

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

**Seventy-sixth Session  
March 9, 2011**

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 8:12 a.m. on Wednesday, March 9, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 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  
Lorne J. Malkiewich, Director, Legislative Counsel Bureau  
Cynthia Ross, Committee Secretary

**OTHERS PRESENT:**

Steven D. Garland, Colonel, Commander: 99th Air Base Wing, Nellis Air Force Base, Creech Air Force Base, Nevada Test and Training Range  
Dan Musgrove, City of North Las Vegas  
Jennifer Lazovich, Pardee Homes  
Gustavo "Gus" Nunez, P.E., Manager, State Public Works Board  
James M. Wright, Chief, State Fire Marshal Division, Department of Public Safety  
Kim R. Wallin, State Controller

Senate Committee on Government Affairs  
March 9, 2011  
Page 2

George Ross, Bank of America  
Bill Uffelman, President and CEO, Nevada Bankers Association  
Carole Vilardo, President, Nevada Taxpayers Association  
Janine Hansen, Nevada Eagle Forum; Independent American Party

CHAIR LEE:

We begin our meeting with a work session, and our first bill is Senate Bill (S.B.) 93.

**SENATE BILL 93**: Makes various changes relating to military installations.  
(BDR 22-39)

MICHAEL STEWART (Policy Analyst):

Senate Bill 93 relates to military installations. The bill requires a city or county master plan to include a military activities plan at the request of a commander of a military installation at which 1,000 or more service members are permanently assigned. It sets forth the contents of the plan and requires an owner of property located in an area covered by a plan to disclose to a potential buyer information concerning the plan and that the property is located in an area covered by the military activities plan. Senate Bill 93 specifies that the plan does not apply to any property for which a development agreement has been entered into with a city or county before October 1 or any land use entitlements granted for such property on or before October 1. The plan would also not apply to any amendments, modifications, extensions or additions to development agreements on or after October 1 or any land use entitlements granted for the property on or after October 1. There are four amendments ([Exhibit C](#)).

The first amendment is proposed by Nellis Air Force Base (AFB). It amends section 1, subsection 5, to specify that the commander of a military installation can request the plan set forth in *Nevada Revised Statute* (NRS) 278.160. It would remove the commander of a military installation at which 1,000 or more service members are permanently assigned. If the Committee chooses this amendment, they would have to make a corresponding amendment in section 3, subsection 4.

The second amendment provided by Nellis AFB and the City of North Las Vegas revises provisions related to the creation of a separate military activities plan. The military activities plan would be included as part of the land use plan as set

Senate Committee on Government Affairs  
March 9, 2011  
Page 3

forth in NRS 278.160. The parallel references throughout S.B. 93 would also have to change.

The third amendment, presented on behalf of Pardee Homes, amends section 10 to clarify that provisions of the military activities plan would not apply to any amendments, modifications, extensions or additions made to land use entitlements on and after October 1.

The fourth amendment is brought forward by Coyote Springs LLC. It also applies to section 10. It concerns the applicability of the military activities plan. It clarifies that the plan would not apply to any amendments, modifications, extensions or additions made to land use entitlements granted before October 1, and to any amendment, modification, extension or addition made on or after October 1 to such land use entitlements.

This bill, as introduced, is identical to S.B. No. 301 of the 75th Session, which was approved by this Committee.

STEVEN D. GARLAND, COLONEL (Commander: 99th Air Base Wing, Nellis Air Force Base, Creech Air Force Base, Nevada Test and Training Range):

The intent of Senate Bill 93 is to allow transparency of our activities by providing a format that can be used easily by the public and by developers. The military activities plan would map those activities already on public record to give individuals near installations an indication of our mission activities.

CHAIR LEE:

Have you vetted the amendments, [Exhibit C](#)?

COLONEL GARLAND:

Yes.

DAN MUSGROVE (City of North Las Vegas):

The amendment, [Exhibit C](#), we submitted is already incorporated in an amendment proposed by Nellis AFB.

We had concerns where the military activities plan would be placed in the process. We wanted it placed early in the process at the land use level. We wanted it placed there so reasonable local land decisions could be made. Our amendment works well with what Nellis AFB wants to accomplish with this

legislation. They want to disclose their missions' activities to assist planning. We are cooperating with Nellis AFB and look forward to our continued relationship. We will help to disseminate the information through our planning. We might link to Nellis AFB's Website through our planning Website so people can navigate the site to get the most updated map. We support S.B. 93 with our amendment.

