

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

**Seventy-Seventh Session
February 6, 2013**

The Committee on Government Affairs was called to order by Chairwoman Teresa Benitez-Thompson at 7:59 a.m. on Wednesday, February 6, 2013, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Teresa Benitez-Thompson, Chairwoman
Assemblywoman Dina Neal, Vice Chairwoman
Assemblyman Elliot T. Anderson
Assemblywoman Irene Bustamante Adams
Assemblyman Skip Daly
Assemblyman John Ellison
Assemblyman James W. Healey
Assemblyman Pete Livermore
Assemblyman Harvey J. Munford
Assemblyman James Oscarson
Assemblywoman Peggy Pierce
Assemblyman Lynn D. Stewart
Assemblywoman Heidi Swank
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Jennifer Ruedy, Committee Policy Analyst
Jim Penrose, Committee Counsel
Bonnie Hoeffcker, Committee Manager
Jennifer Dalton, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Jeff Fontaine, Executive Director, Nevada Association of Counties
Jeff Page, County Manager, Lyon County
Joe Mortenson, County Commissioner, Chair, Lyon County Board of Commissioners
Ray Fierro, County Commissioner, Lyon County Board of Commissioners
Jeffery M. Kintop, Assistant Administrator, Division of State Library and Archives, Department of Administration
Daphne O. DeLeon, Administrator, Division of State Library and Archives, Department of Administration
Stephanie Heying, Court Services Analyst, Nevada Supreme Court
P. Michael Murphy, representing Clark County
Chuck Calloway, representing the Las Vegas Metropolitan Police Department

Chairwoman Benitez-Thompson:

[Roll was taken, and protocol was explained.] I would like to welcome the audience members here in Carson City. We will begin by inviting Mr. Jeff Fontaine from the Nevada Association of Counties (NACO) up to make a presentation.

Jeff Fontaine, Executive Director, Nevada Association of Counties:

The Nevada Association of Counties (NACO) was formed in 1924 under the name of the Nevada County Commissioners Association ([Exhibit C](#)). We are a nonpartisan state association that represents all 17 counties and their officials and staff. We are the state affiliate of an actual association of counties that represents the nation's 3,000 counties. You can see our mission statement is to encourage county government to provide services that will maximize efficiency and foster public trust in county government (p. 2). We do that by representing counties on policy development and implementation at the federal level, working directly with our congressional delegation on bills and various agency regulations. We also work very closely through the National Association of Counties, primarily with western states on issues of concern that are common to us (p. 3). Of course, we represent the counties here in the

Legislature and appear before the Executive Branch agencies here in the state regarding regulations and rules. We also promote leadership development. I would note that we have 22 new county commissioners out of a total of 75 county commissioners serving this year. Much like here in the Legislature, term limits have changed the makeup of the county commissions across the state. We provide leadership development through a cooperative agreement with the University of Nevada, Reno, extended study program called Certified Public Officials. We sponsor members of our association to attend the National Association of Counties County Leadership Institute, and we have our own leadership sessions. We provide information, training, and technical assistance on a variety of topics. Particularly, in the rural counties, we have seven counties that do not have a dedicated county manager, and so they may not necessarily have expertise on a particular issue, so we provide technical assistance and training to many of those counties. We also serve as the forum for our members to be able to exchange ideas and best practices. We do that as part of our board meetings, our committee structure, and our annual conference. Lastly, we tell the public about the role of county government. We think it is important for the public to know about the critical role of county governments and how they provide the services that they do.

I am not going to go in detail through this chart [([Exhibit C](#)), p. 3], but I would like to point out that our board of directors comprises a county commissioner from each of the seventeen counties. We have officers that are elected by the board. Our president this year is Esmeralda County Commissioner, Nancy Boland. I should also acknowledge Assemblyman Ellison here who is a past president of NACO (2007), and Assemblyman Livermore was also a former board member of NACO. We have county commissioners who also serve on the National Association of Counties Board of Directors as well as the Western Interstate Region Board of Directors. We have affiliate members as well, which include all those other county elected officials associations, the assessors, the County Fiscal Officers Association, treasurer, and so forth. Each has a representative on our board of directors as well. Lastly, our staff: I am the Executive Director. We have a deputy director position that is currently vacant. Wes Henderson, who was in that position for many years, is now the Executive Director of the Nevada League of Cities. Elyse Monroy is here with me today, and she is our office manager. In addition, we have an intern from Western Nevada College, Curtis Blackwell.

This chart (p. 5) shows a lot of data on Nevada's counties. Here in Nevada we have a lot of diversity. We have Esmeralda County with fewer than 1,000 people; according to the 2011 estimate, the population is 825 people. We also have Clark County with nearly 2 million people. Nevada has 6 of the 25 largest counties in the United States, including the third largest county,

Nye County, which encompasses over 18,000 square miles. So, you can also see the size of the county commissions in the presentation. Most of the counties have five members on their county commissions. We have six counties with three commissioners on their boards. Clark County is the only county that has seven members on its commission.

I want to spend a few minutes talking about the economy and jobs in Nevada's counties. The 2012 annual county unemployment rates are reflected in the PowerPoint (p. 6). It is not seasonally adjusted. It is a snapshot of where we were. Even though we are seeing signs of economic recovery, we still have unacceptable unemployment rates in a number of our counties. In the rural counties, mining provides many jobs. The rates of mining employment are reflected for Elko, for example, as well as Lander, Humboldt, and Eureka where unemployment is well under 6.5 percent. Agriculture, mining, and tourism are still the mainstays in most of rural Nevada. We are starting to see a little bit more in terms of light manufacturing, distribution facilities, and some renewable energy development in some of the counties. I am sure, as you hear from the individual counties, their overviews will be telling about the various challenges and successes they experience.

This chart is really showing the breakdown of services that are provided by counties in the state (p. 7). The counties, historically, have been an arm of the state in maintaining records, providing courts, providing for public safety, and assessing property. They provide those kinds of regional services, but many counties also provide municipal services, like water and sewer. Many of the services that counties provide, which are noted, are mandated services. They are required under Nevada statute to provide those services, including indigent medical treatment, indigent legal defense, and many others. The counties also provide a number of discretionary services—quality of life services, if you will, such as parks, libraries, senior services, and so on. During this economic downturn, unfortunately, many counties have been forced to reduce or cut the scope of many of the discretionary services due to budget issues. One thing I want to mention to conclude this slide is that you can see the yellow segments, which are services that the counties and the state share. We work very closely with the Executive Branch agencies, the Department of Health and Human Services, Nevada Department of Transportation, and the Division of Forestry to identify and fill those gaps in services and to eliminate any duplication in shared services.

This graph (p. 8) shows the property tax revenues to counties. I hope that we have seen the bottom of our recession, but county revenues are still a concern. Even though sales tax revenues to counties seem to be on the rise, it is the property tax component of those revenues that still causes concern. This chart

shows those revenues. They are still declining. Property tax revenues are one of the largest revenue sources for almost all counties. It is the largest revenue source in some counties. What we have learned in the last few years about property taxes is that they are not the stable revenue source we once thought they were. The other lesson is that the counties and other local governments are not going to be able to recover those lost revenues as quickly as they declined because of the abatements.

Public lands are a priority issue for NACO (p. 9). This map shows the various public land components in the state. Federal land management agencies manage 84 percent of our state. In some counties, over 95 percent of the counties' land area is managed by federal land management agencies. Obviously, this has a significant impact on the counties' economies and way of life. The Bureau of Land Management (BLM) is the largest land manager in Nevada. We meet regularly with leadership from BLM, U.S. Forest Service, and other agencies to try to resolve those issues that affect the counties, but that process is very protracted. We are not always sure of the outcome. There will be a number of bills introduced in the Committee for Natural Resources, Agriculture, and Mining this session that deal with a variety of public land issues.

At the federal level, there are two priority issues for Nevada's counties: the national debt and public lands and natural resources (p. 10). The counties are concerned about the national debt because, even though Congress has avoided a fiscal cliff as a result of the passage of the debt limit last December, we have another milestone coming up in March. So, we have new challenges ahead. Counties are very concerned about what could happen in those discussions about the national debt, including a cost shift in Medicaid costs to states and counties; elimination or reduction in the benefit of tax-exempt municipal bonds; and across-the-board cuts in federal spending or sequestration for programs that are important to counties, including payment in lieu of taxes (PILT), transient grants for capital projects, highway funds, Department of Justice grants, and others.

With regard to public lands and natural resources (p. 11), the biggest issue that we hear about from counties is maintaining access and multiple uses in the state. Travel management plans are a hot topic for many counties. I am sure you will be hearing more about sage grouse as the session goes on. The counties are very concerned about the potential listing of that species as an endangered species and the impact that will have. Counties are concerned about the number of wild horses in Nevada, which are in excess of 11,000. That is more than the appropriate management levels established by the BLM.

Nevada is home to more than half of the wild horse population in this country, and it affects the counties' rangelands and public safety.

Payment in lieu of taxes is a significant issue for our counties. In 2012, counties in Nevada collectively received about \$23 million in PILT payments. They really help keep many counties afloat in this economic recession. I would like to recognize Senator Reid and the rest of our congressional delegation who have really fought on behalf of Nevada and the PILT states to maintain PILT funding. It seems like it is an ongoing battle to maintain that full funding for PILT.

In the area of renewable energies, geothermal revenues to counties that are host to geothermal projects, such as Churchill County in our state, are required by the Geothermal Steam Act of 1970 to receive 25 percent of the revenues resulting from that development. In recent years, that 25 percent was slated to go back to the U. S. Department of the Treasury. Again, our congressional delegation led the fight to get those funds returned to the counties. In addition to sharing the revenues for geothermal projects, the counties are also very interested in sharing in revenue for solar and wind projects on federal lands. This is probably one of the top priorities for Nevada's counties.

Some county issues that we hear about (p. 12), and that you will likely hear about, are unfunded mandates and cost shifts. We estimate, since the 25th Special Session of the Nevada Legislature in 2008, the 75th Session of the Nevada Legislature in 2009, and the 76th Session of the Nevada Legislature in 2011, significant impacts have been felt as a result of unfunded mandates and cost shifts. It has been something in the neighborhood of \$25 million. These costs are not easily absorbed by the counties, especially when the cost shifts are enacted after the counties have submitted their budgets. It creates some real problems.

