

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

**Seventy-Eighth Session
March 27, 2015**

The Committee on Government Affairs was called to order by Chairman John Ellison at 8:03 a.m. on Friday, March 27, 2015, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at 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 Glenn E. Trowbridge
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

Assemblyman Jim Wheeler, Assembly District No. 39
Assemblywoman Jill Dickman, Assembly District No. 31
Assemblywoman Michele Fiore, Assembly District No. 4

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Eileen O'Grady, Committee Counsel
Aubrie Bates, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Beau Bennett, Management Analyst IV, Office of the Secretary of State
Scott W. Anderson, Chief Deputy, Office of the Secretary of State
Alvin P. Kramer, Chief Deputy Treasurer for Investments, Office of the
State Treasurer
Mary C. Walker, representing Carson City, Douglas County, Lyon County,
and Storey County
John O. Swendseid, Private Citizen, Reno, Nevada
Mike Cathcart, Business Operations Manager, City of Henderson
Thomas C. Starrett, Private Citizen, Gardnerville, Nevada
Carole Vilardo, President, Nevada Taxpayers Association
Scott Leedom, Senior Management Analyst, Southern Nevada Water
Authority, and representing the Las Vegas Valley Water District
Mark R. Vincent, Chief Financial Officer, City of Las Vegas
Jack Mallory, representing Southern Nevada Construction and Trades
Council
Colleen Cripps, Ph.D., Administrator, Division of Environmental
Protection, Department of Conservation & Natural Resources
Yolanda T. King, Chief Financial Officer, Clark County
Jeff Fontaine, Executive Director, Nevada Association of Counties
Wes Henderson, Executive Director, Nevada League of Cities and
Municipalities
Paul J. Enos, Chief Executive Officer, Nevada Trucking Association
A.G. Burnett, Esq., Chairman, State Gaming Control Board, and
representing Nevada Gaming Commission
Lorne Malkiewich, representing Nevada Resort Association
Constance Brooks, Vice Chancellor, Nevada System of Higher Education
Steve George, Administrator, Division of Industrial Relations, Department
of Business and Industry

Jan Rosenberg, Deputy Administrator, Division of Industrial Relations,
Department of Business and Industry

Brian Connett, Deputy Director, Prison Industries, Department of
Corrections

Captain Dana A. Grigg, Assistant Judge Advocate, Nevada National
Guard Office of the Staff Judge Advocate

Stephen D. Hartman, Executive Vice President, Corporate Counsel, Vidler
Water Company

Susan Joseph-Taylor, Esq., Deputy Administrator, Division of Water
Resources, Office of the State Engineer

Leah C. Lamborn, CPM, Chief Financial Officer, Division of Health Care
Financing and Policy, Department of Health and Human Services

Chairman Ellison:

[Roll was called and rules and protocol were explained.] We will now open the work session. First off, we are going to pull Assembly Bill 360 from the agenda. It will come back at a later date. We will open the work session for Assembly Bill 333.

Assembly Bill 333: Provides for the consolidation of certain fire protection districts in certain counties. (BDR 42-650)

Jered McDonald, Committee Policy Analyst:

Assembly Bill 333 provides for the consolidation of certain fire protection districts in certain counties. It was sponsored by Assemblyman Kirner and was heard in this Committee on March 26, 2015. [Mr. McDonald continued to read from the work session document ([Exhibit C](#)).] Assembly Bill 333 authorizes a board of county commissioners of a county whose population is less than 700,000 to consolidate two or more fire protection districts if each district is contiguous to at least one other district, the territory of each district is located entirely within the county, and the rates of certain taxes relating to fire protection levied by the board of county commissioners within each district are equal at the time of consolidation.

Chairman Ellison:

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

ASSEMBLYMAN TROWBRIDGE MOVED TO DO PASS
ASSEMBLY BILL 333.

ASSEMBLYMAN SILBERKRAUS SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN MUNFORD AND
WOODBURY WERE ABSENT FOR THE VOTE.)

Chairman Ellison:

Assemblyman Stewart, will you make the floor statement for this bill?

Assemblyman Stewart:

I will.

Chairman Ellison:

Next, we will open the work session for Assembly Bill 65.

Assembly Bill 65: Revises provisions relating to notaries public. (BDR 19-445)

Jered McDonald, Committee Policy Analyst:

Assembly Bill 65 revises provisions relating to notaries public. It was sponsored by this Committee on behalf of the Secretary of State. [Mr. McDonald continued to read from the work session document ([Exhibit D](#)).] Assembly Bill 65 makes various changes relating to the regulation of notaries public and document preparation services. The bill clarifies that criminal convictions based on a plea of no contest can result in the suspension or revocation of the appointment of notaries public. The bill also clarifies that a person whose appointment as a notary public has expired or been suspended or revoked should not represent him or herself as a notary public or face potential civil penalty for such a violation. The bill makes certain changes to the examination requirements for notaries public by shortening the course to three hours and requires reexaminations under certain circumstances. The bill allows for the use of outside vendors to administer the course and examination.

The bill also prohibits the notary public from applying his or her stamp to any document which does not contain a notarial certificate. It allows a person who holds employment authorization from the United States Citizenship and Immigration Services to register a document preparation service. Finally, it authorizes the Secretary of State to inspect the documents required to be maintained by a document preparation service to ensure compliance with the law.

We did receive an amendment from the Office of the Secretary of State. It is attached on page 3 of the work session document ([Exhibit D](#)). The intent of this amendment is to provide consistency in the renewal and training requirements of electronic notaries public and traditional notaries public pursuant to the provisions of section 3 of the bill. Additionally, the amendment adds a provision enabling a course of study to be conducted in person or online by the Secretary of State or a vendor approved by the Secretary of State.

Chairman Ellison:

Will the Secretary of State please explain the amendment?

Beau Bennett, Management Analyst IV, Office of the Secretary of State:

I would be happy to answer any questions. The person who was going to walk you through this amendment is not here at the moment, but will be here shortly.

Scott W. Anderson, Chief Deputy, Office of the Secretary of State:

The amendment just takes the provisions relating to training that relate to traditional notaries and extends those same provisions to electronic notaries. Electronic notaries are notaries that are able to do the same type of notarization used on a traditional document on electronic documents. This amendment just extends that training provision to those electronic notaries.

Assemblywoman Joiner:

I have a question regarding electronic notaries. What is the status of individuals who live outside of the country but maintain their residency here? Are they able to be notaries through this process, or is that a separate issue I should talk with you about later?

Scott Anderson:

That is probably a separate issue you should talk to me about later. I do not have that answer for you right now.

Assemblywoman Joiner:

It is not related to this bill, then. Is that correct?

Scott Anderson:

No, it is not related.

Chairman Ellison:

Is there any other discussion?

ASSEMBLYMAN STEWART MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 65.

ASSEMBLYMAN MOORE SECONDED THE MOTION.

Chairman Ellison:

Is there any other discussion?

Assemblyman Flores:

I have submitted a proposed amendment ([Exhibit E](#)) to the Committee for A.B. 65. I do not know if you have received a copy of that. In essence, it expands provisions under *Nevada Revised Statutes* (NRS) 240.010, in section 1, subsection 2. I wanted to include that if anyone has ever had their license revoked for any reason other than failure to renew their business license that they would not be allowed to be a notary or a document preparer in our state. The intent behind that is if the individual is not good enough to be a notary public in another state and has had a license revoked because of fraudulent conduct, or anything along those lines, there would be another safeguard. I do not know if you have had the opportunity to review that amendment.

Scott Anderson:

I have not seen that amendment. I know there are some provisions in another bill that expand that as well. However, it is a bit problematic if you are talking about a state business license. A state business license can be revoked for simply not renewing the document. There are procedures in place for bringing that back into good standing. We feel that it would be problematic to prohibit someone from being a notary simply for just failing to file that document if that person was brought back into good standing.

Assemblyman Flores:

I may not have been clear when I explained the intent behind my amendment. I wanted to provide a safeguard in the event that the individual has had a license revoked for reasons other than failure to renew the paperwork or filing the necessary fees so that we would encapsulate those individuals who have lost their licenses as a consequence of fraudulent or unacceptable conduct. Would that be possible?

Scott Anderson:

That may work, but it would need to be that their notary license was revoked for causes rather than any other reason. There could be other reasons it is revoked. If it is brought back into good standing, they should still be able to be

a notary. I understand your concern, but I find it problematic if a license has been revoked for something other than fraudulent conduct.

Assemblyman Flores:

I understand that. If the amendment said, "if the individual has had a license revoked in Nevada or any other state for cause," would that be sufficient to satisfy your concern?

Scott Anderson:

I believe it would. We want to make sure that the notaries in this state are of the highest caliber. We want to make sure they are trustworthy. It is a duty in this state that requires trustworthiness, and it is important that the documents are being verified when notarized. There is a high level of trust necessary.

Assemblyman Flores:

If this would be a friendly amendment to you, I would like to include under NRS 240A.100 and 240.010 that if anyone has had a license revoked as a notary public in Nevada or in any other state for cause, the Secretary of State could deny licensure. Additionally, under NRS 240A.100, if any document preparer in Nevada or any other state has had their license revoked for cause, that would also be a basis for denial of licensure.

Chairman Ellison:

I agree. I thought that amendment was a good addition to the bill. If we have to make any corrections, they can be made on the floor or in the Senate. Assemblyman Stewart, have you read the amendment and do you accept the amendment with the motion you made?

Assemblyman Stewart:

Yes, I would amend my motion to include the amendment proposed by Assemblyman Flores.

Chairman Ellison:

Assemblyman Moore, do you accept the amendment?

Assemblyman Moore:

I accept it.

Chairman Ellison:

I will now call for the vote.

THE MOTION PASSED. (ASSEMBLYWOMAN WOODBURY WAS
ABSENT FOR THE VOTE.)

Chairman Ellison:

Assemblyman Flores, will you make the floor statement?

Assemblyman Flores:

Yes, I will. Thank you.

Chairman Ellison:

Next, we will open the work session for Assembly Bill 104.

Assembly Bill 104: Provides for the designation and operation of charter agencies. (BDR 18-762)

Jered McDonald, Committee Policy Analyst:

Assembly Bill 104 provides for the designation and operation of charter agencies. This bill is sponsored by this Committee and was heard on February 18, 2015. [Mr. McDonald continued to read from the work session document ([Exhibit F](#)).] Assembly Bill 104 authorizes the Governor to designate any department within the Executive Branch of state government as a charter agency. Under a charter agency designation, all employees of a department become employees in the unclassified service of the state. The measure also requires the Governor and the director of a charter agency to enter into an annual performance agreement which sets forth measurable, organizational, and individual goals for the director in key operational areas of the charter agency and authorizes the payment of annual bonuses to the director and employees of a charter agency based on performance. The bill is set to expire on June 30, 2021. The bill also limits appropriations to a charter agency; authorizes a charter agency to retain certain unobligated balances; exempts a charter agency from state building, state purchasing, and public works provisions; allows a charter agency to seek a waiver or suspension of an administrative rule or regulation from the Legislative Commission; and creates certain reporting requirements to the Legislature from the charter agency and the Governor.

We did receive two amendments. The first amendment is from Geoffrey Lawrence of the Nevada Policy Research Institute. This amendment makes the following changes: allows the governor to rescind a charter agency designation and extends the effective date for converting classified personnel to nonclassified personnel to one year after the agency receives its designation as a charter agency. Also within that amendment, the language "unclassified" has been stricken and replaced with "nonclassified." I am not sure that the intent changes with that; I think it is more an issue of wording. I think the person who submitted the amendment would know more about that. The amendment also reduces the potential bonus due to an agency director or employee from

50 percent to 15 percent of annual salary, and increases the state General Fund appropriation level for a charter agency from 80 percent to 95 percent of such appropriations for the fiscal year immediately preceding the effective date of the designation. It subjects the charter agencies to the provisions of *Nevada Revised Statutes* (NRS) Chapter 338, which is Public Works. It removes certain expiration dates, namely the expiration date of the bill, which was June 30, 2021.

The next amendment was submitted by Renee Olson, Administrator, Employment Security Division, Department of Employment Training and Rehabilitation (DETR). This amendment seeks an exemption for employees employed within the Employment Security Division in the programs of Unemployment Insurance, Wagner-Peyser Labor Exchange, and Trade Adjustment Assistance. If you look at the amendment ([Exhibit F](#)) and the letter ([Exhibit G](#)) provided by Ms. Olsen, you will see that these programs are federally funded and as a condition of states receiving administrative grant funding, the states must include provisions for the establishment and maintenance of personnel standards on a merit basis.

Chairman Ellison:

Is there any discussion?

Assemblywoman Neal:

What is the difference between "nonclassified" and "unclassified"? Is that a legal definition in law?

Eileen O'Grady, Committee Counsel:

It means the employees are neither in "classified" or "unclassified" service. A lot of the Governor's staff is currently in that status, so they are outside of the system.

Assemblywoman Neal:

I disagree with this bill in its entirety. I do not care if there is an amendment; it is bad policy. It was bad policy in Iowa. They tried the policy for five years. This is experimental legislation. It is not good policy for this state. I say no to the entire bill, regardless of amendment.