SENATOR HARDY:  
Can the Websites link now?

MR. MUSGROVE:  
YES.

CHAIR LEE:  
The third amendment for S.B. 93 is presented by Pardee Homes.

JENNIFER LAZOVICH (Pardee Homes):  
We are the master residential developer in Coyote Springs. Coyote Springs is governed by a development agreement that has been entered into with Clark County. Section 10 addresses any property that has a development agreement in place. In North Las Vegas, there is a development agreement for the master community of Park Highlands. There is also Capex, an industrial project, that has a development agreement in place. We have proposed an amendment to section 10, [Exhibit C](#).

The amendment clarifies that any entitlements allowed under a development agreement—including land use entitlements going forward—would not be subject to this provision of the bill. The amendment adds a few words, and we have worked with Nellis AFB on that language. Coyote Springs LLC has negotiated a separate specific disclosure with Nellis AFB, and it will be given to Coyote Springs buyers.

CHAIR LEE:  
A shared concern by real estate agents is they want to sell real estate, and these military disclosures might scare off buyers. Do you think these disclosures will serve as a detriment to sales?

MS. LAZOVICH:

The disclosure was agreed to by Coyote Springs LLC and Nellis AFB. It is in the best interest of Pardee Homes to have a disclosure given to buyers about military activities occurring in the airspace above them.

CHAIR LEE:

Is the disclosure's purpose because of safety concerns?

MS. LAZOVICH:

It is a good disclosure for our buyers. Pardee Homes takes the position military activity should be disclosed.

SENATOR SETTELMAYER:

May I have a copy of the disclosure that will be given to the buyers of Coyote Springs? I have an issue on the degree of notification. Under the right-to-farm law, an individual buying a home receives a paper stating that agriculture is in the area and to expect the consequences. I would like to see the same for the military. People buying in an area with military activities should be notified. They can accept it or choose not to buy. I want to see the level of disclosure Coyote Springs and Nellis AFB developed compared to the military activities plan.

I have a question for Colonel Garland. The legislation says "upon request." If a request is not made, a military activities plan never comes to light. What is driving this bill? Is there a pending lawsuit? I want to know why this concept needs to be done now. Is the military turning a particular aircraft landing approach? I want to know the factors behind this bill.

COLONEL GARLAND:

The biggest driving factor is President Barack Obama signing the National Defense Authorization Act of 2011. This set up a DOD clearinghouse. The clearinghouse will provide a system allowing a developer a standardized process to bring ideas forth. Within 30 days, the developer will get a determination, and he can move forward on his development path. This bill will allow transparency at the beginning of this process. The developer will know what direction to take in the beginning stages. The activities map will add transparency and give notice of military missions in an area. The clearinghouse has never been offered because it was not signed into law until this year. It will

Senate Committee on Government Affairs  
March 9, 2011  
Page 6

facilitate where developments should be located. It will also give awareness to others that we are in the area.

SENATOR SETTELMAYER:

Do you know of any lawsuits or any pending lawsuits this might affect?

COLONEL GARLAND:

No.

CHAIR LEE:

Can you explain the difference between a plan and a notification? Senator Hardy is concerned exposing military activities might hinder operations and national security.

SENATOR HARDY:

I am a veteran. The military—at times—needs to do missions without permission. The military is critical for our Nation's safety, and it gets in positions that might call to act according to "plan" or "notification." I do not want to put the military in a position of going against their notification policies when addressing expedient or emergency matters where the public is not to be told. People buying land or buildings and developers need to use their own sense. I am concerned with notification and the bill's essence. The military has always been a good neighbor. People can find where the military flies with appropriate due diligence. People can find flight patterns on a Nellis AFB Website, correct?