Other issues for the counties include local government autonomy, in other words home rule; economic development and tax abatements; and community colleges and cooperative extension. I should specify that the concern is with the two rural community colleges, Great Basin Community College and Western Nevada College, and the impact of the new funding formula adopted by the Board of Regents and what effects that will have over time on those two community colleges. The cooperative extension is a program that is really a partnership for a hundred years in this state between the counties, the state, and the federal government. They have a presence in every county, urban and rural, and the counties have increased their participation in the cooperative extension and the state's participation has diminished over the years. There is a

potential for a significant reduction in services because of the state's reduction in contributions.

Lastly, we have five bills submitted (p. 13).

Assembly Bill 6 requires the State Treasurer to return a certain percentage of the revenue from the taxation of special fuel to the county in which the revenue was generated. What we seek here is for counties to receive 20 percent of the existing special fuel, mostly diesel, but there are other existing special fuels like compressed natural gas and others. These funds would go back to the county where that fuel was purchased, which would help the county maintain and improve roads.

Assembly Bill 2 revises provisions governing the Land Use Planning Advisory Council. What we seek here is to have the county appoint a representative to the State Land Use Planning Agency (SLUPAC) with approval by the Governor. In that way commissioners can also serve on governor-appointed committees, which they are not currently able to do.

Assembly Bill 32 revises the provisions governing certain tax abatements for new or expanded businesses and renewable energy facilities. We seek to expand county authority over the granting of those abatements to local government taxes and provide flexibility in the terms and conditions for those abatements, particularly for renewable energy. The way it exists today, it is an all-or-nothing proposition in terms of granting a tax abatement. We also seek to fix a loophole so that the Department of Taxation can recover those abated taxes from any business that might not be meeting the conditions of their abatement.

Assembly Bill 49 makes various changes relating to public defenders. This is county funding for indigent defense. It is a two-part bill: a mandatory sales tax increase statewide, and an optional sales tax for counties on an opt-in basis that would help provide funding for their mandate to provide indigent legal defense.

Finally, Senate Bill 2 grants power to local governments to perform certain acts or duties which are not prohibited or limited by statute. This is functional home rule and is modeled after a bill that was heard in this Committee last session.

With that, I would like to thank you for your time this morning. We are hopeful that our economy will continue to recover. We are optimistic about this legislative session and we certainly pledge our commitment to work with this Committee for the betterment of our state.

Chairwoman Benitez-Thompson:

Are there any questions from the Committee?

Assemblywoman Bustamante Adams:

I wanted to express my gratitude. I was able to attend the NACO conference during the interim and visit some of the counties, so I really appreciate the work you people do. Is the NACO planning to fill the vacant position for the deputy director? If not, how will you work that out?

Jeff Fontaine:

We do plan to fill that position. We have not actively sought candidates yet, but we hope to get that position filled, and we are looking at other options for help during the session. We will fill that position eventually. I also want to thank you for your participation in the NACO conference and for your visits to those counties. It is appreciated by our members.

Assemblyman Ellison:

What are the odds of us maintaining the full funding of payment in lieu of taxes? Is that likely to happen or are there other cuts coming in the future?

Jeff Fontaine:

It is a struggle to maintain full funding, and we are concerned about what effect negotiations on the debt level will have on PILT payments to counties. We have a very strong congressional delegation that supports PILT. We will be going back to Washington, D.C., as part of the NACO Legislative Conference again in March. That will likely be one of our top priorities for discussion with our delegation at that time.

Assemblyman Healey:

Can you please explain what PILT is for those freshman assemblymen and assemblywomen in the room?

Jeff Fontaine:

Well, PILT is an acronym for payment in lieu of taxes. It is a system that was authorized in federal law with the intent to compensate counties for public lands within their boundaries. The reasoning behind this is that public lands are not taxable and in many cases cannot be developed, so they have an impact on the revenue of county governments and the economic development of the county. In addition, the counties have obligations and responsibilities to provide services on those public lands, such as search and rescue, public safety, and things of that nature. So, even though that program is authorized, up until Assemblyman Ellison was president, they were not fully funded because they had to go through the annual appropriations process to get the full amount out

to the counties, which only happened once in the 25-year history of PILT. Back in 2009, we finally did get full funding for PILT authorized in statute, but that expired. We are back to annual appropriations and trying to get that full funding.

Assemblyman Oscarson:

Could you please give me more information and some clarification on S.B. 2, your home rule bill?

Jeff Fontaine:

Senate Bill 2 is functional home rule, and what we seek to do is to allow counties and cities to be able to perform the day-to-day functional administrative activities without having to seek legislative approval to do so. We are considered a Dillon's Rule state, which means that counties and cities have only the authority that is expressly granted to them by the state Legislature. This creates problems for counties and cities when they want to do something, but they do not have the express authority to do that. They have to come to the Legislature and get a bill approved, which may take a long time, or the bill may not be approved. What we seek to do is to turn that around and allow counties and cities to perform activities unless what they want to do is expressly prohibited by statute. This is a functional piece, and it does not relate to fiscal home rule, which is the ability to raise taxes, or to structural home rule, which is the ability to change the form of government.

Chairwoman Benitez-Thompson:

You mentioned that there are seven counties without a county manager. What is their structure in lieu of that?

Jeff Fontaine:

In those counties that do not have a county manager, they have either an executive assistant that will do all the scheduling and put together the commission agendas and do that type of work, or they may have a clerk that fills in that capacity. They do not have a dedicated person that they call a county manager. In a lot of these rural counties where there are only three members in the county commission, the county commissioners take on those duties, such as filling out grant applications for funding or doing any of the other activities that a county manager would normally undertake.

Chairwoman Benitez-Thompson:

Can you explain why some counties have fewer members on their commissions and different composites of their county commissions? What dictates the number of members on the commissions of different counties?

Jeff Fontaine:

It is based primarily on the population of the county, I believe. I also think that the counties have the ability to expand, at least from three to five. For example, Lander County had that on their ballot for voter approval back in 2008, I believe.

Chairwoman Benitez-Thompson:

On slide number 7, you highlighted services provided by counties versus municipalities and that those in yellow were shared with the state. Could you explain, in general, how the breakdown of those services is determined? Are there memoranda of understanding (MOU) in place for that or specific statutes that dictate who does what part of those shared services?

Jeff Fontaine:

Many of those shared services—at least in the two largest counties, Clark County and Washoe County—are statutory. Some are based on MOU. In the rural counties, the situation is often that the state may be providing one type of service to seniors, such as prescription drug discounts, and the county is providing some other type of service to seniors. It is often not the same service, but the services are provided to the same constituency group by the state and the counties.

Chairwoman Benitez-Thompson:

Are there any other questions from Committee members? [There were none.] We will now hear a presentation from Jeff Page from Lyon County.

Jeff Page, County Manager, Lyon County:

With me today is Joe Mortensen, who is the County Commissioner from Fernley and the current Chair of our Board, and Ray Fierro, who is the County Commissioner from Dayton and the current Vice Chair.

Lyon County was established as a county in 1861 by the Territorial Legislature ([Exhibit D](#)). It was a much smaller county in those days; it comprised Silver City and Dayton. Over the years, it has grown considerably and is now one of the most oddly-shaped counties in the United States of America. They did not follow the Kansas Project to make everything a nice rectangle.

Currently, Lyon County has approximately 52,000 people. The City of Fernley, which is our largest incorporated city and was incorporated back in 2001, has almost 19,000 people. The City of Yerington has been the county seat since 1911 and has almost 3,200 people. We have had a 0.2 percent increase in population from 2010 to 2011.

In Lyon County, we have 2,013 square miles. From north to south, we are 91 miles long. From east to west, we are 52 miles wide. Twenty-five percent of our land is privately owned; 6 percent is developed land; 10.4 percent of the land supports agriculture; 1.7 percent is commercial/industrial; 3.2 percent is residential; and 75 percent is owned by the federal government or the state government. I also provided for you a map that shows the federal ownership and the ownership by local governments (p. 4).

On our state land, we are very proud of the fact that we have a number of state parks: Dayton State Park, Fort Churchill State Park, and Lahontan State Park, as well as the Mason Valley Wildlife Management Area and the Mason Valley Fish Hatchery. Those are nice tools for economic development. In the summertime, Lahontan is a crowd pleaser for folks all around the state. Fort Churchill is as well. Throughout the year, the wildlife area is used for fishing and hunting, so we get many recreational sportsmen out in in those areas.

In terms of transportation, Lyon County is at a hub. We have U.S. Highway 50 that runs from Carson City to Churchill County and the Highway 50 Alternate runs from Highway 95 Alternate up to Fernley and the Highway 95 Alternate that runs from Silver Springs all the way down to Hawthorne. The Union Pacific railroad and six airports are also in our county. We only own one airport, which is in Silver Springs. The Bureau of Land Management (BLM) used to own the property. It was used in World War II for military aircraft; specifically B52 bombers used it to do touch-and-goes and landings. In the late 1970s or early 1980s, the airport land was turned over to the county, and we have a public/private partnership with Silver Springs Airport, LLC to keep that up and operational. They have done a very good job of it.

I do want to cover some of the services that we have, beginning with our justice system. Lyon County, not unlike some of the urban counties, has experienced a rapid growth in violent crime. I spent 21 years of my career with the county in the sheriff's office, and we would have a homicide once every couple of years. Last year we had six homicides, which is a big number for us. For the first time in Lyon County's history, we are trying a capital case, which is a death penalty case, and it is going to be an expensive proposition for us to deal with. The sheriff's office, like everybody, has had some reductions in staffing. Fortunately for us, we have only had to eliminate two public safety officers and a deputy sheriff position, and at the time we eliminated those positions, they were not filled positions. The same was true of positions at our dispatch center; those positions were not filled. We have been doing reductions in force since 2008.

One of the things that is unique to Lyon County, in comparison to other counties, is that Lyon County does not own a fire department. It is managed by four separate *Nevada Revised Statutes* Chapter 474 fire protection districts with their own governing board and their own tax rate, so we have no real authority over fire protection districts. They work very well with us. We provide them a number of services, including human resources, comptroller, and those types of things. We do have an interlocal agreement in place with three of the four fire districts that they provide emergency response to what we call a general county, which is when there is no fire protection or emergency medical services. In exchange, we provide them with dispatch services, services from our road department, and other services at no charge.

Until two years ago, Lyon County Public Works Department was like little fiefdoms. We had a utilities department, the road department, buildings and grounds department, vehicle maintenance department, and so on; yet none of them ever talked to the others or helped the others. So, one of the best things that the economy did is force us to look at our operation. We are reorganizing and creating the Department of Public Works. The public works operation has been one of our biggest successes in that we now have employees who are water and wastewater certified, and are also working with, or are on the road department, grading roads. We have created some new positions to make that work. We have had a reduction in staffing to make those things work.

