

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

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

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 8:05 a.m. on Wednesday, March 23, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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 Michael A. Schneider
Senator Joseph (Joe) P. Hardy
Senator James A. Settelmeyer

GUEST LEGISLATORS PRESENT:

Senator Ben Kieckhefer, Washoe County Senatorial District No. 4
Assemblyman Ira Hansen, Assembly District No. 32
Assemblyman Crescent Hardy, Assembly District No. 20
Assemblyman Peter Livermore, Assembly District No. 40

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Steven E. Tackes, Carson City Airport Authority
Carole Vilardo, President, Nevada Taxpayers Association
Janine Hansen, State President, Nevada Eagle Forum
Tray Abney, Reno Sparks Chamber of Commerce
George Ross, Las Vegas Chamber of Commerce

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David Goldwater, SAGE Commission
Barbara Smith Campbell, SAGE Commission
Heidi Gansert, Chief of Staff, Office of the Governor
Samuel McMullen, Las Vegas Chamber of Commerce
Terry Graves, Henderson Chamber of Commerce
Billie Shea, State Board of Massage Therapists
Jordan Ross, Constable, Laughlin Township
Jennifer J. DiMarzio, Laughlin Economic Development Corporation
Terry Ursini, Laughlin Economic Development Corporation
David Floodman, Laughlin Economic Development Corporation
Joe Thomason, P.E., Laughlin Economic Development Corporation
James Shaw, Laughlin Economic Development Corporation
Richard Berkson, Economic and Planning Systems; Laughlin Economic
Development Corporation
Brin Gibson, Laughlin Economic Development Corporation
Pete Ernaut, M Resorts; Nevada Resort Association
Morgan Baumgartner, M Resorts; Nevada Resort Association
Herm Walker, Riverside Resort and Casino
Constance Brooks, Senior Management Analyst, Administrative Services,
Clark County
Rusty McAllister, Professional Fire Fighters of Nevada

CHAIR LEE:

I will open this Senate Committee on Government Affairs meeting with Assembly Bill (A.B.) 103. This bill will make changes to the Carson City Airport Authority.

ASSEMBLY BILL 103: Makes various changes to the Airport Authority Act for Carson City. (BDR S-645)

ASSEMBLYMAN PETER LIVERMORE (Assembly District No. 40):

Assembly Bill 103 will amend the Carson City Airport Authority Act.

STEVEN E. TACKES (Carson City Airport Authority):

I am a former chair of the Carson City Airport Authority, and I am a local pilot. Assembly Bill 103 does two things. First, it expands the area from which we can select manufacturing candidates to serve on the Airport Authority. The area would expand from adjacent to the airport out to a 3-mile radius. This bill will allow the Carson City Board of Supervisors to appoint a qualified individual if we

are unable to find a candidate. The Carson City Airport Authority's board consists of seven members. Two members are representatives from the manufacturing industry. This has served us well, but we are unable to find a second member to serve. This might be a result of restricting the area and making the area too small from which we can take candidates. We want a full seven-member board.

CHAIR LEE:

Do the candidates have to be in aviation manufacturing?

MR. TACKES:

No, the restriction is not limited to aviation. A person can be in any kind of manufacturing. Some members have been in the aviation industry. We have one board member who is involved with aviation fasteners. He works at Click Bond, which is one of our flagship manufacturers in Carson City. Manufacturer board members bring concrete business sense to the Authority.

CHAIR LEE:

The hearing is closed on A.B. 103 and the hearing is open for Senate Bill (S.B.) 250. We will hear from Senator Ben Kieckhefer.

SENATE BILL 250: Makes various changes relating to state financial administration. (BDR 31-749)

SENATOR BEN KIECKHEFER (Washoe County Senatorial District No. 4):

I am here to present S.B. 250. Two documents have been handed out. The first handout is a conceptual amendment ([Exhibit C](#)) that amends my initial legislation. It comes after conducting additional review of the bill. One provision needed to be simplified, and I reverted to the original statute. The amendment also adds a trigger to stabilize the operation of State government that did not make it into the bill. The second document ([Exhibit D](#)) outlines the proposed spending limit, provides historical economic data and gives details pertaining to the new spending limit.

Nevada does have a spending cap in statute. It was created by the Legislature in 1979. The spending cap is virtually meaningless for controlling State spending. It takes a baseline expenditure from the 1976-1977 biennium and multiplies that basic expenditure by the accumulative percentage of population growth and the accumulative percentage of the Consumer Price Index (CPI) over

the gap between July 1, 1975, and the upcoming biennium. Due to the exponential growth of our state over the past 35 years, that multiplier effect in terms of population growth has rendered the spending cap useless.

The 1976-1977 biennium had a total expenditure of \$390 million. From July 1, 1974, through July 2010, Nevada's population has grown by 333 percent. Using the population as a multiplier, we have seen significant growth in our State spending. The spending continues to grow biennium over biennium and in recent years has been about \$1 billion per biennium.

This bill will return the spending cap to the intent in the Sixtieth Legislative Session by making two changes. The first change is to reset the base expenditure level to the 2006-2007 biennium. The 2003 tax increases approved by the Legislature were fully implemented. The 2006-2007 biennium was the one before the Legislature began to make cuts to deal with the current recession. In 2003, the Legislature approved tax increases and invested money into programs such as education and mental health. This was the State's high-water mark for expenditures. This bill will not artificially limit State expenditures. The intent is to get back to an area of comfort in key service areas. This legislation is important for how the State restrains spending as we come out of the recession.

The mechanism for multiplying the spending cap in statute is maintained. There have been proposals to do a population plus inflation factor in a biennium over biennium manner. This is used by other states, but leaving in the mechanism will maintain what was originally created. Let us see how it works.

The spending cap in statute is not incumbent on the Legislature. It puts a cap on the Governor's recommended budget. The statute governs the budget that the Director of the Budget Division prepares and gives to the Governor for submittal to the Legislature. It does not restrict the Legislature's ability to spend beyond the spending cap. The intent should remain.

The bill will also force the State to save during good economic times. Part of the amendment, [Exhibit C](#), requires the State to capture any of the revenue that comes above the spending cap level and place that money into the Fund to Stabilize the Operation of the State Government (Rainy Day Fund). The amendment requires 60 percent of excess revenue to go into the State's Rainy Day Fund. It can be used when revenues are coming in below the cap and for

emergency purposes. The other 40 percent could be used to pay down the State's unfunded liability. This can be outstanding Public Employees' Benefits Program (PEBP) liability or various other issues affecting our State's long-term debt.

There are a couple of significant changes based on the proposed amendment. Section 2 explains the formula used for creating the spending cap by which the Budget Director must prepare the *Executive Budget*. The last sentence in section 2, subsection 1 updates the base expenditure from July 1, 1975 to July 1, 2005. Section 2, subsection 2 considers the factor by which to consider the population growth from July 1, 2006, rather than from July 1, 1974. Section 2, subsection 3 maintains existing statute, and section 2, subsection 4 captures the different scenarios which will drive the creation of the *Executive Budget*. It addresses the Economic Forum revenues when they are above the cap or below the cap. I am proposing a major change in section 2, subsection 5 with my amendment. It wipes a complicated refactoring for the CPI that is not necessary; I want to maintain what is in statute. The existing CPI language is sufficient. Section 3, subsection 1, paragraph (c) can be omitted because it addresses what was required of the Economic Forum to manage the complicated formula.

