

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

**Seventy-Eighth Session
May 1, 2015**

The Committee on Government Affairs was called to order by Chairman John Ellison at 8:08 a.m. on Friday, May 1, 2015, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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: www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman John Ellison, Chairman
Assemblyman John Moore, Vice Chairman
Assemblyman Richard Carrillo
Assemblywoman Victoria A. Dooling
Assemblyman Edgar Flores
Assemblywoman Amber Joiner
Assemblyman Harvey J. Munford
Assemblywoman Dina Neal
Assemblywoman Shelly M. Shelton
Assemblyman Stephen H. Silberkraus
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart
Assemblyman Jim Wheeler
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

Senator David R. Parks, Senate District No. 7

Senator Pete Goicoechea, Senate District No. 19

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst

Eileen O'Grady, Committee Counsel

Jordan Neubauer, Committee Secretary

Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Jeff Fontaine, Executive Director, Nevada Association of Counties

Warren Wish, Leader, Carson City Guide Dog Club

Chuck Callaway, Police Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department

Tim Bunting, Deputy Director, Peace Officers' Standards and Training
Commission

Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's
Office

Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs'
Association

Gina Greisen, President, Nevada Voters for Animals

Melissa Boyd, Member, Nevada Voters for Animals

Ronald P. Dreher, Government Affairs Director, Peace Officers Research
Association of Nevada

John Fudenberg, Coroner, Government Affairs, Office of the
Coroner/Medical Examiner, Clark County

Marie Pichler, Founder, Kita's Funding Organization, Carson City, Nevada

Pamela Del Porto, Inspector General, Department of Corrections

Julie Monteiro, Private Citizen, North Las Vegas, Nevada

Vicki Higgins, Private Citizen, North Las Vegas, Nevada

Gary Perea, Chairman, Board of Commissioners, White Pine County

Laurie L. Carson, Vice Chairman, Board of Commissioners, White Pine
County

Richard Howe, Commissioner, Board of Commissioners, White Pine
County

Charles H. Odgers, City Attorney, City of Ely

Melody Van Camp, Mayor, City of Ely

Robert Switzer, City Clerk, City of Ely

Marty Westland, Councilman, City Council, City of Ely

Marion Joseph "Sam" Hanson, Councilman, City Council, City of Ely
Mike Coster, Private Citizen, White Pine County, Nevada

Chairman Ellison:

[Roll was called. Committee rules and protocol were explained.] Today we have a work session and a couple of bills to hear. We are going to reschedule Senate Bill 477 (1st Reprint) because new information just came in. We will start with the work session with Senate Bill 244.

Senate Bill 244: Establishes requirements governing a contingent fee contract for legal services provided to the State of Nevada or an officer, agency or employee of the State. (BDR 18-658)

Jered McDonald, Committee Policy Analyst:

Senate Bill 244 is sponsored by Senator Brower and was heard in this Committee on April 28, 2015. The bill provides that the Attorney General, or any other officer, agency, or employee of the Executive Department, may not enter into a contingent fee contract with a private attorney unless the Governor, in consultation with the Attorney General, determines that the Attorney General lacks the resources, skill, or expertise to provide the representation needed and that the proposed contingent fee representation is cost-effective and in the public interest. [Continued to read from work session document ([Exhibit C](#)).]

Chairman Ellison:

Is there any discussion from the Committee? [There was none.] I will entertain a motion.

ASSEMBLYMAN STEWART MOVED TO DO PASS
SENATE BILL 244.

ASSEMBLYMAN SILBERKRAUS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Ellison:

I will assign the floor statement to Assemblywoman Spiegel. We will move on to Senate Bill 448.

Senate Bill 448: Revises provisions governing the deposit of certain public money in insured institutions. (BDR 31-1141)

Jered McDonald, Committee Policy Analyst:

Senate Bill 448 was sponsored by the Senate Committee on Judiciary and heard in this Committee on April 27, 2015. The bill authorizes a county treasurer to deposit county money in insured deposit accounts under certain circumstances. [Continued to read from work session document ([Exhibit D](#)).]

Chairman Ellison:

Is there any discussion from the Committee?

Assemblywoman Neal:

I do not know how I feel about this bill. Right now, I am going to reserve my right to change my vote on the floor, and I am going to vote no. There is a national trend to take public money and move it outside of the state. The effort is to build liquidity in other banks that are suffering from a cash flow. These types of certificates of deposit and money market funds are actually easily turned into cash. I understand certain parts of the bill, but it does dilute the liquidity of the state banks, which hold or keep the money in our state in terms of credit.

Chairman Ellison:

I will entertain a motion.

ASSEMBLYMAN STEWART MOVED TO DO PASS
SENATE BILL 448.

ASSEMBLYMAN MOORE SECONDED THE MOTION.

Chairman Ellison:

Is there anyone here from the Office of the State Treasurer? I do not see anyone, but if we need to get more information, we can. Is there any other discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN NEAL VOTED NO.)

Chairman Ellison:

I will assign the floor statement to Assemblyman Silberkraus. The next bill on our work session is Senate Bill 473.

Senate Bill 473: Revises provisions relating to the Office of Grant Procurement, Coordination and Management of the Department of Administration. (BDR 18-839)

Jered McDonald, Committee Policy Analyst:

Senate Bill 473 was sponsored by the Senate Committee on Finance and heard in this Committee on April 30, 2015. This bill requires state agencies to notify the Office of Grant Procurement, Coordination, and Management, Department of Administration, of the amount of any portion of a grant received by the state agency that it does not expect to expend fully within the time allowed by the grant. [Continued to read from work session document ([Exhibit E](#)).]

Chairman Ellison:

Is there any discussion from the Committee?

Assemblywoman Joiner:

I will vote for this bill today, but I would like to reemphasize what I heard clarified on the record yesterday. The definition of unexpended funds does not mean every dime that was not used. It only refers to those cases where the funds could be reallocated to another project or are in need of matching funds where publicizing them on a website would be helpful in expending them. I just want to make sure they do not have to report every dime that is not expended because a lot of the grant money has strings attached that does not allow it to be used elsewhere, and it would be very misleading to have those dollar amounts posted.

Chairman Ellison:

When we first started the hearing on this bill, I was really confused on what the intent was. I think they explained it well, and with the representative from the state of Nevada testifying, it brought it all together. I agree with you. Is there any other discussion from the Committee? [There was none.] I would like to entertain a motion.

ASSEMBLYMAN SILBERKRAUS MOVED TO DO PASS
SENATE BILL 473.

ASSEMBLYMAN CARRILLO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Shelton. The next bill is Senate Bill 480 (1st Reprint).

Senate Bill 480 (1st Reprint): Revises the membership of the county fair and recreation board in certain counties. (BDR 20-1113)

Jered McDonald, Committee Policy Analyst:

Senate Bill 480 (1st Reprint) was sponsored by the Senate Committee on Government Affairs and heard in this Committee on April 30, 2015. The bill revises the membership of a county fair and recreation board in any county whose population is 100,000 or more and less than 700,000 (currently Washoe County), by decreasing the membership from 13 to 9 members. [Continued to read from work session document ([Exhibit F](#)).]

Chairman Ellison:

You heard the discussion yesterday to downsize the board. I think it is a good thing. Is there any discussion from the Committee? [There was none.] I will entertain a motion.

ASSEMBLYMAN SILBERKRAUS MOVED TO AMEND AND DO
PASS SENATE BILL 480 (1ST REPRINT).

ASSEMBLYMAN WHEELER AND ASSEMBLYMAN MOORE
SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Ellison:

I will assign the floor statement to Assemblyman Wheeler. Next on the work session is Senate Bill 482.

Senate Bill 482: Makes various changes relating to elected county officers. (BDR 20-1117)

Jered McDonald, Committee Policy Analyst:

Senate Bill 482 was sponsored by the Senate Committee on Government Affairs and heard in this Committee on April 27, 2015. The bill eliminates the authority of boards of county commissioners to set the annual salaries of their members. [Continued to read from work session document ([Exhibit G](#)).]

Chairman Ellison:

Is there any discussion from the Committee?

Assemblywoman Neal:

I get the overall viewpoint. In the bill you are not allowing the board to set their salaries, but then they can still get a 3 percent increase over the same time

period. It is almost like saying we can take it away, but you will keep making money. I need further clarification because I do not understand. Right now, I am going to vote no, but I will reserve my right to hopefully vote yes on the floor. If you are going to take it away, take it away, but you cannot give them 3 percent for the next 4 fiscal years.

Chairman Ellison:

We have the sponsor of the bill here. Mr. Fontaine, can you please address Assemblywoman Neal's concerns?

Jeff Fontaine, Executive Director, Nevada Association of Counties:

The bill entitles county-elected officials to a 3 percent annual salary increase, but it also allows each individual county-elected official to not accept the increase. It is up to the individual.

Assemblywoman Neal:

How much of a yearly increase in salary do regular county employees receive? Is it 3 percent or is it less?

Jeff Fontaine:

Yesterday, we submitted a summary of staff compensation ([Exhibit H](#)) for a number of counties, including Washoe County, Clark County, Carson City, Douglas County, Storey County, and Humboldt County. We also submitted wage concessions for Washoe County ([Exhibit I](#)). The increases range. Also, you have to remember that in addition to cost-of-living allowances (COLA), employees receive merit increases or step increases. We noticed that in some counties and with some union contracts, there were adjustments to base salaries. It is a little difficult to compare just the 3 percent to what staff is receiving because it depends on the county and the particular collective bargaining unit, but that information is on the Nevada Electronic Legislative Information System (NELIS).

Chairman Ellison:

I do not think they should have to come back every few years and ask to have a salary increase. In the past, I know the county-elected officials have had to wait seven years before they could even get into this building to have a COLA considered. I think they should figure out a way that it would be put back into the county budgets and they could handle it within their own budget system instead of having to come back to the Legislature every time. They should do it as they do regular bargaining units, because I believe in the matrix system. I think it needs to be back in the hands of the counties. I think we need to move this bill forward. There was an amendment proposed ([Exhibit J](#)) and I like

it, but I do not think we can get the bill passed with it. We are going to vote on the bill as it was presented, without the amendment.

Assemblywoman Spiegel:

I cannot find the salary and wage analysis on NELIS.

Jered McDonald:

It is being uploaded right now.

Assemblywoman Spiegel:

Thank you. I would like to reserve my right to change my vote on the floor. I am going to vote no today.

Chairman Ellison:

I will entertain a motion.

ASSEMBLYMAN WHEELER MOVED TO DO PASS
SENATE BILL 482.

ASSEMBLYMAN MOORE SECONDED THE MOTION.

Chairman Ellison:

Is there any further discussion from the Committee?

Assemblyman Silberkraus:

I will support this bill now, but I would like to reserve my right to change my vote on the floor.

Assemblyman Carrillo:

I am voting no today, but I would like to reserve my right to change my vote on the floor.

Chairman Ellison:

Assemblyman Flores would like to reserve his right to change his vote on the floor. Assemblywoman Joiner would also like to reserve her right to change her vote on the floor.

THE MOTION PASSED. (ASSEMBLYMEN CARRILLO, FLORES,
JOINER, NEAL, AND SPIEGEL VOTED NO.)

Chairman Ellison:

I will assign the floor statement to Assemblywoman Dooling.

I will open the hearing on Senate Bill 147 (1st Reprint).

Senate Bill 147 (1st Reprint): Requires law enforcement agencies to adopt certain policies relating to certain training for peace officers concerning dog behavior. (BDR 23-10)

Senator David R. Parks, Senate District No. 7:

I am here this morning to present Senate Bill 147 (1st Reprint). This bill requires training for police officers in the area of dog awareness and behavior. [Continued to read from prepared testimony ([Exhibit K](#)).]