You will see that we do have a number of miles of road in Lyon County (p. 10): 137 miles of asphalt, 152 miles of chip sealed. To put this in perspective, to chip seal a road that is 24 feet wide is \$294,000 per mile. I cannot give you the figures for asphalt because we do not do asphalt anymore; we just maintain what we have. We have 253 miles of graded road, and we have 355 miles of nonmaintained roads. They are on our rolls, but we do not maintain them because we do not have the staffing for it. We have changed our grading cycle from every quarter to every four months for most roads. Some roads we went from every quarter to once every six months because of staffing issues. As you can see, we have a 34 percent reduction in staffing in roads and bridges since 2008.

Buildings and grounds: As you can imagine with a county that is more than 2,000 square miles, we have nine distinct communities: Smith Valley, Yerington and Mason Valley, Silver Springs, Stagecoach, Mark Twain, Dayton, Dayton Valley and Mound House, Silver City, and Fernley. We are spread out a long way, and as such, we spend a lot of time behind the windshield going from place to place to get things done. We have 158 buildings in our county. Not all of those are occupied buildings or office space; many of those are things like repeater towers and those kinds of things. We have 18 parks and open spaces;

two events centers—one is the fairgrounds in Yerington and the other is an events center in the Dayton community—and 6 cemeteries. Two of those cemeteries are historical, and are located in Silver City and Dayton. They have been there for a very long time, so they have some nuances that other cemeteries do not provide for us. How the county ever got in the cemetery business I will never know, but it is an interesting state of affairs. The buildings and grounds staff has been reduced by 45 percent since 2008.

Fleet Maintenance: The heavy equipment shop, which is used by the road department and vehicle maintenance, and the mechanic employed by the utilities department were combined into one department. Currently, we are taking care of 480 vehicles. It seems like a lot of vehicles for only having 311 employees, but when you count things like trailers that we utilize for our mass fatality trailers and those kind of things—that is all included in that number. We have 105 pieces of small equipment. Again, this department has had a 24 percent reduction in staffing since 2008.

One of the things that Jeff Fontaine did talk about is that as a county, we do some municipal services, and that is our utilities department. We have three water systems and four sewer systems throughout the county that we take care of. Now, it is all done through our Utilities Division of Public Works. Some of those folks are also cross-certified to do roadwork. In 2008, we started to see the decline in our enterprise fund for utilities. It is just sad. It is not paid for by the taxpayer; it is funded by usage fees. So, when we did not have the connections anymore and when the economy started to decline and housing started to drop, we drastically reduced our staffing because of that. We are in the process of looking to do something to get them up to speed on the wastewater side so that we can comply with state regulations.

One of the most misunderstood departments in county government is that of human services or social services. In rural Nevada, many of the people with conservative views perceive social services equates to “get off your rear and get a job.” Our Human Services Department is broken into two divisions. The first one deals with senior services. We have a very large senior community in Lyon County. In the south, we have become something of a retirement community. We manage three senior centers: one in Dayton, one in Fernley, and one in Silver Springs. The one in Yerington is run by a different organization, but the county still owns the building and maintains the building for them. We have reduced the services and hours of the senior centers because of budget cuts. Our concern is that if we have to shut one down, in the long run, that means that those people who are not getting the service will wind up becoming long-term care issues for us, which is much more expensive than the money we put into senior services. The social services side of the

Human Services Department includes employment partnership; that has been a huge program for us. Our staff receives some federal funding and they are working in coordination and cooperation with a number of nonprofits who are doing similar projects. We are bringing people in and getting them job skills that they need. Part of their program is that they then go out and find a job and throughout a portion of their employment, there is grant funding to help offset the cost for the employer. That has been a great tool for us to get some people back to being employed and moving forward.

Lyon County does have a Community Development Department that consists of building and planning. As you can see we have had significant reductions in that department when the growth stopped. In the mid-2000s, we were one of the fastest growing counties in the nation, and when growth stopped, we did not keep our 10 or 12 officials on staff because there was no work for them to do. The same was true for our planning side. We reduced staffing. We looked at our budget and did away with our engineering department because we found it was fiscally more responsible to have engineering done through a consulting firm. We currently use Lumos & Associates, Inc. and some other engineering firms depending on the project. We are much better off. We did the same thing with our geographic information system (GIS) mapping system. Lyon County, Douglas County, Carson City, and Storey County all pool resources and Douglas County GIS does GIS for all four counties through an interlocal agreement. It has worked out very well for us. It is much simpler for us to manage and operate that way than to have our own dedicated person that may or may not have the work because we do not have the growth.

One of the big issues that I want to bring up is what Lyon County is doing for economic development. Back in the 1960s, 1970s and early 1980s in the Mason Valley, the motto of the chamber of commerce was the Cattle King of Copper Hills. We had the Anaconda Copper mine in operation and we had cows everywhere. We still have cows everywhere, but we do not have much copper production going on at this point in time. But we do have the opportunity. At this point in time, we work very closely with our congressional delegation, the City of Yerington, and Nevada Copper Corporation to develop a lands bill that would allow the City of Yerington to take over 10,400 acres of BLM land and, in turn, be able to sell some of that land to Nevada Copper. The majority of their project is on private property, but there is a portion that we would like to have for mining operation. The rest of that property would be developed for the city to have an industrial/commercial area that they do not have the capability of having now. I have been asked why the county would want to support the city annexing more land. For us it is a win-win situation. We are still going to receive our property taxes. We are still going to receive the net proceeds taxes. The City of Yerington is going to provide the water and sewer services – which

they already do, even in parts of the county that are not incorporated into the city.

We have another mining operation called Singatse Peak Services, LLC, which is a subsidiary of Quaterra Resources, Inc., which is the old Anaconda mine site, the old Macarthur mine site, and a new deposit called the Bear deposit. Singatse Peak Services, LLC is working with the U.S. Environmental Protection Agency (EPA) and Atlantic Richfield Company (ARCO) to clean up the old Anaconda mine site. We work very hard with the EPA not to have it listed on the National Priorities List (NPL) for two reasons. One is perception. Two years ago, the Associated Press ran a story where the headline was "Yerington's Water is Contaminated with Uranium." Within 30 minutes of that article hitting the press, the local growers were starting to get phone calls from their buyers canceling orders. The reality of the situation is that, yes, there is a portion of the property that had some contamination of uranium and high levels of arsenic. It did not affect the drinking water for the City of Yerington or Mason Valley, but that was the story that ran. So, when you have the perception that you are now on the NPL, it becomes an economic development problem for us. The other issue is if we are on the NPL, when do we get the funding to clean it up? Congress has yet to fund a NPL for the projects it currently has. We already have one site in Lyon County on the NPL, and that is called the Carson River Mercury Site. It has been on the list since the early 1980s; we have not done anything in that process since then. So, we have been working very hard to keep the mine off the list.

Our county has worked very closely with Northern Nevada Development Authority (NNDA). One of the presentations I have (p. 17) shows you the number of companies that have come here in the last three or four years. Those companies have brought 270 jobs. On top of that, working with existing businesses, our goal is to keep those existing businesses in the area. Whether they are mom-and-pop operations or Amazon.com in Fernley, we strive to keep them here and keep them operational. We do everything we can to keep that focus. Our staff has changed our processes. We meet with developers and businesses on a regular basis to address their needs and concerns. If you are a new business coming to Lyon County and you want to find out what needs to happen, you call my office and we set up a round table with every department head that will affect your operation, including state agencies. You can get all the answers that you need to make a decision as to what you are going to do. Instead of going through a series of hoops, and all of a sudden, here is a new hoop for you to jump through; we give them to you all up front so that you know what they are. As long as you are being open and honest with us in what you are trying to do, we will give you all the tools that you need to move forward. It has worked very well for us, and NNDA is very happy with the

process that we have used. So much so, that it was recently published in one of their publications.

Now, issues facing Lyon County (p. 19): We have a very high unemployment rate. Jeff Fontaine showed you a slide depicting 15.2 percent; that percentage was not adjusted. We are now at about 13.2 percent, which is still very high. We also have high foreclosure rates. If we had to repair the roads that are failing or that have failed, it would cost us \$30 million right now. We need to take a look in the next three to ten years at improving and installing sewer systems in the Mound House/Dayton area; it would be upwards of a \$20 million venture to do so. We talked about NPL listing. Homelessness is something that for the urban north and urban south is not something new, but in Lyon County, it is a relatively new issue. We just did our national count, and we have always been relatively low in our numbers. We utilized our human services folks along with search and rescue and met with these people. They took some photographs of some of these camps with people living in tire-homes. They build these small 4-foot by 4-foot by 8-foot homes out of tires to live in. Or they live in tents. It is a huge issue for us. It is not something that we are used to having, so we are trying to figure out how we are going to deal with that issue.

We reduced our workforce in Lyon County since 2008 by 25 percent. We are going into fiscal year 2014 with a \$1.5 million shortfall due to loss of revenue in property taxes, due to the increase in Public Employees Retirement System (PERS) rates, due to the increase in medical insurance rates, and a number of other utility things have come up. We are working through the process now of how we are going to address that shortfall. We are in the process of negotiating with both of our collective bargaining units to see what concessions they are willing to give. They have worked with us very well so far, and we want to continue that relationship.

Our Human Services Department is, again, a very misunderstood department. Their rate of work has increased greatly, as you can imagine, in this economy with people needing assistance and services, without additional staffing. In fact, they have been decreasing staffing.

We have five Lyon County Library System branches in the county. On the first round of budget cuts, the library director got up, threw out 25 percent of her budget, and walked out of the room, and every year she has given up more. We are now down to restricted hours. If a branch manager calls in sick, it may wind up closing the library for that day because there is nobody there to take the manager's place at the library. So, we are working through those issues.

Some of the partnerships (p. 20): We have an interlocal agreement with the City of Yerington in exchange for water/sewer billing at our Justice Complex for Inmate Housing and Dispatch Services. We talked about Douglas County GIS. You will hear this term throughout the session, called Quad County. That is Carson City, Douglas County, Storey County, and Lyon County. We have a microwave project. It is an information technology-based operation that we have been working on for a number of years now. We share our animal shelter with the City of Fernley. The county provides emergency management services for the Cities of Fernley and Yerington. In exchange, they provide some funding. We have a memorandum agreement with the City of Yerington to manage water systems in Willow Creek and Smith Valley. We talked about the interlocal agreement for fire protection in the general county and the number of agreements with the state on a number of issues.

