

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

**Seventy-Seventh Session
April 1, 2013**

The Committee on Government Affairs was called to order by Chairwoman Teresa Benitez-Thompson at 8:09 a.m. on Monday, April 1, 2013, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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:

Assemblyman Paul Aizley, Clark County Assembly District No. 41

STAFF MEMBERS PRESENT:

Paul V. Townsend, Legislative Auditor
Jennifer Ruedy, Committee Policy Analyst
Jim Penrose, Committee Counsel
John Budden, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Martin Bibb, representing Retired Public Employees of Nevada
James T. Richardson, representing Nevada Faculty Alliance
Craig M. Stevens, representing Nevada State Education Association
Priscilla Maloney, representing American Federation of State, County and
Municipal Employees, Local 4041
James R. Wells, Executive Officer, Public Employees' Benefits Program
Carole Vilardo, representing Nevada Taxpayers Association
Erin McMullen, representing Snell and Wilmer L.L.P., and Las Vegas
Metro Chamber of Commerce
Peter D. Krueger, representing Capitol Partners LLC, and Nevada
Petroleum Marketers & Convenience Store Association
Tray Abney, representing The Chamber
Bryan Wachter, representing Retail Association of Nevada
Terry K. Graves, representing Henderson Chamber of Commerce
Andy Belanger, representing Las Vegas Valley Water District
Marla McDade Williams, Deputy Administrator, State Health Division,
Department of Health and Human Services
Cadence Matijevich, representing City of Reno
Ted J. Olivas, representing City of Las Vegas
Lisa Gianoli, representing Washoe County
Steve Walker, representing Lyon County

Chairwoman Benitez-Thompson:

[Roll was taken and housekeeping matters were explained.] We are going to be hearing four bills today. After that, we have one bill from our Friday work session rolled onto today's agenda that we are going to take up for consideration. The first bill we are going to be hearing today is Assembly Bill 303, presented by Assemblyman Aizley. I will welcome him to the witness table.

Assembly Bill 303: Revises provisions relating to the subsidy for coverage of certain retired persons under the Public Employees' Benefits Program. (BDR 23-681)

Assemblyman Paul Aizley, Clark County Assembly District No. 41:

I do realize this is April Fools' Day, but that is not relevant to the bill. For full disclosure, I am a Medicare retiree with 40 years of service to Nevada, but the bill does not affect me any differently than it affects any other Medicare retirees. [Read from prepared remarks ([Exhibit C](#)).]

It is estimated that there will be approximately 10,000 such retirees within two years. [Continued to read from prepared remarks ([Exhibit C](#)).]

Assemblyman Livermore:

When you are talking about payments to retirees, of what age bracket are you speaking? Ages 65 to how old?

Assemblyman Aizley:

All who are eligible right now, so the new ones come in later, but others are there at 62, 65, and I think now 67. I am not sure of the numbers. The existing retirees would be fixed in their premium subsidy forever if we did not amend the law.

Assemblyman Livermore:

I just want to make sure we were not leaving anybody out.

Assemblyman Aizley:

I hope not.

Assemblyman Daly:

I want to make sure I understand. This is not going to create a new benefit. It is only if the Public Employees' Benefits Program (PEBP) Board has money that they are able to spend. This just puts another option on the list of things they could use to help subsidize the Medicare payment portion. It is optional all the way, only if they have reserves that they decide to spend down. This just adds another option on the list where they could potentially use that money. Is that correct?

Assemblyman Aizley:

This is permissive. Yes, it allows something to happen that could not happen with existing law, and that is to help the Medicare retirees.

Assemblyman Daly:

It is just another option on the list of things they could do. Right now, that option is not there, and this adds it as an option, but it is up to the PEBP Board.

Assemblyman Aizley:

Current law is flat; it does not allow for a change.

Assemblywoman Neal:

I have a question on section 1, subsection 6, paragraph (b) on page 3, lines 1 through 5. Just for my edification, what is envisioned as the additional source that could be used to offset the premium cost?

Assemblyman Aizley:

I believe the PEBP Board is currently sitting on a \$39 million reserve. That is one of the possible places. The bill is permissive. It lets the PEBP Board decide. It does not specify where the money would come from. However, they are a very responsive board, so they are not going to be taking funds from where they should not in order to subsidize. It is strictly a permissive bit of legislation; it does not direct anything.

Chairwoman Benitez-Thompson:

Are there additional questions from Committee members? Seeing none, I will go ahead and move into testimony in support of the bill. Do you have anyone in particular who you would like to testify first, Assemblyman Aizley?

Assemblyman Aizley:

I believe the entire Retired Public Employees of Nevada (RPEN) association is here.

Martin Bibb, representing Retired Public Employees of Nevada:

We are in support of A.B. 303. What this measure would do is make a one-time rebate of \$3.9 million for Medicare retirees in the state's Public Employees' Benefits Program from excess reserves for fiscal year (FY) 2012-2013. The legislation is needed according to PEBP and was approved by the PEBP Board last spring. [Read from prepared testimony ([Exhibit D](#)).]

We are told the language in that agency funding bill does not permit them to do that. Assemblyman Aizley's bill would simply permit the PEBP Board to treat Medicare retirees in the same fashion that it treats active employees and pre-Medicare retirees relative to years of service contributions that are in excess of its reserves. [Continued with prepared testimony ([Exhibit D](#)).]

Assemblyman Stewart:

Do you already have the plan to allocate the money? Is this a surprise thing?

Martin Bibb:

No. The plan earmarked that money in action by the PEBP Board in March of 2012. They are simply saying that it would take legislative approval this year because of the language that is in statute relative to years-of-service contributions. They have expressed their desire to the Governor, who has included it in his recommended budget, and we are simply trying to get the legislation enacted so that in the future PEBP would, in fact, have the authority clearly stated to do the same for Medicare retirees as it does for its active employees and its early retirees.

Assemblyman Stewart:

In the past this has been a problem, and so you will be able to go forward now and allocate this money as you see fit in the future. Is that the intent?

Martin Bibb:

That is the intention, Assemblyman Stewart.

Assemblyman Stewart:

For the record, I need to disclose that I participated in both the Public Employees' Retirement System (PERS) and PEBP.

James T. Richardson, representing Nevada Faculty Alliance:

We are vitally interested in Assemblyman Aizley's bill. We appreciate it. A bit more history might be useful. One of the reasons this has become a bit of a problem is that the whole Medicare exchange and shifting Medicare-eligible retirees into a private exchange is new; it was only authorized last session. When the so-called "Session Bill" was written that said what the amounts are, as Martin Bibb indicated, there was a set amount put in the bill. Some of us recognized that could be a difficulty, instead of just granting the PEBP Board the authority to make adjustments and payments into these Health Savings Accounts (HSA), and Health Reimbursement Accounts (HRA) as they see fit and have the resources to do so. There was a strict limitation placed with one possible way to do it in the bill.

Assembly Bill 303 would grant the same authority to the PEBP Board to adjust these payments to HRAs and HSAs as is currently the case with everyone else involved with PEBP. So it is a clean-up bill, in a sense, and grants the authority to the PEBP Board. They do act responsibly.

The plan is very well funded now in the sense that they do have reserves. They have actually voted to spend some of those reserves for the Medicare retirees, and yet they feel like they cannot do it under current language in the statute that was approved last time.

I hope you will support this corrective. There are about 10,000 people in the Medicare exchange that would be very grateful. Their rates are going up all the time, and this would help them deal with the rate increases they are experiencing. With that, I will close my comments, unless there are questions.

Assemblywoman Bustamante Adams:

Did you say there are about 30,000 people in the plan?

James Richardson:

There are about 40,000 people involved in the plan at this time. It used to be 43,000, but as you know, there has been a drop of about 9,000 to 10,000 in state employees and others covered. Mr. Wells is here with the proper numbers, of course, and I think he will be testifying. However, I think there are a little over 9,000 Medicare retirees at this time, and we are talking about being able to assist those people.

Assemblywoman Bustamante Adams:

The 9,000?

James Richardson:

Yes.

Assemblywoman Bustamante Adams:

Okay. I am just trying to get my head around the math. So there are 9,000, and the amount that is in excess is \$39 million. Is that right?

James Richardson:

I think it might be useful for Mr. Wells to clarify when he testifies exactly how much money. The only point I would make at this time is that there have been excess reserves generated in the PEBP plan, and the PEBP Board has voted to allocate some of those to Medicare retirees, but under the current wording of the statute they simply cannot do it. They would like to. They voted to increase the per month amount that goes to these folks that would help deal with the rate increases they have experienced, but they cannot do it. Mr. Wells will clarify the exact numbers if you do not mind me deferring to him. I got in trouble last time I tried to talk numbers.

Assemblywoman Bustamante Adams:

That is okay but Mr. Wells, I will be interested in the math portion of it.

Craig M. Stevens, representing Nevada State Education Association:

We support A.B. 303 and appreciate Assemblyman Aizley's bringing this forward. In our opinion, this is really about fairness. If there are excess reserves, increasing the subsidy can only help those who have served our state for quite a long time.

Priscilla Maloney, representing American Federation of State, County and Municipal Employees, Local 4041:

Thank you for the opportunity to be here. We are in support of the bill as written. If there are further questions, of course we have got all the folks. Marlene Lockard is here from RPEN, as their lobbyist, and Mr. Wells is here, too.

Chairwoman Benitez-Thompson:

Is there any testimony from folks down in southern Nevada? Seeing none, is there additional testimony in support in northern Nevada? Seeing none, we will move to opposition. Is there any testimony in opposition?

James R. Wells, Executive Officer, Public Employees' Benefits Program:

While we are not in opposition to the bill as intended, our concern is with the use of the language, "from any source." We have submitted a fiscal note to this ([Exhibit E](#)). Basically, our concern relates to the fact that, in general, excess reserves are generated from the consumer-driven health plan, not from fully insured plans. Using these sources on a regular basis for either fully insured plans that are for active employees who are non-Medicare retirees or for the fully insured plans that are for Medicare retirees would basically end up with the consumer-driven health plan, the self-funded plan, subsidizing the other plans. I do not believe that is the intent. We would offer an amendment that would change the language of line 2 on page 3 to basically state that the amounts could be from the excess of the actuarially required reserves or from forfeited contributions from persons whose coverage has been terminated.

