to make certain data available for public inspection on an Internet website established and maintained by the State Controller. (BDR 18-371)

MR. STEWART:
Assembly Bill 276 as summarized in the work session document (Exhibit L) requires the State Controller to post certain information on revenues and expenditures of the State on a Website for public inspection. The information required to be posted is current data contained in the Controller's records. The bill specifies the categories of revenues and expenditures to be reported. Graphs displaying cumulative revenue sources greater than $100 million and expenditures are required for the current and immediately preceding biennia. There were no amendments offered for this bill.

CHAIR LEE:
This was actually the result of the Controller coming forth and demanding that the Department do more public inspection of its involvements.

SENATOR SETTELMEYER MOVED TO DO PASS A.B. 276.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR LEE:
I will open the hearing on A.B. 549.

ASSEMBLY BILL 549 (1st Reprint): Revises various provisions governing homeland security. (BDR 19-41)

LUCAS FOLETTA (General Counsel, Office of the Governor):
With me today is James M. Wright, who serves as the Interim Chief of the Division of Emergency Management, Department of Public Safety, and the Governor's Homeland Security Advisor. Commissioner Robert Fisher, Nevada Commission on Homeland Security, was planning to present the bill today but due to the lack of videoconferencing, I will make the presentation.

Assembly Bill 549 pertains to *Nevada Revised Statutes* (NRS) 239C, which contains the duties and responsibilities of the Nevada Commission on Homeland Security. The Governor has chosen to exercise his discretion to chair the Commission. In assuming this position, Governor Brian Sandoval had the opportunity to review the legislation being proposed by the Commission and feels the provisions in the bill and Proposed Amendment 6820 (Exhibit M) reflect the best way to move NRS 239C forward. The provisions reflected in the bill represent modest adjustments to NRS 239C.

Section 22 adds two additional members to the composition of the Nevada Commission on Homeland Security. It adds one member from the broadcaster community and one member from the Inter-Tribal Council of Nevada, Inc., to represent tribal nations in the State. That provision was added at the request of the Governor to make the tribal representative a voting member. In the original legislation, this position was added as a nonvoting member. The Governor feels it is important for those interests to be represented in a voting capacity on the Commission.

Section 26 adds access for the Legislative Auditor to certain documents submitted to the Division of Emergency Management for purposes of performing postaudits. The proposed amendment limits that access for the purposes of determining whether those documents have been submitted, not for the purpose of conducting a substantive review of those documents.

Section 26 also contains a description of documents subject to the confidentiality provisions of statute. There is an addition to describe vulnerability assessments and emergency response plans submitted by not only public entities but private entities. Under NRS 239C, public utilities are required to submit vulnerability assessments to the Division of Emergency Management. This provision was added to assuage some concerns on the part of utility companies that those documents might not be subject to the confidentiality provisions.

Proposed Amendment 6820 has been the subject of conversations between the Governor's Office, Assemblywoman Kirkpatrick and a number of other interested parties to make modest adjustments. The Chief of the Division of Emergency Management is proposed to be added as a nonvoting member of the Commission. The Division of Emergency Management works in tandem with the Commission in order to assure the safety of the people of the State in the context of homeland security. The Governor feels that the office should be represented on the Commission.

Proposed Amendment 6820 adds section 24.5, wherein subsection 2 clarifies the Commission's role in the grant process by which the State and local governments receive grant money from the federal government for purposes of homeland security. It simply clarifies that the purpose of the Commission is to provide recommendations in that regard to the Governor and to the Division of Emergency Management. Ultimately, responsibility for the distribution of those funds lies with the Division of Emergency Management as overseen by the Governor.

Proposed section 24.5, subsection 9 also makes a slight addition to the substantive role of the Commission. It states that the Commission shall submit an annual briefing to the Governor assessing the preparedness of the State to contract, prevent and respond to potential acts of terrorism and related emergencies. This provision has been added to clarify this particular duty and function of the Commission. It also asks that the Commission make an overall preparedness assessment of the State, including the ability of the State to respond to acts of terrorism or related emergencies that affect private entities. This provision is the subject of some consternation by private entities that want to be sure their proprietary information is not required to be provided to the government as a part of this briefing process. I will tell the Committee, that is not how the Governor views this language. This is not a provision to empower the Commission to require documentation or proprietary information of private entities. Rather, if those entities work in concert with the Commission, it would be valuable for the Commission to give the Governor a view of the preparedness of the State as it relates to all entities.

Section 26 reflects the limited access of the Legislative Auditor. Throughout this section, there are proposed adjustments made to reflect the inclusion of the tribal governments' security apparatus. I believe that reflects all of the changes in the bill and in Proposed Amendment 6820.

MR. WRIGHT:
Mr. Foletta gave a great overview of A.B. 549 and the proposed amendment, and I support the bill.

CHAIR LEE:
I understand there was a good working group on getting this language right and we appreciate it. I never did understand the structure. Although we have 16 people on the Commission, how does the Commission report to the Governor, what information does it give and how does it respond to Nevada's needs?

MR. FOLETTA:
I will have Mr. Wright discuss that further in answer to your question. My review of NRS 239C essentially reflects a system by which the Commission is tasked with giving advice and making recommendations to the Governor on the general topic of homeland security. The Commission is asked to review substantive areas that relate to homeland security set out in that chapter. The Commission essentially meets at the call of the Chair. It is a large group with several subcommittees, including finance and infrastructure, and it plays an important role in reviewing grant applications for State and local governments to secure funding to provide for the protection of the State infrastructure.

Really, NRS 239C is so broadly worded that the Governor as Chair of this Commission and as the entity to whom the Commission responds has a lot of authority to direct the work of the Commission—with a caveat that the Commission gives recommendations and advice on this particular topic.