The bill is quite simple. We are trying to reduce the likelihood of unnecessary shooting of dogs. [Continued to read from prepared testimony ([Exhibit K](#)).]

Chairman Ellison:

Are there any questions from the Committee?

Assemblyman Flores:

Thank you for bringing this bill forward. This question may be more appropriate for the individuals who will testify after you. I am interested in knowing if we have any statewide data in terms of how many incidents we have where an animal is either shot or killed. Do we keep that type of data?

Senator Parks:

Individual law enforcement agencies do keep that data. You will hear from the Las Vegas Metropolitan Police Department that they have tracked that information. The data is not uniform in all cases. Individual police departments have to report the number of shootings they have, and in some cases it is readily apparent and in other cases, you have to dig for the data. Yes, that information is available.

Chairman Ellison:

Are there any other questions from the Committee? [There were none.]

Warren Wish, Leader, Carson City Guide Dog Club:

We are here in support of Senator Parks and S.B. 147 (R1). In our mind, it is all about protecting police officers and the safety of family pets. I brought a guide dog puppy with me. Figby ([Exhibit L](#)) is 11 months old. I think Figby can help give you a sense of the difficulties that a police officer faces when encountering family dogs. They need all the tools at their disposal to be able to take nonlethal means to control a dog. I am going to take Figby's jacket off and put him on a long leash. I want you to see how fast a dog runs when given the "C-O-M-E" command. A Labrador is not the fastest dog in the world. I am

going to take off his jacket so he knows he is no longer working. Imagine a scenario where police officers have a report that there is a disturbance in a home next door with screaming and yelling and they are asked to investigate. The police officers go into a yard and all of a sudden, they see this. [Mr. Wish tells Figby to "come" and he runs to Mr. Wish.] They see a large black dog coming with speed towards them. It is a split-second decision for the police officer.

The information I am going to be giving you is from recommendations from the U.S. Department of Justice. They have some excellent videos that are designed for police officers to watch so they can understand dog behavior. The recommendation from the U.S. Department of Justice begins with having good information. Before the police officer arrives on the scene, when the 911 call comes in, besides the operator asking who is in the house and if there are children in the house, they can ask if there are pets in the house too. They are commonsense questions that need to be asked even before the officer knocks on the door.

In a really tense situation, if the caller says that there is a dog in the house, the recommendation is the 911 operator needs to tell him to please put the dog in the bathroom. That allows the police officers to deal with the situation and people. They can make sure they know whether or not there are children or anyone else in the house. They know that they do not have to be concerned about a dog.

Assemblywoman Neal:

There was a situation in my father's neighborhood where an older woman's son was on drugs. The woman came to my father's house to get away from her son who was under the influence of drugs. In this scenario, she had no way of letting the police know that there was a dog in the house. What would you do in that scenario? Her son was clearly out of his mind, so there was no dialogue to be had. Would it be on the third party to call 911 and tell the operator that there is a person in the house who is on drugs and that there is a pet? Who is responsible in those kinds of situations, if there is no time to give that kind of information? What do you do then? Is there an exception?

Warren Wish:

I believe that police officers do the best job when they are fully informed about what they are running into. Sometimes, there are scenarios where that information is not passed along, but officers need to know that most families in the U.S. today have a family dog. It is a reality. Some dogs might be Mr. Fuzzy and others might be dogs that have not been well socialized and perhaps they are territorial. An officer needs to go in with a mindset that there

is a potential for a family dog in all situations. It is better if the officers have some idea and if the dog is contained before they have to go inside. When an officer knocks on the door and someone answers, the officer needs to ask if there is a dog in the house. Before entering the house, the dog needs to be under control. A good place to put the dog is in the bathroom because every home and apartment has one.

Let us say that the officers arrive on a scene of a domestic violence call. The officers need to have a mindset to look for the potential for a dog being in the front yard. Maybe there is a sign that says beware of dog, or they can see a dog bowl or dog toys. What the U.S. Department of Justice recommends is that the officer first make some noise before entering the yard, not to surprise the dog, but to have them come towards the fence. The officer is taught techniques to identify an aggressive dog and the potential danger versus a family pet that is just curious and running towards them. Some techniques are very simple; for example, never stare at a dog, stand sideways to a dog, and when a stranger approaches, most dogs are just curious about smelling the person.

The training videos on the U.S. Department of Justice's website are excellent. They take between 30 minutes and 1 hour with discussion and possible demonstrations. The videos also mention some nonlethal equipment that officers can have with them. One piece of equipment is an umbrella ([Exhibit M](#)). If Figby is running towards me and the umbrella is open, it is going to stop him in his tracks. To a dog, an open umbrella is a hard shield. Another piece of equipment an officer can have with him is an expandable aluminum pole ([Exhibit N](#)). This too can be used to either hit the dog on the side or in the face, and it will tell the dog to get away. Then the police officer can go about his business. Pepper spray works well too. In a horrible situation, Tasers are recommended. The idea behind this bill is to use nonlethal ways to control a dog. Guide dogs have a value of \$60,000. Can you imagine if an officer mistakes a guide dog running towards him to greet him and perhaps misinterprets that as an aggressive action? That huge expense can be avoided.

Assemblywoman Neal:

I am not asking these questions because I have a problem with the bill. In a domestic violence situation, I have seen scenarios where the dog is there in the yard and the female is on the ground being choked out. The dog is trying to defend her, so he is there and the police come and the dog is already in safety mode trying to get the male and protect the female. The dog does not know what to do and reacts to the additional male who looks like he is coming into the situation. What do you do in that scenario?

Warren Wish:

Using a firearm is the last thing to do. The potential of hitting someone else is there. The umbrella works well. I believe using pepper spray would work well. It is in these kinds of situations where a loveable pet dog can become very agitated given the high emotion in the situation. The umbrella works well because you can direct the dog and move them. One of the recommendations from the U.S. Department of Justice is that police officers carry a bag of dog treats in the trunk of their cars. They can throw the treat on the opposite side of the yard, the dog will go towards the treat, and the officers are able to get close and take care of business. I want police officers to have a lot of tools at their disposal and not just a gun.

Assemblyman Wheeler:

How much training are we talking about? The bill does not say what the minimum requirements for training are. What is the cost for the training? What is the cost on the equipment you are talking about?

Warren Wish:

I was able to view the U.S. Department of Justice training videos in about 30 minutes. They actually have more information as part of a workshop for police officers. I imagine it can be part of the Peace Officers' Standards and Training Commission (POST). They can take 30 to 45 minutes to train about dealing with family pets. I do not believe there is a cost to the U.S. Department of Justice videos that are accessed online.

Assemblyman Wheeler:

There are 20 fiscal notes on NELIS.

Chairman Ellison:

One of them has a cost of \$239,000.

Assemblyman Wheeler:

One of them was \$120,000 the first year, \$120,000 the second year, and \$239,000 the third year.

Warren Wish:

I am not sure what they included in their fiscal note. It can be incorporated in some kind of professional development or in POST as part of the training for officers. Officers come across dogs all the time. It is a worthwhile issue. Maybe they are thinking that they have to purchase a very expensive program or have experts come in at a high cost. I think there are ways of dealing with this at little to no cost. They can carry an umbrella in the trunk of a car. When an officer thinks there is a potential for a family dog, either they have

information or they see the signs, they just get the umbrella and they have it ready on hand. The expandable aluminum pole costs \$1. In the 1st Reprint of this bill, individual agencies saw how they could incorporate this without a huge expense of time or cost.

Assemblyman Wheeler:

I think everybody on this Committee has been out knocking on doors during their campaign, including myself. I live in a rural area, so I deal with many dogs. Is there common sense where you can tell when a dog is friendly or not? There is something about their teeth coming out that tells me they are not friendly. Is there some modicum of common sense that is not going to take special training?

Warren Wish:

I think one of the things that the research has shown is that people who are not familiar with dogs cannot tell an aggressive dog from a dog that is friendly but excited. Some people have a fear of dogs and are perhaps predisposed to assuming that the dog is going to be aggressive. One of the things in these videos is actually showing police officers quick ways of ascertaining the mental state of a dog. If you see a dog and the hackles are up, the ears are back, and they are snarling at you, you can use an umbrella.

Even with those officers who have not had exposure to dogs, I think there are ways that we can identify when they need to be concerned and when the dog is just going to come up and give them a smell and a lick.

Assemblyman Flores:

I really like the bill. There was a comment of whether it is common sense. I own dogs and it is common sense for me, but if you look online, there are multiple videos showing a bunch of dogs being killed, and they were not necessarily being aggressive. Without training or owning dogs, it is difficult to know how they are acting. Are we providing any type of training with animals now? Are some departments providing training and others are not? Are we now going to put officers on the hook more often because they have gone through training? Are we going to hold them to a higher level of accountability because they have gone through training, or is this just solely intended to save more animals?

Warren Wish:

I do not have the information as to what each police department has in terms of their rules or standards when it comes to controlling dogs. I can tell you that besides the life of the dog, I think there is an emotional cost. If an officer has to shoot a dog, there is emotional trauma, not only to the family but also to the

officer. You just cannot go home at night and sleep well knowing that you had to shoot a family dog. For the people involved, as well as the animals, I would like to see a safe practice.

**Chuck Callaway, Police Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department:**

I was back there squirming in my seat because there are a lot of questions being asked about law enforcement training, procedure, tactics, and how we approach homes. I appreciate the comments from Mr. Wish, but I believe it is more appropriate for law enforcement to answer those questions. I am here today in support of the bill. The Las Vegas Metropolitan Police Department implemented training on dealing with canine behavior in 2012. To give you a little bit of perspective, I know that there are some people who will testify today as they did in the Senate saying how law enforcement killing family pets at a rapid rate is an epidemic across the nation. However, it is important to note that we receive about 3 million 911 calls per year, and we have millions of contacts with the citizens on a yearly basis. Last year we shot four dogs. In most of those cases, the dogs were attacking.

I want to refer you to a *Las Vegas Sun* article ([Exhibit O](#)) titled "Police: Woman attacked by pack of dogs could lose eye, arm." This woman was in critical condition because she was attacked by what some would say is a family pet. Another individual tried to pull a dog off this woman, and he was severely bitten as well. The officer who responded used multiple nonlethal means, such as a baton and pepper spray, to try to get the dog off this woman and ultimately, the dog was shot. Not all cases are like this with law enforcement showing up at a home and shooting the family pet. There are often cases where the animal, for whatever reason, is territorial or escaped from the home, and they are out in public. We had an incident where a dog was headed to a schoolyard that was packed with children. We have also had cases where the animal that was shot was actually a wild dog or coyote. Last year, we had only four cases out of millions of contacts with citizens.

Our officers may be chasing a felony suspect in the middle of the night who is wanted for sexual assault, murder, or armed robbery. The suspect may be running through somebody's backyard and the officer is in hot pursuit trying to take that person into custody and jumps into the backyard. Unfortunately, dogs are trained to protect their property and their homes, and it could be a very unfortunate situation. Often, the officer is attacked by the animal and has to defend himself, or in some cases the animal has gotten loose and the officer has to protect citizens.

We implemented the U.S. Department of Justice training. It is important to note that since we implemented the mandatory training, as of today, 2,746 of our commissioned officers including me—and I usually do not deal with dogs in the course of my duties—have taken that training. We have also implemented a classroom training that is not mandatory, but officers can sign up for it. I believe, as of today, 775 officers have taken that training. It was just implemented this year. We are taking this very seriously. We do believe that training can help reduce those numbers.