That second piece of this, as the HRA contributions are provided to Medicare retirees, when they terminate from the program for any reason, those funds do revert back to the program, and those funds should then be given back to the Medicare retirees, because they were the group who generated that funding source. There are some funds that we believe the PEBP Board should be able to provide back to the Medicare retirees. We just have an issue with the "any source" language.

Chairwoman Benitez-Thompson:

So the opposition is specifically on section 1, subsection 6, the second line on page 3?

James Wells:

Correct.

Chairwoman Benitez-Thompson:

Just "from any source," and so the language we will be getting from you fleshes out "from any source?"

James Wells:

Correct.

Assemblyman Daly:

I am just trying to understand that: "from any source." It does not mandate or dictate or anything. In other words, the Board can make the decision. I understand there are different funds and different contributions coming in from different sources and going into different buckets, and if there are excesses in one, you do not want to spend it on somebody else if you can contribute. But you already do that. So I was just trying to figure out if the "from any source" language really has any effect, other than to give discretion to the Board to make the decision.

James Wells:

The Board does not generally subsidize one plan to another. In general, we try to have the plans stand alone. However, you are correct in that it is discretionary.

Assemblyman Stewart:

Mr. Wells, is there a certain amount that must be kept in the reserve fund by law?

James Wells:

The actuaries do provide us with a certain level of reserves that are basically mandated for us to be considered actuarially solvent, yes.

Assemblyman Stewart:

What is that?

James Wells:

It varies from year to year depending on the population of the self-funded plan. Keep in mind that the reserves are for the self-funded plan, not for the fully

insured plans because the fully insured plans do not require us to have reserves. The insurance company takes care of any excess money that they pay out.

Chairwoman Benitez-Thompson:

Perhaps this would be a good lead-in to Assemblywoman Bustamante Adams' question to clarify that there is a set of reserves, and then excess reserves, and I think she is looking for the number behind those.

James Wells:

In March of 2012, the PEBP Board allocated about \$24 million in excess reserves to various populations of our program [referenced PEBP Press Release ([Exhibit F](#))]. Part of that allocation was a set-aside of \$3.9 million for Medicare retirees for FY 2014, which begins this coming July. That was because our interpretation of the existing language in statute and the session bill does not allow us to change the amounts that are provided for Medicare retirees, just as we cannot change the amounts that are provided for active employees and non-Medicare retirees.

On March 21 of this year the PEBP Board also allocated an additional \$4 million from our excess reserves in FY 2015, the second year of this biennium. That has been included in our budget amendment. So you are basically seeing a \$3.9 million item for Medicare retirees in FY 2014, and another \$4 million in FY 2015.

Assemblywoman Bustamante Adams:

So the amount of the pool that we are talking about is the 9,000. Correct?

James Wells:

There are approximately 9,000 to 10,000 Medicare retirees.

Assemblywoman Bustamante Adams:

Your fiscal note was how much? How much did you say that you were attaching?

James Wells:

We are not providing an exact dollar amount because the Board has not taken formal action to approve amounts beyond the \$7.9 million that it has already approved.

Assemblywoman Neal:

What is the fiscal note that you submitted? What is the amount?

James Wells:

We did not put a dollar amount on it. It is impossible for us to determine as the Board has not taken a specific action on this because they do not have the authority under current statute.

Assemblywoman Neal:

Okay. I was confused. Did you say that you submitted a fiscal note? Is it an estimate of how much this could cost if we did "any source?"

Chairwoman Benitez-Thompson:

Mr. Wells, perhaps what you want to clarify is why there is not a fiscal note because it is in the Governor's recommended budget, and maybe you want to walk through that a little bit.

James Wells:

The fiscal note does not include an exact dollar amount because the "from any source" language does not mandate that the Board provide additional funds to Medicare retirees. If it was "shall use," then we would have been able to put a more definitive dollar amount on the fiscal note. Because it is permissive, we put in a fiscal note that says it could have a financial impact depending upon future Board actions—the wording "from any source."

To follow up on the Chairwoman's comments, we have submitted a budget that includes \$3.9 million in the first year of the biennium to provide \$2 per year of service per month to each of the Medicare retirees who are in our program. With the budget amendment that will be coming forward from the Department of Administration, we have proposed adding another \$4 million in the second year of the biennium to do the same thing.

Assemblywoman Neal:

So, the \$3.9 million and the \$4 million is what you estimated based on your amendment to subsection 6? When you change the "from any source" language, and then you have more defined language, that dollar amount is from that new language you are proposing?

James Wells:

Yes, the \$7.9 million would come from the pots of money that I discussed.

Chairwoman Benitez-Thompson:

I think the clarification we are looking for on the record is, and maybe this is what that language is begging for others who want an answer to Assemblywoman Neal's question, is that additional \$7.9 million. What you are saying is, under current language, that could come from anywhere. With your

amendment you are saying it would specify that it would come out of excess reserves.

James Wells:

Madam Chairwoman, I will try to clarify this, again. The "from any source" language would allow the Board to use, for example, the reserves that we had set aside for the incurred but not reported claims. We do not want the Board to do that because that is an actuarially-required reserve to maintain the solvency of the plan. What we are trying to do with our amendment language is to clarify that it can only come from specific sources that are considered in excess of the reserves that are actuarially required for the plan.

Chairwoman Benitez-Thompson:

I know the Board has not taken action on it because you are waiting for permissive language like this to make it happen. However, just for the legislative record, we do have on Nevada Electronic Legislative Information System (NELIS) a press release from PEBP ([Exhibit F](#)) that does talk about the intention of the board, right? But, the intention is for the \$3.9 million to be used for the one-time, \$2-a-month payment and so, while formal action has not been taken, there is clearly the intent and the desire by the Board to make this happen.

James Wells:

That is correct. Not only has the Board taken the action to set aside this money for the Medicare retirees, they have included it in their budget. The budget has been approved by the Governor's Office as we submitted it with the additional \$3.9 million, and the budget amendment for the second year of the biennium for us also includes \$4 million in the second year.

Chairwoman Benitez-Thompson:

Are there additional questions from Committee members? Seeing none, thank you for your testimony. Is there any other testimony in opposition, either here or in Clark County? Seeing none, we will move to neutral. Is there anyone who wants to provide comments on the record in neutral? Seeing none, I will go ahead and invite the bill sponsor back up for any closing comments or remarks.

Assemblyman Aizley:

I think there is pretty much agreement. I will be happy to work with Mr. Wells on getting the amendment in the form that would be acceptable to everybody.

Assemblyman Oscarson:

There was never any intent in your legislation to sweep those other funds that are kept for claims. That was not the intent of your legislation. Correct?

Assemblyman Aizley:

That was not the intent. The intent was just to make it permissible what the PEBP Board wants to do.

Chairwoman Benitez-Thompson:

I will go ahead and close this hearing on A.B. 303. Thank you for your time Assemblyman Aizley. We will transition into Assembly Bill 383, and we will welcome Assemblywoman Bustamante Adams to the witness table.

Assembly Bill 383: Revises provisions governing the Sunset Subcommittee of the Legislative Commission. (BDR 18-160)

Assemblywoman Irene Bustamante Adams, Clark County Assembly District No. 42:

During the interim, I began the journey on this subcommittee as Vice Chair. Seriously, I was very comfortable in that position of being Vice Chair, but as we were on the tarmac, and we were ascending into the air, I got a signal on the call button that the Chair was resigning and that I would be moving into the pilot's seat. So, off we went.

The Sunset Subcommittee of the Legislative Commission was created through Senate Bill No. 251 of the 76th Session, which was a bipartisan effort between then Assemblywoman Debbie Smith and Senator Ben Kieckhefer, as an ongoing statutory committee. The subcommittee was named "Sunset" because of the need for regular assessment of Nevada's boards and commissions. The intent of the Sunset Subcommittee is to review the operations of the state's many boards and commissions and look for efficiencies and opportunities to provide services more effectively. [Continued to read from prepared testimony ([Exhibit G](#)).]

The Subcommittee had several public hearings and ultimately made several recommendations to the Legislative Commission to terminate, modify, and/or continue several boards and commissions. It listed the recommendations available in the Subcommittee's report ([Exhibit H](#)), which I have provided to the Committee.

After the interim, I asked members of the Subcommittee for any suggestions on how we could improve the review process. As a result, A.B. 383 provides those recommendations that were developed. Now, I will go through the bill.

Section 1, which is page 2, has to do with the Audit Division. During the interim, the Subcommittee realized that some of the larger boards and commissions are very complex. As part of the review process we noted that

the Audit Division of the Legislative Counsel Bureau (LCB) should conduct a performance audit of these boards and commissions. Under the provisions of this bill, if the Subcommittee determines that a board or commission should be audited, a recommendation would be made to the Legislative Commission. If the Commission agrees, the Legislative Auditor, Paul Townsend, would be directed to conduct a performance audit and report his findings back to the Legislative Commission. Not more than four audits would be conducted during a legislative interim. Mr. Townsend is in the audience and is available to answer any questions regarding this process.

Section 2 brings clarity. In order to make this Subcommittee's structure consistent with other ongoing interim statutory committees, A.B. 383 specifies that the general public members of the Subcommittee are nonvoting members. This change still allows the Subcommittee the benefit of receiving input from the general public.

Section 3, which is on page 4, adjusts the review made. Assembly Bill 383 proposes to reduce the number of boards or commissions that must be reviewed each interim from not less than 20 to not less than 10 each interim. This change will allow the Subcommittee to focus its efforts each interim and carefully analyze each board and commission's policies in more detail.

On line 30 of page 4, we are deleting this section. This asks that each board and commission set forth a cost for each review, and that was actually not necessary in our evaluation.