CHAIR LEE:
Does the Governor have someone to fill in if he is not available when the Commission meets?

MR. FOLETTA:
In his capacity as Chair, the Governor can select a Vice Chair for the Commission. As it relates to the workings of the Commission, the Interim Chief would take over. The Governor’s Homeland Security Advisor is Mr. Wright, who is the Interim Chief of the Division of Emergency Management. The Division of Emergency Management is the entity within government tasked with providing for the safety and security of the State in this context. The Commission is an overlay that provides advice to the Governor in consultation with the Division.

That is the purpose of making the head of the Division a nonvoting member of the Commission so we can seamlessly integrate the work of the Division. The Chief of the Division has insight with the work of the Commission so that everyone involved has a well-developed, comprehensive view of how the system works.

CHAIR LEE:
The Governor or his designee shall serve as Chair of the Commission and appoint a member of the Commission to serve as Vice Chair. Are you the Governor's designee and the Vice Chair of the Commission, Mr. Wright?

MR. WRIGHT:
No. Since the Governor has come on as the Chair of the Commission, he had appointed the previous Chair of the Commission as the Vice Chair so we can keep some continuity of information and knowledge in place.

CHAIR LEE:
You are his designee?

MR. WRIGHT:
No. The Commission would be directed by the Vice Chair, Dale M. Carrison, D.O., if the Governor is not in attendance.

SENATOR SETTELMEYER:
Specifically in section 22, subsection 3, paragraph (c) of the amendment, where it adds the Chief of the Division, I understand the concept of an Office of Homeland Security in Nevada and including the agent in charge of the office of the Federal Bureau of Investigation (FBI) in this State, but I have a question concerning the Chief of the Division. You are adding two more members to the Commission. Are they the Chief of Homeland Security and the agent in charge of the office of the FBI in Nevada or the region?

MR. WRIGHT:
Chief of the Division would be the Division of Emergency Management, Office of Homeland Security, Department of Public Safety.

SENATOR SETTELMEYER:
We are adding one person in that paragraph.

MR. FOLETTA:
Division is a defined term in the definition portion of NRS 239C, so it should be clear if you read the entire chapter.

REBECCA GASCA (Legislative and Policy Director, American Civil Liberties Union of Nevada):
The American Civil Liberties Union (ACLU) has been working on A.B. 549 in tandem with the Nevada Commission on Homeland Security since about July of last year when the Commission first began working on this proposal. The shape of this bill is very different in both form and function from the original bill introduced in the Assembly. We appreciate the work of the Commission and its representatives as well as other stakeholders including the Governor's Office in order to reformat this proposal. I have some written remarks (Exhibit N) that I will not take the time to read into the record but, suffice it to say, we were not able to review the proposed amendment presented to you this morning until just before this hearing began. Some of the language in my written testimony was dependent upon seeing that language. Now that we have seen the language, there still seems to be some room to discuss fixing what is in statute. It makes the ACLU a bit uncomfortable when laws limit judicial review as existing law does. This was not an amendment we could have offered earlier because the bill looked entirely different than it does now.

We would like to see an amendment that would allow for judicial review and ensure journalists are not getting into trouble for disclosing information that has traditionally been in the public purview. On the back side of my written testimony, Exhibit N, there are some conceptual amendments that we hope the Commission as well as the Governor's Office will be amenable to. I have spoken with not only the Chair of the Assembly Government Affairs Committee but also with the Governor's Office about these issues. We hope to turn these concerns around so the Committee can move forward.

BARRY SMITH (Nevada Press Association, Inc.):
I had not signed up to speak but I was reading section 26, subsection 1, paragraph (b) where it references the records law in NRS 218G.130, cross-referenced to NRS 239.0115 regarding making documents available after 30 years. I was not sure if that was intended in order to keep those documents confidential even after 30 years. That was just a question I had when reviewing the bill and amendment.

JUDY STOKEY (Executive, Government and External Affairs, NV Energy):
I want to go on the record to indicate we are one of the parties that has been working with the Governor's Office and Assemblywoman Kirkpatrick on this bill, and we agree with the proposed amendments. We are very concerned about the vulnerable assessment piece mentioned by the Governor's Office during the presentation. We want to ensure nobody sees those except the appropriate people.

ERNEST E. ADLER (Ex-Senator, Reno-Sparks Indian Colony):
I met with the Tribal Council of the Reno-Sparks Indian Colony, which supports this bill. The emergency management officer likes the part where there is involvement by the Inter-Tribal Council of Nevada, Inc., in the emergency management process. The Council has had problems in the past with distribution of emergency management grant funds from the State to the various tribes. This will help remedy some of these situations because if there is a wildfire or a flood, it does not stop at the boundaries of the tribal reservation, it keeps going. We need to have coordinated efforts between the various Indian tribes in Nevada and the State.

TERRY BOHL (Emergency Manager, Homeland Security Director; Inter-Tribal Emergency Response Commission):
I represent the homeland security emergency management interests for all 27 tribes. I worked on this bill when it was first introduced last Session, but it did not pass. The tribes have been struggling for some time to obtain a seat on the Nevada Commission on Homeland Security. Assembly Bill 549 provides that seat for representation across the State. The tribes are in full support of this bill and believe it is critically important. They want to be defined as an NRS 414 agency, which is a defined emergency management agency. In the past, the tribes have not been an NRS 414 agency, and grant funding was denied because they did not have that status. This bill will correct that oversight.

CHAIR LEE:
I will close the hearing on A.B. 549 and open the hearing on A.B. 389.

ASSEMBLY BILL 389 (1st Reprint): Revises provisions regarding the Open Meeting Law. (BDR 19-226)

ASSEMBLYMAN JAMES OHRENSCHALL (Assembly District No. 12):
We had a hearing on A.B. 389 a few weeks ago. The origins of this bill stem from an issue in Washoe County. I was approached by George Flint and his daughter who had attended a meeting of the Washoe County Board of Commissioners where the proponents had been given more time to present their public comments than the opponents were allowed. That is how the bill originated, but since then, additional issues have been added to the bill regarding concerns with the Nevada Open Meeting Law.