It is also important to note that we have purchased the dogcatching sticks for supervisors to put in their vehicles, which could help in cases where an animal has gotten loose or an officer needs to contain an animal, like in the scenario that was given where we would have to go in and deal with the son who is under the influence of drugs, but first we must restrain the dog. We also have a very close relationship with animal control. In the cases where we know there is a dog inside the house, we can call county animal control to come and restrain the animal so we can deal with the situation.

We have not put in our budget to purchase dog treats and umbrellas. I know our officers have a ton of equipment on their belts. Next week is National Police Week, and I encourage you to look at what the officers are wearing. I do not think it is feasible to put umbrellas on the belt along with some of the other equipment, but we have purchased the dogcatching sticks. Also, it is not always feasible to stand in the front yard and make noise to see if there is a dog at the residence, especially when you could be dealing with a situation with a violent subject or a burglar at the residence. We normally do not like to let the bad guy know that law enforcement is there.

Assemblyman Carrillo:

Currently are there any requirements by the Las Vegas Metropolitan Police Department for an incident regarding the fatality of an animal?

Chuck Callaway:

Our agency has an "Officer Involved Shootings—Dog Involved Incidents" report ([Exhibit P](#)). It breaks down all of the uses of force we have had against animals. The majority of them are shootings. When we use force against an animal, 99 percent of the time it is a shooting. I believe there was a case a while back where a vehicle was used to stop an animal. In today's day and age, I cannot imagine a law enforcement agency in the country that when an officer discharges a firearm it is not documented. Our Office of Internal Oversight reviews each one of those cases to determine if there was a police violation, a training error, or even a violation of law that needs to be addressed whenever these actions take place.

I believe someone in Las Vegas has a proposed amendment ([Exhibit Q](#)) that I just received this morning. If this amendment were incorporated into the bill, I would be in opposition to the bill. I have not had a chance to fully digest it, but with a cursory look, I see some concerns.

Chairman Ellison:

I talked to the sponsor of the bill, and that amendment ([Exhibit Q](#)) was a training issue that was proposed, and he will talk about it.

Assemblyman Carrillo:

Is the report ([Exhibit P](#)) public record? Is it accessible through your website or can anyone go to a substation to receive a copy?

Chuck Callaway:

Yes. This report is public record. It is very generic information. We do not go into detail as far as names for privacy concerns. For instance, the case I referenced that was in the newspaper about the woman who could lose her eye and arm. We would not release victim information, but the statistics on the particular incidents are public record. I am not sure if they are on our website. We do put the Office of Internal Oversight's reports on our website, but I am not sure if the dog incidents are included. I will verify and let you know. If they are not on our website, we can look into putting them there.

Assemblyman Carrillo:

Of course, I cannot expect you to speak on behalf of other agencies throughout the state, but I do not know if any other entities would be able to tell me if they have the same things in place that the Las Vegas Metropolitan Police Department does. I do not know if they currently have some type of reporting requirement as well.

Chuck Callaway:

I will let them answer that question. I do not want to speak for the other agencies at this point.

Chairman Ellison:

We are going to set the timer because of the time constraints we have. If someone has something to add, please do. If not, please just say that you agree with the others.

Assemblyman Moore:

Do you think it would be helpful to put an amendment into the bill that would require when a 911 call comes in that the operator asks if there is an animal in the household? They can work it into the repertoire, but why not require it?

Chuck Callaway:

I think that falls under dispatch procedure. Our dispatchers ask a ton of questions on a 911 call, and it depends on the situation. Obviously, if someone calls in to report an accident, different questions are asked than if somebody calls in to report that they were just shot or robbed. I think that should be left to protocol and procedure rather than put into law.

Chairman Ellison:

I know the officers go through a lot of trouble sometimes with dogs. We had a vicious dog across the street, and it kept dragging kids off bicycles by the school. I finally went to the police and told them that the dog was going to die of lead poisoning if he attacked another kid because they could not keep him under control. It worked. Those who would like to speak in favor of the bill, please come forward.

Tim Bunting, Deputy Director, Peace Officers' Standards and Training Commission:

We have training that we are providing free of charge. It started in February. It is what everyone has referred to as the U.S. Department of Justice training videos. It is available through the State of Nevada Online Professional Development Center. It is a website accessible by all peace officers, and it is free of charge. I am in favor of this bill the way it is written. With the proposed amendment ([Exhibit Q](#)), I would not be in favor of the bill.

Chairman Ellison:

That training is through POST, correct?

Tim Bunting:

Yes, sir.

Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's Office:

We support this bill and echo the comments of Mr. Callaway.

Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association:

We support the bill as written. We do have some concerns with the proposed amendment ([Exhibit Q](#)). I know the rural areas document incidents, but whether they have to report to the general public I do not know at this time. I will research and get back with the Committee.

Assemblyman Carrillo:

You mentioned the opposition to the proposed amendment ([Exhibit Q](#)). Are you good with the bill, but opposed to the amendment? Are there any particular parts of the proposed amendment, or is it just the entire amendment? I see you

might already be doing some of this. I am just wondering if you are against the entire amendment, or are you being specific?

Tim Bunting:

When we start referring to all peace officers, it includes jailers, correctional officers, bailiffs, legislative police, et cetera, and they should not be included because they do not come into contact with dogs. The bill leaves it to the agency administrator to determine who should receive training on dogs. That is why a lot of the verbiage from Colorado is what we proposed, but it eliminates all of the peace officers.

Eric Spratley:

We would oppose any amendments that would muddy up the process in the 1st Reprint of the bill. We worked hard with Senator Parks to arrive at language that works for everyone. In the proposed amendment, there are things like putting the entire canine training in the policy manual. We have huge manuals as it is that we try to have our officers understand, and to put a 16-, 20-, or even a 3-page training document into a policy is not appropriate. The entire proposed amendment is redundant in what we have already agreed to in the 1st Reprint of the bill.

Gina Greisen, President, Nevada Voters for Animals:

It was at my request that Senator Parks brought this bill forward. I am a fourth generation Nevadan and have been an animal advocate for the past 10 years. In 2011, with the help of Senator Parks, we passed Cooney's Law, which makes animal cruelty a first-time felony in Nevada. Today, we urge you to support Senate Bill 147 (1st Reprint), canine encounter training, which requires training for police officers to understand dog behavior and less lethal options when dealing with our four-legged family members. [Continued to read from prepared testimony ([Exhibit R](#)).]

The National Sheriffs' Association has made it one of their top priorities to help provide training. They had a roundtable discussion on police killing pets in January, and we asked several agencies across the state to participate online and make it available online, and they did. We were glad to see the Las Vegas Metropolitan Police Department actually participated. We have been working closely with Sergeant Gregory Munson, who works in the Organizational Development Bureau assigned to Advance Training and University of Metro Las Vegas (UMLV). We are very glad to see that they are taking the lead on this in southern Nevada; however, they are not the only police agency, and that is where a lot of our concern goes as far as documenting, adding the reporting requirements, and just defining a little bit of what we have already put in place.

The purpose for some of those amendments was to document the intent of what we are doing.

I would like to note some of the incidents that have occurred. [Continued to read from prepared testimony ([Exhibit R](#)).]

In Hawthorne, California, when a Rottweiler was shot and it was captured on video, it went viral. Those officers had to go into hiding because there were so many death threats against them. Certainly, that is not something we condone or endorse, but it is reality when the public is getting fed up with these very tragic incidents, which we are working very hard to try to prevent. I appreciate the comments by Mr. Callaway, and we agree on the bill. We both support it. We can agree to disagree on some of the incidents though.

In Houston, Texas, on April 27, a police officer was responding to a dispute at a police station and a dog jumped out of the vehicle, and when the officer shot the dog, he also shot the dog's owner in the leg. In New Jersey, police responded to a burglary at the wrong home and shot a beloved German Shepherd. A very shocking video appears to have been posted in the last two weeks. In Brooklyn, New York, a police officer went to arrest a man who was not at the home and a dog escaped. While an entire community of children and neighbors were standing on the sidewalk, the dog ran out and jumped on a lieutenant, then jumped back down, and an officer fired wildly into a crowd of people. The video is shocking. The link is in my prepared testimony ([Exhibit R](#)); please watch the video.

There have been recent shootings here in Henderson. A dog was shot in his own backyard. He jumped out and bit someone, but he was back in his own backyard when he was shot. That dog actually belonged to a law enforcement officer, and to say that he was upset is an understatement. His dog was shot in the face and thankfully he survived. There have been some very unjustified killings of dogs, including Freckles, who was run over. I believe those people resided in Assemblywoman Neal's district. There are a lot of examples, and I could go on for hours.

I would like to answer Assemblyman Flores's question. In my testimony ([Exhibit R](#)), according to the U.S. Department of Justice, on average every 48 to 56.6 minutes in the U.S. a dog is shot by police. They are estimating 25 to 30 are shot every single day by law enforcement across the country. This is a very serious issue. It is a very unpopular issue, it is becoming a very expensive issue, and it is a dangerous issue. An officer fired at a dog and shot and killed a mother in front of her child. I urge you to support S.B. 147 (R1).

Melissa Boyd, Member, Nevada Voters for Animals:

I would like to reiterate that the new statistics show that a dog is shot and killed by law enforcement every 48 minutes somewhere in this country. I have heard a lot of testimony about the video and website training, but I would like to say that I am finally old enough to realize that the majority of law enforcement officers today are much younger than I am. The truth is, the majority of these officers grew up playing video games and killing the enemy. [Continued to read from prepared testimony ([Exhibit S](#)).]

If I am in my backyard with my dogs and I do not know that there is a criminal running loose in the neighborhood and I have a law enforcement officer jump my fence and kill me or my dog, where is the justification in that? It is my home and my dog's home. It is a place that they are supposed to feel safe. There need to be procedures for when law enforcement enters anybody's personal property where there are pets present. I support S.B. 147 (R1) in its entirety.

Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada:

We are in support of S.B. 147 (R1) on behalf of the information you were provided by Mr. Callaway.

John Fudenberg, Coroner, Government Affairs, Office of the Coroner/Medical Examiner, Clark County:

Clark County supports S.B. 147 (R1). All of our concerns have already been addressed, and I would like to echo the concern that has been previously stated in reference to the proposed amendment ([Exhibit Q](#)).

Marie Pichler, Founder, Kita's Funding Organization, Carson City, Nevada:

As you know or may have heard, thousands of cries across the U.S. have been heard by social media, news, websites, et cetera. It is estimated that in 2014, 27,000 animals were killed by law enforcement encounters alone, and these numbers increase each year. [Continued to read from prepared testimony ([Exhibit T](#)).]

Pamela Del Porto, Inspector General, Department of Corrections:

Since Assemblyman Wheeler brought up all of the fiscal notes, I wanted to confirm that the Department of Corrections has removed their fiscal note, and that was stated in the last hearing in the Senate.

Chairman Ellison:

I did not see that it was removed. It is showing as \$239,000. That was removed?

Pamela Del Porto:

Yes, sir, it was.

Julie Monteiro, Private Citizen, North Las Vegas, Nevada:

I have been a resident of Nevada for over 20 years. I am also a registered nurse, and I come to you today because in August of 2012, I experienced something in my own home where the North Las Vegas Police Department did not handle procedure properly, and I come here today to tell you my story. I hope you will give me the time considering how poorly North Las Vegas handled such a preventable death of a family member. I am here to tell you the story of Justice for Fanucci. My mission today is to create positive change and to prevent future unnecessary deaths, and this bill is a way to do that.