On page 5, we are proposing an amendment ([Exhibit I](#)) to delete the provision that requires the Sunset Subcommittee to submit to the Legislative Commission, on or before July 31 of each odd-numbered year, a proposed list of boards and commissions to be reviewed during the legislative interim, which the Legislative Commission must consider and approve with or without revisions.

At this time, I do not think the way it is written is something that can be realistically carried out by the Subcommittee because that would force us to submit the names by July 31 of those we are going to review. However, I am willing to work with interested parties on proposing a new amendment, if desired.

As I said, you have a complete summary of what we did during the interim, including a list of all of the boards and commissions that we did evaluate, as well as recommendations of some entities to continue, some entities to terminate—those will be handled in other committees—and some of the duties

to be transferred from one board or commission to another entity. That concludes my presentation.

Chairwoman Benitez-Thompson:

Are there questions for Assemblywoman Bustamante Adams? [There were none.] Just to clarify, you said your amendment removes the proposed language on page 5.

Assemblywoman Bustamante Adams:

Correct.

Chairwoman Benitez-Thompson:

Is there anyone with testimony in support? [There was no one.] Is there anyone with testimony in opposition? [There was no one.] Is there anyone with testimony in neutral? [There was no one.]

Assemblyman Stewart:

I just wanted clarification about the recommendations that you make from the Subcommittee to abolish or modify a board. That recommendation goes to the Legislative Commission, and then the Legislative Commission has sole authority to approve or deny what you recommend. Is that correct?

Assemblywoman Bustamante Adams:

That is correct. They also create the bill draft requests, but I am the presenter.

Assemblyman Stewart:

The total Legislature then, would have to enact legislation to abolish the board. Is that correct? Could the Legislative Commission abolish the board?

Assemblywoman Bustamante Adams:

No. If our recommendation were to abolish, we would have to create a bill draft with the approval of the Legislative Commission to be able to abolish.

Assemblyman Stewart:

If the board were created by regulation other than statute, then the Legislative Commission could do it. Is that correct?

Assemblywoman Bustamante Adams:

Yes. With the way that I understand the language, that is correct.

Assemblyman Ellison:

Does the Governor review the recommendations at all? Does he comment back to you, or make recommendations on any of the boards or committees?

Assemblywoman Bustamante Adams:

No, not to my knowledge. However, this interim we did look at the Gaming Policy Committee, which had been inactive for several years. This last interim, he used that committee to help with the Assembly Bill 114, the Internet Gaming Bill. So, he did have input that we should not terminate that committee. I am not sure if he reviews all of them one by one, but I know that he does have input.

Chairwoman Benitez-Thompson:

Mr. Townsend, did you want anything on the record as to the number of audits or to the capacity of the office to perform those audits? Just for the record, when I said, "Did you want to?" you shook your head "No." Thank you for indulging and still coming up to answer the question.

Paul V. Townsend, Legislative Auditor:

I do need to note that, as a staff member of the LCB, I neither oppose nor support the legislation. I am neutral.

Just to let you know the impact on our office, our audits are approved by the Legislative Commission, so these recommendations would go forward to them and they would analyze our workload at that time. It is limited to four audits during the interim, so I would not really see a problem at all with doing these audits. We are happy to serve the Legislature in whatever way we can.

Chairwoman Benitez-Thompson:

Thank you for the comments. We will make sure that those comments do fall under the neutral part of the testimony. Seeing no other questions from Committee members, do you have any closing remarks, Assemblywoman Bustamante Adams?

Assemblywoman Bustamante Adams:

No. I have no closing comments.

Chairwoman Benitez-Thompson:

We will close the hearing on Assembly Bill 383. We will keep Assemblywoman Bustamante Adams up there and open the hearing on Assembly Bill 493.

[Assembly Bill 493](#): Abolishes the Nevada Commission on Sports. (BDR 18-572)

Assemblywoman Irene Bustamante Adams, Clark County Assembly District No. 42:

Assemblyman Stewart, this is going to be an example of what you were referring to regarding the abolishment of a commission or board, so hopefully that will bring some clarity.

As I mentioned in my last testimony, I had the honor of serving as Chair of the Sunset Subcommittee of the Legislative Commission during this past interim. As a statutory committee we were responsible for reviewing all boards and commissions in Nevada that are not provided for in the *Nevada Constitution* or established by an executive order of the Governor. Hopefully, that answered your question, Assemblyman Ellison.

We identified roughly 170 entities that must be reviewed by the Subcommittee for the next 10 years. The Subcommittee must determine whether those entities should be terminated, modified, consolidated with another board or commission, or continue as presently constituted. At the conclusion of the interim, we recommended terminating two boards: the Nevada Commission on Sports and the Committee on Co-Occurring Disorders. The Committee on Co-Occurring Disorders will be heard in the Committee on Health and Human Services.

We recommended terminating one board and transferring its duties to another agency. We asked for the continuation of 7 boards with further recommendations to the Legislative Commission, and we recommended 19 boards and commissions to continue with no changes.

Assembly Bill 493 abolishes the Nevada Commission on Sports. The Commission was created to promote the development of Olympic training centers, physical fitness in sports, and assist with the Nevada Special Olympics and the Nevada Senior Games.

The Commission did not respond to the Subcommittee's request for information, which was done on more than one occasion. Therefore, it means that no one came forth to defend the need for this to continue. In our discovery, it had been inactive for several years. This is an example of something that was a great idea at one time—it might have served a purpose—but it was never utilized at all. Part of our process as the Sunset Subcommittee is to move those entities out that are no longer serving the state. With that, I will entertain any questions.

Chairwoman Benitez-Thompson:

Are there questions from Committee members? [There were none.] For the process for this Sunset Subcommittee the item was agendized, and then no one came forth. Will you talk more about the process by which you discovered that the commission had become obsolete?

Assemblywoman Bustamante Adams:

The process included the LCB staff sending out a form that was created by the Sunset Subcommittee that asked several questions. Out of the 170, we looked at the ones that did not respond, and the Nevada Commission on Sports was one of them. So we pooled them, since we had not heard from them, and then we continued to try to connect with anybody that was associated with that group. We did not receive a response at all. Then, during the LCB's discovery, we realized that this group had not been active at all. That led to our recommendation for its abolishment.

Assemblywoman Neal:

This is more of a hypothetical question. I know they did not come forward, but in the long term, what would be the effect? We have had these discussions about bringing the Olympic Games here. Is there another entity that would then cover that?

Assemblywoman Bustamante Adams:

Off the top of my head, I want to say yes, that there are some other groups. You will be able to see that one of the recommendations that we had made was to continue the Advisory Council on the State Program for Fitness and Wellness. There are other entities that concentrate on fitness and wellness, and I know that the Lieutenant Governor also had a bill regarding the interest in attracting the Winter Games to Nevada. However, we did not feel that there was any need to have that remain as a commission.

Assemblyman Oscarson:

Do these folks meet quarterly? Do they meet monthly? What is the history of their meetings?

Assemblywoman Bustamante Adams:

For this group, in our form we asked for their operating budget to discuss income and expenses. We asked for their minutes for the last three years. We asked for their audit. We asked for any other information that would be helpful to our evaluation. From this group we received nothing.

Chairwoman Benitez-Thompson:

Are there any additional questions? [There were none.] I will open up for testimony in support. Seeing none, I will move into testimony in opposition. Seeing none, are there comments for the record in neutral? Seeing none, do you have any closing remarks, Assemblywoman Bustamante Adams? [She had none.] We will go ahead and close the hearing on A.B. 493. We will open the hearing on Assembly Bill 408.

Assembly Bill 408: Revises provisions governing business impact statements prepared by state agencies and governing bodies of local governments. (BDR 18-416)

Assemblywoman Dina Neal, Clark County Assembly District No. 7:

I am bringing this bill, which deals specifically with business impact statements, and I have an amendment to the bill ([Exhibit J](#)) which deletes certain sections. I will go through the intent of this bill. There are also some business statements on Nevada Electronic Legislative Information System (NELIS), which we need to refer to in order for you to understand why we are bringing this bill.

Before I get started, I want to ask Carole Vilardo to come sit with me because she is going to give you some more history behind the statements. I am going to keep it general, but Carole Vilardo from Nevada Taxpayers Association always gives very nice, warm details on the background of certain things.

Assembly Bill 408 was brought forward because there were business statements that were being presented by public bodies or local agencies that were not clear or were missing information. Under *Nevada Revised Statutes* (NRS) 233B.0608, the law states that a business index statement must discuss whether or not there is a "direct and significant economic burden upon a small business," and also whether or not there is a beneficial or adverse effect upon businesses, and then discuss who they solicit to make them aware that there is an impact to their business. That is the short version.

What we have are two different statements that I want to jump to in order to help you understand what is going on. On NELIS, if you will look at the statement from Henderson ([Exhibit K](#)), and then look at the statement from City of Las Vegas ([Exhibit L](#)), these are the two statements that we are trying to prevent. As for the others, we will get into degrees of what is a good statement or what is a mediocre statement. However, these two in particular have distinct issues. If you look at the business impact statement from City of Henderson ([Exhibit K](#)), it says the initiating department is Utility Services. It does not have "City of Henderson" at the top, but it is City of Henderson. Do you see that?

Chairwoman Benitez-Thompson:

We have a couple of business impact statements.

Assemblywoman Neal:

Look at the one that says "March 6, 2012," and "Initiating Department: Utility Services," and "Date of Preparation: February 9, 2012" ([Exhibit K](#)). So when you go through the statement you see several questions being asked. Then, when you get to question number 5, which says, "Explain the adverse and beneficial effects," and then, "Explain the direct and indirect effects:" you do not see an answer.

