

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

**Seventy-sixth Session
February 23, 2011**

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 8:08 a.m. on Wednesday, February 23, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room CC-1, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

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

COMMITTEE MEMBERS ABSENT:

Senator Michael A. Schneider (Excused)

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Jacob Snow, General Manager, Regional Transportation Commission of Southern Nevada
Jack Mallory, International Union of Painters and Allied Trades District Council 15; Southern Nevada Building and Construction Trades Council
Bill Gregory, Southwest Gas Corporation
Robert A. Ostrovsky, Cox Communications
Brian McAnallen, Director Legislative Affairs, CenturyLink
Judy Stokey, NV Energy

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David Gustafson, Acting Director, Chief Information Officer, Department of Information Technology

Chris Ipsen, Chief Information Security Officer, Office of Information Security, Department of Information Technology

Terry Savage

Keith L. Lee, State Contractors' Board; Board of Medical Examiners; Board for the Regulation of Liquefied Petroleum Gas

K. "Neena" Laxalt, Nevada State Board of Veterinary Medical Examiners

James L. Wadhams, State Board of Architecture, Interior Design and Residential Design

Daryl E. Capurro

Gerald A. Lent, O.D.

Chris MacKenzie

Renny Ashleman, City of Henderson

Kyle Davis, Nevada Conservation League

CHAIR LEE:

We open this meeting with Assembly Bill (A.B.) 144. This bill was referred to our Committee, but following a discussion after a hearing of the Senate Select Committee on Economic Growth and Employment, we will address this legislation as a job growth bill rather than a policy bill. It will be rereferred to the Senate Select Committee on Economic Growth and Employment.

ASSEMBLY BILL 144: Makes various changes relating to bidder preferences on state and local public works projects. (BDR 28-64)

SENATOR MANENDO MOVED TO REREFER A.B. 144 TO THE SENATE SELECT COMMITTEE ON ECONOMIC GROWTH AND EMPLOYMENT.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LEE:

We will now open the hearing on Senate Bill (S.B.) 137.

SENATE BILL 137: Revises provisions relating to the construction of bus turnouts at certain locations. (BDR 22-917)

CHAIR LEE:

Bus turnouts and bus shelters started as the responsibility of local government to supply bus turnouts for people using public transportation. A committee looked into bus use and found 120 places where people could catch a bus. An update occurred on bus shelters concerning their design and location. Bus turnouts prevent traffic congestion caused by stopping buses. Turnouts allow steady traffic flow, which help commuters on their way into work and business owners as they move their products. Turnouts will allow time, ease and safety for people embarking and loading their property, including bicycles, onto buses. These factors will promote bus use.

Senate Bill 137 tells the Regional Transportation Commission (RTC) of Southern Nevada that the Legislature wants to see 15 bus turnouts built in the next two years. Local governments have reservations about funding these turnouts, but when the turnouts are built, there is little complaint because of their betterment to the community.

I want to add a provision to S.B. 137 to have a site inspection for every turnout built. This will allow local government and all entities involved, including utilities and those with franchise fees, to work together in determining the exact turnout location. A turnout may need to be moved ten feet because of a utility. The site inspections will save time and eliminate potential construction issues and costs. One area of focus will be Sahara Avenue.

JACOB SNOW (General Manager, Regional Transportation Commission of Southern Nevada):

The RTC supports S.B. 137. We have made a concerted effort to construct bus turnouts. Bus turnouts provide safer places for our buses to stop, they allow us to move bus stops further away from travel lanes and they provide a greater protection for our transit riders. Buses stopping without a turnout make drivers behind them stop in the middle of traffic. Drivers appreciate bus turnouts because they do not have to stop and wait for people to board and debark from buses.

Bus turnouts are required in new developments even when transit service is not yet offered in that area. It prevents us from going back and tearing up roads

shortly after roads are built. We attempt to also install turnouts in areas where redevelopment or roadway projects are underway.

A typical bus turnout project costs \$200,000. If right-of-way is involved, this price can go up to \$250,000.

Senate Bill No. 173 of the 75th Session required the construction of bus turnouts and required the RTC to fund and construct ten bus turnouts on government-owned land by 2012. The RTC and our member entities identified and posted a list of turnouts to be built. To date, we have completed five of the ten turnouts. This includes a turnout in North Las Vegas, three in Clark County and one in Henderson. The remaining five will be completed by 2012 as required.