I am for the bill and its intent, yet I am against it for the following reasons. I would like to see a standardized educational program across the state. I am a nurse and as a license holder in the state of Nevada, I am held to certain standards, and I would like to see accountability with law enforcement. I believe it should not be left up to each law enforcement agency because the North Las Vegas Police Department has failed at this task, and their current policies and procedures were not followed. A review of policies and procedures for calling an animal control officer to the scene of a crime is extremely important. I do not know if you realize this, but there are policies and procedures for animal control officers to be called to the scene when first responders arrive. However, on August 12, 2012, this was not followed. I had a toy poodle and a miniature English bulldog who, after my home was invaded, were put outside in the 114-degree heat. My backyard is fully bricked, there is no shade, and there was no water. For seven hours as they investigated this crime, which I was the victim of, they cooked my dogs. In addition to that, when I begged the officer to please allow me to put my dogs upstairs, I was told that I was going against the law. I was told to go outside while my dogs remained in the house, and I was promised they would be put up safely. These are lap dogs. There was a kennel and a bathroom right there and the bedroom right upstairs, but I was denied that right. Policies and procedures were not followed.

I would like to see added to this bill a demonstrated knowledge or a standardized test proving that the knowledge any police officers have actually gained is there. I would also like to see heat dangers added to this bill because it is not just bullets or the beating of dogs. There is something in Nevada called heat. I would also like to see that the first responders should have to call animal control officers. We should hold the officers accountable when they do not follow these policies and procedures. It has been stated and known in the

North Las Vegas Police Department that these policies and procedures are not being followed. Please add something to this bill to hold them accountable.

Officers are not above the law. If it had been I who placed my dogs outside in the backyard, under the *Nevada Revised Statutes* (NRS), I would be given a misdemeanor and put in jail. They are not above the law. As a nurse, I am also held accountable as a professional to hold certain standards, and if I do not follow those procedures, there are consequences to the extent to where I could lose my license and lose my profession. I just want to state that the cost is irrelevant; you have so many lawsuits, so do not look at the costs. Common sense needs to be placed.

I support Senator Parks and thank him for his time on this bill. I thank every single law enforcement agency, including the Las Vegas Metropolitan Police Department. There are a few agencies out there that I would like to see held accountable. Please refer to the Facebook page "Justice for Fanucci."

Vicki Higgins, Private Citizen, North Las Vegas, Nevada:

I would like to support this bill. I have been unable to look at the amendment, so I am not sure what it is. What Ms. Monteiro did not tell you is Fanucci died from heat stroke within 30 minutes after the police left. They had to watch their dog expire from heat stroke and then the toy poodle went into major stress and the veterinarian was unable to keep her healthy and alive because she was so traumatized from this situation.

I had police chasing a suspect through my yard and my large dog was outside. When the police came over the fence, my dog was upset. By the time I got to the door, the officer had his gun out and screamed at me that he was going to shoot my dog if I did not take him in the house right away. It was quite overwhelming. These animals are not just animals to us. They are our children. I am a disabled older person and my children are grown and these pets are my babies. I have three small dogs. They tend to get very defensive if people get in my face or if things get scary and loud. They are trying to protect me and my home.

Many accurate comments have been made today. Please understand that this is their home. They are trying to protect their home and their people. My little dogs get irritable even with familiar people. I really encourage this to be implemented into the continuing daily briefings that the police officers are required to attend. The training needs to be held and updated. The officer needs to be held responsible. I want to thank you very much for taking time for this. It is not just dogs. We have heard of offenses against cats and other animals in the home. Please realize they are our family members.

Chairman Ellison:

Is there any testimony in opposition to the bill? [There was none.] Is there any neutral testimony? [There was none.] Senator Parks, would you like to make a closing statement? Can you please address the proposed amendment ([Exhibit Q](#))?

Senator Parks:

I want to commend both POST, the Las Vegas Metropolitan Police Department, and there may be other law enforcement agencies, for their efforts to put in place a really good training program dealing with dog encounters. One of those programs you heard of goes through the U.S. Department of Justice. Their program is one where in order to be certified, you have to log in and log out. It requires time and there is no way anyone can just turn it on, walk away for a cup of coffee, come back, and get credit for it.

This bill went to the Senate Committee on Finance where all fiscal notes were removed, including the fiscal note from the Department of Corrections. They based that fiscal note on the original bill and not the 1st Reprint. With regard to the request for an amendment, this language comes out of the state of Colorado. Colorado went to great lengths to address the issue in a most commendable manner. However, I think I would suggest the training requirement that is in the proposed amendment is probably something better left to policies and procedures. I think Senate Bill 147 (1st Reprint) does address that, and if it does not, we certainly can follow up in a subsequent legislative session.

Thank you for giving an extensive amount of time to this issue, but as testimony has indicated, there are numerous shootings. Even in Nevada, we do have one or two agencies that seem to have an inordinate number of dog shootings that are unnecessary.

Chairman Ellison:

Thank you Senator. Does the Committee have any questions? [There were none.] I will close the hearing on Senate Bill 147 (1st Reprint). We will take a brief recess [at 9:31 a.m.].

[The Committee reconvened at 9:41 a.m.]

I will open the hearing on Senate Bill 238 (1st Reprint).

Senate Bill 238 (1st Reprint): Disincorporates the City of Ely. (BDR S-709)

Senator Pete Goicoechea, Senate District No. 19:

I am a taxpayer in White Pine County, but I am not a voter in White Pine County. Whether this bill passes or dies, it will not affect me any differently than anyone else in White Pine County. In 2010, there was an advisory question placed on the ballot in White Pine County. The question asked whether they wanted to consolidate their government services, the city and the county, and it was approved. It was approved by a slim margin, 53 percent to 47 percent. Senate Bill 238 (1st Reprint) is an effort to bring it forward and put a little pressure on the citizens to see if we can start moving forward. We are now in 2015, and there continues to be a lot of items that are causing some friction when we heard this bill in the Senate. At that point, the city and the county were in binding arbitration trying to determine who is going to pay what for the police and sheriffs' protection. There always seem to be some issues.

More people live in White Pine County than there are in the City of Ely. White Pine County has fewer than 10,000 people, and they really believe that we need to consolidate the government. The bottom line is it does not make sense to pay for a district attorney and a city attorney, a county clerk and a city clerk, county fire and city fire, et cetera. It makes sense for the taxpayers in that county to have a consolidated form of government and save a little bit of money. I am not saying who or how that consolidation needs to happen, but it does need to happen. The voters in that community have the highest property tax rate in the state. We can save a little bit of money and bring this together. The county and city can work together and move forward to see if we can come up with one government that truly is cost-effective and makes sense.

Unfortunately, it is pretty hard without going through a constitutional question, a ballot question, to the voters in the City of Ely to disincorporate them. That is what this bill does. It brings forward in June of 2018 a question that would be placed on a municipal ballot and the voters only in the City of Ely would vote whether to disincorporate the city or remain incorporated. I really anticipate that they will probably not vote to disincorporate themselves unless there continues to be a lot of friction and problems between the city and the county.

It is a simple question: "Shall the City of Ely be disincorporated?" That question is in the bill, and it would require it. That ballot question would be in place in the 2018 municipal election. If they did vote to disincorporate, then they would have a year to go through the process. If it were disincorporated as a city, it would become the Town of Ely.

There are a number of assets to be considered, and the City of Ely has one of the best fire departments in the state. I went to school in Ely and lived there, and I have lived in White Pine County too. How those pieces would meld or fit together would be critical. If this ballot question were to pass, then they would have 13 months to start the process. The city has a water and sewer enterprise fund, and it is a big fund. The big issue is how those funds will be transferred and if they would be maintained through a general improvement district (GID). I would assume they would end up being a GID. If the City of Ely were to disincorporate, it would then come under the jurisdiction of White Pine County and that board of county commissioners.

The other thing that can occur in the general election of 2016 is the commissioners could, in fact, place another advisory question on the ballot very similar to what they did in 2010. It cannot be binding; it can only be an advisory question. The binding question would be whether the voters of the City of Ely want to disincorporate, and by that disincorporation, consolidate government services. It would be a work in progress. This is not a good bill to bring politically, but it is the right thing to do. There are a number of us in White Pine County that would really prefer a consolidated form of government. This is a fairly simple and straightforward bill. I know there are a lot of people here to testify.

Chairman Ellison:

The county and the city share some services already, and they just entered into another agreement where they are sharing services, correct?

Senator Goicoechea:

Yes. When we had the hearing on this bill in the Senate, they were actually in binding arbitration on police protection. The City of Ely does not have a police department and it is dependent on contracting with White Pine County to provide police protection. Since then, it has been resolved, and I believe they can testify that they have reached an agreement.

Chairman Ellison:

That is the only service that is being shared right now?

Senator Goicoechea:

You would have to talk to them. I think there are a number of services they share, but I know there is a duplication of a number of services as well.

Chairman Ellison:

On the agenda next week it looks like the City of Ely is doing something with the railroad. Are you familiar with that?

Senator Goicoechea:

Only on the periphery with the railroad, but I do not know what their negotiations are. The White Pine Historical Railroad Foundation is the property of the City of Ely.

Chairman Ellison:

I think they can discuss that too. That is going to be important because it determines their financial commitment.

Assemblywoman Neal:

In the December 10, 2009, regular Ely City Council meeting there was a memorandum of understanding (MOU) ([Exhibit U](#)) saying, "...upon dissolution of the CITY for any reason, any and all interest which CITY may have had in jointly-owned property shall become the sole property of the FOUNDATION, so long as there are no reversionary interests which were reserved in the transferring deeds from any grantor to the CITY and FOUNDATION of jointly-owned property." It is in the dissolution portion in the memorandum under "V. CITY'S AUTHORITY AND DUTIES." That exact dissolution statement is written into the document. What is the effect of that provision if the city is dissolved? Would this agreement revert or would it go to the Foundation?

Senator Goicoechea:

I do not know what the time frames are on that particular MOU or how long it is lasting. You are going back six years. I do not believe you can encumber a future board in either way, whether it is the city council or the board of county commissioners. An MOU is dated.

Assemblywoman Neal:

It is dated.

Senator Goicoechea:

I do believe you cannot encumber a future board and you are very familiar with that. At the point the majority of either board has transitioned, the MOUs are not technically valid.

Assemblywoman Neal:

They are void. What services are being duplicated?

Senator Goicoechea:

There are a number of them, but some of the major ones are district attorney, clerk, police, fire, emergency management services, et cetera. They are not technically completely duplicated, but you are maintaining two separate agencies and so I think it just makes more sense to combine them. Do not get

me wrong, they are good agencies and departments, but it makes sense that they work together.

Assemblywoman Neal:

I was reading the City of Ely financial statements for the year ending June 30, 2014 ([Exhibit V](#)), and thought I was reading the wrong report. I started reading the financials of White Pine County to find out if one of them was missing money or if the auditors are finding that somehow the revenues were down and the liabilities were up. From what I can see, the City of Ely's assets exceeded their liabilities and they were at \$25 million. They had enough money to pay their bills, \$6 million. Their debt was \$3 million, but the debts were revenue bonds that were payable by deeds of trust. They were not general obligation bonds. If this is an issue of financial distress, where is the distress and the evidence of it?

White Pine County's level of budgetary function in their amended budget with their expenditures and transfers out had roughly \$13 million that was moved in and out of their budget. I heard what you said, but if you are going to disincorporate the City of Ely, there needs to be either a financial emergency or some other situation arising where the Department of Taxation would then step in and say there needs to be a discussion about how to deal with the debts and the situation. I do not see evidence of their need to step in and take control. Why would we dissolve as a solution?