One of the sections added to the bill addressed having the NRS 241, Meetings of State and Local Agencies, apply to common-interest communities. We considered that provision in the Assembly Committee on Judiciary but were not ready to broaden the scope of the bill because of the way it was drafted. We thought the trade-offs might not benefit the homeowner in terms of notice provisions. Some portions of NRS 116, the chapter affecting common-interest communities, are more generous in terms of notice provisions than NRS 241. We did not want to leave anyone worse off in terms of openness, which was our goal with this bill.

Another provision added to the bill was in regard to residents who requested NRS 241 be made applicable to nongovernmental entities that have the power of eminent domain. These entities are exercising a governmental function. Normally, we think of the government as having the power to force you to sell your property through eminent domain, but in Nevada, NRS Chapter 37 provides for public uses for which eminent domain may be exercised, such as mining and related activities and public utilities. Pipelines of the beet sugar industry are still included in the language, but it may be on its way out due to other bills being sponsored by Senator Leslie and Assemblyman Horne. There are provisions for private entities to exercise the power of eminent domain, which has been a governmental power. The same philosophy was used when we wanted the Open Meeting Law to apply to homeowners' associations. In many ways, they are the first level of government the people must deal with. The bill is meant to foster more public comment and more openness.

During the initial hearing, Senator Hardy made a proposal regarding section 2, addressing nongovernmental entities having the power of eminent domain. Perhaps having only NRS 241 applied to their efforts at eminent domain or taking someone's land as opposed to having the Open Meeting Law apply to

every single aspect of their business would be preferable. I would be open to that change.

CHAIR LEE:
Are you for or against the condemnation of the nonprofits?

ASSEMBLYMAN OHRENSCHALL:
You may be referencing Valley Electric Association.

CHAIR LEE:
What is the reason for the condemnation?

ASSEMBLYMAN OHRENSCHALL:
Placing a pole and having a power line cross someone's property may be a reason for power companies to exercise eminent domain, or perhaps they need to put in power lines underground. They may take a large piece of property for a power plant; maybe it is close enough to the grid and in the right area to be cost-effective. Maybe the plant is a solar energy plant or is running on fossil fuels. There could be many circumstances where a utility would need to utilize the power of eminent domain. We all have mixed feelings about eminent domain. We have heard stories about different governmental agencies that use eminent domain and landowners do not feel they were treated fairly in terms of fair market value.

Obviously, we all realize there are times when eminent domain is needed. There are times when freeways have to be expanded or underground power lines installed. When eminent domain is used, we will all sleep better if private landowners get fair deals. One way to ensure they get fair deals is if there is openness to the process. When a local government or public agency wants to take your property in order to expand a freeway, it is a very public process. A resolution of necessity is usually passed.

CHAIR LEE:
Where would a nonprofit power company be able to discuss an eminent domain issue? Would it be in front of the county board of commissioners or the city council? How would the openness take place?

ASSEMBLYMAN OHRENSCHALL:
The meetings to discuss the eventual taking of private property would be posted and open public meetings pursuant to NRS 241 as if the company were a public body. Valley Electric Association provides great service in Nye County, but it has the power of eminent domain, just like a governmental agency. People who are facing having their property taken from them, even if they do not want to lose the property, will have to give it up because of eminent domain. We owe it to these property owners to provide openness in the process.

I have had discussions with Susan Fisher, who represents Valley Electric, and she says it will put Valley Electric at a competitive disadvantage with commercial utilities in the State. There is a difference because the commercial utilities are fully regulated by the Public Utilities Commission of Nevada (PUCN), whereas a nonprofit cooperative like Valley Electric has very limited regulation by the PUCN. A large commercial entity like NV Energy is fully regulated by the PUCN. Even though they have the power of eminent domain under NRS 37, there is already a great deal of openness to the process because it must be approved by the PUCN commissioners.

CHAIR LEE:
As an example, in the rural communities the utility company is running lines north to south. Valley Electric would have to hold an open meeting with its board of directors and the public to discuss it just as you would if it were a local government.

ASSEMBLYMAN OHRENSCHALL:
Yes. If you owned a farm somewhere in Nye County and Valley Electric Association decided the most cost-effective route for power lines was through your farm and the Association had to take your property, it would have to post the meeting following the appropriate notice under NRS 241. There would have to be an open meeting with time for both sides to make public comment in order to achieve the openness. This will make the process more time-consuming and perhaps a slight bit more costly, but it is something landowners deserve.

CHAIR LEE:
Assemblyman John C. Ellison proposed Assembly Bill 257 that requires two times for public comment during a public meeting: at the beginning of the meeting if you are unable to attend the whole meeting and want your comments

on the record, and at the end of the meeting if you want to place an item on the agenda or have comments on an action taken.

ASSEMBLY BILL 257 (1st Reprint): Revises provisions relating to the Open Meeting Law. (BDR 19-107)

Does that solve your problem with: "A public body shall make a reasonable effort to allow the expression of competing opinions"? What is your intent?

ASSEMBLYMAN OHRENSCHALL:
My intent was to make sure the scenario presented by Mr. Flint and his daughter, where the opponents of the issue were given a limited amount of time to speak and the proponents were given ample time to speak, was addressed. If this is addressed in NRS to require a reasonable time for both sides to speak, the public body will ensure there is a reasonable time for both sides to speak. This would be so even if I were in front of the Clark County Commissioners and they really hated what my supporters and I have to say. They would at least give us reasonable time. We did not include anything specific in the language. We had specifics in the original bill but not in the revised bill. We worked with Clark County in regard to section 1, and I believe Constance Brooks may have an amendment with clarifying language (Exhibit O). We are trying not to tie the hands of the public agency but at the same time ensure both sides are provided equal time to speak to the issues.