According to NRS 233B.0608, you are supposed to "determine whether or not the proposed regulation is likely to: (a) Impose a direct and significant economic burden upon a small business; or (b) Directly restrict the formation, operation or expansion of a small business." The agency is supposed to engage in certain actions and analyses to prepare a small business impact statement. In this case, you see nothing. Then, on number 6 you see, "Describe the methods considered and/or used to reduce the impact of the ordinance," still a blank. Then on number 7, "Estimated cost of enforcement on this rule," still blank. This is the kind of statement we want to prevent. What information did the business receive in order to help them understand what would be the economic impact of that regulation? If you look at ([Exhibit K](#)), they did not receive what should be required under the statute, even if you just did a plain reading. Questions 5, 6, and 7 needed to discuss the simple explanation of "No adverse effect," or "Beneficial effect," but that is not there.

Now, if you go to ([Exhibit L](#)), we have the same thing from City of Las Vegas. This one does not have the language "City of Las Vegas" at the top, but it says "BUSINESS IMPACT STATEMENT Bill No. 2012-33." Do you see that?

Chairwoman Benitez-Thompson:

Yes. For Committee reference, you should have this on NELIS. It looks like it is a two-page document.

Assemblywoman Neal:

Go to question number 1, and this one is pretty much blank. You have, "constitutes a description of the number of the manner in which comment was solicited from affected businesses . . ." and it says "Not applicable." Then you go to question number 2, "The estimated economic effect . . ." and it says, "None identified." If you see that, it says it was associated with the redevelopment plan or redevelopment area, too. So, this statement from City of Las Vegas gives no information, none, to help a business determine whether or not there is an impact that is going to be imposed by the regulation.

These two examples are the worst in terms of what we want to prevent and what this bill is going to clarify. Now that I have, I hope, helped you to understand what a business impact statement looks like, and then what a business impact statement should answer, then we can get into the bill. So, let us begin with section 1.

Section 1, subsection 1 defines or adds language to NRS Chapter 233B that says "shall make a concerted effort to determine whether the proposed regulation is likely to: (a) Impose a direct and significant economic burden" Now, my amendment ([Exhibit J](#)) clarifies what a concerted effort is. I received a few emails over the weekend asking, "What is a concerted effort?" That is not legally defined, so I attempted to define "concerted effort" based on what I think the Legal Division thought I meant, which is "the communication with or to; or the exchange of information that is designed to receive information from affected parties related to the proposed regulation." That definition may or may not fit other people, and if someone has a better definition that fits, I am open to that, but that is how I have defined it. That is the new language that comes into section 1 that would be added to the statute.

The second part under section 1, please go to subsection 2, paragraph (b), lines 9 and 10, where it says "Conduct an independent analysis of the likely impact of the proposed regulation on small businesses." The reason why that language was put in there is because when you look at the two statements from City of Las Vegas ([Exhibit L](#)) and City of Henderson ([Exhibit K](#)), there was a question of if you had had a different or a third party evaluate this, maybe we would have received some answers. There is a possibility that when the board has to review a business impact statement, they may not be able or capable. So this was just to try to clean up that language, but in my amendment I had to explain what "independent analysis" is because some of the debate that came up over the weekend was what to do without legal counsel on staff. Or, if I have legal counsel on staff, does this exclude that person? What I added to clarify that language in section 1, subsection 2, paragraph (b), is that "[i]ndependent analysis means analysis by independent consultant or legal staff of the agency whichever is fiscally responsive for the agency." ([Exhibit J](#))

The reason why I lean towards that explanation is because we want a good statement, but are we trying to make you pay \$25,000 for an independent analysis or go get an independent attorney? No. So, I wanted to clarify that, and if someone feels there is a better way to explain that, I am also open to that discussion. I wanted to set that out there.

When you get further into section 1, and you see the new language that is being added in lines 24 through 36 on page 3, it adds the new language that

this agency shall prepare a statement identifying the methods used by the agency, "and the reasons for the conclusions of the agency." It also adds "the director, executive head or other person who is responsible for the agency shall sign the statement certifying that a concerted effort was made to determine the impact." Now, the meaning behind that particular section is to add the reasons. So, you not only wanted the agency to prepare the statement, but you wanted them to discuss the reasons for the conclusions as to why they believe that effect, beneficial or adverse, would be there. You wanted the director or executive head who was responsible to sign the statement so you know if there was a hierarchy in terms of who reviewed it, who signed off on this, who seems to be in a better position, or knowledgeable position, to know that this statement was correctly prepared and that there was a well-thought-out process in terms of what was adverse and what was beneficial to a business.

When you get to section 1, subsection 4, lines 29 through 36 on page 3, this further clarifies that each adopted regulation which is submitted to the Legislative Counsel must be accompanied by a copy of the small business impact statement and the statement made pursuant to subsection 3 of NRS 233B.0608. If the agency revises a regulation after preparing the small business impact statement and the statement made pursuant to subsection 3, the agency must include an explanation of the revision and the effect of the change on the small business. This is just a clarifying point to help you understand that if there was a reason or conclusion stated, that there is a statement that accompanies it to the Legislative Commission, which helps the Legislative Commission not only review a regulation, but also understand what was the intent of the revision without having to go and call five other people to the table. At least you have a backup piece of information that can help you understand why that was revised.

Now if you turn the page to section 2, this is just new language on line 1 on page 4, dealing with "[t]he manner in which the independent analysis was conducted," making sure that in the actual statement itself you discuss the manner in which this independent analysis was completed to further clarify for an outside business to help understand how it was done.

If you go to lines 21 through 26 on page 4, you have new sections added. Paragraph (h) adds "[t]he reasons for the conclusions of the agency regarding the impact of the regulation on small businesses." Once again, this relays that director is signing off on that conclusion.

I think there are a lot of things that just repeat over and over clarifying language in certain sections. However, if you go to section 6, starting on page 6, line 39, you have, "Before a governing body of a local government adopts

a proposed rule, the governing body or its designee must make a concerted effort to determine whether the proposed rule will impose a direct and significant economic burden upon a business." In section 5, subsection 4 that language "Notwithstanding the procedure" where you are going to be able to go into court is being deleted. We do not want to be over burdensome. My understanding is that there is already something in statute that deals with when a court may be part of this process, but at this time it is not just because a small business is aggrieved by the statement. That is being deleted. That language also shows up again in section 8, subsection 5, and that is also deleted.

I need you to understand those two things are being deleted, but everything else repeats that "concerted effort" and whether or not a director should sign off, and a chief legal officer, and then the independent analysis. What is also added in my amendment in section 7, and Las Vegas Metro Chamber of Commerce has a better proposed language for section 7, is that I added under section 7, subsection 4 that "[a] public body shall not pass out a proposed regulation on the same day as the hearing of the proposed regulation. They must wait at least 48 hours" ([Exhibit J](#)). That was just trying to answer some questions that came up over the weekend that I did not address. You want some kind of delay in order for them to evaluate the statement.

I want to let Ms. Vilardo talk more about the other two statements that you have on the record, which came from the Department of Taxation, and the Department of Employment, Training and Rehabilitation (DETR). She has more background history, and I think she is better able to explain that to you.

Carole Vilardo, representing Nevada Taxpayers Association:

I guess my history is because we were involved with this regulation when it was first proposed to the Legislature. If you look on the front of your bills, all of them show a state impact and a potential local government impact. We went through a period in the 1990s where there were more and more regulations being put on business and fees being tacked on. To that point, Senator Raymond Rawson, who was obviously in the Legislature at that time, wanted to put some sort of a business impact statement in so that the agencies could identify a number of points, chief among them one of the problems we were having, some local governments at this time were adopting regulations to set fees but using federal forms. There were already fees being paid to the federal government for the same exact issue. In this particular case it happened to be some air quality issues. The local government was doing nothing different than the feds were doing, other than collecting additional money for it.

We had instances at the state level where the state was imposing fees and we would have restrictions. In fact, we had a case, and this was at the same time we were getting a ballot question that would allow the Legislature to review regulations, where an agency which did not get an amendment to their legislation during the session before, held a workshop 30 days after the end of session, and tried to put in what the Legislature would not accept in the bill. They tried to do it through regulation, which would have had a severe impact on business. Be that as it may, that is part of the genesis that led to the creation of the business impact statements. When they were first done, everybody was very aware of them and made a very good effort to comply.

Assemblywoman Neal has taken you through some of the local government impact statements at this point. The two opposite ends of the spectrum are two of the statements I submitted from state agencies. I work primarily with the state agencies and the Employment Security Division, and if you look at the impact statement from Employment Security ([Exhibit M](#)), you will see that it is very thorough and very detailed. Not only that, but that agency has a specific hearing for small business on their impact statements to make sure that there are no questions, or if there are any challenges to statements that have been made, et cetera.

Interestingly enough, because the statements are so detailed and follow what statute requires, because of the explanations and the interface, I had never before been at a meeting where there were no objections, even this last time when rates were being raised. One person started to object at the first period of public comment; at the end of the second period of public comment when he had heard the rest of business and explanations from the agency, he turned around and said, "I am sorry. I did not realize the situation we were in, so please disregard my earlier comments." I found that extremely telling, in part because it was a very well done statement.

To the reverse of that is the Department of Taxation's business impact statement ([Exhibit N](#)) that was created on the comped-meal issue, which I think everybody is probably aware of—an extremely controversial issue. In this particular instance, if you look at the business impact statement from the Department of Taxation, I actually could not find any restaurant that had been notified the regulation was being considered. Nobody had seen the business impact statement. It appeared the first time that there was a hearing on the comped meal workshop. I had a copy of it, and I had saved a copy of it. In the subsequent hearings that were held on that proposed regulation, the impact statement went away. It was not archived on the site. It was no longer a part of the regulation, and the interesting thing about that was, if you take a look at where it talks about adverse or beneficial effects, you are going to find that it

says insignificant as to the impact. That probably would raise more money for business because they would be able to have the collection allowance, because they would be remitting by the exact wording. The exact wording is "unknown likely insignificant, if any, because the small businesses have the ability to collect sales tax from their patrons or employees and simply add it to the gross receipts on the sales tax return that they already file on a monthly basis."

Jumping to the last sentence, "small business would benefit because they would be able to deduct or keep the collection allowance for collecting and reporting the tax." That is actually quite bizarre because they are going to have to pay, and when you look at employee meals, where the employee meal is provided by the restaurant or the hotel, the employees, in the majority of cases, do not pay. It is strictly the business that pays. Yet, it was not going to have any impact on these businesses.