Assemblyman Stewart:

I am concerned about the removal of the sunset. This is experimental legislation, and I would like to retain the sunset so we can see how the policy works and review it after that.

Assemblywoman Spiegel:

I also have some very serious concerns about this bill and how it would work. I agree with Assemblyman Stewart, I would like to see a sunset put in. I would like to put in a two-year sunset so we can come back to review it. Once the Legislature gives up this power, it would be very difficult for us to get it back if we needed to. I am concerned about the lack of legislative oversight, especially when we are dealing with something so controversial and experimental.

Chairman Ellison:

Assemblyman Silberkraus, I would like to remove this bill from work session to see if we can work out some of these issues.

Assemblyman Silberkraus:

Mr. Chairman, if that is your wish, I understand.

Chairman Ellison:

Is there any other discussion?

Assemblyman Trowbridge:

The letter from DETR seems to have merit. I think their concerns need to be looked into also.

Chairman Ellison:

If the Committee does not mind, we will remove this bill from work session so that we can work to address some of the questions and concerns that have arisen. We will now open the work session for Assembly Bill 196.

Assembly Bill 196: Makes various changes relating to investments of public money. (BDR 31-857)

Jered McDonald, Committee Policy Analyst:

Assembly Bill 196 makes various changes relating to investments of public money. This bill was sponsored by Assemblymen Seaman, Fiore, Moore, Jones, and others and was heard in this Committee on March 6, 2015. [Mr. McDonald continued to read from the work session document ([Exhibit H](#)).] Assembly Bill 196 authorizes the investment of the money of this State, the State Permanent School Fund, the State Insurance Fund, and the governing bodies of local governments in reverse repurchase agreements if those agreements meet certain requirements. The bill allows investments of the money of this state and the State Insurance Fund in any obligation or certificate of instrumentality or agency of the United States in bonds of any general improvement district or local government within the state. The bill also allows investments of the money of this state and State Insurance Fund, counties,

school districts, and incorporated cities in notes, bonds, and other unconditional obligations for the repayment of money issued by certain corporations or depository institutions that are rated by a nationally recognized rating service as "A-" or its equivalent, and a portfolio of investment that in aggregate value includes up to 25 percent, rather than 20 percent of notes, bonds, or other unconditional obligations. The bill also eliminates the requirement that when the governing body of a local government purchases commercial paper issued by certain corporations or depository institutions as an investment of its money, the repurchase must be made from a registered broker-dealer. The measure eliminates the prohibition against investing the money of the state, State Insurance Fund, and local government in a repurchase agreement, which involves securities that have a term to maturity at the time of repurchase in excess of ten years.

We did receive an amendment from Mr. Alvin Kramer, Chief Deputy Treasurer for Investments, Office of the State Treasurer. It is in the work session document ([Exhibit H](#)). I believe Mr. Kramer is here to walk us through this amendment.

Chairman Ellison:

Mr. Kramer, please come up to talk about the amendment. Mr. Kramer, you have been working with Assemblywoman Neal on this amendment.

Alvin P. Kramer, Chief Deputy Treasurer for Investments, Office of the State Treasurer:

I did work with Assemblywoman Neal and Assemblyman Trowbridge. We came up with an amendment that can be considered a friendly amendment. I would be happy to either walk you through the amendment or answer questions.

Chairman Ellison:

What would you like, Assemblywoman Neal?

Assemblywoman Neal:

I think you should walk the Committee through the changes. However, I would like to say this before he starts: We did work through the bill, and we made it a better bill. However, it is still the decision of this Committee to do reverse repurchase agreements. It is a tool, but it is risky. People may believe that just because there was an amendment, I am 100 percent on board with reverse repurchase agreements. I would like to be clear that I did work on the bill; however, Assemblyman Trowbridge and I still have reservations about the actual tool in and of itself.

Chairman Ellison:

Mr. Kramer, please walk us through the amendment.

Alvin Kramer;

There are three parts to this amendment. The first part does not make any real substantial change in policy to the bill, though it does clean up some things we had in both the bill as presented and some language in statute. Part of that is, as Assemblywoman Neal mentioned, reverse repurchase agreements in regard to the State Permanent School Fund. There is no need to have reverse repurchase agreements to provide liquidity to the State Permanent School Fund as there is no demand on the principal of the State Permanent School Fund. Item 1 of part 1 takes away that unnecessary part of reverse repurchase agreements for the State Permanent School Fund.

Item 2 says that when you are going to do a reverse repurchase agreement, the only thing you can invest the proceeds of that reverse repurchase agreement in are treasury and agency securities, which is a very strong limit on what can be invested in and reduces risk significantly.

Item 3 says that the investments must have the same maturity as the reverse repurchase agreements. Initially, it had said two weeks. It was brought to my attention that most issues like that are either done at the first of the month or the 15th of the month. Having the flexibility of changing maturities is outside the realm of two weeks, therefore 16 days has been proposed to keep it technically correct.

In item 4, the language "agency" is better known, whereas "instrumentality" leaves one wondering what it means, so on page 5, line 37, we deleted the language "instrumentality of," leaving just the word "agency." Item 5 deals with municipal bonds of general improvement districts. This is one where the way it was written precluded the state from ever buying municipal bonds from general improvement districts. The language was such that it had to be a bi-county bond of more than \$800,000, and it did not fit. We do not have any bi-county general improvement districts. This is basically a cleanup to say the government can do it.

Regarding item 6, we do not have a separate fund like we do for the General Fund or the State Permanent School Fund or the State Insurance Fund. In fact, they comingle. We do not have a portfolio specifically for that. There is not another place where you would do reverse repurchase agreements for the State Insurance Fund alone, so we deleted that language.

In item 7, we eliminated the language "depository institutions would include savings and loans and credit unions." It was not our intent to buy corporate bonds from them, so it was no hardship to replace those with banks where bonds are purchased. It adds clarity to the language. Those are not really policy changes.

The next two parts of the amendment would be considered policy changes. The bill asked to have the quality of corporate bonds lowered to be able to buy paper from A- corporations. This amendment says no, we will stick with the original language, which is A rating. Adding A- was something requested by the state and Clark County, but I understand that it would be a change in risk level that we are introducing.

Part 3 says that whereas we asked for reverse repurchase agreements to be available to local governments as well as the state, this takes that out and says we are not going to allow reverse repurchase agreements at the local government level. Specifically, we would be talking about Clark County, but also to a lesser extent, the local government investment pool. That is probably wise. If we have a success with reverse repurchase agreements over the next two to four years, this can be brought back with a record of success and not be something we are taking a chance on or allowing some of the local governments to take a chance on. I am available for any questions.

Chairman Ellison:

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

My problem with the bill was the lowering of the bond rating from A to A-. That was a great concern to me. I know we would get them at a less expensive rate that way, but it concerns me.

Alvin Kramer:

This has nothing to do with the state's bond rating. This has to do with the Standard and Poor's rating of a corporation whose bonds we can buy. We are leaving it at A and not changing it to A-.

Chairman Ellison:

That is in your amendment under part 2. Is that correct?

Alvin Kramer:

That is correct.

Assemblyman Stewart:

Mr. Kramer, I mentioned former State Treasurer Robert Seale during the hearing. Do you think he would be more comfortable with this bill now?

Alvin Kramer:

Assemblyman Stewart, I believe he would. A lot of work has been done on this to clean up language.

Assemblyman Stewart:

Thank you, that gives me a great deal of comfort.

Assemblyman Trowbridge:

Thank you for meeting with us, Mr. Kramer. I think my concerns were addressed in the amendment. I was concerned about some of the loose terminology, which has been tightened up. Some of the language did not sit well. The suggested changes are excellent.

Alvin Kramer:

Thank you. Assemblywoman Neal spoke of reverse repurchase agreements. For the Committee, I would like to explain what that is. We have the ability in statute now to do securities lending. The state is not doing that presently and we have had a fairly bad experience with it. When you do securities lending, it is essentially the same as reverse repurchase agreements, except we are doing it ourselves; we are not trusting someone else to do it and trusting that whatever the person buys is good for the state. The last time around, the agent we had doing securities lending bought some stuff that we should not have bought, and it turned out poorly. With reverse repurchase agreements and the idea that we are going to match maturities and that we are going to buy with the proceeds only by agencies and treasuries, the risk of doing that is minimized. Because of that the yield factor is very low, and I do not think you would find any securities lending firm that would take our money under those circumstances. It means bringing it in-house and doing it ourselves. It also probably means less income from it if we do it. Maybe we will not, because we may not find the securities that would work. It is essentially allowing us to do in-house what we were paying someone else to do, which means we have control over it and are not just trusting someone else to do the right thing.

Chairman Ellison:

Is there any discussion from the Committee?

Assemblyman Stewart:

I would like to thank Assemblywoman Neal and Assemblyman Trowbridge for their hard work in making this bill better.

Chairman Ellison:

I completely agree with you. That was a long hearing with a lot of discussion. Is there a motion?

ASSEMBLYMAN MOORE MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 196.

ASSEMBLYMAN TROWBRIDGE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CARRILLO, FLORES,
AND JOINER VOTED NO. ASSEMBLYWOMAN WOODBURY WAS
ABSENT FOR THE VOTE.)

Assemblywoman Neal:

I voted yes, but I would like to reserve my right to change my vote on the floor.

Assemblyman Flores:

I would also like to reserve my right to change my vote on the floor. However, right now I am not ready to vote yes on this bill.

Chairman Ellison:

Assemblyman Trowbridge, will you please give the floor statement?

Assemblyman Trowbridge:

Yes, I certainly will. Thank you.

Chairman Ellison:

We will now close the work session and open the hearing on Assembly Bill 170.

Assembly Bill 170: Revises provisions governing general obligations.
(BDR 30-917)

Assemblyman Jim Wheeler, Assembly District No. 39:

If I may proceed, Assemblywoman Dickman will begin by explaining the bill, then I will go through the bill in more detail.

Assemblywoman Jill Dickman, Assembly District No. 31:

Assembly Bill 170 seeks to increase the accountability of local elected officials when incurring debt, improve citizen awareness, and give citizens a bigger say in how their taxes are spent. Currently, local governments are required to submit a proposal to issue or incur debt to the voters of the local government at a special or general election. However, they can bypass the voters with a two

thirds vote of the members. [Assemblywoman Dickman continued to read from prepared testimony ([Exhibit I](#)).]

We have an amendment ([Exhibit J](#)) to this bill that will be presented to you. I believe that A.B. 170 will result in more prudent use of the public's money and prevent local governments from overextending themselves when incurring debt.

Some of the counties and cities have issues with this bill, so we have worked with them to come up with an amendment that we think will be agreeable to everyone. Mary Walker will go through that amendment ([Exhibit J](#)). I would like to turn back to Assemblyman Wheeler, who will go over the bill in more detail.

Chairman Ellison:

Assemblyman Wheeler, go ahead.

Assemblyman Wheeler:

I really applaud Assemblywoman Dickman for bringing the two sides together and trying to make this bill workable. Section 1 of the bill says that if a local government wants to change the designated use of a bond, it will need to be presented for a vote by the public. While two thirds of the commission may be able to do it, they will have to publish notice for 21 days that they are going to roll over or repurpose the bond. The electorate will be able to ask for the issue to go to a vote with a petition signed by 5 percent of the registered voters. That is the main purpose of the bill. Originally, we were going to limit the amount of a bond that could be rolled over, but the counties said that may be too restrictive. As long as the voters have a chance to voice their concern, we believe it is a good bill.

That is all I have to say about the bill. I can sense that the curse of the small bill is about to occur. We are going to have Mary Walker present the amendment ([Exhibit J](#)) of the bill. If there are any questions, I would be happy to answer them.

Chairman Ellison:

How would the process of rolling over bonds look if this bill passes?

Assemblyman Wheeler:

If a local government decides to roll over or repurpose a bond with a two-thirds majority of the commission, they would then have to publish the decision three times, once each week for three consecutive weeks, with the last publication being no less than ten days prior to the vote. A petition could be submitted before the vote that is signed by no less than 5 percent of the registered voters

in that district. That part is already in law; we are not changing it. The notification to the public so that they are educated and know what is going on is what we are changing in this bill.

Assemblywoman Spiegel:

Earlier this session, there was a bill that related to school bond roll over. If this bill were enacted and had been in law at the time, would that bill have been possible?

Assemblyman Wheeler:

I believe it still would have been possible because this bill relates to general obligation (GO) bonds. I do not believe that bill would qualify under this.

Chairman Ellison:

We may have our Legal Counsel check into that. Ms. Walker, please continue.

Mary C. Walker, representing Carson City, Douglas County, Lyon County, and Storey County:

I would like to thank Assemblywoman Dickman and Assemblyman Wheeler for working with us to come up with an amendment that is agreeable to the different local governments. We have worked with John Swendseid, who is the bond attorney for most of the local governments in the state. On page 3, lines 2 and 3 of the amendment ([Exhibit J](#)), we are striking out some new language in the bill. We would be striking the language "of the project to be financed." The reason for that is the way it reads, particularly to our attorneys, it says a project is going to create revenue. However, we are government; unless you are talking about a toll road, which I think is unconstitutional, we do not make money off of a project. Projects do not create revenue. If we have a bond which is designated for building parks, parks do not generate revenue. In working with the sponsors, we have decided to eliminate that new language.