SENATOR SETTELMEYER:
In section 1, where it states, “any item on the agenda,” are you referencing any action item? Sometimes items on an agenda are not actually open for discussion. Are you saying any item on the agenda, period?

ASSEMBLYMAN OHRENSCHALL:
It may be that the language is not tight enough. We did not intend to allow anyone to keep a board from conducting business. The proposed amendment from Clark County, Exhibit O, is going to tighten up the language because we did not want this bill to apply to consent agendas.

SENATOR HARDY:
There are two different issues within A.B. 389. One is the reasonable effort for the balanced expression of public opinion on any item on the meeting agenda of a public body. The second issue is of the nonprofit corporation exercising

eminent domain. Are you amenable to including some kind of Open Meeting Law language if there was an eminent domain issue concerning a homeowners' association (HOA)? To be consistent with that, there should also be an Open Meeting Law applicability for the nonprofit electrical company to do the same kind of thing for eminent domain issues.

ASSEMBLYMAN OHRENSCHALL:
The issue with eminent domain was meant to apply to any nonprofit, nongovernmental entity that has this power, not just the utility companies. Flood control districts and other nonprofit cooperatives have this power. When these entities exercise the power of eminent domain, they act as a government. In terms of the sections deleted from the bill in the Assembly Committee on Judiciary affecting common-interest communities, the language was not meant to apply only to the exercise of eminent domain; it was meant to apply to all of their business.

Since HOAs have a role so close to that of a local government for those who live in common-interest communities, the thought was to make NRS 241 applicable to all of their business. As we analyzed and conducted our hearings, we found that portions of NRS 116 were more generous in terms of notice provisions. If NRS 241 is to be made applicable to common-interest communities, it needs to be well-drafted so the homeowners do not lose any of the benefits they currently have under NRS 116 that may be more generous.

The amendment Senator Hardy proposed in the hearing affecting the nongovernmental entities that have the power of eminent domain was to have NRS 241 apply to them only when they are exercising that power. I would be amenable to that change since you expressed concern for the flood districts and electric cooperatives such as Valley Electric having all of their business fall under the Open Meeting Law. That would be a burden for these entities. I would be amenable to having NRS 241 apply only when they are about to take someone's private land.

CONSTANCE J. BROOKS (Senior Management Analyst, Administrative Services, Clark County):
I want to provide whatever clarification the Committee might need in regard to the amendment submitted by Clark County, Exhibit O. We have been working with Mr. Flint and Assemblyman Ohrenschall throughout the process in an attempt to tighten up the language.

CHAIR LEE:
What do you call a reasonable effort? When you have the proponents and opponents, how do you see this process working in Clark County?

MS. BROOKS:
With regard to reasonable efforts at the Board of Commissioners meetings in Clark County: we do not have individuals sign up as being for or against any public hearing item. We simply have the individuals sign in on a specific agenda item, and they are each allowed three minutes to convey their concerns either in support of or against the agenda item. Clark County Commissioners are extremely sensitive to members of the public and what issues they would like to bring forward. It helps when making decisions on behalf of the Commissioners' constituents if they are allowed the opportunity to listen and receive feedback from the public.

Our Commissioners do a great job of providing reasonable efforts so that people will be heard.

SENATOR HARDY:
Do public members have the right to request a change from the consent agenda to the regular agenda?

MS. BROOKS:
Absolutely. They can request through their Commissioners to have an agenda item removed from the consent agenda. That happens frequently. Commissioner Steve Sisolak is one of our members who is famous for pulling items off of the consent agenda so they are open for public debate. It happens frequently.

SENATOR HARDY:
Specifically, a public member does not have the right to request an item be removed from the consent agenda and moved to the regular agenda. It must go through a Commissioner.

MS. BROOKS:
That is correct. Members of the public are not allowed to raise their hands in a meeting any time they want to discuss an agenda item. They are required to go through the proper channels in order to address a specific item. However, we do

have public comment at the end of every meeting where people can speak on any agenda item of their choosing.

SENATOR HARDY:
Usually this happens at the end of the meeting after a vote has already been taken. If individuals ask to discuss an item already voted upon, they will not have any influence on the vote because it has already concluded. The board could probably reconsider the item, but by the time the board is in the public comment period, the item is no longer on the agenda.

The amendment, Exhibit O, reads, "A public body shall make a reasonable effort to allow the expression of competing opinions concerning any public hearing item on the agenda for a meeting of the public body." That does not allow the person to have any competing opinion on a consent agenda unless the consent agenda item is moved to the regular agenda.

MS. BROOKS:
That is partially correct because the amendment only addresses public hearing items that appear on the consent agenda. Our amendment does not cover the issue you mentioned, but through the Open Meeting Law we are required to post our agendas ahead of time. The public is aware of the items to be discussed and voted upon. In the time between posting the agenda and holding the meeting, individuals are welcome to contact County management or their Commissioners to discuss the possibility of an item being removed from the consent agenda. It usually does not take a great deal of discussion because the Commissioners have the ability to pull items off the consent agenda that they feel worthy of public debate. That happens during every meeting.

SENATOR HARDY:
Does this language cover everything, or is it limited to eminent domain?

MS. BROOKS:
The amendment offered by Clark County is in regard to items that are for public hearing. If eminent domain issues are within what is categorized as a public hearing, then the amendment would cover it.

SENATOR HARDY:
It would be an unusual circumstance to have an eminent domain issue on a consent agenda. We would not like that to happen.