COLONEL GARLAND:

Yes, people can locate our activities. The military activities plan only addresses areas federally authorized for military usage. The level of awareness is to help people understand when they hear a gunshot coming from a security forces training ground or shooting area, or if an activity is aerial, the planes are part of a gunnery range or where low-flying activity occurs. The information is generic. Another example is showing where the jettison hill is located in case a plane needs to jettison ordnances. The classified levels of detail are never disclosed. They are a subset of air combat training, which is the piece for the majority of activity at the Nevada Test and Training Range (NTTR). The NTTR does electronic warfare testing and air-to-air maneuver training. This is the amount of detail that will be covered in the activities plans. We will not get into specific missions or capability sets. The bill's intent is to let people know if there is

ground or air activity. The military activities plan is a generic disclosure of our activities for the purpose of transparency.

SENATOR HARDY:

Can Nellis AFB provide the public this information on a Website?

COLONEL GARLAND:

We can make this information available on a Website, but—by having the cities and counties incorporate the activities plans into their land use plans—this will take transparency to the next level. More people will see our activities when they go to a city or county venue as opposed to visiting our Website, specifically to see what we are doing.

CHAIR LEE:

The hearing on S.B. 93 is closed and I will open the hearing on S.B. 40.

**SENATE BILL 40**: Requires certain state agencies and officials to consult with the deputy manager for compliance and code enforcement before adopting regulations concerning the construction, maintenance, operation or safety of buildings or structures. (BDR 28-436)

MR. STEWART:

Senate Bill 40 originally required certain state agencies and officials to consult with the deputy manager for compliance and code enforcement of the Public Works Board before adopting regulations concerning the construction, maintenance, operation or safety of buildings.

Several amendments were proposed during the bill's hearing, and another amendment ([Exhibit D](#)) has come forth since addressing the concerns of various State agencies.

GUSTAVO "GUS" NUNEZ, P.E. (Manager, State Public Works Board):

We support the bill with the amendment, [Exhibit D](#), from the Division of Industrial Relations (DIR).

The amendment addresses the distinction between State and local authority and streamlines the adoption process. Under the amendment, the Public Works Board would adopt codes for projects on State property. The authority to enforce the codes remains with each agency. The concept is to have one place

to adopt the codes. This bill addresses code adoption and the goal to get all projects on State property under one unified set of codes. This bill is not intended to take away anyone's responsibilities or authority. State agencies remain responsible for enforcing their codes on projects on State property and on private property.

CHAIR LEE:

The goal is to get a set of uniform codes. Contractors working across the State will have the same code so they will know what to expect.

MR. NUNEZ:

The jurisdiction of the Public Works Board is only for projects built on State property or property held in trust for the State.

JAMES M. WRIGHT (Chief, State Fire Marshal Division, Department of Public Safety):

We support the intent of Senate Bill 40. The State Fire Marshal Division coordinates with Public Works as we adopt our codes. We had concerns on the original amendments that took authority away. The DIR amendment, [Exhibit D](#), is a good attempt to establish code consistency, but I have the responsibility to establish the base minimum fire code for the entire State, including State projects. I want to ensure I maintain my authority. I do not want a fire code for State projects and another fire code for the rest of the State. We want consistent codes.

The DIR amendment states the Board will adopt a series of codes but it does not say in conjunction, coordination and collaboration with the rest of the agencies. On page 5 of the amendment, lines 41 to 44 say, "... the Board shall adopt by regulation a system of building codes and standards including, but not limited to, codes and standards related to construction, mechanical, electrical, plumbing, boilers, elevators and pressure vessels." Nowhere does it say "fire" and "life safety." I need additional language to ensure Nevada is fire-safe.

CHAIR LEE:

Agencies have the opportunity to go in front of the Board, and fire and life safety are a priority. The Fire Marshal's input is critical for code adoption. It is the marshal who is first contacted?



Senate Committee on Government Affairs  
March 9, 2011  
Page 9

MR. WRIGHT:

Yes, the Fire Marshal should be contacted first.

CHAIR LEE:

Has the Board ever not listened to you?

MR. WRIGHT:

In the area of code adoption? No. We have a working relationship. We need the ability to stand firm on fire and life safety codes. When we adopt codes, they go through the Legislative Counsel Bureau's (LCB) Legal Division and an LCB legislative review committee before adoption. An idea is to establish a code coordination council. The council can get together when an agency presents a code to decide if the code works for State projects. The Public Works Board or the State Fire Marshal Division takes it forward and moves it through the legal review process. There is a system of checks and balances to ensure consensus of the code adoption.