We can comply with S.B. 137. The funding is in place, the projects are planned, and we know bus turnouts are a priority for the Legislature and for the people in southern Nevada. We have incorporated the construction of more turnouts into our regularly slated widening projects. There will be a dozen or more bus turnouts in the Sahara Avenue Bus Rapid Transit Project. We have constructed bus turnouts along Boulder Highway that include portions of Henderson, the City of Las Vegas and Clark County. We have the proposed widening at Jones Street and Valley View Boulevard, which will involve a dozen or more bus turnouts. Other turnouts will also be built in the Las Vegas Valley. We do not anticipate installing bus turnouts on the Las Vegas Strip as there are existing turnouts. Senate Bill 137 will provide great improvement in safety, especially to people riding the bus as it moves them further away from travel lanes. The funding is in place, thanks to the Legislature, for widening some of these routes and installing bus turnouts.

CHAIR LEE:

I do not know if we need to put the site inspection into the bill. Can we discuss the need to have the utilities involved in the planning stage?

MR. SNOW:

The RTC does not oppose working with the utilities or other entities in the planning and development of bus turnouts. The RTC does not build the bus turnouts. If a turnout is in Clark County, Clark County Public Works designs and builds it. If a turnout is in the City of Las Vegas, it is designed and built by the City of Las Vegas Public Works. I do not foresee opposition from the other

entities because they have good working relationships with the utilities in taking care of concerns. The RTC's Utilities Coordination Committee meets monthly, and all utilities are represented. We can discuss bus turnouts and any utility conflicts on our regular agenda. We can have regular discussions about the design, and we can do site inspections.

SENATOR SETTELMAYER:

Who is responsible for paying the costs to move a utility's location?

MR. SNOW:

Each utility has a franchise agreement with the utility companies. It is the requirement of the utilities to pay those costs.

JACK MALLORY (International Union of Painters and Allied Trades District Council 15; Southern Nevada Building and Construction Trades Council):

We support S.B. 137 for reasons related to traffic flow and safety and because this legislation is a job creations bill.

BILL GREGORY (Southwest Gas Corporation):

We support S.B. 137. The cost of relocating utilities is an important issue for us, and we appreciate the consideration in the process.

ROBERT A. OSTROVSKY (Cox Communications):

We understand the desire to manage traffic, but there could be considerable expenses on behalf of the utilities. We are a franchised utility. In some cases, the utilities are underneath a street and in other cases, they are streaming off utility poles. The cost of bus turnouts can far exceed the amount the RTC has to pay to do the construction work of moving the pavement. Below the pavement, costs can be substantial. There is a cost. We want to do what we can to mitigate those costs and to find funding sources.

SENATOR HARDY:

Turnouts are projected for street widening. Do these turnouts include street widening not already projected?

MR. OSTROVSKY:

There is road work on a daily basis. We want to be clear that there are more than the construction costs projected by the RTC for bus turnouts. Cox Communications' ratepayers pay for it in their service bills.

BRIAN MCANALLEN (Director Legislative Affairs, CenturyLink):

My company would like to see added language concerning site inspection in this bill. Having our engineers involved in the front end of the planning process would help ease the cost issue and allow for better understanding between parties.

We are usually involved in the planning process after 60 percent of the plans have been developed. It is then too late for us to get engaged in the process and deal with these cost situations. Adding site inspection language into the bill will help alleviate our concerns. Our company has a good working relationship with the RTC and local governments, and we are a part of the RTC Utility Coordination Committee. During those meetings, discussions are at 10,000- to 30,000-foot levels where there is significant construction—as is the case to widen the road and build bus turnouts at Sahara Avenue. The discussions do not address specific plans. For example, they do not discuss the street corner of Sahara and Fort Apache Avenue. This is the needed depth and detail. Also, the wrong people are often at those meetings. We need to have discussions between the engineers and the planners on the front end to mitigate costs.

JUDY STOKEY (NV Energy):

We are neutral on Senate Bill 137. We participate in the Utility Coordination Committee, and I support Mr. Snow's idea of placing bus turnouts on the monthly agenda. We have franchise agreements with the entities. If a distribution line needs to be moved, it is at the cost of the utility ratepayers. If a transmission line needs to be moved—such as can be found on Sahara—that cost would go to the entity asking us to move it.

SENATOR MANENDO:

Is the work on the Boulder Highway part of the new Boulder Highway Express?

MR. SNOW:

Yes.

SENATOR MANENDO:

The 15 turnouts would be on Boulder Highway and on Sahara Avenue.

MR. SNOW:

The bus turnouts on Boulder Highway are 90 percent constructed. The Sahara Avenue Bus Rapid Transit Project is getting underway. For the next biennium,

we are also looking at Jones Street and Valley View Boulevard. There are five remaining turnouts. They are Charleston Avenue eastbound at Rancho Street in the City of Las Vegas; Pecos Street southbound at Bonanza Street in the City of Las Vegas; Rainbow Avenue southbound at Lake Mead Boulevard in the City of Las Vegas; Green Valley Parkway southbound at Sunset Road in the City of Henderson; and Carrie Hills Avenue westbound at West Street in North Las Vegas.