CHAIR LEE:

Did this legislation come out of the Spending and Government Efficiency (SAGE) Commission?

SENATOR KIECKHEFER:

No, this is not a SAGE Commission recommendation.

CHAIR LEE:

I look for reasonable time periods for adjustment. If we change the base alignment to the 2006-2007 biennium, will it change again two sessions from now? Would it be possible to add a trigger into the bill to reset the date automatically for a set time period?

SENATOR KIECKHEFER:

This makes sense. I had a question whether the cap becomes meaningless again in 30 years due to significant population growth or inflation. This can be the case. Another capping mechanism would take it year over year or biennium over biennium. It is more restrictive as a capping mechanism. It can be considered,

but an automatic trigger to reset the baseline after each census might make sense.

CAROLE VILARDO (President, Nevada Taxpayers Association):

I support S.B. 250, but there are some additions I want to see in the bill. I will provide background on this legislation to explain the stance of the Nevada Taxpayers Association. Howard Barrett was the Budget Director for five Nevada governors. He also worked for the Association. He looked at the spending cap around 1994 or 1995 and made calculations. He said the spending cap no longer worked. The first problem is if an expenditure is removed from the General Fund, it stays in for calculation purposes. Also, because the spending cap goes back to a specific year, 1974, there needs to be a mechanism where the year is updated. Mr. Barrett suggested a five-year rolling average to smooth out fluctuations. This would allow for the consideration of good and bad years and the spending cap would constantly move forward. This would have allowed the State to keep up with population and CPI. If there was a drop down, such as what we are now experiencing, the five-year average would not automatically impact the State by going too far back and restrain State spending in an improved economy.

It is important that we have a spending cap, and it is equally important that the spending cap be updated. The State is sitting with an old spending cap. It has put constraints on the budget in times of fluctuation, and the State is constantly building off the following year. The smoothing mechanism is beneficial. It is a good idea to update the spending cap every ten years upon the U.S. Census Bureau data.

Senate Bill 250 should have a provision to remove expenditures that might be taken out of the General Fund. This will allow for an accurate spending cap without an inflated base. When the State went to a specific debt fund no longer paid out of the General Fund, we had that expenditure for the General Fund pulled out and put it into a trust fund. The year the expenditure was pulled out, the expenditure stayed in as part of the base. The State calculated against it.

We support the Rainy Day Fund. This was a bill former Senator Ann O'Connell put in during the Sixty-sixth Legislative Session at our request. We support legislation that will make the Rainy Day Fund effective. The Association recommends that the May 1 Economic Forum makes sure this projected money excess is a Rainy Day Fund that may be available to pay down liabilities such as

PEBP. We recommend the Fund also be used for construction and technology purposes. Technology moves quickly, and this will allow us to make needed purchases. Our last recommendation is to allow the Rainy Day Fund to be used for employee training. There are always new procedures, requirements and software programs employees need to learn and implement. There are times when a State department has new software, but only a handful of people know how to use it. Senate Bill 250 is long overdue.

CHAIR LEE:

Is the Rainy Day Fund where it should be? Should there be more money or less money in the fund?

MS. VILARDO:

The Rainy Day Fund was not to exceed \$100 million. This was amended in the mid-1990s to be 10 percent of the appropriations from the prior biennium. I would like to see a higher percentage, but as it stands, there is no money in the Rainy Day Fund. The most money in the Fund has been \$380 million. Up until the 2007 Session, there was no requirement for automatic funding. One reason we reached even \$100 million was because during former Governor Bob Miller's Administration, the Governor appropriated \$81 million into the Rainy Day Fund to beef it up. The Rainy Day is an important fund because it helps the State stabilize the level of General Fund expenditures without dealing with budget cuts. The State has not had good revenue for the Fund, and with the economic downturn over the past two-and-one-half sessions, the Fund has been used, and there is no money. The Fund needs to get replenished. Economic downturns occur every 8 to 11 years. We need to build up the Fund for the next time a downturn occurs so the State is not faced with unpleasant budget decisions.

CHAIR LEE:

Should the Rainy Day Fund be set with a rolling average? Can we have a Rainy Day Fund that exceeds the limits without penalty to serve our financial needs as they come forth?

MS. VILARDO:

A definitive answer should come from a financial advisor. The situation you are referring to is called arbitrage. It occurs with debt and bonds. In the case of the Rainy Day Fund, it is like an ending fund balance, and I am unaware of any restrictions on the amount of money in an ending fund balance. A ratio might be

set to the spending cap. A provision can be added so instead of a rolling average with the ten-year review, you might make it specific, reading "every third session the Fund be reviewed." I am not positive about using a rolling average.

CHAIR LEE:

The 40 percent of unfunded liabilities is one concept. Your idea is to identify areas where the money should go. Ms. Vilardo, you do not want the Governor to use the Fund at his discretion. Do you want to add areas for which the Governor must use the Fund?

MS. VILARDO:

I want to give the Governor discretion rather than saying the Fund can be used only for two areas. I am trying to expand the use of the Fund, making it more flexible to meet the State's needs. The Governor should know the needs. For example, if the federal government comes to the State and mandates a program, instead of the State questioning where the money will come from, the State can turn to the Rainy Day Fund. The Taxpayers Association stresses that the State not take unanticipated revenues where there is a surplus and commit them to ongoing expenditures. If I left any committee in the Legislature with one thought, it would be to ensure that whatever is passed regarding expenditures, those expenditures are sustainable.

SENATOR SETTELMAYER:

I support the concept of S.B. 250 and the Rainy Day Fund. Rainy day funds exist across the U.S. Is 10 percent of expenditures the average? It seems too low. I base this on people having two or three months of reserve in case they lose their jobs, and 10 percent is low. Do you have knowledge on what the standard is across the County?

MS. VILARDO:

I do not know the standard, but I can find information on what is statutory, what is constitutional and the conditions surrounding those funds.

JANINE HANSEN (State President, Nevada Eagle Forum):

We support the bill's concept. The baseline would be based on the 2005-2007 biennium. This is generous. We had the tax increase in 2003; in 2005 and 2007, we had a 30 percent increase in State spending. This makes this

legislation more palatable to a variety of people. This bill is good budgetary policy, and we lend our support.

TRAY ABNEY (Reno Sparks Chamber of Commerce):

The Chamber supports the concept of a working spending cap and a good process for filling the Rainy Day Fund. I worked for a Governor who presented a budget to the 2007 Legislature that was a 14 percent increase over the 2005 presented budget. Should we have set more of that money aside for the Rainy Day Fund? This could have helped smooth out the ups and downs we face rather than take the money, ramping up spending in good times, only to turn around and make deep budget cuts when there is no money. This legislation will smooth our State economic needs. We support Senate Bill 250.

GEORGE ROSS (Las Vegas Chamber of Commerce):

We support Senate Bill 250 with the amendments. This bill has the merit of restraining impulses to spend excessively, and the base addresses the State's needs. This bill will restrain budgetary activity, but it is not ironclad. The Legislature can change it.

CHAIR LEE:

The hearing on S.B. 250 is closed, and we will open the hearing on S.B. 251.

SENATE BILL 251: Creates the Nevada Sunset Commission to evaluate certain governmental programs and services. (BDR 18-745)

SENATOR KIECKHEFER:

Senate Bill 251 is a result of a recommendation coming out of the SAGE Commission.