The rest of the document that I have provided to you is just where we are financially. The one thing that I do want to bring up to you is that in 2008 our consolidated tax was \$16.2 million; in fiscal year 2013, we are at \$12.5 million. That has consistently dropped over the last several years, as well as our property taxes, ad valorem taxes, coming down drastically and starting to kind of level out. One thing that has not changed is the other categories, which are all the things that government does for services, such as fees, fines, forfeitures, and those kinds of things. These have remained relatively stable.

The other issue that is interesting is looking at grants. Local governments rely heavily on federal grants for a variety of issues. We are starting to see that stream dry up. When we look at federal grants, we are careful to consider the implications of accepting a grant to avoid getting ourselves in a jam at the end of the grant cycle when we do not have the funding to keep that person employed, as an example, and now we have to lay them off and pay unemployment. So, we go through those things very carefully now, so part of that number, by design, is that we have not taken some federal grants because of the implications long term. As an example, the Sheriff's Office, their gang task force grant has been drastically cut over the years.

With that, I will entertain any questions or concerns you have and will let both commissioners address any issues that they might have.

Assemblyman Stewart:

I want to express my appreciation to the people of Lyon County and especially the people of Mason Valley in Yerington. As we from southern Nevada drive north for about 380 miles and for over 5 hours, we are viewing very barren and unchanging terrain. My wife and I always get very excited as we enter the

Mason Valley, viewing the beauty of your greenery. So, thank you very much, and I hope you will express that thankfulness to the people of Yerington and Mason Valley for the way they keep up that beautiful area. It is so refreshing to get there.

Assemblywoman Neal:

I need you to educate me further on a couple of issues. First, since you have such a high unemployment rate, and I see that you have this partnership with your social service agencies, do you utilize any Workforce Investment Act (WIA) dollars in the county to do any kind of juvenile services or work programs? Second, how has the regional economic development plan and the sector development affected you? Positively, negatively, or not at all?

Jeff Page:

I will have to reply back to you later today via email in reference to your first question. I do not have that information in front of me. I do not know where the money comes from in regards to that. I do want to comment that part of the reason we have the high unemployment rate is related to the Highway 50 corridor. Those people that live along the Highway 50 corridor work in Carson City, Reno, or Fallon. The people that live in Fernley often commute as well. This morning as we left to come here—I left at about 6 a.m. from Yerington and picked up Commissioner Mortensen in Silver Springs and Commissioner Fierro in Dayton—there was a steady stream of traffic on highway 50 heading west into Carson City. The same thing is true when you leave Fernley; between 5 o'clock and 8 o'clock in the morning, there is a steady stream of traffic leaving Fernley. A large part of our unemployment rate is not because jobs disappeared in Lyon County; it is because jobs disappeared in Washoe County or Carson City or Fallon. People reside in Lyon County. I do not know the answer to your question in regards to the exact funding source, but we do have a number of job training programs.

Assemblywoman Neal:

Since your workforce is kind of regional in positioning, when you do email back, and when you talk about the loss of employment and the sectors where that employment was lost, that will help me further understand why the rate is so high. If it really is people that are commuting out of the area to work and then coming back, then I would like to get a clear picture of what is happening in the region surrounding you where they go to work.

As far as the economic development question, I do not know because it appears that you are heavily focused on mining. You are heavily focused on some level of federal dollars. I saw in the presentation that you have active recruitment

and retention of new businesses—this Berken Energy and D.P. Enterprises—I do not know what they do specifically. Are they mining associated?

Jeff Page:

No, they are not. D.P. Industries is a plating company. We have a number of companies that are small—25 employees or fewer—that are in the defense/aerospace industry. They build parts for military or aerospace operations. We have a company in Mound House that paints parts that go on aircraft. That is all they do. We have some small businesses that are doing that.

In regards to economic development, Lyon County has been very heavily involved with the Governor's Office of Economic Development (GOED), through Northern Nevada Development Authority (NNDA). When the Economic Development for Nevada compiled by the Metropolitan Policy Program at the Brookings Institution came out, agriculture was left out; nobody wanted to discuss agriculture. That is the third largest producer in Nevada's economy. Up until recently, Lyon County was the number one producer of dollars from agriculture in the state of Nevada. In the Mason Valley alone, besides traditional alfalfa that we have always grown, we grow onions, cauliflower, lettuce, and spinach. We were not growing these crops 25 years ago. When I was a kid growing up, we were garlic and alfalfa, and that has changed. We now have some horticulture operations. Bonnie Plants is one of those in Silver Springs; it grows flowers for production.

We got involved with NNDA and put some pressure on them to take a look at agriculture. We are trying to diversify the economy in Lyon County so that we are not relying on mining. We have been through this experience a number of times since 1861 when we had the boom and bust in the Comstock; then, everything fell apart. Anaconda Copper Mining Company came to Lyon County in 1952, closed in 1978, and just about destroyed the economy of Lyon County. So, we are looking at what else we can bring to Lyon County that is not a methyl/ethyl death factory that pays minimum wage and creates all kinds of problems, but that are good, strong, prosperous businesses. We realize that we are probably not going to be bringing in the thousand-employee companies. We get that. We are looking at the smaller market, the 25- to 50-employee operations where we have land and buildings. For example, in the Mound House area those are either one-acre or five-acre parcels. Part of the reason we want to get sewer up there is so we can get them offset so they can expand their business on their property. We are working very closely with NNDA and our Quad County partners. In the old days of NNDA, Lyon County would be very upset if Elko County, as an example, got a business that should have come to Lyon County. Our view now is in the Quad County, we do not

care who gets it because today's workforce is not what it used to be. Today's workforce does not mind driving 60 miles one way to go to work. So, if it is a better fit to be in Carson City, Douglas County, or Storey County, we support that, because it provides jobs, a tax base, and services regionally.

Assemblywoman Neal:

I appreciate the answer. The main reason that I asked is because I have a strong interest in agriculture. When I first ran for office there were some ideas that I had on the table that I have not yet had a chance to bring forth, and I know I am only in my second session. I would definitely love to have further conversations and discuss some things that I was thinking about on my wonderful drive to Carson City through the great state of Nevada.

Jeff Page:

I will make this offer to anybody on the Committee: whether it is a phone call, a personal visit, or a tour, we work weekends. We are not typical government employees. We will do anything we can to assist and answer your questions. Agriculture is a huge component, and we want to keep that component moving forward.

Ray Fierro, County Commissioner, Lyon County Board of Commissioners:

I would like to follow up on Assemblywoman Neal's question about sectors of unemployment. One of the sectors that you will find has significantly dropped is construction. Prior to being a county commissioner, I sat on the planning commission for over nine years. We had developers lining up at our planning commission meetings trying to come in with developments. When those developers were coming in, construction jobs were up. The services jobs were up in the local area, like Smith's supermarket and the shops around it—whether it is fast food, Starbucks, or Kragen Auto, and all of those companies—the whole mini-mall was packed. As soon as the economy took a hit and the construction jobs dried up, so did those other jobs. We started to see vacancies in all of our strip malls. When County Manager Page gets back to you on that question, you will see a significant drop in construction jobs.

Assemblyman Oscarson:

Looking at your 2011-2012 budget (p. 31), in your senior services budget, you have donations and fees totaling \$200,000. That is a significant amount. Does your community rally around your senior center? How do you manage that?

Second, the Governor made a statement in the State of the State Address, and he has made some statements in the past, that he wants to use agriculture in the schools and bring that umbrella under the State Department of Agriculture. I hope you are going to take advantage of that with all the products that you

grow and develop. Take advantage of being a part of that program as he develops that.

Jeff Page:

The \$200,000 comes from a variety of sources. Many of the senior population that goes to the senior centers go for social opportunity. They have the resources to provide donations. They do fundraisers; they do those kinds of things to help offset the cost of running senior centers. Last year at budget time, these two gentlemen and I had the great displeasure of going to each of the senior centers and informing them that we were going to have to make cuts once again. They stepped up and worked on how to get donations, how to get things moving. I have to tell you, there are a lot of things that you can do in county government, but when you start messing with the senior citizens' centers, they are not really happy with you. So, they have worked with us very well. We have stayed in constant contact with them to keep those things moving. We have had to reduce some hours, but so far, we have been very successful with keeping that going. Our human services director and her senior centers director work very hard to work with those people to keep that funding coming in from whatever sources they can find.

Regarding agriculture, yes, we did watch the Governor's State of the State Address and looked at his budget. In Mason Valley and Smith Valley, there are a number of classes already that relate to agriculture because they are agriculture communities. Things like 4-H and FFA are still alive and well in south Lyon County, so we would support the Governor on anything that is going to help that process. What we are starting to see, not unlike anywhere else, is that in the case of many multigenerational farm operations the kids have grown up and have gone into other things. So, we will see how that pans out, who buys what, and who does what with it. We have seen some of the larger operations become more of a commercial operation, but they are still the same people doing the same work. Our big issue is getting those kids coming out of high school, if they are going to go into agriculture, with some basic skills. There have been changes in youth labor laws. When I was a kid growing up, I was working in my father's grocery store and learning how to cut meat. You cannot even work in a butcher shop unless you are 18 now. We want to give them the skill set so that when they come out of high school, they can be productive members and go into the agriculture business if they want to. If they are going to college, we work with the universities to make sure they keep the agriculture courses.

Assemblyman Oscarson:

The other thing I want to do is compliment you on your shared services that you provide within your county with other towns and other entities. I think that is a

great example for other counties to follow. It looks like you are working very closely together and sharing those services and thinking out of the box. I applaud those efforts.

Jeff Page:

I thank you, and to be quite honest with you, I am pretty certain that if the economy had not been what it was, you probably would not have seen those things. We each kind of built our own fiefdom, but because the economy is the way it is, we have had to look at things differently. My hope is that when it turns around, we will keep those things in place rather than building those fiefdoms again.

Ray Fierro:

To address Assemblyman Oscarson, when it comes to agriculture in Lyon County, one of the things that has been happening in the past few years is we actually have community farms working with our school districts to have small farms or hoop houses at many of our schools. I have had the opportunity to go visit those. Also, in the Yerington area, through 4-H and the University of Nevada Cooperative Extension, they have a hoop house and gardens also. I think that not only does that educate our youth in agriculture, it brings the communities together. I think it is a very important aspect to our county.