On page 3, lines 19 through 22 of the amendment ([Exhibit J](#)), we are adding additional clarity to the advertisement. As Assemblyman Wheeler stated, currently, when a local government issues a bond, they have to publish a notice. We are saying that when a notice is published, additional information will be provided in case there are people who want to look into the process that is currently in law, which is that if you have 5 percent of the registered voters sign a petition, it can go to a vote of the people. All we are doing here is changing the advertisement requirements. It will be published three times instead of one. We are adding that the advertisement must not only state the amount of the obligation and the purpose for which it incurred, but also add additional information to the public such as the filing deadline, the place to file

the petition to present to the governing body, and where additional information may be obtained. That way, people will have more clarity and information regarding the existing process that is in law.

On page 3, lines 29 through 33 of the amendment ([Exhibit J](#)), we are deleting all of the new language so that there would not be any caps at \$2.5 million and \$5 million. The reason is that there are three different types of general bonding. One is GO bonds, which are typically the voter approved bonds. The one that is probably the most used is the GO revenue bond. It is a general obligation bond, but there are specific revenues that pay for it. As a general matter, if you are looking at some of your operations, you are using your sales tax generation in order to pay for that. You are using existing gas taxes to bond for roads. It has a specific revenue source. Water and sewer bonds are paid for by water and sewer utility fees.

The third is revenue bonds. That specifically does not have general obligation, so it is not backed by the taxpayers and does cost more money in interest because there is not the full faith and credit of the citizens behind it. The revenue bonds will cost, according to our financial advisors, a quarter percent to half a percent higher than a GO revenue bond. The best thing local governments can do to keep the rates down and lower the cost to the taxpayers is to go with the GO revenue bond because that is generally the least expensive amount of debt we can have. We can keep our fees low and it will cost the taxpayers less money. Taking that limit away means that we can continue to go out and get the most effective debt and the least expensive debt we can.

The final change is on page 5 of the amendment ([Exhibit J](#)) and is for the act to become effective on October 1, 2015. The reason for this is we do have some bonds coming down the pike right now. They have not done the new noticing, so if this bill is passed and requires new noticing, those bonds will have to be stopped. We have changed the date to October 1 so that any of the bonds that are in the process right now can go forward under existing law. As of October 1, the new notification requirements will be in place.

Chairman Ellison:

Are there any questions from the Committee?

Assemblywoman Neal:

On page 3, lines 2 and 3 of the bill, what does the insertion of the language mean? It says, "that the pledged revenue of the project to be financed will at least equal the amount required in each year for the payment of interest and principal...." Can you provide a real life example?

Mary Walker:

That language means that the project has to generate revenue. Many government projects do not generate revenue, so we believe the insertion of that language requires that a project generates revenue. Senior citizens' centers do not generate revenue. Parks do not generate revenue. Roads do not generate revenue. We think this language is in error. It does not meet reality. We are government, we produce projects that do not generate revenue.

Assemblywoman Neal:

Does your amendment remove that language?

Mary Walker:

It deleted the new language so that we go back to the existing language. The language "of the project to be financed" is deleted so that the pledged revenue will be the amount required to pay the debt. The pledged revenue could be gas taxes for roads, for example. If you built a road, it would not generate revenue, but there would be the gas taxes to pay for it. We already generate the taxes to pay for it.

Assemblywoman Neal:

I understand what you are saying; however, I do not see the difference in your amendment because it says, "of the project to be financed."

Mary Walker:

That language is being deleted to go back to existing language.

Assemblywoman Neal:

Now, a local government is able to use GO bonds for a public purpose such as a senior citizens' center, if they decide that is what they want to do. Is that correct?

Mary Walker:

We would be able to finance for any government purpose project. Most of the projects for local governments, except utilities, do not generate revenue. We need to have bonds to build parks. We need to have bonds to build senior centers. They do not generate the revenue. That is why we are clarifying and eliminating that language. Mr. John Swendseid is here, and he can give you more examples.

Assemblywoman Neal:

Does this amendment take care of the Division of Environmental Protection's issues? She submitted testimony ([Exhibit K](#)) saying this bill would affect their water infrastructure, how they issue bonds, and their bond rates.

Mary Walker:

I think that and the caps for the \$2.5 million and \$5 million were part of their problem. With the amendment, I believe they are in support of this bill.

Assemblyman Trowbridge:

Earlier, you mentioned something about GO bonds receiving a quarter or a half percent lower rates than revenue bonds. Did you say you were deleting the revenue bonds portion?

Mary Walker:

No, we are not deleting the revenue bonds portion of the bill. I am saying that the caps at \$2.5 million and \$5 million would have meant that we could not have done GO revenue bonds above that capped amount. That means that our other alternative would have been straight revenue bonds which would have cost us more money.

Assemblyman Trowbridge:

I do not see the part of the *Nevada Revised Statutes* (NRS) that this addresses. If the phrase we were talking about, "of the project to be financed," were deleted, it could negatively impact the revenue bonds. Is that correct?

Mary Walker:

I would defer to Mr. Swendseid to answer that question. We are trying to fix that with the amendment.

John O. Swendseid, Private Citizen, Reno, Nevada:

I am a bond attorney who works on bonds for many local governments. Assemblyman Trowbridge, the striking of the language would not negatively impact the revenue bonds. As Ms. Walker said, it would enable local governments to continue to issue government-obligation-backed revenue bonds, which is important because there is a savings in interest rate. It would not affect the ability of local governments to continue to issue revenue bonds if they chose to do that rather than issue GO revenue bonds. If Ms. Walker's amendment ([Exhibit J](#)) is accepted by the Committee, local governments would have the choice of issuing GO revenue bonds if they follow this procedure with the notices, or regular revenue bonds. Most of the time they will choose GO revenue bonds because it saves money. It saves up to a half of a percent in interest rate each year, and on some projects that is an awful lot of money.

Assemblyman Trowbridge:

Does that not depend on the type of project that is being funded? If they want to issue a revenue bond to build a swimming pool, that swimming pool could be a money maker. However, by not being able to pledge the revenue from that

swimming pool to retire the debt of the revenue bond, you are setting up a bad situation. You may be getting a lower rate by issuing a GO bond, but that means anyone in the funding district would be responsible for the debt. However, if a revenue bond is issued, just the people using the swimming pool are responsible.

John Swendseid:

I understand your question. Assemblyman Trowbridge, the elimination of the language "of the project to be financed" does not mean that the revenue of project to be financed cannot be pledged. It just means that the revenue considered in making sure a local government can afford the bond might include all of the pledged revenue, not just the revenue from the project to be financed. For example, when you are building a new reservoir as part of a water system, if you can only consider the funds generated by that reservoir, it becomes very difficult. Most of the time, you pledge the revenue of the entire water system. By eliminating the language "of the project to be financed," you can pledge all of the revenue of the water system, including the revenue of the project to be financed. In your example of a swimming pool, if there is a recreation program, which some of our municipalities and general improvement districts have, all of the revenue of the recreational programs can be pledged, including the swimming pool or other facilities. All of the revenues can be pledged together to the bond through this procedure to issue a GO revenue bond, which results in a better interest rate. This does not at all prohibit the pledging of the revenues of the project to be financed. It just allows you to pledge more than that.

Assemblyman Trowbridge:

Thank you. I certainly appreciate your insights. I will leave it up to the makers of the bill to approve that for me.

Chairman Ellison:

I think it is important that you have come to the microphone. You provide clarification to the questions that are arising.

Assemblywoman Neal:

Section 1 limits the general obligation to the original issue. What problems are we going to encounter? There are changes that have happened where people adjusted the original issue of the general obligation and it could be currently at play. What is the effect on bonds that have a maturity date later than October 1, 2015?

John Swendseid:

I think the effect of the first change in section 1 is to do just as Assemblyman Wheeler testified. Once a GO bond is issued, it must be used for

the project for which it was issued. You could not amend the bond documents to change the project. This is sometimes done now. The effect of the bill is if a bond was issued for a water project, but it was decided that the money was needed for sewer instead of water, the bond could not be amended. The bond would have to be paid off, and a new bond would have to be issued. The voters would be given a chance to object when the purpose of the bond is changed. It would have an effect any time we wanted to change the purpose of a bond. You would have to issue a new bond to change the purpose. It seems to be fair for the voters.

Assemblywoman Neal:

In the case of the school bond bill, it specifically cited NRS 350.020 in section 2 of that bill. I understand that if voters approved the original bond, then their approval should be needed to make changes to the bond. However, the school bond bill usurped that and gave the Legislature the authority not to bring it back to the voters. It is the exact statute.

Chairman Ellison:

Would it not just extend the existing bond?

Assemblyman Wheeler:

Although we are talking about the same statute, this bill is not Senate Bill 119, and we are not having a hearing on that bill. That has been passed and signed. The fact of the matter is that this bill says that if a local government wants to reissue a bond, it has to go back to the voters. Senate Bill 119 continued the time period. Although it did refer to the same chapter of NRS, this bill would not affect S.B. 119.

John Swendseid:

Senate Bill 119 dealt with bonds issued under subsection 4 of NRS 350.020. The amendments here deal only with subsection 3 of that chapter. They do not deal with the school bond issues.

Assemblywoman Neal:

I am not trying to bring up old issues. However, when I read policy I try to be clear on the totality of the policy, so sometimes I ask questions that reach into the future and some that reach into the past. I want to have a clear understanding of the policy that I will be voting on because I have to answer to the people of my district in the end.

Assemblywoman Spiegel:

My question does go back to S.B. 119 because I believe it has not yet been answered. If this bill is passed, either as is or as amended, and in the future

a bill that is similar to S.B. 119 were presented dealing with another bond rollover for schools, for example, would that bill be able to be passed?

John Swendseid:

The Legislature can pass a bill to amend NRS 350.020 and provide different procedures for issuing bonds any time it wants. The Legislature cannot pass a bill that affects outstanding bonds. Therefore, if the bond has already been issued, the deal between the school district and the bond holder cannot be changed. However, you can change what the school district has the power to do, as you did with S.B. 119 and as you are doing with this bill. You can change the rules for how bonds are issued on a prospective basis. You can say that from now on to issue a bond, you must do these things. In this case, you have to publish three times instead of just once. That is perfectly acceptable for the Legislature to do. You can change the procedure for any type of bond.

Assemblywoman Spiegel:

If the Legislature decided to roll over the bonds that we just approved again, would additional, special legislation need to be passed if this bill were in place? Would it not be the same process as it was before?

John Swendseid:

I do not want to get into a discussion about S.B. 119.

Assemblywoman Spiegel:

Yes, I understand that. I understand what happened with S.B. 119, so I am using it as an example so that I can understand what would happen in the future if this bill were adopted.

John Swendseid:

The Legislature could pass another law in five years to say that they have another ten years to issue more school bonds. The Legislature could also pass a law that says they have to publish the notice five times. That would be perfectly okay for the Legislature to do as long as it applies prospectively. The Legislature cannot affect an outstanding bond which is already issued.

Chairman Ellison:

If there are no other comments, we will ask those wishing to testify in favor to come forward.

Mike Cathcart, Business Operations Manager, City of Henderson:

We want to thank the sponsors of the bill for working with local government, and we support the amendment ([Exhibit J](#)) offered by Ms. Walker.

Thomas C. Starrett, Private Citizen, Gardnerville, Nevada:

I would like to compliment the presenters of this bill for the fine job they did and for their efforts in bringing forth this bill. It does correct a number of things. It certainly started out as a tiny, baby-step bill and it seems to have been cut down substantially even since then. Perhaps that is the legislative process. I have appreciated Assemblywoman Spiegel's comments. I do not think this bill affects schools at all. *Nevada Revised Statutes* 350.020 subsection 4 is the section dealing with the rights of schools concerning GO bonds, and there has been no amendment whatsoever to NRS 350.020. If that just muddies the water, my apologies.

The counties may have wanted these things, but they did not seek the people's consent. One thing I noticed that is seriously absent that I would ask you all to attend to, if you would, is that we largely deal with subsection 3, which I would like to deal with very briefly because I think that the GO bonds that are being passed under subsection 3 conflict with the language of it. I think that NRS 350.020, the core, the crux of it, of which we have said nothing, is subsection 1. If you want to pass a GO bond, get the people's consent.

There seems to have developed a "pesky voter" concept, I call it, where the counties seem to know better than the voters. At no time is any county prohibited from taking a GO bond, or any other type of bond for that matter, before the people for the vote. If they make their case and get 51 percent of the vote, then no one can object. However, it is in subsection 3 where most of the problems arose with respect to this bill and the language has not been correctly interpreted, and as such has been abused. It is my understanding that the opposition to this bill filed by Clark County relates to the fact that there are \$2.6 billion of these subsection 3 bonds. That is \$2.6 billion to which their full faith and credit have been obligated. My contention is that we spend a lot of time with the change that has been deleted on page 3 of the original bill, per Ms. Walker and the sponsors of the bill. The language on page 3, "of the project to be financed," has now been deleted.