The SAGE Commission was created by ex-Governor Jim Gibbons in 2008. I was Governor Gibbon's press secretary and later communications director. I remember the creation of the SAGE Commission was modeled after former President Ronald Reagan's Grace Commission to review the operations of government. It looked for efficiencies and opportunities to provide services more effectively and efficiently. The intention was to ensure taxpayers were getting the best bang for their buck. This should be a goal for all governments.

One recommendation made by the SAGE Commission to Governor Gibbons in December 2008 was the creation of a sunset commission in State statute. Senate Bill 251 will implement that recommendation.

The SAGE Commission was a bipartisan group made up of individuals with a broad experiences in the private sector. The people understood the necessity for reviewing governmental programs. They had done it in the private sector and they know it works.

Senate Bill 251 is proposing to create the Nevada Sunset Commission, a standing body that will perform State review. Section 3 lays out the Nevada Sunset Commission membership. This is a variance from the SAGE Commission recommendation. The Commission did not specify who would serve or how many members, but it did recommend up to 11 members. I recommend a seven-member Commission. One member would be appointed by the Governor, and this member would serve as the chair. One member each would be appointed by the Majority and Minority Leaders of both Legislative Houses, one member would be appointed by the Nevada League of Cities and one member would be appointed by the Nevada Association of Counties. The makeup of this body would create an effective body. I have worked with commissions and boards, and the larger a commission or board gets, the more unwieldy and less effective it can become. A seven-member commission is appropriate. It is tasked with meeting at least quarterly, making recommendations to the Governor and the Legislature annually. It also includes a report to the Legislature in odd-numbered years for potential legislation to get more efficiency out of government.

Section 5 indicates the charge of the Commission. The key words are "without limitation." This language provides the ability for the Sunset Commission to take up issues it sees as necessary. Section 5, subsection 1 talks about the effectiveness of the programs or services the State provides. We should work to ensure that our programs are effective for our citizens. Section 5, subsection 2 talks about reviewing the necessity of programs or services, especially considering any changes in federal or State law that could influence the need of a program. Section 5, subsection 3 talks about examining programs or services for duplication that might be provided by different levels of government.

DAVID GOLDWATER (SAGE Commission):

I have a letter from Chairman Bruce James of the SAGE Commission. I want to read it into record.

Chairman Lee and Members of the Committee:

I am pleased to see you take up S.B. 251 regarding the creation of the Nevada Sunset Commission.

As you know, the idea for such a commission was put forth as a recommendation to the Governor by the SAGE Commission. I would like to share with you some of the background that led us to the recommendation.

When the Governor appointed me as Chair of the SAGE Commission, I requested from his office a list of agencies that fell under the Governor. I received a list of about 150 entries [entities] and then asked if this was [*sic*] all the Executive Branch ... entities. That question they couldn't answer because of the unique way that some bodies fall under others, which by law are not controlled or supervised by the Governor. We estimate that, in all, there must be about 175 to 185 legal entities established and funded by the Legislature.

The surprise of that answer caused me to consult with political scientists in the State to better understand how this came about. Professor Eric Herzik of the University of Nevada, Reno, perhaps said it best when he said, "Bruce, you have to understand our State's history. For nearly 100 years at each session of the Legislature, problem areas are brought up with the solution often being the creation of a new government agency to solve the problem. The bigger problem is that when the problem at hand no longer exists, the entities created live on in seeming perpetuity. This situation is not unique in Nevada but exists to some extent in every state."

Many of you understand this issue better than me. The lack of a convenient, fail-safe way of eliminating obsolete agencies or

rationalizing overlapping and conflicting programs between agencies has been a continuing problem for our State. I asked our staff, headed by General Frank Partlow [Jr.] and former Budget Director Perry Comeaux, to look around the Country at other states to see which one handled the issue best. They reported back that the Texas Sunset Commission seemed to have best handled the issue over many years.

I then asked two of our commissioners, Barbara Campbell—to my left, former head of the Nevada Tax Commission, and David Goldwater, former member of the Nevada Assembly, to take the Texas template and adjust it to the realities of Nevada and see what would work best for us.

The result was a carefully thorough recommendation for the creation of a Nevada Sunset Commission. Their work was thoroughly debated by all 14 members of the SAGE Commission, 7 Democrats and 7 Republicans, before forwarding our final recommendation to the Governor with the unanimous support of all Commissioners.

While we clearly believe that all 44 recommendations made by the SAGE Commission have merit, I personally believe the establishment of a Nevada Sunset Commission, along the lines recommended by the SAGE Commission and by Senator Kieckhefer, may be the most important for the long-term financial benefit of the State. Sincerely, Bruce James.

Our discussions at the SAGE Commission focused on the membership and the scope of what the Sunset Commission would do. This may be a good job creator in State government, noticing that if a commission looks at all the programs, commissions and boards, you will create full-time positions for lobbyists. Everyone will be paying attention. This will create a political environment. The Commission will bring attention to an agency, department and program and question if it is still important and if the State needs to do it.

CHAIR LEE:

It appears that the SAGE Commission would be working with the Sunset Commission and testifying in front of it. I understand that a 14-member board

would be unwieldy. Wonderful relationships were built with the SAGE Commission. Why not continue the SAGE Commission?

MR. GOLDWATER:

There is deep irony that a commission is recommending a commission to get rid of commissions, and that we should continue with the SAGE Commission to perform that function. Chairman Bruce R. James, General Frank A. Partlow, Jr., Perry Comeaux, Suzanne Kilgore and fellow commissioners did a great job, and we said it was over. We were tasked by the ex-Governor to do our job, we did it and the Commission ended. We handed our findings to the policy makers and moved on. The SAGE Commission's role had ended.

CHAIR LEE:

The conundrum is the SAGE Commission is over, but the Commission is telling the Legislature to form another commission to do the same work.

BARBARA SMITH CAMPBELL (Sage Commission):

The SAGE Commission was privately funded. We did not have governmental revenues to support it. It was time-limited and term-limited. The Nevada Sunset Commission would be a part of the administrative body in the Executive Branch or Legislative Branch.

CHAIR LEE:

The findings of the Sunset Commission would not be binding. A governor could put together another SAGE Commission.

MS. CAMPBELL:

When the SAGE Commission discussed the Sunset Commission, I was charged with the responsibility of taking the first draft after looking at the State of Texas and other states that have sunset commissions. The State of Texas is the leader; that state's legislature gave its commission the authority to look at every agency, department and division except those called out in the constitution. Under the Texas version, every one of those nonconstitutional divisions, departments, agencies and commissions automatically expire within ten years unless the legislature purposely put them back into play. This is the difference between what Senator Kieckhefer has introduced and the model we looked at when we made the recommendation to the Governor and to the Legislature during the Seventy-fifth Legislative Session. Our recommendation made it as far

as a committee hearing, and we were pleased because the SAGE Commission had been in place only a short time before the start of Session.

I support the Sunset Commission. The Texas sunset commission has been in place for about 23 years. When we looked at the commission two years ago, it had resulted in over \$700 million of savings. The horizontal or vertical reviews that take place within agencies are helpful when going through the budget process. The Sunset Commission would give the Office of the Governor tools for preparing the *Executive Budget*, and more important, since the Legislature approves that Budget, it provides the Legislature with tools to use when undergoing due diligence on the financial review of agencies and commissions.