We have a good record in our coordination with the utilities. I have not heard about excessive costs born by the utility companies from the last round of turnouts as required by S.B. No. 173 of the 75th Session. We are willing to work with any interested party, and if it is insufficient for the utility companies to participate in the monthly discussions of the publicly noticed Utility Coordination Committee meetings, we can create working groups and bring in designers, planners and engineers from the companies and work out issues.

SENATOR MANENDO:

Addressing Sahara Avenue, is the work going to be on East and West Sahara?

MR. SNOW:

Correct.

CHAIR LEE:

The hearing is closed on S.B. 137 and the hearing is open on S.B. 56.

SENATE BILL 56: Revises provisions governing the entities required to use the services and equipment of the Department of Information Technology. (BDR 19-426)

DAVID GUSTAFSON (Acting Director, Chief Information Officer, Department of Information Technology):

Senate Bill 56 addresses two areas. One, it removes exemptions to the Department of Information Technology (DoIT) services for the Department of Motor Vehicles; the Department of Public Safety; the Department of Transportation; the Employment Security Division of the Department of Employment Training and Rehabilitation; the Department of Wildlife; and the Housing Division of the Department of Business and Industry.

This bill also clarifies language for boards and commissions allowing for greater information technology (IT) oversight. By specifically naming boards and commissions, it gives DoIT authority to ensure the State's data is collected, stored and transmitted according to State security policy and regulations.

CHAIR LEE:

Can you explain what you want to accomplish with this bill? For example, how did you select the specific agencies, and how might this address procurements?

MR. GUSTAFSON:

Many Executive Branch agencies are not listed. We mentioned only exempt agencies. Removing the exemptions ensures they are following DoIT policies and regulations. Procurement and staffing are already addressed under *Nevada Revised Statute* (NRS) 242. These exemptions are only for DoIT services.

CHAIR LEE:

This bill wants to take IT from boards and commissions and put them under purview of DoIT. How did this bill come about?

MR. GUSTAFSON:

This bill clarifies language for boards and commissions. Boards and commissions are already under the purview of NRS 242.

SENATOR HARDY:

The boards and commissions already use DoIT services in every way; so this bill is not creating change?

MR. GUSTAFSON:

The boards and commissions are not using DoIT services in every way. Many boards and commissions maintain they are not under the purview of the State security policy and regulations. The language in this bill clarifies they are under the purview of NRS 242.

SENATOR HARDY:

What will happen with the interfacing of these boards and commissions not online with DoIT if this bill passes?

MR. GUSTAFSON:

The Chief Security Officer would begin to work with boards and commissions to ensure they are compliant with the State security policy and regulations.

SENATOR HARDY:

This will not happen at the click of a button.

MR. GUSTAFSON:

No.

SENATOR HARDY:

What is the projected rollout cost?

CHRIS IPSEN (Chief Information Security Officer, Office of Information Security, Department of Information Technology):

My primary concern is that data collected by the State is maintained in a consistent and secure manner. Citizen data should be treated well, irrespective of the location or the entity that collects it. Every department, board and commission collects data. Some data, such as personal information for doctor and nurse licensing, is highly sensitive. A commission exists to address a specific entity within the State. My primary concern is when information is collected, we collect it in a secure manner, maintain effective standards and ensure the data remains confidential when required by law.

The State security policy is developed by all participating agencies. It is a collaborative process and mapped to industry standards. We mapped our process to the National Institute of Standards and Technology and the International Organization for Standardization 27002. In the last two years, we consolidated the policy to make it easy and understandable for boards, commissions and State departments. We want to manage data in a consistent and secure manner.

All boards, commissions and departments have differing levels of capabilities with management of data. My goal is to have information maintained in a secure and consistent manner with industry best practices. Some departments, boards and commissions do not have personnel dedicated to this, so it is important that DoIT can assist agencies.

Specific to Senator Hardy's question on implementation, there is no flip of a switch. We do not knock on doors, and I could not go to every board and commission. The key is to look at the data, where is it, how is it maintained, and how can we assist agencies to ensure confidential records are maintained consistently and effectively.

SENATOR HARDY:
Is there a rollout schedule?

MR. IPSEN:
There is not a specific rollout plan. This bill recognizes there is an inconsistency within the State. My goal is to collaborate and engage the boards and commissions. At the annual meeting of the National Association of State Chief Information Officers, I asked if it is important to have the legislation. The answer was yes. I would like to have the legislation, and I would like to never have to use it. I would like to say every agency is altruistic and that they will do the best security practices.