Senator Goicoechea:

As I stated in my testimony, the majority of the taxpayers are in the general county. We are trying to avoid a situation like we had ten years ago when White Pine County did go into receivership with the state of Nevada and was managed for a period of years. These are the same taxpayers' dollars that we are trying to manage White Pine County with. There is a piece carved out for the City of Ely. I am not saying they are doing a bad job with their funds, but White Pine County is above the property tax cap of \$3.64. We have to get a little more bang for our buck. I do not care if the City of Ely is in charge or if White Pine County is in charge. The taxpayers of that jurisdiction should be comfortable with the fact that a \$3.64 property tax cap is more than an adequate amount of money to run that area, and it is not happening today because they are separating and dividing dollars. The city rate is a piece of the county rate and that takes away from the county. Would you agree?

Assemblywoman Neal:

Yes. White Pine County was in a financial emergency roughly ten years ago. When you are in receivership, it gives you the flexibility to raise property taxes so you can take care of your issues.

Senator Goicoechea:

The taxpayers in White Pine County are trying to avoid that.

Assemblywoman Neal:

Right, but it gives you the flexibility to take care of your issues until you can come back down to normalcy. Was the increase of the property tax rate over \$3.64 done in relationship to the financial emergency that happened ten years ago? Did they have to increase the property tax rate because they needed to meet the needs of their debt obligations so that they could break even in the future? Is there a nexus to that?

Senator Goicoechea:

Yes, they are clearly trying to maintain their solvency with the tax rate that is in place in White Pine County today, as well as the energy franchise fee, which is extremely problematic. The general county pays the energy franchise fee, but the City of Ely is not assessed. Although the property tax rate was a little bit above \$3.64, fortunately, we did not have to raise it to \$5.00, but I am sure you can see our concern about the financial problems.

We understand that if the state does come in to run the county under severe economic hardship, they would have to raise it to \$5.00. It is already tough enough to have to pay property taxes in White Pine County. I do not want to be paying \$5.00. Maybe this bill is a little self-serving. I need these two entities to get together and figure out how we can combine some of these services to save some money to avoid future distress.

Assemblywoman Spiegel:

I was looking online and trying to find some more detail about the 2012 advisory question. I cannot find it on the Office of the Secretary of State's website or anywhere. I have received a lot of emails, petitions, et cetera in opposition to the bill. It seems to me that a lot of people who live in Ely do not want to be disincorporated, and I am trying to see if there is a way to drill down in the 2010 advisory question to separate how the people who actually live in Ely voted versus the rest of the people in White Pine County. I am wondering if there is a way to get the precinct-by-precinct data. I would be happy to do the analysis. I think it is an important piece.

Senator Goicoechea:

This bill would do that. Clearly, there are precincts and it probably could be broken out exactly how they voted, whether it was the county or the city, but this ballot question would only pertain to the City of Ely. It will determine once and for all whether the people in the City of Ely want to be disincorporated or not. Novel idea to let them vote on it.

Assemblywoman Joiner:

Because of the way the *Constitution of the State of Nevada* and city charters are set up, is this the only way people can get this on the ballot? Does it have to come here to the Legislature in order to be on the ballot? Is there an initiative petition process that could also be involved? I am trying to understand if the Legislature is the only way for this to get on the ballot.

Senator Goicoechea:

There are petition processes and a number of ways to put it on the ballot. The Ely City Council could have put it on the ballot themselves. When I originally brought the bill forward, there was considerable friction going on in the community. I will admit, the original bill had a time frame sometime in June which would allow us to actually get it done now, but given the dissolution and problems, the assets would have to be dealt with and the time frame was too close and too tight. I agreed, and we pushed the date out a couple of years hoping that they could work through this process themselves. There is another legislative session before this question would even be on the ballot. If everyone were singing "Kumbaya" and holding hands, I would hope someone would pull this bill. It is an effort to get some combination. We want to consolidate services to save some money for the taxpayers in that jurisdiction.

Assemblywoman Joiner:

The consolidation is not happening very quickly. I get the advantages of consolidating certain services and not duplicating them in the city and the county in such small-populated areas. Is there an ability to consolidate those services without changing the city into a town? Further consolidation could solve some of those issues of duplication, correct? Is that just not happening? Is that part of the concern?

Senator Goicoechea:

Yes, as Assemblywoman Neal stated, through MOUs the city made the decision not to have a police department and let the county do it. There is always the argument about who pays what though. They can assign the duties of the city attorney to the district attorney and/or the district attorney's office. Typically, the district attorney's office has a deputy. I would not think that the workload would be so big that they could not afford to have that consolidation. Again, that is what we are really looking for. Some of these areas need to be consolidated. I do not care what the position is when we are all here in government; every position costs money. It is a cost-savings and exposure issue.

Assemblyman Carrillo:

Regarding the advisory question, it asked if the governments should be combined. The bill says it is more of a takeover and not a combination.

Senator Goicoechea:

This was really the only mechanism. It is a lot more cumbersome. They would have to come together and amend the *Nevada Constitution*, very similar to what Carson City did when it became a city. There are a couple of big issues. White Pine County is a lot larger in size than Carson City. There are 130 miles each way and it would be problematic to call it a city. To be honest with you, this dissolution is technically leverage. The bottom line is, the voters of the City of Ely are the only ones who get to vote on whether the city remains incorporated or not.

Assemblyman Carrillo:

You mentioned this was brought forth in 2010. Was it the county who brought this forth, was it the city, was it a combined effort, or was it an outright takeover of one entity over the other?

Senator Goicoechea:

I was not really involved in that, although I did represent White Pine County. The bottom line is, it was my understanding that it was an advisory question placed by the Board of County Commissioners. It was just an advisory question asking if the voters and taxpayers in this jurisdiction wanted to combine their government. It was a close vote, 53 percent to 47 percent. That was five years ago, and nothing has happened. Clearly, it is the intent of the people to combine the governments. I do not think it is an issue of who is taking who over. Even with this bill, it is going to be eight years after the ballot question before we even have another question.

Assemblywoman Neal:

I want to get more clarity on the arguments from both sides in terms of why they will not consolidate the city attorney and district attorney and the other four services you mentioned. You also said there is debate over the energy franchise fee, which I did not get information on how much that is. In terms of helping me understand, what is the impasse? Why will they not agree to consolidate? There is money on both sides. Each one has capacity to do something. What is the argument since the consolidation passed as to why they will not do it? I want to know the reason.

Senator Goicoechea:

I know there are representatives from both the city council and the board of county commissioners here. It would be better to ask them. I cannot speak for

them and why they are not holding hands. This bill is only an effort to try to at least get them in the same room every time we have one of these hearings.

Chairman Ellison:

I know you are not trying to pick sides; you are just trying to resolve the issue. If this bill does fail, would you be willing to present a town hall meeting between the city and the county to try to get people talking again?

Senator Goicoechea:

Whether the bill fails or passes and when we ever get out of this session, I am more than willing to talk to the people of White Pine County. I get a lot of calls, just as you do. Typically, when I talk to my constituents face to face, they agree that they need to be combined. It is reasonable. We just need to get the players to the table.

Chairman Ellison:

Did you say that the city was outside of the \$3.64 property tax cap?

Senator Goicoechea:

Not the city. The general county rate is over \$3.64, but a piece of the city rate is carved out of the county rate. You have to understand within the \$3.64 property tax cap, the city rate is part of the county rate. White Pine County is over \$3.64.

Chairman Ellison:

Legally, I did not think they could do that. I have Committee Counsel looking into it. I did not think they could be outside of that boundary without a loan or something. Maybe I am wrong.

Senator Goicoechea:

Because White Pine County was in fact run by the Department of Taxation, you have to understand they can take the tax cap to \$5.00. They can ratchet it up as they see fit.

Chairman Ellison:

Was the cap rate established after the Department of Taxation came in?

Senator Goicoechea:

Once they hit the threshold, they were taken over by the Department of Taxation and at that point all bets were off. That is where the energy franchise fee came in, the 5 percent that is assessed on every energy bill, whether it is power or gas. As a taxpayer in White Pine County, and there are a number of us, we would like to avoid that exposure.

Chairman Ellison:

I think you clarified that question, thank you. Those who are in favor of the bill, please come forward.

Gary Perea, Chairman, Board of Commissioners, White Pine County:

I am here to ask your approval of S.B. 238 (R1). In 2010, I was the one who pushed to have the advisory question put on the ballot. I asked the committee to come up with explanations and pros and cons of that ballot question, and we did have representation from the City of Ely. Kevin Briggs, the District Attorney, participated on that committee, and he was the one who drafted the cons for the advisory question. The question read, "Shall the governments of the City of Ely and White Pine County combine into one government unit?" Government unit is a different word, but it came out of an understanding and realization that if the City of Ely ever did disincorporate, it would be a consolidation. It would not be one government body taking over the other. It would be bringing the two together.

The results of the question were 47 percent opposed and 53 percent in favor. The City of Ely precincts did vote in favor, but I do not have the exact numbers. I am not here to argue whether we should disincorporate or merge, but to ask that you allow the citizens of Ely to have the opportunity to vote. I believe there would be a lot of efficiencies built in and a lot of cost savings if we did combine services. We have tried to combine services, and I have to say that over my years of being a county commissioner, the relationship between the city and the county is relatively good. We just went into a long-term agreement for police services; it is an eight-year agreement. Over the years, there have been other issues. One of the things that we have combined is the Building Department. We have been trying to save money, but once we combined the services, every once in a while I will get people in the county complaining. They complain that the building inspector is spending too much time in the City of Ely and the county is not getting their fair share. There are always those kinds of issues as we move forward. If we had one government agency, I think it would eliminate some of those arguments.

In 2010, the City of Ely did pass a resolution opposing this ballot question. We went through a lot of the reasons why it was a city issue and the county should not be involved, but at the end of the resolution it stated, "Be it further resolved that the City of Ely Council opposes an advisory question being placed on the ballot of the county general election because it deals with city issues and not a county issue and only the city residents can determine whether the City of Ely should exist as a separate unity." I am agreeing with that. It should be up to the city. Let them decide whether they want to have one government or continue with two governments and pay for separate services.

Chairman Ellison:

Was the resolution from the county?

Gary Perea:

It was from the City of Ely. The resolution was opposing the county commission going forward with the ballot question. They were basically saying that it was up to the City of Ely and the city residents whether they should disincorporate or not. I agree with that. The City of Ely should decide whether they should or should not disincorporate.

Laurie L. Carson, Vice Chairman, Board of Commissioners, White Pine County:

I am also the President-elect of the Nevada Association of Counties. I support Senator Goicoechea bringing forward Senate Bill 238 (1st Reprint). The county has to fund mandates sent down from the state, which the city does not. We do have limited resources. I also want to touch on the fact that with the property tax at the cap, the average property built in the county was built before 1960, so property values are low. I believe that it should go to the vote of the people and that is why I support this bill. They voted on it once before; maybe things have changed, I do not know. One of the reasons why the county agreed to go ahead and put this as a ballot question in 2010, was because of the fact that there are new residents and a number of individuals who had come to the county and had stated that it should be disincorporated, but it was up to the city and that is what this bill does. It brings it forward so that the citizens of the City of Ely can vote on it.

Richard Howe, Commissioner, Board of Commissioners, White Pine County:

I am the only commissioner who is a resident of the City of Ely. I am here to voice my opinion in support of one government. I have been an outspoken person about that. I have written letters about us being one government instead of two, and they have been published. We have two governments within six blocks of each other. We have an entire community that could fit inside of the Lawlor Events Center. Six blocks away, there are two clerks and two attorneys. We have a shared building department, sheriff's department, swimming pool, landfill, cemetery, et cetera. These are things the city and the county share as one.

I do have the results of the 2010 election as far as the precincts go. There are four full precincts and one partial precinct in the City of Ely that vote within the county. In the vote in 2010, all precincts in the City of Ely were in favor of one government. One of the biggest problems is probably the fire departments. The county and the city both have a fire department. Fire departments are very expensive to run. We have tried to work with the city on different things. We had to go into mediation to get the sheriff's contract settled just a month

ago, right after the hearing of this bill in the Senate. We had to come down and allow the city to pay less than they had previously agreed to, which gave the county a shortfall. They agreed to \$350,000 this year.