HEIDI GANSERT (Chief of Staff, Office of the Governor):

I am in support of S.B. 251. In the Governor's State of the State Address, he discussed sunseting boards and commissions. This bill is more expansive. It talks about the continuous review of programs and services. We also know that Assemblyman Ira Hansen has legislation that addresses sunseting and reviewing agencies. We have been working with Assembly leadership to look at sunseting or the review of different boards and commissions. It is clear that we need to change what we are doing. Our research shows that former Governor Mike O'Callaghan was the last governor who did a thorough review of boards and commissions, although there has been some review of boards and agencies.

We recognize the need to work together to come up with one bill draft that will look at sunsets and the continuous review of boards, agencies and government programs. This legislation is a priority.

SENATOR MANENDO:

Ms. Smith mentioned the Sunset Commission could be a part of the Governor's administration. Will there be support staff?

MS. GANSERT:

The organization of the Commission is a work in progress. The SAGE Commission was privately funded. We have been looking at another bill to craft the review of the boards and commissions. We need to look at how that will be funded. The Executive Branch wants to make all the information available when they go through the review.

SENATOR MANENDO:

The sunset commission in Texas has a director, 3 administrative assistants, 3 senior managers, a senior policy analyst, a staff legal counsel, 15 policy analysts and about 30 to 40 paid staff members. How big will this bureaucracy become?

MS. GANSERT:

The Governor is contemplating an inspector general. We are evaluating this new position within State government to look at the different and ongoing activities of programs and services within State government. Nevada's government is lean, so I do not know if we would have a staff the size of Texas. We would have the full cooperation of our agencies.

SENATOR MANENDO:

Is the Texas budget not lean?

MS. GANSERT:

I do not know, but they are a larger State with greater population.

SENATOR MANENDO:

Texas has more actual dollars in its budget but to compare those dollars to population, it may be similar to Nevada when looking at per capita. We will need to look into this issue.

SENATOR SETTELMAYER:

Will the increase in staff costs be outweighed by the cost savings found by the Commission? Will the cost savings resulting from duplication found in agencies, entities or boards more than compensate for the manpower used to find the duplication?

MS. GANSERT:

We have looked at how government is organized in the budget process and are streamlining. Immense dollars can be saved, and this is why we are looking at an inspector general position. We are working with Democratic leadership on a bill to look at boards and commissions. We support the concept of review brought forth by Senator Kieckhefer and Assemblyman Hansen. There are always savings if we have redundancies and inefficiencies due to duplication or bureaucracies no longer needed.

SENATOR HARDY:

During the last election, I heard nonpartisan comments about consolidation. This concept dovetails with consolidating certain State agencies. Can cost savings from consolidation also be looked at in the same fashion?

MS. GANSERT:

Yes. The new administration had a short time period to put together the budget. We found 20 agencies and departments we can consolidate. We have also moved a few things where they belong. There is always room for improvement. Over time, government expands and needs continuous review.

CHAIR LEE:

Former Governor Kenny Guinn said there needs to be control over the boards and the commissions in order to better work with them. Do you have any thoughts about this?

MS. GANSERT:

There are many boards and commissions, and they all have different ways of appointing membership and leadership. We are looking at all of them, but this will take time. We have not considered having control over the boards and commissions, but we need to reevaluate how the boards and commissions are put together and how they function, and we need to look into accountability.

SENATOR SCHNEIDER:

I want the Chief of Staff to know I have a bill coming out on boards and commissions which will significantly change how boards and commissions operate. It also addresses the ability of the Governor to control boards and commissions.

SAMUEL MCMULLEN (Las Vegas Chamber of Commerce):

We looked at the SAGE Commission recommendations one by one, merit by merit, to ensure we understood them in terms of helping government or assisting citizens. One item regarding the Sunset Commission we support is that it is a mechanism where citizens can have input and gain understanding about the boards, commissions, programs and services. It is simplistic to say that when government does what it needs to do, it is difficult for government to stop and look at the programs and make adjustments if there is a need.

The Sunset Commission provides for extra eyes to look at government, and this includes the eyes of citizens. This is not funded, so there is the question of ownership. The Commission would provide an informational report to the Governor and to the Legislature. Utilization of the information would be at the discretion of those bodies as they address government issues and structure.

How the Sunset Commission is done will be critical to how it functions, and this is an issue. The people who serve on this Commission should have the desire and dedication in their review to ensure that meaningful information and support comes forward. This is important, as we must look critically at all areas during this economic downturn. The Commission will happen this Session or it will continue as a work in progress. It is not an end to itself but part of a process.

MR. ABNEY:

We support the concept behind S.B. 251 and the efforts of the Governor, Assemblyman Hansen and others. It is important to have a commission to make reviews and recommendations, as Legislators are only in session 120 days every other year. Mr. Goldwater read a letter from the chair of the SAGE Commission, Bruce James, who talked about how the State does not even know how many boards and commissions report to the Governor. Finding out this information is of importance by itself. The SAGE Commission's final report said the State could save \$2 billion over five years if the recommendations are implemented. The Sunset Commission is an important piece.

CHAIR LEE:

Mr. McMullen and Mr. Abney, each of you represent chambers of commerce. It makes sense that you would follow these issues and work with the State. It does not make sense the Nevada League of Cities and Municipalities and the Nevada Association of Counties have membership on the Commission. What is your take on Committee membership?

MR. ABNEY:

Are you addressing the issue of local governments involved with the Commission?

CHAIR LEE:

I am saying that I might not value them as much as I might value your perspective of others on the Commission.

MR. MCMULLEN:

In the bill, on page 2, line 22 it says, "An elected officer may not be appointed or serve as a member of the Commission." This would provide an opportunity for people outside of government to participate. This would include chamber members and public citizens as part of the review process. The intent would be members of the public would be appointed by the entities.

SENATOR KIECKHEFER:

The intent is to have appointees made by elected officials, but the officials cannot serve. I included the League of Cities and the Nevada Association of Counties because of the exploration of duplication of services between the levels of government. They can appoint people who have knowledge about services provided by their levels of government and lend that expertise into the exploration of potential duplication.

CHAIR LEE:

Private citizens would attend meetings with items of interest to them, and they would bring forth discussions.

MS. HANSEN:

We support S.B. 251. We support the recommendations of the SAGE Commission, and we specifically support a sunset commission. The idea of having citizens on the Commission is important even if they are appointed by government bodies. It might be good to have some people who might be more independent representing people. Government needs to review and to look at what is important. It will look at efficiency and efficacy. I favor section 5, where it says, "The Commission shall continuously review all governmental programs and services." We need to be intent upon using taxpayers' money to the best extent possible in serving the people. This sunseting legislation will let us know how government is working. The details might change as this bill moves forward, but we stand on the importance of citizen input.

MS. VILARDO:

We support this legislation. I want to make two additional comments. I served on the SAGE Commission. It is important to have a member from the League of Cities and the Nevada Association of Counties on the Commission. The programs we are doing have interface and duplication. Working in a structured environment and putting items on the table result in better input. Boards and commissions have been discussed at length but not programs. One program in

the State budget is substance abuse. I counted nine agencies last Session that get money to deal with substance abuse. There is no coordination point. Are we interfacing with the agencies? I envision the Commission coordinating and interfacing. If the local governments are working with substance abuse, maybe we could consolidate to know where we are going and to know the outcomes we wanted. This bill will allow for this coordination.