Now, I refer the Committee to the first part of subparagraph 3 on page 2 of the bill that has not been amended where it says, "if payment of a general obligation of the municipality is additionally secured by a pledge of gross or net revenue of a project." What has taken place, ladies and gentlemen, is that you have pulled the room tax increment there, you have pulled the sales tax increment, and you have pulled the utility tax so that the net revenue of a project cannot be fulfilled. It is a net revenue of several projects. I submit to you that it is very important to get the counties off of this habit of not consulting the voters, but to get them to make their case before the voters under NRS 350.020. Ms. Walker correctly points out that many worthy

government projects generate no revenue. The voters recognize this too. Why should the voters be excluded from making the decision as to whether or not they want this road, this hospital, this parking structure by bringing this under the simple provisions of subsection 1 of NRS 350.020 as opposed to going into subsection 3?

Except for the efforts of Ms. Walker and Assemblywoman Dickman and Assemblyman Wheeler, there was not any notice going to the people that those bonds were proposed to be issued. Now, thanks to their help and efforts, there is. I submit that on this one point, it does not go too far. Yes, you are right, this will make it a little bit more difficult for the county, but is that not right to do? There has been a lot of criticism about this last election, about how there was insufficient voter participation. This type of thing that takes place under subsection 3, where until October, the voters will not even be told of what their rights are under subsection 3 bonds. Never have they been before. Then they are tasked with the job of getting together a petition of 5 percent of the voters to say that they want the government to put it under subsection 1, which is a vote of the people. I feel that subsection 3 already says that and the language that was added and is now deleted pursuant to the presentation by Assemblywoman Dickman, Assemblyman Wheeler, and Mary Walker merely clarified the intent of subsection 3 is that it applied to unusual circumstances where you have a project, that is the precise language of line 33 of page 2 of the bill, that generates sufficient income to pay for the bond. Then you may use this somewhat aberrational technique of passing bonds.

Chairman Ellison:

Mr. Starrett, we have more testimony to hear. You have a lot of good things to say. I have your statement ([Exhibit L](#)) here. I would like you to meet with the sponsors of the bill to discuss these issues before it is brought back for a work session. The amendments still have to be clarified. Anything you can help with for the presenter of the bill would be appreciated.

Everything was pretty well accurate. There are a lot of GO bonds out there about which the public, to date, has not had any knowledge or ability to express their opinions.

Thomas Starrett:

I thank you very much for your time. I have made my position and I speak only as a citizen. I think the other folks know what they want to do. I only ask that each of you think from the position of a voter. Take off those legislator's shoes for a second and ask yourself if when you read A.B. 170, are not those the rights that you would not want yourself when you go into that voting booth?

Chairman Ellison:

Thank you, I agree.

Carole Vilardo, President, Nevada Taxpayers Association:

I am speaking in support of the bill with the amendment. I can appreciate what the previous speaker just said. I have sat on the Clark County Regional Debt Management Commission since, I believe, 1998. We deal with these issues. Many of you know I have brought issues to the Legislature concerning bonds. I am not aware, and I have spoken to a number of people in different areas of finance, of any place in the state of Nevada where a GO-backed revenue bond has ever defaulted to the point that it had to be covered by the backer. The General Obligation Bond Commission changed its name to Debt Management because prior to that no one, except for a newspaper ad, had any information relative to what the impact could be if a GO bond was used. With that change creating debt management commissions, we were given the authority to look at these issues in total and to get an idea of what the impact would be if GO bonds were used. You will find, and I have many examples I can provide, that the coverage rates are considerably more for the GO-backed revenue bonds. To go back to language as written, we would oppose. Ms. Walker's amendment works out from my perspective. That is somebody who does represent the taxpayers. We believe that the protections are there for GO-backed bonds. I would be happy to answer any questions if I can.

Chairman Ellison:

Are there any questions from the Committee? [There were none.] You have a lot of knowledge when it comes to this, Ms. Vilardo. Is anyone else wishing to speak in favor of Assembly Bill 170?

Scott Leedom, Senior Management Analyst, Southern Nevada Water Authority, and representing the Las Vegas Valley Water District:

We want to go on the record in support of the bill with Ms. Walker's amendment.

Chairman Ellison:

Is there any discussion? [There was none.] Is anyone else wishing to testify in support of Assembly Bill 170? [There was no one.] Is anyone wishing to testify in opposition to Assembly Bill 170?

Mark R. Vincent, Chief Financial Officer, City of Las Vegas:

Mr. Chairman, I had originally signed in in opposition to the bill as submitted. The City of Las Vegas does support the amendment that has been offered by Assemblymembers Dickman and Wheeler. I do appreciate the comments by Ms. Vilardo. It might be helpful to provide a little background. In the

17 years I have worked with the City of Las Vegas, we have issued nine GO revenue bonds, GO bonds backed by revenue. Not one of them has been under \$5 million. It might be interesting to know that about \$108 million of those GO revenue bonds were used for sewer projects. Another \$101 million was used for the construction of the Smith Performing Arts Center.

One comment I would like to make is that in addition to the higher interest rate of the revenue bonds as opposed to GO revenue bonds, bond covenants usually require coverage. That means that instead of being able to pledge 100 percent of the revenue, you can only use 75 to 80 percent of that revenue for debt service. They typically require debt service reserves. In the case of the Smith Center, had we had to issue pure revenue bonds backed only by the car rental tax, the Smith Center would not have been built. We probably would have received \$20 million to \$25 million less in proceeds than we did and that project would not have been completed. That concludes my testimony. We do support the bill with the proposed amendment.

Chairman Ellison:

Thank you. Is there any discussion? [There was none.]

Jack Mallory, representing Southern Nevada Construction and Trades Council:

I initially signed in as supporting A.B. 170 because we support the concept of making it a little more difficult to rededicate the GO bonds from their original purpose. We do not believe that the funds from a bond that has been issued to construct a museum or to construct an educational or recreational facility should be diverted to pay salaries or buy furniture or do something else. We support the concept. However, to push a requirement that all of these things potentially be subject to a vote of the people, particularly in Clark County, is difficult at best because of the cost to the taxpayer of running an election on a question like this in a large county. It would almost make it impossible for a larger county or a larger municipality to do anything of this nature if, in fact, there is a good demonstrated reason to do so. As far as the issues of transparency, I believe there should be greater transparency when they issue the bonds to begin with rather than there being questions about bonds that have already been issued. We have these concerns, and hopefully I am not misinterpreting the intent of the bill. However, based on the presentation made by Assemblyman Wheeler, this is my understanding. I would be happy to answer any questions.

Chairman Ellison:

I think that it would be rare for a special election to be called to pass a bond. I think it would go to a general election so there would be no extra cost.

We will get that answer from the sponsor. Are there any questions from the Committee?

Assemblyman Carrillo:

That was a question I had regarding this. The bill requires publication three times. If this is going to be a question on a ballot in a general election, what would be the purpose of advertisement? I think this would be a special election where you would have to advertise it three times. Maybe Mr. Mallory could speak to that. As he put it, the public may not understand why a special election is being held for a GO bond. There is a need for it, but not all people have a subscription to a paper, so they may not know about it. Then not everyone is able to know about the special election for the GO bond.

Chairman Ellison:

Ms. O'Grady, can you speak to that question?

Eileen O'Grady, Committee Counsel:

The requirements in subsection 3 are not for an election, they are just for when the municipality is going to vote on the issuance of the bond.

Chairman Ellison:

That is how I have read it as well. Mr. Mallory, would you like to comment on that question?

Jack Mallory:

I would hope that if it does come to a vote of the municipality that it would, in fact, occur simultaneously with a vote of a municipality or a regular general election. I cannot speak for other counties, because I do not have intimate knowledge of what happens in other counties and municipalities. In Clark County, we do have odd and even year elections. There is currently one going on for municipals in Clark County. I do not know if that is the case in other counties. If there was a demonstrated need to divert funds and it required a vote of the people to allow that to happen, then there would be a significant delay in that process. That does raise that question. Otherwise, it would require a potential special vote. There is some ambiguity in the way I am interpreting this.

John Swendseid:

In response to the question that was just raised, subsection 2 of NRS 350.020, which is on lines 10 through 30 of the bill, talks about when you can have a special election under existing law. The bill does not change this. Basically, the rule is if you have to have an election, you do it with the general election, which makes good sense, unless there is an emergency. Subsection 2 of

NRS 350.020 talks about what an emergency is and the circumstances in which you could have a special election.

Chairman Ellison:

Thank you for pointing that out. Are there any questions? [There were none.]

John Swendseid:

Mr. Chairman, I did come prepared to testify against the bill as originally written, but we are for the bill as amended by Ms. Walker's amendment. I have provided a memorandum ([Exhibit M](#)) that outlines the reasons we think it would be more expensive to the citizens of Nevada if the bill is adopted as written, but not with the amendments. We were opposed largely because many of these GO revenue bonds would be replaced with straight revenue bonds that cost more money to finance.

Chairman Ellison:

Is there anyone else wishing to speak in opposition?

Colleen Cripps, Ph.D., Administrator, Division of Environmental Protection, Department of Conservation & Natural Resources:

As the bill was originally drafted, we did have a number of concerns about the bill, and we were concerned particularly that it would have an adverse impact on the Division of Environmental Protection's state revolving funds loan program for water infrastructure. However, with Ms. Walker's amendment all of our concerns have been addressed. We do appreciate the work that was done by those individuals to draft this amendment, and we would have no problem with the bill going forward as amended.

Chairman Ellison:

Is there any discussion? [There was none.] Is there anyone else wishing to testify in opposition? [There was no one.] Is anyone wishing to testify as neutral to Assembly Bill 170?

Yolanda T. King, Chief Financial Officer, Clark County:

Mr. Chairman, I had signed in as opposing the bill as written; however, the amendments presented by Ms. Walker, we do support. I wanted to point out a few things. It has been said many times that the bill as written would definitely be more expensive to local governments. As was pointed out, Clark County does issue quite a substantial amount of GO-backed revenue bonds. However, the bonds are not just for Clark County; we issue bonds for a lot of other governmental entities within Clark County, specifically the Las Vegas Convention Authority, Las Vegas Water District, Southern Nevada Water Authority, the Clark County Water Reclamation District, and the Clark County

Flood Control District. There are a number of entities for which we issue bonds. While \$2.5 million is a lot of money, we issue hundreds of millions of dollars on behalf of other entities.

With regard to coverage, which was also mentioned: Yes, these types of bonds do require coverage. In addition to being backed by the general obligation of the government, they have additional assurances. In terms of the public notice, there is definitely already sufficient public notice. It goes to the Debt Management Commission, which was mentioned by Ms. Vilardo, as well as the Board of County Commissioners, which also has a provision for public notices. The biggest concern is if these types of bonds are having to go out to a vote of the people it will definitely delay projects. Speaking specifically for Clark County and our transportation bonds, a great deal of our Bruce Woodbury Beltway in Clark County was built with GO-backed revenue bonds. There is a dedicated source of revenue that was for that project. If we are having to wait every other year for a general election, it is going to increase the cost of those projects because we are having to wait to go to a vote of the people. In addition to that, it is going to delay those projects. Those projects are not going to get started as quickly because of the delay of having to go to the general elections.

Chairman Ellison:

Once the projects go through the engineering and planning process, they already know what issues they are going to run into. Is that not something they could prepare for ahead of time if they are going to ask for a GO bond? It is not something that is going to come up overnight; it is in the planning stages.

Yolanda King:

It could be, but I think it also depends on the timing of that planning. If you are not having to wait to go to the vote of the people, yes, you would know in advance. It is going to depend on the timing of when those projects are being presented and when the election is going to occur.

Chairman Ellison:

I think section 2 of NRS 350.020 provides for an emergency if necessary.

Yolanda King:

I am not quite sure what constitutes an emergency. If it is constructing a beltway to improve transportation for the citizens, I do not think that would be considered an emergency. I would have to defer to Mr. Swendseid on that. I also failed to mention that in section 1 of the bill, it states that you have to state the purpose for which you are issuing the general obligations. Clark County, or any of the entities on behalf of which we issue bonds, has

never had an issue of not using the bonds for the purpose for which we originally stated. That is fine. We do not have a problem, and we have never had a problem. It is not our intent to use those bonds for anything other than the initial purpose.

Chairman Ellison:

I agree, thank you. Is there any discussion from the Committee? [There was none.]

Jeff Fontaine, Executive Director, Nevada Association of Counties:

We also had some concerns with how the bill was written. However, we want to thank the sponsors of the bill and Ms. Walker for working with the local governments on the amendments. With those amendments, we think the bill is workable and acceptable to the counties.

Chairman Ellison:

Has this bill been presented to the body of the Nevada Association of Counties (NACO)?

Jeff Fontaine:

Mr. Chairman, I do not know that we have discussed this bill specifically with the NACO Board. However, with the amendments presented, we think it is acceptable.

Wes Henderson, Executive Director, Nevada League of Cities and Municipalities:

I would also like to thank the sponsors of the bill and Ms. Walker for the work they have done on this. We did have some concerns, but we are in support of the bill with the amendment.

Chairman Ellison:

Is there any discussion? [There was none.] Is there anyone else wishing to testify as neutral to the bill? [There was no one.] Will the sponsors of the bill please come back to the table?