Assemblywoman Bustamante Adams:

I appreciate hearing about the cooperation and not wasting the opportunity that comes through crisis to get us to work together. I also want to thank you for acknowledging the study that the Governor commissioned on agriculture. It is huge for our state. I am very proud of the Nevadans and knowing that it has been placed as one of the new sectors on the list. You mentioned the cows in Lyon County. There is a powdered milk facility being constructed in Fallon. I know they will need a lot more cows to be able to export the powdered milk outside of our state. So, will Lyon County play a role? Do you have a plan to be able to participate?

Jeff Page:

In south Lyon County we have two dairies: Valley Dairy, which has been there for a number of generations, and Desert Hills or Lightning W—they have changed names a couple of times. I do not know, from a private sector market, if they have been approached or not or what they will be producing to send to Fallon. I can tell you that on Valley Dairy's side, they have contracted a number of other milk providers, so I am not really sure how that part is going to operate. We have not had discussions with Churchill County, from government to government, in regards to that facility other than that it is being built, so I do not know how that is going to tie in.

We have had a number of dairy operations look at Mason Valley. We currently have an active meat processing plant, a company called Walker River Meat Processing, Inc., that is looking at developing a very large-scale meat processing operation in the north Mason Valley area, but those things have been pretty much driven by the private sector. We have not been very involved, and I have not heard where they are going to get their milk for the dried milk facility.

Assemblyman Ellison:

I had the privilege of working on the subcommittees all year long with Assemblywoman Kirkpatrick, and one of the bills that we worked on was Consolidated Tax. I know that Consolidated Tax and PILT are large parts of your budget. With any downturn from either one of them, and with you already at a \$1.2- to \$1.5-million shortfall, what is that going to do to you?

Jeff Page:

To put it into perspective, Consolidated Tax is between 40 and 45 percent of our revenue source. If we were to lose any more on that side, it would result in more cuts in the county, which for us at this point in time would mean cutting personnel. We are at the point in time where if you have seen the numbers, there have been large cuts on the appointed side of the house. We try to get the small cuts on those mandated issues as much as possible. If we see any more cuts, we will be cutting into things like public safety. We will be making recommendations to the board to shut down and eliminate libraries, which is not something that we really want to do nor do they want to deal with. The board may have to take a look at a property tax increase. With today's numbers, a 5-cent tax increase generates about \$400,000. We are very cognizant of what is going on with consolidated taxing; we have been involved with that process all the way through. The board approved a resolution supporting the bill that is before the Committee; in fact, we will be here again tomorrow to provide testimony for our support for that bill. We are in the process of working with both cities to address any issues or concerns that they have. Again, the statute is very clear that if an entity wants more Consolidated Tax from tier two, they must consider what services they are going to take on. We are working through those processes now. If a city wanted to take services on, then we are no longer paying for those services. It is kind of a wash for us. However, if we were to have a huge drop in Consolidated Tax for some other reason, then it will drastically affect our budget, and it goes back to cutting more personnel.

Assemblyman Ellison:

The other thing is PILT. You are at 75 percent public land. If they go back to the existing funding they used to do back in 2007, it would be about 55 to 65 percent of that. In this budget, where you reference Consolidated Taxes, is that both taxes that is in that PILT?

Jeff Page:

What the Board of County Commissioners has historically done with PILT funding, Assemblyman, is they have never used it for operations. They have always taken whatever money they have received and put that into capital improvement or transferred it to the road fund for asphalt and that kind of stuff. We have never used it to pay wages. So, with that in mind, yes it would be a huge cut to us because we would not be able to put those funds into capital improvements. We just completed the building of a justice complex that opened up during the first part of January. It is a 94,000-square-foot facility with an 184-bed jail, two additional courtrooms, a justice court and sheriff's administration. It was built on time and under budget; it was budgeted for \$24.5 million, and I think we were at about \$23 million. A lot of that funding came from putting PILT money away over the years and a quarter-cent sales tax that we put in place. We put that money away. Now that this project is done, we are looking at, for example, improvements to the hodgepodge of buildings all throughout the Dayton area. Our justice court is in a building that is over 100 years old, and it is in the Comstock Historic District, so if we want to do any maintenance or major repairs, we have to go through a process. So, we are looking at putting PILT funding and other funding away into the capital improvements fund in the next three to ten years, so that we can build and pay for a simplified government center in the Dayton community. That is what we have used PILT for in the past; it has never been an operational cost that pays wages and benefits. It has always been utilized for capital improvement.

Assemblyman Livermore:

I would just like to speak a little bit about the cooperative relationship between the economies of northwestern Nevada, which is Carson City, Douglas County, Lyon County, and Storey County. When I was a city supervisor between the years 2000 and 2005, in economic development, the important role that Lyon County played was affordable workforce housing. When I say affordable, in Carson City and Douglas County there was a lot of space where the cost of development went beyond what people who wanted to work in either manufacturing, retail services, industry, and things like that wanted to pay. The partnership developed because it was essential that in order to develop economically and recruit economically, we needed to have that source of inventory for workforce housing, the Dayton Valley in Lyon County, in particular, was the place for that. If the economy had not turned sour as it did in the last five years, then I cannot tell you what the Dayton corridor population would be today. It would probably be two or three times what it is today. It has always been a good source of cooperative effort between the four counties here, and I would just like to compliment Mr. Page and his part of the organization, and, of course, Douglas County and Carson City do the same. It has been a good partnership.

Jeff Page:

We are very blessed in this region for a variety of reasons. The four counties work very well together. At times, we do have our political differences on any given issue, but we work well together. Look at water as an example; we have a line that goes from Carson City into Lyon County and we share water back and forth through peaks and valleys in the summertime and the wintertime. The same is true between Carson City and Douglas County; the fire service is a perfect example. You can walk down any street in Carson City or central Lyon County and you may see what we call a "Smurf-mobile"—because Storey County paints their fire apparatus blue—sitting in central Lyon County and central Lyon County's ambulances in Carson City. Because they are so busy, they are working around the counties. We have learned to work together very well, and last session was a perfect example when we sat down with a variety of committees on health and human services issues. We came to you folks and said that we were willing to work with you and talk about this. We are now looking to Carson City to provide some services to us that maybe the state cannot provide at the same level at the same price. In one case, we thought we would go with Carson City and then found out that it would be more expensive for us if we stayed with the state. We have had those conversations. I do appreciate, for the last 10 or 12 years, the cooperation the four counties have had in a number of issues.

Chairwoman Benitez-Thompson:

Are there any additional questions? [There were none.] I will move into the hearing on Assembly Bill 51. I will let you gentlemen walk the Committee through the bill.

Assembly Bill 51: Provides for the District Attorney of Lyon County to be ex officio Public Administrator of Lyon County. (BDR 20-395)

Jeff Page, County Manager, Lyon County:

There are a number of things the commission looks at when creating a bill draft. This is an important issue for us in that over the course of the last dozen years or so, we have had a number of public administrators charged criminally and hauled off to jail and convicted of everything from misdemeanors to felony embezzlement. The current public administrator is the exception; we have no issues with what she is doing right now. Our issue is more of a control and accountability issue with that position.

I am not really sure, way back when, why they created this to be an elected position. It is a very difficult job. There is not a lot of accountability as it is right now in Lyon County. We get complaints from members of the public, and it makes a very difficult process to go through because now we are dealing with

appointed officials like me trying to tell an elected official there is a problem. It creates major problems.

What we are hoping to do is what other counties have done and put it under the district attorney's office. There may be a fiscal impact in Lyon County in 2015 if this goes through. The district attorney may come to Lyon County and say that they want funding to hire someone to take care of this job. We understand that. What this does for us is gives us some supervision and accountability over that function so that when a person dies with no family members around to take care of their estate there is some accountability in what happens to that property. We can reduce the number of accusations and, hopefully, criminal complaints filed against our public administrator for theft and those kinds of things. It just cleans it up for us.

We had some discussion with other counties. There are some counties out there that do not want to see it become a full-time paid job, but the system is not working well in other counties either. We are not addressing any other county but Lyon County specifically with this bill. It affects only us. In 2015, we will have a new district attorney (DA) because the current DA is not going to run for office. I do not believe that the current public administrator is going to be running for reelection, so it does not make any change there. It will not go into effect until 2015.

Assemblyman Elliot Anderson:

I understand the bill, and I do not think there is anything technically wrong with it, but you said you wanted accountability over the public administrator. Is the district attorney not also elected in Lyon County?

Jeff Page:

He is.

Assemblyman Elliot Anderson:

How does this arrangement increase your accountability over the public administrator?

Jeff Page:

I now have an elected official who is theoretically the chief law enforcement official of the county who is responsible for conducting criminal prosecutions; I think we will be less likely to have the district attorney out committing crimes than we are some person off the street with no experience or training. In these elected jobs, there are no qualifications for it. So, at least now, the district attorney could hire somebody within his organization with some qualifications for the position, and he can supervise what is going on, take care of the legal

component, and make sure that we are not doing anything that we are not supposed to be doing.

Assemblyman Daly:

What are the parameters of what the public administrator does now? Is it in county ordinance? Could you not put some parameters on qualifications or various things other than allowing anybody who is an elector to run for the office whether they are qualified or not? Does it save any money doing this? How did you present this to the citizens of Lyon County now that they are not going to have an official that they are going to elect? How was this change communicated to them?

Jeff Page:

The County Board of Commissioners has no authority on setting any job description parameters for the position of public administrator other than requiring certain information in a report to be provided to the board. The State Legislature created this position, and the authority to determine the job functions of the public administrator. It was presented to the public via the County Board of Commissioners' meeting and through our various committee advisory boards. Lyon County has seven or eight committee advisory boards. I have received no feedback from anyone in the public other than the current public administrator who was concerned about an article that she read in the paper.

The article discussed prior bad acts of prior public administrators, and she was concerned that she was being lumped into that group. She is not overly thrilled with that because she thought she might want to run again. I explained that the Board had taken action, and she could come talk to the board if she wanted to have it rescinded. That has not happened. We have not received any feedback for or against this from the public. It has been in the local papers in Lyon County; unfortunately, I am finding that most people do not read newspapers anymore.

Assemblyman Healey:

You talked about this going to the DA and that he may need to hire a person to fill the position, and may need to ask for funding to do that. Where would that funding come from?

Jeff Page:

It would have to come from the General Fund. We are not looking at a full-time position doing the public administrator job. He could require another position that does a variety of functions at the DA's office. Right now, the public

administrator runs about 17 to 25 cases a year. We do not have a whole lot of them, but when we do have them, they are very complicated.