I have been a resident of Ely since 1954. I moved away in 1991 for 20 years and then I came back. This has been an ongoing debate for decades. Ely's city limits ended on Great Basin Boulevard and there was a debate at that time when east Ely annexed into the City of Ely. There was a lot of opposition to that, but now it is all one. Everybody is fine with it being one. In the early 1970s, we did away with the City of Ely's police department and combined it with the sheriff's department. To this day, everybody is fine with one sheriff's department. We are too small for two governments. There is no doubt about that.

In the past, the Legislature has recommended throughout the state of Nevada every county under 40,000 in population look at the possibility of forming one government to satisfy the counties. I understand that Elko County and Humboldt County have bigger cities than Ely and, of course, so do Clark County and Washoe County. In the smaller rural counties, it is a benefit to be one government. We are all in this together. There are people who are across the street from each other and one lives in the county and one lives in the city. You ask anyone where he is from and he will say Ely. Ely will remain the town seat and county seat of White Pine County. All we are asking for is one government controlling the city and the county.

Ninety-five percent of all of the shopping is done in the City of Ely. All the county residents come to Ely because that is where the businesses are. Forty percent of the population lives in Ely, and sixty percent lives in the county, although they might be right across the street from each other. There is still city and county separation. When asked where they live, they live in White Pine County or the City of Ely. I have no personal issue with anybody in the City of Ely whatsoever. I just feel that having one government is the sensible way to go. We cannot afford to pay the money for duplicate services when we can put them all into one. We are in the twenty-first century, and I keep hearing the argument that Ely has been an incorporated city for 108 years. Yes, it has. It was a different time in 1906. We now have computers, and work can be consolidated into one office. I hope I let you know how I feel about this. I speak in favor of one government.

Assemblywoman Neal:

The bill changes the city to a town, which then gives the county more jurisdiction. What are the service impacts? What part of the City of Ely budget would then come under your jurisdiction? How much of their money would you

then start to control? I know what the bill says in terms of all money, property, assets, liabilities, and indebtedness will then become the indebtedness of the Town of Ely, but then their power is reduced as a town.

Based on what Senator Goicoechea said, he wants you to talk and find a middle ground, but you are at the table saying you want the bill in whole, and that is not middle ground. Tell me why you cannot find a middle. The City of Ely does not want to give up 108 years of incorporation, and I can see that as a legitimate argument. They have a vested interest in staying where they are and who they are because it is a designation. Can we get to that core of the issue? This bill is not an appropriate solution for not wanting to come to the table to consolidate four or five services. That does not make sense to me. You are going to have to help me logically reach your position so I understand why this is necessary rather than just saying that you can consolidate the four services and move on.

Gary Perea:

I think part of the process is, as we move towards a possible consolidation, we will answer some of those questions. I am assuming that their budget would be much like Lund and McGill's budgets. They would have a certain share that they could put towards whatever services they would want to have. I do not want to view this as a takeover. This is a consolidation. This will bring the City of Ely and White Pine County governments together. As far as the reasons why we are here, it has been a long period of time. I remember growing up and seeing newspaper articles about the county and city fighting over police services and other things over the years. It is just something that has gone on for years. One of the options is a petition. I have heard people say that maybe we should go down that road, but you have to think in a small community you have individuals and neighbors who are going to be pushing to have this petition and it causes a lot of hard feelings. Some people are afraid to take that step to move forward with the petition. I think this is a way that we can do it without the people feeling afraid of getting in arguments with their neighbors, and they will be able to go to the ballot box and make their decision.

Assemblywoman Neal:

Are you saying that if they go to the ballot box, we could reduce the hard feelings that already exist so people can silently express their feelings about wanting to be a town versus a city?

Gary Perea:

The hard feelings have mostly been between the different governmental agencies, not between the people. That is where some of the friction has been. When the city and the county have to sit back and try to figure out how to balance their budgets separately, it does not make sense.

Assemblywoman Neal:

The only missing piece of my question that has not been answered is why can you not just consolidate the four or five services or however many there are and come to an agreement versus disincorporation of the City of Ely? I do not understand that. Apparently, the fire department is doing well, and based on your audit, that was one of the embedded or interrelated services where everybody is good with how the fire department works and performs, so why can you not consolidate the three or four services? Why is the extreme the option? I am not hearing, understanding, or processing that.

Gary Perea:

You are correct. Whether this ballot measure goes forward or not, I am going to look towards consolidation, and I have been doing that since I became a commissioner. It is a small town, and people are trying to protect their turf. People are trying to stonewall and create obstacles that do not need to be there in order to consolidate.

Chairman Ellison:

Based on the size of the community, it is a lot different from what we have in Elko. In Elko, the county is only ten blocks away from the city hall, but we have a large land mass and a larger population.

Assemblyman Carrillo:

You have Ely in White Pine County, but there is also Winnemucca in Humboldt County, Lovelock in Pershing County, and Caliente in Lincoln County. I guess we could give up all of what we do in the Legislature to all the different cities and counties, and then we would not serve a purpose. I understand that, and that is why every two years the Nevada Association of Counties and the Nevada League of Cities and Municipalities will come forward to ask for power and other things. The whole purpose of the Legislature is to make sure that all those concerns are brought forth in front of the people to ensure that everyone has a voice in the decision. We represent every county and city through our constituents. You are talking about consolidating versus combining, when one takes over the other. Are there currently five city council people plus the mayor and then five commissioners? Would the county commissioners be willing to give up their positions and let it go to the vote of the people as to who would be in charge of the town or the county if this were

to go through? You put five people plus the mayor who were leading a city out on the street so to speak, but the county commission gets to stay whole. Why should we let five people who are doing a fine job go? I believe the whole financial aspect of it is definitely something to consider, but the vote of the people should be recognized as well.

Laurie Carson:

The White Pine Board of County Commissioners are elected at large. We do not have districts. Everyone, including the city, can vote for us. I would say yes, it is about the greater good for our community. I think egos should be set aside to let democracy take its place. That is why I support this bill. If that is what the City of Ely wants to do, then so be it. This is democracy at its best in regard to letting this bill go to the vote of the people. I have had numerous individuals during the nine years I have served as county commissioner come to me and voice dissatisfaction. They want to know why we just do not become one government. That is what this bill does. It puts it to the vote of the people of the City of Ely.

Assemblyman Carrillo:

Would you be willing to relinquish your county commission seat and put it to the vote of the people for county commission and city council to say that you are all going to go for the same five seats or expand it to seven county commissioners? If this were to go through in 2018, instead of just keeping the five county commissioners who are currently sitting, would you be willing to give up your seats and say everyone in White Pine County could have an opportunity to sit in the seats? The city council is voted separately, correct? They are two separate entities all together, correct?

Gary Perea:

Correct.

Assemblyman Carrillo:

I hear two different things: combination, which is bringing two things together, and then I hear takeover as the bill states. If you had the county commission and the city council put it to a vote of the people you could elect a whole new board.

Gary Perea:

Over the years, the swing on the commission has gone up and down. Sometimes it has been all city, sometimes it has been all county, and sometimes a mixture of the two. My term ends in 2018, and I am term-limited, so my seat will be open to everyone, and it has always been open to everyone. I would also say that I would not be in favor of making it seven members because that

eliminates the purpose of trying to save money. I would rather have three county commissioners instead of five to try to eliminate some of the cost, but because of Open Meeting Laws and other issues, I do not think that we can go down that road. I think the county commission has always been open to the City of Ely and there will be seats available for them to run. There will still be a town council involved with the government as there is with Lund, McGill, Ruth, and the other towns.

Richard Howe:

I am the one sitting member who is living in the City of Ely. That would be an ideal situation, but every seat in the county is at large. The entire county votes for us. The City of Ely alone votes for the Ely City Council. I would not be one bit opposed to having all five seats opened, but you need staggered terms just as you have here. You cannot replace an entire board at one time. There will be three seats open in 2016. Anyone from the city can run for any one of those county seats because they are all at large. There will be two more seats open in 2018. The city is not prohibited from running for the county seats; however, Ms. Carson and Mr. Perea are prohibited from running for the city seats.

In 2016, if this measure passes, anyone from the city can run for a county commission seat, but a county commissioner cannot run for the city council. We have turnover. We just had two sitting county commissioners voted out. Every two years there is a turnover. Anyone from the city can run for any one of the county commissioner seats because they are at large. What we have put in front of you right now is one simple question. Allow the citizens of Ely to voice their opinion, not the five city council members and not the five county commissioners. It is to allow only the citizens of the City of Ely to decide whether to stay as a city or be combined into one government.

Based on what happened in 2010, and what I know about where I live, I believe it will pass. Give the citizens the opportunity to let their voice be heard, because that is what the *Constitution* says. Let the people vote. That is simply why we are here, to ask you to let the citizens of Ely vote on this in 2017. That is all it is. I think it is a simple question and it is up to the citizens of Ely, not the five county commissioners and not the five city council members, but the 4,000 people who live in the City of Ely. They want the right to vote on this, and I believe they should have the right to vote. This Legislature has the opportunity to make that happen. The Senate passed this bill, and I am hoping that you will as well.

Assemblywoman Neal:

I want to talk about the consolidation of the attorneys. I read the 2013 and 2014 White Pine County audits. The salary and wages for the district attorney in White Pine County is \$398,090. The employee benefits were \$158,512. How many district attorneys do you have? The City of Ely attorney made \$29,000. The budget for the attorney in the City of Ely was \$29,000 or \$28,000. Who makes up the \$398,000 for the year in salaries and wages?

Richard Howe:

There is one district attorney and two deputy district attorneys. The City of Ely has one attorney. The district attorney in White Pine County does not make \$300,000. I believe the district attorney's wage benefit package is \$106,000. His deputies and law clerks take up the rest of the budget.

Assemblywoman Neal:

I figured it was broken up between several people. Is this an area of contention and consolidation?

Richard Howe:

No, it is not. You keep saying that we only have four issues, but there are way more than four issues. We are stating that there is a district attorney and a city attorney, a city clerk and a county clerk, et cetera; it is not just four departments. Many departments are involved in this. There is maintenance, roads, et cetera. The four you are speaking about and the one in particular, the district attorney, I believe the salaries are equal. I am not sure what the city attorney makes, but he is probably right around what the district attorney makes.

Assemblywoman Neal:

Are we trying to get the city attorney to merge with the district attorney's office? I am almost positive that it is not the other way around. White Pine County would not consolidate with the city attorney and then drop their salaries because, clearly, there is more money in White Pine County. The City of Ely's attorney would then be under the umbrella of the district attorney's office and then instead of having four lawyers, you would have five lawyers. I am trying to understand because there is a high cost here.

Richard Howe:

The city attorney would not necessarily be absorbed by the county district attorney's office. The city clerk would not necessarily be combined with the county clerk's office. There are administrative savings by combining the two, which is a big part of the reason for making one government in a small rural county. It is to consolidate a lot of the duplicate services, including the

road department, the cemetery, the water, the district attorney, et cetera. There are several things. It is not just one small thing. There will be some administrative losses. The Ely City Council will become a town board. The county commission would be the one governing body. All of the other things you are talking about would become one. The county clerk would become the city and the county clerk, so to speak.

Assemblyman Carrillo:

You mentioned that the town would still have a board. Section 3, subsection 2, paragraph (a), says, "Except as otherwise provided in this paragraph, the Board of County Commissioners of White Pine County is the governing body of the Town of Ely." To me, any board would be null and void, and not have any power. The power is still the county commission, correct?