ASSEMBLYMAN IRA HANSEN (Assembly District No. 32):

I am a supporter of the SAGE Commission, and I have an almost identical bill dealing with a sunset commission.

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

I support S.B. 251. The only difference I see between this bill and A.B. 406 is the composition of the sunset commission. The concept of the SAGE Commission is to reduce excessive levels of government and get expenditures in line with revenues. A sunset commission is one of the best ideas. General Partlow suggested that Texas saved about \$750 million.

CHAIR LEE:

Can you explain the makeup of the Evaluation and Sunset Advisory Commission in your bill?

ASSEMBLYMAN HANSEN:

The Commission would have up to 11 members. The members would be selected by the Majority and Minority Leaders of each Legislative House and the Governor.

One member would be a member of the administrative staff of the Governor and appointed by the Governor, and two members would be from the general public, appointed by the Governor. Four Senators would be members. Two of the Senators would be appointed by the Majority Leader of the Senate and the other two would be appointed by the Minority Leader of the Senate. There would also be four appointed Assembly members. Two of them would be appointed by the Speaker of the Assembly, and two of them would be appointed by the Minority Leader of the Assembly.

MS. SMITH:

The Sunset Commission proposed by the SAGE Commission intended that the appointees would come from the general public.

TERRY GRAVES (Henderson Chamber of Commerce):

We support S.B. 251 and the concepts it embraces. We support The SAGE Commission and its recommendations

BILLIE SHEA (State Board of Massage Therapists):

It is good for the State to address boards and commissions. A point of information, in 2005 when I lobbied for State licensure for massage therapy and the law was passed, I had no funding for my board. We used incoming licensure funds before we could get the board up and running efficiently. Boards do not receive State funding.

CHAIR LEE:

Seeing there is no further discussion on S.B. 251, we will close the hearing. We will open the hearing on S.B. 262.

SENATE BILL 262: Provides for the incorporation of the City of Laughlin contingent upon the approval of the voters in the City. (BDR S-125)

SENATOR JOSEPH (JOE) P. HARDY (Clark County Senatorial District No. 12):

Senate Bill 262 is almost a continuation of A.B. No. 383 of the 75th Session. Laughlin is a township in Clark County on the Nevada side of the Colorado River. It is a town of about 8,000 people. This bill is about the citizens' right to vote on what they would like to do in ways of self-determination. The people of Laughlin deserve the right to vote, and this bill would allow them to vote after an independent study is done by the State's Committee on Local Government Finance. A preliminary study was commissioned by the Laughlin Economic Development Corporation to determine if Laughlin could consider fiscal feasibility by incorporating. The result of the preliminary study showed that it would be feasible without including the commercial properties. Parenthetically, in 2009 when I carried A.B. No. 383 of the 75th Session, the gaming properties were comfortable under the jurisdiction of Clark County. The gaming properties did not want to be included in the incorporation. I reached out to the gaming properties after the 2009 Session, and they did not come forward in support of incorporation so I excluded them

from the process. The fiscal analysis shows Laughlin can make it fiscally without the gaming properties.

I commend the staff members of the Legislative Counsel Bureau for their meticulous work. We needed precision as to the boundary, and it had to be put in place with specific statutes. Article I section 1.030 of the proposed city charter in S.B. 262 defines the city boundaries. This took time and delayed this bill coming forward to the Committee. Should there be a look at the gaming corridor, we would be amendable to discuss this matter with them. I am amendable to better language regarding the jurisdiction or the properties. One concern is the annexation issue. The bill alludes to any powers not in the Charter as proposed that—subject to the vote of the people—would be included in any other statutes under *Nevada Revised Statutes* (NRS). Annexation would be addressed in NRS, so if people want to be annexed, they can request it. If Laughlin ever decided to force-annex somebody, there is a provision in NRS for the protest of annexation. There is a concern over the annexation issue, so I have a proposed amendment ([Exhibit E](#)). This amendment will amend section 12.060 of the charter by adding subsection 4 that says, "Notwithstanding any other provision of *Nevada Revised Statutes*, municipal practice, or code, future annexation or property developed as of January 1, 2011" This amendment clarifies the annexation process for those with concerns.

Most of the bill talks about the proposed charter of the city. It talks about the organization of the city and the city powers. This information is only in the bill because the bill has to refer to what the people will vote on if we allow them the right to vote. This is a right-to-vote bill. Let the people of Laughlin vote.

ASSEMBLYMAN CRESENT HARDY (Assembly District No. 20):

Senate Bill 262 provides the opportunity for the citizens of Laughlin to vote for becoming or not becoming an incorporated city in Nevada.

I have been a citizen and employee of the City of Mesquite, which is one of Nevada's latest incorporated cities. I would like to speak on the reasons why Mesquite is a benefit to Clark County and the State, and why Laughlin will also be an asset.

Government closest to the people is the most fiscally responsible and beneficial to its citizens.

The City of Mesquite is an economic benefit to the County and the State. It has witnessed unprecedented growth for a community of its size with residential and commercial development. We have alleviated the strain to the County on police and fire protection and provided support for our neighbors in Bunkerville, Nevada, and Beaver Dam and Littlefield, Arizona.

Mesquite continues to maintain its goal to provide one police officer on the streets for every 1,000 residents, and we have a full-time fire department. We have been fiscally responsible with fewer resources and have successfully partnered with the County on interlocal agreements to the benefit of the smaller communities in the area. We have worked closely with Clark County and the Department of Public Safety on drug intervention task force programs to stop interstate movement of drugs.

At the time of Mesquite's incorporation, its potential revenue sources were far less than what Laughlin appears to have now. When the City of Mesquite incorporated, it had an inadequate infrastructure to support the unprecedented growth, but the City has been successful in providing the infrastructure and staying ahead of growth. Laughlin has an infrastructure in place. The sewer system is only at 30 percent capacity with 11,000 acre-feet of water available for growth. The available water at 35 percent capacity would allow the potential growth of about 45,000 new residents with coinciding commercial development.

The City of Mesquite has a top-notch zoning, building and planning department, which has streamlined permitting for developers wanting to invest in Clark County. Without this department, the development would have been difficult, if not impossible, for Clark County because the County administrative offices are 80 miles away.

I speak to these successes with firsthand knowledge. I was the City of Mesquite's first Director of Public Works. The citizens of Laughlin, who have direct knowledge of their community, will assist in their success if they are provided the opportunity to vote.

CHAIR LEE:

If the City of Mesquite started out a new community without gaming, what would be the effect?

ASSEMBLYMAN HARDY:

Mesquite only had one gaming facility at the time, and that was the Peppermill Casino. There was \$800,000 to begin incorporation. We now are a community worth between \$25 million and \$30 million.

CHAIR LEE:

Former President Abraham Lincoln once said, "a house divided against itself cannot stand." The City of Mesquite incorporated properly. In Senate Bill 262, we are carving out the gaming enterprise. The community would be built upon a retiree system and a handful of businesses. The formula is not sufficient to incorporate a city. How do you feel about the exclusion of gaming?