CHAIR LEE:

This council would work through the Public Works Board?

MR. WRIGHT:

The Public Works Board can coordinate the process. If DIR has a code change, the Division can meet with the code coordinating council and receive approval. I do not want the Public Works Board to be the final check and balance. I have a Board of Fire Services that provides the same level of review for fire codes.

CHAIR LEE:

Does Public Works support the idea of a coordination council?

MR. NUNEZ:

Yes. The Board has discussions with the other involved agencies before we propose a code adoption. We always meet with the Fire Marshal, and he typically has amendments to proposed codes. We have incorporated the amendments at the request of the Fire Marshal before bringing them forward.

The DIR amendment was sent out to all the agencies for review and comments. We can accommodate the additional language of "fire" and "life safety" into the amendment.

Senate Committee on Government Affairs  
March 9, 2011  
Page 10

CHAIR LEE:

Does this satisfy the Fire Marshal?

MR. WRIGHT:

Yes, we want language saying there will be a collaborative effort with other agencies to ensure we have input and that our concerns are met. On page 6, we want the additional language of "fire" and "life safety" included in the amendment at "for construction, mechanical, electrical, plumbing, boilers, elevators or pressure vessels."

HEIDI CHLARSON (Counsel):

My understanding of the DIR amendment and the additions to the amendment, [Exhibit D](#), is that the Public Works Board would adopt regulations only applicable to State buildings. The other agencies, such as the Fire Marshal, would continue to adopt regulations that apply to the entire State. When agencies inspect a State-owned or -occupied building, they would apply the standards applied by the Public Works Board. The additions to the amendment would provide a mechanism for affected agencies to have input with the State Public Works Board before the Board adopts code regulations.

MR. WRIGHT:

Yes.

SENATOR SETTELMAYER:

According to testimony, without the additions to the amendment, it could potentially be possible for one agency to add a code while another agency would have to inspect. These additions might ensure certain agencies do not add a code such as extra sprinklers to one location and the agency responsible to inspect the code is unaware of the change.

SENATOR HARDY:

Does this mean we will inspect codes for State buildings and if all goes well, we will then apply those same codes throughout buildings in Nevada? Is the intent to make the legislation more general?

MR. WRIGHT:

My responsibility is to develop a base minimum code for the entire State. The minimum code would apply to all buildings in Nevada, including State buildings. Local jurisdictions such as Clark County have the ability to develop local codes

Senate Committee on Government Affairs  
March 9, 2011  
Page 11

more stringent than the State minimum code. The code developed in coordination with the Public Works Board has to be the base code. We cannot have a base code for State buildings and another base code for the rest of Nevada. I want the base minimum to be consistent and apply to all buildings within Nevada.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 40 TO INCLUDE THE CONCEPTUAL AMENDMENTS.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\*\*\*\*\*

CHAIR LEE:

We will now address S.B. 65.

[SENATE BILL 65](#): Revises provisions concerning the quarterly publication of certain financial information by incorporated cities. (BDR 21-400)

MR. STEWART:

Senate Bill 65 revises provisions concerning the quarterly publication of certain financial information by incorporated cities. It would change the requirement that the clerk and council of each incorporated city publish a quarterly financial statement detailing the receipts and disbursements of each bill that the city has paid to instead require that only the total amounts of receipts, disbursements and bills be published quarterly. The measure specifies that the documents and receipts that support such transactions are considered public record. There are several amendments ([Exhibit E](#)).

Senator Lee proposed an amendment to publish the quarterly statement in the newspaper for a period of five consecutive days.

The Nevada Association of Counties proposed an amendment that would apply the same provisions to counties in NRS 244. There is another statute that would make it apply to counties. A similar change would need to occur in NRS 354.210.

A third amendment, [Exhibit E](#), was brought forth by Chair Lee for the purpose of discussion. While no formal amendments were submitted concerning the contents of the required quarterly statement, testimony indicated that the statement would likely contain instructions concerning where to obtain the detailed financial documents in the cities' Websites. Also, the statement would likely contain instructions concerning a telephone number for a person to call for further instruction on obtaining those detailed financial statements or the address of a city office or offices where the documents can be reviewed in person. We can require these instructions as part of the statement published in the newspaper.