Recently, you may have seen in Carson City where their public administrator found a large amount of gold coins in a home. We had a situation in Dayton where we had a home where the gentleman had passed away, and he was kind of a hoarder. When you have these houses full of stuff, the process becomes very complex very quickly.

Our big issue is that we have had a number of problems with past public administrators, and we are trying to prevent that from happening again. We do not like having a black eye on the news every other month.

Chairwoman Benitez-Thompson:

So, when you talk about the corruption that happened with your public administrators, is that coming from the fact that they can take fees for service or set different types of fees? Is the problem originating when they go in, look at the estate, and can charge a portion?

Jeff Page:

We have had issues with that and issues with some county member coming out of the woodwork and saying that their great-grandfather had an antique Kentucky long rifle that is worth \$100,000 and is missing. We have had a couple of embezzlement cases with a former public administrator where they were removing property from the deceased's estate, selling it on their own, and pocketing the money.

I have to be quite honest with you; this position, as it is written in state law, breeds corruption. It truly needs to be looked at with a holistic approach concerning what we are going to do with public administrators in the future.

Assemblywoman Pierce:

We have received an email with two attachments ([Exhibit E](#)) and ([Exhibit F](#)), with a long letter suggesting that this bill would create a conflict of interest for the DA to be the public administrator.

The other question that I have is a population question. Lyon County is over the population amount where the statute says that you have to have two separate offices; how much over that population are you?

Jeff Page:

I have to respectfully disagree with the population issue. Carson City has a larger population than Lyon County, and the public administrator is the county clerk in this existing law.

Chairwoman Benitez-Thompson:

We can have Mr. Penrose, our Legal Counsel, address that, because I had a similar type of question because there are references to different populations within this bill, and I think he might clear that up.

Jim Penrose, Legal Counsel:

In statute, this can happen by two alternative schemes. The first is the statute that Assemblywoman Pierce just alluded to, which is in *Nevada Revised Statutes* (NRS) 244.1507, which is by its terms applicable only to counties having a population of less than 45,000. In that statute there is set forth a process by which two or more county offices can be combined or separated. The provisions that are amended in this bill, however, are really an alternative to the process set forth in NRS 244.1507. Unlike that section, which is population based, the sections of the statute that are amended by this bill simply enumerate certain counties in which this can occur. That is what the bill does; it simply adds Lyon County to this list of specific counties.

Chairwoman Benitez-Thompson:

I have a follow-up question to my last question, Mr. Page. I am trying to get a feel for the status quo in your county, so in section 2, subsection 2, line 35, it talks about the fact that public administrators are allowed to maintain fees. Is that the office of the public administrator or the person themselves?

Jeff Page:

As I read it, though I am not a legal person, I would say it is the office. The district attorney would be the ex officio public administrator, similar to how the sheriff of Lyon County is now the ex officio coroner. Most rural counties are that way.

Chairwoman Benitez-Thompson:

So then, Mr. Page, is it a set fee schedule? What are those fees and how are they determined?

Jeff Page:

The fees for?

Chairwoman Benitez-Thompson:

The public administrator. It just says "may retain fees," so I did not know if there was a set fee schedule for his or her service.

Jeff Page:

Traditionally, it is my understanding that when it goes through the court process, the court awards the public administrator the fees that were charged to store property, deal with vehicles, and those kinds of issues. As I understand, when a person takes this job, he or she is kind of paying out of pocket until the court reimburses that.

Chairwoman Benitez-Thompson:

What I was trying to get at was is an antique clock from an estate considered the fee or is there a more formal procedure than just taking something when no one is around and saying that object is going to become the fee?

Jeff Page:

Obviously, the Lyon County Board of Commissioners took action earlier last year. We discussed a number of bill draft resolutions that they wanted to approach. This one was near and dear to the heart to move forward. We strongly recommend and request that the Committee and the Legislature take a hard look at this issue in cleaning up the public administrator issue. We are not opposed, if somewhere down the road, they want to have a further discussion on changing the statute that provides that accountability to the elected official. We do not necessarily want to take an elected official position away from the public; what we want is accountability for the position. We ask that the bill be supported.

Assemblyman Elliot Anderson:

You were talking earlier about qualifications, and none of that is set out. Have you considered any qualifications? You express the opinion that the way it is set up now leads to some of these bad situations and that may be a statewide problem. Have you considered talking to the other counties through the Nevada Association of Counties and seeing if there are some qualifications that could be added and that sort of thing? That is one of the things that will come up in this Committee about adding qualifications to certain county level offices. I was just curious whether you have considered that at all.

Jeff Page:

I have had conversations with a couple of other counties in regards to qualifications for this and other elected officials. The problem that we run into is when we bring up an issue of changing a job description for an elected official, first, the elected officials association becomes heavily involved.

Second, we get a public outcry that we are making it more difficult for the general public to run for office. In Lyon County, it is not as big an issue today as it was, say, 20 years ago, but looking at Esmeralda County, if you have all these things in place, then how would anybody qualify for the job? You may not have anybody that is going to run for that office when you have those qualifications.

I would look at it, not necessarily from a qualification point of view, but from a functional point of view if you were going to change the statute in a way other than what we are requesting. The public administrator shall provide to the court or the DA or the Board of County Commissioners an inventory of all property seized and taken care of with photographs. That person should also establish procedures that they will follow by state statute in dealing with those property issues, those cash issues, and in dealing human remains.

We have had that issue too, where we had an illegal alien die in our county, and we had the funeral home screaming at us to cough up the money to cremate him. However, we have a statute that says we cannot use our funding to provide illegal aliens with services, even though the guy is dead. So, what do you do? If this is not where the state wants to go, then take a look at establishing some guidelines for the public administrators to follow. If you look at *Nevada Revised Statutes* for dealing with sheriffs, district attorneys, clerk treasurers, and recorders, they are very specific what their functions are: you will do these things by this time; you will have these reports done. The requirement of the public administrator is go out, handle it, and let us know how things go. It is very vague.

Assemblyman Elliot Anderson:

I realize that it can get tricky when writing those things, and you do not want to be onerous, but if you are making this position one with the district attorney, I am pretty sure you have to go to law school to do it. You have to be admitted to the bar and all that. I do not know if that is a qualification in smaller counties; I know it is in Clark County. If you are going to make people complete three years of law school, it is onerous to run for that position, is it not?

Jeff Page:

It is. The intent of our bill is not to make the district attorney himself go out and do the work. It was to put that into the district attorney's office. Like the sheriff, the sheriff does not do the coroner's functions; his deputies do. The DA would have somebody on his staff who would serve as the public administrator to do those functions. Whether it is a bar-licensed attorney or a civilian staff member, that person would be supervised by the district attorney's office. That was our thought process.

Again, what we are looking for, at the end of the day, is either this bill or, if the Committee and the Legislature want to handle this with a holistic approach with the state, then some type of process established by NRS as to what the public administrator will do with these estates and how they will be managed and taken care of so that we have some legal ramifications for that. People run for these jobs because nobody else runs, and then they get into it and realize that they do not want to do it. This is one of those few things that nobody knows what they are or what they do.

Ray Fierro, County Commissioner, Lyon County Board of Commissioners:

I would like to address Assemblyman Anderson's question. I had a friend who was a former public administrator, and I do not know why he chose to run for that position. Going into that position, there is no salary, and the person has to front a lot of their own money for storage units. My friend ended up getting some people to help him out with situations. Trying to secure property is cumbersome. What we are trying to do is put it under the DA's office so that there is some oversight. The DA's office has a budget, so they already have money available to have a storage unit, so I think it is a good move on our part.

Assemblyman Stewart:

In the bill, it says that the county commission will determine the compensation for the public administrator. Can you tell me how you compensate him?

Jeff Page:

Under current statute, we do not compensate at all. There is not a budget for the public administrator. There is nothing in NRS Chapter 245 that outlines by state statute, like for other elected officials, what their salary will be, so that person does not receive a salary at all. If this comes under the office of the district attorney, at that point in time we will go through the human resources (HR) department to determine a job description and duties for the district attorney. A salary will be set or recommended by HR and the Comptroller's Office to the board of county commissioners. That recommendation will go through the public hearing process, and then may be approved, advertised, and moved forward like every other position in the county.

Assemblyman Stewart:

So right now, does he get a percentage of the estate?

Jeff Page:

Correct.

Assemblyman Stewart:

And you set that percentage, is that correct? It says that compensation will be set by the board of county commissioners, so you set a certain percentage that he gets of the estate. Is that how that works? That is in section 2, subsection 3, line 41.

Jeff Page:

The district court provides the public administrator with their set fees. The board of county commissioners in Lyon County, and I am not too certain of any other county, has never set compensation for the public administrator. It has always been that way. It has always been that they receive their compensation from the estate for the services that they provided. They keep track of their time and those things, and the court then awards compensation on a per-case basis. The board of county commissioners has never set compensation for the public administrator.

Assemblyman Stewart:

So, right now the courts are setting the compensation.

Jeff Page:

That is my understanding.

Assemblyman Healey:

Have you spoken with the DA? What is the DA's feeling if this were to be transferred over to his office?

Jeff Page:

The current DA will not be the DA if this goes into effect. He says from his perspective, it does not really bother him because he is going to retire. He said that he would not be happy about it, but he understands what we are doing. As a DA, I am sure he is not overly thrilled about taking on additional duties whether it is he or a future DA, but he also seems to be understanding of the fact that we have had these problems in the past. We are trying to keep this as just a Lyon County issue and not affect the rest of the counties or change the entire law for the entire state. We do not want to come in and push our way in and say what we think is best for the state. We are trying to keep it a Lyon County issue. As Assemblyman Anderson asked, if the state wants to take a look at changing the whole statute to make accountability a part of the statute, we are okay with that too; however, we were just looking for a quick fix that affected Lyon County only.

Assemblyman Healey:

You talked briefly about how HR would establish the job description and the salary and so forth. Has there been any investigation into the potential fiscal impact that this would have?

Jeff Page:

We based it on a mid-level position within Lyon County, with wages and benefits, so, if this were a fulltime job, it would be between \$50 and \$60 thousand a year. We do not anticipate this being a full-time job. What we anticipate is the DA coming in and saying that he needs some help with this and wants to put this person in charge of it, so he needs some assistance with clerical. We do not have a true financial picture of what that would look like. The other side of it is it offsets our cost with dealing with the Nevada Public Agency Insurance Pool (POOL) and the Public Agency Compensation Trust (PACT) and those kinds of issues when we are sued with these cases.