Assemblyman Carrillo:

The language of the bill uses the term "registered voters." If you are not a registered voter, but you are a taxpayer whom the issuance of a bond would impact, would you not have a say in the matter?

Mary Walker:

That is existing language. We were just working off of the existing process that is in place. On page 3, lines 8 and 9, it talks about a petition presented to the governing body signed by not less than 5 percent of the registered voters.

We just took that existing language that is in statute, and that is going to be part of the advertisement that goes out when we are trying to issue bonds. Mr. Chairman, I would like to state that my amendment is supposed to mirror this language. There is a conflict in the language. It should say, "governing body signed by not less than 5 percent," and I wrote, "not more." That needs to be fixed in order to be consistent with current statute.

Assemblyman Carrillo:

Just because it is existing language does not necessarily make it right. That is something that is concerning to me. This would still give time for people to register to vote. At the end of the day, it is not just the registered voters that this is affecting. There might be people who have recently moved into an area and they will want to have a say. Everything is amendable. I would like to have more conversation about that.

Chairman Ellison:

My issue with that is you may have people outside of the area that would try to vote on something that is not their concern. We want to have people voting who are from that area.

Assemblyman Carrillo:

I understand that. However, I do not think anyone is going to move into an area just so they can vote on an issue. I think if people have heard of an issue like this, they should have the opportunity to make that decision. There could be people who have not yet registered to vote, for whatever reason.

Assemblywoman Dickman:

You have to be a registered voter to vote in any election. I agree with you that in theory the taxpayers should have a say. However, they will probably have to register to vote.

Chairman Ellison:

Do you have closing arguments?

Assemblywoman Dickman:

I would like to thank everyone who helped make this bill acceptable to everyone. I really want to thank the Committee for their patience, and I hope you will seriously consider giving a little bit more power back to the people and a little bit more say in how their tax dollars are spent. Thank you.

Chairman Ellison:

We will close the hearing on A.B. 170. We will take a quick recess [at 9:45 a.m.].

We now reconvene this meeting of the Committee on Government Affairs [at 9:57 a.m.]. I would like to introduce Mr. and Mrs. Hoffman who are here today from Elko. I hope you can spend some time in the building again. We will open the hearing on Assembly Bill 355.

**Assembly Bill 355: Revises provisions governing administrative regulations.
(BDR 18-843)**

Assemblywoman Michele Fiore, Assembly District No. 4:

I am here today to present Assembly Bill 355. Assembly Bill 355 is about a very simple principle: accountability. We, as elected officials, are accountable to the people of Nevada who sent us here to represent them. For that simple reason, the agencies and bureaucracies that we, the Legislature, create to run our state must also be accountable. For years we have abandoned our responsibilities as elected officials by creating countless boards, agencies, and commissions, then requiring those agencies to create rules and regulations to carry out our legislative intent. However, under our current system there is little oversight to ensure the legislative intent is actually being carried out. A person can be fined, or even imprisoned for violating certain regulations, and we have a system where unelected officials can create regulations that can turn people into criminals.

While I believe great care goes into selecting our appointed officials, the fact remains that those appointed to create these rules and regulations are not directly accountable to the people of Nevada, and therefore, they must be accountable to us, the Legislature. This session we are considering at least ten bills that repeal sections of the *Nevada Administrative Code* (NAC). I have to ask you, how much time does this body waste every session creating new statutes to repeal administrative codes put in place by unelected bureaucrats?

As I go through the sections of this bill, understand that there are some amendments that must be made in order to achieve the intent of this bill without putting unnecessary hardships or expenses on the agencies affected by this. I am fully willing to work with our state agencies on amendments to ensure their day-to-day operations are not unnecessarily inhibited. My only intention is to ensure all areas of our state government are accountable to the people we are here to serve.

Section 1 of this bill would require all state agencies to conform to the requirements of the Nevada Administrative Procedure Act, with the exception of the Governor and the military, who are already directly accountable to the people.

Sections 10 through 12, 14 through 18, and 20 through 22 further clarify that the Nevada Administrative Procedure Act applies to all state agencies, except the Governor. We have to make amendments to exempt the military. Sections 2, 5, 6, and 8 require the review of permanent regulations by the Legislative Commission and the Subcommittee to Review Regulations occur only during the regular legislative session, unless otherwise required by specific statute. These are the sections of the bill that must be amended to accomplish the true intent of this legislation.

It is my goal to make this process relatively simple. For the most part, I would like these agencies to operate as close to normal as possible when the Legislature is not in session, allowing them to continue to conduct the state's business and create rules and regulations as needed. The one key difference, and this is where the very important accountability comes in, is once every two years while we are in session, these agencies gather up any new rules or regulations adopted during the previous two years and present them to the Legislative Commission or Subcommittee during session to be approved as permanent regulation.

I was taken aback to see all of the departments and agencies listed in *Nevada Revised Statutes* (NRS) 233.039, which has been provided for you ([Exhibit N](#)), that can literally create NAC regulations that turn people into criminals without ever having to go before this body of elected officials. There is a long list: our education system, higher education system, our Gaming Control Board, our Division of Welfare, our State Board of Examiners, our Division of Industrial Relations. I just gave you a few examples and there are two whole pages. We have agencies creating laws that create criminals without ever having to come before the Legislature.

That is the intent of this bill, and it is not to hinder our agencies, not to hinder our gaming control. As I present this bill to you and step back to hear the positions of the opposition, I want you to understand that I am open to amendments to make this work for all. However, I have only heard from two agencies. I implore each and every one of you to ask the opposition as they come up which sections in this bill they are opposed to and why. This way, we can amend the bill in the correct fashion.

Again, each and every one of you sitting at the dais are officials elected by the people. I do not believe that these agencies and bureaucrats should get to put law into place that creates criminals. That is my contention and that is why I brought forth A.B. 355. I am quite excited to hear any of the opposition to see if it is warranted or not.

Chairman Ellison:

I have received a lot of calls about this bill. If this bill were passed as presented, can the agencies still make changes and regulations while the Legislature is not in session?

Assemblywoman Fiore:

That is correct. If this bill passes, all of the agencies listed in NRS 233B.039 ([Exhibit N](#)) can still make adjustments and changes. However, every time the Legislature is in session, the Legislature has to look at their changes and approve or disapprove them. The legislators get to say whether or not something is a bad regulation. We are not stopping them from doing anything, we are just creating accountability. Assembly Bill 355 is creating accountability for these unelected officials who are literally putting law into place through regulations which are not warranted for each and every one of your constituents. It is not okay for unelected officials to put laws into place that create criminals. That is the biggest intent of this bill.

Chairman Ellison:

A lot of regulations are being implemented during the interim. Would those regulations also be subject to this bill?

Assemblywoman Fiore:

Before this comes to work session, we will be putting in a lot of amendments. Out of all of the people who have signed in on the attendance roster ([Exhibit B](#)), I have received two phone calls. I am quite excited to see who comes to the table once I am finished. When agencies want to implement regulations, one of the amendments is that I do not want any regulation implemented that can create a fine or a criminal before it comes before this body. Any other things, like if the Gaming Control Board needs a new regulation for a new game, and they have to have it right now: that is great; give it to them. I do not want to stop production or business as usual. What I want to do is stop fines, fees, and criminal charges before it comes to our body. I am open to changing the words.

Assemblyman Stewart:

How does this bill change what the Legislative Commission is now doing?

Assemblywoman Fiore:

It brings the review of regulations before the whole body of the Legislature.

Assemblyman Stewart:

Would each regulation come before the whole body?

Assemblywoman Fiore:

Each regulation would come before the body every two years. In the interim, the agencies would continue on. As I said, as long as it does not involve fines, fees, or criminal charges, they continue on. The agencies come back to us to say that they would like to put something into law, and please give us your stamp of approval.

Assemblyman Stewart:

The Legislative Commission approves dozens of regulations now. Would this bill take that power away from the Legislative Commission?

Assemblywoman Fiore:

No, it would not take the power away from the Legislative Commission. How many people serve on the Legislative Commission in the interim?

Assemblyman Stewart:

There are about 10 or 12 members.

Assemblywoman Fiore:

We have only 10 or 12 individuals instead of the 63 members who would have a chance to open the dialogue and discuss the regulations each session. Assemblyman Stewart, you sit on that Commission, is that correct?

Assemblyman Stewart:

Yes, I do.

Assemblywoman Fiore:

I am not asking to overload the legislators during session with 200 or 300 regulations. We are talking in the two-digit numbers. Is that correct? How many regulations would you say were passed in the last interim?

Assemblyman Stewart:

We review about 40 regulations each time we meet, and we meet four times per year.

Assemblywoman Fiore:

Out of the 40 regulations, how many would you say were passed?

Assemblyman Stewart:

That is 40 regulations per meeting, so we review about 150 regulations per year. Of those, we approve about 90 percent of them.

Assemblywoman Fiore:

That is a lot of approving. What you are saying is with a 90 percent approval rate, you are looking at a much smaller number of regulations that would require a hearing before the Legislature.

Assemblyman Stewart:

Okay.

Assemblywoman Joiner:

I think I am more confused now than I was before, and I had the same question that Assemblyman Stewart had. I am trying to understand what the need is for this. My understanding is that the Legislative Commission has had considerable oversight over these regulations. Having worked in the Executive Branch and as staff with the Legislative Counsel Bureau, I have been on both sides of the regulatory process. Do you have examples of abuse or regulations you do not think the Legislative Commission should have passed that you wish had gone to a vote of the full body? What is broken in the current system?

I also would like to get clarification. I understand that this bill requires all of these entities to get this additional approval from the Legislature, is that correct?

Assemblywoman Fiore:

Yes.

Assemblywoman Joiner:

I am sure we will hear from them later, but my experience is that the reason those agencies are exempted is not so they can create new criminals. It is so they can be nimble in helping serve some of our constituents. Things like Medicaid, for example, have federal requirements and contracts and things that require them to be able to make changes when the Legislature is not in session. For me, I would be concerned about saying that none of these should have exemptions, because there are good reasons for them. I am sure you have thought through that. Those are my main questions.

Assemblywoman Fiore:

I understand your questions and I understand the intent of creating all of these exemptions for all of these agencies. However, it comes back to the due diligence of an elected official. If you want to go down that path, why do we even have elected officials? If we can create agencies to create law, why are we here?

The biggest concern I have is when the Legislature is in session we spend countless hours and countless taxpayer dollars repealing administrative code. Just last night I found a list of them in just ten minutes: Assembly Bill 79, Assembly Bill 115, Assembly Bill 148, Assembly Bill 167, Assembly Bill 243, Senate Bill 112, Senate Bill 189, Senate Bill 201, Senate Bill 202, and Senate Bill 266. They all repeal something that we allowed to be put into place. All this bill does is make people accountable, specifically those bureaucracies we have created to make law in the interim when the Legislature is not in session. That is all. It is a simple bill. I am not taking away their power. They can continue to do what they are doing, make their regulations, and change things, but they have to bring it back here so the legislators can discuss it. I am sure the majority of what they are doing today will still stay in place. It is just an extra level of accountability and security for our constituents.

Assemblywoman Neal:

You said that your intent is to make sure that fees, penalties, and other things that agencies impose are restricted in this bill. Is that correct?

Assemblywoman Fiore:

That is correct.

Assemblywoman Neal:

I am concerned about this.

Assemblywoman Fiore:

Know that we can amend this.

Assemblywoman Neal:

Okay. The Legislature has the power to delegate their authority to agencies.

Assemblywoman Fiore:

They sure do. That is what they have been doing.

Assemblywoman Neal:

It is in the *Nevada State Constitution* under Article 3 ([Exhibit O](#)), that they have that ability.

Assemblywoman Fiore:

That is here too.

Assemblywoman Neal:

They have the ability to delegate authority. Please help me understand section 1, subsection 1, paragraph (a) of the bill. It says that NRS 233B.039 is the rulemaking authority but that it does not apply to the Governor.

Assemblywoman Fiore:

That is correct.

Assemblywoman Neal:

Section 1, subsection 2 of the bill cites NRS 233B.121 through 233B.150. All of those statutes deal with the adjudication of cases, evidence, and all of those things that technically would relate to an agency in review or licensing. What is the intent behind that? You added the exemptions of certain agencies and excluded the Governor. I do not understand why you want to limit the Legislature's ability to delegate. You know the Legislature only meets for 120 days every two years. When would there be time along with all of the bills to do what you are asking us to do?

Assemblywoman Fiore:

That is a great question, Assemblywoman Neal. When would we have time to create law and represent our constituents? Are you saying that because we only meet every two years, then we do not have time? I get it.

Assemblywoman Neal:

I am talking about the agencies who have the power to create regulations, which is helping us.

Assemblywoman Fiore:

I get it. We are delegating our power to unelected officials, according to Article 3. If you are okay with that and want to delegate all of our power away to all of these agencies, then okay.

Assemblywoman Neal:

You do not see it as an actual assistance. Is that correct?

Assemblywoman Fiore:

I see that it can be an assistance. It is a great assistance. However, I think we have given a lot of power to these agencies creating regulations and rules.

Assemblywoman Neal:

You are saying we have overdelegated our authority. Is that correct?