Mineral County and the City of Caliente do not have functioning Websites but they expect to by the end of 2011.

SENATOR HARDY:

The language, "if there is a functional Website" would make sense. The smaller places will have the challenge of maintaining a functional Website. I do not want to place them in violation of the law if their webmaster is not available to keep the Website functional.

CHAIR LEE:

Every county has the fiber needed for the Internet. People outside a community's core might not have the availability. We wanted to add the Website "where practical." We are covered in the bill.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 65.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR LEE:

The work session is closed and we will now open the hearing on S.B. 74. It changes the designation of certain State funds and accounts.

**SENATE BILL 74**: Changes the designation of certain state funds and accounts.  
(BDR 31-397)

KIM R. WALLIN (State Controller):

Senate Bill 74 will bring Nevada laws into compliance with Governmental Accounting Standards Board (GASB). The GASB came out with a new rule called GASB No. 54. It redefined what is a special revenue fund. To be a special fund, the major part of funding must come outside the General Fund. The funds in S.B. 74 do not meet the qualifications to be a special revenue fund.

I have the option to comply with State laws or to generally accepted accounting principles (GAAP). Our audit opinion is based on GAAP, so I will always be compliant to GAAP.

CHAIR LEE:

This is a cleanup bill.

MS. WALLIN:

Yes. It does not make sense to have laws on the books that I do not have to follow.

LORNE J. MALKIEWICH, (Director, Legislative Counsel Bureau):

Our amendment ([Exhibit F](#)) deletes section 7, removing the Legislative Fund from the bill. The Legislative Fund under GASB No. 54 will be reported with the General Fund in the Comprehensive Annual Financial Report (CAFR). As a matter of a separation of powers, I want the Legislative Fund—statutorily—to remain as an independent fund.

CHAIR LEE:

Will the Comprehensive Annual Financial Report be affected in regard to GASB No. 54?

MS. WALLIN:

In regard to doing the CAFR, the Legislative Fund will be reported in compliance with GASB No. 54. We have talked with the legislative fiscal staff, who will provide us with any needed additional resources. Keeping the Legislative Branch separate and not coming under GASB No. 54, the accounting for the Fund will be manually processed. If the Legislative Branch were to comply with the law,

the process would be automated. The idea that the Legislative Branch is a separate branch of government is supported.

SENATOR SETTELMEYER:

If the amendment is accepted, will this create a fiscal note, as the fund will be manually processed?

MS. WALLIN:

In the first year, the process must be manual because we did not have the law in place. Mr. Malkiewicz will provide us with any necessary resources to allow us to do our job.

CHAIR LEE:

The hearing on S.B. 74 is closed, and I will open the hearing on S.B. 81.

**SENATE BILL 81**: Makes various changes relating to state financial administration. (BDR 31-396)

MS. WALLIN:

Senate Bill 81 is my financial bill. It has four main provisions. Sections 2 and 3 are additions to NRS 353C, sections 4 through 7 are amendments to NRS 353C and sections 8 through 11 amend NRS 227.

Section 2 will not allow those who have professional licenses, such as certified public accountants, doctors and attorneys, to renew or obtain their licenses if they owe the State money. We will have a database that licensing boards can check against, and we recommend that licensing boards add a question to the renewal application form asking licensees if they owe the State money. There will be no burden on the licensing boards to verify the question's response as truthful. I will spot-check responses.

Section 3 will give the office of the State Controller authority to do financial data matching on our debtors. We will be able to send an electronic file, similar to what is done with child support, to financial institutions doing business in Nevada. Several states have enacted financial data matching legislation, and results have ranged from increases in collections from \$10 million to \$40 million per year.

Section 4 to section 7 will clean up the statute of limitations in NRS 353C and make it more consistent with the rest of the State. The statute of limitations in NRS 353C was different than the rest of the State when A.B. No. 87 of the 75th Session was passed. We want the statute of limitations to be consistent in NRS 353C.

Sections 8 to 11 amend NRS 227 and will make it mandatory for a vendor of the State to be paid electronically. We would grant an exemption if a person is unbankable, it would cause a financial hardship or if a person was receiving a one-time payment. We estimate electronic payments will save the State a minimum of \$142,000 per year. Each check we print costs 56 cents. We process about 250,000 checks electronically and we want to get this number to almost 100 percent.