MS. BROOKS:
As far as the frequency of an eminent domain item being on a consent agenda, I am unable to speak to that issue. I would assume that we would have an eminent domain item be part of the public hearing because it would deserve public debate for such a controversial issue.

SENATOR HARDY:
Being a lobbyist here during the Legislative Session, you can understand the immediacy of some of the changes to our agendas. Even with a posted agenda item some issue may come up right before the meeting. Members of the public would need to have access to the commissioners so they could say they would like an item removed from the agenda. There is an immediacy for the public to make concerns known.

SENATOR SETTELMEYER:
Under the power of eminent domain, you say nonprofits have to have discussion for eminent domain actions under the Open Meeting Law. There is no difference between a profit or nonprofit organization. How often have nonprofits taken land from landowners in recent history? I have only dealt with eminent domain with the federal government when it hands you a piece of paper to take your land. There is no public hearing, it is just taken. I had 40 acres taken that way, so I know how the process works at the federal level but not at the local level. In that respect, can you provide some examples of land taken by nonprofits?

ASSEMBLYMAN OHRENSCHALL:
The point you make is very important in the terms of not receiving any notice from the federal government because that is exactly what I am trying to prevent with this bill. I know there are specific examples of taking land by nonprofit cooperatives, but I do not have those examples with me today. The person who came to me lives in Nye County and asked for this language to be added to the bill. We will all feel better at the end of the day if there is a public hearing before a person's private land is taken away, either by a public agency or a nonprofit corporation.

MR. SMITH:
I am in support of this bill and believe all three issues mentioned are good policy. We are talking about public hearing items that require fairness and reasonable effort to allow expression of competing opinions. We are talking

about nonprofit corporations when they are exercising authority over the power of eminent domain. This works well with Assemblyman Ellison's suggestions on public comment periods and a public comment period for an item coming up later on a consent agenda.

SUSAN FISHER (Valley Electric Association, Inc.):
I asked the CEO of Valley Electric Association how many times in his memory the Association took any property by eminent domain. He stated not any since he had been there, but in the history of the company it has happened a couple of times. The majority of our transmission and distribution facilities are on Bureau of Land Management property, so there are no eminent domain issues.

We are opposed to section 2, subsection 3, paragraph (c) of A.B. 389 regarding the nonprofit corporation. We are a nonprofit corporation owned by the members who we serve and feel this proposal will neither benefit our members nor the nonprofit cooperative in any way. It is important to note that we already follow open meeting procedures based on the covenants of all rural electric cooperatives in the United States. It is not in our charter, but we do hold open meetings. They are posted in public places, and we have the information on our Website. If an eminent domain issue came up, we would go into a closed session. Our records are open to all of our members, the press and to the public. We are not sure what this will accomplish in regard to a member-owned cooperative utility that also happens to be a nonprofit. We do not see the nexus between the Open Meeting Law and eminent domain with regard to nonprofits. We would strongly urge you to delete section 2, subsection 3, paragraph (c).

JESSE WADHAMS (Nevada Rural Electric Association):
I want to echo the comments of Ms. Fisher. If you look through NRS 37.010, those are the entities that can exercise eminent domain, and there is a whole host of them. There are roads and bridges, monorails, water gates, sewers, cemeteries, petroleum pipelines and video services. This bill would simply say nonprofit private corporations that exercise eminent domain come under the Open Meeting Law. It does not make a whole lot of sense when you are leaving aside just reconstituting yourself as a private corporation if possible. It would probably not be terribly effective, but it could be done.

This is about negotiations over property. Those are typically confidential, and you would be negotiating against yourself in public. There are a number of other issues with the Open Meeting Law in terms of how you would apply it to a

private corporation. To whom would we give notice and how would we effectuate it? I also asked when was the last time we would have taken someone's property under an eminent domain proceeding. The answer was not in any recent memory.

STEVE WALKER (Douglas County; Lyon County):
I am neutral on the bill but want to offer some information based on the questions from Senator Settelmeyer. Mutual water companies, such as Gardnerville Mutual Water Company and Silver Springs Mutual Water Company, are nonprofits. Panther Valley used to be one. I believe there are four of them in the State. I do not know if any of them have ever done eminent domain, but they are in the business that may require them to address it some day.

MS. FISHER:
There was a comment made about building power generation or solar plants. Valley Electric does not build generation plants; we connect the poles and wires for our members. We are also in the process of building additional transmissions to serve the area.

CHAIR LEE:
The negotiation of land is important to communities, but an appraisal sets a price. If people are being totally unreasonable, then they put themselves in the position of not being able to negotiate a fair price. Is it just the negotiation process you are concerned about, the price of the property, in regard to keeping this confidential?

MR. WADHAMS:
The bill covers the entire line of business. Section 2 says if you are a private nonprofit corporation with the power of eminent domain, it applies the Open Meeting Law to your entire line of business. That is our biggest concern. Two questions: Is there a problem? How would you negotiate with that landowner in an open public setting where you could foster competitive bids from someone else? There is a host of issues you would open up with the passage of this bill.

ASSEMBLYMAN OHRENSCHALL:
A comment was made earlier regarding the uses listed under NRS 37.010, such as roads, video services and pipelines for petroleum. Most of those are regulated by the Public Utilities Commission of Nevada, so people are getting a

chance at openness. Nonprofit cooperatives like Valley Electric have very limited regulation, and for all practical purposes, they are not regulated by the PUCN because it is so limited. Their activities do not have this kind of openness. Eminent domain occurs all the time with different public agencies, whether it is the Nevada Department of Transportation or cities around the State. The entities publicly pass a resolution of necessity. The negotiations are not conducted in public, but the resolution of necessity is completed in public. The final deals and the purchase are public.

These projects happen; highways are still being built and eminent domain has not stopped in Nevada because we have NRS 241 applicable to all of the public agencies that have that power. I would be amendable to the amendment that makes it only applicable to taking a private property under section 2.