ASSEMBLYMAN HARDY:

It is a benefit to have the gaming industry with the City of Mesquite, but Mesquite's success was not dependent upon it. Gaming was minimal, so there was no cause or effect. We came in together, but it is not good to force people down a road if they do not want to go there. At times, gaming puts a strain on our community in regard to fire protection and other services. We incorporated because we wanted to get our residential and business community going. We saw the opportunities of growth with the golf industry. It brings in close to \$35 million to \$40 million annually.

CHAIR LEE:

Would you incorporate the City of Mesquite today if the gaming enterprise was carved out?

ASSEMBLYMAN HARDY:

There would be opportunity for success with or without the gaming enterprise. We have only three gaming sources and two are closed. We are at the top of residential growth and commercial growth in southern Nevada.

CHAIR LEE:

I want to ensure we build a city for the future. I would like to see Laughlin look like your community.

SENATOR HARDY:

Former Senator Sue Lowden is unable to be present but has provided a statement in support of S.B. 262. The missive reads:

Sue and Paul Lowden are long-time supporters and job providers in Laughlin. We own and operate the Pioneer Hotel and Gambling Hall in Laughlin since 1985. We employ 300 workers, many of whom live and raise their family in Laughlin. The Pioneer and her employees are very active in the community, supporting the Boys and Girls Club, the annual Laughlin Parade and Festival, the fourth of July celebration and so much more. Former State Senator Sue Lowden spends much of her time in Laughlin running the business and becoming active in the community. We are all strongly supportive of Dr. Hardy's bill and appreciative of today's hearing. We feel it makes sense for the community, the citizens and taxpayers of Laughlin and all the good public servants who are working day and night on behalf of the people of Laughlin. We ask you to vote in favor of S.B. 262. Thank you.

CHAIR LEE:

Does this exclude gaming operators from the community?

SENATOR HARDY:

They appreciate the bill as written. At some point, they might consider amending to incorporate, but I do not know. They never said they wanted to be in the city.

JORDAN ROSS (Constable, Laughlin Township):

I am in support of Senate Bill 262. In 2010, I was elected Constable of the Township of Laughlin. I ran and won on an explicit platform to provide a legitimately elected local representative to promote the interests and needs of the town and its residents until restoring the right to vote for the Town Advisory Board or establishing a city council.

The Committee is aware of the circumstances that have led our town to seek incorporation in the past few years, and I will not recount them. I will touch on two subjects worthy of consideration.

First, is this legislation fiscally responsible? In the economic climate, the State clearly has an obligation to avoid creating financially unsound political entities. Discussion amongst the civic leaders of our community has focused on thinking outside the box in the design of any future municipal government. At a meeting in my office, I discussed these issues with Terri Ursini, the chair of the Laughlin

Incorporation Committee. The conversation was not unlike many others I have had with active town citizens. We envision heavily contracted services, downside protection from unfunded personnel obligations and a willingness to spread services among the different vendors that would normally be provided by a single agency or company, particularly as it applies to fire protection.

The recent special report on the future of the state "Taming Leviathan" in the current issue of *The Economist* is replete with innovative experiments, many of them now long-standing reforms across the globe. In Hong Kong, over 90 percent of government social services are contracted to nongovernmental organizations (NGO). China, not a particularly robust example of government privatization, has classified 280 government functions in the City of Shenzhen that are now eligible for contracting to NGOs. Britain is becoming a nationwide laboratory for new perspectives on the efficient delivery of services to the public. We are confident that Laughlin will look for twenty-first century solutions to city government.

Second, does this legislation thwart the will of the people in Laughlin? I speak to many residents. The residents are not monolithic in their viewpoints on incorporation. Many favor incorporation and others are reluctant supporters who, because of their disenfranchisement in the voting for the Town Advisory Board, are left with no choice but to vote for incorporation. There are residents who are undecided or opposed. I am certain the majority of constituents are not happy with the status quo. This is the strength of S.B. 262. This legislation does not mandate incorporation by fiat, it merely allows the public debate to officially begin and for the people to choose for themselves what path their future local government will take.

I spoke with Chair Lee on the electoral independence of town advisory boards in 2010. I followed his suggestion and testified before the Legislative Commission's Committee to Study Powers Delegated to Local Governments. I made other attempts to bring action to the issue at the county level, all to no avail. We as a community have done our due diligence in trying to resolve the issue of home rule for Laughlin without resorting to incorporation. I ask the Committee to view the bill as a matter of voting rights and home rule.

JENNIFER J. DiMARZIO (Laughlin Economic Development Corporation):

Senate Bill 262 is intended to allow the citizens of Laughlin a voice and a vote in their future. The passage of this bill will not automatically incorporate

Laughlin. The bill will provide the citizens the right to vote to decide if they want to incorporate Laughlin. Section 4 outlines that before the citizens go to a vote, they will have the benefit of a study that will be done by the Committee on Local Government Finance on the feasibility of the incorporation. The report will be submitted to the Board of Clark County Commissioners by the end of the year and made available to the public before a vote.

We have members of the Laughlin Economic Development Corporation (LEDC) who will outline the impetus and reasoning behind S.B. 262.

TERRY URSINI (Laughlin Economic Development Corporation):
We support the passage of S.B. 262. In 2007, the Committee of the Incorporation of Laughlin, was formed consisting of Barbara Bodley, Trish Bleich, Gay Brousseau, Edward Cooper and myself.

The Committee has discussed methods of incorporation, existing conditions, infrastructure, government affairs, revenues and expenses along with proposed new city versions of all these subjects in publicly held meetings.

The Committee has performed this work of due diligence because the right to vote and information provided by S.B. 262 will allow voters to make an informed decision about the government of Laughlin.

Discussion has taken place in Laughlin through private luncheons, discussions at bars and restaurants, a petition drive for signatures, the Website < <http://www.Laughlin2011.com> > and a professionally prepared report.

The petition drive started with 12 businesses and expanded to 21 businesses at their request. In three weeks, 1,169 signatures were captured, representing 40 percent of the people who voted in the November 2010 election.

It was exciting to walk into restaurants and bars where citizens were discussing voter registration, county services, county government and the request for the right to vote and self-determination. This process is not solely about business or stakeholder interests. It is to reinforce the right of the people to secure the American right to vote, and in our case, the right to vote for or against incorporation.

It is a great honor to report that the responsibility to create or not create Nevada's newest city has been accepted by the citizens of Laughlin.

DAVID FLOODMAN (Laughlin Economic Development Corporation):
My first experience in Laughlin was in 1999 to build the road, Bruce Woodbury Drive. I became a citizen of Laughlin in 2005.

Topics for discussion include the facts that Laughlin has an abundance of water allocation for future growth, underutilized capital infrastructure and 9,000 acres to develop, which includes 3.5 miles of waterfront. Flight of revenue from Laughlin is also a matter of discussion. About 80 percent of gaming employees in our community reside across the river in Arizona. We are not collecting the sales tax, property tax, excise tax or other revenues that would be available if these employees were living in Laughlin. The U.S. Census showed that in the last ten years, Laughlin has grown by about 300 people and Bullhead City, Arizona, the community across the river, has grown by 9,000 people. The people of Laughlin need to consider these issues when voting for incorporation.

I ask that S.B. 262 be passed to allow the citizens of Laughlin the right to vote. In America, the forms of government under which we operate are determined by the voice of the people through the right to vote.