At any rate, when that issue was raised during the workshop about the impact on small business, the Deputy Attorney General said, "No. There should be no impact," and the business impact statement was not relative. That is among the reasons that we spoke to Assemblywoman Neal insofar as trying to beef this up. It is not the intent to make it more difficult for the agencies or for the local governments. It is to try to work with them so that if they are putting something through, they understand the impact on business, no different than if you want to know the impact on the state because of a law that you are passing, or the impact on a local government.

Nevertheless, the Assemblywoman said that there was another amendment that was needed, and there is. The business impact statement and the amendment that we need should be available when the regulation is noticed for workshop. It needs to be available at the same time. Otherwise, we would wind up seeing it after the fact.

For the state, it is probably something that needs to be amended in section 1. Relative to local governments, I think probably section 6 where we are speaking to when the rule/ordinance, which is usually what they are, is to be adopted, the business impact statement would be available at the first reading of that ordinance or rule. Again, the business could make a challenge.

I also want to make it very clear, and it was put into statute for both NRS Chapter 233B and for NRS Chapter 237. We understand, particularly at that time in the 1990s you did not have the facilities and the availability of technology to notify every business, which is why, very specifically, an agency or a local government can notify those trade associations that would logically be involved, and you rely on those associations to then go out. It is not as if we

are saying you have got to notify every business and that if you do not, or if you do not show that you have notified every business with the new provisions, then the regulation is going to be knocked out. That is not the case. If you notify the trade groups, that is perfectly acceptable.

There is one other thing I know I had mentioned that is a concern to local governments, and it is in section 7, subsection 2, line 29. That is, "The chief legal officer for the governing body of a local government shall sign the business impact statement." Existing law already has a provision where if a person is aggrieved, they can go to court. My understanding, and although I am not an attorney, it does make sense to me, is that if the legal officer signs off on this, and then there would be a subsequent court action, they would have to disqualify themselves, and you would be looking at outside counsel. They would like the same type of language where you have the agency or department head that signs off on the regulation, and that struck me as something that was logical and needed to make the bill something that would work between the local governments and the business community.

Assemblywoman Neal:

Is everybody clear on what is happening? Let us retrace some steps. We did a compare and contrast of two local business impact statements from the City of Henderson and the City of Las Vegas. Both of those were not good statements. Then Carole Vilardo gave you some background history. We probably should have had Ms. Vilardo do the history first, and then the bill, but it went in reverse. Then she compared and contrasted between the Department of Taxation and DETR. The statement from DETR was good. On the other hand, the statement from the Department of Taxation was not so good. It had very vague, broad statements, and number 2 had a line next to it.

We took the locals separately, and then we did the state departments. Now, the reason why you have not had a discussion on the City of North Las Vegas local, which was not included in my discussion, is that it looks like it was a very detailed statement ([Exhibit O](#)). However, in my understanding, they copied someone else's statement. Therefore, it was not specific to the City of North Las Vegas, so I did not deal with it. On the surface it looks like they did a great job, but they duplicated someone else's work and it is not specific to the City of North Las Vegas.

Now we know what we are playing with as far as statements. I accepted Ms. Vilardo's amendments and her clarifications and added clarifying language to my bill. Ms. Vilardo is not in opposition; she is not neutral; she is in support. Because she has such a strong history in all of the details of what goes on in these little meetings, I thought it would be very beneficial to me for her to

explain what the issue was concerning, specifically in section 7, because I would not have known that. I was just deleting courts having the ability to sue. Does that help everybody? Are we on somewhat of a baseline?

Chairwoman Benitez-Thompson:

I think so. Let us go ahead and start with questions so you folks can look for clarification where it is needed.

Assemblyman Livermore:

I want to reflect back to when I was a county official. There was a board action form that showed the action the board took that day, and down towards the middle of the page was a block that asked if a business impact statement was needed, yes or no. If it needed a business impact statement, then it would be a board action prior to the action. Let us just say we were going to do something about raising business license fees. There would be a finding that a business impact statement needed to happen. At that point, there would be discussion about whether it was detrimental, or supported by the chamber of commerce, or a business trade group, or a builders' group or something like that, and you would make a finding of significance that this either did, or did not, create an impact to a business, or a statement like that. That does not mean that the outcome is going to be that, but the board had made that determination for its own information.

Then, the next action would be to increase business license fees by 2 or 5 percent, or whatever. You made that finding that it is detrimental to a business if you are going to increase fees. Then the debate and discussion went on about the subject title, and there was a motion made, and it was carried or defeated. I have been gone from there for two years, and I do not know what is there now. I have not seen any changes made, but there is always a finding of a business impact statement prior to the event. From that point, the board would take a motion that we find that there has been something significant or detrimental to business start-up, or business creation, or to continue operation of business. They make that public finding. I just wanted to let you know so you can put that on the record that, at least in Carson City's perspective, that is the way it was followed out. I hope that meets what you are trying to accomplish in this sense here.

Assemblyman Ellison:

We just had three incidents within the last couple of years with municipalities where they went forward and had the first hearing, and they were getting ready to go for adoption when we went in and stopped it because of the large impact on small businesses. This could have been devastating to the little bitty guys. We were able to catch it. We got ahold of the Legislative Counsel Bureau (LCB)

and got some rulings. Then we went back to the cities and made them start all over again. Without that impact statement, you would have probably put 10 percent of those businesses out of business.

That business impact statement was allowed to go back. They put it back on the agenda, and sent out the notices. However, one thing that got me on this one, because I agree, we need to have these things done, but you said notify trade groups versus the individuals. Could you explain that? That is where you threw me off.

Carole Vilardo:

If you go to line 1 on page 7, you will see that is already existing language. When the bill was originally drafted and passed, there was a great deal of concern that there might not be the wherewithal or the money to be able to notify every business that was impacted. There was agreement by all of us who supported that legislation that trade associations were acceptable, if you were not in a position to notify every single business. That is existing language.

The point I wanted to make was that this was imposing a burden, because we were addressing it as the impact statement on business. You talk about being able to identify who you notified, and we wanted to be able to have that comfort level that we were not putting an undue burden on the local governments. Therefore, we said, "You notify the trade associations or the businesses," which satisfies the information. We are not trying to change that right now. So that was the only thing, and I am sorry if I confused you with that. That is existing language.

Assemblyman Ellison:

Basically, under section 1, subsection 2, paragraph (b), that follows along the same lines, is that correct?

Carole Vilardo:

That is correct.

Assemblyman Daly:

A couple of questions and we will get to the actual bill in a second. Help me here. When I look at NRS Chapter 233B, it is about state regulations. So if the housing division or someone is going to do regulations, do they go to the cities and ask for these impact statements? My understanding is that the City of Las Vegas does not go directly to the Legislative Commission; they are just asked by a state agency. Do you have a similar or different situation if they are going to create an ordinance or do a city code or a county code? Is that correct?

How are these city impact statements affecting state regulations? Help me fill that in.

Carole Vilardo:

That is why you have the two different sections. What happens is you have NRS Chapter 233B, which only affects state agencies, and so is the procedure that would be followed within the regulatory scheme of NRS Chapter 233B, which is the Nevada Administrative Procedure Act. For the local governments what you have happen is that each of them is responsible almost like they are a self-contained administrative procedure act and that is in NRS Chapter 237, which is a miscellaneous section, if you will, for local government governance. If they put out an impact statement, let us say that the local housing division is going to do something that requires a developer to add some extra steps, or additional reporting with some fees associated. In that situation, they would be required to do the business impact statement.

If a state housing agency were to affect the local government, not the developer, but the local government by what they wanted done, this does not come into play. There is another provision in statute that says if a state agency is going to have a local government do something, or turn over a service or function, or on the reverse, if the local government is going to have a state agency do it, then there is a provision where they sit down and discuss the cost of doing it, the transition, et cetera. However, this is strictly government to business. I hope I answered your question.

Assemblywoman Neal:

Just for quick clarification, section 6 deals with the local governing bodies, and then before that you have amendments to NRS Chapter 233B, then you are talking about the state agencies. If you were to segregate the bill from sections 1 through 5, the application I think is to NRS Chapter 233B. Once you get to section 6, NRS Chapter 237 kicks in for local governments. That is why I was saying in my explanation that there was duplicative language where you see the same language inserted, but it is inserted in its application to the state agencies and the local agencies.

Assemblyman Daly:

I see the two sections. One is for if they are doing an ordinance or a code for the NRS Chapter 237 part, and then the NRS 233B is for state agencies. Then, as you explained, there is some overlap, depending on what is being done. You hit on a few things that I had written in, and I had concerns with it, and I do not know if it has been fully addressed or not, which was the "concerted" activity. One definition is, "with great effort." Who is going to decide how much effort was necessary? It is a subjective definition.

Same thing when you talked about independent analysis. Who is going to be recognized as independent analysis? Did you do an impact statement on how much it is going to be for them to do independent analysis?

Finally, the concern about having to sign that it is accurate. I would not sign that something is absolutely accurate. I would sign if it was accurate to the best of my belief, or to the best of my knowledge, or I believe it to be, but to certify that it is accurate on these types of things when you just cannot really know, I do not think anyone would ever do that. I think you did address the part about the courts. I had concerns about going away from administrative or internal relief, and going straight to the court. I think you addressed that.

Assemblywoman Neal:

On section 1, subsection 1, the "concerted effort," and also in section 1, subsection 2, paragraph (b), that language can be flexed ([Exhibit J](#)). I just needed to come up with something that at least somewhat dealt with the intent. I think what was intended with concerted effort was that you have a conversation with the affected parties that are a part of the communication or the exchange of information related to the business impact statement. Based on the blank statements, there was no effort to have a conversation. Therefore, if there are suggestions from the Committee on "concerted effort," or the deletion or addition of another word, as in "diligence," I am open to that. I was looking up words that would mean the same but would be inclusive to the exchange of information.