CHAIR LEE:
I will close the hearing on A.B. 389 and open the hearing on A.B. 471.

ASSEMBLY BILL 471 (1st Reprint): Revises provisions relating to enterprise funds. (BDR 31-915)

ASSEMBLYWOMAN MARILYN KIRKPATRICK (Assembly District No. 1)
I received a copy of an amendment from the Legal Division this morning but have no other copy available. I want to work with the groups to ensure the bill meets everyone's needs. Enterprise funds have become a mechanism for local governments to transfer funding from the intended use to be used for other things. It is happening in our smallest and largest cities. As an example, the City of Ely requested a rate increase and transferred the funding to the general fund. When asked how they could increase the rates for trash pickup and then deposit the money into the general fund, Ely officials indicated the law does not say they cannot.

In North Las Vegas, City officials have been practicing this type of transfer since 1977. My constituents have received an increase of 35 percent in their water and sewer rates, and most of the money is placed in the general fund. I have been attempting to work with the City of North Las Vegas because it exercises its accounting just a little bit differently. This is a practice being utilized across the State. As ratepayers, we continue to pay these rates and the increases keep coming. The money brought in by the rate increases is being utilized for other things. When enterprise funds were originally created, they were supposed to

ensure the money was used for specific items. We have seen the cap on enterprise funds for builders, but now enterprise funds are being transferred on a regular basis.

This is an issue we have needed to discuss for a long time. We cannot cut off local government at the knees because most of them would go under. This is not fair to the ratepayers who continue to pay these increased fees. The ratepayers understand they are paying for water and sewer; yet the money is being used for new equipment, computers and other things rather than just water and sewer service.

In the Assembly Government Affairs hearing on A.B. 471, I told the interested parties we would work with them as well as the bond counsel because the amendment we proposed created a bigger problem. I had proposed to freeze the fees. However, the bond counsel indicated fee increases are well within the bond documents. I have requested a copy of the document to understand how the bonds are written. I understand there will be some opposition to this bill, and I am still unsure of how to fix it, but we do need to change how the enterprise funds are being utilized. These entities need to stop using these enterprise funds as a revenue source because it has become a way to increase fees on constituents. Ratepayers are often not notified of the increase until they receive the bill in the mail. This bill is intended to focus more light on the rule-making process when these transfers are being discussed.

The statute says these funds were created for loans, but there is no money being paid back once it is taken from the fund. If it is truly a loan, I would be in default if I did not pay it back. I do not know the answer at this point but will work with groups to come up with one. I am waiting for some information from the bond counsel in order to have local governments stop conducting business in this way. I have agreed to look at cost allocations; however, I can tell you some cost allocations have become ridiculous. Often 100 different entities are being paid in this way. There should be a direct nexus when looking at cost allocations for these services. Enterprise funds are not meant to be a mechanism for moving dollars from one category to another.

CHAIR LEE:
I see we have quite a few people signed up, for, against, neutral and as amended to speak on this bill. We will put together a working group with myself and Senator Settelmeyer to meet and discuss the bill this afternoon in my

office. I want to work out the issues and bring the bill back at the next meeting. I will close the hearing on A.B. 471 and open the hearing on A.B. 240.

ASSEMBLY BILL 240 (1st Reprint): Revises provisions governing contracts for services entered into by certain public employers. (BDR 23-149)

ASSEMBLYWOMAN DEBBIE SMITH (Assembly District No. 30):
Assembly Bill 240 is a continuation of a bill we passed in the last Legislative Session regarding the oversight of consultants utilized by the State. We passed legislation that required oversight. However, the administration took a position after the bill was passed that required the bill not to be implemented. Following the audit required by the bill the way consultants are being used by the State does not have good oversight. Much attention has been paid to this issue, and this administration is on board with a cleanup of the way we use and manage consultants. We have worked together to draft the language in this bill based on lessons learned. We often clean up and tighten up legislation passed in the previous Session.

The taxpayers' money should be used in a way that provides the best value to the people who pay it. Our capacity to secure the trust of the citizens and to use public funds properly is undermined by lack of oversight mechanisms to ensure accountability. These consultant contracts must be reviewed so we can promote transparency, efficiency, fairness and accountability and prevent waste and abuse.

Prior to the 2009 Legislative Session, there were multiple complaints about consultants who were contracted to provide services to State agencies. Reports included consultants having higher hourly rates compared to State employees who performed similar tasks and rehiring of State employees who had retired from State service. The audit and investigation did find several contracts being abused. In 2009, we passed the bill that restricted State entities from employing certain persons as consultants, including current employees and former employees less than one year after termination, before a one-year cooling off period. It required each State entity employing consultants to report the use of consultant contracts as part of the budget process.

The legislation was intended to strengthen controls over the consultant contract approval and provide transparency to prevent abuse. After the 2009 Session, an LCB audit of Executive Branch contracts found unacceptable instances of abuse,

including current employees who were being paid twice for the same time because the State did not have the proper controls in place to detect timesheet discrepancies. For example, we had one employee who was paid for 25 hours in one day. We also had current and former State employees paid for services without a written contract, and some worked two years and longer. Former employees provided services to agencies they previously worked for, performing similar duties at rates far exceeding their employee rates. There was one case of up to five times the pay rate. Former employees were hired through temporary service agencies who failed to report the use of consultant information. One of the problems is the Legislative Auditor was unable to audit all of the contracts under which persons provided services to the State. The administration circumvented the requirement because "consultant" was so narrowly defined that nothing applied. One of the things we are attempting to do with A.B. 420 is to delete the word consultant and refer to contracts.