Assemblywoman Fiore:

Yes, we have overdelegated our authority. That is it. We need all of these agencies. We need their help. I am okay with that. I am just saying that we need a little bit more accountability. If we keep giving away our authority, asking all of these agencies for help, why do we not just have everyone appointed? This way we just create bigger government, more jobs, and that is where we go with this. It is a slippery slope we are heading down when we constantly delegate our powers to unelected officials. I am just asking for a little accountability and I am very, very willing to amend the language to where it works for all of the agencies, as well as the Legislature.

Assemblywoman Neal:

Regarding fees or penalties, what agencies do you know of that have used or abused them and harmed constituents?

Assemblywoman Fiore:

The Nevada System of Higher Education (NSHE) and the Division of Welfare have done this.

Assemblywoman Neal:

Do you have specific instances?

Assemblywoman Fiore:

Oh, yes. The NSHE has done this regarding firearms. There was a person, a police officer, with a firearm who was expelled. There are several instances involving the Division of Welfare. If you would like, I can send you the instances. I will give you the list of ten bills I found just last night in ten minutes that are trying to repeal what has been put in place during the interim.

Assemblyman Flores:

We are all in agreement that we do currently have a commission that reviews about 150 regulations per year during the interim and addresses the issues that this bill now addresses. Your real concern is that although we do have 12 legislators reviewing regulations now, the whole body of the Legislature should be involved in the process. Is that correct?

Assemblywoman Fiore:

That is correct. It gives us the opportunity. I only sit on four committees, and we have ten. We have to vote for everything on the floor with the full body of the Legislature. It gives you the opportunity to read the regulations and the bills and think about whether or not it is a good idea.

Assemblyman Flores:

The presumption is then that these 12 legislators reviewing the regulations in the interim are insufficient. Is that correct?

Assemblywoman Fiore:

That is correct, if you want to make that assumption. I love our elected officials. There are 12 of them on the Commission and there are 63 of us. I think sometimes when we have just 12 individuals making decisions for the whole state, there needs to be a little bit of oversight. These regulations that come before the interim committees, as Assemblyman Stewart said, are about 150. They meet four times a year for a couple hours, and then it is in regulation. I think that the state of Nevada has turned to overregulation and is overfined and overtaxed. We really need to get a grip on it. The only way we are going to do that is through accountability.

Assemblyman Flores:

Is it your intent through this bill that we have our 12-member interim committee doing the review in the interim and then have another review during the 120-day session?

Assemblywoman Fiore:

The intent of the bill is for the Legislative Commission to come before the whole body to say that they heard so many bills and present the ones they approved, then have a vote on it. There would not be a hearing on each of the regulations. We would hear from the Legislative Commission body, which would provide details. We would go from there. Again, this is the idea and the intent. This is not the amendments written. From today until our work session, we can put the language in that makes you and the agencies comfortable so that it works.

Assemblyman Flores:

When we delegate power to agencies, often the reason is that we want a state agency who is closer to the issues to make the regulations. We, as Legislators, are expected to have a very broad knowledge of various topics. When we delegate that power to a state agency, it is because they are experts, they have a stake in that industry. It is all they do; it is what they breathe every day. They have a greater, more comprehensive understanding of the topic. That is why we are comfortable delegating that power. On top of that, we have an interim committee so that we continue to have oversight to ensure that our delegation of power to an agency that we think is astute and prepared and will give due diligence is well-founded. We still have the interim committee to make sure that the protection is still there in case an agency acts out of line. On top

of all of that, you want to make sure that we bring the review back again into the 120-day session. Why is what we currently have in place not enough?

Assemblywoman Fiore:

Some of us are okay with giving all of our authority away, and some of us are not. Obviously, I brought this bill forth because I am one who is not. I want a little more accountability for the people in this state. I have two policy directors; I do not know everything. I go through the language and I fight with them every day in my office. They like a bill, I hate a bill. We do polls. We ask our constituents. That is what we do here. I understand surrounding ourselves with the minds who know because we cannot know everything. I am the first one to tell you that I do not even know what I do not know. However, what I do know is overregulation, overtaxation, excessive fees, and unjust criminalization are not okay. Assembly Bill 355 is adding a layer of accountability. It is a layer of accountability for which I am willing to work with you to make the language work.

Assemblyman Moore:

Are the agencies on the list you submitted ([Exhibit N](#)) all exempted from the interim commission already?

Assemblywoman Fiore:

That is correct.

Assemblyman Moore:

Is the purpose of this bill to make sure that these agencies, which do not currently have to report to the Legislative Commission, are accountable?

Assemblywoman Fiore:

Thank you, Assemblyman Moore. That is correct.

Assemblyman Trowbridge:

I am generally anti-bureaucracy. The discussions we have had so far have been at a fairly high level. The Legislature establishes the laws.

Assemblywoman Fiore:

The elected officials are supposed to establish the laws.

Assemblyman Trowbridge:

We delegate to staff or committees or agencies at various levels the authority to establish administrative codes and regulations consistent with the laws we establish.

Assemblywoman Fiore:

This is correct.

Assemblyman Trowbridge:

There has to be an appeals process whenever these regulations exceed or are inconsistent with the laws the Legislature has established.

Assemblywoman Fiore:

That is what we are trying to accomplish.

Assemblyman Trowbridge:

Okay. That interim committee seems like a good enough venue for that because they give prompt responses, and agencies do not want to wait for what could be 24 months. The objection I am hearing from you is that we are allowing these agencies to make criminals of people. That is kind of a harsh term. I will say that some are violators in some way and are being punished by fines or suspension of a license. Perhaps they could be thrown in jail. You are suggesting that the administrators we have delegated authority to have the ability to do that unbridled. Is that correct?

Assemblywoman Fiore:

That is correct.

Assemblyman Trowbridge:

I appreciate your willingness to work on the language here.

Assemblywoman Fiore:

I am willing without a doubt.

Assemblyman Trowbridge:

That is good. Perhaps what we need is some clarification to say that in those instances where someone feels the administrative codes, regulations, or operating procedures—the bureaucratic process—is in violation or inconsistent with the statutes, we have an appeals process. They could go see Assemblyman Stewart and his colleagues. In those instances where the regulatory agency wants to impose fines, suspensions, jail time, or label violators as criminals, they would not have the ability to do that. They go, again, to Assemblyman Stewart and his colleagues. Would that satisfy your concern?

Assemblywoman Fiore:

Yes, it would. That is a great start. We are looking at that. Then when agencies are looking at creating fines and criminals, those would be

the regulations. Even if we dwindle it down from a large number of regulations the Legislative Commission approves, versus the regulations that do not even go before the Commission, then we are talking about maybe 20 regulations that would have to come before the full body. It is kind of common sense, but maybe not.

Assemblyman Trowbridge:

It is the "maybe not" that we worry about.

Assemblywoman Shelton:

You are saying that Nevadans at this particular time are being charged with different types of offenses that unelected officials have placed in law. You are saying that those officials are not elected by the people while we are, so we speak for the people, allowing them to have a voice in these specific areas. I know you said you do not want to get into the nitty-gritty of everything they do; you are just talking about when this is affecting the Nevadans we represent. We should be able to have a say for them. Is that correct?

Assemblywoman Fiore:

That is correct. I do not want to infringe or delay. I am talking about when we turn people into criminals and fine them.

Assemblywoman Shelton:

The Gaming Control Board will not put an undue penalty on a citizen, because creating a fine or some type of offense affects the citizens of Nevada.

Assemblywoman Fiore:

That is correct.

Assemblyman Carrillo:

Are we concerned at all about taking the authority away from the Legislative Commission? My concern is that if we are delegating power to the agencies and departments and they are interpreting regulations and legislative intent, without the conduit of the Legislative Commission, by doing that are we expecting the Legislature to meet as often as the Commission would? Do we want all 63 people together every time we would ask the Legislative Commission to do this?

Assemblywoman Fiore:

No, we would not.

Assemblyman Carrillo:

I am concerned that we would lose oversight in this process.

Assemblywoman Fiore:

I think that we, as a body that meets every couple of years, have lost oversight. I think that this bill is definitely not taking away the authority of the Legislative Commission. However, just as we are in session for 120 days and we create committees and subcommittees, we can create a subcommittee next session that just deals with the regulations that have issues. Our Legislative Commission is in place, and they have to approve regulations for certain things that each of these agencies need right now. However, when we have agencies that do have to go before the Legislative Commission, they have to go before the Legislative body as well as when it concerns all of our constituents because of regulations which may fine them, charge them fees, tax them, or criminalize them. Those should go in front of this body. We are not talking about hundreds of regulations. We are talking about a number in low double digits.

Assemblyman Carrillo:

As Assemblyman Stewart had mentioned about the Legislative Commission's work during the interim, there could be a couple hundred regulations they have to review. I understand the idea of forming a subcommittee. As a full body, the Legislature only meets every two years, but the Legislative Commission meets constantly. I understand that there are only 12 members on the Legislative Commission. I am concerned that the Legislative Commission would lose oversight of the agencies.

Assemblywoman Fiore:

I would highly suggest that we hear the concerns of the people in the room so we can further identify what issues we have so that we can make amendments. That way we can make everyone happy.

Chairman Ellison:

Is there any other discussion?

Assemblywoman Spiegel:

I am in agreement that legislative oversight is a really good thing. I also share some of your concerns that we, perhaps, give away too much of our oversight powers. The concern that I have with this bill is that by taking some of those powers back and increasing our oversight, there should be a corresponding increase in the resources we have available to us, be it more days that we meet or more staff assistance. I did not see any of that going hand in hand in this bill. My concern is that we are adding another layer of bureaucracy without giving ourselves the tools we need to function effectively.

Assemblywoman Fiore:

I understand your concern. It is ironic that we are using another layer of bureaucracy to add to the layers of unelected bureaucracy that are making laws. Please, with full intent, send me an amendment for this bill so that we have either more staff or whatever is needed to protect our constituents and stop unelected officials from making laws that fine, charge fees, and criminalize people.

Chairman Ellison:

Is anyone wishing to testify in support of A.B. 355? [There was no one.] Does anyone wish to testify in opposition to A.B. 355?

Carole Vilardo, President, Nevada Taxpayers Association:

I am speaking in opposition to only one part of the bill. That is section 6, subsection 3 of the bill.

Assemblywoman Fiore:

I just need to be crystal clear for one second. May I interrupt? When I was testifying, for all of you who were asking me questions about the Legislative Commission, the agencies who are on the list ([Exhibit N](#)) do not go before the Legislative Commission. These agencies are making regulations that never go before the Legislative Commission. I wanted to clarify that.

Chairman Ellison:

Ms. Vilardo, you said section 6.

Carole Vilardo:

It was section 6, subsection 3. Prior to, I believe, 1994, the Legislature had no authority to review regulations. It was an issue of separation of powers and there was a ruling on that. What happened was in the 66th session [1991], I believe, an agency that had a bill which was covered by the Administrative Procedures Act, not one of the exempted agencies which Assemblywoman Fiore is incorporating in this bill, took language of the bill, which was not passed, and created a regulation. We tried finding out what we could do about that. That is when we learned about separation of powers. Former Senator Ann O'Connell put through a bill that would put a ballot question to the voters to ask them to override that separation of powers by saying that the legislature may review those regulations. The Legislature subsequently decided that they could set up and hear those regulations through the Legislative Commission and then they created a subcommittee of three people to hear regulations because of the workload. If any of you have followed this current process, this is what happens: An agency goes through the procedure and adopts the regulations, which may not take effect until they are reviewed

by the subcommittee, and that list then goes to the Legislative Commission. At that point, someone who is aggrieved by a regulation can appear before the Legislative Commission to protest. The Legislative Commission has stopped regulations. They have said that an agency has exceeded the authority they gave and requested they rewrite the regulation.

I am opposed to this because while the bill is intending to capture agencies, boards, and commissions that are not already captured, by changing the procedure for a regulation put forth when the Legislature is not in session, we would have to wait any number of months before we could get the regulation. I would like to give a real-life example of what would happen if that section is allowed to go through. In the 2003 Special Session we did a major tax bill. Between the Gaming Control Board and the Nevada Tax Commission there were 32 hearings held. They were held because there were so many unintended consequences found in Senate Bill 8 of the 20th Special Session (2003). We had to get regulations so that businesses knew how to operate. If we had to wait, you would have had us in limbo and subject to interest and penalties because we were reporting wrong. I am saying that we need to leave the existing process alone where we do regulations that we can have regulations approved. A lot of times businesses ask for the regulations because a law that has been passed is not clear. That is the reason for our objections to section 6, subsection 3 of this bill. I urge you not to have that in the bill. I would be happy to answer any questions. We have been involved with the Administrative Procedure Act since working with Senator Kosinski in the late 1970s.

Chairman Ellison:

From what I thought I heard, the regulations can still go in, they are just verified or accepted later.