CHAIR LEE:

The bill says there is a fiscal note. I spoke with Andrew Clinger, the Director of the Department of Administration, and he said there is not a fiscal note.

SENATOR HARDY:

Will this bill capture any doctor or lawyer who has purchased items on the Internet and owes the State sales tax?

MS. WALLIN:

The Department of Taxation could catch doctors or lawyers purchasing through the Internet if they were audited, but no, they would not be captured for sales tax. This legislation targets debts such as education debts under the Western Interstate Commission for Higher Education (WICHE) program. Under WICHE, for example, the State loaned people money to attend medical school out of state, and they have not paid the State back.

SENATOR HARDY:

The Senate Committee on Revenue likes four years.

MS. WALLIN:

I am in agreement.

CHAIR LEE:

How much money do you think this legislation will bring in?

MS. WALLIN:

This is another tool to enforce debt collection. When I became the State Controller, we were collecting 4 percent to 11 percent of our debt. We are now collecting 28 percent because of A.B. No. 87 of the 75th Session, which allowed the agencies to start turning their debts over to us. The Department of Corrections supports financial data matching because there are prisoners with hidden bank accounts, and this will provide the vehicle to recover money owed. This legislation can only be beneficial, and there are no costs to the State.

SENATOR SETTELMAYER:

What happens in a situation where a doctor submits his check, the check is cashed, but the medical board says he did not pay. Is there a remedy for similar situations? How would a person go about resolving this problem?

MS. WALLIN:

Situations do occur and in the case you presented, the person would provide a copy of the cancelled check and the license would be issued.

SENATOR HARDY:

People no longer have cancelled checks. I had a similar situation occur and I had to go to my credit union and get a statement. The statement was not itemized. It was difficult to see where the specific money went, and all my spending on that statement entered into the public domain. How can a person avoid this?

MS. WALLIN:

It depends on the banking institution, but many can produce a copy of the needed check. A person can also give the check's bank account routing number and the date of the written check to get a bank to trace the check. There are remedies with electronic data. We will take people on their word if they provide a cancelled check or proof.

SENATOR HARDY:

This process provides flexibility?

MS. WALLIN:

Yes. If a document is not produced a second year, I would question the situation, but the first time, we give a pass.



SENATOR HARDY:

The Office of the State Treasurer says I have \$24 that is unclaimed property, so could I owe the State money? In debt situations, people would know they owe money because they signed papers saying they owed the State money. This is the case if a person borrowed money through the WICHE program. This legislation is not addressing a hidden fee?

MS. WALLIN:

Correct. Agencies can only submit debts to our office if the debts are legitimate. We are asking agencies to submit proof of debt using an invoice or a judgment.

SENATOR HARDY:

The process offers a window of time.

MS. WALLIN:

The purpose of our amendment ([Exhibit G](#)) to S.B. 81 is to clarify the bill and to eliminate confusion regarding NRS 425.460. On page 2, I want to amend section 3 by deleting lines 23 through 26: "If a financial institution has developed and operated a system for matching data pursuant to NRS 425.460, and such a system is approved by the State Controller, the system satisfies the requirements of this section." There was confusion that we were going to use child support records.

GEORGE ROSS (Bank of America):

We are proposing three amendments ([Exhibit H](#)), and the Controller is in agreement. These amendments are clarifying amendments.

The first amendment, [Exhibit H](#), is to clarify that the bank should provide a quarterly report to the State Controller that lists the names, addresses, social security numbers or tax identification numbers (TIN) of each account holder that matches the list of delinquent taxpayer names or TINs provided by the State. It clarifies this communication is in a report and who should be on the report.

The second amendment, [Exhibit H](#), is to clarify in the last sentence that the bank is required to hold whatever is in the account on the day notification is received, and that anything deposited thereafter is not subject to the levy. Changing the word to "notification of debt" provides consistency throughout the bill.