Assemblyman Daly:

I am reading part of the existing statute, and I understand that you people are just adding on to what already happens, and we do not have the other counties here where the DAs are doing this work to ask them some of these questions on how it really works. When I look at section 2, subsection 2, page 2, lines 32 through 36, all you did was add Lyon County in there. When I look at that, it says that the DA is paid for his services when he is acting as the administrator. If I understood you correctly, you were saying that the DA would not actually be doing it; he is going to give it out to somebody else who is qualified, et cetera. However, there seems to be a conflict. I think this needs to be looked at a little bit more, maybe some qualifications need to be added. The details need to be mined out, because you create a potential conflict. You were talking about your public administrators having legal issues and various things. You may have a situation where people are going to say, well, appoint me to be public administrator for that one because I think that I can make more money, or this, that, or the other. It is just fraught with problems. Or you may have the DA saying, no, I want that case. I know that guy, and there are going to be fees here. That is the way the law is written now. I am not saying anyone in Lyon County is doing that or that any other DAs are, but the potential is there. It just seems peculiar to me.

Jeff Page:

Correct. To address the concern in regards to fees, we have a number of services that elected officials do by state statute. For example, if the sheriff's office is serving a civil process, there are fees that go along with that process; those fees all go back to the General Fund. They are part of that item that I showed you that has not changed much over the last several years. As a

matter of practice and policy of the county, those fees all go back to the General Fund. They are not kept by a specific department or specific department head.

In regards to your comment, I do not disagree with the language, but if you go back to the civil process in state statute, the sheriff shall collect the fees; it does not say that it goes back to the General Fund, but that the sheriff shall collect the fees. So, as a matter of practice, most counties, I would imagine, put those back in the General Fund.

I was corrected that my comptroller evidently sent a fiscal note. Salary and benefits would be at a maximum of \$100,000. I do not anticipate that we would actually get there with that position. Again, we are talking about 17 cases a year, so if the DA did come in, he is going to be looking for some personnel to offset that portion of the job with some other position in his organization to do it. I do not think you will be having an attorney to do it, rather somewhat of a public guardian. We have a public guardian who is appointed by the board of county commissioners to do some legal work, but she does her job separate and away from the DA's office. This particular case would be an employee working for the DA serving part of his or her job as a public administrator as well as other paralegal investigative duties that the DA would want them to do.

Chairwoman Benitez-Thompson:

I would like to keep the legislative record clear. The public administrator, whether the position is de facto or not, has not been allotted a pay schedule by the state under NRS 245.043. However, under your county commission's discretion and the county's budgeting process, you would allow a salary and benefits for this person who would be housed within the DA's office but would not necessarily be the actual DA himself. I just wanted to make sure we are not muddying the waters there.

Assemblyman Livermore:

Reading the legislation, does it prohibit the DA from outsourcing these administrative services? I ask that because sometimes in a bankruptcy the bankruptcy court appoints an administrator for the state on a bankruptcy. If the court were to appoint an administrator to this, how would that function?

Jeff Page:

If the DA were going to try to outsource this process, he would have to come back before the board of county commissioners for approval to do so because there would be a contract in place and the board of county commissioners is the only entity that is authorized by state statute to approve contracts for the

county. It would have to be at the agreement with the board of county commissioners for that to occur.

Assemblyman Livermore:

My point is that it could occur.

Jeff Page:

Correct.

Assemblywoman Pierce:

Reading this reminds me of these discussions before. I think that this and one other position I can think of are basically anachronisms, and we really do need to make these positions civil service jobs where we are paying somebody and there is some supervision because this just raises your eyebrows when you read the statute. We are not paying anybody to go into a deceased person's home, so I think this should be made a civil service job and be done with.

Jeff Page:

I do not disagree.

Chairwoman Benitez-Thompson:

We are still taking testimony in support of this bill. Is there anyone else who would like to add to the record in support of this bill? [There was no one.] I will open it up to testimony in opposition. We will go ahead and allow Assemblywoman Pierce to forward to Legal and policy staff the email that Committee members received and allow that to be entered into the record as opposition, ([Exhibit E](#)) and ([Exhibit F](#)). Would anyone like to speak in a neutral position for this bill? [There was no one.] I will close the hearing on A.B. 51. I will open the hearing on Assembly Bill 45. We have with us Mr. Jeff Kintop, the State Archivist, who is going to present.

Assembly Bill 45: Revises various provisions relating to the Department of Administration. (BDR 33-306)

Jeffery M. Kintop, Assistant Administrator, Division of State Library and Archives, Department of Administration

This bill was drafted to update statutory language to eliminate older language, some of which dates from 1865; duplicative language regarding charges for copying; and updating our services to include digital imaging, and to be able to make those services available to the Legislative and Judicial Branches of government. It also expands or specifies the authority to inspect records in order to do our legally mandated duties of adopting regulation for records management programs and to schedule records for retention or disposition.

Specifically, section 1 eliminates some language that dates from 1865, discussing the description of the State Seal, other such seals, and official bonds approved by the Governor to be kept in the division. The language was originally the duties of the first Secretary of State, but now the description of the State Seal is already in *Nevada Revised Statutes* (NRS), and no other seals are required to be filed in our division, and the historical expired bonds are subject to records retention schedules approved by the State Records Committee. As a result, there is no need for that particular language.

Section 2 expands the authority of the Administrator of the State Library and Archives, through the division, to look at confidential or restricted records of state and local governments in order to fulfill the legal requirements of NRS 378.255 and NRS 378.280. We had a letter of opinion from the Attorney General dated 1989 ([Exhibit G](#)) that said that if we did not have the right to look at confidential records, we would be unable to do our jobs, and it was written for a different purpose, but we wanted to basically make that clear. Right now, there are approximately 450 state laws that make certain records confidential, and we are required to oversee their management and retention, and help set their retention schedules through the committee. Rather than amend 450 state statutes to include us as being able to view the records, adding a statement to our statutes seemed to be a much easier way to go. The Legal Division of the Legislative Counsel Bureau helped us to clarify that, and actually came up with the specific language that is in the bill draft request.

Section 3 requires us to provide digital imaging services to local governments if requested, and we are requesting to be able to provide those services to the Legislative and Judicial Branches. We have staff who are on the Commission on the Preservation, Retention, and Sealing of Court Records, which is in the judicial department, and Justice Hardesty wanted us to be able to provide those services to the courts if they requested it. Section 10 repeals NRS 378.260, which eliminates the authority to enter into agreement with the Secretary of State for archival services because they are already part of our program. The Secretary of State chairs the State Records Committee and his records are scheduled already, so there is no need for that agreement anymore. It eliminates the repository for records concerning programs, activities, and events related to the participation of citizens in the development of public policy and the improvement of the operation of government because it actually set up a separate repository; whereas, the State Archives in the Nevada State Library and Archives provides those services. We actually preserve those records already; there was no need for that section in statute. I am open to any questions.

Assemblywoman Neal:

I need clarification on section 2, page 3, lines 33 through 38, which deal with confidential and privileged records. When I was looking at this, I saw the word inspection, so I wondered about the legal definition of inspection, which I learned means the right to examine. Also, what is disclosure? I thought it contradicted NRS 49.025, which allows the right of refusal to a person to whom the records belong. Then I thought about NRS 463.3407, which is an absolute privilege, which covers privileged communications associated with boards and commissions. I am trying to understand the scope and the difference between the words "inspection" and "disclosure" when you deal with privileged communications. By definition, disclosure means release of information, so what is clear is that the person loses control over the use of the information. You said LCB helped you with the language, but I need you to help me understand the control issue when you now have the ability to examine, which to me is release of information that is privileged and confidential. What is that scope? How do we fit inside of the law that says that I do not want you to see that information, which is NRS 49.025? If I have the right to refuse disclosure, how does this fit within the scope of what you have in this language in page 3, lines 33 through 38?

Jeff Kintop:

I am not familiar with NRS 49.025 and the right to refusal because we need to inspect the records to develop programs to manage them and to determine how long those records need to be kept. One of the other important things that we do is we appraise records for historical value, which means we have to look at the content of those records. Records that are confidential are confidential for only a certain period, usually an immediate period of time. They are not confidential through the ages or for all time. If something is confidential and it has a Records Retention Schedule that says that it is going to come to the State Archives for permanent disposition, then the confidentiality is set at 30 years or, if it pertains to a natural individual, to the death of that individual, whichever is later. There are no rights to privacy after death, but we keep it confidential for at least 30 years after the date when that record comes to the Archives. Eventually we can see confidential records.

Assemblywoman Neal:

Let us say that one of us ended up in the Archives and it was confidential or privileged communication. How do you determine when there are special relationships that may be associated with that communication? There are privileges that still follow those special relationships. Let us say they are living and not dead; how do we determine whether you have the right to inspect or examine the actual document itself, which you may not even be allowed to view?

Jeff Kintop:

When we say that we inspect records, we are inspecting them mostly so we can determine a retention period. We examine all of the laws—federal, state, and regulatory—to determine if they are confidential or if there is a legal requirement, a fiscal requirement, or an administrative requirement, or if they are of historical value. We need to see what the records are in order to do this. We cannot just have someone say, these are our records in this file cabinet; this file cabinet contains these records and they are confidential forever, and you cannot see them. If we cannot see the records, we are unable to do our job, which is required in statute to schedule those records. The Legal Division added the "shall not disclose" [line 35] part just to make it clear that we are only doing this for the sake of doing our jobs in the State Archives and records.

**Daphne O. DeLeon, Administrator, Division of State Library and Archives,
Department of Administration**

I do want to add on to Mr. Kintop's response and address Assemblywoman Neal's questions in terms of the hypothetical. When we inspect records, we look at a record's retention schedule, as Mr. Kintop had said. If, in fact, there was privileged information, that is information is considered by staff and considered by the agency, whether it is local or state, and together they find the record's retention schedule. We are able to fulfill our mandate to document the actions of government, both state and local, and to provide access to it, but also safeguard privileged and confidential information as noted in either NRS or the federal statute. The process in that case is that the record gets looked at up front. The inspection allows us to surface those issues and for Nevada State Library and Archives (NSLA) staff and the agency, whether it is state or local, to be able to find a solution that fulfills our need to be transparent and NSLA's need to document the actions of state and local government, yet the agencies need to withhold some privileged and confidential information.