Carole Vilardo:

That is not the case as I read the bill. The bill says that Legal Counsel then has to take the regulation and give it to the Legislature in the next session for the Legislative Commission and the Subcommittee to Review Regulations. That is a totally different process than we have now, where if a regulation is adopted and needs muster, it goes to the Legislative Commission or the Subcommittee to Review Regulations. There is a provision that if the Legislative Commission is meeting within the next time frame, it may not go to the Subcommittee to Review Regulations, it may go directly to the Legislative Commission. I just want to see that continue. We still have the right to protest. When I read this section and go forward, I see nothing in that particular section that later on says the Legislative Commission or Subcommittee is going to report to the full Legislature. I am saying please leave that part of the process in place. Whatever you do with adding agencies or not adding agencies is all policy

decision. I am more concerned with the mechanics and the procedure in this particular instance. Thank you.

Assemblywoman Shelton:

These agencies are exempt from reporting to the Legislative Commission, so I am not understanding your statement.

Carole Vilardo:

I am opposing only one section of the bill. I am not weighing in on what you do with adding agencies, departments, boards, or commissions. That is for you to decide. We have never had a problem having inclusiveness when it comes to the agencies. However, I have also sat through a lot of hearings on administrative procedures and the agencies who make their cases. In some instances, an agency hears contested cases. That, the agency has argued, and the Legislature has agreed, is not something that should be subject to the Administrative Procedure Act because it is a quasi-judicial issue. I am not addressing that. I am only talking about the procedure of getting the regulations adopted.

Chairman Ellison:

Thank you Ms. Vilardo.

Paul J. Enos, Chief Executive Officer, Nevada Trucking Association:

We would like to echo the comments of Ms. Vilardo. We also use the process as it stands today. The Legislative Commission really is a stopgap when we have agencies who have not had legislation pass and see them bring that up in regulation. We have been able to work with the Legislative Commission to put the brakes on those before they are implemented. There are instances where a regulation may not be a penalty or a fee or a fine, but involves how we do business. In 2011, Senate Bill 48 of the 76th Session dealt with overdimensional permits at the Department of Transportation (NDOT). That bill was defeated in the Legislature. We saw provisions of that bill then brought up in regulation that we had issues with during the interim. We were able to work with the members of the Commission to pull that back. We could have that discussion, which really was a policy discussion we felt needed to be passed by the Legislature. We have the same issue with section 6, subsection 3 of the bill that Ms. Vilardo does. That is why we oppose it. We are more than willing to work with the sponsor to address that so we can continue to use the process as it is designed today.

Assemblywoman Shelton:

You support the bill, just not this section. Is that correct?

Paul Enos:

That is our issue with the bill, just section 6, subsection 3.

A.G. Burnett, Esq., Chairman, State Gaming Control Board, and representing the Nevada Gaming Commission:

Sitting next to me is Senior Research Specialist, Buffy Brown, Esq., who has assisted me throughout this process. I appreciate Assemblywoman Fiore and what she is trying to do here. As she indicated, I did reach out to her, and we have had a few discussions with her policy analyst. I am here representing the State Gaming Control Board and the Nevada Gaming Commission. We do not support A.B. 355 as it pertains to our two agencies in any way, shape, or form. Our two agencies have been exempted from NRS Chapter 233B in its entirety except for the taxmaking functions regarding live entertainment tax.

The State Gaming Control Board regulates Nevada's thriving gaming industry 24 hours a day, 7 days a week. The State Gaming Control Board enforces the law as you have dictated it to us. The law is contained in statutes that the Legislature creates. The Legislature has also endowed the Board and Commission with the ability to create regulations meant to interpret that law. You cannot aggregate the law, ever. Every two years, this body, the entirety of the Legislature, can review what we have done in the interim to make sure it has been appropriate. I would submit to you that A.B. 355 is not necessary.

The State Gaming Control Board and its staff of over 400 people regulates over 2,000 licensees in the state of Nevada. Every single day, we, my staff, those 400 persons in six divisions, meet with industry representatives and their counsel. Of course, sometimes these meetings are unhappy occasions for gaming licensees when an issue has arisen and the State Gaming Control Board is in an adversarial position with the industry. However, more often than that, in what can only be described as a collegial, cooperative environment, industry has an open line with the regulator to discuss other issues that arise in an ever-changing, ever-shifting business. The state is prideful of the fact that while statutes can only be changed every two years, our gaming regulations can be changed quickly and in an extremely open and transparent fashion.

The State Gaming Control Board and Nevada Gaming Commission have been exempted from NRS Chapter 233B for a reason, which I have just given to you. We must be flexible as regulators when confronting a challenge for the industry that needs to shift and change to remain vibrant, and as our introductory statute, NRS 463.0129, says is "vitally important to the economy of the state."

I am going to give you a scenario. A company has developed a new idea that it feels can lead to greater patron satisfaction, and thus greater revenue to the

company, and indeed to the state, but there is a problem. The regulations we have prevent it. The particular regulation was developed many years ago, and now the industry has changed. There is no longer a need for that regulation, or perhaps there is a need to simply change or amend it in order to get the industry what it needs and the regulators have vetted it and are extremely comfortable with it from a regulatory standpoint. My staff—be it our auditors, technology people, enforcement personnel, or investigations division staff—including our attorneys general, have all vetted it and find the proposed change to be what I call "righteous." There is no regulatory need to keep the regulation and the business will have a chance to thrive after it is changed.

Here is what happens: A regulation change can be proposed formally, and the Nevada Gaming Commission, at an open meeting, will then direct the State Gaming Control Board to undertake the regulation change with the industry. The Gaming Control Board then holds open and public workshops, usually covered by our press and sometimes even national media. Testimony is taken in support and in opposition, much like in this forum, including public comment. Further drafts are created and perhaps further workshops are held. Once the State Gaming Control Board is satisfied, we then formally pass that regulation on to the Nevada Gaming Commission for its consideration.

The process unfolds in the same fashion once more. The Nevada Gaming Commission holds workshops, takes testimony, and eventually, if the regulation is "righteous," they vote for its passage. Frequently, effective upon passage, in other words, that very day, the regulation can be deemed in place and the industry can move forward with implementing the tools, software, hardware, and whatever it is they need to make that change occur. This can all occur within two to three months. The regulation change can relate to how publicly traded companies, sometimes traded on foreign exchanges, are regulated and audited; how institutional investors are treated; how shareholders who hold certain percentages of stock are governed; how private equity can invest or not invest in gaming; how Internet gaming is regulated; how gaming devices are studied, tested, and allowed into the field; how licensees can be disciplined; how sportsbooks operate; how general applications for approvals and suitability findings are handled; and many more things. We have roughly 25 regulations that encompass all of those various aspects.

Assemblywoman Fiore mentioned elected officials, and there is one very important official that has been left out of that conversation. When Governor Sandoval was first elected, he issued a mandate to all state agencies that showed the strength of his leadership. It was his first executive order. He indicated that all regulatory agencies must review their regulations and revise them. We continuously do that anyway, but we did so in earnest after hearing

the Governor's words. We continue to do that even today. Over the last four years we have changed nearly 20 regulations.

I must be blunt at this point and indicate that this bill would stop the Board and Commission in their tracks. The industry would not be able to rely on temporary regulations. They would not want to. As far as bureaucracy goes, we have looked at the statutory history of 1977, and it is indeed ironic. Senator Dodge, regarding Senate Bill No. 62 of the 59th Session, explained the bill to the committee by indicating, "it had its origin when the Legislative Commission increased its bill drafting staff. Between sessions, the job was needed for the attorneys. Codifying the administrative code was the job that should fill this time period." I will close with that, Mr. Chairman. The Board, while it has submitted an amendment ([Exhibit P](#)), does not particularly care for the amendment and would like to go back to its original position. I am happy to answer any questions.

[Assemblyman Moore assumed the Chair.]

Vice Chairman Moore:

That was a nice presentation. Who appoints the members of the State Gaming Control Board, and do they answer to the voters of Nevada if they do not agree with your policies?

A. G. Burnett:

The Governor appoints the members to both the Commission and the Board.

Vice Chairman Moore:

You mentioned that the Governor issued that order some years ago.

A. G. Burnett:

Yes, sir. I believe it was upon January or February after he was inaugurated.

Vice Chairman Moore:

The Governor does not make law. Is that correct? The Legislature makes law.

A. G. Burnett:

I would respectfully submit that the Legislature, of course, makes law. The beauty of the three-branch system is that if the agencies who interpret that legislative intent pursuant to the Legislature's demands get out of line, there are multiple processes to deal with that. First off, I would submit that regulations are temporary by their very nature because your body meets every two years and if your constituents do not like a particular interpretation by an agency, you can certainly change or aggregate that. There is another important component

of the three-branch system, and that is the Judicial Branch. If the Nevada Gaming Commission oversteps its bounds, every licensee who does not like that has the right to take that to the Judicial Branch. Those items go either to the district court or the Nevada Supreme Court based upon what the Legislature has mandated for their review as well.

Vice Chairman Moore:

Do any of the regulations that the Nevada Gaming Commission creates have the ability to incarcerate me or cause me to pay a fine in any way?

A. G. Burnett:

Any criminal action is contained in statute. We do not have any regulations that give criminal liability to persons or licensees. We can impose discipline upon a licensee, not a citizen.

Vice Chairman Moore:

Can you give me an example of that, please?

A. G. Burnett:

If a gaming licensee violated a statute or a regulation, the State Gaming Control Board is the prosecutor and can file a complaint publicly against that licensee and ask for discipline in the form of a fine or action upon the license, including revocation, if what has occurred is particularly bad. The Nevada Gaming Commission then hears the case as judge and jury.

Vice Chairman Moore:

You are the judge and jury without oversight from the Legislature.

A. G. Burnett:

No, I am the prosecutor. The Nevada Gaming Commission is the judge and the jury. If the Commission rules against the licensee and the licensee does not like that, there are recourse abilities with the district court for appeal. All of those things are contained in the statutes that the Legislature has created.

Lorne Malkiewich, representing Nevada Resort Association:

The Nevada Resort Association supports the existing regulatory provision. I think it is a key point that we are one of the regulated entities and we have no problem at all with the existing authority of the State Gaming Control Board and the Nevada Gaming Commission. There are a couple of things to keep in mind. If you look at the end of the bill, the table of text of the repealed sections, you see the existing section of the procedure that Mr. Burnett has outlined. Sections 16 and 17 point out a few points he also made, which is the bipartite process. The Board does substantial work, then the Commission acts on the

regulations. That is a general matter in which this works. I am not sure how that would work in the Administrative Procedure Act. Basically there are two concerns: the Administrative Procedure Act applying to the Board and Commission, which is a very lengthy process as agencies need to go through this and with the impact on the general public, I understand why the Administrative Procedure Act is that way, but it is a different world with the gaming industry. The procedure specified and followed is appropriate for the reasons Mr. Burnett said. Again, the Nevada Resort Association is fine with that procedure.

Second is the point brought up by prior testifiers: the ability of the Legislative Commission and the subcommittee only to review regulations during the Legislative session. There is no amendment to NRS 233B.063 on temporary regulations so I assume they could still just be adopted during a limited period. That would handcuff the Board and the Commission. The Nevada Resort Association supports the exclusion of the State Gaming Control Board and the Nevada Gaming Commission from the bill.

Constance Brooks, Vice Chancellor, Nevada System of Higher Education:

We are opposed to A.B. 355. As you are aware, the Board of Regents is composed of elected officials. They are accountable to the voters of Nevada and also the 106,000 students and over 15,000 staff and faculty that are within our system. The Board of Regents has an approved process for adopting code provisions that requires public notice and for proposed regulations. Also, the Nevada Supreme Court case, *Richardson v. Board of Regents*, 70 Nev 144 (1953), has already held that the provisions of the Board of Regents code have the force and effect of law. Further, the Nevada System of Higher Education was exempted from the provisions in NRS 233B.010 and 233B.120 because the *Constitution of the State of Nevada* and state case law have recognized the Board of Regents' independent authority to adopt rules for its own government, management, and control of the system. Thank you.

[Assemblyman Ellison reassumed the Chair.]

Chairman Ellison:

Are there any questions from the Committee?

Assemblyman Moore:

Ms. Brooks, how many people are on the Board of Regents?

Constance Brooks:

There are 13 members.

Assemblyman Moore:

Is it your opinion that those 13 members are sufficient to create law instead of the full body of the Legislature, who granted them the limited power to create such regulations or laws?

Constance Brooks:

I am here representing those 13 elected officials. *The Nevada Constitution* upholds their authority to govern over the Nevada System of Higher Education.

Assemblyman Moore:

Elected or not, you are still okay with the limited number of individuals creating laws, versus the entire body of the Legislature?

Constance Brooks:

The Nevada System of Higher Education governed by the Board of Regents, whom I represent, is perfectly okay with their authority and their ability to be elected to represent over 106,000 students and over 15,000 staff and faculty.

Assemblyman Moore:

It is okay that they have limited accountability, in your opinion. Is that correct?

Constance Brooks:

I represent the Board of Regents, and they are okay with their current structure and their authority as provided by the *Constitution*.

Steve George, Administrator, Division of Industrial Relations, Department of Business and Industry:

In the bill as written, section 1 talks about eliminating our ability to adjust the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS. That is the medical fee schedule that by statute we are supposed to update every February of each year. That shows the reimbursement to medical practitioners who service people for workers' compensation. Under this bill, we would not be able to do that but once every two years. Of course, we have open hearings, meetings, workshops, and all of that. The way the bill is now written, if the Legislature decided that they did not approve of some of our regulations and we did not have time to correct it, we would have to wait four years to correct the regulation. That would be onerous for the business community and for the medical profession as we all know those costs change every year. That is why it is in statute that we look at that yearly and change the fees accordingly.