The third amendment, [Exhibit H](#), clarifies that the Controller would refund the actual claim amount to the person owed pursuant to court order. Neither the Controller nor the bank is liable for damages or fees incurred by the person in recovering the assets provided the bank follows the Controller's instructions. The Controller said she would have to pay what the court ordered, and the reason for this original language was so the State would not be liable for damages. The amendment says "shall refund the assets to the person identified in such order. The State Controller, and the financial institution to the extent that it acted pursuant to the State Controller's instructions ... ." If not, the Controller or the bank does not receive the protection "are not liable for any damages, legal fees, or other costs incurred by the person in connection with the withholding, remittance, or recovery of the assets."

The omission of the words "financial institution" in the amendment's statement of intent, [Exhibit H](#), is unintentional.

MS. WALLIN:

I view the amendments, [Exhibit H](#), as friendly. The City of Reno also has an amendment ([Exhibit I](#)). The City wants to add the following language to section 2 of the bill. The intent of the amendment is to protect the City from potential liability or litigation related to compliance with this measure. The City wants to add another section:

A licensing agency may not be held liable in any civil or criminal action for: (a) Refusing to issue or renew any license on the basis that the name of the person is included on the list established by the State Controller pursuant to subsection 1; (b) Any other action taken in good faith to comply with the requirements of this section.

For example, if the debt question is absent and the City goes to our list and discovers the person owes money, the license will be denied. If it comes back that the wrong person was looked up, under this amendment, the City would not be liable. The amendment is friendly.

CHAIR LEE:

Thank you for explaining the amendment, but until we see it, the City is responsible.

Senate Committee on Government Affairs  
March 9, 2011  
Page 19

BILL UFFELMAN (President and CEO, Nevada Bankers Association):

I support Senate Bill 81 and the amendments proposed on behalf of Bank of America.

CAROLE VILARDO (President, Nevada Taxpayers Association):

I am neutral on this bill. The concern was changing to a six-year lien date. For points of consistency, yesterday in the Senate Committee on Revenue, tax went to the four-year lien date. The fact that liens cannot be reinstated does not mean the State will miss out on money. It is a point of using four years as a point of consistency. With the Controller agreeing to four years, we support the bill.

JANINE HANSEN (Nevada Eagle Forum; Independent American Party):

I do not oppose this bill in principle, but there will be innocent people caught in the mix of this legislation who will suffer negative consequences.

I asked Ms. Wallin if the Office of the Secretary of State (SOS) was an agency covered in section 2 on line 5, she said, "yes." This is where we have concern.

In 2002, there was a discrepancy in the law for candidates. It was not clear if candidates running for office who spent under \$100 had to file. The discrepancy caused numerous candidates not to file. The law was changed to clarify that everyone had to file. The candidates who did not file before the law changed received fines from SOS. None of these candidates spent any money on their campaigns. The result is that some of these candidates have fines reaching \$67,000. A lien was placed on one candidate, creating an economic and emotional hardship. In 2006, I ran for the SOS. I did not spend \$100, and I filed on time. On that reporting, I crossed out "penalty of perjury" and instead wrote, "I swear, in the name of Jesus Christ that the foregoing is true and correct." In Nevada law, NRS 282.020 has an official oath. It allows an alternative. In an oath, a person can say, "So help me God." If it is an affirmation, it would be under "penalty of perjury." This same option is not available in the law for candidates. I was never informed that my reporting was not accepted, and in May of 2007, I received notice from SOS informing me I was fined \$15,000. I requested a waiver and was denied. I did not receive due process.

Administrative courts deny people their constitutional rights. The Nevada Constitution in Article 1, section 3 says, "The right of trial by Jury shall be

secured to all and remain inviolate forever; but a Jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law." Administrative proceedings deny people their constitutional rights, and there is no due process. By not paying fines, people see unjust liens are placed against their property, and Senate Bill 81 will deny these people a bank account if money is owed.

Senate Bill 81 will also deny us a professional license. There is no recourse to protect ourselves. I support the principle of Senate Bill 81, but I oppose the power to levy funds in personal bank accounts. Also, if a mistake occurs, the banks, agencies and the Controller are not liable. The only person who pays the price are the people who have been wronged, and it becomes their responsibility to correct the wrong at their time and expense.

MS. WALLIN:

We have a few debts that have been turned over to us by SOS. This is after the Attorney General has filed judgments. I am not aware of any debts in our office at \$67,000. The largest fine I am aware of regarding candidates is around \$22,000. This legislation is not a money grab. We have a process for collecting State debt.