In addition, with "independent analysis," if there are suggestions of how to further strengthen that language, I am open to that. I am not sure, but the Las Vegas Metro Chamber of Commerce has an amendment, and it is a friendly amendment, and I accept their amendment. I am not sure if they deal with that at all, but there might be somebody else who comes to the table in neutral or opposition dealing with those two sections themselves.

Chairwoman Benitez-Thompson:

I think what we will do is we will get through this first round of questions, and since it is a friendly proposed amendment, we will bring up a member from the Chamber to discuss it. It looks like there are two different proposals within this amendment, so we can talk about each one of those.

Assemblyman Oscarson:

Ms. Vilardo, if I can ask you a few questions, I would appreciate it. Is there a way that we can just put together a form of some kind? Because it seems that these questions are being answered differently by two or three different

entities that we saw. Could we have them submit that form, and have them do that with the language that we want to answer those specific questions?

Also, I heard you reference Senator Rawson in your testimony. When you were there when he did this, is this the intent of what he meant to have happen? Have we deviated from that? Have we strayed? I realize with technology and all those kinds of things that we have updated some things, but is this the intent of the original legislation? Or have we taken it in a different direction?

Carole Vilardo:

The last question first: No. Senator Rawson originally wanted some provisions that even the business community agreed were a little bit onerous and would have stopped government and business at some point. I think this is continuing with the direction. I think where Assemblywoman Neal has tried to make sure it stays on track is, as you see from the differences as we have gone through different administrations with different people doing this and being aware of what to do, we have kind of lost some of the original, "Yes, we are really going to comply with this."

As far as the form, you actually lay out in statute everything that you need to have and each situation is going to be different. I am sure you could do the form, but actually, when you look at the statements, they are listed in the same order as is in statute, those provisions they are supposed to answer. The problem is the answers have gotten to the point where they are almost nonanswers.

Assemblyman Oscarson:

I appreciate the attempt to clean that up and make sure that it is not confusing. I guess I go back to some of the counties and entities that are filling out these forms, and probably had some transition in people. They have had cutbacks and layoffs and all those kind of things. So, with different folks doing this, I was just trying to figure out if there was a way we could streamline this process for them and make it less labor-intensive, so to speak.

Carole Vilardo:

If they notify the trade groups what the regulation is, and what they are attempting to do, the trade groups will provide a lot of the information that they need. They just need to distill it and put it into the paragraph. I am not going to speak for them, but I doubt it should take as much time as it did to work on a regulation or ordinance. I would think that if you have that communication going, it should be something that is relatively perfunctory.

For the record, I am speaking in support of Assembly Bill 408.

Assemblywoman Bustamante Adams:

Is there a consistency in the person from each entity that is filling out the report? Or, does it vary from possibly a clerk, to somebody who is in the accounting department? Who fills out these economic impact statements? Is there a consistency to streamline the process from what Mr. Oscarson was asking?

Assemblywoman Neal:

I know this is going to sound odd, but I do not know who is responsible for filling out economic impact statements. I just asked Carole Vilardo, and she does not know either. Maybe that is something we need to clarify whose responsibility it is.

Chairwoman Benitez-Thompson:

Maybe to get a sampling, or a feel, because I know that we have some local and state folks in the room, maybe they could give us some feedback on which they have. Because, with such a big scope, depending on which agency it is, and which subcommittee or commission, we have got a lot of different types of ground we are covering here. Maybe we could get some feedback regarding what their practice is now.

Assemblywoman Neal:

I think we do have at least two of the local agencies here who can answer those questions.

Assemblywoman Bustamante Adams:

Is there a penalty for copying between agencies? If you copy a report from one to the other, there is no penalty?

Assemblywoman Neal:

No.

Assemblyman Livermore:

As kind of a follow-up to my original discussion about the process, there were issues that may have been identified by staff to have no fiscal impact, but the selected board members saw that we could not do this or complete this until the business impact statement was accomplished. So, whatever the matter was, it was delayed until the impact statement was prepared and placed on a future agenda. At least that has been my experience.

Chairwoman Benitez-Thompson:

Let us go ahead and have Ms. McMullen walk us through her amendments.

Erin McMullen, representing Snell and Wilmer L.L.P., and Las Vegas Metro Chamber of Commerce:

What we proposed was, as Assemblywoman Neal suggested, an amendment that clarified a few provisions ([Exhibit P](#)). I can just walk you through those first. But just for the record, the Las Vegas Metro Chamber is in strong support of this bill, and these are, as was mentioned, friendly amendments just intended to clarify the original intent of the bill.

The first one would be in section 6, subsection 2, on page 7, from lines 13 through 19. That would just eliminate subsection 2 that allows for a rebuttable presumption to be made that if no comments or arguments are received by the local governing body on behalf of small business that this will have an impact, that it is deemed to have absolutely no impact on business. I think striking this would help to clarify the idea of a "concerted effort," because as you will see through the other provisions in that section there are other requirements where the local governing body has to then make its own determination whether the proposed rule or regulation or ordinance would have an impact on business.

I think the idea behind this is some of the things that we have seen, as a trade association does not receive notification for some reason, or a business has moved, or it does not receive the notification, sometimes that is outside the time period. So, if for some reason an entity were not able to get those comments in, then it would be deemed that there is no impact under this provision. However, there may be cases in which extraordinary circumstances would mean that there would be an impact, but this would just allow for their local governing body to make that concerted effort and determine that on its own.

The second amendment is similar to what Assemblywoman Neal proposed in her amendment for section 7 of the bill. That would be to add, in mine it is subsection 3 because I just used the statute as it currently stands, but it would be a new subsection 4, and that would state that the governing body shall not hold the public hearing required under subsection 1 of that same section to consider the business impact statement on the same day or agenda that the rule is being adopted. What we have seen a number of times in the local jurisdiction is agenda item 3 will be considering the business impact statement and determining whether the proposed rule has an impact on business. Then, agenda item 4, right after that, will be to adopt the rule. In NRS Chapter 233B, and in NRS Chapter 237 for the local governments, the provisions as they are written now say that the local governing body or the state agency should have time to mitigate or reduce the impact on business if it is applicable to do so. We just think having those back to back on the same

agenda really does not provide for that opportunity to reduce the impact on business.

Those would be the two amendments. I would just like to echo the comments of Carole Vilardo and Assemblywoman Neal. I thank her so much for bringing this forward to strengthen and enhance these provisions and make sure that these can be done properly.

Assemblywoman Bustamante Adams:

Ms. McMullen, do you have any suggestions on Assemblyman Oscarson's question about bringing consistency between the governing bodies?

Erin McMullen:

I think the idea is, obviously, that all jurisdictions are different. Therefore, the requirements are set out by statute. As you will see, they all have similar questions based on the requirements in the provisions: the beneficial and adverse effects, significant financial burden, et cetera. Moving through those, I do not know that there could be something, because they are all treated differently. As I was just mentioning with some of the local government entity representatives here, in answer to Assemblywoman Bustamante Adams' questions, there are obviously some cases where it is jurisdiction-wide. But some kind of proposed rule is being made, so there will be similarities in the business impact statements. But, then again, each one has distinct obstacles to go through. So, simply cutting and pasting will not really give the idea of how it will impact business in that specific jurisdiction. I would be willing to take it back to my clients to see if there is something we can help do to make some sort of form, but I would leave that up to the entities, if that is consistent and helps them.

Assemblyman Oscarson:

I think I was just looking at the disparity between the responses, the same thing Assemblywoman Neal was concerned about, because there seemed to be so much difference in the way those questions were responded to or not responded to at all. That was the intent of my question. I think Assemblywoman Bustamante Adams as well, although I cannot speak for her, is trying to establish some consistency in the way that is done, and again, to her question, who is doing that. We talked about communication and speaking among themselves, how they come to the conclusion, and utilizing trade groups and those kinds of things. Thank you for your response.

Erin McMullen:

I would agree that consistency would help. I think, as Carole Vilardo mentioned, they distill the information that they receive from the businesses, and if they just had to plug it into the certain categories that pertain to the business impact statement, and they were uniform across the board, that would be tremendously helpful. I will let the local government agencies talk about who fills them out, but my understanding is that it varies depending upon the jurisdiction.

Chairwoman Benitez-Thompson:

Are there additional questions from Committee members? Seeing none, thank you for your testimony. We will open up to additional testimony in support, either from here, or in Clark County.

Peter D. Krueger, representing Capitol Partners LLC, and Nevada Petroleum Marketers & Convenience Store Association:

We thank Assemblywoman Neal for this bill. I just want to say that we are strongly in support of it, but I want to give you one quick example of why we support it. Within the last 90 days, I attended a meeting where a state agency was looking at changing a regulation. It was very controversial. The way that the business impact statement was developed was the bureau head went around and asked those people who were supporting the regulation if it has an impact. Likewise, he asked the people in opposition to the regulation. You can imagine their responses. For those of us who opposed the regulation, of course it had an impact, and we had our reasons. The other side said the opposite. That is not the way to conduct business. It really was not even following the provisions of NRS Chapter 233B. Therefore, we believe that all of the provisions plus the amendments that have been discussed so far are beneficial and will help business. This will help the agencies better understand the impact of their proposed regulation or ordinance. Thank you.

Tray Abney, representing The Chamber:

We strongly support this bill. We support all of the amendments that have been proposed. We want to thank Assemblywoman Neal, the Las Vegas Chamber, and Ms. Vilardo for their hard work on this.

I do want to point out, Madam Chairwoman, that you did not see any example from northern Nevada governments, as far as bad examples go. The Chamber has a very good working relationship with the governments in Washoe County, and we feel that it is a very positive one. That does not mean we always agree with the decisions they come to, and that there are not things done from time to time, but overall, we think the Washoe County governments are very positive. In the 20 months that I am not in this building every day, this is

something that I work on all the time. This is vitally important to the day-to-day operations of small businesses. Again, we would like to thank Assemblywoman Neal, and we stand in full support.

Chairwoman Benitez-Thompson:

I saw northern Nevada poke up with a little bit of pride there. They have your back on that statement.