Gary Perea:

Yes, that is correct. As I said before, the seats are open to anyone who lives in the county to run for the seats. As a county commissioner, I do listen to the town boards. We have Lund, McGill, Baker, and Ruth advisory boards, and we rely on them and their opinions regarding what they need for their communities. It is a large county, and we do need to have them help educate us on what their needs are.

Assemblyman Carrillo:

They do not have power though. The county commission has the power, correct?

Gary Perea:

Lund and McGill are set up where they do have a town budget, and they do have some discretion on how they spend the tax money. I would assume that Ely would be the same. They would have a town budget as well for some of the things they would like to do.

Assemblywoman Spiegel:

You said that you were the person who was the driving force behind the 2010 ballot question and we are in 2015 now; it has been five years. Why did you not bring this bill forth in 2011 or 2013?

Gary Perea:

Leading up to the ballot question, I had heard over the years a lot of rumblings about how the people in the City of Ely would like to disincorporate and have one government, but no one would step forward to pick it up as a petition. I am from Baker; I am 67 miles away from Ely. I thought that having this advisory ballot question would be the impetus for someone within the

City of Ely to pick it up and drive a petition. Being outside of the City of Ely, I did not feel like I could push that, but I wanted to see how the people of the City of Ely felt and I think that advisory question did that. Why nobody has picked it up, I do not know. I think there might be some people who are afraid of the repercussions of moving forward with the petition. I do not know.

Assemblywoman Spiegel:

I did some analysis, and it looks like for the ballot question with the people who definitely live in the city, it won by 18 votes. It was a very close question. I know that financial circumstances have changed and that the city now has assets and they are doing well. I am wondering about some of the underlying motivations and other things that are going on. If people still feel this strongly about it even after all of this time, and I am not sure that 18 votes count as strongly, why would they not get on the ballot to issue a petition?

Richard Howe:

Are you speaking about the petition that would require 118 votes that would be signed by the citizens in order to get it on the ballot?

Assemblywoman Spiegel:

Yes.

Richard Howe:

Yes. We had that in December of 2014. There were circumstances going on in the City of Ely. There was a recall petition going on at that time. We were told by the state that we had to have the petition in by January 20, 2015, and the meeting of supporters of one government was December 17, 2014. We decided that the recall petition was void because they could not find the exact amount of people who voted in a previous election so they could determine what percent of voters they needed, and there were a lot of people who had signed it. As a group, we decided not to go for the petition because of the recall that was going on, and we wanted the citizens to make that decision because that would have convoluted the whole question. We only had one month to get 118 signatures. At the meeting right before Christmas, we decided not to go with the petition process because if there had been a recall, we would have had a whole new city council. The deadline came to have all of the signatures in, and the recall was declared null and void. It was not allowed and it was thrown out.

Gary Perea:

One of the reasons to consolidate is financial, but another reason is that we all know when you just combine fire, emergency management services, et cetera, there will still be two bosses. There will still be the City of Ely and the county

over that agency. When you have two bosses over one particular department, there are inherently some issues that could happen down the road.

Senator Goicoechea:

I really need to leave. I will leave the decision to this Committee. As you have heard in the testimony, there are some issues. I will be honest with you, and I think I know where Assemblywoman Spiegel was headed, but I am tired of being in the middle, and I am looking for some resolution. Let them vote on it once and for all. If you have any questions, please contact me.

Chairman Ellison:

Is there any way for the legislators to say what to combine? I do not think that is legal.

Senator Goicoechea:

I do not want to intervene any further than I have. At this point, I want them to decide if they want to be a city or not. I am tired of being in the middle. There are at least three factions and maybe more. Sometimes they get along great, and sometimes they are at war.

Chairman Ellison:

I appreciate that, and I know you have friends on both sides, so it is a hard situation. Will those in opposition please come forward?

Charles H. Odgers, City Attorney, City of Ely:

On the Nevada Electronic Legislative Information System (NELIS) you will find my legal analysis ([Exhibit W](#)) on why I believe this bill is unconstitutional. Instead of going through why I think it is unconstitutional, I would like to address some of the misconceptions that were identified in the testimony.

The district attorney's office consists of an elected district attorney, two deputies, three clerks, and the attorney general. The attorney general is on a grant that I am also part of. It is for domestic violence in not only White Pine County, but also Eureka County and Lincoln County. I do not know whether a portion of her salary comes out of the budget or not. I know Michael Wheable, who is now the district attorney. I was one of his greatest supporters in the election process because at the time, I was a public defender. Part of that budgetary issue deals not just with their salaries and benefits, but also the other things we have to pay for, such as juries, expert fees, et cetera. My salary is \$105,000 per year. I make about \$400 more than when I was a deputy state public defender for Ely.

Mr. Howe and Mr. Perea said it best: part of the issue you are dealing with and part of the reason you are here is because it is a monetary issue. This same board voted to get rid of a state agency and pay local lawyers a lot more money than they were paying to the state in a contract that if there is a death penalty case, it will bankrupt the county. The county is \$600,000 behind in their budget and there are headlines to prove it; the city is not. This is a power grab. This is an attempt by three county commissioners who are present and who, in a county commission meeting on March 11, 2015, said this was not a county issue, and yet all three of them are here in support of this.

Believe it or not, I am in support of small government. I believe we should be combining services where they can be combined. Let me be clear about what services we are referring to. If you have two governmental entities, you cannot consolidate the city attorney with the district attorney's office. If there is a dispute between the city and the county, my job is to represent the citizens of the City of Ely against the county, hence the reason I am here. There is no opportunity to combine those services.

If the City of Ely is disincorporated, my job goes away; I understand that. I am appointed, and if the mayor changes, I could be released. The population at large elects Mr. Wheable, so he would continue to be the District Attorney. I believe his wages are set by the state at \$108,000 per year. If the bill passes that gives the county-elected officials a 3 percent raise and that salary will increase. They will get a 12 percent raise over the next 4 years. The city council has not had a pay raise in God knows how long, and they are paid \$6,000 per year versus \$25,000 that the county commissioners currently receive, plus that possible 12 percent raise. That is just the wages, which does not include the Public Employees' Retirement System (PERS) or any other benefits.

What services can actually be consolidated? I have a great deal of respect for the county commissioners, but I have a difference of opinion with them and they are well aware of it. They talked about the cemetery. The cemetery is completely owned and operated by the City of Ely. The county does not contribute money to the city for the cemetery. They do not contribute to the maintenance of it. We have parks. We believe the county has one park and the city has four. We have three people who do the entire job of maintaining all of our parks and buildings. We have three people in our road department and they cover 25 miles of road running the snowplow, handling road repairs, curb and gutter repairs, sidewalk repairs, et cetera. I have three people who run the sewer and water component. The county does not have sewer and water or a landfill. We have five people who run the landfill. It is a regional landfill.

We have one clerk who does all the billing for all of the utilities for the City of Ely, which is sewer, water, and landfill.

Chairman Ellison:

Are they all enterprise funds?

Charles Odgers:

The enterprise funds are the utilities. Mr. Switzer can talk to you about that. That starts getting into monetary issues that I try to stay away from.

The consolidation and the alleged savings are a fallacy. Why? Because our employees are paid about 25 percent less than the county employees. Twenty-five percent on average. Five years ago, in 2010, when the advisory question came up on the ballot, it said, "Shall the governments of the City of Ely and White Pine County combine into one government unit?" In 2010, the county was being controlled by the state because they were still in a crisis with their finances. How are we to know, because of how poorly the ballot question was written, whether or not the intent of the citizens of the city and the county was that the city would take over the county? I cannot answer that question, and the numbers do not tell you that because it was a poorly written ballot question.

Regarding an amendment to the *Nevada Constitution* for the city to take over the county, Article 17, Section 34(a) of the *Nevada Constitution* allows this Committee, as well as the Senate, to enact an act that would allow the city to take over the county. It does not require an amendment to the *Nevada Constitution* as identified by Senator Goicoechea. That was an incorrect statement he made. The *Nevada Constitution* already allows you to do that. I am not asking you to do that. That is not my intent today. I just want to clarify the record.

I am a county resident. I own 145 acres of land, and I raise cattle and hay. I pay a 5 percent energy franchise fee and the city residents pay 3 percent. In order for the county to meet their budgetary shortfall, they are talking about putting the energy franchise fee back into place. It was put into place as a result of the county's inability to pay its bills and that is why the state took over. I think it was allowed to sunset this year. As a result of that, as a county resident, my taxes went down, but they are about to go back up in order for the county to attempt to balance its budget. I am not necessarily opposed to that; it is going to hurt my pocketbook and the price of hay, but it is part of doing business and living in White Pine County. It does not go away if you consolidate services. It does not change. As it is right now, the county does not even maintain the roads that lead up to my farm. I am responsible for my

own farm and Senator Goicoechea is responsible for his. What is the county road department taking care of? Where is the savings for consolidation? It is a fallacy that you have to look beyond.

It should never be the position of the Legislature to leverage one board against another board. That is a horrible position to be in. If this is a democracy, then follow *Nevada Revised Statutes* (NRS) Chapter 266, which is what Ely was established under, and NRS 266.775 through NRS 266.795, which gives the residents the ability to choose if they wish to disincorporate. There is a process, and that process requires them to obtain signatures from 25 percent of the registered voters, which I believe is 2,131, so they would have to obtain 532 signatures to get it on the ballot. I am not sure how Mr. Howe came up with his number.

I was involved with the interlocal agreement prior to my employment. I just started in January of this year. The county was at an impasse with the city because the county wanted the city to double their payment to the police department without giving the city a seat at the table as to how the police force got to utilize the money that the city was paying. That was why it went to mediation and not mandatory arbitration. During the mediation session, we resolved it to a point as mediation is supposed to where neither side was happy because neither side got everything they wanted.

Assemblyman Carrillo, you are correct: a town board has no power and no authority. The town boards for Baker, Lund, Ruth, and McGill have to put their hands out and beg the county commission for anything for their respective communities. They do not have the ability to generate funds on their own to take care of their own roads and put in their own sewer. They can do a general improvement district (GID), but if we are in a consolidated environment with one government, should that not be the responsibility of the county? The county should be the one responsible for putting in roads, sewer, and water in those towns. Why should the town boards have to tax the people separately? That is what this will do. You will take everything that the City of Ely has built since 1907, by thrusting your will, not the people's will, your will, Senator Goicoechea's will, and the will of special interests such as the railroad, by forcing a ballot issue that I believe is unconstitutional. I am not going to be remiss in what I say, but if this passes and if the Governor signs it, I will be filing a motion for a preliminary injunction in district court to stop it. I do not believe that this Committee has the legal authority under the Legislature to force a ballot issue. It violates Article 19 and Article 17 of the *Nevada Constitution*.

Chairman Ellison:

On your next agenda, there is something about removing the railroad. Can you address that?

Charles Odgers:

As the Assembly may know, we were in the middle of litigation, and we had a litigation session with the city council, but we cannot make any decisions on how to proceed with resolving a case in private; we have to do it in public. That is why that agenda item is set for Monday at 5 p.m. We are going to address how we might resolve the issue with the railroad.

Melody Van Camp, Mayor, City of Ely:

I Googled the pros and cons of the disincorporation of a city. I read 20 to 30 articles about cities around the country who could not afford their salaries, services, and they could no longer address their financial difficulties. They are broke and facing bankruptcy. This is when the counties intervene to stabilize the struggling cities, and that is when they disincorporate. Not one article that I read mentioned the disincorporation of a city that is in good financial shape. We are in great shape. We can pay our bills, provide services, and we are rich in assets. We have been doing this for 107 years. This is nothing but a money grab and as soon as the county squanders the city's money and disrupts services, the Department of Taxation will step in again as they did in 2006. The City of Ely should really take over the county.