My concern is that security should be placed in the front end. It is less expensive and more effective. I would like to work with departments, boards and commissions in designing their systems so they adhere to the best practices with systems and collected data. We would use the same schedule. It creates more work on my end, but it is work that needs to be done.

SENATOR HARDY:
I am concerned with doing more with less, in regard to cutbacks, and how to get the boards and commissions to embrace this legislation without understanding a rollout.

CHAIR LEE:
I cannot grasp this legislation's value, yet it will create big change for how people do business. Will you discuss the changes to the agencies and how this legislation will affect them?

MR. GUSTAFSON:
The exemptions to DoIT services, NRS 242.131, are specific to DoIT services. We already do business with those boards and commissions that are listed. This bill is clarifying language to promote the internal service fund before outsourcing is considered. The NRS 242 gives procurement. Staffing is not addressed.

TERRY SAVAGE:

I was the director of DoIT for seven years under the late Governor Kenny C. Guinn. This legislation will create significant impact to the way IT is conducted within the agencies. Primarily, it will be more in the manner of reporting and efficiency than in what they do. If there is a requirement for a service, such as a personal computer technician or mainframe capacity, they will still receive it but in a cost-effective manner.

I submitted a similar bill in the 2005 Legislative Session, but I did not include boards and commissions; that was an omission on my part. An economic analysis was made upon the defeat of the bill. If boards or commissions get funds from the General Fund, it is addressed on pages 5 and 6 of the analysis in Hidden Costs of Local Optimization ([Exhibit C](#)). There is a significant economy of scale with services provided in a centralized manner. If they receive federal funding, fee funding or funding from another source other than the General Fund, the analysis on page 7, [Exhibit C](#), addresses why that saves the General Fund money with the centralization of IT services. The addition of the boards and commissions is the right thing to do from the fiscal standpoint, and this should answer the question as to why this bill targets boards and commissions. There are also security aspects. For the record, I started the IT security function in the State in 2001. We had the IT Security Committee and, with the acceptance and permission of the Legislature, it was expanded to an actual functional entity within the Department.

The problem with IT security is that it cannot be done a piece at a time when operating within an integrated network. If there is a security hole—whether it be in the Department of Transportation, DoIT or in a board or commission—a hole is a hole that can let people in. Roughly three-fourths of all security breaches are caused by internal problems. People may not know proper security procedures and in rare cases, people are acting maliciously.

There is a working model. The Nevada Communication Steering Committee formed in the 2003 Legislative Session was incorporated into the Homeland Security Commission in 2005. We had to get radio systems from the Department of Public Safety, local sheriff and fire departments, and emergency medical services compatible. We developed a transition plan for these radio systems. It was passed unanimously without objection and without amendment through the Homeland Security Commission. This template will allow us to integrate in a nondisruptive manner.

The first thing when integrating the boards and commissions is to inventory their systems. We do not know all the systems and their applications. We know how to survey the systems, as we have a model from a business continuity planning process that won an award from the Center for Digital Government. The next step would be to assess the security status. Some may be in full compliance while others will not. Until the survey is done and we know the status, we cannot develop a detailed plan for implementation, but the sequence is established. First, discover what is there; second, determine the security status; and third, provide remediation for the boards and commissions not in compliance. The implementation does not have to be disruptive, but it does require data, analysis and a working relationship.

My emphasis for this legislation is based on the cost issue, and that is why I presented my handout, [Exhibit C](#). I also have the description of the transition plan from the Communication Steering Committee available.

SENATOR HARDY:

The aspect of the Nevada Spending and Government Efficiency Commission that impresses me is that it takes money to make money, and it takes money to save money. How much money will it take before we start saving money with this legislation and a fund is established? We cannot know the costs as we do not know their systems and the systems' status of security.

MR. SAVAGE:

We cannot know the detail, and full integration will take time, so savings will not materialize at once. The internal work is inexpensive and can be handled by DoIT's security staff. There is existing security hardware such as firewalls within DoIT that can handle the work. There are no significant up-front costs for implementing this bill. All benefits will not appear at once as the transition will gradually occur.

SENATOR HARDY:

What percent of integration can be handled?

MR. SAVAGE:

The security implementation handled with DoIT's staff and existing hardware and software is almost 100 percent. People at the boards and commissions will need to do things differently, but existing staff can train them. They will need to integrate with the existing hardware and software. The capacity is there. There

may be cases where there may be added costs. In terms of security, the additional cost for the implementation will be negligible.

MR. IPSEN:

There has been a concerted effort to look at methodologies for building efficiencies in security. There is a cost for not doing it well. The average cost of a data breach with notification and credit counseling is \$200 a record, and the State has many iterations and millions of records. The cost of a breach can be significant. There is also the inconvenience to citizens becoming victims because we mishandled data. My concern is that if entities do not have specialized security training or are not adhering to a recognized security policy, their confidential data can become compromised. Often data becomes compromised because people do not understand the significance of a configuration file or the lack of controls around a firewall. They may also inappropriately collect data, such as not encrypting it.