Agencies turn over debts to our office. We send a letter to the debtor explaining the debt owed to Nevada. We provide three options: Option 1 is to pay in full; Option 2 is to set up an installment plan; Option 3 is we turn the debt over to collections. We also offset debts for vendors, and we can withhold payments to a person to satisfy a debt. Debtors have the option to come to the Office of the State Controller for a hearing. For payment, it will decide if the debtor pays in full or if an installment plan is to be implemented. Assembly Bill No. 87 of the 75th Session allows me to do an offer and compromise. In the last year, I have done several, as they made sense. People can come to our Office and air their concerns. There is recourse before we get into bank accounts.

CHAIR LEE:

I understand the need to collect WICHE debt. I also understand that only professional licenses will be taken away. Doctors, attorneys and other professionals will be treated differently than people in other trades. Plumbers will not lose their licenses.

MS. WALLIN:

We can expand the definition to anyone with a license, but where we have debt issues is in the professional trades. Doctors and attorneys receive WICHE money to go away to school, so this group become debtors to the State. We can do the same enforcement actions to a plumber doing business in Nevada who owes the State taxes, but the difference is we will not hold the plumber's license.

CHAIR LEE:

Ms. Hansen, do you have a problem with WICHE money collected under this bill? I want you to understand that there are specific debtors who owe the State money for higher education.

MS. HANSEN:

I do not know what WICHE is. This bill does not differentiate debtors.

MS. WALLIN:

The WICHE program might provide money to a person who goes out of state for veterinarian school since there is no school for veterinary medicine in Nevada.

Senate Bill 81 would apply to any person who owes the State money. This would include sales tax and unemployment taxes.

CHAIR LEE:

I am focusing on the licensing aspect to this bill. Taking licenses away would take away work.

MS. WALLIN:

The licensing aspect only applies to those people holding professional licenses.

CHAIR LEE:

If the State gives a person money for college, and the deal is the person is to return to Nevada and work in a rural area for a specific time period and the person does not, this bill's intent is to collect that individual's education debt to the State. Ms. Hansen is concerned a person with the same license might be affected not because of WICHE but because of something the person did politically to create a State debt.

Senate Committee on Government Affairs  
March 9, 2011  
Page 22

SENATOR HARDY:

Can we narrow the focus in this bill to WICHE to capture this group of people who own a good share of debt? The mention of sales tax is a concern. Is it included or not? Is WICHE debt public knowledge?

MS. WALLIN:

Assembly Bill 196 will be heard today in the Assembly Committee on Judiciary. It will allow the State Controller to collect for higher education. Our amendment to the bill would allow us to collect for WICHE. When people owe the State, their names are published on our Website once the debt comes into our office. If this bill passes, their names will be added to the Website list.

ASSEMBLY BILL 196: Revises provisions governing the collection of fines, administrative assessments, fees and restitution owed by certain convicted persons. (BDR 18-557)

The intent of S.B. 81 is to collect other debts beside WICHE. The State should not allow doctors to continue their practices if they are not paying payroll taxes or sales tax.

SENATOR HARDY:

If I am a doctor who sells medical goods, I need to collect the sales tax and remit it to the State. This is the sales tax to which you are alluding. Also, it is difficult to narrow the bill's scope. It will cast a net, capturing unintended consequences.

MS. WALLIN:

Yes. Dialogue is needed.

MS. HANSEN:

This bill is against my constitutional right to freedom of religion.

Senate Committee on Government Affairs  
March 9, 2011  
Page 23

CHAIR LEE:

There is no further business. This meeting of the Committee on Senate Government Affairs is adjourned at 9:46 a.m.

RESPECTFULLY SUBMITTED:

---

Cynthia Ross,  
Committee Secretary

APPROVED BY:

---

Senator John J. Lee, Chair

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

<b><u>EXHIBITS</u></b>			
<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 93	C	Michael Stewart	Work Session Document
S.B. 40	D	Michael Stewart	Work Session Document
S.B. 65	E	Michael Stewart	Work Session Document
S.B. 74	F	Lorne J. Malkiewich	Amendment
S.B. 81	G	State Controller Kim R. Wallin	Amendment
S.B. 81	H	George Ross	Amendment
S.B. 81	I	City of Reno	Amendment