As far as the bill in general, the way it works is as an agency, you do not get to just create regulations on your own. You have to get the Governor's approval.

His office has to approve the fact that you want to go forward with adopting a new regulation or change regulations. Once that is done, the Office of the Attorney General has to review the regulation and see if it legally passes muster. Until the Office of the Attorney General signs off on the regulation, you cannot go forward. If you get to the point where you have satisfied those two elements, you then have open workshops. There are proponents and opponents who come to talk about why they think the regulation is good or bad. You are required to have at least two of those workshops, one in the north and one in the south. Often, you have more than that, especially if it is a contentious issue. After that they are allowed to submit written testimony. Once you have taken all of that into account, you have more workshops and hearings to go over what has been submitted. At some point after all of that is done, it goes to the Legislative Commission, and during that meeting people can come to testify for or against regulations. You have the power to change that at those Commission hearings.

As someone who has worked for the state for 16 years and has been in this process a lot, often the Legislative Commission does say they do not like provisions of a regulation, and it goes back to the agency for corrections according to how the Legislature would like it changed. Then it goes back to the next regularly scheduled meeting of the Legislative Commission and moves forward from there. There is a process. It is not that an agency decides that they want to create a regulation and there is nothing else on top of that. The Governor, the Attorney General, open workshops, input, and more workshops and hearings are all part of the process, then it comes to the Legislature and can still be changed. There is already a very good process in place for changing or adopting regulations.

**Jan Rosenberg, Deputy Administrator, Division of Industrial Relations,
Department of Business and Industry:**

I would just like to add on to Mr. George's comments about the medical fee schedule. The reason we review the medical fee schedule, and we do this comprehensively periodically, is so that the reimbursements to the health care community for the services provided to injured workers are adequate. Should we fall behind in that process, it is possible that health care providers will drop out of the system, which would restrict access to medical care for injured workers. Thank you.

[Assemblyman Moore assumed the Chair.]

Vice Chairman Moore:

Thank you, is anyone else wishing to testify?

Brian Connett, Deputy Director, Prison Industries, Department of Corrections:

With me here are Maxine Blackwell, Management Analyst, who oversees our administrative regulation process and Scott Sisco, our Deputy Director of Fiscal Services. The Department of Corrections opposes A.B. 355 to keep its exemption from NRS Chapter 233B. If the Department of Corrections' exemption from the requirements of NRS Chapter 233B is eliminated, it will have significant operational and fiscal impacts on the Department's policy, regulation, development, and maintenance process. The goal of our Department is to review each of its 221 administrative regulations each year. The elimination of this exemption of the Department of Corrections from the requirements of NRS 233B will expand the review process out probably two to three years. Currently, the Board of State Prison Commissioners, made up of elected officials, has oversight, review, and approval of the administrative regulations presented by the Department. [Mr. Connett continued to read from prepared testimony ([Exhibit Q](#)).]

Thank you, I would be happy to answer any questions.

Chairman Ellison:

[Assemblyman Ellison reassumed the Chair.] Are the Department of Corrections and Parole and Probation under one house now?

Brian Connett:

No, they are not.

Chairman Ellison:

They are still two departments.

Brian Connett:

That is correct.

Assemblyman Moore:

Mr. Connett, are there any legislators that sit on the Prison Board?

Brian Connett:

No, there are not.

Assemblyman Moore:

It is just who the Governor and the Secretary of State appoints.

Brian Connett:

Yes, and the Attorney General, sir.

Assemblyman Moore:

None of whom can create law. Is that correct?

Brian Connett:

The Legislature has that ability, sir.

Assemblyman Moore:

Exactly. Thank you.

Chairman Ellison:

Is there anyone else wishing to testify?

**Captain Dana A. Grigg, Assistant Judge Advocate, Nevada National Guard
Office of the Staff Judge Advocate:**

I am testifying as neutral to this bill. Assemblywoman Fiore stated that the military may be exempted from the statute, to include us with the Governor. At this time, we believe we would most likely be exempted anyway based on the current provisions of NRS Chapter 233B. In the spirit of unintended consequences from this law, it is our position that most of what we would submit to the Legislature that would involve criminalization, fines, or fees, has already been submitted in past legislation and is incorporated in NRS Chapter 412. If we did have to come forward with any of that specific language that would affect the intent of Assemblywoman Fiore's bill, we would do so. Beyond that, any regulations are mainly federal or are an internal policy of the Adjutant General based on federal regulations. I will answer any questions.

Chairman Ellison:

We cannot argue with you guys, you have tanks. Are there any questions from the Committee? [There were none.]

**Stephen D. Hartman, Executive Vice President, Corporate Counsel, Vidler Water
Company:**

I am here in opposition to this bill. Specifically, my opposition is based on the fact that we are at a time relative to the Office of the State Engineer and the activities they currently have thrust upon them with the drought do not believe allow them the time to deviate and go off on an NRS Chapter 233B chase. They have had, since 1913, the right to develop their own administrative rules and regulations. Having participated in those for nearly 40 years, I can assure you that there is ample involvement of the public. It all goes back in front of you either in the form of suggested changes to the law, or if we cannot get a law in, we end up in court. That has happened on numerous

occasions. I do not think that the Office of the State Engineer needs to be subject to this particular regulation.

With respect to the general issues, section 5 in its current form, and I appreciate that Assemblywoman Fiore has an interest in changing that, would result in temporary regulations that will create nothing but havoc in any of these agencies. If you are going to have a regulation, it needs to be finalized. The other two things I would say are that most of the things that are the subject of the exemption being pulled are the subject of very specific and detailed work done by people typically with advanced degrees. For you to make the commitment individually every two years to get involved in that process is going to be a significant undertaking. Remember that when you decide if that is a pond you want to jump into.

[Assemblyman Moore assumed the Chair.]

Vice Chairman Moore:

Thank you for your testimony. Does your group receive any taxpayer money?

Stephen Hartman:

No, it does not.

Vice Chairman Moore:

As you said, we are in a drought and they do not have time to go on an NRS Chapter 233B chase. You are okay that your department, in theory, has no oversight other than highly educated folks. It is okay that you do not have to come back to the Legislature who creates the laws that govern this state. Is that correct?

Stephen Hartman:

I think you have misunderstood my introduction. I am not a member of an agency.

Vice Chairman Moore:

You represent an agency. Is that correct?

Stephen Hartman;

I do not represent them.

Vice Chairman Moore:

Who are you representing?

Stephen Hartman:

I am representing the Vidler Water Company.

Vice Chairman Moore:

Is that a private company?

Stephen Hartman:

It is a private company.

Vice Chairman Moore:

Okay, I am finished. Thank you.

[Assemblyman Ellison reassumed the Chair.]

Chairman Ellison:

Is anyone else wishing to testify?

**Susan Joseph-Taylor, Esq., Deputy Administrator, Division of Water Resources,
Office of the State Engineer:**

To my left is Kelvin Hickenbottom, who is also a Deputy Administrator. Thank you for the opportunity to provide testimony on A.B. 355 on behalf of State Engineer Jason King.

The State Engineer is extremely concerned about the fiscal impact this bill would have on our agency. Neither our Department nor our agency received a fiscal note request for this bill although the Office of the State Engineer is specifically called out in section 1, subsection 2, paragraph (j). [Ms. Joseph-Taylor continued to read from prepared testimony ([Exhibit R](#)).]

Thank you for your consideration of our concerns.

Assemblyman Moore:

Can you give me an example of something that would take years and bring you to a grinding halt?

Susan Joseph-Taylor:

I believe it is NRS 233B.030 or 233B.050 that says an agency has to create rules for all of its formal and informal processes. We would go into the rulemaking mode and for any regulations we already have, we have taken them through the NRS 233B process to the interim committee. This will cause us to have to write rules. We are a quasi-judicial body.

Chairman Ellison:

Is there anyone else wishing to testify?

Scott Leedom, Senior Management Analyst, Southern Nevada Water Authority, and representing the Las Vegas Valley Water District:

I would just like to echo the comments of the Office of the State Engineer and Mr. Hartman in the concern of the Office of the State Engineer being included in this bill.

Stephen Hartman:

Mr. Chairman, I would add that Gordon DePaoli, water rights attorney with Woodburn and Wedge, asked me to advise this Committee that he concurs with my comments as well.

Leah C. Lamborn, CPM, Chief Financial Officer, Division of Health Care Financing and Policy, Department of Health and Human Services:

I am neutral on the bill. We did review some fiscal impact, and I wanted to speak to that. The potential impacts of the bill as written are that it would place the Division of Health Care Financing and Policy at risk of being unable to manage the Medicaid programs efficiently and effectively within budgetary requirements, appropriately add or reduce Medicaid services, and revise the current Medicaid provider rates or revise current Medicaid policy as applicable in a timely manner. It would have considerable fiscal impact on the Division's ability to contain cost and take advantage of potential savings while waiting for permanent regulation for review and approval. I understand that there may be amendments that may change that concern. The current fiscal impact was almost \$2 million for the biennium based on the fact that we would have to take all of our current regulations and have them adopted into NAC. We have about 30 changes per year, about two and a half per month. Again, this could be revised and amended based on the amendments of the bill. I would be happy to answer any questions.

Chairman Ellison:

Are there any questions from the Committee? [There were none.] Is anyone else wishing to testify as neutral to A.B. 355? Will the sponsor of the bill please come forward?

Assemblywoman Fiore:

Did I open up a can of worms, or what? Even thinking about the idea of taking someone's special privilege exemption away to make law without having to go before Assemblyman Stewart and the Legislative Commission, and bam, we have a room full. I will tell you that out of all the people who sat here, two of them approached me, which is not the correct legislative etiquette. Normally, if

people are opposed to the bill, they call to talk. I have two watchdog policy directors in my office. This is pretty interesting. Mr. Chairman, I apologize for interrupting when the opposition was testifying, but I wanted to provide clarification. In closing, I would like to clarify the issue of having more oversight of the oversight. That is not the case. We are talking about all of those agencies on the list who are exempt. They do not go before our Legislative Commission, period. They make the rules and that is it. As far as A. G. Burnett's comment that when our Governor was elected he made an executive order, well by God, that was an executive order and we are going to follow it. Well, by God, I am elected to fight for the people, and I might not agree with our Governor on some issues, and I definitely do not agree with some of his exemptions of these agencies that create criminals, fines, and fees. For the record, I disagree with our Governor's executive order.

Chairman Ellison:

Is there any other discussion? [There was none.] We will now close the hearing on A.B. 355. Is anyone here for public comment? [There was none.] This meeting of the Assembly Committee on Government Affairs is adjourned [at 11:31 a.m.].

[Mr. Starrett submitted an email regarding Assembly Bill 170 ([Exhibit S](#)) that was not mentioned during the meeting. Ms. Lamborn submitted prepared testimony ([Exhibit T](#)) regarding Assembly Bill 355 that was not mentioned during the meeting.]

RESPECTFULLY SUBMITTED:

Aubrie Bates
Committee Secretary

APPROVED BY:

Assemblyman John Ellison, Chairman

DATE: _____

<u>EXHIBITS</u>			
Committee Name: <u>Committee on Government Affairs</u>			
Date: <u>March 27, 2015</u>		Time of Meeting: <u>8:03 a.m.</u>	
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 333	C	Jered McDonald, Committee Policy Analyst	Work Session Document
A.B. 65	D	Jered McDonald, Committee Policy Analyst	Work Session Document
A.B. 65	E	Assemblyman Edgar Flores	Amendment
A.B. 104	F	Jered McDonald, Committee Policy Analyst	Work Session Document
A.B. 104	G	Renee L. Olson, Nevada Department of Employment, Training and Rehabilitation	Letter and Amendment
A.B. 196	H	Jered McDonald, Committee Policy Analyst	Work Session Document
A.B. 170	I	Assemblywoman Jill Dickman	Prepared Testimony
A.B. 170	J	Mary Walker, representing Carson City, Douglas County, Lyon County, and Storey County	Amendment
A.B. 170	K	Colleen Cripps, Division of Environmental Protection	Prepared Testimony
A.B. 170	L	Thomas Starrett, Private Citizen	Statement
A.B. 170	M	John Swendseid, Private Citizen	Memorandum
A.B. 355	N	Assemblywoman Michele Fiore	Statute Reference
A.B. 355	O	Assemblywoman Michele Fiore	Constitution Reference
A.B. 355	P	A. G. Burnett, State Gaming Control Board	Proposed Amendment
A.B. 355	Q	Brian Connett, Department of Corrections	Prepared Testimony

Assembly Committee on Government Affairs

March 27, 2015

Page 64

A.B. 355	R	Susan Joseph-Taylor, Nevada Division of Water Resources	Prepared Testimony
A.B. 170	S	Thomas Starrett, Private Citizen	E-mail
A.B. 355	T	Leah C. Lamborn, Department of Health and Human Services	Prepared Testimony