Bryan Wachter, representing Retail Association of Nevada:

We thank Assemblywoman Neal very much for this bill. We appreciate the goals. We agree with Ms. McMullen that it might be difficult to identify a single person within each agency or department who might be responsible because that may change depending on the particular topic. We would hate to limit that particular responsibility to someone, making it a clerk, or a secretary, or legal. We would at least give the regulators that much leeway to be able to identify the person they find most responsible for the particular subjects. However, we do appreciate the bill. I think Ms. Vilardo brought up earlier the comped-meal problem that we had. I think it was very evident that there was a small business impact, but yet, the statement was blank to the point that, after the third or fourth hearing on that bill, we still did not have a small business impact even though we probably spent about 10 to 15 hours listening to small business issues. So, we really do appreciate this goal.

Assemblywoman Bustamante Adams:

Mr. Wachter, I understand what you are talking about with the flexibility. However, would it be just a simple criterion that the person could type so that they could complete the report? Do you want to put some kind of parameters that they have some knowledge of what they are putting on that paper? The variance from entity to entity is alarming to me. That concerns me because I am not sure how to apply it to small business, or even find the information credible, even if we have a signature from an executive within that body. Something just does not sit right with me about that, and I am not sure how to put it into words, but it concerns me that we are too flexible in that sense.

Bryan Wachter:

We would agree. It is difficult, especially in Clark County, to be able to navigate between all the jurisdictions, not to mention the state. Some consistency would be helpful. Especially, I think, anecdotally we find that once one of the local entities in southern Nevada adopts a new regulation or method, the other jurisdictions follow suit. So, Clark County will adopt something, and then the municipalities will jump in, and it is amazing to see the difference in the impact statements on the exact same topic among all the jurisdictions. So, we would agree that consistency is good, and I am with you,

but I am at a loss as to how to figure out how that would specifically work. However, we are happy to continue to work with the stakeholders.

Chairwoman Benitez-Thompson:

Are there additional questions? Seeing none, thank you for your testimony, gentlemen. Do we have additional testimony in support?

Terry K. Graves, representing Henderson Chamber of Commerce:

We would also like to lend our support to the bill, along with the proposed amendments. Also, we would like to thank Assemblywoman Neal for bringing this forward. I think it is a very good thing for small business. I will conclude my comments as most of them have already been stated. Thank you.

Andy Belanger, representing Las Vegas Valley Water District:

We also support the bill as amended. We recognize that the business impact statement is an important tool and that in the past it may not have been as complete as it needed to be. We believe the amendments go a long way to making that process more transparent and more open for the business community as they look at rules that are being adopted by local government. Thank you.

Chairwoman Benitez-Thompson:

Thank you very much. I appreciate your comments for the record. Are there any questions? Seeing none, let us go ahead and move into testimony in opposition.

Marla McDade Williams, Deputy Administrator, State Health Division, Department of Health and Human Services:

We are not necessarily in opposition to the bill, but we just wanted some clarification on the independent analysis section. I know Assemblywoman Neal talked about extending that to legal counsel who could serve as independent for us. When we do regulations it is our deputy attorney general that we run the approval process through. So, if that can serve as the independent, then we can adapt much more easily to this. If we need to go out and retain different counsel than our deputy attorney general, or some other consultant to do an independent analysis, there is a fiscal impact to us as a state agency that we would then have to move through the budget approval process for us to be able to adapt to.

We do not have any concerns with the other changes that were made by Assemblywoman Neal. Those make it much easier for us to comply, and we would be neutral at that point. The only other thing I would offer is that I know there is concern about who prepares the statements and the variability in them.

I guess the only thing I can offer is that in section 4 it does say that the subcommittee or the Legislative Commission can reject if they determine that the statements are inaccurate or incomplete or did not adequately consider or significantly underestimated the economic effect on the regulation.

For us, we administer multiple chapters of the *Nevada Revised Statutes*. We have multiple people actually preparing the business impact statements and working with our regulated industries. We do run that through a centralized process through our administration as well as our deputy attorney general. We do our best, but you will see differences in writing, and in perspectives, and those are things that we are always trying to work through when we bring back a product. That concludes my comments.

Assemblyman Ellison:

Under section 7, subsection 1, paragraph (g), would that not answer your question? Because it says, "The chief legal officer for the governing body" Would that not be your designee—whoever you wanted to appoint to do the legal findings? It seems like that would be there, to answer that question. Maybe I am not getting it, but that seems like it is there.

Marla McDade Williams:

I think it goes to the independents. So our legal counsel, as our deputy attorney general, is not a third party that we go out and engage on every new issue. She is there for us all the time. We are looking for that clarification about the independence of the legal counsel.

Chairwoman Benitez-Thompson:

For the record, we will clarify that we are looking in NRS Chapter 233B, which is sections 1 through 5. Sections 6 through 8 are for local governments. So, you are looking for that clarification within NRS Chapter 233B?

Marla McDade Williams:

Correct. That would be on page 3, lines 9 and 10. Assemblywoman Neal talked about the amendments to that section as extending to legal counsel. Again, if it is not independent legal counsel, we can completely comply without any issues.

Assemblywoman Bustamante Adams:

Can you remind me of the group that you are with?

Marla McDade Williams:

I am the Deputy Administrator for the State Health Division.

Assemblywoman Bustamante Adams:

Thank you so much. Within State Health then, who on your team actually completes the impact statement?

Marla McDade Williams:

We would have multiple staff. I have a section under NRS Chapter 449 where we regulate health facilities. At any given point in time, I could have four or five different people working on sets of regulations affecting different health facilities who would be responsible for those small business impact statements. We have child care facilities, contagious diseases, emergency medical services, and so on. So, at any given time we could have 10 different people working on it. The only assurance that we have that there is at least some oversight is, again, that it comes through our administrative office—I, our administrator, and our deputy attorney general—try to ensure that we are being responsive in the way that we are presenting these statements.

Assemblywoman Bustamante Adams:

So, whether it is child care or whatever, the person has expertise in that area?

Marla McDade Williams:

They have the expertise in their issue area, but if you are looking for an economic analysis of the small business impact statements, we do not have that strength. We do not have someone who has trained in economics, or finance, actually running these through; it is program policy staff that runs these through. It is relatively consistent. We have list-serves that we maintain with all of our licensees. In addition to list-serves, we mail out statements. However, our response rate is very, very small. I believe we do submit all of that information to the Legislative Commission, but at the point that people start judging the adequacy of those. It will be interesting to see whether or not what we believe to be adequate right now is adequate in somebody else's view. Only time will tell, as we work through this, whether we will be successful in meeting the intent of the changes.

Assemblywoman Bustamante Adams:

For your impact statement, do you solicit from the Las Vegas Metro Chamber or trade associations? How do you understand what your regulation is going to impact?

Marla McDade Williams:

We primarily solicit to our licensees and our regulated agencies. So, in many cases, if we were looking at a disease reporting system that we want to put in place, we would solicit labs. If we were looking at regulating hospitals, we would solicit hospitals. We generally do not go out to some of the major trade

associations; we primarily work through the Nevada Hospital Association and the Nevada Health Care Association. Those are the two major health facilities, and then we have advisory groups for emergency medical services and different other advisory groups that we would solicit through, but those are the primary ones that we interact with.

Assemblywoman Bustamante Adams:

This is what Assemblyman Healey and I were talking about earlier, where we have these requests that are put out to these small businesses, but the response rate is really low. So, let us say, just hypothetically, there are 500 licensees in this particular area, but our response rate could be 10. Is that an adequate sample? Because the agency could say, "Look, we tried, but nobody responded." So, I appreciate the Health Division and your work, but as legislators I think that is where, regarding economic development, we could probably help the governing bodies do a better job. It is not going to help us if these licensees are not responding to what impact this regulation would have on their business. I appreciate your comments and thank you for helping me understand.

Assemblyman Livermore:

I think it is important and significant to the business community and the sustainability of the business community. You can create all the regulations and all of the fees and stuff, but what if you have nobody to collect those from because it has been so detrimental to businesses that they have left the state or the community where it was imposed? That is why I think this business impact statement goes a long way to support regulations and information that may be eventually enacted. I wanted to put that on the record as a businessman for many, many years myself.

Chairwoman Benitez-Thompson:

Thank you for your comments. Are there additional comments for the record in opposition? Seeing none, we will move into neutral. Are there any neutral comments for the record?

Cadence Matijevich, representing City of Reno:

I would like to support the comments that Mrs. McDade Williams made with respect to having to have one centralized individual or department, particularly within a local government. In response to Assemblywoman Bustamante Adams, I think her comments about having the subject-matter expert within the various areas, as an example, within the City of Reno if it is something that has to do with developers, you want our planning staff, our community development folks looking at that. If it has to do with business retailers, for example, you would want our business license staff doing that. So, with the

change that was suggested by Ms. Vilardo that our chief executive officer sign it, our city manager is not going to sign something that is a canned response. City managers take these responsibilities very seriously. They will look at something and ensure that it goes back to a department head if it has not been adequately answered. So, I think those measures and protections are there, but I think for the benefit of the industry that is potentially impacted, you want the subject-matter expert within the individual departments to be looking at these.

Assemblywoman Bustamante Adams:

I applaud you because yours was not an example of what something bad would look like. When the city manager does sign off on it, is that person the last stop?

Cadence Matijevich:

In our case, yes it would be. If I can further explain, these will often be vetted in various areas. As I said, the subject-matter experts in the area that oversees the regulation will often work with the finance department and the city attorney's office as they are determining the impact of proposed ordinances in our case, and so they would complete their due diligence, and then the final signature before it is prepared to be presented to the public on a city council agenda would in fact be, in our case, the city manager.

Assemblywoman Bustamante Adams:

Thank you. Do you have a formula that you use to determine the appropriate scope of people or businesses that you are going to impact? Is there a cut-off point to say, "Look, we have had a response rate of 60 percent and that is satisfactory." If you had a response rate of 10 percent that would not be satisfactory. Is there a formula? How do you deal with that?