JOE THOMASON, P.E. (Laughlin Economic Development Corporation):
I am a civil engineer practicing in Clark County for over 25 years, and I have been in Laughlin since about 2007. I have seen the challenges that come with developing and investing in Laughlin. Assemblyman Hardy amply described the opportunity the future city of Laughlin would like to see. The Township of Laughlin wants a system of development and permitting to encourage investment and growth in the community through a streamlined permitting process and a plan and design review process. Laughlin deserves the opportunity to grow and compete with neighboring cities. The citizens need to differentiate themselves within the region. The first question is, do the citizens of Laughlin get the right to decide what is right for Laughlin? It starts with its citizens having the right to vote on the merits of the proposed incorporation.

Frustration has built over the years at the unbalanced growth in the region as Laughlin is left behind. Mr. Floodman indicated the differential of growth and population over a ten-year period. There are 300 new people in Laughlin. On the other side of the river in Bullhead City, Arizona, there are 9,000 new people. It

is evident that Laughlin has not had the tools to compete effectively. The ability for Laughlin to be successful is related to the ability to attract investment. We need to grow services and create new employment opportunities to attract population growth. The codes, ordinances and policies enacted by the new city will allow these opportunities. Laughlin deserves the right to vote for incorporation.

CHAIR LEE:

Is the Clark County Board of Commissioners responsible for the explosive growth in Arizona? Is it responsible for Laughlin's inability to grow? Is it the zoning, planning or inspection process that is hindering the Township?

MR. FLOODMAN:

It appears there was a plan by the founders of Laughlin to invest in residential and retail growth in Arizona. This has influenced growth patterns. Builder D.R. Horton examined projects on both sides of the river and found fewer planning restrictions in Bullhead City.

MR. THOMASON:

The code under which development occurs in Clark County is the code written for the greater Las Vegas area. The code cannot be as efficient or effective for locations such as the Township of Laughlin or the City of Mesquite. The code does not provide flexibility or allow the needed innovation to offer other opportunities in southern Nevada.

JAMES SHAW (Laughlin Economic Development Corporation):

I am professionally designated as a Counselor of Real Estate, and I am a licensed real estate broker in the states of Nevada and Washington. Formerly, I was a practicing architectural engineer. I live in Seattle, but I have considerable experience in Nevada. During the late 1970s and the early 1980s, I lived in Las Vegas and represented the estate of Howard Hughes in all of its real estate matters. This was a comprehensive experience in Nevada. I have been involved with Laughlin since 1992. From that time to date, I have represented the owners of the Emerald River project, beginning with the major creditor during the original developer's bankruptcy, foreclosure and eventual sale to the current owners. I am a LEDC member because I represent the owners of property in Laughlin.

It was my LEDC role to identify and coordinate a well-qualified, third-party independent consultant who could initially analyze the financial feasibility of incorporating the City of Laughlin. The purpose was to provide a reasonable, preliminary comfort level wherein incorporation could make financial sense.

Economic and Planning Systems (EPS), a California-based firm, was selected by LEDC and conducted the Initial Feasibility Analysis (IFA). The completed IFA has been provided to this Committee ([Exhibit F](#)) and is available to the public online at <<http://www.Laughlin2011.com>> for review. The IFA determined a new city feasible and provided a sound supporting basis for S.B. 262 and Laughlin's right to vote for incorporation. The IFA is a credible study conducted by a credible firm. The Committee on Local Government Finance will prepare a more detailed financial analysis as provided in S.B. 262. The report will be made available to the Laughlin voters for review before the election on incorporation. Senate Bill 262 provides the right for Laughlin to hold the election.

RICHARD BERKSON (Economic and Planning Systems; Laughlin Economic Development Corporation):

Economic and Planning Systems, Inc., is an urban economics consulting firm. We have been in business for about 28 years. We provide services in a variety of areas, including fiscal analysis and government organization. The firm has conducted approximately 30 various incorporation feasibility studies. The Economic and Planning Systems, Inc., role was to prepare the preliminary study. The findings were that the city can be feasible, providing a full range of municipal services based on reasonable costs for services and reasonable expectations of revenues for those services. These assumptions will be refined as part of the future study by the Committee on Local Government Finance, resulting in a clear, concise picture of a future city subject to the voters' discretion.

BRIN GIBSON (Laughlin Economic Development Corporation):

We have been working with Clark County officials, seeking guidance and feedback on the proposed incorporation of Laughlin. They have been helpful. The County has a clarification to make regarding the metes and bounds of the proposed incorporated area. We welcome this clarification. There might be concern by property owners in the contiguous area to that proposed for incorporation. The property might be annexed by the new city of Laughlin against the will of the property owners.

We want to alleviate the concern of the property owners. We have researched the NRS. No statute provides for involuntary annexation. Land cannot be annexed without the agreement of a majority of the property owners of the area to be annexed. Annexation provisions are under NRS 268 for intracounty annexation. The proposed Senate Bill 262 introduced by Senator Hardy is also meant to alleviate concerns.

PETE ERNAUT (M Resorts; Nevada Resort Association):

We oppose Senate Bill 262. When I was a member of the Legislature, I had two similar bills. One was to create Ponderosa County in Incline Village, and the second was to create a separate school district for Incline Village. I understand the intentions of this bill and the community's willingness for autonomy and self-determination.

In my experience, a few things were learned along the way. Ponderosa County was killed on a number of occasions in committee; the school district bill made it out of both Houses but was vetoed. The veto message set the standard. Clearly, a school district is less complex than the incorporation of a city, but the standard is pertinent. While autonomy and self-determination is laudable, it should not be the sole factor and is an insufficient reason to press forward. The people who are left responsible, if they are wrong, are us. Self-determination is an admirable goal, but the penalty for getting it wrong, to get the genie back into the bottle, is complicated. We learned this when White Pine County fell into economic disrepair and created a mess for the State.

The study by the Laughlin Economic Development Corporation is a decent first step, but it is not a comprehensive feasibility study. It creates a number of concerns. The study assumes that population and commercial bases will increase significantly as a matter of revenue. The capital reserve would rely entirely on the Fort Mojave Development Fund. This fund was created in the 1960s by the land sales in and around Laughlin for the purpose of capital improvement in the Laughlin area, among other things. This would be a dramatic shift in the purpose of the fund. If the study is incorrect or undershoots the fiscal feasibility in identifying the initial city funding, some employees might have to work on a contingency basis if the costs cannot be covered. There are too many loose ends in the agreement.

It also provides for interlocal government service agreements with Clark County. It is here the devil is in the details from my experience with Ponderosa County.

The assumption is made that the entities and buildings owned by Clark County will be given—or given at a discount rate—to the merging entity of the incorporated city. This is problematic, as Clark County may have a significantly different opinion or negotiating stance for houses, county buildings, fire protection and police departments. This does not take into consideration library services and other county services that exist and are provided by Clark County in Laughlin. The IFA glosses through these important issues when dealing with incorporation.

I understand the popular vote issue, but the vote must be an informed popular vote. Another host of issues concerns the Consolidated Tax (CTX) Distribution which is distributed by the calculation of population and assessed value. Taking the commercial and gaming corridor out of incorporation does two things. It takes assessed valuation out, but it does not affect population. From a per capita basis, it would have a detrimental effect on the distribution of CTX.

There are three designations for the Fort Mojave Development Fund. Purchasers acquire land and develop the Fort Mojave Valley for the construction of capital improvement projects within the Valley. It also specifically says that these funds should not be used to support governmental bureaucracy.