We kept the last bill broad so it would not be so tightly constrained that it would cause unintended consequences. It was interpreted so narrowly that it was stated not one contract fell under the definition. The Legislative Auditor recommended clarifying the term "consultant" to explicitly include all persons that the prior legislation was intended to cover. As recommended by the Legislative Auditor, this bill will require State agencies to disclose information about contracts with persons who provide services to agencies. There is not a consultant designation; it is just a contract. Those contracts would be subject to review and approval, and State agencies will be required to report information about contracts for provisions of services as part of their budget process. This bill will continue to deter waste and abuse, some of which is unintended.

As we saw from the audit and when talking to different agencies and directors, there were things they did not realize were happening because we did not have the proper mechanisms in place. I believe much of what we saw in the audit was unintended, but with that said, we need to fix it. This bill will tighten up this area of abuse. There is an absolute vigilance going on in the State agencies. The administration has already issued an executive order on this issue and clearly wants to rein it in.

Assembly Bill 240 will hold State agencies accountable for contracts in which persons are contracted to provide services. If a person were an employee of the State within the last two years, the State Board of Examiners must sign off on hiring that person. That increases the cooling-off period from one year to

two years, and it should be more stringent. The longer cooling-off period is a good thing. If certain people are so important to us that we must hire them because they have some sort of expertise, this bill provides for an exception. The State agency only has to make that declaration and go before the State Board of Examiners.

I use the example of the person working in the nuclear regulatory office who was an absolute expert with years and years of experience. He had worked on the Yucca Mountain case for the State. When he retired, he was the one person who knew the ins and outs of what the State was facing. Hiring him made absolute sense because we could not have gotten that expertise anywhere else, regardless of the money offered. That is what the exception is for; it is not for someone who had worked at the agency for a very long time and the agency, because it wanted to hire that person back as a consultant, did not bother to train anyone to perform the job once it was vacated. That is what we are trying to stop agencies from doing.

I heard a story about a person who was retiring and said to another person in the business world not to worry about him retiring, because he would be coming right back as a consultant and would see him again. That is what is not fair to our State employees who are coming to work every day, performing their jobs and making their hourly rate of pay. It is not fair to them to hire someone else back at a higher rate who is also drawing State retirement. Furthermore, it does not incent the State to do a good job of training and mentoring when we set up these kinds of scenarios where people come right back. We need to be building our capacities so when people retire or leave the State, we have others who can perform the work.

This bill also requires that someone who has a contract with the State must be in good standing with the Secretary of State. If someone is to do business with the State, he or she must have a business license issued by the Secretary of State's Office.

The State Board of Examiners make the approvals for any exceptions. We originally had the Interim Finance Committee (IFC) in that role with the other bill, and we moved the authority to the State Board of Examiners. That makes the administration more comfortable with the whole process. I just want to be sure someone is looking over the contracts and approving them. It does not matter who is doing it. We have great representation on the State Board of

Examiners, so I am comfortable with moving that responsibility. It is a very significant change to move the authority from IFC to the State Board of Examiners.

The State Board of Examiners will not approve the contract exception unless there is a critical labor shortage or an unusual circumstance, some type of emergency or a good explanation of why the exception should be granted. Otherwise, we will see more of the same. We have a few exceptions built into the language because once we changed the bill from "consultants" to "contracts," I did not want to include Medicaid or the Public Employees' Benefits Program (PEBP) contracts. We deliberately make those contracts for multiple years because they are so large and because the request for proposal process is long and onerous, and there is no point for those agencies to have to come back and obtain an exception. Assembly Bill 420 removes Medicaid, financial services and PEBP contracts if they are over $1 million. If the PEBP contract is set at less than $1 million, PEBP would still need to meet the intent of the legislation.

The Nevada System of Higher Education (NSHE) and the school districts in this bill are still required to report on their use of consultants. On the transparency side, when public agencies have to report information on a regular basis, it makes them and the elected people who govern those contracts take a second look at what they are doing. Are they using contractors they should not be using? That language remains in the bill as it was proposed last Session. We do have a couple of technical issues we have discovered since the bill was passed in the Assembly, and we are working with the Purchasing Division, Department of Administration, to make sure we have clarified its concerns regarding the management side of implementing this legislation. We are going down the right path to get a handle on how we use consultants and contractors within the State.

CHAIR LEE:
You mentioned the Nevada System of Higher Education and the local school boards. Why did you treat them differently in this bill?

ASSEMBLYWOMAN SMITH:
They have their own elected boards who manage their budgets, so I felt they really are in charge of the way they complete that process. Secondarily, I felt just reporting it would cause enough transparency to make those elected boards

take a second look and ensure they are managing those properly. The other consideration was we were starting small to ensure we could make it work through the State process first. It has been difficult in the first two years because there was a concerted effort to circumvent the law. If we can implement this at the State agency level, the 17 school districts and the Nevada System of Higher Education could learn some lessons and implement their own policies. We could revisit it at a later time.

CHAIR LEE:
I do believe you will come back again later with this same issue. I have heard the same examples. Does the IFC want to lose this authority?

ASSEMBLYWOMAN SMITH:
As the Chair of the Interim Finance Committee, I am perfectly comfortable with sliding the authority over to the State Board of Examiners. We have good representation with the State Board of Examiners. There was concern expressed previously about whether the IFC was overstepping our authority. Rather than going down that path, I would gladly turn it over to the State Board of Examiners. I have the ability to call any member of the State Board of Examiners if I have a question on any of the contracts. All of the Legislators have that ability, and I am comfortable with it.

CHAIR LEE:
If you are the Chair of the Interim Finance Committee, who is the Vice Chair?

ASSEMBLYWOMAN SMITH:
Senator Steven A. Horsford is the Cochair of the Interim Finance Committee.

CHAIR LEE:
Could you please discuss this bill with your Cochair before we process it? I want to ensure he is aware of this before it goes to the Senate Floor for a vote.