At a minimal cost, we can ensure people are adhering to the same practices. We are only as strong as our weakest link. The citizen does not care if it is the State Board of Cosmetology, the Office of the Secretary of State or the Department of Transportation where a breach occurs. Citizens expect their data to be handled in a secure and efficient manner. If we do not have the authority to ask how data is handled, a problem exists. We are here to assist. In many cases, we can do this with our existing staff. I do not anticipate a cost associated with the expanded duties. It is our responsibility to handle these duties from a security perspective. I am working closely as a member of the Nevada Homeland Security Commission to look at Homeland Security funds. A separate bill is looking at other economies of scale that we can leverage with counties and cities who are saying they would love to work with DoIT to standardize policies and procedures.

SENATOR HARDY:

I am assured it will bring diminishing costs. We can save money in the long end, and in the short end, we will get security protection. We have also been assured that the boards and commissions will be involved with the process, and there will be communication among the entities.

MR. IPSEN:

You have my assurance we will work collaboratively with the entities to help them rather than to box them into a corner. We want to do the right thing for the citizens of the State.

CHAIR LEE:

Did you have a chance to meet with the entities and discuss what you want to do?

MR. IPSEN:

Some participate in security such as the Nevada Department of Transportation. Those using SilverNet services are required to adhere to security policies. This bill eliminates the ambiguous area of entities not on the State backbone. I frequently talk with the Department of Public Safety and the Department of Motor Vehicles. I do not talk with boards and commissions on a regular basis. Boards and commissions do not generally come to the State Security IT Committee, they do not participate in the State security policy and they do not voice concerns or objections relating to security issues.

KEITH L. LEE (State Contractors' Board; Board of Medical Examiners; Board for the Regulation of Liquefied Petroleum Gas):

None of these boards are General Fund agencies. They are supported by their licensees. Each agency has its own IT system peculiar to its own needs and demands. Each is different in respect to licensure, status of their licensees and disciplinary status. The Board of Medical Examiners has an overlay of federal and State privacy laws concerning the doctor-patient privilege and relationship. Senate Bill 56 does more than clarify security issues. I refer you to sections 1, 2, 5 and 8. Section 1 says, "The Director shall adopt regulations necessary for the administration of this chapter, including" Section 1, subsection 1 applies new language of "boards" and "commissions" to "at the least cost to the State." This means that if the bill is passed, boards and commissions would be subject to regulation of the director who implements NRS 242.

Section 5, subsection 1 states, "The Department shall provide state agencies, boards, commissions and elected state officers with all their required design of information systems." That shall make it mandatory.

Section 8, subsection 1, states "All equipment of an agency, board, commission or elected state officer which is owned or leased by the State must be under

the managerial control of the Department" This new language does far more than clarify ambiguities that presumably exist. This bill is a more reaching bill than has been suggested.

It is important that the three agencies I represent do work with DoIT. They each receive different services from DoIT. Each agency also pays for these services. The State Contractors' Board pays in excess of \$300 a month to DoIT; the Board of Medical Examiners pays in excess of \$900 a month to DoIT, and the Board for the Regulation of Liquefied Petroleum Gas pays in excess of \$100 a month for DoIT services.

The proponents of S.B. 56 suggest there is a security problem with the boards and commissions. There are ways to work with them to review our security systems without legislation. We are willing to collaborate. The DoIT is suggesting two things. One, DoIT is suggesting there have been security breaches with boards and commissions, and the agencies I represent have not had security breaches. Two, DoIT is suggesting we are not interested or concerned about security issues. We—indeed—are interested. Security is very important. Senate Bill 56 does far more than clarify ambiguity. It makes drastic changes in how we conduct IT business within our boards and commissions. Our systems are functioning well, and this legislation is not necessary.

K. "NEENA" LAXALT (Nevada State Board of Veterinary Medical Examiners):
I agree with the thoughts of Mr. Lee. This bill also does not show a fiscal note, but there will be fiscal implications to the boards and commissions if we need to make equipment changes. The State Board of Veterinary Medical Examiners was not contacted by DoIT. We would have welcomed conversation with DoIT prior to this legislation.

JAMES L. WADHAMS (State Board of Architecture, Interior Design and Residential Design):

The State Board of Architecture, Interior Design and Residential Design (NSBAIDRD) is a professional licensing board supported exclusively by fees. I echo the comments made by my predecessors. The scope of this bill is substantially different than setting Statewide security standards. If it were only about security standards, collaboration would be welcomed. We understand the need for security of data, but this bill goes beyond that purpose.