Chairman Ellison:

When the Department of Taxation stepped in when there was a financial problem, was the financial problem with the city or the county?

Melody Van Camp:

It was on the county. If a disincorporation should happen, the county takes over the City of Ely, and they will squander our money and they will not be able to provide services and it will be the same thing. The Department of Taxation will have to step in because they are not taking care of the county financially.

Chairman Ellison:

We are running out of time. You all have traveled so far. If we need to have another hearing, we can.

Robert Switzer, City Clerk, City of Ely:

You have my prepared testimony ([Exhibit X](#)) on NELIS. We have had general statements thrown out that we can save White Pine County taxpayers money by consolidating. What is missing in this equation is, what are those savings? I would argue that the most significant function of a municipality is our water

distribution treatment, wastewater treatment, and landfill operations. In fact, for our particular budget, as well as most municipalities, that is the most significant portion that occupies our used revenues, expenditures, and generally are the most important assets of a city. The county currently does not provide those services; hence, if this bill passes and the city disincorporates, there is not going to be any savings to the taxpayers of White Pine County because those costs would still be there, the costs of staffing those operations, as well as clerical staff to bill, collect payments, and process payments.

The next concern I have if this bill passes is how is the City of Ely going to ask a lender to borrow money for a long-term project? We would have to disclose that there is a cloud of uncertainty hanging over the process. I understand the language of the bill has the county absorbing the liabilities, assets, et cetera; however, this is an unknown. We do not know if the city can do that. The real solution to this issue is the interlocal agreements, several of which have been mentioned already. We just completed mediation for our police department. The City of Ely does not have a police department. We just completed consolidation of our city/county building inspection. The City of Ely now has its building inspector inspecting throughout the county.

My overall concern is that this is some type of power grab. I think the citizens of the City of Ely and White Pine County deserve better.

Assemblyman Carrillo:

Do you have some type of bond rating?

Robert Switzer:

Not to my knowledge.

Assemblyman Carrillo:

I want to confirm how you are lent money from banks. I am trying to establish a comparison of the city to the county as to their ability to borrow money and their financial status, not so much on a report, but just to see where they are financially. If we took a screenshot today, where is the county and where is the city? Are we comparing apples to apples or apples to oranges? I would like to see where they are both at financially.

Robert Switzer:

I do not know the county's exact credit rating, but I know the city is financially sound. You have a copy of our financial statements ([Exhibit V](#)). I am new to this position, but to my recollection, for the last two budget cycles, the city has had a surplus in its budget. I cannot speak directly to the county's budget and whether it is apples to apples or not.

Assemblyman Carrillo:

I think the county would be more than happy to provide me with that information.

Charles Odgers:

I think you are asking about our credit rating. I do not believe that the City of Ely has incurred any debt that would result in having a credit rating. The U.S. Department of Agriculture was in our office last week talking to us about why we were unable to get Community Development Block Grant (CDBG) funding. I do not know that we can actually tell you what our credit rating is because we do not have any long-term debt where we have to go through any type of credit agency. I think that is why you are not getting an answer because I do not think anyone knows because we have never gone out to get any type of debt.

Marty Westland, Councilman, City Council, City of Ely:

I respectfully oppose any effort by the Legislature of the State of Nevada to effect or promote the disincorporation of the City of Ely, or any other city in Nevada. [Continued to read from prepared testimony ([Exhibit Y](#)).]

I want to say thank you for everything I have heard this morning. Obviously, our meeting here is proof that my pleadings to the Senate Committee on Government Affairs fell on deaf ears. I am asking you to recognize this injustice and reject this bill outright. As an elected official, I am appalled by the arrogance that results in creating a bill that targets a certain community for such a specific purpose. Even the title of the bill is offensive.

Senate Bill 238 (1st Reprint) is an act to disincorporate the City of Ely. It flies in the face of existing statutes that provide for the possibility if that is the desire of the affected citizens. I hope and trust that your cool heads and logical reasoning will carry this bill to its only justifiable conclusion. It should be rejected entirely. It should be removed from the table. Thank you for your consideration.

Marion Joseph "Sam" Hanson, Councilman, City Council, City of Ely:

Professionally I am, by virtue of the provisions of the No Child Left Behind Act, what passes as a "highly qualified" teacher at White Pine High School where I am fully endorsed to teach American government, French, psychology, and world history. [Continued to read from prepared testimony ([Exhibit Z](#)).]

I do not think that there is anyone here who, at times, if not frequently, does not feel that the federal government is putting their thumb down upon us as a state. That is the same thing we have here. If you pass this bill, you are

forcing your will upon the citizens of Ely who have that opportunity if they really want it. As Mr. Howe said, they were not able to get the necessary number of signatures on a petition to do so. They always have that option available to them. If they truly want to disincorporate, then they are the ones who should be responsible for bringing that action to the floor and you should not have to deal with it whatsoever. [Continued to read from prepared testimony ([Exhibit Z](#)).]

Mike Coster, Private Citizen, White Pine County, Nevada:

Is this bill needed? The answer is no. It exists in statute amply for the voters to initiate a petition. That is what has been contemplated on and off since the voter initiative in 2010, and I was in the county then. The law is there, but they just cannot get the signatures. The commission tried in November and December and you already have testimony that they were unsuccessful. This bill will take away voter discretion.

I no longer live in the City of Ely. I used to be a business license holder in the City of Ely. This bill will take away the process that every other city resident throughout the state of Nevada is entitled to, and that is a petition process. It is one of the three steps. It also then accelerates the implementation should the voters pass it, which I do not think will happen. It will force what the citizens have not supported. Why might there be support for this bill? The county, depending on how you count it, has run in deficit for at least two of the last four fiscal years. For the present year, the county's budget is \$806,000 in deficit. With over 10 percent of our then-available unrestricted fund balance, we are actually coming in at an estimated \$844,000. Even with an \$806,000 deficit, we are \$40,000 more in deficit than when we started the year. Our preliminary budget for this year is \$602,000 in deficit. Those who know me know that I am truly emotionally affected by that; it is my priority. The city has run in surplus.

Why should we not do this? This is going to be a horrible experience for White Pine County and the City of Ely. As my longer statement ([Exhibit AA](#)) says, it is a roller coaster ride sometimes. We are at the very end of The Loneliest Highway in America. We make our own fun, there is a lot of emotion, and all of this stuff boils down and gets resolved by family. The City of Ely and White Pine County are their own best allies in the whole region of the state. We have great support out of Elko. We have great friends in Eureka. We have to resolve our own problems, and we typically do. If this bill passes, we will be opening a two-year fight of tension, politicking, background deals, and influence and confusion about what is motivating the county to do certain things. Are they setting up for a ballot? Why is the city taking that step? Are they disposing of assets? The largest single asset is the

railroad. What is the motivation in doing that? Everything is going to be under the specter of what will happen in 2017. It is actually worse that this bill has been amended to 2017 than the original 2015 date. [Continued to read from prepared testimony ([Exhibit AA](#)).]

The White Pine County Board of Commissioners has not put this item on an agenda and does not have a block opinion, as you can tell today. I am speaking as a citizen, not as a representative of the Board of Commissioners.

Chairman Ellison:

I know you have friends on both sides of the fence, and it puts you in a very bad situation to come up in opposition.

Mike Coster:

While it is awkward, under the good leadership we have from Mr. Perea, it is not a bad situation. He has a good and responsible ear.

Chairman Ellison:

Senator Goicoechea is not here for closing remarks. If you believe we did not have a long enough hearing, we can hold another hearing. Thank you so much. I appreciate your being here. You have all come a long way. I will close the hearing on Senate Bill 238 (1st Reprint). Is anyone here for public comment? I see none; therefore, we are adjourned [at 11:25 a.m.].

[([Exhibit BB](#)), ([Exhibit CC](#)), ([Exhibit DD](#)), ([Exhibit EE](#)), ([Exhibit FF](#)), and ([Exhibit GG](#))] were presented but not discussed and are included as exhibits for the meeting.]

RESPECTFULLY SUBMITTED:

Jordan Neubauer
Committee Secretary

APPROVED BY:

Assemblyman John Ellison, Chairman

DATE: _____

<u>EXHIBITS</u>			
Committee Name: <u>Assembly Committee on Government Affairs</u>			
Date: <u>May 1, 2015</u>		Time of Meeting: <u>8:08 a.m.</u>	
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 244	C	Jered McDonald / Committee Policy Analyst	Work Session Document
S.B. 448	D	Jered McDonald / Committee Policy Analyst	Work Session Document
S.B. 473	E	Jered McDonald / Committee Policy Analyst	Work Session Document
S.B. 480 (R1)	F	Jered McDonald / Committee Policy Analyst	Work Session Document
S.B. 482	G	Jered McDonald / Committee Policy Analyst	Work Session Document
S.B. 482	H	Jeff Fontaine / Nevada Association of Counties	Summary of Staff Compensation
S.B. 482	I	Jeff Fontaine / Nevada Association of Counties	Wage Concessions
S.B. 482	J	Ronald P. Dreher / Peace Officers Research Association of Nevada and Carla Fells / Washoe County Employees Association	Amendment
S.B. 147 (R1)	K	Senator David R. Parks	Prepared Testimony
S.B. 147 (R1)	L	Warren Wish / Carson City Guide Dog Club	Picture of Figby
S.B. 147 (R1)	M	Warren Wish / Carson City Guide Dog Club	Picture of Umbrella
S.B. 147 (R1)	N	Warren Wish / Carson City Guide Dog Club	Picture of an Expandable Aluminum Pole
S.B. 147 (R1)	O	Chuck Callaway / Las Vegas Metropolitan Police Department	Newspaper Article

S.B. 147 (R1)	P	Chuck Callaway / Las Vegas Metropolitan Police Department	Officer Involved Shooting – Dog Involved Incidents
S.B. 147 (R1)	Q	Gina Greisen / Nevada Voters for Animals	Proposed Amendment
S.B. 147 (R1)	R	Gina Greisen / Nevada Voters for Animals	Prepared Testimony
S.B. 147 (R1)	S	Melissa Boyd / Nevada Voters for Animals	Prepared Testimony
S.B. 147 (R1)	T	Marie Pichler / Kita's Funding Organization, Carson City, Nevada	Prepared Testimony
S.B. 238 (R1)	U	Assemblywoman Dina Neal	Memorandum of Understanding
S.B. 238 (R1)	V	City of Ely	City of Ely Financial Statements
S.B. 238 (R1)	W	Charles H. Odgers / City of Ely	Legal Analysis
S.B. 238 (R1)	X	Robert Switzer / City of Ely	Prepared Testimony
S.B. 238 (R1)	Y	Marty Westland / City of Ely	Prepared Testimony
S.B. 238 (R1)	Z	Marion Joseph "Sam" Hanson / City of Ely	Prepared Testimony
S.B. 238 (R1)	AA	Mike Coster / Private Citizen, White Pine County, Nevada	Prepared Testimony
S.B. 238 (R1)	BB	Donna K. Jones / Private Citizen, Ely, Nevada	Prepared Testimony
S.B. 238 (R1)	CC	Dale L. Derbidge / City of Ely	Prepared Testimony
S.B. 238 (R1)	DD	Tammy Carlgren / City of Ely	Prepared Testimony
S.B. 238 (R1)	EE	Melody Van Camp / City of Ely	Prepared Testimony
S.B. 238 (R1)	FF	Robert Switzer / City of Ely	Petition
S.B. 238 (R1)	GG	Senator Pete Goicoechea	County Ballot Question