SENATOR SETTELMEYER:
Section 1, subsection 7 of the bill states the person must be active and in good standing with the Secretary of State. I am unfamiliar with that term. Could you elaborate?

ASSEMBLYWOMAN SMITH:
That means these individuals must apply for and receive approval for business licenses through the Secretary of State's Office. If people are doing business with us, they actually should be registered business entities and pay their $200 fees. It was interesting that we did not already have that requirement.

CHAIR LEE:
I noticed a reference in section 1, subsection 8, paragraph (b) to the Nevada Department of Transportation (NDOT) and wanted to know if that Department is satisfied with the language.

ASSEMBLYWOMAN SMITH:
I am not sure there is anyone here to testify from NDOT. We gave NDOT a little bit more latitude in the last bill and felt it could be tightened up. Multiple agencies wanted to be exempt from this requirement, and I have had a lot of requests from people saying, "my work is different than everyone else's, so therefore ... ." But in talking to the administration, we decided the language should not be any more relaxed than it already is.

CHAIR LEE:
In the larger counties, such as Clark County and Washoe County, from some of the stories I have heard, there should be at least a one-year cooling-off period, specifically for the school districts.

SENATOR HARDY:
Did the audit being discussed address the NHSE? It seems if you are in a school district, you have this whole culture of mentoring, teaching and training, which requires the new person to have been there, because that is what education is all about. By releasing the NHSE and the school districts, it seems counterintuitive to the whole concept of getting people to come up through the ranks to take over the reins. Did the audit address that?

ASSEMBLYWOMAN SMITH:
The audit did not address the entire State because it is too big. We do not have the resources to conduct a statewide audit. You can access the IFC meetings on the legislative Website to review the reports submitted by the school districts and NSHE concerning their use of consultants. When I looked at this issue in regard to the school districts, I found they are using considerably fewer

consultants and they are much more mindful of whom they hire, when they hire and how much they pay.

That is the rub you witness in the school district. A teacher knows how much a person makes as a teacher and as a consultant. It has made everyone much more mindful of this issue. I have no issue with rehiring someone when it is appropriate to fill a role as a mentor or an instructor when the person is the best one for the job. We have to be mindful of taxpayer dollars and ensure we are paying consultants or contractors appropriately when they are working alongside others doing a similar job and making less money. The reporting on kindergarten through Grade 12 has changed the mindset.

SENATOR HARDY:
If there is one thing I hear from my constituents, it is the school district hiring back people. That is why I said it is counterintuitive to hire back the very people who have professed professional expertise in training people. I am glad that you see the school districts are having a sea change in hiring consultants.

ANDREW CLINGER (Director, Department of Administration):
I am here to speak in favor of this bill. As Assemblywoman Smith indicated, there was an LCB audit conducted on the consultant contracts. As a result of that audit, we are in the process of revising our State policies and procedures. Two weeks ago, we had a work session for agencies to comment on our revised policies and procedures regarding contracts with consultants. There are a couple of things to point out concerning the policies and procedures. One thing discovered in the audit was an employee who worked more hours than exists in a day. If I claimed to have an employee under contract with another agency, both the employer and the agency with which the person is contracting will be required to exchange timesheets and invoices to ensure no overlap between the shift as an employee and his or her duties as a contractor.

We also discovered excessive rates of pay in some cases. To correct that, another requirement is implemented in the policies and procedures. When an employee is hired as a contractor and paid more than 10 percent from what a State employee receives for performing the same function regardless of the amount of the contract, that contract has to be approved through the State Board of Examiners. An added requirement is even if the employee is working through a temporary agency with an existing contract, if the salary is to exceed 10 percent of what the employee would make as a State employee,

that also has to be approved by the State Board of Examiners. One of the issues we had with the previous legislation was the approval of the IFC. We agree to give the authority to the State Board of Examiners for approval of the Executive Branch contracts. Just so the Committee understands, the State Board of Examiners is made up of the Governor, the Secretary of State and the Attorney General.

MS. VILARDO:
We speak in support of the legislation. One important point not covered is a protection of taxpayer money. When agencies overspend, they do not have sufficient money in another area. Then we look at additional taxes or ways to get revenue. This bill makes sure that the area of contracts is as efficient as possible with the State's money. This extremely important point has certainly been driven home in this economy.

CHAIR LEE:
We will close the hearing on A.B. 240. The bill will be brought back during a work session.

ASSEMBLYWOMAN SMITH:
I will bring you an amendment because I know we have some clarifications to include from the Purchasing Division.

CHAIR LEE:
Seeing no more business, I adjourn the Senate Committee on Government Affairs meeting at 11 a.m.

RESPECTFULLY SUBMITTED:

Martha Barnes,
Committee Secretary

APPROVED BY:

Senator John J. Lee, Chair

DATE:

EXHIBITS			
Bill	**Exhibit**	**Witness / Agency**	**Description**
	A		Agenda
	B		Attendance Roster
A.B. 304	C	James M. Wright	Proposed amendment
A.B. 304	D	Erika Wesnousky	Written testimony
A.B. 242	E	Phil Johncock	Proposed amendments
A.B. 242	F	Cari Herington Rovig	Letter of opposition
A.B. 242	G	Nevada Network Against Domestic Violence	Letter of opposition
A.B. 242	H	Easter Seals	Letter of opposition
A.B. 242	I	Nevada Advocates for Planned Parenthood Affiliates	Concerns regarding AB242
A.B. 242	J	Opportunity Village	Letter of opposition
A.B. 198	K	Michael Stewart	Work session document
A.B. 276	L	Michael Stewart	Work session document
A.B. 549	M	Lucas Foletta	Proposed Amendment 6820
A.B. 549	N	Rebecca Gasca	Proposed conceptual amendments
A.B. 389	O	Constance J. Brooks	Proposed amendment