The NSBAIDRD has provided a handout ([Exhibit D](#)) relating to a specific instance of interaction with DoIT in terms of operation. Problems have occurred in the past that have interfered with the regulatory function and protection of the public. We suggest that Statewide security standards need to be set. This can be done, and vendors could be required to conform to those standards. This would be a much different scope of bill than what is before us today. We oppose S.B. 56.

DARYL E. CAPURRO:

I am a member of the Board of Wildlife Commissioners. I am a sportsman and a conservationist in the State. My concerns are specific to the inclusion in section 5, subsection 2, paragraph (f) which is the removal of the exemption for the Department of Wildlife (NDOW) for using DoIT services.

The NDOW has the most successful public-private partnership with tag drawing and application procedures in the State. The outfit that does this activity for the State also provides the service for other States using Nevada's program, developed privately, as a model.

Twenty years ago, there was a big fight because NDOW failed five or six audits relative to issues regarding the issuance of tags and licenses. This public-private partnership developed as a result. This put the responsibility for tags and licenses onto a private organization. I was a member of the team that helped put the law into effect. I was also on the committee to design the system to go to a privatized system and to select Systems Consultants, Inc. (SCI). Over 95 percent of the monies that go into NDOW are generated by sportsmen's dollars federally or by State licensing and tag sales. Sportsmen are the primary funding source for NDOW. The law provides that NDOW can charge up to \$10 per application for a license. The SCI gets about \$5.25 of the collected \$10. The remaining money goes toward funding NDOW activities. It is possible that with implementation of S.B. 56, the remaining money would go to DoIT, not to the sportsmen. Return the control to NDOW by removing them from Senate Bill 56.

SENATOR SETTELMAYER:

We have Senate Bill 56 Fact Sheet ([Exhibit E](#)) from the Department of Administration. It states there is no plan to change the NDOW outsourced tag draw system. Do you disagree with what the Governor is indicating?

MR. CAPURRO:

I envision the potential to change the tag draw system because of the bill's language. It may not be the bill's intent, but the language says DoIT could take over aspects such as the privatized draw. This change would provide the opportunity for that money to be taken away from sportsmen activities and put toward funding DoIT and other activities.

GERALD A. LENT, O.D.:

I am an NDOW Commissioner, but I am testifying as a private citizen. I want to present a history on the NDOW tag draw system to add perspective. Tags are of high value. For example, two weeks ago at a sheep convention in Reno, a Texas tag went for \$80,000, an Oregon bighorn sheep tag went for \$130,000 and a British Columbia sheep tag went for \$140,000.

There were many discrepancies in the tag draw process with IT, in that tag draws could be predicted. A Legislative Counsel Bureau audit was ordered and showed why the tag draw system needed change, and how the system would benefit if done by a private agency. The performance audit said:

We have concluded that controls are insufficient to ensure the integrity of big game draw system. The numbers can be determined before the draw takes place, which could result in manipulation of the draw. This results in very high risk that someone could change the results of a draw. Some of the exceptions in areas we discovered during the examination could be considered indication of abuse or illegal acts.

The audit also said because of the way the tags were drawn, the draw could result in the NDOW employees issuing tags to hunters of their choice without regard to the draw.

Following the audit, a bill was passed. It exempted NDOW from the State IT and it privatized the NDOW tag draw. Sportsmen fund 100 percent of the draw. No State money is used, and the privatized tag draw system is audited by the State. System Consultants, Inc. has the bid. It is a high tech agency and does top secret work for the Naval Air Station Fallon. Tag drawings are immediately signed and the CD sealed to protect draw results.

The Governor supports S.B. 56. I did not know about the Senate Bill 56 Fact Sheet, [Exhibit E](#). I am appointed by the Governor and remain neutral on this

legislation. I testified today to facilitate this Committee's understanding as to why NDOW was exempt. Tag drawings were privatized, as tag drawings result in big dollars, and there were abuses in the system.

MR. CAPURRO:

Due to sportsmen's concerns well over a year ago, the Commission adopted a requirement that tag draw results conducted by SCI must be made available to those sportsmen who applied for tags within 48 hours. Twenty years ago when the system was under DoIT, it took six weeks or more to get those results. Applications had to be placed earlier, and it made quotas more difficult. The system in place is refined, and we ask that it not be changed.

CHAIR LEE:

The NDOW system is open and user-friendly.

SENATOR HARDY:

I am trying to collate the issues on section 5 of S.B. 56 with the Senate Bill 56 Fact Sheet, [Exhibit E](#). The points of clarification on page 1 of the Fact Sheet indicate no plans to change the NDOW Outsourced Tag Draw System. Section 5, subsection 1 says "The Departments shall provide ..." and section 5, subsection 2 says "... may negotiate" and exempts the NDOW. How can the NDOW be exempt in one area and not in another?