Cadence Matijevich:

I do not believe so. It is hard to put a number on some of those. If I may, I will try and give you a real life example of one of these that we have had in the recent past. In 2012 we adopted ordinances relating to food trucks. Food trucks are kind of a new thing, or at least they are evolving, and now they are a little different than what they have been in the past. As we did our outreach, in some ways it is hard to know what 10 percent is. If you go out to a restaurant association thinking that perhaps you are going to get all of the food truck operators, you may get 90 percent of the brick-and-mortar restaurants that come back and say no impact. Putting that kind of a number on an association may not necessarily ensure that you are reaching all the people. So, it is a little bit more subjective than that, and I think most local governments—I cannot speak for all, but I know for the City of Reno—that we

do make a concerted effort to ensure that we are outreaching, perhaps even within a niche of the industry that would be most impacted.

Assemblywoman Bustamante Adams:

Do you put that anywhere in your report? In your report, do you put what your outreach is, and how extensive it was, and what your response rate was from the people that you are going to affect?

Cadence Matijevich:

Yes. We are required to include the method by which we have attempted to reach them, if we have had workshops, the number of persons who were contacted, notified about the workshops, the number of people who attended the workshops. So, yes.

Assemblyman Oscarson:

To follow up on my colleague's question, it would seem that you have access to information, business licenses, and those types of things to solicit this information. Those who are not licensed, certainly that is a different issue, in the case of some variables in the business. It would seem to me, and my question really is, do you use that information to solicit those responses? Also, are your economic development people involved in these discussions and conversations? Because, certainly it does impact economic development in your community specifically.

Cadence Matijevich:

To answer your first question, Assemblyman Oscarson, absolutely. We use the records of any business license holder who would be impacted by the potential regulation. We have a little postcard that we would send out to the address that is on their business license. We publish these notices in the newspaper. We do extensive outreach.

As far as our economic development staff, unfortunately, at this point in time, the position of economic developer for the City of Reno is a vacant position. That being said, certainly our business license department, the folks who regulate business and need to understand the impact of any proposed fee or additional license requirement, they are absolutely instrumental. They are, as I said earlier, the subject-matter experts. Oftentimes, it is our business license manager who is conducting the workshops and outreach, compiling and analyzing the response that comes back from them. It is not something that is completed by a clerical staff person; it is someone who conducts intellectual analysis of the information that is received. It is not just a compounding of information. There is analysis that goes into it.

Ted J. Olivas, Director, Administrative Services, City of Las Vegas:

First off, I wanted to thank Assemblywoman Neal for working with us on this bill. We talked to her about it and shared some concerns, and those concerns were addressed. Also, I wanted to thank the Las Vegas Metro Chamber of Commerce. This legislation is something that we have been talking about with the Chamber for over a year. Despite previous testimony about the relationships with southern Nevada, with their Chamber, we are really close with them. We knew that we needed to make some changes. Now that I have looked at those changes and the two amendments, I had not reviewed that prior to signing in, but we are supportive of those. We work closely with Ms. Vilardo as well, and we are supportive of her proposed change. I think we should be good.

Our system is very similar to that of Reno. You have heard that various department experts fill these out, so it is not just one person. They do work closely with our city attorney's office. There has also been some discussion about the form and how it works. I think the statute is pretty clear on what we need to ask, and the process by which we do that. I think the Legislature has done a good job. Clearly, what we are talking about here is content, and so we certainly want to do better in that regard and I think we are there. Thank you.

Assemblywoman Bustamante Adams:

Mr. Olivas, your example was kind of bare, and a lot of it said "not identified." Is that because this particular impact statement had little feedback? Why is there such a difference between some of the others?

Ted Olivas:

This is the first time that I have seen that business impact statement. I have requested some additional information and I will share that with the Committee. What I do know is that the impact statements that are created by jurisdictions vary depending on what the topic is. Sometimes some of this applies; sometimes some of it does not apply. That is why you see a wide range. On that particular impact statement, I am going to need to follow up with some additional information for you.

Lisa Gianoli, representing Washoe County:

I do not want to be redundant, but many of the things that have been said by my colleagues are what I feel as well. I certainly agree that we do not want to centralize this to one person, in that there are many people involved on the front end of this whole process. In our case, it generally runs through our finance department to verify because in most cases they are the ones doing the bulk of these. So, you are going to have eyes on the subject-matter experts, finance,

and legal folks depending on the issue. I just want to be on record with that. I would be happy to answer any questions that you might have.

Steve Walker, representing Lyon County:

I mistakenly signed Lyon County in as opposed to the bill prior to reviewing Assemblywoman Neal's amendment to section 1, subsection 2, paragraph (b) ([Exhibit J](#)). That amendment alleviated Lyon County's concern and we move to neutral on this bill. I would suggest an amendment; if you remove the word "legal" it might resolve some of the issues we are talking about.

Assemblywoman Pierce:

Can you tell us about what you are suggesting?

Steve Walker:

If you go to the amendment on NELIS ([Exhibit J](#)) submitted by Assemblywoman Neal, on section 1, subsection 2, paragraph (b), it reads, "Independent analysis means analysis by an independent consultant or legal staff of the agency, whichever is fiscally responsive for the agency." I am suggesting, since you heard testimony that it would not be just legal staff, and typically it would be financial staff, that if you remove the word "legal," it might be an improvement.

Chairwoman Benitez-Thompson:

Are there any additional comments on the record in neutral? Seeing none, I will go ahead and invite the bill sponsor up for closing comments.

Assemblywoman Neal:

I appreciate the discussion. I want to offer an apology to the Committee. I think I confused you at the beginning that I had a more complex bill than I think. But I had a rough week last week, and I was working on this over Easter, so I would appreciate the deference.

I appreciate Assemblywoman Bustamante Adam's question. She was very helpful in digging out what each agency does, and I hope that you respectfully consider this bill. It is going to do a good thing for small businesses. Thank you.

Chairwoman Benitez-Thompson:

Thank you. We will go ahead and close the hearing on Assembly Bill 408. We are now going to roll into the work session. We have one bill that we rolled over from Friday, and that is Assembly Bill 252. I will go ahead and hand it over to Policy Analyst Jennifer Ruedy to walk us through Assembly Bill 252.

Assembly Bill 252: Makes various changes to the Nevada Administrative Procedure Act. (BDR 18-539)

Jennifer Ruedy, Committee Policy Analyst:

Assembly Bill 252 was heard by the Committee on March 18, 2013. Assembly Bill 252 makes changes to the Nevada Administrative Procedure Act, which establishes the procedures for agencies of the executive branch of the state government to promulgate administrative regulations. [Read from work session document ([Exhibit Q](#)).]

That last sentence of the first paragraph is actually the subject of the amendment that you will see. [Continued reading from work session document ([Exhibit Q](#)).]

Chairwoman Benitez-Thompson:

I will accept a motion to amend and do pass Assembly Bill 252 as presented in the mock-up.

ASSEMBLYMAN ELLIOT ANDERSON MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 252.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

Chairwoman Benitez-Thompson:

Are there any comments?

Assemblywoman Pierce:

I am talking to the supporters of this bill, but I still have some heartburn on this, so today I will vote no, and I will let you know if I change my mind.

Chairwoman Benitez-Thompson:

Thank you Assemblywoman Pierce. She did speak and express her concerns with the bill sponsors, and she had expressed those to me earlier as well. Thank you for that.

THE MOTION PASSED. (ASSEMBLYWOMAN PIERCE VOTED NO).

Assemblywoman Bustamante Adams:

I am not sure who this question is for, but if there is now the stipulation where, if the regulation is not adopted within the two years, then does the Legislative Counsel Bureau keep track of which regulations have been pushed and which ones have not? Who keeps track of that information? I do not have that in my notes.

Jim Penrose, Committee Counsel:

Well, I will tell you that it has been more than 20 years since I have been involved in the process of reviewing regulations, but I know we do keep track of every proposed regulation. I assume that we are able to monitor what the timeline is on the various regulations, but I will confirm that for you.

Chairwoman Benitez-Thompson:

The motion carries. I will reach out to one of the bill sponsors to see if they would like the floor statement. If not, then I will defer it to Assemblyman Stewart. I will open for public comment. Seeing no public comment, I will adjourn this meeting of Assembly Government Affairs [at 10:40 a.m.].

RESPECTFULLY SUBMITTED:

John Budden
Committee Secretary

APPROVED BY:

Assemblywoman Teresa Benitez-Thompson, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: April 1, 2013

Time of Meeting: 8:09 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 303	C	Assemblyman Paul Aizley	Prepared Remarks
A.B. 303	D	Martin Bibb / RPEN	Prepared Testimony
A.B. 303	E	James Wells / PEBP	Unsolicited Fiscal Note
A.B. 303	F	James Wells / PEBP	Press Release
A.B. 383	G	Assemblywoman Irene Bustamante Adams / Sunset Subcommittee of the Legislative Commission	Prepared Testimony
A.B. 383	H	Assemblywoman Irene Bustamante Adams / Sunset Subcommittee of the Legislative Commission	Bulletin
A.B. 383	I	Assemblywoman Irene Bustamante Adams / Sunset Subcommittee of the Legislative Commission	Proposed Amendment
A.B. 408	J	Assemblywoman Dina Neal	Proposed Amendment
A.B. 408	K	Assemblywoman Dina Neal / City of Henderson	Business Impact Statement
A.B. 408	L	Assemblywoman Dina Neal / City of Las Vegas	Business Impact Statement
A.B. 408	M	Carole Vilardo / Employment Security Division	Business Impact Statement
A.B. 408	N	Carole Vilardo / Department of Taxation	Business Impact Statement
A.B. 408	O	Assemblywoman Dina Neal / City of North Las Vegas	Business Impact Statement
A.B. 408	P	Erin McMullen / Las Vegas Metro Chamber of Commerce	Proposed Amendment
A.B. 252	Q	Jennifer Ruedy / Legislative Counsel Bureau	Work Session Document