Assemblyman Daly:

I know the State Archives has record management schedules and those sorts of things, and you go over that and check for historical value, and various things. However, I was looking at the amendment coming in from Clark County, talking about concerns regarding security sensitive information, which comes from the Transportation Security Administration (TSA) and airports and various things. We dealt with that in the construction industry. What is your scope? You are changing some stuff where you are now going to be looking at the Judicial Branch; you already covered the Executive Branch. Who is doing it for the Legislature now? I know we have a large amount of records that if people want to look them up, we have that. Do you go all the way down to every political subdivision within the state, what their records are, and determine their

schedule of what they need to keep or review before they destroy certain documents? Can you clarify exactly what you do to help the context of this?

Jeff Kintop:

No records of state or local government in the State of Nevada can be destroyed unless it is scheduled on the Records Retention Schedule. State government agencies' retention schedules are approved by the Committee to Approve Schedules for the Retention and Disposition of Official State Records, which is in NRS Chapter 239. Local governments' Records Retention Schedules are approved by the administrator of the Nevada State Library and Archives, so those authorities were given in statute.

In regard to the Legislative and Judicial Branches, we provide professional assistance and advice. The State Legislature has a Records Retention Schedule, which is approved by the Legislative Commission. We work with the various departments in LCB and the secretaries and clerks to determine how long the records need to be retained and which ones will come to the State Archives. The records of individual legislators, right now, belong to the individual legislators; they are your own records and communications and whatever you choose to do with them is your decision. In the past couple of years, we have been asked to serve on a commission, which when Justice Hardesty was Chief Justice, wanted to look seriously at all court records at all levels to determine exactly how long they need to be kept and which ones would be historical and which ones were permanent. For the two other branches of government, we only provide professional assistance and are invited in. Statutorily, we oversee state and local government records.

Assemblyman Oscarson:

How does your department deal with sealed records? How would you do that, and would there be a process you could put into place that, much like medical records when they are released, redacts the names of the individuals and personal information from those records?

Jeff Kintop:

Records sealed by a court can only be unsealed by a court, so when a judge seals a record, the court must be petitioned in order to have those records unsealed. There is an administrative process for sealing records, which comes under the *Nevada Administrative Code* Chapters 239 and 378, which describe to agencies how to seal records. We are very interested in helping them keep this information confidential and came up with a procedure for them to do it. We are currently working on a regulation to seal electronic records as well. We are very interested in keeping confidential information confidential.

Assemblywoman Pierce:

I have a concern about eliminating the actual description of the State Seal. It seems like we might want that at some time. The other thing that I want to be assured of is that we are not saying here that everything is only going to be microfilm and digital imaging because certainly there are some things where we should preserve the actual document. I have read this and I have a little bit of concern that we are eliminating that.

Jeff Kintop:

The description of the State Seal is under Chapter 235 of NRS. It not only describes what is on the seal and the legal description, it also governs the use of the seal and has a nice color picture that says that if the State Seal is depicted in color, these are the colors used. It is not something that is spelled out and defined and kept; however, the State Flag does have actual specifications as to color, size, material, measurements, and everything else. Those are things that we do maintain, but the State Seal is in statute and so there is no real design description of what constitutes it.

As far as paper records go, we will always keep paper records. There are paper records that are very important, and they have a quality that just draws you into history when you look at them. That includes not only the older records, but also some records that are more recent. We do not just image things today; we hang on to them for years until we can make a determination as to what people want, and sometimes we make things in digital images just to make them easier for people to access and copy. We still maintain the original records. Before each session starts, the clerks and secretaries of the Assembly and the Senate send us the bills from the previous session with the bill covers. We will save those forever. In spite of the fact that we have bill histories online, we save them in order to have that record, because you can hold that record up and show people, so it is very special.

Chairwoman Benitez-Thompson:

Are there any additional questions from Committee members? No? In that case, I will accept testimony in support of Assembly Bill 45.

Stephanie Heying, Court Services Analyst, Nevada Supreme Court:

The Supreme Court supports section 2, subsection 5 of A.B. 45 and looks forward to collaborating with the State Library and Archives to develop cooperative agreements to take advantage of this enabling language. We will also work with the Library and Archives to develop any necessary statutory tweaks and will bring those to you in 2015.

Chairwoman Benitez-Thompson:

Are there any questions from Committee members? I see none. Is there any other testimony in support of Assembly Bill 45? [There was none.] At this time, we will go ahead and accept testimony in opposition to Assembly Bill 45.

P. Michael Murphy, representing Clark County

Before I begin, I would like to say that this is my second session. I am always humbled at the opportunity to come before you and speak. I thank you for that.

Today, my primary concern is through the Clark County Department of Aviation. You have a document before you that we have presented which is an amendment ([Exhibit H](#)). We have spoken with the archivist folks, and we understand their need, and we support their concept, but we have a concern. I am confident that all of you can read the document. I would just call your attention to a couple of issues.

We always want to make sure that when we create law we do not have an unintended consequence, and in this particular instance, section 8 of this particular proposed change could and will have an unintended consequence. That is as follows: this bill would put Clark County Department of Aviation in direct conflict with federal regulation if we were forced to provide documents for inspection to determine whether they are to be archived. As the archivist explains it, they would have to see it to know what to do with it. Our problem is there are some records, as an example, that are electronic that we could bring up on a computer, but they require a password, and the only person who can see it is that person that has the password and that security clearance. Therefore, we would say, "Here it is. Enter your password so you can see it." They cannot enter a password because they do not have the password. They cannot see it. Our employees cannot give the password because they are not allowed to give a secondary password or information, nor are they allowed to distribute that information to a secondary party. The special documents or sensitive security information is regulated by federal laws, many of which are Transportation Security Administration (TSA) compliance issues. I would like to remind the Committee and all of us that we deal with 40 million tourists a year in Clark County through the airport and coming to that area. Many of these issues are directly related to the security of that particular industry. We do not want to be placed in a situation in which we are violating one law or the other, so we are asking either that the section be removed or, at the very least, we have proposed other language be included that says, "unless such inspection is precluded by federal statute or federal regulation." I will answer any questions.

Assemblyman Daly:

I know that contractors get clearance to look at it so they can build or install whatever needs to be done. Could the state archivist not submit an application to obtain the same level of security clearance? What is the process for them to get the password so they can look at it to determine the issue? It does not seem to me that it would be that difficult. I am just curious if there is an application that you would put in.

Michael Murphy:

I would be remiss if I told you exactly what that process is other than to tell you that the example that I gave you is one of many examples, and in some instances, the requirement would be for you to have a security clearance that would be a government clearance. I am not familiar with all those clearances, which can be anything from a standard clearance up to and including a top secret. I cannot directly answer those questions at this moment. I can tell you that the Department of Aviation has voiced very strong concern, and the concern is that they do not have the ability to grant that clearance to anyone.

Chairwoman Benitez-Thompson:

I wanted to ask the bill sponsor for clarification of how we end up categorizing the testimony. Is this an amendment that you support?

Daphne DeLeon:

We do not support this amendment, but, in saying that, we understand and certainly recognize that there is an issue. We are willing to sit down with Clark County and the Aviation Department and do some further research to see if there is another way we can both have our needs met, so that we at the Nevada State Library and Archives have the tools we need to do our job under statute without forcing any of our agencies, state or local, to be noncompliant with federal regulation.

Chairwoman Benitez-Thompson:

I am sure Mr. Murphy will be happy to talk with you further. Do you have any other additional comments for the record, Mr. Murphy?

Michael Murphy:

No, Madam Chairwoman, I think I have spoken enough. Thank you.

Chairwoman Benitez-Thompson:

Then we will hear more testimony.

Chuck Calloway, representing Las Vegas Metropolitan Police Department:

Like Mr. Murphy, I fully support the State Library and Archives having the tools necessary to do their job effectively. With that being said, I also have some concerns with section 2, subsection 8, and how that relates to the language and potential unlimited access to law enforcement records and case files. I do not believe this is the intent of the archives, but our concern is that the way that language is written could subject current open cases, confidential information regarding informants, victims of crimes, Homeland Security information files, and information that is confidential in that nature to inspection. This inspection would be done not only by the administrator themselves, but the way the language is written, it says, "Through the Division," so, the way I read that, potentially, someone who works for the administrator could be the one looking at that information, which we would have a concern with. In addition, to touch briefly on the question raised by Assemblyman Daly in regards to security clearances, I was just at a major city chiefs' conference in Washington, D.C., and the Department of Homeland Security was talking about information sharing. During that briefing that we received, several of the major city chiefs stood up and raised concerns about how difficult it was for them to obtain proper security clearances to see Homeland Security information that the federal government had deemed to be confidential and was sharing with local government. So, when you have major city chiefs that have difficulties getting proper security clearances, my personal belief is that the administrator of the archives would have a very difficult time going about getting security clearances to observe confidential information in regard to Homeland Security.

Chairwoman Benitez-Thompson:

Are there any questions for Mr. Calloway, Committee? Thank you for your testimony. Are there any others who would like to testify in opposition to A.B. 45? [There were none.] Is there any testimony in neutral? [There was none.] With that, I will close the hearing on A.B. 45. I welcome any public comment to anyone that would like to add to the record. Seeing none, I will adjourn this session of Government Affairs. [Meeting adjourned at 10:18 a.m.]

[On February 7, 2013, Chairwoman Benitez-Thompson requested that the following exhibits be made part of the record: ([Exhibit I](#)), ([Exhibit J](#)), ([Exhibit K](#)), ([Exhibit L](#)).]

RESPECTFULLY SUBMITTED:

Jennifer Dalton
Committee Secretary

APPROVED BY:

Assemblywoman Teresa Benitez-Thompson, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: February 6, 2013

Time of Meeting: 7:59 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Nevada Association of Counties	PowerPoint Presentation
	D	County Commissioner's Association, Lyon County	PowerPoint Presentation
A.B. 51	E	Richard Mathis	Legal Documents
A.B. 51	F	Richard Mathis	Written Statement of Opposition
A.B. 45	G	Jeff Kintop	Copy of Letter from Attorney General, Brian McKay, 1989
A.B. 45	H	P. Michael Murphy	Proposed Amendment
A.B. 51	I	Mary Ann Williams	Letter from Lyon County District Attorney's Office
A.B. 51	J	Mary Ann Williams	Letter to Governor Brian Sandoval
A.B. 51	K	Mary Ann Williams	Proposed Amendment
A.B. 51	L	Mary Ann Williams	Non-Prison Criminal Referral Memorandum