MR. CAPURRO:

The agencies in section 5 specifically do not have to go to DoIT for their work. Some agencies including NDOW do use DoIT services for certain specific activities. The word "may" says they can use DoIT, but they are not required. If "shall" is added, the agencies would have to use DoIT services, causing DoIT to have control over the tag draw system.

MR. MALLORY:

It appears the scope of this bill goes beyond security issues. It appears it will centralize data collection and data storage with DoIT. Our concern is that this legislation would impact private citizens and organizations from obtaining information that is public record through the Freedom of Information Act.

CHRIS MACKENZIE:

Speaking as a private citizen, I was on the NDOW Commission from 2001 to 2007. This issue came up once or twice. I am concerned as a sportsman. There

will be additional costs and more money going to DoIT. I like the language about a collaborative process to work on DoIT's security system, but this bill is broader than the issue of security. I am worried about excess costs. This legislation will give more money to DoIT and take money away from sportsmen dollars.

MR. GUSTAFSON:

This legislation only gives the internal service fund the first right of refusal. This is not a takeover bill or a way to force boards and commissions to do what they do not want to do. This legislation is to encourage the use of the internal service fund. As an internal service fund, we start at zero and end at zero. We are not a profit center. Where it is amiable between all parties, we can find economies of scale which will lower costs.

SENATOR MANENDO:

I recommend you send a letter to the boards and commissions—if you are trying to encourage them—and discuss what you are trying to do. The Legislature is the last step in a process. Have you had much communication with the boards and commissions?

MR. GUSTAFSON:

We have communicated with the boards and the commissions. We work closely with departments all the time. My position is if boards and commissions are collecting State data, personal identifiable data, it needs to be collected, stored and transmitted in a manner compliant with the State security policy and regulations. I am not concerned about tag draw systems or the architect board, but if people are collecting social security numbers—they are collecting personal identifiable data—it needs to be compliant with State policy and State security regulations.

CHAIR LEE:

The hearing on S.B. 56 is closed. We will open the hearing on S.B. 85. It revises provisions governing land use decisions.

[SENATE BILL 85](#): Revises provisions governing land use decisions. (BDR 22-99)

RENNY ASHLEMAN (City of Henderson):

This bill is not new to the Legislature. Senate Bill No. 354 of the 75th Session almost passed. It had an extraneous provision not related to what we have here. The bill was thoroughly vetted.

Senate Bill 85 says an aggrieved party must make an appearance at various levels before going forward. It is possible to appeal a land use decision without ever having to appear in front of a planning commission or board and commission. A person can go to court without ever having expressed a concern or without a record on the concern. This bill asks that if people wish to appeal decisions, they make an appearance and state their concern. A concern not expressed before going to court is difficult to handle as there is no record to review. Typically in these cases, the court dismisses the case or sends it back to former record. Meanwhile, the party who received the favorable determination of the land use decision is stuck.

Another case that concerned this ability to appeal is a method of trying to force a commission or council to take action in an entirely different area. A clear example is when we had a party apply to become annexed into our auto mall area. This is the exclusive place where cars are bought, sold and traded in the City of Henderson. The parcel was contiguous and had empty property next to it, and there were no objections. The party had paid for a major franchise and was held up because another party, not involved in the process, appealed the decision because the second party wanted the right to have an auto lot in the resort corridor. The City of Henderson was not harmed, other than city attorneys were tied up, but there was a great deal of damage to the involved party. This bill will correct these two types of situations.

Senate Bill 85 also allows people to appeal certain decisions that cannot be appealed. For example, certain planning decisions become effective without going to a city council meeting, so people have no place to state an objection or ask the city council to review. The bill will also exempt gaming enterprise districts from the provisions of this bill. Gaming enterprise districts' land decisions and issuances of license are distinct from other zoning and planning measures.

On behalf of the City of Reno, section 1, subsection 7, paragraph (a) includes the armed forces. They were added so they can become involved in the

process. Clark County also had a concern because its staff could not appeal, so we added "Any governmental entity" in section 1, subsection 7, paragraph (b).

CHAIR LEE:

When land is contiguous, a person has a reason to be concerned about what is coming next door, but there are radiuses where people in the zone are notified within a specific time period. Would this notification process change, and how large are the zone radiuses?

MR. ASHLEMAN:

The zone for most land decisions is 700 feet. We produce a public notice, and each person within the zone gets an individual notice. In general, if the zone is in a rural area, it is about 1,200 feet. There is an expanded notice for people further apart. This legislation will not change the notification process.

SENATOR SETTELMAYER:

I assume the language "In a county whose population is 400,000 or more" is there because it is throughout section 1, but why was it established that if a person in a community of 400,000 or more has a different rule than a person in a community having less than 400,000?