The proponents of this bill ask for a study to be done by the Committee on Local Government Finance, and this is within their scope. We also understand the Committee on Local Government Finance has no funds. Presumably, the Fort Mojave Development Fund would have to be utilized to conduct the study. I have spoken to a couple of members, and they agree that the initial feasibility study is inadequate to answer a number of questions.

Administrative and procedural problems are created by S.B. 262. In section 5, the vote goes forward regardless if the financial feasibility report supports incorporation. It seems reasonable if there is a material, egregious or fatal flaw in the financing, going forward with the election would be an unnecessary expense. There is also concern with timing. The primary election would be conducted at the same time the election of the initial officers would take place. It presumes the incorporation would pass; one can argue that it prejudices the fact that the incorporation would pass because the initial officers are on the same ballot. The ballot also does not set forth the ability for the converse argument to be made. This would have to be changed. If the feasibility study done by the Committee on Local Government Finance shows a negative impact,

there is no mechanism to inform the electorate—other than in the newspaper—on the ballot. This is a bill oversight that would likely be corrected.

There is the issue of public safety, including fire protection. The assumption is the gaming and commercial corridor, the area not included in the annexation, would continue receiving services from Clark County. This can create a number of problems.

The incorporation of Laughlin is a complicated procedure. It is framed as allowing Laughlin self-determination and the ability to vote, but this bill is much more. There is the responsibility to ensure that the citizens have all the information to best make an informed decision because if the numbers are wrong and the incorporation breaks down, the State is left to pick up the pieces. *Nevada Revised Statute* 354.705 sets forth the protocol used in the White Pine example, when White Pine County fell into financial disrepair. It allows the Nevada Tax Commission to essentially take over the entity in receivership. The Tax Commission is allowed to raise property taxes, room tax and additional appropriate services charged to local government.

My clients, although excluded from this bill, are concerned that annexation would be simple. We disagree with Mr. Gibson that there is a higher standard of annexation. Any entity across the State understands that annexation is simplistic. People who protest have a public right to protest, but in general circumstances, annexation is not a difficult process. The incorporation needs to be financially feasible. It needs to be solid or Laughlin will be forced to annex the gaming and commercial corridor into the future city. The gaming and commercial corridor will be left to pick up the pieces and to right the financial ship of the incorporated city.

We disagree with Senate Bill 262, but we understand the impetus. We need to have a standard that alleviates the concern whether this entity can be financially viable. We want to ensure that my clients and the State will not be left with the final price tag to fix a potential economic problem caused by the incorporation of Laughlin.

MORGAN BAUMGARTNER (M Resorts; Nevada Resort Association):

Chapter 266 provides for an incorporation process through a petition process and an extensive review process that answers the questions brought forth in testimony. The people can petition. It moves to the Committee on Local

Government Finance and Clark County. There is a public comment period and an overall review with criteria set forth in statute to answer the questions about the financial feasibility, the incorporation boundaries, taxes and services. It also brings the County in at an earlier point to sort out raised questions. This is a model or method for pursuing the incorporation. It allows for public hearing, and the ballot would require a fiscal impact statement. It also requires the sample ballot to have the same fiscal impact statement. The statute contemplates a number of things set forth in Senate Bill 262 but in a deliberative, comprehensive, detailed manner. The means exist and the tools are available.

MR. ERNAUT:

Section 13 would allow the city council, prior to the incorporation of the city, to prepare budgets, adopt ordinances, levy taxes, negotiate appointment of fixed assets and negotiate contracts. From a public policy standpoint, no one knows if this is a good idea. No one knows if it is good for my clients to be in or out of the incorporated city. Sufficient homework has not been done. The time frames do not allow for the second feasibility study to be fully analyzed in time before the vote. The cart is 100 miles ahead of the horse when it comes to the ability of those council members to negotiate contracts and levy taxes in the same time frame the entity is created.

HERM WALKER (Riverside Resort and Casino):

We oppose Senate Bill 262. The bill is mislabeled. It should be called the Laughlin Manifesto. It concentrates more authority within a city council than I have ever seen for any comparable body. The powers are beyond reason. The council is permitted to be the judge of the election and to determine the qualification of its members. This is a conflict of interest. The council confers upon itself subpoena powers and the power to conduct investigations. This is an outrageous exercise in power. The document ignores the principle of separation of powers. Another strenuous objection to this bill is the section relating to public utilities. The city council has the power to condemn public utilities, take them over and appropriate part of their net profits. I do not know if NV Energy and the water and sewer departments have this knowledge. It is disconcerting that the council can condemn and take over the public utilities providing service to the municipality. It also has the power to franchise, which is not unusual, but I am concerned about the taxation issue and the authority the council has to levy taxes. I concur with Mr. Ernaut with the entirety of this bill: The cart is in front of the horse.

The bill and the effort of the authors to inhibit the annexation issue might be beyond their control. *Nevada Revised Statute* 266.017 in subsection 6 provides that if the area of a city proposed to be incorporated, is located in a county whose population is 100,000 or more and includes the area of any unincorporated town, it must include the entire area of the unincorporated town. The bill initiates an effort that will outdistance, overrule and make inappropriate an article of substantive law.

The thread running through all the comments in support of S.B. 262 is the right to vote. And what is wrong with the right to vote? Nothing, but the thread is strained and becomes broken when looking through this bill. The future city of Laughlin says the citizens are not going to vote on the municipal judge who will be appointed by the city council. I do not know a judge in Nevada appointed by a city council. For the many stated reasons, we urge the Committee to reject approval of S.B. 262.

CONSTANCE BROOKS (Senior Management Analyst, Administrative Services, Clark County):

Our position on S.B. 262 is neutral. Clark County traditionally takes a neutral position regarding legislation intended for incorporation. We are working with the proponents in the bill on language relative to the boundaries and the parcels mentioned within the legislation.

RUSTY McALLISTER (Professional Fire Fighters of Nevada):

We are neutral on S.B. 262. If Clark County's decision is to remain neutral and if the bill passes and allows the voters of Laughlin to incorporate into a city, we have no control in that matter. It is important to have all the facts. Mr. Ernaut clarified that we are creating an opt-in area of the casino core. Ten major hotel-casinos along the river would remain under the jurisdiction of Clark County. One fire station would manage ten hotel-casinos. The new city of Laughlin would have one fire station with four firefighters. I have a couple of questions. What happens with the equipment? Does the fire station that belongs to Clark County automatically go over to the new city? Does the fire engine and equipment go to the new city or does it appropriate the vehicle? The city depends on many services in Bullhead City, and that is not a viable resource. If the Clark County fire station in Laughlin is closed because of the new city, the county firefighters will be moved to other locations in Clark County that are short of manpower. The city will have to hire new people at a lower salary while the people next to them will be Clark County employees in the gaming district.

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CHAIR LEE:

The Committee is not ready to move on this bill. We will return to it in a subcommittee. The meeting on Senate Government Affairs is now adjourned at 11:11 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. 250 | C | Senator Ben Kieckhefer | Proposed Amendment |
| S.B. 250 | D | Senator Ben Kieckhefer | General Fund Spending Limit Handout |
| S.B. 262 | E | Senator Joseph (Joe) P. Hardy | Proposed Amendment |
| S.B. 262 | F | Laughlin Economic Development Corporation | Feasibility Analysis |