MR. ASHLEMAN:

At first, the law pertained to everybody, but a change was made to include only Clark County.

SENATOR HARDY:

In section 1, subsection 7, paragraph (b) the bill says, "Any governmental entity." How far does "any government entity" reach? Does this include a city library board?

MR. ASHLEMAN:

This would mean any governmental entity, so yes, this would include a city library board.

SENATOR HARDY:

Would this be applicable only to Clark County?

MR. ASHLEMAN:

Subsection 7 would apply Statewide because it allows a general ability to appear.

CHAIR LEE:

For notification of this Committee, S.B. No. 354 of the 75th Session passed this house and almost passed the Assembly. Two Assemblymen put a gaming enterprise district on the bill.

SENATOR SETTELMAYER:

Was the portion of "Any governmental entity" found in section 1, subsection 7, paragraph (b) on the last bill? My concern is the language is broad and now applies to local areas. A local mosquito abatement department will have the right to object to a land use because it might create more areas for mosquitoes to breed. Moving this legislation Statewide is concerning.

SENATOR HARDY:

Is it any governmental entity anywhere in the State that can get involved in a land use issue in Clark County?

HEIDI CHLARSON (Counsel):

Looking at the bill from last Session and looking at Senate Bill 85, "Any governmental entity" was included in the definition.

SENATOR MANENDO:

I know notices are sent out, but if a person is unable to attend a meeting, does this impact the person's right to appeal?

MR. ASHLEMAN:

Yes, it would have an impact, as the idea is to have people participate in the process. If people cannot appear, a record cannot be formed allowing the appeal to make sense to the court. It is a necessity for the person to participate. If people cannot appear in person, they can send in written material or have a representative appear for them. Without an appearance, there is no fair ability to discuss a complainant's concerns. We do not want to find ourselves in court with a person from whom we have never heard. In the law, it generally says that a person must exhaust an administrative remedy before going to court. This is one area where the law is not specific, it is a stand-alone statute on how to

handle these appeals, and that is why we are adding a person's participation in the process.

KYLE DAVIS (Nevada Conservation League):
To ensure understanding, this is the bill that we did agree to last Session.

MR. MALLORY:

We agree with the premise that the City of Henderson is presenting; however, we have concerns not addressed in the bill. An individual can submit written statements to a planning commission or boards that could be a part of the public record. Those people are exempted from an appeals process based on the language of this bill and must appear before the planning commission. This bill also does not address situations that have occurred where notice was not sent out in a timely manner or the notice was not received by all individuals within a notification zone. I spoke with a Clark County Commissioner prior to this hearing. There are several zone radiuses. There are zones consisting of a 500-foot radius, a 1,000-foot radius and 1,500-foot radius. Homeowners bordering a radius will not get notified if outside the radius, but their next-door neighbors will because they live inside the zone. The problem is the neighbors outside the zone might also have concerns about the land use but are unaware of the planning. There are no provisions or allowances within the law for people within a reasonable proximity to the zone radius.

We stand neutral on S.B. 85 because the bill's intentions are good. People need to be engaged in the process. There needs to be a public record, but concerns need to be addressed.

SENATOR HARDY:

Section 1, subsection 5, paragraph (a), says, "The person shall be deemed not to be aggrieved by the decision unless the person appeared in person, through an authorized representative or in writing and fully set forth his or her position and the grounds in support of that position." To alleviate concern, I read that to mean a person in writing can "appear" in person, through a representative or in writing.

CHAIR LEE:

The hearing is closed on S.B. 85. We will open the hearing on S.B. 123. This bill was submitted on behalf of the Advisory Commission on the Administration of Justice.

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SENATE BILL 123: Revises provisions governing the Office of State Public Defender. (BDR 18-641)

CHAIR LEE:

Seeing no one responsible for S.B. 123, the hearing on S.B. 123 is closed. This Senate Committee on Government Affairs is adjourned at 9:44 a.m.

RESPECTFULLY SUBMITTED:

Cynthia Ross,
Committee Secretary

APPROVED BY:

Senator John J. Lee, Chair

DATE: _____

| <u>EXHIBITS</u> | | | |
|------------------------|----------------|------------------------------|---|
| Bill | Exhibit | Witness / Agency | Description |
| | A | | Agenda |
| | B | | Attendance Roster |
| S.B. 56 | C | Terry Savage | Hidden Costs of Local Optimization |
| S.B. 56 | D | James L. Wadhams | Nevada State Board of Architecture, Interior Design and Residential Design Testimony in Opposition to S.B. 56 |
| S.B. 56 | E | Department of Administration | Senate Bill 56 Fact Sheet |